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office of the registrar of lobbyists
BRITISH COLUMBIA

INVESTIGATION REPORT 15-01

LOBBYIST: Brad Zubyk

June 15, 2015

SUMMARY: A consultant lobbyist (the "lobbyist") filed a return with the Office of the Registrar of Lobbyists ("ORL") on August 13, 2013. The lobbyist certified that the commencement date of his undertaking was July 1, 2013. An investigation by the ORL found that the lobbyist failed to meet his obligations under s. 3(1) of the *Lobbyists Registration Act ("*LRA*")* when he did not file a return within 10 days of entering into an undertaking to lobby on behalf of a client. The lobbyist asked the Registrar of Lobbyists (the "Registrar") to reconsider the investigator's findings. Based on new evidence submitted by the lobbyist, the Registrar rescinded the investigator's findings. However, the new evidence prompted the Registrar to initiate an investigation to determine whether the lobbyist had possibly contravened s. 4(1) of the LRA. The Investigator concluded that the lobbyist had contravened s. 3(1) not s. 4(1) of the LRA. The Investigator also discovered additional evidence which showed that the lobbyist had also contravened ss. 4(1)(b)(iii), 4(1)(d) and 4(2)(a) of the LRA. The lobbyist was fined $3,500.

Statutes Considered: *Lobbyists Registration Act,* S.B.C. 2001, c. 42.

INTRODUCTION

[1] This report concerns an investigation under s. 7.1 of the *Lobbyists Registration Act* ("LRA"). This section gives the Registrar the authority to conduct an investigation to determine whether there has been compliance with the LRA or its regulations. If, after an investigation under s. 7.1, the Registrar or her delegate believes that the person under investigation has not complied with a provision of the LRA or its regulations, s. 7.2 of the LRA requires her to give notice of the alleged contravention and the reasons for her belief that the contravention has occurred. Prior to making a determination under s. 7.2(2), the Registrar must under s. 7.2(1)(b) give the person under investigation a reasonable opportunity to be heard respecting the alleged contravention.

[2] The LRA recognizes two types of lobbyists. This report focuses on "consultant lobbyists", individuals who undertake to lobby for payment on behalf of a client.

[3] This report arises in the wake of Reconsideration 14-06, which arose from Investigation Report 14-06. The lobbyist provided new information in his reconsideration request. Based on this new information, the Registrar rescinded the findings in IR 14-06 as she held that "I cannot confirm the investigator's finding that the lobbyist failed to

meet his obligation under s. 3(1) of the LRA" (para. 18). The report containing the reconsideration decision also advised the lobbyist that a new investigation would be initiated into a possible contravention of s. 4(1) of the LRA.

[4] Under s. 7(4)(d) of the LRA, the Registrar has delegated the authority to me to conduct this investigation pursuant to s. 7.1(1) of the LRA.

ISSUES UNDER CONSIDERATION

[5] The questions that must be considered are:

(a) Whether the lobbyist filed a return within the timelines set out in s. 3(1) of the LRA.

(b) Whether the lobbyist entered incorrect information into his return contrary to s. 4(1) of the LRA and certified under s. 5(1) of the LRA that the information was true.

(c) Whether the lobbyist failed to supply the Registrar with changes to his return within 30 days after the changes occurred contrary to s. 4(2)(a) of the LRA.

(d) If the lobbyist did not comply with the requirements of the LRA, what, if any, administrative penalty is appropriate in the circumstances?

RELEVANT SECTIONS OF THE LRA

Requirement to file return

3(1) Within 10 days after entering into an undertaking to lobby on behalf of a client, a consultant lobbyist must file with the registrar a return in the prescribed form and containing the information required by section 4.

Form and content of return

4(1) Each return filed under section 3 must include the following information, as applicable:

(b) if the return is filed by a consultant lobbyist,…

(ii) the date on which the undertaking with the client was entered into and is scheduled to terminate, and

(iii) the name of each individual engaged by the consultant lobbyist to lobby on behalf of the client;…

(d) the name and business address of the client or organization;…

(h) if the client or organization is a member of a coalition, the name and business address of each member of the coalition;

4(2) An individual who files a return must supply the registrar with the following information within the applicable period:

(a) particulars of any change to the information in the return, within 30 days after the change occurs;

Certification of documents and date of receipt

5(1) An individual who submits a document, including a return, to the registrar under this Act must certify,
(a) on the document, or

(b) in the manner specified by the registrar, if the document is submitted in electronic or other form under section 6,

that, to the best of the individual's knowledge and belief, the information contained in the document is true.

BACKGROUND

Initial Investigation Report 14-06

[6] On August 13, 2013, the lobbyist submitted a return to the ORL, registration ID 17159308, entering an undertaking start date of July 1, 2013, and listing Urban Impact as his client. Based on the dates provided by the lobbyist himself, a review of the registration indicated that the lobbyist may have filed his return more than 10 days from the start date of the undertaking. An investigation was opened under s. 7.1 of the LRA to determine if the lobbyist had contravened s. 3(1) of the LRA.

[7] The investigation found the lobbyist contravened s. 3(1) of the LRA when he failed to file his return within 10 days of entering into an undertaking to lobby on behalf of his client, Urban Impact. Investigation Report 14-06, dated June 5, 2014, set out the details of the investigation and the findings. Notably, those findings were based on the lobbyist's representation to this office at that time, in response to his opportunity to be heard, that he was not out of compliance with the LRA because he was "waiting for the client to sign the contract." (Investigation Report 14-06, para. 15).

Reconsideration Report 14-06

[8] On July 3, 2014, the lobbyist asked the Registrar to reconsider the findings contained in Investigation Report 14-06.

[9] The lobbyist provided new information and a new explanation in his reconsideration request. Counsel for the lobbyist submitted that on July 1, 2013, the lobbyist did agree to lobby on Urban Impact's behalf. However, the intent was to lobby municipal officials in relation to Metro Vancouver By-Law 280. Counsel submitted that since lobbying was directed at the municipal level, the lobbyist was not required to file a return with the ORL.

[10] Based on this new information and explanation, the Registrar could not conclude that the lobbyist contravened s. 3(1) of the LRA and she rescinded the findings in IR 14-06. However, this new information led the Registrar to "…conclude[d] that a new investigation should be initiated into…a possible contravention of s. 4(1) of the LRA."

INVESTIGATION

[11] I now turn to the current investigation of whether the lobbyist was in contravention of s. 4(1) of the LRA, based on the evidence presented in Reconsideration 14-06.

[12] In a letter dated July 3, 2014, submitted as part of the reconsideration process, counsel for the lobbyist stated that on July 1, 2013, the lobbyist agreed to lobby on Urban Impact's behalf. However, he explained further that the intent was to lobby municipal officials in relation to Metro Vancouver By-Law 280. He argued that since lobbying was directed at the municipal level, the lobbyist was not required to file a return with the ORL. The Registrar noted that if the lobbyist's new evidence was true, he may be in contravention of s. 4(1) of the LRA by entering an incorrect undertaking start date.

[13] I note that because the lobbyist did not offer the "municipal only" investigation at the initial opportunity to be heard prior to the first Investigation Report, there was obviously no basis for investigating the veracity or reliability of such a claim at the initial level. Moreover, the reconsideration process proceeded only by way of the lobbyist's representations through counsel to the Registrar. Accordingly, it was following the reconsideration decision, and in conjunction with proceeding with the s. 4(1) issue raised by the Registrar in her reconsideration decision, that I contacted the representative of Urban Impact and collected additional information concerning the nature and timing of the undertaking to lobby.

[14] On October 29, 2014, I spoke to the contact person for Urban Impact. She informed me that she believed from the inception of the undertaking that one of the lobbying targets was the Ministry of the Environment.

[15] On November 3, 2014, Urban Impact provided a copy of a document prepared by Wazuku Advisory Group, the lobbyist's company, dated June 24, 2013, which outlined the approach Wazuku Advisory Group would take in influencing municipal and provincial governments. The document is titled "Backgrounder: Wazuku Advisory Group, Qualifications and Approach." In the section of the report titled "Background" it states:

> "Recycle First has asked Wazuku to prepare a brief to assist Recycle First to position the coalition's solution with the Metro Vancouver Zero Waste Committee, the Metro Board, the provincial government and key Metro and provincial officials."

The document goes on to lay out the approach the lobbyist and Recycle First would use to influence decision makers. It set out Wazuku's fee schedule and introduced the Wazuku team members.

[16] Based on the above quoted statement it is reasonable to conclude that the lobbyist expected, from the outset, to lobby both municipal and provincial government officials and not just municipal officials as stated in the July 3, 2014 letter from the lobbyist's counsel on reconsideration. This confirms the lobbyist did not enter an incorrect start date in contravention of s. 4(1) of the LRA; instead it corroborates the lobbyist's start date as entered and adds weight to the conclusion that he did not file a return within the legislated timelines, which contravenes s. 3(1) of the LRA.

[17] The June 24, 2013 document's reference to a coalition raised other issues. On November 17, 2014, I spoke with the client who stated Urban Impact was a member of a coalition of companies known as Recycle First (referenced in the June 24, 2013 proposal). The client stated that the lobbyist entered into a verbal undertaking to lobby on behalf of Recycle First on or about July 1, 2013. The lobbyist's return listed Urban Impact as the client. The client specified Urban Impact was designated as the client in the return out of convenience. On December 11, 2014, the client provided me with the names of the Recycle First coalition members.

[18] Upon further inspection of the lobbyist's return, I further determined that the lobbyist had entered the name of another consultant lobbyist in the registration as someone the lobbyist engaged to work with him on this undertaking. A search of the registry was conducted to determine if the other consultant lobbyist had filed a return. I ascertained that he had not filed a return. This led me to believe that either the other consultant lobbyist failed to file a return or the lobbyist entered the name in error on his return.

[19] Based on the information above, I formed the belief that the lobbyist did not comply with several provisions of the LRA. The lobbyist filed a return, registration ID 17159308, on August 13, 2013, more than 10 days after he entered into an undertaking to lobby on behalf of Recycle First, contrary to s. 3(1) of the LRA. The lobbyist failed to enter his client's name, Recycle First, in his return, thus contravening s. 4(1)(d) of the LRA. If, in the alternative, the lobbyist was representing one member of a coalition, Urban Impact, he would have contravened s. 4(1)(h) of the LRA when he failed to enter the name and business address of each member of the coalition. Moreover, the lobbyist listed another consultant lobbyist in his registration as someone working him on this undertaking. The other consultant lobbyist had never filed a return for this undertaking, which was possibly contrary to s. 3(1) of the LRA. If, in the alternative, the lobbyist incorrectly entered the other consultant lobbyist's name in his return, he contravened s. 4(1)(b)(iii) of the LRA and he failed to correct this information contrary to s. 4(2)(a) of the LRA.

[20] On December 29, 2014, pursuant to s. 7.2 of the LRA, I sent notice to the lobbyist informing him that I had formed the belief he had failed to comply with ss. 3(1), 4(1)(b)(iii), 4(1)(d), 4(1)(h) and 4(2)(a) of the LRA. In the notice, I set out the basis for my belief and invited the lobbyist to respond in writing to the alleged contraventions and provide any information or documentation pertinent to the alleged contraventions, or the potential administrative penalty.

[21] On January 26, 2015, counsel for the lobbyist responded to my hearing notice. Counsel argued that the issues surrounding who was the lobbyist's client and the other lobbyist working on the undertaking went beyond the scope of the Registrar's direction in Reconsideration 14-06. Counsel raised the issue of administrative fairness. He pointed out that there was no indication in Investigation Report 14-06 or Reconsideration Decision 14-06 that asking for reconsideration would lead to a further investigation. Counsel argued that it was administratively unfair to subject Mr. Zubyk to a new investigation into the same matter with the result that new issues were raised.

[22] Counsel submitted that filing his return on or about August 13, 2013 was within the legislated timelines. He stated that the June 24, 2013 "Qualifications and Approach" document was a "… 'business pitch' prepared by Wazuku which was intended to demonstrate that Wazuku could provide a comprehensive solution which could take the by-law…from the municipal level through to the provincial level (assuming that the bylaw would be approved at the municipal level)." Counsel stated that the lobbyist understood that provincial lobbying hinged on the passing of Metro-Vancouver By-Law 280 at the municipal level. Counsel stated that at the time the parties entered into an undertaking to lobby, on or about July 1, 2013, the lobbyist was not sure if he would be lobbying the Province. Counsel stated that in early August 2013, once it was clear the by-law would pass and lobbying would move to the provincial level, the lobbyist filed his return.

[23] Counsel also noted that another member of Wazuku Group was incorrectly listed on the return as another consultant lobbyist working on the undertaking.

[24] Counsel further submitted that the lobbyist knew that Recycle First was a coalition of companies, but he knew very little about its membership. The lobbyist believed the coalition wasn't formally organized. He had met with one or two of the coalition members on issues arising during his engagement; however, the lobbyist did not believe that these members had a long-term relationship with Urban Impact. Counsel noted that the lobbyist had little contact with other coalition members. It appeared to the lobbyist that Urban Impact was the decision maker; additionally, Urban Impact provided instructions and paid his invoices. For these reasons, he listed Urban Impact as his client.

[25] Counsel made all of these statements, as had been the case at the reconsideration process, without providing any sworn evidence from his client.

Administrative Fairness

[26] Before proceeding to the discussion about the alleged contraventions, I first wish to address an argument made by the lobbyist's counsel regarding administrative fairness.

[27] As noted above, counsel argued in his January 26, 2015 letter that it is not administratively fair for the Registrar to proceed with a second investigation which subjects Mr. Zubyk to a new investigation arriving out of the same circumstances with the result that new issues were raised.

[28] On October 7, 2013, the Deputy Registrar gave the lobbyist formal notice under s. 7.2 of the LRA that he had reason to believe the lobbyist may have contravened s. 3(1) of the LRA. The lobbyist was given an opportunity to provide any information or documentation relevant to the determination of the contravention and to any potential penalty. The lobbyist was provided with a formal opportunity to respond to the hearing notice. When provided with the opportunity to do so, the lobbyist bears a responsibility to produce all relevant information in answer to an alleged contravention. In response to the October 7, 2013 notice, the lobbyist stated he failed to register on time because he was waiting for the contract to be signed. At the initial level, that explanation was capable of being addressed on its face in light of the requirements of the LRA. It was obviously neither necessary nor possible for this office to look into an entirely different explanation that would likely require further inquiry or verification.

[29] As noted above, the different explanation arose during the reconsideration request, through his legal counsel, and which the lobbyist had not provided during the original investigation.

[30] The reconsideration decision dealt solely with the decision made in the investigation report and the representations made in counsel's letter. The Registrar noted, however, that if the lobbyist's new evidence was true, he was possibly in contravention of s. 4(1) of the LRA. She determined that a new investigation should be initiated, to evaluate the new evidence, as it is a separate and distinct matter from the initial investigation and resulting reconsideration. Given the different explanations tendered at the two levels, and the Registrar's direction to consider the s. 4(1) issue, it was an obvious and necessary step to now look into the nature of the undertaking by speaking to others. When information came to light which cast serious doubt on the second version of events advanced on behalf of the lobbyist, it would not have been either appropriate or responsible for this office to ignore it because a previous investigative conclusion had been reached based on a different version of events given by the lobbyist.

[31] In my view, the powers and the nature of the investigative function under s. 7.1 of the LRA are broad enough to allow this Office to reopen a file within the statutory limitation period if new and highly relevant information comes to light concerning compliance with the Act. If that were not the case, the Act's purpose could be frustrated

by a lobbyist who provided an incomplete or inaccurate version of events that, as was initially the case here, appeared to be reliable and did not require further investigation. In my view, the current investigation process is not administratively unfair, and that is particularly so where, as here, the lobbyist was given a full and fair opportunity to respond to the additional concerns raised in my December 29, 2014 letter.

DISCUSSION

Did the lobbyist file a late return contrary to s. 3(1) of the LRA or did the lobbyist enter an incorrect start date in his return contrary to s. 4(1) of the LRA?

[32] The lobbyist stated that he was not required to register prior to August 13, 2013 because initially he was lobbying municipal, not provincial, decision-makers. When he realized lobbying would shift to provincial officials, he filed his return. As already noted, the lobbyist did not provide this "municipal only" explanation until his request for reconsideration of Investigation Report 14-06.

[33] In his June 24, 2013 proposal to his client, the lobbyist set out a plan for influencing both municipal and provincial government. In the proposal, the lobbyist stated "Recycle First has asked Wazuku to prepare a brief to assist Recycle First to position the coalition's solution with the Metro Vancouver Zero Waste Committee, the Metro Board, the provincial government and key Metro and provincial officials." The lobbyist stated that his intention was to differentiate Recycle First from its competitors and boost its image among key decision makers. The proposal emphasised "[s]uccess will require that all decision-makers are identified and incorporated into a tracking document with clear responsibilities assigned to both Wazuku team and Recycle First members."

[34] The proposal did not specify that the lobbyist would lobby municipalities first, and then at a later date begin to lobby the Province. It did not differentiate between municipal or provincial lobbying; instead it appeared to a reasonable person that preparations for lobbying both entities would occur simultaneously. The strategies mentioned were directed at all decision-makers and did not differentiate between municipal and provincial entities, or between the timing of approaching them. This is reinforced by the fact that in the course of the investigation, the client told me that on July 1, 2013 they entered into a verbal undertaking with the lobbyist to lobby provincial government officials as well as municipal officials.

[35] Furthermore, the lobbyist himself entered the commencement date as July 1, 2013 on his return. The lobbyist, who is not inexperienced, did not change the undertaking start date in his return from July 1, 2013 to reflect his contention that the start date was August 13, 2013 as he originally stated. If a lobbyist and a client enter into an undertaking to lobby provincial public office holders, it is irrelevant at what point during the term of the undertaking that provincial officials are actually lobbied. If the expectation is to lobby provincial public office holders, the lobbyist must file a return within 10 days of entering into the undertaking. If during the course of the undertaking a

decision is made not to proceed with lobbying provincial public office holders, the lobbyist must terminate the undertaking within the legislated timelines. Based on the evidence, I have no hesitation in finding on a balance of probabilities that there was an expectation to lobby provincial public office holders from the outset of the undertaking.

[36] The Registrar rescinded Investigation Report 14-06 based on the lobbyist's contention that when the client engaged him on July 1, 2013, "…he believed that this engagement would relate only to municipal lobbying and not provincial lobbying." The lobbyist argued that the start date of the undertaking to lobby provincial office holders was on or about August 13, 2013, which is the start date he states he should have entered into his return. Taking into consideration the evidence submitted during the original investigation, the new information submitted at the reconsideration and subsequent evidence provided during this new investigation, I find that the lobbyist did not enter an incorrect start date in his return contrary to s. 4(1) of the LRA. Instead, he failed to file a return within 10 days of entering into an undertaking to lobby on behalf of his client contrary to s. 3(1) of the LRA.

Did the lobbyist fail to enter the correct client name contrary to s. 4(1)(d) of the LRA?

[37] Section 4(1)(d) requires the lobbyist to enter the name and business address of his client or organization into the return. The lobbyist stated in his proposal that his purpose was:

> to assist Recycle First to position the coalition's solution with the Metro Vancouver Zero Waste Committee, the Metro Board, the provincial government and Key Metro and provincial officials. The approach should clearly and positively differentiate Recycle First from those being proposed by [others].

[38] The proposal referred only to Recycle First and the coalition. There was no mention of Urban Impact or other coalition members in the proposal. Urban Impact's contact person confirmed that her company was one member of a coalition of companies. She informed me that the name of the coalition was Recycle First. She was under the impression that the lobbyist could not register an unofficial association so her company was listed in the return for the sake of convenience. She stated that Urban Impact was not the lead company in the coalition. The lobbyist acknowledged he knew Recycle First consisted of a coalition of companies.

[39] Section 1 of the LRA defines an organization as:

> **"organization"** includes any of the following, whether incorporated, unincorporated, a sole proprietorship or a partnership:
>
> > (a) a person other than a person on whose behalf a consultant lobbyist undertakes to lobby;
> >
> > (b) a business, trade, industry, professional or voluntary organization;

(c) a trade union or labour organization;

(d) a chamber of commerce or board of trade;

(e) a charitable or non-profit organization, association, society, coalition or interest group;

(f) a government, other than the government of British Columbia;

[40] As made crystal clear in the LRA, an organization does not have to be incorporated for a lobbyist to be required to register that organization. Recycle First is an organization within the meaning of the LRA. I conclude that the lobbyist entered into an undertaking to lobby on behalf of a coalition of companies who operated under the name of Recycle First.

[41] Based on the evidence, I find the lobbyist contravened s. 4(1)(d) of the LRA when he failed to enter into his return Recycle First as the name of his client. This undermines the LRA's aim of transparency.

Did the lobbyist fail to enter coalition member information contrary to s. 4(1)(h) of the LRA?

[42] I have determined that Urban Impact was a member of a coalition of companies operating under the name of Recycle First. I have found that the client in this case is Recycle First and the lobbyist incorrectly entered Urban Impact as his client in his return. However, for the purpose of clarification, I point out that if Urban Impact, a *member* of a coalition of companies, was in fact the client, s. 4(1)(h) of the LRA requires a lobbyist to enter the names of all the members of the coalition. If Urban Impact had been the client the lobbyist would have contravened s. 4(1)(h) of the LRA because he failed to list the other coalition members in his return.

Did the lobbyist incorrectly enter the name of another lobbyist contrary to s. 4(1)(b)(iii) of the LRA and fail to correct the information in the return within the timelines set out in s. 4(2)(a) of the LRA?

[43] The lobbyist entered another consultant lobbyist's name into his return indicating he was engaged to work with the lobbyist on behalf of his client. As stated above, the other consultant lobbyist did not file a return for this undertaking. Counsel for the lobbyist has since stated that the consultant lobbyist was incorrectly entered into the return. Based on the lobbyist's submission, I find that the lobbyist entered incorrect information into his return contrary to s. 4(1)(b)(iii) of the LRA and he certified it to be correct under s. 5(1) of the LRA. I also find that the lobbyist did not remove the incorrect entry from his registration, contrary to s. 4(2)(a) of the LRA.

FINDING

[44] In summary, I find that the lobbyist failed to meet his obligations under ss. 3(1), 4(1)(b)(iii), 4(1)(d) and 4(2)(a) of the LRA.

ADMINISTRATIVE PENALTY

[45] This is a unique case since this investigation was initiated following a reconsideration decision of an investigation report. The Registrar rescinded Investigation Report 14-06 and ordered a new investigation to determine whether, based on the evidence submitted by the lobbyist at the reconsideration, he had possibly contravened s. 4(1) of the LRA.

[46] The infractions I have found here are not merely technical requirements. The purpose of the LRA is to promote transparency in lobbying by requiring lobbyists to disclose accurate, current and complete information. Failing to keep information in registrations up to date and accurate undermines the ability of the public to know who is actually attempting to influence government at any point in time, thereby defeating the LRA's goal of transparency.

[47] In assessing whether a penalty is necessary in this instance, I must consider, among other things:

- previous enforcement actions for contraventions by the lobbyist,
- the gravity and magnitude of the contravention,
- whether the contravention was deliberate,
- whether the lobbyist derived any economic benefit from the contravention,
- any effort the lobbyist made to report or correct the contravention, and
- whether a penalty is necessary for general and specific deterrence.

[48] The lobbyist's file history shows that on January 10, 2012, ORL staff notified the lobbyist that he had apparently contravened the LRA on two separate occasions when he failed to file returns within the legislated timelines. ORL staff warned the lobbyist that further instances of possible non-compliance would result in the ORL taking further action. The warning letter alerted the lobbyist to his responsibilities under the LRA. The lobbyist is aware of his responsibility to register within 10 days after entering into an undertaking to lobby on behalf of a client.

[49] The lobbyist has also previously been found in contravention of s. 3(1) of the LRA, as reported in Investigation Report 14-07, and upheld by the Registrar in Reconsideration 14-07.

[50] When considering the gravity and magnitude of the contraventions found in this case, the LRA makes it clear that timeliness and transparency are central objectives of the LRA. Timeliness is undermined when a return is not filed in time. Transparency is undermined when the public is provided with inaccurate or incomplete information in a return. In this case, the name of the lobbyist's client was not correctly entered as "Recycle First" and another consultant lobbyist was listed who was not involved with the file.

[51] I have no evidence before me that would indicate that the contravention was a deliberate attempt to avoid the LRA or that the lobbyist gained an economic benefit by registering late. That said, the lobbyist did clearly fail to have sufficient regard to his serious responsibilities for complying with the timeliness and transparency required by the LRA and he has made no meaningful effort to report or correct the contravention.

[52] Together with the above factors, I have also considered whether an administrative penalty is necessary for specific or general deterrence. In my view, the circumstances of this case call for an administrative penalty both to encourage this lobbyist to take his obligations under the LRA with the utmost seriousness, and to remind all lobbyists of their legal obligations to be diligent in keeping their registrations current and accurate.

[53] The ORL policies and procedures, which are intended only as a guide, suggest a range of penalties for contraventions of the LRA. The penalty for a late filing has a range of $100 to $5,000 for a first instance of non-compliance. This is the second time the lobbyist has been found in contravention of s. 3(1) of the LRA, although in this case it is being treated as a first occurrence since IR 14-07 and the original investigation report into this matter, IR 14-06, occurred at the same time. The suggested range of penalty for failing to report changes or late reporting of changes is $100 to $5,000. The penalty for entering information that is not true into a return has a range of $1,000 to $7,500 for the first instance of non-compliance.

CONCLUSION

1. Under s. 7.2(2) of the LRA, I find that the lobbyist contravened ss. 3(1), 4(1)(b)(iii), 4(1)(d) and 4(2)(a) of the LRA in respect of registration ID 17159308.

2. The notice of alleged contravention has been substantiated.

3. Section 7.2(2) authorizes the Registrar to impose administrative penalties up to $25,000 when there is a contravention of the LRA. Previous investigations have levied penalties in the range of $700 for a first contravention of s. 3(1) of the LRA. Given the circumstances of this investigation, which I consider to be of moderate seriousness, I impose an administrative penalty of $1,500.

4. With respect to adding another consultant lobbyist's name to the lobbyist's return in error (s. 4(1)(b)(iii)) and not correcting the error within the legislated timelines (s. 4(2)(a)), counsel for the lobbyist advised that the lobbyist would be happy to update the return to correct the error. After the ORL responded, the lobbyist subsequently removed the incorrect entry from his return. I do not impose a penalty for these contraventions.

5. Nothing frustrates transparency more than failing to enter correct information, in this case the client's name 'Recycle First', into a return. This violation is in my judgment a serious and significant matter given the purposes of the LRA. For this reason, and taking into account that this particular violation is a first infraction of this type by this lobbyist, I impose an administrative penalty of $2,000 for failing to enter the correct client's name in the return contrary to s. 4(1)(d) of the LRA.

6. The total amount of the penalty is $3,500.

7. The lobbyist must pay this penalty no later than July 27, 2015.

8. If the lobbyist requests reconsideration under s. 7.3 of the LRA, he is to do so within 30 days of receiving this decision by providing a letter in writing directed to the Registrar of Lobbyists at the following address, setting out the grounds on which reconsideration is requested:

   Office of the Registrar of Lobbyists for British Columbia
   PO Box 9038, Stn. Prov. Govt.
   Victoria, BC V8W 9A4

   Email: info@bcorl.ca

June 15, 2015

ORIGINAL SIGNED BY

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Tim Mots
Investigator
Office of the Registrar of Lobbyists