O.R.L.
office of the registrar of lobbyists
BRITISH COLUMBIA

RECONSIDERATION DECISION 25-04

(DETERMINATION DECISION 25-04)

DESIGNATED FILER: William Brash

June 2, 2025

SUMMARY: In Determination Decision 25-04, an Investigator found that the designated filer for the Truck Loggers Association ("TLA") contravened sections 3(3) and 4.1 of the *Lobbyists Transparency Act* (LTA) and issued administrative penalties totalling $4,500. The designated filer requested a reconsideration on grounds of procedural fairness, the applicability of the LTA, and to request a lower penalty. The Registrar of Lobbyists confirmed that the process followed by the Investigator was procedurally fair and the designated filer had the opportunity to be heard, that the activities of the TLA fall under the LTA, and confirmed the penalty issued by the Investigator.

Statues Considered: *Lobbyists Transparency Act*, SBC, 2001, c. 42

Authorities Considered: Determination Decision 25-04

INTRODUCTION

[1] On March 13, 2025, a delegate (the "Delegate") of the Registrar of Lobbyists determined that the designated filer, William Brash, Executive Director of the Truck Loggers Association (TLA) had contravened sections 3(3) and 4.1 of the *Lobbyists Transparency Act* (LTA). The designated filer received an administrative penalty totalling $4,500 for the contraventions.

[2] The designated filer requested a reconsideration on April 12, 2025, on multiple grounds relating to procedural fairness, the applicability of the LTA, and to request a lower penalty.

RELEVANT SECTIONS OF THE LTA

[3] **"lobby,"** subject to s. 2(2), means

(a) to communicate with a public office holder in an attempt to influence

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(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;

[4] **s. 1(1) "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;

[5] **s. 1(4)** An individual is not an in-house lobbyist if the following apply:

(a) the individual is an employee, director or officer of an organization that has fewer than 6 employees;

(b) the lobbying by the individual, either alone or together with other individuals in the organization, on behalf of the organization or an affiliate of the organization,

(i) totals fewer than 50 hours in the preceding 12-month period, or

(ii) meets the prescribed criteria,

unless the primary purpose of the organization is

(iii) to represent the interests of its members, or

(iv) to promote or oppose issues,

and the lobbying by the individual is for that purpose.

[6] **Power to investigate**

s. 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,

[7] **Hearing and administrative penalty**

s. 7.2 (1) If after an investigation under s. 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.

[8] **Reconsideration of a Decision**

7.3 (1) Within 30 days after being informed of a contravention in accordance with section 7.2, a person may request the registrar to reconsider a decision under any or all of section 7.2 (2) (a), (b) or (b.1), as applicable.

(2) A request under subsection (1) for a reconsideration of a decision under any or all of section 7.2 (2) (a), (b) or (b.1), as applicable,

(a) must

(i) be in writing, and

(ii) identify the grounds on which a reconsideration is requested, and

(b) in the case of a request for a reconsideration of a decision under section 7.2 (2) (b.1), may include a request for a stay of the prohibition order in respect of which the reconsideration is requested.

(3) On receiving a request under subsection (1), the registrar must do all of the following:

(a) consider the grounds on which the reconsideration is requested;

(b) confirm or rescind the decision referred to in any or all of section 7.2 (2) (a), (b) or (b.1), as applicable, or confirm or vary the monetary amount or the prohibition duration;

(c) if the monetary amount is confirmed or varied, confirm or extend the date by which the amount must be paid;

(d) if the prohibition duration is confirmed or varied, specify the dates that the prohibition starts and ends;

> (e) notify the person in writing of the matters under paragraphs (b) to (d) of this subsection, as applicable, and of the reasons for the decision to rescind, confirm or vary under this section.
>
> (4) If a request for reconsideration under this section includes a request for a stay of the prohibition in respect of which the reconsideration is requested, the registrar may
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> (a) grant or refuse a stay of that prohibition, and
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> (b) impose conditions on a stay granted under this section.

BACKGROUND

[9] The following facts have been adopted from Determination Decision 25-04. Only facts relevant to this reconsideration are included. Further detail is found in the Decision.

[10] On March 17, 2023, the Truck Loggers Association (TLA) contacted the ORL to inform it that it wished to re-register with the ORL, and that the TLA had been lobbying since the inception of the LTA, May 4, 2020. ORL staff worked with the TLA to assist in bringing it into compliance. Over the course of the next year, the ORL conducted an investigation under s.7.1 of the LTA to determine whether the designated filer had complied with ss. 3(3) and 4.1 of the LTA.

[11] On May 7, 2024, the Delegate sent the designated filer a formal notice under s.7.2(1)(a) of the LTA outlining the basis for the allegation that the TLA had contravened ss. 3(3) and 4.1 of the LTA. The Delegate asked the designated filer to respond in writing to the alleged contraventions and to provide any information or documentation pertinent to the contraventions and any potential penalties (the "Notice").

[12] On June 12, 2024, the Delegate returned a phone call to respond to the designated filer's question about whether the TLA was required to register since the organization has four or fewer employees and lobbies less than 12 hours a month.

[13] On June 13, 2024, the Delegate sent an email explaining their preliminary view that the designated filer was not exempt by virtue of s.1(4) of the LTA and invited comments in writing in response to these views and the Notice (the "June Email").

[14] On July 2, 2024, the designated filer responded to the Notice and to the June Email (the "Notice Response").

[15] On March 13, 2025, the Delegate issued Determination Decision 25-04 (the "Decision"), which found the designated filer contravened ss. 3(3) and 4.1 of the LTA and levied an administrative monetary penalty of $4,500 for the contraventions.

DISCUSSION AND FINDINGS

[16] The designated filer sent an email dated April 12, 2025, requesting a reconsideration of the Decision. That request contains a bulleted list of comments and submissions that I have reviewed and summarized into three main grounds to consider:

a. Complaints related to procedural fairness and lack of communication.

b. Disagreement that the TLA was in fact engaging in lobbying activity.

c. A request for a reduction in the penalty levied.

[17] I note that the designated filer does not contest the findings as they relate to the issues identified by the Delegate, namely whether the designated filer contravened ss. 3(3) o4.1 of the LTA and I will therefore not address those aspects of the Decision.

Procedural Fairness

[18] The designated filer complains that the TLA was very cooperative with the ORL, and that they were surprised by the lack of communication from the Delegate after the Notice Response. The designated filer noted: "The lack of response from then until now implied to us there was either an acceptance of our position or that it merited further discussion. We were certainly surprised to receive a strict interpretation and determination 8 months later." Further, the designated filer states that he believed the "information provided was compelling towards our position but we did not receive any response or communication related to our interpretations."[1]

[19] I interpret the designated filer's submissions to be a complaint about the procedural fairness of the Decision, namely that they were not given an adequate opportunity to be heard, they did not have proper notice of the potential outcomes of a hearing, and that there was a delay in rendering the decision.

[20] The Notice outlined the preliminary findings of the Delegate, including that they had formed the belief that the TLA had contravened the LTA. The Notice further explained the preliminary findings in detail, citing the relevant sections of the LTA. The final two pages of the letter under the heading "opportunity to be heard" invited the designated filer to respond in writing to the alleged contraventions and to provide submissions on potential penalties if a contravention is found. The Delegate also attached a copy of the ORL's "A Guide to Investigations," which contains further detailed information on the ORL's processes.

[21] At the end of the June Email, the Delegate states: "In its response to the notification letter, the TLA is welcome to provide this office with any information that supports its view that they are exempt from the LTA and does not need to register its lobbying activity."

[1] Reconsideration request email of April 12, 2025.

[22] The designated filer began the Notice Response with, "In response to your previous letter and email below," and then made submissions in response to the preliminary views expressed by the Delegate.

[23] The record before me is clear that the designated filer had notice of the process the ORL was undertaking by way of the Notice. The designated filer had both the opportunity to be and was in fact heard in the Notice Response. The Delegate did not consider any new information or information not put to the designated filer in rendering her decision and was under no obligation to return to the designated filer for further submissions. The Notice also provided the Delegate's preliminary view of the contraventions, which were ultimately confirmed in the Decision. The designated filer knew the case to meet and made submissions in the form of the Notice Response that were considered by but not persuasive to the Delegate. Finally, while the delay in rendering the decision was not ideal, it was still within the timelines required under s. 7.2 the LTA. I see no reason, and the designated filer has not provided one, why the time it took to render the decision was procedurally unfair.

[24] Finally, the designated filer appears also to make an argument that the TLA's cooperation with the ORL should be taken into account. While that is not relevant to whether a contravention occurred, I will address that submission as it relates to the penalty imposed below.

Was there lobbying activity?

[25] The designated filer also submits that: "We continue to assert the interpretation of TLA being defined in a formal sense as advocating to be flawed."

[26] It is unclear to me what argument the designated filer is making with this statement. I interpret it as making one of two arguments. Either the designated filer is saying that none of the activities the TLA conducts meet the definition of "lobby" and therefore the basis for the Decision is flawed, or that the TLA's primary purpose is not actually to represent the interests of its members or to promote or oppose issues, meaning the designated filer is not an in-house lobbyist by virtue of meeting the requirements of s.1(4) of the LTA.

[27] I will address both arguments below.

[28] First, in relation to whether activities of the TLA meet the definition of "lobby," I note that the designated filer had submitted Lobbying Activity Reports to the ORL detailing 13 occasions that the TLA lobbied senior public office holders between May 28, 2020, and December 14, 2022. The designated filer now appears to be saying the activity the TLA reported as lobbying does not meet the definition of "lobby" under the LTA. This was not an issue before the Delegate as was made clear in the Notice letter of May 7, 2024, and in the Decision itself. In my view, given the TLA reported its activity as lobbying, the approach taken by the Delegate was appropriate.

[29] I am compelled to respond to the submissions made by the designated filer given what appears to be their misunderstanding of the scope of the LTA. In support of their position the designated filer makes the argument that the Delegate appeared to make findings based on what the TLA's website says it does "in a general sense" but what they should have done was determine whether the TLA "actually engages in activities that meet the requirements under the LTA." The designated filer goes on to make submissions describing the activities of the TLA and the kind of advocacy it conducts, with the implication that none of it falls within the definition of "lobby" found in the LTA.

[30] Even if the question of whether the TLA's activities consist of lobbying was before the Delegate, I find the designated filer's general descriptions of the TLA's activities from their Submission to include examples that would clearly fall under the definition of "lobby," such as bi-annual caucus sessions and "committee type work with a spectrum of Ministry of Forest staff." The definition of "lobby" is broad and includes all communications with public office holders in an attempt influence a wide range of listed activities. It is not limited to only to "Ministers or Deputies" or only to legislative amendments and can include "advocating for the general well-being of the sector." In addition, the designated filer appears to be under the mistaken belief that lobbying that occurs "in the public arena" is not lobbying, but no such exemption exists.

[31] The designated filer also states that "we are having difficulty understanding the brief conclusions outlined in Section 33 of the Determination in relation to the [lobbyist's registry]."[2] The designated filer elaborates that the TLA is a small organization with 4.5 employees and that even under the ORL's definition of lobbying (with which the designated filer disagrees), total lobbying hours are well below 50 hours. Finally, the designated filer concedes that, "We certainly represent the interests of our members and are well known to do just that […] but all these occur, as mentioned already, in the public arena or routinely with government-initiated committees."[3]

[32] For the reasons that follow, I agree with the interpretation of the Delegate at paragraph 33 of the Decision and find s.1(4) does not apply to the TLA. In their email to the designated filer of June 13, 2024, the Delegate explained the exemption for small organizations found at s.1(4) of the LTA required three criteria and stated that the TLA did not meet the third requirement and therefore did not fall under the exemption and the designated filer was therefore considered an in-house lobbyist. The exemption at s.1(4) only applies when all criteria listed in that section are met. While the TLA appears to meet the first two at s.1(4)(a) and (b)(i), it does not qualify for the exception because the primary purpose of the TLA is to "represent the interests of its members." Put another way, s.1(4) does not apply to organizations whose primary purpose is to represent the interests of its members or to promote or oppose issues, and the lobbying activity by the individual is for that purpose. If an organization meets either of

[2] Submission.
[3] Submission.

those definitions, it does not matter how small the organization is or how many hours were spent lobbying.

[33] In this case, it is clear from the material before the Delegate and the designated filer's own submissions that TLA's primary purpose is to represent the interests of its members. The exemption found at s.1(4) does not apply to the designated filer and he is therefore an in-house lobbyist under the LTA.

Administrative Penalty

[34] Finally, the designated filer makes two arguments asking for a reduction in the penalty issued in the Decision. The first is that "times are tough in the forest sector" and the second is that the "significant length of time for the determination to be done and the lack of any communication for 8 months is unreasonable."[4] To these two arguments I am also adding the previously discussed argument that the TLA "has been very cooperative in trying to work with the ORL on this matter."[5]

[35] In reviewing the Decision, it is clear to me that the Delegate considered similar cases with similar facts and specifically considered the arguments of good faith.[6]

[36] I do not find that the remaining arguments are compelling. The designated filer does not engage with the relevant factors used by the Delegate to determine the appropriate penalty and makes the argument that the delay in the decision being rendered was unreasonable. I therefore see no reason to depart from the careful consideration of the Delegate.

[37] Furthermore, while the financial circumstances of a party have been a factor in determining penalty amounts in the past, they can be distinguished for their specific circumstances. One involved a non-profit organization whose non-compliance was found to be the result of actions of the former CEO who did not take their obligations under the LTA seriously and was found to be an exceptional and unusual circumstance.[7] The other case was a reconsideration where the cost would be born by an individual as they no longer worked for the organization they lobbied with.[8] I have nothing before me to suggest either of these circumstances or other exceptional circumstances exist.

[38] Therefore, I decline to vary the penalty levied by the Delegate.

[4] Submission.
[5] Submission.
[6] Decision, para 58.
[7] Determination Decision 25-01.
[8] Reconsideration Decision 24-03.

CONCLUSION

[39] For the above reasons:

1. I confirm the findings of Determination Decision 25-04- of contraventions of the LTA sections 3(3) and 4.1.
2. I confirm the administrative penalty of $4,500 for contravening section 3(3) and 4.1 of the LTA.

[40] Pursuant to s. 7.3(3)(c) of the Act, I extend the date by which the administrative penalty must be paid to no later than **August 1, 2025**

Date: June 2, 2025

ORIGINAL SIGNED BY

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Michael Harvey

Registrar of Lobbyists for British Columbia