

## INVESTIGATION REPORT 14-05

LOBBYIST: Cynthia (Burton) Shore

March 14, 2014

**SUMMARY:** Cynthia (Burton) Shore, a consultant lobbyist, filed a return with the ORL on June 25, 2013. The lobbyist certified that the commencement date of the undertaking was May 1, 2013. The lobbyist failed to meet her obligations under s. 3(1) when she did not file a return within 10 days after entering into an undertaking to lobby on behalf of a client. The consultant lobbyist was fined \$700.

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

### INTRODUCTION

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

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

[3] Under the LRA, registrations must be filed within specific time frames. The electronic Lobbyists Registry automatically checks the dates of registrations, and alerts Office of the Registrar of Lobbyists ("ORL") staff if the date of a registration appears to be at odds with the required time frames.

[4] This investigation, conducted under the authority delegated to the Deputy Registrar by the Registrar under s. 7(4)(d) of the LRA, commenced when the lobbyist registered an undertaking to lobby on behalf of MWH Business Solutions. Section 3(1) of the LRA requires lobbyists to file a return within 10 days of entering into an

undertaking. In this case, the lobbyist failed to file a return within the legislated timelines.

## ISSUES UNDER CONSIDERATION

[5] The questions that must be considered are:

- (a) Whether the lobbyist filed a return within the time lines set out in s. 3(1) of the LRA.
- (b) If the lobbyist did not comply, what, if any, administrative penalty is appropriate in the circumstances?

## RELEVANT SECTIONS OF THE LRA

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

- (a) in relation to a lobbyist, to communicate with a public office holder in an attempt to influence
  - (i) the development of any legislative proposal by the government of British Columbia, a Provincial entity or a member of the Legislative Assembly,
  - (ii) the introduction, amendment, passage or defeat of any Bill or resolution in or before the Legislative Assembly,
  - (iii) the development or enactment of any regulation, including the enactment of a regulation for the purposes of amending or repealing a regulation,
  - (iv) the development, establishment, amendment or termination of any program, policy, directive or guideline of the government of British Columbia or a Provincial entity,
  - (v) the awarding, amendment or termination of any contract, grant or financial benefit by or on behalf of the government of British Columbia or a Provincial entity,
  - (vi) a decision by the Executive Council or a member of the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown, a Provincial entity or the public, or
  - (vii) a decision by the Executive Council or a member of the Executive Council to have the private sector instead of the Crown provide goods or services to the government of British Columbia or a Provincial entity,

- (b) in relation to a consultant lobbyist only, to arrange a meeting between a public office holder and any other individual...

**"lobbyist"** means a consultant lobbyist or an in-house lobbyist;

**"undertaking"** means an undertaking by a consultant lobbyist to lobby on behalf of a client, but does not include an undertaking by an employee to do anything...

#### **Requirement to file return**

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

### **BACKGROUND**

[6] On June 25, 2013, the lobbyist filed a return with the ORL, registration ID 16175255.

[7] Section 4(1)(b)(ii) of the LRA requires a consultant lobbyist to submit the start date and the scheduled end date of any undertaking to lobby. In this case, the lobbyist entered a start date for the undertaking of May 1, 2013.

[8] ORL staff received an automatic system alert that the lobbyist's registration appeared to be non-compliant.

### **INVESTIGATION**

[9] On July 12, 2013, the ORL commenced an investigation under s. 7.1 of the LRA to determine whether the lobbyist had complied with the LRA. In its letter to the lobbyist, the ORL asked the lobbyist to explain why she had filed her return past the deadline set out in the LRA.

[10] On July 16, 2013, the lobbyist responded to the ORL's letter. The lobbyist confirmed that she started on the file in May of 2013 during the BC election. She did not dispute the fact that she entered into an undertaking on May 1, 2013, but did not register until June 25, 2014.

[11] On September 26, 2013, the Acting Deputy Registrar informed the lobbyist he was providing formal notice under s. 7.2(1)(a) of the LRA that he had formed the belief, subject to hearing from the lobbyist, that she failed to file a return within 10 days of entering into an undertaking to lobby on behalf of a client. The Acting Deputy Registrar informed the lobbyist of the Registrar's responsibilities under s. 7.2(2) of the LRA if it was determined that she did not comply with the LRA. The file was assigned to me for review and decision.



[12] In her response to the alleged contravention, the lobbyist refers to the fact that The Progressive Group had previously registered a return after entering into an undertaking with the client. The lobbyist states that she had only been added to the file after a previous lobbyist had withdrawn from the registration. The lobbyist indicates that she had no intention to lobby at that time.

## **DISCUSSION**

[13] The lobbyist certified in her June 25, 2013 return, registration ID 16175255, that the start-date of her undertaking was May 1, 2013. Whether she actually lobbied during this period is immaterial. The fact is she did not register a return within 10 days of entering into the undertaking.

## **FINDING**

[14] Taking into consideration the information in the return filed by the lobbyist and the lobbyist's statements, I find that the lobbyist contravened s. 3(1) of the LRA when she failed to file a return with the Registrar within 10 days of entering into an undertaking to lobby.

## **ADMINISTRATIVE PENALTY**

[15] The purpose of the LRA is to promote transparency in lobbying by requiring lobbyists to disclose accurate, current and complete information. Failing to keep information in registrations up to date and accurate undermines the ability of the public to know who is actually attempting to influence government at any point in time, thereby defeating the LRA's goal of transparency.

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

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

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

[18] The lobbyist's file history indicates that she received an email on December 1, 2010, asking for an explanation related to an apparent contravention of s. 3(1) of the LRA. After her explanation, the matter was not pursued further. Therefore, the lobbyist was aware of her responsibility to register within 10 days after entering into an undertaking to lobby on behalf of a client.

[19] On the question of the gravity and magnitude of the contravention, the lobbyist certified in her registration ID 16175255 that the start date of the undertaking was May 1, 2013. She has been lobbying for several years now and ought to have known her obligations under s. 3(1) of the LRA.

[20] There is no evidence that would lead me to believe that this contravention was deliberate.

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

[22] The lobbyist did not make any effort to report or correct the contravention. It was the ORL who brought the alleged contravention to the attention of the lobbyist.

[23] On the question of specific deterrence, this investigation, hearing process, the ensuing fine and the publication of the outcome of this investigation, will encourage the lobbyist to check that she has met her obligations under the LRA prior to submitting future returns.

[24] I must also take into consideration the notion of general deterrence. It is important for all lobbyists to understand that keeping registrations current is not simply "paperwork". It is a serious legal obligation that they must meet if the objectives of the LRA are to be achieved. The publication of this report and recognition that the ORL will issue administrative penalties to those lobbyists who contravene the LRA, will remind all designated filers of their legal obligations to be diligent in keeping their registrations current.

[25] The ORL policies and procedures, which are intended to act only as a guide, suggest that a lobbyist be assessed a penalty between \$100 and \$5000 for the first time the lobbyist fails to submit their registration within the legislated timelines.

## **CONCLUSION**

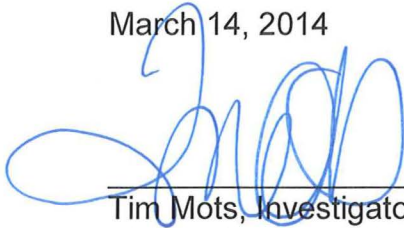
1. Under s. 7.2(2) of the LRA, I find that the lobbyist contravened s. 3(1) of the LRA. The notice of alleged contravention has been substantiated.
2. I impose an administrative penalty of \$700.
3. The lobbyist must pay this penalty no later than April 25, 2014.

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

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

Email: [info@bcorl.ca](mailto:info@bcorl.ca)

March 14, 2014



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Tim Mots, Investigator  
Office of the Registrar of Lobbyists