

## **DETERMINATION DECISION 23-03**

### **Tourism Industry Association of British Columbia**

#### **Designated filer: Walt Judas**

**September 7, 2023**

**SUMMARY:** The designated filer for the Tourism Industry Association of British Columbia (TIABC) promised a gift to three public office holders and subsequently gave the promised gift to one of those public office holders in contravention of section 2.4 of the *Lobbyists Transparency Act* (LTA). The organization was assessed an administrative penalty of \$2,200 for these contraventions.

#### **STATUTES AND REGULATIONS CONSIDERED**

*Lobbyists Transparency Act*, SBC 2001, c. 42.

Lobbyists Transparency Regulation, BC Reg 108/2023.

#### **INTRODUCTION**

[1] This report concerns an investigation under s. 7.1 of the LTA. This section gives the Registrar of Lobbyists (the Registrar) the authority to conduct an investigation to determine compliance with the *Lobbyists Transparency Act* (LTA) and the Lobbyists Transparency Regulation (the Regulation). If the Registrar or delegate believes that the person under investigation has not complied with a provision of the LTA or the Regulations, s. 7.2 of the LTA requires the Registrar to give a person under investigation notice of the alleged contravention and the reasons for the Registrar's belief that the contravention has occurred. Prior to determining whether a person has not complied with the LTA under s. 7.2(2) of the Act, the Registrar must, under s. 7.2(1)(b), give that person under investigation a reasonable opportunity to be heard respecting the alleged contravention.

[2] The LTA recognizes two types of lobbyists: consultant lobbyists and in-house lobbyists. This report focuses on the activities of the Tourism Industry Association of British Columbia (TIABC), an organization that employs in-house lobbyists. An in-house lobbyist is a paid employee, officer or director of an organization who lobbies on behalf of the organization or affiliate.

[3] Section 2.4 of the LTA states that a lobbyist must not give or promise to give, directly or indirectly, any gift or other benefits to the public office holder the lobbyist is lobbying. This prohibition does not apply if a gift or other benefit that is given meets the criteria in s. 2.4(2)(a) and (b).

[4] Under section 7(4)(d) of the LTA, the Registrar has delegated to me the authority to conduct this investigation.

#### **ISSUES UNDER CONSIDERATION**

[5] The issues for consideration are:

- (a) Whether Walt Judas, the designated filer of the organization, contravened section 2.4 of the LTA by promising or giving a gift to public officer holders that the lobbyist is lobbying.
- (b) If the designated filer did not comply with the requirements of the LTA, what, if any, administrative penalty is appropriate in the circumstances?

#### **RELEVANT SECTIONS OF THE LOBBYISTS TRANSPARENCY ACT**

[6] "**designated filer**" means

- (a) a consultant lobbyist, or
- (b) in the case of an organization that has an in-house lobbyist,
  - (i) the most senior officer of the organization who receives payment for performing the officer's functions, or
  - (ii) if there is no senior officer who receives payment, the most senior in-house lobbyist;

[7] "**lobby**", subject to section 2 (2), means

- (a) 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) to arrange a meeting between a public office holder and any other individual for the purpose of attempting to influence any of the matters referred to in paragraph (a) of this definition;
- (c) [Repealed 2018-52-2.]

[8] **“public office holder”** means

- (a) a member of the Legislative Assembly and any person on the member's staff,
- (b) an officer or employee of the government of British Columbia,
- (c) a person who is appointed to any office or body by or with the approval of the Lieutenant Governor in Council, other than a person appointed on the recommendation of the Legislative Assembly,
- (d) a person who is appointed to any office or body by or with the approval of a minister of the government of British Columbia, and
- (e) an officer, director or employee of any government corporation as defined in the [Financial Administration Act](#).

but does not include a judge or a justice of the peace;

[9] **“senior public office holder”** means an individual who

- (a) is a member of the Executive Council,
- (b) is employed, other than as administrative support staff, in the office of a member of the Executive Council,
- (c) is a member of the Legislative Assembly,
- (d) is employed, other than as administrative support staff, in the office of a member of the Legislative Assembly,
- (e) is a parliamentary secretary,
- (f) occupies a senior executive position in a ministry, whether by the title of deputy minister, chief executive officer or another title,
- (g) occupies the position of associate deputy minister, assistant deputy minister or a position of comparable rank in a ministry, or
- (h) occupies a prescribed position in a Provincial entity;

[10] **Gift-giving prohibition**

2.4 (1) A lobbyist must not give or promise to give, directly or indirectly, any gift or other benefit to the public office holder the lobbyist is lobbying.

(2) Subsection (1) does not apply to a gift or other benefit if the following apply:

- (a) the gift or benefit is given or promised to be given under the protocol or social obligations that normally accompany the duties or responsibilities of office of the public office holder;
- (b) the total value of gifts or benefits described in paragraph (a) given or promised to be given, directly or indirectly, by the lobbyist to the public office holder in a 12-month period is less than a prescribed amount.

[11] **Requirement to file Registration Return**

3(3) The designated filer of an organization must file with the registrar, within 10 days of the date the organization first has an in-house lobbyist, a Registration Return in the prescribed manner and containing the information required by section 4.

[12] **Form and content of Registration Return**

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

(a) the name and business address of the designated filer, and whether the designated filer is a consultant lobbyist or the designated filer for an in-house lobbyist;

(c) if the Registration Return is filed in respect of an in-house lobbyist, the name of each in-house lobbyist for the organization;

(k) if a lobbyist named in the Registration Return has lobbied or expects to lobby a public office holder employed by or serving in a ministry of the government of British Columbia or a Provincial entity, the name of the ministry or Provincial entity and any prescribed information respecting the ministry or Provincial entity.

**[13] Requirement to file monthly return**

4.1 A designated filer who has filed a registration return under section 3 must file with the registrar a monthly return, in the prescribed form and manner and containing the information required under section 4.2(2), no later than 15 days after the end of every month, beginning with the month in which the registration return under section 3 is filed.

**[14] Form and content of monthly returns**

4.2(2) Each monthly return filed under section 4.1 must include the following information in relation to each lobbying activity carried on, as applicable:

...

(g) if a lobbyist named in the monthly return gave or promised to give a gift or other benefit to a public office holder, the name of the public office holder, a description of the gift or benefit, the value of the gift or benefit and the circumstances under which the gift or benefit was given and accepted or promised to be given;

**[15] Power to investigate**

7.1(1) If the registrar considers it necessary to establish whether there is or has been compliance by any person with this Act or the regulations, the registrar may investigate.

(2) The registrar may refuse to investigate or may cease an investigation with respect to any matter if the registrar believes that

...

(b) the matter is minor or trivial,

...

(d) there is any other valid reason for not dealing with the matter.

[16] **Hearing and administrative penalty**

7.2 (1) If after an investigation under section 7.1 the registrar believes that a person under investigation has not complied with a provision of this Act or the regulations, the registrar must

(a) give notice to the person

(i) of the alleged contravention,

(ii) of the reasons why the registrar believes there has been a contravention, and

(iii) respecting how the person may exercise an opportunity to be heard under paragraph (b) of this subsection, and

(b) give the person a reasonable opportunity to be heard respecting the alleged contravention.

(2) If after giving a person under investigation a reasonable opportunity to be heard respecting an alleged contravention the registrar determines that the person has not complied with a prescribed provision of this Act or the regulations, the registrar

(a) must inform the person of the registrar's determination that there has been a contravention,

(b) may impose an administrative penalty of not more than \$25 000, and

(c) must give to the person notice

(i) of the registrar's determination that the person has not complied with a prescribed provision of this Act or the regulations and the reason for the decision,

(ii) if a penalty is imposed, of the amount, the reason for the amount and the date by which the penalty must be paid, and

(iii) respecting how the person may request reconsideration, under section 7.3, of the determination of non-compliance or the imposition or amount of the penalty.

**RELEVANT SECTION OF THE LOBBYISTS TRANSPARENCY REGULATION**

[17] **Prescribed amount for gift-giving prohibition**

6 For the purposes of section 2.4(2)(b) [*gift-giving prohibition*] of the Act, the prescribed amount is \$100.

**BACKGROUND**

[18] On April 11, 2023, the designated filer for TIABC contacted the ORL by email and asked whether a gift that TIABC had given to a public office holder was in contravention of the LTA. The designated filer stated that the question arose for them when they were preparing to file TIABC's monthly lobbying activity report. They acknowledged in the email that they may have given a prohibited gift and "sincerely apologized" if they had contravened BC's lobbying rules.

[19] The ORL replied on April 12, 2023, and outlined the LTA registration requirements in relation to gifts by providing the reporting requirements for gifts and explained that "[r]eporting a gift promised and/or given to a public office holder is done via a Registration Return Update, due no later than the 15<sup>th</sup> of the month following the month in which the gift was promised and/or given." The ORL indicated that the requirement applies to gifts both promised and given.

[20] On April 14, 2023, TIABC submitted Registration Return number #1605-2916-23 and replied by email to the ORL that its Registration Return had been updated. The designated filer also asked for review and verification that they had correctly added the relevant details. Over the next three business days (April 14-18, 2023), TIABC exchanged emails with the ORL as an ORL Registry Officer reviewed the entries and provided guidance on the relevant details for TIABC to include in the gifts section of its Registration Return update.

[21] The Registration Return filed by TIABC stated that a gift was offered/promised to the Minister of Tourism, Arts, Culture and Sport on March 6, 2023. The gift was reported to be a ticket to a "hosted suite" to a March 13, 2023, Vancouver Canucks hockey game with a value of approximately \$357.

[22] In its Registration Return, TIABC also stated that it provided that gift to a public office holder, the Minister of Tourism, Arts, Culture and Sport, and that it included food and beverages at an estimated value of \$150, for a total gift value of approximately \$507.

[23] The Registration Return filed by TIABC stated that the gift given was for a March 13, 2023, game. The date was corrected over the course of the investigation to March 14, 2023.

[24] Section 2.4 of the LTA prohibits a lobbyist from giving or promising, whether directly or indirectly, a prohibited gift or benefit to a public office holder they are lobbying. The prohibition does not apply if the gift or benefit is given or promised to be given under the protocol or social

obligations that normally accompany the duties or responsibilities of office of the public office holder and if the total value of gifts or benefits given or promised to be given, directly or indirectly, by the lobbyist to the public office holder in a 12-month period is less than a prescribed amount of \$100 as stated in section 6 of the Regulation.

## **INVESTIGATION**

[25] The ORL commenced an investigation under section 7.1 of the LTA to determine whether the designated filer promised or gave a gift to a public office holder that was not permitted under section 2.4 of the LTA.

[26] On July 11, 2023, I provided the designated filer with formal notice under section 7.2(1)(a) of the LTA outlining the basis for the allegation that TIABC had contravened section 2.4 of the LTA. The basis was that TIABC promised and gave the Minister of Tourism, Arts, Culture and Sport a ticket to a “hosted suite” at a March 13, 2023, Vancouver Canucks hockey game at a total gift value of approximately \$500. The notice presented an opportunity to be heard on the allegations and I asked the designated filer to make their submissions in writing, by August 8, 2023, and to attach any information or documentation they believed was pertinent to whether there had been a contravention and as to the potential penalty that should follow if a finding of contravention is made.

[27] On July 13, 2023, I emailed the designated filer and asked them to confirm three matters. The first was the date of the event as there was no game on March 13, 2023. The second was to confirm whether any other public office holders were offered or given the gift, including any other member of the Legislative Assembly, any person on the member's staff, and any officer or employee of the government of British Columbia. The third was the role that Rogers Media played in the decision to offer the suite tickets to the Minister of Tourism, Arts, Culture and Sport.

[28] The designated filer responded on July 14, 2023, indicating that they were preparing their submission in response to the July 11, 2023, notice from the ORL. They confirmed in that communication that the date of the game was in fact March 14, 2023, and that they had tried to correct the entry in the Registry but were unable to do so. After being advised that they could submit a request to update the date to a Registry Officer, the designated filer took immediate steps to request an update of the game date to March 14, 2023. The update was finalized the next business day on July 17, 2023.



[29] Also on July 14, 2023, the designated filer provided a submission in response to the notice under section 7.2(1)(a). They provided the following explanations and submissions regarding the allegations.

[30] The designated filer stated that Rogers Media, as a member of the Tourism Association of BC, offered TIABC access to the suite and suggested that TIABC host industry colleagues and government officials at the suite. TIABC did so on March 14, 2023. TIABC stated that they alone selected the invitees – industry leaders and their guests, and the Minister of Tourism, Arts, Culture and Sport – and that Rogers Media neither made suggestions about who to invite nor required any specific individuals to be invited for the game. The invitation was intended to build relationships “in a casual and fun setting” and there was no lobbying conducted at the event itself.<sup>1</sup>

[31] TIABC stated that the office of the Minister of Tourism, Arts, Culture and Sport invited three other Ministers to the event: the Minister of Housing, the Minister of Transportation and Infrastructure, and the Minister of Jobs, Economic Development and Innovation. When I asked TIABC to provide further details, the designated filer was forthright in informing me that it was TIABC that suggested to the office of the Minister of Tourism, Arts, Culture and Sport that they invite the three other Ministers that TIABC is building relationships with, and that none of the three Ministers were able to attend the event, though TIABC would have provided the tickets had any of them accepted. The designated filer reiterated that at that time they did not realize any of the invitations could be a gift under the LTA.<sup>2</sup>

[32] Three days after the game, the designated filer received a copy of the lobbying newsletter produced by the Office of the Registrar of Lobbyists.<sup>3</sup> The designated filer stated that information in the newsletter on the lobbying rules in BC about gift-giving made them realize that they may have inadvertently contravened the LTA. As a result, they reached out to the ORL for clarity on the LTA gift rules on April 11, 2023, so that they could add any potentially required information into the Lobbyists Registry about the gift given to the Minister of Tourism, Arts, Culture and Sport.

[33] TIABC stated that the language in the gift-giving prohibition provides an exception in section 2.4(2)(a) that may apply in this case, that the gift-giving prohibition “does not apply to a

---

<sup>1</sup> TIABC submission, 14 July 2023, page 2.

<sup>2</sup> TIABC submission, 17 August 2023, page 2.

<sup>3</sup> The ORL newsletter, *Influencing BC*, is sent to registered lobbyists and published online <https://www.lobbyistsregistrar.bc.ca/resources/influencing-bc/>.

gift or other benefit if the gift or benefit is given or promised to be given under the protocol or social obligations that normally accompany the duties or responsibilities of the office of the public office holder.”<sup>4</sup> The position of TIABC is that the Minister of Tourism, Arts, Culture and Sport would be expected to attend events such as this one, with industry representatives, as part of the protocol and social obligations that normally accompany the duties of the public office holder.

[34] TIABC also asks for consideration to the fact that it chose to file a report under the LTA in the interests of accountability, that the designated filer has not given a gift to a government official in their eight years at TIABC, so if they are found to be in contravention that it is a first-time contravention.<sup>5</sup>

[35] After review of the additional information from the designated filer, on August 21, 2023, I provided the designated filer with a revised formal notice under section 7.2(1)(a) of the LTA outlining the basis for the allegation that TIABC had contravened section 2.4 of the LTA in relation to gifts promised to three additional public office holders. The notice presented an opportunity to be heard on those additional allegations. I asked the designated filer to make their submissions in writing, by August 28, 2023, and to attach any information or documentation they believed was pertinent to whether there had been a contravention and as to the potential penalty that should follow if a finding of contravention is made.

[36] That same day the designated filer responded with additional submissions by email.<sup>6</sup> They confirmed that they were aware that the office of the Minister of Tourism, Arts, Culture and Sport extended the invitation to the event to the Minister of Housing, the Minister of Transportation and Infrastructure, and the Minister of Jobs, Economic Development and Innovation, and that they did not know if the invitations went directly to the Ministers or only to staff managing the Ministers’ schedules. They reiterated that had the Ministers been able to attend, TIABC would have given the gifts of the tickets, food and beverage at no cost, and reiterated their request for leniency if found to be in contravention of the LTA for the first time.

---

<sup>4</sup> *Supra* note 1, page 2.

<sup>5</sup> *Supra* note 1, page 3.

<sup>6</sup> TIABC submission, 21 August 2023.

## DISCUSSION AND FINDINGS

### *Preliminary Matter*

[37] Over the course of the investigation, I asked the designated filer to confirm the date of the event that was the subject of the gift. The designated filer confirmed that they had entered incorrect information into the Registry when they entered March 13, 2023, and in fact the event happened on March 14, 2023.

[38] While it can be a contravention of the LTA to provide inaccurate information in a Registration Return, I consider this inaccurate information trivial as the key information – that the gift had been given – was entered into the Registry and therefore transparent for the public. In addition, the designated filer took immediate steps to correct the date in the Registry upon realizing the error. As this was a trivial matter that was remedied on its discovery, I exercised my discretion under section 7.1(2)(b) of the LTA to refuse to investigate it.

### *Discussion and finding on section 2.4*

[39] The gift-giving prohibition in the LTA states:

2.4 (1) A lobbyist must not give or promise to give, directly or indirectly, any gift or other benefit to the public office holder the lobbyist is lobbying.

(2) Subsection (1) does not apply to a gift or other benefit if the following apply:

(a) the gift or benefit is given or promised to be given under the protocol or social obligations that normally accompany the duties or responsibilities of office of the public office holder;

(b) the total value of gifts or benefits described in paragraph (a) given or promised to be given, directly or indirectly, by the lobbyist to the public office holder in a 12-month period is less than a prescribed amount.

[40] To assess whether a gift is prohibited under the LTA, the first question is whether a gift was given or promised under section 2.4(1) and, if it was, one must then establish whether the exception in section 2.4(2) applies.

[41] The language in section 2.4(1) is expansive; neither gifts nor benefits may be given to a public office holder the lobbyist is lobbying, nor can they be promised to that public office

holder. The prohibition applies whether the gift or benefit, given or promised, is delivered directly or indirectly to a public office holder.

[42] Under section 2.4(1) a gift or benefit may be prohibited if the following factors are met:

- i. there must be a gift or benefit;
- ii. the gift or benefit must be given or promised, whether directly or indirectly, by a lobbyist to a public office holder;
- iii. that lobbyist must be lobbying the public office holder(s) (to which the gift is given or promised).

If all of three are satisfied, then the gift would not be permitted unless the exception under section 2.4(2) of the LTA applies. The gift would be prohibited if the exception does not apply.

[43] For the reasons that follow, three out of four of the designated filer's gifts given or promised to public office holders meet the factors under section 2.4(1) the LTA and would be prohibited unless the exception in section 2.4(2) applies.

[44] The first factor is satisfied in that the designated filer confirmed that they gave or promised the gift to the public office holders and that there was no exchange of payment for the gift given.<sup>7</sup> I consider the gift *promised* to be the gift of the ticket at a value of \$357, and the gift *given* to include the ticket, food and drink at a value of approximately \$507.

[45] The second factor is satisfied, albeit for different reasons between the public office holders.

[46] The gift of the ticket was *promised* when the invitation was offered to each of the public office holders. Gifts that are tangible are often simply given. However, in the case of an event, if a lobbyist extends an invitation and the event ticket has a value with no expectation of payment, then that invitation is a promise of a gift. The invitation to the event was *given* to the Minister of Tourism, Arts, Culture and Sport who attended the event.

[47] The gift was promised (on March 6, 2023) and given (on March 14, 2023) *directly* to the Minister of Tourism, Arts, Culture and Sport. It was promised (on or about March 6, 2023) *indirectly* to the Minister of Housing, the Minister of Transportation and Infrastructure, and the

---

<sup>7</sup> TIABC submission, 21 August 2023. The definition of a gift is "something voluntarily transferred by one person to another without compensation". Merriam-Webster dictionary <https://www.merriam-webster.com/dictionary/gift>.

Minister of Jobs, Economic Development and Innovation, as the tickets to the event were offered to these Ministers via the office of the Minister of Tourism, Arts, Culture and Sport. The fact that the invitation may have been handled via one Minister's office or through staff managing the schedule of the Ministers being invited does not diminish the fact that the gift was promised to Ministers by way of an invitation to the event. The LTA criteria is only that a promise is made, and a promise that is made indirectly, whether through another Minister's office or via a Minister's own staff, can be a promise of a gift. The designated filer confirmed that the event tickets were offered indirectly and that TIABC would have given the gift had they accepted;<sup>8</sup> therefore the gift was also promised to the Minister of Housing, the Minister of Transportation and Infrastructure, and the Minister of Jobs, Economic Development and Innovation.

[48] All four Ministers are public office holders as defined by the LTA.<sup>9</sup>

[49] The third factor is satisfied for three of the four public office holders that TIABC promised the tickets to as, at the time the promise was made, TIABC was not lobbying the Minister of Jobs, Economic Development and Innovation. This conclusion is based on TIABC's registered lobbying activities and my assessment that one year is generally a reasonable period of time to consider whether "the lobbyist is lobbying" under section 2.4(1).

[50] Section 2.4(1) states that lobbyists must not give a gift to "the public office holder the lobbyist is lobbying." I interpret the words "lobbyist is lobbying" to include a reasonable amount of time in proximity to the lobbying activity. I do not interpret it so narrowly as to limit the application of the prohibition strictly to cases where the gift is promised or given concurrently with the act of lobbying as that would fail to recognize the reality of how gifts can influence decision-making beyond the act of lobbying. This approach is supported by the language in 2.4(1), which prohibits gifts promised or given "directly or indirectly," so a gift given outside of the act of lobbying would simply an "indirectly" given gift. It is also supported by the Supreme Court of Canada which has set down an approach to statutory interpretation that accounts for the entire context, including the object and intention of the Act.<sup>10</sup> That same approach has been codified in the *Interpretation Act* of BC:

---

<sup>8</sup> *Supra*, note 6.

<sup>9</sup> Each Minister was appointed to their office with the approval of the Lieutenant Governor in Council; see definition of "public office holder" s. 1 LTA and [OIC 657](#) (appointing ministers) and [658](#) (transferring/stating responsibilities and powers), both signed on December 7, 2022. For appointments prior to December 7, 2022 see [OIC 594](#) and [602](#), both signed on November 26, 2020.

<sup>10</sup> *Rizzo & Rizzo Shoes LTD. (Re)*, 1998 CanLII 837 (SCC), [1998] 1 SCR 27 at 21, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1581/index.do>, where J Iacobucci for the Court cites Elmer Driedger's *Construction of Statutes* (2nd ed.

Every enactment must be construed as being remedial, and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.<sup>11</sup>

The object of the LTA is to support transparency in lobbying and, more broadly, the integrity of decision-making by public office holders. The gift prohibition is a remedy to the prospect of undue influence of public office holders. There can be no doubt that a gift promised or given outside of a particular lobbying communication could influence a public office holder on a matter that the gift-giver is lobbying the public office holder on. For these reasons, I consider it generally appropriate, when determining whether a “lobbyist is lobbying” a public office holder under section 2.4(1), to review the lobbyist’s lobbying activities during the year before or after the gift (or promise of a gift) was given (or promised). In some circumstances, such as a gift given that has exceptional value – or is of exceptional value to the particular public office holder being lobbied – it may be reasonable to consider a longer period.

[51] The Lobbyists Registry indicates that in the year prior to promising or giving the gift, TIABC has lobbied the Minister of Tourism, Arts, Culture and Sport,<sup>12</sup> the Minister of Housing,<sup>13</sup> and the Minister of Transportation and Infrastructure.<sup>14</sup> The Lobbyists Registry also indicates that TIABC sent correspondence to the Minister of Jobs, Economic Development and Innovation

---

1983) which “recognizes that statutory interpretation cannot be founded on the wording of the legislation alone. At p. 87 he states: ‘Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.’”

<sup>11</sup> *Interpretation Act*, RSBC 1996, c 238, s 8.

<sup>12</sup> See the Lobbyists Registry, lobbying activity numbers [2916-24570](#) for lobbying on March 14, 2023, [2916-23465](#) for lobbying on January 18, 2023, and [2916-22517](#) for lobbying on December 8, 2022. The topics of those lobbying activities over the last year have included: additional funding for festivals and events and an air service attraction fund; the Municipal Regional and District Tax (MRDT); TIABC’s policies in areas such as major events, short-term rentals, and single-use plastics; notice to a winery that greenhouse use for an events and education may no longer be permitted; and the implementation and implications to tourism of the Declaration on the Right of Indigenous Peoples Act (DRIPA).

<sup>13</sup> See the Lobbyists Registry, lobbying activity numbers [2916-25231](#) for lobbying on March 31, 2023, [2916-23458](#) for lobbying on January 17, 2023. The topics of those lobbying activities over the last year have included: temporary housing options that require municipal bylaw changes or provincial government oversight; provincial oversight over short-term vacation rentals; changing local bylaws on temporary housing to accommodate seasonal workers; and considerations to tourism when hotels are purchased for housing and encouraging protection of trailer parks for housing.

<sup>14</sup> See the Lobbyists Registry, lobbying activity number [2916-24560](#) for lobbying on February 14, 2023. The topics of those lobbying activities over the last year have included: a strategy and electrification requirements for motor coaches; campgrounds; a new policy relating to highway signage; investment in small airport developments and air route development; and transportation interests in marine strategies.

to congratulate them on their appointment and invite them to meet.<sup>15</sup> I reviewed a copy of that correspondence, which congratulated the Minister for the appointment, highlighted the relevance of the Minister’s portfolio to the tourism sector, addressed briefly TIABC’s active engagement with relevant Ministers and expressed that representatives of TIABC would be pleased to meet with the Minister.<sup>16</sup> While it does indicate on balance that TIABC intends to lobby that Minister, I conclude that the content of the correspondence is not lobbying under the LTA, as it does not contain an attempt to influence the public office holder on any of the items enumerated in the definition of “lobby,” nor did it arrange a meeting for the purpose of attempting to influence any of those enumerated items.<sup>17</sup>

[52] In summary, the gift promised and given directly to the Minister of Tourism, Arts, Culture and Sport is prohibited under section 2.4(1) of the LTA given that TIABC was lobbying the Minister. The gift promised indirectly to the Minister of Housing and Minister of Transportation and Infrastructure is prohibited under section 2.4(1), given that TIABC was lobbying both Ministers. The gift was also promised indirectly to the Minister of Jobs, Economic Development and Innovation; however, that promise is not prohibited under section 2.4(1) as TIABC was not lobbying that Minister.

[53] Having determined that the elements in the gift-giving prohibition in section 2.4(1) are satisfied with respect to the gift promised and given to the Minister of Tourism, Arts, Culture and Sport, and with respect to the gift promised to the Minister of Housing and Minister of Transportation and Infrastructure, I will now consider whether the exception in section 2.4(2) applies.

[54] The gift prohibition does not apply if the two criteria in section 2.4(2) are satisfied: first, that the “gift or benefit is given or promised to be given under the protocol or social obligations that normally accompany the duties or responsibilities of office of the public office holder,”<sup>18</sup> and second, that the total value of the gifts or benefits do not exceed the prescribed amount of \$100, as set in Regulation, over a 12-month period.<sup>19</sup>

[55] The designated filer submitted that section 2.4(2)(a) may apply without referencing the requirement for any gifts to be under \$100 in a 12-month period. As the gift clearly exceeds the

---

<sup>15</sup> See the Lobbyists Registry, lobbying activity number [2916-22493](#) reporting a communication on December 10, 2022.

<sup>16</sup> TIABC provided copies in response on August 17, 2023.

<sup>17</sup> LTA, s 1(1), see definition of “lobby”.

<sup>18</sup> LTA, s 2.4(a).

<sup>19</sup> LTA, s 2.4(b) and the *Lobbyists Transparency Regulation*, BC Reg 108/2023, s 6.

regulated \$100 limit, I take from the designated filer's submission that they may have misconstrued what is required for the exception to apply.

[56] The language and structure of section 2.4(2) of the LTA requires that the criteria in both (a) and (b) be met for the exception to the gift prohibition to apply. Section 2.4(2) states that subsection (1) does not apply "if the following apply" – therefore both points that follow must apply. It was open to legislators to state "if one of the following apply" or "if either of the following apply" and they did not.

[57] While it is only a guide, this view is supported by the Uniform Law Conference of Canada's *Drafting Conventions*. The relevant convention is to remove a conjunction such as "and" in cases where it is not necessary:

No conjunction should be used if the subdivisions follow a complete sentence (e.g. "The court may give directions with respect to the following matters:.."). It is best to omit "and" and "or" if their use could cause confusion.<sup>20</sup>

The language in section 2.4(2) of the LTA follows this same structure. The conjunction "and" is not required between them to understand that the criteria in both paragraphs must be met for the exception to apply.

[58] Comments from the Honorable David Eby, then Attorney General responsible for the LTA, about the gift prohibition when it was debated in the BC Legislature also provide informative context:

All lobbyists would be prohibited from giving gifts and other benefits to public office holders, with the exception of gifts below a prescribed dollar amount that are incidental to protocol and social obligations.<sup>21</sup>

Gifts must be both under the \$100 prescribed limit *and* given or promised under the protocol or social obligations that normally accompany the duties or responsibilities of office of the public

---

<sup>20</sup> Uniform Law Conference of Canada, *Drafting Conventions* s 23(4), <https://ulcc-chlc.ca/Civil-Section/Drafting/Drafting-Conventions>.

<sup>21</sup> British Columbia. Legislative Assembly. "Bill 54 – Lobbyists Registration Amendment Act, 2018", 2<sup>nd</sup> reading, *Legislative Assembly of British Columbia Official Report of Debates (Hansard)*, (19 November 2018) at 7:05 p.m. (Hon. D. Eby), [leg.bc.ca/documents-data/debate-transcripts/41st-parliament/3rd-session/20181119pm-Hansard-n185#185B:1900](http://leg.bc.ca/documents-data/debate-transcripts/41st-parliament/3rd-session/20181119pm-Hansard-n185#185B:1900).



office holder. Legislators intended to prohibit all gifts beyond the prescribed limit irrespective as to whether section 2.4(2)(a) is satisfied.

[59] Having established that criteria in both section 2.4(2)(a) and (b) must be satisfied for the exception to apply, I conclude that the exception does not apply to the gifts promised or given in this case. The value of the event ticket promised to the three Ministers at a value of \$357 is well over the prescribed limit of under \$100 in a 12-month period. The total value of the event ticket, food and beverages delivered to one Minister at a value of approximately \$507 is even further over the prescribed limit.

[60] In accordance with the above, I do not need to consider whether the gift was given or promised to be given under the protocol or social obligations that normally accompany the duties or responsibilities of office of the public office holder because the gifts promised and given are over the prescribed limit.

[61] In this case I consider the gift promised and given to the Minister of Tourism, Arts, Culture and Sport as one contravention as the same gift that was promised was the gift that was given.

[62] I find that TIABC thrice contravened section 2.4 of the LTA when its designated filer promised a gift to the Minister of Housing and the Minister of Transportation and Infrastructure and gave a gift to the Minister of Tourism, Arts, Culture and Sport.

#### **ADMINISTRATIVE PENALTY**

[63] Section 7.2(2) of the LTA provides that if, after giving a person under investigation a reasonable opportunity to be heard respecting an alleged contravention, the Registrar determines that the person has not complied with a prescribed provision of the Act or the regulation, the Registrar must inform the person of the Registrar's determination that there has been a contravention and may impose an administrative penalty of not more than \$25,000.

[64] Such person must be given notice of the contravention determination and, if a penalty is imposed, "the amount, the reason for the amount, and the date by which the penalty must be paid."

[65] Section 7.2 of the LTA confers discretion on the registrar to impose administrative penalties. To provide a measure of structure in the exercise of that discretion, the ORL has

published a guidance document “Registrar of Lobbyists: Guide to Investigations” (guide to investigations) to advise members of the public and those engaged in lobbying about what will guide the ORL in exercising its duties under the LTA and the regulations.<sup>22</sup> As the policy makes clear, its purpose is to structure – not fetter – discretion. It provides a consistent framework so lobbyists can have some certainty about the exercise of discretion. It is not law. I have considered that guidance in the exercise of my delegated discretion to determine a penalty based on the facts before me.

[66] The guide to investigations first sets out a general financial range for particular contraventions (depending on whether it is a first, second or third instance). Second, it provides a list of factors that will be considered in determining the amount of administrative penalty. Finally, it includes a clear statement that the guidelines “do not bind or fetter the ORL’s ability to depart from these guidelines, both in respect of administrative monetary penalties and prohibitions, in appropriate circumstances.”<sup>23</sup>

[67] In determining the appropriate administrative penalty within that range, I have taken the following factors into account:

- Whether a penalty is necessary for specific and general deterrence;
- Previous enforcement actions for contraventions by the designated filer;
- The gravity and magnitude of the contravention;
- Whether the contravention was deliberate;
- Whether the registrant derived any economic benefit from the contravention;
- Any efforts made by the registrant to report or correct the contravention; and
- Any other factors that, in the opinion of the registrar or their delegate, are relevant to the administrative penalty.

[68] I have considered these factors and the submissions made by the designated filer.

[69] I have considered and rejected that this is a circumstance in which a penalty is not appropriate. Lobbying is a legitimate activity that is subject to regulation which is designed to establish a framework for access to decision-makers, to support transparency, and to promote

---

<sup>22</sup> Office of the Registrar of Lobbyists, “Registrar of Lobbyists: Guide to Investigations,” 27 May 2020, <https://www.lobbyistsregistrar.bc.ca/handlers/DocumentHandler.ashx?DocumentID=391>.

<sup>23</sup> *Ibid.*, at 11.

integrity in government decision-making.<sup>24</sup> The LTA prohibition on gifts exists to stop lobbyists from providing or promising gifts or benefits to public office holders that could be a means of currying favour with those public office holders that they aim to influence. Its inclusion in the LTA promotes public trust that decisions made by public office holders are being made with consideration to the mandate of the office and to avoid any perception that decisions are influenced by gifts or benefits that a lobbyist may give or offer an individual public office holder. A penalty is necessary to deter the lobbyist from giving or promising prohibited gifts.

[70] The designated filer requests leniency as this is the first time that a contravention is being considered for them under the LTA.<sup>25</sup> While penalties for contraventions under the LTA can go up to \$25,000, the guidance document states that the penalty range for giving or promising a prohibited gift is \$1,000 to \$7,500 if it is a first time contravention.<sup>26</sup> While I maintain discretion to go outside of this range, I agree that for first time contraventions the penalty should be lower.

[71] The gravity and magnitude of these contraventions weigh towards a higher penalty. The value of the gift promised and given is well over the prescribed limit; their value exceeds the outer limit of what is acceptable – under \$100 over a 12-month period – from a lobbyist aiming to influence public office holders. There is a related exclusivity to the gift promised and given that lends to its potential to influence a public office holder. The promise or giving of a gift like this undermines public trust in the integrity of decision-making and the more remarkable a gift is the more public trust is frustrated. I also acknowledge that there is a higher potential for a gift to have a real or perceived impact on the integrity of decision-making when it is given rather than when it is simply promised. This consideration, in this case, weighs towards a lower penalty for the gifts promised and a higher penalty for the gift given. Accordingly, I determine the penalty for the gift given to the one public office holder separately from the penalty for the gift promised to the two other public office holders.

[72] I have no evidence in front of me to suggest that the contraventions were deliberate. If anything, the communications and submission from the lobbyist, their efforts to bring the possible contravention(s) to the attention to the ORL, and their immediate correction of their registration information demonstrate that the contravention was unintentional. Still the lobbyist is responsible for understanding their responsibilities under the LTA. The gift-giving

---

<sup>24</sup> See OECD, “Lobbying in the 21<sup>st</sup> Century: Transparency, Integrity and Access”, 20 May 2021, online: <https://www.oecd.org/corruption-integrity/reports/lobbying-in-the-21st-century-c6d8eff8-en.html>.

<sup>25</sup> TIABC submissions, July 24 and August 21, 2023.

<sup>26</sup> *Supra* note 16, at 11.

prohibition has been in place since May 2020 and the lobbyist has had three years to understand this responsibility under the LTA. Overall, this factor weighs towards a penalty, but a lower penalty.

[73] I do not have any evidence to suggest that the lobbyist derived any economic benefit from the contraventions. This is a neutral factor.

[74] The designated filer asked for consideration of the fact that “TIABC chose to file a report in the event a violation may have transpired” and that it did so “to ensure accountability and intention to adhere to the *Lobbyist Transparency Act* regulations.”<sup>27</sup> I agree that reporting the information for transparency and accountability purposes weighs in favour of a lower penalty. Ultimately a lobbyist supports transparency in lobbying if they update the Lobbyists Registry as soon as they become aware of a potential contravention, as happened in this case with the gift given to the Minister of Tourism, Arts, Culture and Sport. I note that the lobbyist entered that information when it was due, i.e. information about the gift promised and given in March was entered by the 15<sup>th</sup> of April, 2023. The lobbyist’s immediate attentiveness meant that the public has had timely access to the relevant information about the gift given to Minister of Tourism, Arts, Culture and Sport. In addition, the lobbyist responded openly to questions throughout the investigation about the gifts promised to the Minister of Housing and the Minister of Transportation and Infrastructure. In my view, that responsiveness shows the lobbyist is sincere when they say that they brought this contravention to the ORL to be accountable and to demonstrate their intention to uphold their responsibilities under the LTA.

[75] I also acknowledge that the information about the additional two gifts promised to two other Ministers that came to light during the investigation means that the filing of information about them in the Lobbyists Registry is expected to be approximately five months late. However, it was the lobbyists that was forthright about this information. Overall, the designated filer reviewed education materials in the ORL newsletter, took immediate steps to contact the ORL to better understand their responsibilities under the LTA relating to gifts, cooperated throughout this investigation and was forthcoming with relevant and related information. The designated filer’s general conduct in relation to the prohibited gifts promised and given has, outside of the contraventions themselves, demonstrated accountability to the overall purpose of the LTA and, in my view, weighs heavily towards a lower penalty and a late filing within a reasonable period of the two promised gifts should not attract an additional penalty.

---

<sup>27</sup> *Supra* note 1.

[76] As this is the first ORL decision on a gift contravention I have not looked to any other decisions for guidance on an appropriate penalty.

[77] After taking the above circumstances into consideration, I am imposing an administrative penalty of \$1,200 for the gift promised and given to the Minister of Tourism, Arts, Culture and Sport, and an administrative penalty of \$500 each for the gifts promised to the Minister of Housing and the Minister of Transportation and Infrastructure.

## **RELATED MATTERS**

[78] In tandem with rendering this decision, I am sending a letter to TIABC asking the designated filer update TIABC's information in the Lobbyists Registry by entering the gifts promised to the Minister of Housing and Minister of Transportation and Infrastructure. I recognize that TIABC has an outstanding obligation under 4.1 of the LTA to enter the gifts promised to these public office holders. With a view to the designated filer's efforts to be accountable under the LTA, I will exercise discretion to refuse to investigate the late filings of the two gifts promised to the Minister of Housing and the Minister of Transportation and Infrastructure on the condition that they are entered into the Lobbyists Registry within two weeks of this decision.

[79] In that letter, I also recommend that TIABC wait until March 7, 2024, before lobbying the Minister of Jobs, Economic Development and Innovation and provide notice that the Registrar maintains discretion to investigate a contravention if lobbying occurs prior to that date. This date reflects the one-year period that I have determined is reasonable in this case to uphold the purposes of the LTA in light of the fact that TIABC's submissions and correspondence indicate that it intends to lobby that Minister.<sup>28</sup>

## **CONCLUSION**

1. Under section 7.2(2) of the LTA, I find that the designated filer contravened section 2.4 of the LTA when they promised a gift to three public office holders and gave a gift to one of those public office holders.
2. I impose the following administrative penalty for the reasons set out above:

---

<sup>28</sup> As discussed in paragraph 47 of this decision.

- i. \$1,200 for promising and giving a prohibited gift under section 2.4 of the LTA.
  - ii. \$500 for each of two instances of promising a prohibited gift under section 2.4 of the LTA.
3. The designated filer must pay the \$2,200 amount for the penalties no later than October 19, 2023.
4. If the designated filer requests reconsideration under section 7.3 of the LTA, they are 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

Date: September 7, 2023

ORIGINAL SIGNED BY

---

oline Twiss, Deputy Registrar and  
Delegate of the Registrar of Lobbyists