

HFN Application for Declaration of Invalid Election June 2023

Response from Election Commissioner Kit Spence

The applicant alleges that “ballots were out before materials” i.e. campaign materials were distributed and received after the mail-in ballots.

The allegation is correct. The mail-in ballot package was deposited with Canada Post by Aristos Mail Tech on May 26th and the candidate information package was deposited with Canada Post by Aristos Mail Tech on May 31st. (*see Appendix 1: Confirmation of Mailing Dates from Aristos Mail Tech Inc.*)

However, there is nothing in the Act that specifies or requires that campaign material be distributed before the mail-in ballots are sent out.

Candidate Campaign Material

s 43 of the Act governs the distribution of campaign materials and says that the candidates have until 22 days before the election to provide campaign materials to the Commissioner, which is May 26, 2023. The Commissioner is directed under s 43 (2) to distribute the campaign information at least 21 days before voting day, i.e. on May 27, 2023, which is a Saturday.

Under s 43(3) the Commissioner *may* combine the mailing of campaign information with other materials mailed from the Commissioner’s office.

All candidate materials were received prior to the deadline and a consolidated file of these materials were provided to Aristos Mail Tech on May 25 for duplication and distribution.

Under the current provisions of the Act, it is practically impossible to meet the requirements if candidates do not provide materials until the deadline. Duplication and preparing individual mail packages of candidate information for approximately 600 voters is a substantial job which I as Commissioner contract to a service provider, in this case Aristos Mail Tech of Victoria, which then does the duplication and mailing. Due to operational constraints, Aristos was only able to provide the packages to Canada Post on May 31.

Mail-in Ballot packages

s 48 of the Act governs the distribution of mail-in ballot packages. It says (s48 (1)) that the Commissioner must give notice of the opportunity to vote at least 28 days before voting day, i.e. before Friday May 19, and that no later than 21 days before voting day the commissioner must mail a mail-in ballot package to all eligible voters (s48(2)), i.e. Friday May 26.

A Notice of Election was published on May 19 which included the notice of opportunity to vote by mail in ballot. *See Appendix 2 – Notice of Election.*

The mail-in ballot package was provided to the service provider on May 22 with direction that it should be in the mail by May 26. As evidenced in *Appendix 1*, the mail-in ballot package was delivered to the Post Office on May 26.

While s 48(3)(g) of the Act says that campaign information may be included with the mail-in ballot package, the decision was taken based on past experience to send the two packages separately. From a practical perspective, it was possible to create and provide the mail-in ballot package to the service provider prior to the deadline date for the provision of campaign materials by the candidates. As the mail-in ballot package is somewhat complex, it requires additional time for the service provider to prepare and it is important to allow as much time as possible for voters to return their ballot given challenges that have been experienced with Canada Post in the past.

Email Addresses

In the pre-hearing conference on Monday June 26 the applicant made reference to email addresses for the candidates that were provided by the Commissioner. While many of the candidates have HFN email addresses, the email addresses that were used to communicate with the candidates were all private and personal addresses as listed below.

brad_johnson504@hotmail.com, Connie and Mark <connieandmark@shaw.ca>, Edward Johnson <edwardrjohnson3rd@gmail.com>, Evan Cook <evanfromheaven52@gmail.com>, jacquidennis542@gmail.com, John Jack <john.jack@gmail.com>, louella dennis <louelladennis@gmail.com>, sherri77cook@shaw.ca, "stella.m.peters" <stella.m.peters@gmail.com>, Stephen Rayner <stephenthomasrayner@hotmail.com>

Appendices

Appendix 1 – Confirmation of Mailing dates from Aristos Mail Tech Inc.

From: Jamie Genge jamie.genge@aristosmail.com
Subject: Mailing Dates for HFN election
Date: June 26, 2023 at 11:23 AM
To: HFN_Election_Commissioner@shaw.ca
Cc: steve.farrell@aristosmail.com



Hi Kit

This is to confirm that the first election mailing emailed to us on Monday, May 22nd was delivered to the Post Office on Friday, May 26th. The second election mailing emailed to us on Thursday, May 25th was delivered to the Post Office on Wednesday, May 31st.

Please let me know if there is anything else we can do for you.

Thanks,

Jamie Genge (he/him)
General Manager
Aristos Mail Tech Inc.
(250) 384-7678
PLEASE NOTE MY NEW EMAIL ADDRESS
jamie.genge@aristosmail.com
www.aristosmail.com

Appendix 2 – Notice of Election



huu ay aht

ANCIENT SPIRIT, MODERN MIND

Notice of Election for Chief Councillor and Five Councillors

Notice is hereby given pursuant to Section 39 of the Huu-ay-aht Election Act that there will be an election for the offices of **Chief Councillor** and **five (5) Councillors** for the Huu-ay-aht First Nations Council.

Voting Day will be Saturday June 17, 2023.
Polls will be open from 8:00 a.m. until 8:00 p.m.

Voters will have multiple voting opportunities including:

- in-person at the polling stations,
- by mail-in ballot, and
- by electronic voting (internet and telephone).

All voters will receive a mail-in ballot package and a PIN and instructions for electronic voting.

Polling stations will be in:

- Port Alberni at the **Best Western Barclay Hotel, 477 Stamp Avenue.**
- Anacla at the **House of Huu-ay-aht.**

Voters will be required to provide identification that includes a photograph. If a voter does not have identification satisfactory to the election officials, they may be required to complete a solemn declaration attesting to their identity.

A complete list of candidates that have been nominated and their contact information is attached to and comprises part of this Notice. Any eligible voter may challenge a nomination no later than 20 days before voting day by following the steps outlined in section 36 of the Election Act.

All-Candidates meetings will be held where eligible voters can hear the candidates' presentations and ask questions.

Meeting details

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| • Vancouver – Wednesday, May 24 | Hilton Metrotown (6083 McKay Ave, Burnaby) |
| • Victoria – Thursday, May 25 | Marriott Inn Harbour (728 Humboldt St, Victoria) |
| • Nanaimo – Friday, May 26 | Conference Centre (101 Gordon St.) |
| • Anacla – Wednesday, June 7 | House of Huu-ay-aht |
| • Port Alberni – Thursday, June 8 | Location to be confirmed |

Agenda

- Doors open: 4:30 p.m. (appetizers, dessert, coffee, tea, and water will be served)
- Chief Councillor all-candidates meeting: 5:00 - 6:30 p.m.
- Break – 6:30 p.m.
- Councillor All-candidates meeting: 7-8:30 p.m.

The Election Commissioner is responsible for the fair, efficient, accessible and transparent conduct of the elections under the Election Act. The duties and powers of the Election Commissioner are detailed in Division 1 of the Election Act.

Kit Spence has been appointed as Election Commissioner and may be contacted by telephone at 877-541-9017, by text at 250-881-0142 or by email at HFN_Election_Commissioner@shaw.ca

Dated the 19th day of May 2023.



Kit Spence
Election Commissioner

