

May 2, 2023

Blair Edl  
Director, Compliance and Enforcement  
Elections Alberta

Dear Mr. Edl,

I am writing to request Elections Alberta commence an investigation into the coordinated campaign by NDP-affiliated union organizations to benefit Rachel Notley and the Alberta NDP.

The UCP believes in free speech and robust political discourse, but it must be compliant with the restrictions that have been imposed through the *EFDA*.

This letter describes how NDP-affiliated union organizations appear to have acted as third party advertisers despite prohibitions in the *Election Finances and Contribution Disclosure Act*, RSA 2000 c E-2 (the "*EFDA*"). There is further evidence that these NDP-affiliated unions may have colluded with the NDP to exceed contribution and expense limits while also failing to submit the required financial reports.

Rachel Notley and the NDP should have intervened to ensure the rules were followed, but did not. It is now incumbent upon Elections Alberta to step in. We ask that Elections Alberta take immediate steps to stop these groups from carrying out illegal advertising in the election period. A failure to do so will cause irreparable harm to the election and taint the results of the election in favour of the NDP.

### **Legislative Framework**

As you are aware, the Government of Alberta amended the *EFDA* to expressly prohibit organizations from governing a political party while at the same time acting as a third party advertiser. Section 9.1(5.1) of the *EFDA* states that a "third party that the Chief Electoral Officer determines is affiliated with a registered party" is not eligible to be registered as a third party advertiser.

Section 9.1(5.2) sets out the factors that the Chief Electoral Officer should consider including:

- a) the organization of the third party, including whether a person holds decision making authority in both the third party and the registered party;
- b) the interactions or agreements between the third party and the registered party;
- c) the extent to which the third party participates in the decision-making process of the registered party pursuant to the constitution or founding documents of the registered party.

If a third party advertiser is affiliated with a registered party it has contravened the *EFDA* and is liable for a fine of up to \$100,000.

Rules were also amended eliminate the ability of third party advertisers to self-fund their election advertising campaign during the election advertising period (January 1-Election Day). During that period all advertising contributions must come from individuals. Unions are not permitted to spend their own money on advertising.

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Finally, election third party advertisers are required to file weekly reports about contributions received during the election period. The reports must include the total amount of contributions received during each week and must disclose the name and address of all contributors over \$250.

### **Overview of Breaches**

At present, there are at least two registered third party advertisers that are affiliated with Rachel Notley and the Alberta NDP – the Alberta Federation of Labour and the Canadian Union of Public Employees (Alberta Division). These entities **should not have been allowed to register and are prohibited from spending money on third party advertising.**

Each of these NDP-affiliated union organizations have undertaken significant election advertising campaigns but have recorded **zero** advertising contributions. This is a clear breach of the *EFDA*.

### **Alberta's NDP**

The Alberta NDP is structured in a different fashion than traditional political parties. Rather than putting the power solely in the hands of individual members, the NDP's Constitution gives disproportionate power to certain unions and their leadership.<sup>1</sup>

Indeed, the NDP's own Constitution uses the same language as the *EFDA* – setting out a process for “affiliation” and requiring the organization or group to undertake to follow the NDP's Constitution:

#### 2.11 Affiliation

(a) Affiliated membership shall be open to any groups and/or organizations which, by official act, undertake to accept and abide by the constitution and principles of the Party, and are not members and/or supporters of any other political party.

The organizations who choose to become affiliated with the NDP are given remarkable powers and privileges, including the right to submit resolutions directly to a provincial convention (3.07), automatic delegate status (4.02), and 25% of the votes in a leadership contest (6.01(a)(i)).

Further powers are given to the NDP's “Labour Caucus” – a powerful group that is interwoven in the governing structures of the NDP. The Labour Caucus is also afforded the right to submit resolutions directly to a provincial convention, automatic delegate status, the ability to elect two vice presidents to the Party's Table Officers (6.01(b)), one representative of the Provincial Executive, and five members of the Provincial Council (7.01(g)).

The Alberta Federation of Labour is given further and additional status as well – it is specifically mentioned in the NDP Constitution. The AFL is given four automatic delegate positions and two positions on the NDP's Provincial Council. The Alberta NDP has deliberately hidden the nature of the affiliation with these union groups. They have hidden the composition of their Provincial Executive since August 13, 2022, by removing this information from their website. However, using web-archiving tools, we have discovered that many union leaders hold executive positions.<sup>2</sup>

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<sup>1</sup> [https://www.albertandp.ca/sites/default/files/alberta\\_ndp\\_constitution\\_0.pdf](https://www.albertandp.ca/sites/default/files/alberta_ndp_constitution_0.pdf)

<sup>2</sup> <https://web.archive.org/web/20220521113627/https://www.albertandp.ca/sites/default/files/executive-013122.pdf>

The NDP has also hidden the membership of their Labour Caucus from the public. However, Alberta NDP 2022 Convention Guide gives a glimpse of their activities and involvement in a report authored by Gil McGowan (AFL) it chronicles a “united” movement and proposes a suite of policy proposals for the Alberta NDP.<sup>3</sup>

It is clear that the NDP is not being transparent with Albertans about their ties with these union organizations who are also acting as third party advertisers.

### **Alberta Federation of Labour**

The Alberta Federation of Labour appears to have undertaken an extensive campaign to support the NDP.

- They have prepared and published an extensive paid Facebook/Instagram advertising campaign. Publication costs alone appear to exceed \$35,500.<sup>4</sup>
- The AFL have also invested in paid advertising on Google owned platforms like YouTube.
- The AFL appear to have paid staff preparing and posting content that is opposed to the UCP and promotes Rachel Notley and the NDP.
- The AFL’s “Workers Demand Better” campaign includes emails to the public, a website, press releases, and events with a dominate purpose of opposing the UCP and supporting Rachel Notley and the NDP.<sup>5</sup> There are obviously significant human and other resources dedicated to these efforts. All of these expenses are properly categorized as election advertising.

We have documented the inextricable links between the Alberta NDP and the AFL and its leadership in the earlier section, but it is worthwhile to note that the AFL is affiliated with the Alberta NDP by its own admission. When criticizing the UCP for passing Bill 81 because it would prevent the AFL from undertaking the activities it has undertaken in any event, the AFL writes:

The Alberta Federation of Labour is affiliated with the Alberta NDP. We are named in the party’s constitution as an affiliate because organized labour helped form the party. We are affiliated because our values align with the Alberta NDP – values like collective action for better jobs and safer workplaces, values like equality and equity by helping less fortunate Albertans have access to public health care and education. We are proud of our progressive values and the Alberta NDP shares those values.

Affiliation means we get four delegates to the Alberta NDP Convention and two delegates to the party’s Provincial Council meeting, a small portion of delegates to these meetings.<sup>6</sup>

<sup>3</sup> <https://assets.swoogo.com/uploads/2144657-6351af5552f57.pdf>

<sup>4</sup>

[https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=CA&view\\_all\\_page\\_id=149042028439970&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=page&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=CA&view_all_page_id=149042028439970&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=page&media_type=all)

<sup>5</sup> <https://action.afl.org/>

<sup>6</sup> [https://www.afl.org/the\\_ucp\\_s\\_anti\\_democracy\\_gag\\_law\\_bill\\_81\\_explained](https://www.afl.org/the_ucp_s_anti_democracy_gag_law_bill_81_explained)

There are further examples of ties between the organizations. Numerous officials appear to hold decision making roles in both the AFL and the NDP:

- Gil McGowan appears to be the leader of the NDP Labour Caucus while also serving as President of the AFL;
- Rory Gill appears to be an NDP Labour VP while also a member of the AFL Provincial Executive.
- Sarah Milne appears to be NDP Provincial Women's Caucus Co-chair and Calgary Lougheed CA President while also serving as a member of the AFL Provincial Executive Council;
- Krysty Thomas appears to be the NDP General VP (South) while also serving as a member of the AFL Provincial Executive Council; and
- Charmaine St. Germaine appears to be NDP Provincial Women's Caucus Co-Chair while also serving as a member of the AFL Provincial Executive Council.

We also understand that Mr. Gil McGowan has been in regular contact with members of the Alberta NDP and members of its campaign team. His social media pages suggest he has been present at a number of public NDP events. We believe that if there is coordination and collusion between Mr. McGowan and the NDP, it is a violation of the *EFCDA*.

The AFL should not be permitted to be an election third party advertiser, but even if it were, we believe that the AFL has contravened the *EFCDA* in other ways.

Despite spending tens of thousands of dollars on advertising content, which should have come from an election advertising account, the AFL has reported zero dollars in advertising contributions. Either the AFL is spending money on advertising from prohibited sources or they are failing to disclose their contributors.

### **CUPE (Alberta)**

Like the AFL, CUPE (Alberta) has undertaken an extensive advertising campaign opposing the UCP and supporting Notley and the Alberta NDP.

- They have prepared and published an extensive paid Facebook/Instagram advertising campaign during the election advertising period.<sup>7</sup>
- We believe they have also invested in paid advertising on Google-owned platforms like YouTube.
- CUPE (Alberta) appear to have paid staff preparing and posting content on CUPE (Alberta) social media platforms that is opposed to the UCP and promotes Rachel Notley and the NDP.

There are further examples of ties between the organizations. Numerous officials appear to hold decision making roles in both CUPE (Alberta) and the NDP:

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[https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=CA&view\\_all\\_page\\_id=245013842275891&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=page&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=CA&view_all_page_id=245013842275891&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=page&media_type=all)

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Edmonton Office:  
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- Rory Gill appears to be an NDP Labour VP while also a member of the AFL Provincial Executive.
  - Lou Arab appears to be an NDP 2<sup>nd</sup> VP while also acting as a senior communications staff member for CUPE (Alberta).
  - Elizabeth Tweedale is the NDP Calgary Loughheed CA President and a CUPE, Local 37 Committee Chair.

We also have concerns about coordination and collusion between senior members of the Alberta NDP and CUPE (Alberta).

It would be a breach of the *EFDA* for these individuals to coordinate political activities, which appears to be occurring. Like the AFL, CUPE (Alberta) has also disclosed no contributions despite its advertising activities. Either CUPE (Alberta) is spending money on advertising from prohibited sources or they are failing to disclose their contributors.

We also note that given the extensive ties between CUPE (Alberta) and the AFL, we believe that these entities may have also colluded to exceed third party advertising expense limits during the election advertising period.

#### **Requested Action**

Given that the election period has commenced it is imperative that Elections Alberta take immediate action.

We ask that you confirm that Elections Alberta are investigating this matter at your earliest opportunity and that Elections Alberta will demand both the Alberta Federation of Labour and CUPE (Alberta) to immediately **cease and desist** all advertising activities.

Please also confirm that the Alberta Federation of Labour and CUPE (Alberta) will be immediately required to disclose all advertising contributions they have received to fund their election advertising campaigns.

Finally, please confirm that the advertising expenses incurred by these NDP-affiliated organizations will count toward the NDP's expense limit for the election period. It is simply unfair that the NDP benefit from these third party attacks when they obviously have knowledge of those activities.

In the event you require any further information, please contact me by email.

Thank you for your prompt attention to this matter.

Sincerely,

Dustin Van Vugt, Executive Director  
United Conservative Party of Alberta