

## DETERMINATION DECISION 25-03

### Vancouver Humane Society

### Designated Filer: Amy Morris

**Date: February 20, 2025**

**SUMMARY:** The designated filer failed to submit the Vancouver Humane Society's Registration Return within 10 days of having its first in-house lobbyist, contravening section 3(3) of the *Lobbyists Transparency Act*. The designated filer was issued a penalty of **\$2,000**.

**Statutes considered:** *Lobbyists Transparency Act*, SBC 2001, c. 42.

**Authorities considered:** Determination Decision 23-01, Determination Decision 24-02, Determination Decision 23-04.

### INTRODUCTION

[1] This report concerns an investigation under section 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 its regulations. If the Registrar or their delegate believes that the person under investigation has not complied with a provision of the LTA or its 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 making a determination under s. 7.2(2) of the LTA, 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 LTA recognizes two types of lobbyists: consultant lobbyists and in-house lobbyists. This report focuses on the activities of the Vancouver Humane Society (VHS), 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] Under s. 7(4)(d) of the LTA, the Registrar has delegated to me the authority to conduct this investigation.

#### **ISSUES UNDER CONSIDERATION**

[4] The issues for consideration are:

- (a) Whether the designated filer contravened section 3(3) of the LTA; and
- (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 LTA**

[5] **"in-house lobbyist"** means, subject to subsection (4), a person who

- (a) is an employee, officer or director of an organization
- (b) receives payment for the performance of the person's functions, and
- (c) lobbies on behalf of the organization or an affiliate

[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,

(c) 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;

[8] **"lobbying activity"** means any of the activities described in paragraphs (a) and (b) of the definition of "lobby";

[9] **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 form and manner and containing the information required by section 4.

[10] **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,

(c) dealing with the matter would serve no useful purpose because of the length of time that has elapsed since the matter arose,

**[11] 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.

**BACKGROUND**

[12] On March 1, 2023, the VHS submitted Registration Return #9426-4942-1. A designated filer is required to file a Registration Return within 10 days of the date the organization first has an in-house lobbyist. The designated filer confirmed in an email to the ORL dated March 2, 2023, that VHS first lobbied a public office holder on May 28, 2020. VHS was required to file a Registration Return no later than June 8, 2020, after it first had an in-house lobbyist, who started to lobby public office holders on May 28, 2020.

[13] On March 9, 2023, VHS submitted a Monthly Return reporting its lobbying activity (Lobbying Activity Reports). VHS lobbied senior public office holders on 30 occasions from May 28, 2020, to March 1, 2023, while unregistered.

[14] Given the circumstances, it appeared that VHS failed to submit a Registration Return, in contravention of s. 3(3) of the LTA, within 10 days of having its first in-house lobbyist

## **INVESTIGATION**

[15] The ORL commenced an investigation under section 7.1 of the LTA to determine whether the designated filer had contravened s. 3(3) of the LTA.

[16] On May 9, 2024, I provided VHS's designated filer with formal notice under section 7.2(1)(a) of the LTA that given the circumstances, it appeared the designated filer had submitted VHS's Registration Return late in contravention of s. 3(3) of the LTA. The designated filer was asked to respond in writing to the alleged contravention and to provide any information pertinent to the contraventions and any potential penalties.

[17] The designated filer responded on May 9, 2024, stating they were not aware of the LTA or that they were required to register. This fact only came to their attention in a discussion with other non-profits in late February of 2023. The designated filer assembled the required information for the registration and promptly submitted a Registration Return for VHS on March 1, 2023.

[18] The designated filer apologized for the error. She asked that the ORL waive the penalty for the following reasons:

- (a) the Registration Return was submitted shortly after discovering VHS's responsibilities under the LTA;
- (b) VHS is a non-profit with charitable status; and
- (c) lobbying is a small part of their operations.

[19] On August 1, 2024, the designated filer provided additional information. The designated filer stated VHS is composed of volunteers from the community. The VHS is completely reliant on private donations for program funding. It does not receive funding from government. VHS provides funds for a variety of projects, the largest of which is providing low-income families with veterinary assistance to care for their pets.

[20] The designated filer reiterated that they were unaware of their responsibilities under the LTA; however, they immediately registered upon learning about the changes from other non-profits.

[21] Prior to learning about the changes to the LTA, the VHS did not view themselves as lobbyists. Most of their communications with government consist of unanswered emails seeking improvements in animal welfare and protection. They now recognize that some of their activities require them to register and going forward they will comply with the LTA.

[22] Given its circumstances, VHS asked the ORL not to impose a penalty, for the following reasons. It argues:

- (a) the gravity and magnitude of the contravention is minimized by the fact it was unaware of the requirement to register, but once it understood its obligations it has acted in good faith and immediately submitted its registration, accompanied by its monthly returns. It continues to meet its responsibilities under the LTA.
- (b) It has no previous contraventions under the LTA;
- (c) that the contravention was not deliberate;
- (d) it did not receive an economic benefit;
- (e) that it does not receive government funding and that all of its activities are directed towards advocating for animal welfare;
- (f) that a penalty would not serve either as general or specific deterrence, since VHS's neglect resulted from its lack of knowledge about the changes to the LTA; and
- (g) for these reasons a penalty would not have the desired impact of deterring others acting under similar circumstances from contravening the LTA.

[23] For the reasons mentioned above, the designated filer states that:

“[A] monetary administrative penalty or a prohibition on lobbying will not serve as a deterrent, will not be in the public interest and would not be suitable given the gravity of the contravention. Any administrative penalty would be paid from the private donations received by VHS which will not otherwise be able to go to our programs, including those that assist low-income individuals.”

[24] I have taken this information into consideration.

## **DISCUSSION AND FINDINGS**

[25] The *Lobbyists Registration Act* (LRA) was amended by the *Lobbyists Registration Amendment Act* (LRAA) effective May 4, 2020. Along with several changes to the Act itself, the title of the act was changed to the *Lobbyists Transparency Act*. The LRAA had a direct effect on organizations including the not-profit sector. In an ORL guidance document published for the not-for-profit sector, the ORL explained:

Until May 2020, any organization, whether non-profit or for-profit, that lobbied less than 100 hours each year was exempt from the requirement to report their lobbying activity in BC. This exemption created a transparency gap where any organization – from multinational corporations to private interest groups to non-profits – could lobby 100 hours without having to declare to the public who they were lobbying or what subject matter they were trying to influence. The BC Government closed this transparency gap in May 2020 by requiring that all lobbying activities engaged in by paid staff at any organization be reported in the Lobbyists Registry, unless the organization meets one of the exemptions discussed later in this document.

The non-profit sector plays an important role in informing the direction of government decision-making, which is what the public expects. The LTA creates a level playing field where the work of all parties who inform public policy – businesses, non-profits, charities, and others – are given equal treatment. Through the Lobbyists Registry, the public can see which organizations engage public office holders in an attempt to influence broader public policy.<sup>1</sup>

The removal of the 100-hour threshold essentially requires all organizations, including non-profits, that lobby government to submit a Registration Return about their lobbying to the Lobbyists Registry unless a specific exemption applies.

[26] The ORL raised awareness about the amendments in the not-for-profit and other sectors, including by publishing a guidance document, providing FAQs, infographics and webinars on its website.<sup>2</sup> It also led presentations within the lobbyist community.

[27] VHS stated in their submission that they do not receive government funding. I have reviewed their Registration Returns and noticed that they have indicated in the Registry that they have received government funding on two separate occasions between May of 2020 to March of 2022, from both the BC government and the government of Canada, totaling \$267,133.

[28] Under s. 3(3) of the LTA an organization must submit a Registration Return, within 10-days of the date it has its first in-house lobbyist. Section 3(3) of the LTA reads:

**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 form and manner and containing the information required by section 4.

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<sup>1</sup> Guidance for not-for-profit organizations on the *Lobbyists Transparency Act*, Revised February 7, 2023.

<https://www.lobbyistsregistrar.bc.ca/handlers/DocumentHandler.ashx?DocumentID=397>

<sup>2</sup> <https://www.lobbyistsregistrar.bc.ca/resources/guidance-documents/>

[29] In this case, the designated filer admitted that they failed to file a Registration Return within the time limit set out under s. 3(3) of the LTA. The Registration Return was approximately two and three-quarter years late. VHS acknowledged that it engaged in lobbying while it was unregistered.

### ***Finding***

[30] Given the circumstances set out above, I find that VHS contravened s. 3(3) of the LTA when it failed to submit its Registration Return within 10 days after having its first in-house lobbyist.

### **ADMINISTRATIVE PENALTY**

[31] 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.

[32] Such person must be given notice of the contravention determination. If a monetary administrative penalty is imposed, the notice must include "the amount, the reason for the amount, and the date by which the penalty must be paid."

[33] 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 *Registrar of Lobbyists: Guide to Investigations* guidance document (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 its Regulation. As the guide to investigations makes clear, its purpose is to structure discretion. It does not restrict 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.

[34] The guide to investigations first sets out a general financial range for contraventions (depending on whether it is a first, second or third contravention). Second, it provides a list of factors that will be considered in determining the amount of the administrative penalty. Finally, 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.

[35] While penalties for contraventions under the LTA can go up to \$25,000, the guide to investigations states that the penalty range for registering late is \$100 to \$5000 if it is a first-time contravention.



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

- Previous enforcement actions for contraventions by this organization;
- 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;
- Whether a penalty is necessary for specific and general deterrence; and
- Any other factors that, in the opinion of the registrar or their delegate, are relevant to the administrative penalty.

***Are there previous enforcement actions?***

[37] VHS states it has no previous contraventions. I reviewed previous decisions and I do not see any previous contraventions, nor am I aware of any prior warnings issued to VHS by the ORL. This weighs in favour of a lower penalty.

***Was the contravention deliberate?***

[38] I have no information which would lead me to believe that this contravention was deliberate. This weighs in favour of a lower penalty.

***Was there an economic benefit?***

[39] VHS states that they did not receive an economic benefit from this contravention. I have no information to the contrary. This weighs in favour of a lower penalty.

***Did the registrant report or correct the contravention?***

[40] VHS claims they did not realize that they were required to register. It learned from other non-profits during a phone call in late February of 2023 that it was required to file a Registration Return. Upon learning about its obligations under the LTA, it immediately acted and submitted a Registration Return on March 1, 2023. It worked with the ORL to submit its Monthly Returns for its lobbying activity. VHS did this without prompting from the ORL. In fact, the ORL was unaware of VHS's lobbying activity prior to VHS filing its Registration Return. This warrants a penalty on the lower side of the range.

***What is the gravity and magnitude of the contravention?***

[41] In terms of the gravity and magnitude of the contravention, the failure to file a Registration Return in a timely manner undermines the LTA's goal of transparency because it prevents the public from knowing who is attempting to influence government at any point in time. The designated filer is required to disclose accurate, current, and complete information about the organization's lobbying activities within specific timelines set out under the LTA. It is incumbent on an organization to recognise and meet their obligations under the LTA.

[42] VHS stated they were not aware of the requirement to submit a Registration Return with the ORL. A lack of awareness of the requirements under the LTA is not an excuse for failing to comply with them.

[43] VHS failed to submit its Registration Return within 10 days of it having its first in-house lobbyist. VHS submitted 30 Lobbying Activity Reports to the Registry indicating that it lobbied senior public office holders on 30 occasions over a period of approximately two and three-quarter years. In this case, the public was not aware that VHS was lobbying, let alone the amount of lobbying they conducted over the period they were not registered. Given the magnitude of the lobbying, this elevates the gravity of the contravention, warranting a penalty in the mid range.

***Are there any other factors to consider?***

[44] VHS states that it is a not-for-profit organization that functions on a limited budget. It provides services to the community. One of its programs assists low-income families with veterinary costs. It states that its funding is derived solely from private donations. Any penalty would have to come from their donations, thus decreasing resources it would have dedicated to its programs.

[45] I see that VHS has received some funding from different levels of government. However, based on what VHS has stated, the bulk of the revenue comes from private donations.

[46] I accept that VHS provides a valuable service to the community. I see that any penalty would impact their budget and restrict their ability to fully fund their services. I have taken this into consideration in this case in favour of a lower penalty.

[47] This does not mean that non-profits in general should always be given preferred treatment simply because they are non-profits. Every decision must be based on the circumstances of the specific case.

***Is a penalty necessary for specific and general deterrence?***

[48] VHS states that penalizing it “...would not serve either as general or specific deterrence, since VHS’s neglect resulted from its lack of knowledge.” It argues that it “...will not serve as a deterrent, will not be in the public interest and would not be suitable given the gravity of the contravention.”

[49] I disagree. I realize VHS brought this contravention to the attention of the ORL and it quickly fulfilled its obligations under the LTA. I have no reason to doubt that they will comply with the LTA going forward. The contravention was not deliberate, nor does there appear to be an economic gain from the lobbying. However, VHS lobbied for approximately two and three-quarter years without being registered. Over that period, it lobbied on numerous occasions. Lack of knowledge of the law is not a reasonable justification for leniency. The contravention in this case is clear. I am of the opinion, given the circumstances, that this a contravention that warrants a penalty.

[50] In considering general deterrence, the publication of this report and recognition that the ORL will issue administrative penalties to those who contravene the LTA will remind all individuals of their legal obligations and to be diligent in filing Registration Returns.

***What is an appropriate penalty?***

[51] I have taken into consideration the factors set out above and reviewed other decisions to arrive at a reasonable penalty.

[52] In Determination Decision (DD) 23-01, the organization had an existing registration with the ORL under the LRA. Following the May 4, 2020, amendments, a representative from the organization contacted the ORL asking if they were required to take action to meet the LTA’s requirements. The ORL informed the representative that they would need to update their registration with information required under the new legislation. Later in the year, the representative inquired about how to submit a Monthly Return for lobbying it conducted several months prior. The ORL noticed that the organization had not submitted a new Registration Return with information required under the LTA. The ORL had previously reminded the organization to update its registration. The organization was approximately one month late in submitting its Registration Return. The organization had no previous contraventions and asked the ORL about its obligations under the LTA. The contravention was not deliberate and did not result in an economic benefit. It lobbied on one occasion while not being registered. The designated filer received a penalty of \$1,000 for contravening s. 3(3) of the LTA.

[53] In DD 23-04, the ORL contacted the designated filer, questioning them about possible lobbying activity they may have conducted while not registered. The designated filer acknowledged that the organization had lobbied and would quickly submit its Registration Return. The designated filer corresponded with the ORL for several months. The ORL provided

guidance to assist the designated filer complete their registration. The ORL had to continually remind the designated filer of their obligations under the LTA. The designated filer finally submitted the organization's Registration Return 16 months late. The investigator did not have information that suggested the organization's failure to file a registration was deliberate. The investigator viewed this as a neutral factor. However, the investigator did point out that the organization was informed on several occasions of the changes to the LTA, by the ORL, yet the organization did not file its registration until months later.

[54] In that decision, there was no economic benefit derived from the contravention. The ORL is aware of 10 different occasions where the organization lobbied senior public office holders during this period. Given the circumstances, the designated filer received a penalty of \$4,000 for contravening s. 3(3) of the LTA.

[55] In DD 24-02, the organization approached the ORL inquiring whether its interaction with government constituted lobbying under the LTA. After a review of the circumstances, it became clear that the organization had been lobbying for approximately two and one half years without submitting a Registration Return. It had lobbied senior public office holders on 43 occasions during this period. This elevated the gravity of the contravention. The organization worked with the ORL to fulfill its obligations under the LTA. There were no previous contraventions and the contravention was not deliberate. The designated filer received a penalty of \$3,500 for contravening s. 3(3) of the LTA.

[56] The circumstances in VHS's case resembles those in DD 24-02, where the designated filer approached the ORL, it had lobbied senior public office holders on 43 occasions over a two and one half year period without being registered. It worked with the ORL to meet its obligations under the LTA. There were no previous contraventions and this contravention was not deliberate.

[57] This case is different from DD 24-02 in that VHS lobbied on 30 separate occasions, fewer than those in DD 24-02, over approximately the same period of time. This would warrant a lower penalty than in DD 24-02.

[58] It is also different because VHS is a non-profit charitable organization that operates predominately on private donations, excluding a limited amount of government funding it has received over the years. Its main program provides financial relief to low-income families to care for their animals.

[59] I understand that any penalty issued to VHS would have to be paid out of its donations, which would have a direct impact on its program delivery. A penalty similar to DD 24-02 would have a punitive effect on VHS's operations, given its limited funding. It has admitted to its contravention and immediately met its obligations under the LTA and I understand it continues to do so.

[60] Given the circumstances I believe a reasonable penalty would be \$2,000.

**CONCLUSION**

1. Under s. 7.2(2) of the LTA, I find that VHS contravened s. 3(3) of the LTA.
2. For the reasons set out above, I impose the following administrative penalty of \$2,000.
3. The designated filer must pay the amount for the penalty no later than **April 3, 2025**.
4. If the designated filer requests reconsideration under s. 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: February 20, 2025

ORIGINAL SIGNED BY

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Tim Mots, Investigator and  
Delegate of the Registrar of Lobbyists