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Yves Côté, Commissioner of Canada Elections
30 Victoria Street
Gatineau, Quebec
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November 26, 2014

Dear M. Côté,

I am writing to launch a formal complaint regarding widespread, coordinated voter fraud in at least eight electoral districts during the 2011 election.

We now have two judgments from two Canadian courts. Evidence was adduced and tested. Although the causes of action were different, although one case was a criminal matter tested against reasonable doubt and another was an administrative question tested on balance of probability, although the evidence adduced came from different electoral districts, the findings of fact by the two judges involved, Mr. Justice Mosley of Federal Court and Mr. Justice Hearn in Ontario Court, came to remarkably similar conclusions. In key respects, the judges' findings of facts were identical.

The six electoral districts in the Federal Court matter before Mr. Justice Mosley were Winnipeg South Centre, Saskatoon-Rosetown-Biggan, Elmwood-Transcona, Nipissing-Temiskaming, Vancouver Island North and the Yukon. The criminal charges against Michael Sona, heard before Mr. Justice Hearn, related solely to Guelph. While we know there were fraudulent calls in a much larger number of ridings, including my own of Saanich-Gulf Islands, we have no legal rulings from other electoral districts.

We now have through these two cases a clear picture of a widespread, coordinated attempt to defraud voters. We know that the voice messages fraudulently attempting to obstruct a fair election were identical in these seven ridings. We know that both judges found that, while making no finding that the Conservative candidates were implicated, the guilty party's actions were taken to advance the interests of the Conservative Party. And most tellingly, both judges found that the probable source of the names and phone numbers of voters targeted to receive the calls was the Conservative Party data base.



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In support of these points, I refer you to the following:

- "... that there was an orchestrated effort to suppress votes during the 2011 election campaign..." (Mr. Justice Mosley, *McEwing v. Canada* [2013] 4, R.C.F, at para 184)
- Relating to the identical phone message, Mr. J. Hearne described it: "The message indicated that due to a projected increase in voter turnout the polling station for the individual or individuals at the numbers called had been changed to another location in the City of Guelph. The message notes that location to be the Old Quebec Street Mall at 55 Wyndham Street North and provides a "hotline" telephone number. As well the message contains an apology for any inconvenience the change may cause. It is acknowledged that the message was false, that there had been no change in polling locations and the message was not from Elections Canada." (*R. v. Sona*, Ontario Federal Court, August 14, 2014.)
- Mr. J Mosley's judgement actually included the full text of the fake calls: "This is an automated message from Elections Canada. Due to a projected increase in poll turnout your voting location has been changed. Your new poll location is at ... If you have any questions please phone our hotline at 1-800-434-4456. We apologize for any inconvenience this may cause."
- Only one person has been charged for this criminal activity. Michael Sona was the Communications Director of the Conservative Campaign in Guelph. He has been found guilty, but Mr. Justice Hearn found him guilty only of "aiding and abetting." The judge made it clear that the evidence pointed to other people. On the facts, it is clear that Sona was not the originator of the scheme. Sona had no connection *at all* with the six other ridings and no one has suggested he was responsible for those.
- Both judges reviewed how the fraud was carried out. Both examined the new technology of automated voice recordings launched to thousands of phone numbers. Both found that it would be relatively easy to set up accounts through firms offering the service. Both judges described the new technology that allows an incoming call to appear on the recipient's phone caller ID as a name and number with no connection to the call. This is a process called "spoofing." It made the calls appear to be from Elections Canada.
- Both judges focused on the complex aspects of the crime: that whoever perpetrated it had to have knowledge of plausible, if inconvenient, locations for the bogus new polling locations, and, most significantly, that the calls had been directed to voters who had previously indicated that they did *not* intend to vote Conservative.
- Both judges, while taking pains to confirm they had no reason to suspect that the Conservative candidates in those ridings had knowledge of the scheme, concluded that the beneficiary of the robo-calls fraudulently mis-directing voters was the Conservative Party.
- Both judges identified the Conservative Party's Constituency Information Management System (CIMS) as the source of the numbers used in the fraud. In fact, in the Michael Sona case, it was in the admitted facts of the case that the numbers came from CIMS data base. It was also accepted as fact that Michael Sona had no access to CIMS.
- Mr. Justice Mosley found: "that there was an orchestrated effort to suppress votes during the 2011 election campaign by person or persons *with access to the CIMS database.*" (emphasis added).

I am launching this complaint in my capacity as Member of Parliament for Saanich-Gulf Islands, and secondarily as leader of the Green Party of Canada. My constituents are deeply troubled that the most massive attempt at voter obstruction in Canadian history remains unsolved as we are little more than a year away from the next election.

Mr. Justice Mosely began his ruling:

“In his remarks to the Standing Committee on Procedure and House Affairs of the House of Commons on March 29, 2012 [PROC-30, at page 1], Mr. Marc Mayrand, Chief Electoral Officer of Canada, made the following comments about the allegations that are at the heart of these applications:

‘These are *very serious matters that strike at the integrity of our democratic process*. If they are not addressed and responded to, they risk undermining an essential ingredient of a healthy democracy, namely the trust that electors have in the electoral process.’ [Emphasis added.]”

I agree. I am writing to formally request that a fulsome investigation be launched to determine who had access to CIMS. It is clear from both cases that access was to a limited number of people. All parties with access must be questioned to ensure the perpetrators are uncovered and charged.

I urge you to ensure Canadians’ trust in the democratic process is not further undermined by leaving the prosecution at one minor participant in a nation-wide effort to advance the interests of the governing party through criminal fraud.

Please notify me upon your receipt of this complaint, and do not hesitate to contact me should you require further information regarding this request.

Sincerely,



Elizabeth May, O.C., M.P.
Saanich-Gulf Islands
Leader of the Green Party of Canada