



INVESTIGATION REPORT 14-02

LOBBYIST: Muneesh Sharma

March 14, 2014

SUMMARY: A consultant lobbyist filed a return to register as a lobbyist on behalf of a client two months after the deadline required by the *Lobbyists Registration Act*. The lobbyist was found to be in contravention of s. 3(1) of the *Lobbyists Registration Act* and fined \$700.

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

INTRODUCTION

[1] This report concerns an investigation under section 7.1 of the *Lobbyists Registration Act* (“LRA”). This section gives the Registrar of Lobbyists (“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] On August 12, 2013, the lobbyist registered with the Office of the Registrar of Lobbyists (“ORL”) as a consultant lobbyist for the British Columbia Lung Association (“BCLA”) under Registration ID 17211651. The undertaking in the return the lobbyist filed had a start date of June 3, 2013, and an end date of June 2, 2014.

[3] Under the LRA, registrations must be filed within specific time frames. The electronic Lobbyists Registry automatically checks the dates of registrations,

and alerts the ORL if the date of a registration appears to be at odds with the required time frames. This investigation, conducted under the authority delegated by the Registrar under s. 7(4)(d) of the LRA, began when ORL staff received an automatic system alert that a consultant lobbyist registration filed by the lobbyist, appeared to contravene the required time frames under the LRA.

ISSUES UNDER CONSIDERATION

[4] The questions for consideration are:

- (a) whether the lobbyist, who registered an undertaking under Registration ID 17211651 to lobby as a consultant on behalf of the BCLA, complied with s. 3(1) of the LRA, and
- (b) if not, what, if any, administrative penalty is appropriate in the circumstances?

RELEVANT SECTIONS OF THE LRA

"client" means a person or organization on whose behalf a consultant lobbyist undertakes to lobby;

"consultant lobbyist" means an individual who, for payment, undertakes to lobby on behalf of a client;

"designated filer" means

- (a) A consultant lobbyist

"lobby" subject to section 2 (2), means,

- (a) in relation to a lobbyist, to communicate with a public office holder in an attempt to influence
 - (i) the development of any legislative proposal by the government of British Columbia, a Provincial entity or a member of the Legislative Assembly,
 - (ii) the introduction, amendment, passage or defeat of any Bill or resolution in or before the Legislative Assembly,
 - (iii) the development or enactment of any regulation, including the enactment of a regulation for the purposes of amending or repealing a regulation,

- (iv) the development, establishment, amendment or termination of any program, policy, directive or guideline of the government of British Columbia or a Provincial entity,
 - (v) the awarding, amendment or termination of any contract, grant or financial benefit by or on behalf of the government of British Columbia or a Provincial entity,
 - (vi) a decision by the Executive Council or a member of the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown, a Provincial entity or the public, or
 - (vii) a decision by the Executive Council or a member of the Executive Council to have the private sector instead of the Crown provide goods or services to the government of British Columbia or a Provincial entity,
- (b) in relation to a consultant lobbyist only, to arrange a meeting between a public office holder and any other individual....

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.

BACKGROUND

[5] On August 12, 2013, the lobbyist submitted a new registration for an undertaking to lobby for the BCLA. This is Registration ID 17211651.

[6] The undertaking start date was June 3, 2013. The LRA, s. 3(1), requires a consultant lobbyist to file a return within 10 days after entering into an undertaking to lobby on behalf of a client.

[7] The ORL received an automatic system alert that the consultant lobbyist registration filed by the lobbyist, appeared to contravene the required time frames under the LRA.

INVESTIGATION

[8] The ORL commenced an investigation under s. 7.1 of the LRA to determine whether the lobbyist had complied with the LRA.

[9] The ORL asked the lobbyist on August 30, 2013, to “explain the discrepancy between the deadline for submitting a registration and the date on which you actually registered.”

[10] The lobbyist responded on September 4, 2013. He acknowledged that he had not met the time lines for registration required by the LRA. He stated that he was not aware of the need to register within 10 days of entering into an undertaking with his clients.

[11] On September 26, 2013, the Acting Deputy Registrar sent, pursuant to s. 7.2(1) of the LRA, a notice to the lobbyist setting out the basis for the allegation that the lobbyist had not complied with s. 3(1) of the LRA. He invited the lobbyist to respond in writing to the alleged contravention and provide any information or documentation pertinent to the alleged contravention and any potential penalty. The file was assigned to me for review and decision.

[12] The lobbyist responded on November 7, 2013. He explained that he had made an error in not filing his undertaking on time and that this was the first time he had registered as a consultant lobbyist. The lobbyist had previously been the in-house lobbyist for a different organization.

FINDING

[13] Based on the evidence, I find that the lobbyist did not comply with s. 3(1) of the LRA when he failed to file a return within 10 days after entering into an undertaking to lobby on behalf of a client.

ADMINISTRATIVE PENALTY

[14] 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 attempting to influence government at any point in time, thereby defeating the LRA’s goal of transparency.

[15] The LRA makes clear that transparency includes timeliness. This includes the requirement to file a return within the legislated deadline. The goal of transparency is frustrated if the deadlines required by the LRA are not met.

[16] Section 12.3 of the ORL Policies and Procedures March 2011 provides that the following will be considered in determining the amount of an administrative penalty:

- previous enforcement actions for contraventions of a similar nature by the person
- the gravity and magnitude of the contravention
- whether the contravention was deliberate
- any economic benefit derived from the contravention
- the person's efforts to report and/or correct the contravention
- the need to deter the individual and others from contravening the Act in the future
- other relevant factors

[17] I have considered these factors.

[18] There have been no previous enforcement actions for contraventions of a similar nature by the lobbyist. However, the lobbyist's file history indicates that he has received communications from the ORL regarding possible non-compliance in two previous instances in his role as an in-house lobbyist for a different organization. These occasions offered educational opportunities and alerted the lobbyist to his responsibilities under the LRA. Therefore, the lobbyist was made aware of his responsibility to comply with the LRA.

[19] On the question of the gravity and magnitude of the contravention under investigation, the lobbyist filed a return as a consultant lobbyist on August 12, 2013, with an undertaking start date of June 3, 2013. This was approximately two months after the deadline required by the LRA for filing a return.

[20] The lobbyist describes the contravention as a mistake. I accept this was the case.

[21] There is no evidence that the lobbyist derived any economic benefit from the contravention.

[22] Although the filing was late, the lobbyist submitted his return without prompting from the ORL.

[23] On the question of specific and general deterrence it is important for the objectives of the LRA that lobbyists be diligent in meeting their legal obligations to file their returns as required by the legislation.

[24] The ORL policies and procedures, which are intended only as a guide, suggest that a penalty between \$100 and \$5,000 be levied for a first contravention of the LRA by registering late.

CONCLUSION

1. Under s. 7.2(2) of the LRA, I find that the lobbyist contravened s. 3(1) of the LRA in respect of Registration ID 17211651. The notice of alleged contravention has been substantiated.
2. I impose an administrative penalty of \$700.
3. The lobbyist must pay this penalty no later than April 25, 2014.
4. 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

March 14, 2014

ORIGINAL SIGNED BY

Darrel Woods, Investigator
Office of the Registrar of Lobbyists