



EXEMPTION DECISION 18-06

Mark Blucher (Central 1 Credit Union)

September 5, 2018

SUMMARY: The applicant served as president and chief executive officer of the Insurance Corporation of British Columbia (ICBC) for five years and senior vice president of insurance for the previous two years. On January 22, 2018, he became president and chief executive officer of Central 1 Credit Union (Central 1). The Registrar concluded it was not in the public interest to exempt the applicant from the two-year cooling-off period under s. 2.2 of the *Lobbyists Registration Act* (LRA).

Statutes Considered: *Lobbyists Registration Act*, SBC 2001.

BACKGROUND

[1] The applicant has applied for an exemption, in the public interest, from the two-year cooling-off period that applies to him as a “former public office holder” under s. 2.2 of the LRA.

[2] The applicant was the president and chief executive officer of ICBC from November 1, 2012 to December 29, 2017 and senior vice president of insurance for the previous two years. He is now the president and chief executive officer of Central 1.

DISCUSSION

[3] The general goal of the LRA is to bring transparency to the long-time practice in British Columbia of lobbying elected officials and other public office holders. To this end, the LRA defines the term “lobby,” in relation to any lobbyist, as “to communicate with a public office holder in an attempt to influence” a range of activities. These include the establishment of programs or policies, development of a legislative proposal, awarding of contracts, outsourcing of services, and sale of assets.

[4] In assessing the applicant’s exemption request, I have applied my analysis of the intent and meaning of the LRA as a whole, and ss. 2.2 and 2.3 specifically, as set out in Exemption Decision 18-01, without repeating it here.

[5] It is useful to set out the sections relevant to the applicant's request. Section 1 of the LRA defines the term "former public office holder" as follows:

"former public office holder" means

- (a) a former member of the Executive Council and any individual formerly employed in the former member's former office, other than administrative support staff,
- (b) a former parliamentary secretary, or
- (c) any individual who formerly occupied
 - (i) a senior executive position in a ministry, whether by the title of deputy minister, chief executive officer or another title,
 - (ii) the position of associate deputy minister, assistant deputy minister or a position of comparable rank in a ministry, or
 - (iii) a prescribed position in a Provincial entity[.]

[6] Sections 2.2 and 2.3 are the operative provisions here:

Lobbying prohibition

- 2.2 Subject to section 2.3, a person who is a former public office holder must not lobby, in relation to any matter, for a period of 2 years after the date the person ceased
- (a) to be a member of the Executive Council or an individual employed in the member's office,
 - (b) to be a parliamentary secretary, or
 - (c) to occupy a position referred to in paragraph (c) of the definition of "former public office holder".

Exemption from prohibitions

- 2.3(1) If the registrar is satisfied that it is in the public interest, the registrar may, on request and on any terms or conditions the registrar considers advisable, exempt a person from a prohibition set out in section 2.1(2) or 2.2.
- (2) If the registrar grants an exemption under subsection (1), the registrar must enter the following into the registry:
- (a) the terms or conditions of the exemption;
 - (b) the registrar's reasons for granting the exemption.

[7] The applicant is a "former public officer holder" because of his previous position at ICBC, which is a prescribed Provincial entity under the Lobbyists Registration Regulation.

[8] Keeping in mind that s. 2.2 only prohibits lobbying for two years after a former public office holder leaves their position, is it in the "public interest" to grant the applicant an exemption?

[9] The applicant provided two submissions in support of his application – his initial application and a supplementary letter in response to follow-up questions posed by an investigator from my office. The wording of the initial submission suggests it was authored by an unidentified third party and the supplementary letter was written by Central 1’s Director of Government Relations. I refer to these as the applicant’s representative’s submissions.

[10] The applicant is president and chief executive officer of Central 1, which acts as a trade association and advocate for credit unions in BC and Ontario. The applicant’s representative says that Central 1 also enables its members to share costs, pool resources and operate cost-effectively. Among other things, it manages the liquidity requirements of BC’s credit union system as well as banking and payment processing services for British Columbia and Ontario credit unions.¹

[11] The applicant’s representative says the subject matter of his lobbying would be legislation and regulation related to financial institutions. He says he intends to lobby the “Ministry/Minister of Finance, Minister’s Staff, Public Agencies (and potentially MLAs in the future).”² The LRA defines public agencies to include deputy ministers and other government employees. He does not identify which of these he would specifically target or whether those individuals would be limited to the Ministry of Finance.

[12] The applicant’s representative submits his proposed lobbying is “wholly outside” the nature and the scope of his previous role at ICBC.

[13] The applicant’s representative further states:

Information acquired in the previous position are [sic] not directly relevant. As the subject matter is wholly outside of the nature and scope of Mark Blucher’s previous position, and the current Deputy, political staff and relevant Ministers were not in office during his tenure there, the public can be assured that Mark Blucher’s past position and reporting relationships will be irrelevant to Central 1’s proposed lobbying. The potential subject matter is related to the regulation of credit unions and their Central; there is no overlap between Central 1’s mandate and BC’s public auto insurance Crown Corporation.³

[14] The applicant’s representative submits that the applicant will lobby “from time to time”, when there are “matters of sufficient significance to Central 1.”⁴

[15] As I stated in Exemption Decision 18-01, it is important to examine the nature and extent of the applicant’s experience in government (in the case within a government corporation covered by the Act), including the following:

¹ Initial application, p. 2.

² Initial application, p. 3, para. 1.

³ Initial application, p. 3, para. 2.

⁴ Initial application, p. 3, para. 3.

- the types of positions held (including whether they were executive roles or less senior roles);
- the number and nature of ministries or agencies served;
- the length of service overall and length of service in each role;
- whether any of the roles relates to issues on which the applicant intends to lobby;
- whether the applicant has, or could reasonably be expected to have, relatively recent, and specific, information that might be exploited through lobbying;
- the nature and extent of the appellant's actual or reasonably likely relationships with current public office holders (notably elected officials and senior public servants, especially those in any ministry the applicant intends to lobby).⁵

[16] The applicant held senior roles with ICBC over seven years, two as senior vice president of insurance and five as ICBC's president and chief executive officer. While the applicant's experience was within a government corporation, given its broad mandate across motor vehicle insurance, driver licensing, road safety and more, ICBC undoubtedly has a broad array of relationships with ministries across the provincial government. This alone is a reasonable basis for thinking that the applicant potentially had significant exposure to many important senior officials across the provincial government. As I noted in previous decisions, this circumstance is one of the reasons the Legislature has temporarily prohibited senior office holders from lobbying public officials after public office holders depart their employment.

[17] The applicant's representative's initial submission to my office on the above point was brief, minimizing past relationships and stating that those who now hold positions like "Deputy, political staff and relevant Ministers" were not in office when he worked for ICBC.⁶

[18] This representation prompted follow-up inquiries from my investigator, who noted ICBC's connections across government. He provided the applicant with an opportunity to comment on a Memorandum of Understanding (MOU) regarding Traffic and Road Safety Law Enforcement Funding between ICBC and what was then the provincial Ministry of Justice. In respect of this arrangement, the MOU's signing authorities were the applicant for ICBC and Lori Wanamaker, then the Deputy Solicitor General, on behalf of the Ministry of Justice. Lori Wanamaker is now Deputy Minister of Finance, a ministry that the applicant indicates he may lobby.

[19] While the applicant's representative concedes the applicant "crossed paths from time to time with officials in government," she suggests they were not "deep working relationships or personal friendships that would give rise to a conflict of interest."⁷ She says the most significant relationships the applicant had were with senior officials of the Ministry of Transportation, officials who had no connection with the financial services industry and who are no longer part

⁵ These are examples, not a closed list—the circumstances of future cases may raise other appropriate factors in assessing the public interest.

⁶ Initial application, p. 3, para. 2.

⁷ Supplementary letter, p. 1, para. 2.

of government. As to the MOU mentioned above, the applicant's representative says it was the work of vice-presidents of each organization and the applicant does not recall if he and Lori Wanamaker were in the same room when it was signed. She says the applicant does have one relationship with an individual in the Ministry of Finance that she would describe as "being beyond an acquaintance level,"⁸ but says that individual's responsibilities have to do with insurance matters that have no connection to the credit union portfolio. She did not specify the individual's position, but my review of the government directory indicates he is an assistant deputy minister of finance, a senior executive role.

[20] On the basis of the material provided to my office I am not satisfied that exempting the applicant from the two-year lobbying prohibition is warranted.

[21] First, the argument that the applicant's relationships across government do not rise to the level of a "conflict of interest" is not germane to the issue at hand. As I indicated in Exemption Decision 18-01, the two-year lobbying prohibition imposes a cooling-off period during which a former public office holder may not exploit working relationships, or inside knowledge, for gain. The concept of "conflict of interest" is not at the heart of either the prohibition or the public interest exemption authority under the Act.

[22] Second, being able to exploit a network of business contacts, individuals whose paths the applicant crossed from "time to time," is the very kind of thing the Legislature sought to address through the temporary prohibition. It need not be the case that those relationships are "deep," whatever that may mean, or that an element of personal friendship be associated with them. In this case, at the very least, the applicant has a business acquaintance with two senior executive officials at the Ministry of Finance.

[23] Related to this, I am also not satisfied that motor vehicle insurance matters, with which the applicant was previously intimately associated over a long period, bear no relationship and has no relevance to his credit union portfolio, as his representative contends. This seems a rather bold statement since it is common knowledge, and I take notice of the fact, that credit unions act as agents for the sale of ICBC insurance products (as well as other insurance products). Contrary to his representative's submission,⁹ the applicant's past experience at ICBC and his present role at the top of Central 1 overlap in a way that a reasonable person would consider material. The relationships and knowledge that the applicant acquired at the top levels of ICBC, in other words, actually do bear in part on his current portfolio, and the objectives of the temporary prohibition are engaged in that respect.

[24] Third, it is a matter of public record that the applicant's tenure at ICBC ended in December 2017, thus raising a question about the assertion by his representative that the

⁸ Supplementary letter, p. 1, para. 5.

⁹ Supplementary letter, p. 2, para. 1.

“current Deputy, political staff and relevant Ministers were not in office during his tenure [at ICBC].”¹⁰

[25] Finally, given that the applicant proposes only to lobby “from time to time,” when it is truly necessary, and the fact that Central 1 already has two other individuals registered to lobby government officials, it is reasonable to conclude that the temporary prohibition is not likely to place an unreasonable burden on Central 1’s ability to advance whatever interest, public or otherwise, credit unions assert they play in the province.¹¹

CONCLUSION

[26] For all of the reasons given above, I am not satisfied that it is in the public interest to exempt the applicant from the application of s. 2.2. The applicant’s request is denied.

September 5, 2018

ORIGINAL SIGNED BY

Michael McEvoy
Registrar of Lobbyists for British Columbia

¹⁰ Supplementary letter, p. 1, para. 4.

¹¹ Initial application, p. 3, para 3.