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April 20, 2009

James Sullivan
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VIA PERSONAL SERVICE

Reference: 97828/2

Carole James
5367 Kingsway
Burnaby, BC V5H 2G1

Attention: Carole James

Re: Patrick Kinsella

We act for Patrick Kinsella.

We write in respect of two articles. The first, dated April 15, 2009, is published on the website of the New Democratic Party of British Columbia ("NDP") and is entitled "It's time to end insider corruption under Gordon Campbell". This article is attached at Schedule "A". The second, attached at Schedule "B", is dated April 16, 2009 and published in the Thursday, April 16, 2009 edition of the *Vancouver Sun*, is entitled, "James rails against Liberals over Kinsella's involvement in deal: NDP leader says party would call public inquiry into sale of BC Rail" (collectively, the "Articles").

The Articles continues to be available online at:

<http://www.bcndp.ca/newsroom/its-time-end-insider-corruption-under-gordon-campbell>

<http://www.vancouversun.com/Business/James+rails+against+Liberals+over+Kinsella+involvement+deal/1501513/story.html>

The Articles are replete with defamatory and injurious statements and insinuations in respect of Mr. Kinsella. The central sting of the Articles is that Mr. Kinsella is a corrupt businessman who is using his influence with politicians for unfair personal gain, and that Mr. Kinsella is guilty of improper and/or illegal and/or criminal use of the public's money. These are false and highly damaging allegations.

The defamatory statements made in the Articles are malicious, and are a shameful display of comments made at the expense of a private citizen for personal gain. The Articles go to great lengths to smear Mr. Kinsella's reputation by, among many other things, suggesting irrelevant and tenuous connections between Mr. Kinsella and the BC Rail trial. Mr. Kinsella did not receive \$300,000 from the Campbell government to help sell BC Rail. Mr. Kinsella did not look for favours or get secret contracts, he never met or spoke to the Premier or Mr. Brown in respect of the sale of B.C. Rail nor did Mr. Kinsella receive any promises from the Premier. And, in fact, Mr. Kinsella has never been in the Premier's office in the Legislature. Further, Mr. Kinsella has never attended a meeting with David McLean and the Premier.

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Further, contrary to the insinuation in your comments Mr. Kinsella did not receive public funds to help in the privatization of B.C. Hydro.

The allegations in the Articles cause serious harm to our client's reputation and business. Mr. Kinsella's livelihood is based on his reputation. The potential fallout from the defamatory and malicious comments in the Articles is devastating for Mr. Kinsella.

These malicious and reckless defamatory statements mean and would be understood by a reasonable reader to mean without limitation that:

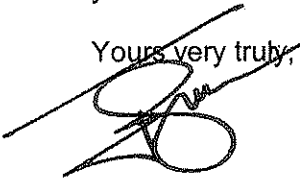
1. Mr. Kinsella is corrupt;
2. Mr. Kinsella is untrustworthy and are engaged in a scheme to personally benefit from the public's monies;
3. Mr. Kinsella has a history of improper and/or illegal and/or criminal business dealings; and
4. Mr. Kinsella is guilty of improper and/or illegal and/or criminal use of the public's money.

The maliciousness of the defamatory comments contained in the Articles is exacerbated by your motivation of personal gain in making them. Your malicious conduct in making these defamatory comments warrants not merely a general damages award, but a penalty of punitive damages as well.

Mr. Kinsella had no recourse available to him when you made defamatory comments about him in the Legislature. However, you no longer enjoy the protection of the privilege that protects comments made in the legislature. Mr. Kinsella will not sit idly by and permit you to make these malicious comments about him for your personal gain.

We trust that you will agree that a clear and unqualified apology is owing to Mr. Kinsella. Failing a satisfactory reply within the next three days our client will be forced to consider further action. We trust that you will act accordingly.

Yours very truly,



James Sullivan

SCHEDULE "A"

"It's time to end insider corruption under Gordon Campbell"

April 15, 2009

Carole James vows concrete measures to ensure integrity

North Vancouver - Carole James vowed to end BC Rail-style corruption with tough new laws to regulate lobbying and conflicts of interest.

"Gordon Campbell paid his top advisor Patrick Kinsella \$300,000 to help sell off BC Rail in a deal tainted by corruption," James said today at the North Vancouver BC Rail yards.

"More than five years after the unprecedented police raid on the legislature, Campbell still refuses to answer questions about the largest political scandal in BC history," she said.

"Campbell has gone too far in rewarding friends and insiders. The NDP will clean up government and bring in tough rules to make sure that friends and insiders don't benefit from the sell-off of our public resources," said James.

She noted that in 2001, Gordon Campbell promised he wouldn't sell BC Rail.

"He broke that promise, and handed a public asset worth a billion dollars to his political friends and donors. The NDP will put an end to that," said James.

The NDP will strengthen conflict of interest legislation, close loopholes in the Lobbyist Registration Act, introduce tough new rules to restrict lobbyist influence over decision-makers and institute campaign finance reform to ensure that the public interest comes first. Carole James and the NDP are committed to a full public inquiry on BC Rail.

"If he's re-elected, Gordon Campbell will continue to give away our public resources and services to the benefit of his friends," said James.

"Together, we can stop him. Together, we can take back your BC."

Filed in: [Headlines](#) [Campbell Government Corruption](#)

SCHEDULE "B"

James rails against Liberals over Kinsella's involvement in deal

NDP leader says party would call public inquiry into sale of BC Rail

BY KENT SPENCER, WITH FILES FROM JONATHAN FOWLIE, CANWEST NEWS SERVICE APRIL 16, 2009



Premier is hiding the truth about BC Rail, Carole James says.

Photograph by: Jason Payne, Canwest News Service, Canwest News Service

NDP leader Carole James took her campaign to the rail yards in West Vancouver on Wednesday to accuse the Liberal government of favouring friends and insiders.

"One of Gordon Campbell's closest friends -- Patrick Kinsella -- was paid \$300,000 by BC Rail in the \$1-billion sale [of BC Rail to CN Rail]," James said as engines shunted cars along the tracks behind her.

"Campbell refuses to say why he was paid. People have a right to know the truth about the deal and who is really benefiting."

Kinsella, a Vancouver public-relations consultant, ran the Liberals' provincial election campaigns in 2001 and 2005.

His involvement in the BC Rail controversy, which is still not known in detail, came to light in February.

Campbell, campaigning in Prince George, brushed aside questions about reports Kinsella is working for a local BC Liberal campaign.

"I guess you have to ask him," he said. "I guess he's working on a local campaign."

Campbell said he did not know which campaign Kinsella was working for, adding: "I haven't talked to him for ages."

James said the NDP would call a public inquiry into the sale of BC Rail.

James's government would also introduce an Integrity Act to regulate public appointees, blind trusts and campaign financing, and appoint a registrar of lobbyists.

James said Kinsella was also paid to help privatize part of BC Hydro.

In the BC Rail sale, the NDP says court documents indicate then-CN chairman David McLean contacted Kinsella regarding the deal. It says Kinsella was working for both CN Rail and BC Rail before the sale.

A May 19, 2004, e-mail said Kinsella received a call from McLean to say the BC Rail deal was "at risk and anything they could do would be appreciated."

As well, the documents show, Kinsella was seen entering Campbell's office with McLean a number of times, the NDP says.

"The deal is a powerful symbol of why Gordon Campbell can't be trusted," James said. "He looked people in the eye and said he wouldn't sell BC Rail and then he sold it. His campaign manager received rich rewards for helping with the sale. It's a disgraceful story.

She was asked if Kinsella's payments could be above-board, but did not answer directly, saying the circumstances of the transaction were inappropriate.

Then, in an unscripted moment, James was sought out by a CN rail worker who stopped an engine on the tracks and ran after her.

The man, who did not identify himself, said he had worked on the rails for 33 years. He told James the sale has not benefited railway operations.

"CN Rail will fire my ass if this is broadcast," he said to a smiling newsman videotaping his actions.

The worker hurried back to the engine and set off.

Later, Asian-speaking owners of small businesses welcomed James to the Vancouver-Fraserview riding.

James, who bought apples from a fruit vendor, told the merchants she will provide a one-year tax holiday for small businesses and eliminated the carbon tax if elected on May 12.

"We need to make sure we're supporting entrepreneurs," James said. "Small-business owners are facing tough economic times."

Alan Dent, owner of Nishiki Sushi on Victoria Drive, said he liked some NDP policies but wasn't willing

to commit to supporting the party yet. He liked the carbon tax promise, saying, "The carbon tax is adding to my costs."

Wendy Chan, co-owner of the Teemway meat market, said the NDP supports small businesses.

James, responding to Campbell's claims that she lacks business experience, said she was a school trustee for 11 years, managing large budgets and making difficult decisions.

James is expected to release her critique of the Liberals' campaign platform today.

See full Vancouver Sun provincial election coverage at vancouversun.com/bcelection

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