

January 31, 2020

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**COMMISSIONER OF CANADA ELECTIONS**

30 Victoria Street  
Gatineau, QC K1A 0M6

**Attention: Mylène Gigou (Director of Investigations)  
Louise Panneton (Lead Investigator)**

Dear Ms. Gigou and Ms. Panneton:

**Re: Commissioner of Canada Elections (“Commissioner”) Investigation Against Rebel News Network Ltd. (“Rebel News”) re: “The Libranos” (the “Libranos Investigation”)**

**Your File No.: 2019-0752**

**Our File No.: 378.00002**

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We have been retained as lawyers for Rebel News in respect of the above-noted matter and write to express our client’s concerns regarding the Libranos Investigation, generally, and specifically, the Commissioner’s investigatory conduct, which in our view, appears to have tainted the Libranos Investigation in a profound, irreparable manner. Accordingly, it is our view that the Commissioner should terminate the Libranos Investigation forthwith.

**THE COMMISSIONER INFORMS REBEL NEWS OF THE LIBRANOS INVESTIGATION**

By letter dated December 9, 2019, Ms. Gigou advised Rebel News’ principal, Ezra Levant (“**Mr. Levant**”), that it had initiated an administrative investigation into allegations that Rebel News had contravened sections 352 and 353 of the *Canada Elections Act*, S.C. 2000, c. 9 (the “**Act**”), stating:

*“The allegations are that Rebel News contravened the Act by (1) failing to include the required information on third party election advertising and (2) having incurred over \$500 on election advertising expenses, failing to register as a third part in the 43<sup>rd</sup> General Election. Specifically, it is alleged that Rebel News engaged in election advertising in its production and distribution of “Libranos” signs during the election period.*

*The conclusion of the administrative investigation may lead the Commissioner of Canada Election to levy an administrative monetary penalty (AMP) against Rebel News and/or any of its directors or officers to address violations and ensure compliance with the Act.”*

It appears that the Commissioner clearly understood that the Libranos book (and by extension, the Libranos promotional signs, stating “Buy the Book”) was likely exempted by the express language of the *Act*, setting out the exemption in its letter, as follows:

*“As you may be aware, the definition of “election advertising” in the Act contains examples of some communications that could promote or oppose a registered party or a candidate, but that do not constitute “election advertising.” Among these examples is one that applies to “the promotion of the sale of a book [...] if the book was planned to be made to the public regardless of whether there was to be an election.”*

Ms. Gigou advised Mr. Levant that Rebel News “was under no obligation to cooperate with investigators”, but noted that cooperation with investigators would be one of the factors that would be taken into account in determining the amount of an administrative monetary penalty that could be imposed at the conclusion of the investigation. Accordingly, Ms. Gigou invited representatives of Rebel News to schedule an “interview with investigators” in January 2020.

The Commissioner did not provide Rebel News (and has not provided to-date) the supposed complaint(s) underlying the Libranos Investigation.

#### **MR. LEVANT IS INTERROGATED BY INVESTIGATORS**

On January 23, 2020, under protest, Mr. Levant attended at the Commissioner’s office and was interrogated by two former senior RCMP officers — Tim Mackin and Paul Couture (the “**Interrogators**”) — for one hour, without first being provided with a *Charter* caution as required under the Commissioner’s *Compliance and Enforcement Policy of the Commissioner of Canada Elections* (the “**Commissioner’s Policy**”).

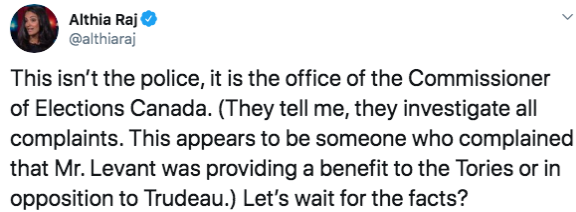
Throughout the interrogation, Mr. Levant repeatedly requested, and was refused, disclosure of the supposed underlying complaint(s). Rather, the Interrogators proceeded to question Mr. Levant about the nature of his business, employment, and marketing practices, all of which were irrelevant and inappropriate in the circumstances, including questions such as:

- “Did you have a communications, marketing plan surrounding the Libranos – what was the marketing plan?”
- “Did you do it all yourself or did you have a team?”
- “You sought volunteers that had a certain view on Justin Trudeau and Gerald Butts... and you sought that specific type of person, is that correct?”
- “When you were doing your recruiting... what type of people were you looking for? ... for what purpose?”

#### **THE COMMISSIONER APPEARS TO DISCLOSE CONFIDENTIAL INFORMATION**

Furthermore, our client has advised us that the Commissioner appears to be communicating confidential information (of which Rebel News has not even been privy) to third parties regarding the Libranos Investigation in a manner contrary to the Commissioner’s Policy and basic

investigatory standards — please refer to s. 119 (“Duty to maintain Confidentiality”). For example, Althia Raj — HuffPost and CBC commentator — tweeted the following, which suggests that the Commissioner may be disclosing confidential information about the underlying complaint(s) to third parties, despite not disclosing same to the accused party — Rebel News:



Further, the Commissioner advised Postmedia’s Joe Warmington, as follows:

*“... what is at issue here isn’t the subject matter or content of a comment, book or other publication. The issue is actually related to an alleged failure to register – per the requirements of the Act – as a third party. Third parties are those who, after having spent more than \$500 on advertising during the election period to promote or oppose a candidate, are required to register with Elections Canada and file reports. The intent of these requirements is to ensure that there is transparency for all Canadians, given that third party reports are publicly accessible on Elections Canada’s website.”*

**IRREPARABLY TAINTED/NO MERIT: THE LIBRANOS INVESTIGATION SHOULD BE TERMINATED**

For all the foregoing reasons, it is our view that the Libranos Investigation is irreparably tainted and should be terminated accordingly.

Further, it is our view that Rebel News’s book and the promotion in relation thereto falls squarely within the exemption set out in the *Act*, and aligns with the very intention of the exemption, which is to ensure that fundamental freedoms — freedom of expression and freedom of the press — are not eroded during our country’s pinnacle democratic moment — national elections.

Should the Commissioner proceed with prosecution, we expect it to preserve/produce all records/documents/communications regarding the Libranos Investigation, as Rebel News intends to vigorously defend itself, and challenge this process as well as the constitutionality of the underlying law.

Please direct all future correspondence to the undersigned.

Yours very truly,

**RE-LAW LLP**

Aaron Rosenberg

cc: client