



INVESTIGATION REPORT 14-04

LOBBYIST: Colin Griffith

March 14, 2014

SUMMARY: A consultant lobbyist filed a return to register as a lobbyist on behalf of a client one year after the deadline required by the *Lobbyists Registration Act*. The lobbyist was found to be in contravention of the *Lobbyists Registration Act* and 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] Under the LRA, registrations must be filed within specific time frames. The Office of the Registrar of Lobbyists (“ORL”) began this investigation, conducted under the authority delegated by the Registrar under s. 7(4)(d) of the LRA, after the consultant lobbyist filed a return that appeared to contravene the required time frames under the LRA.

ISSUES UNDER CONSIDERATION

[3] The questions for consideration are:

- (a) whether the lobbyist, who registered an undertaking under Registration ID 14387806 to lobby as a consultant on behalf of the Northern Rockies Regional Municipality (“NRRM”), complied with s. 3(1) of the LRA, and

- (b) if not, what, if any, administrative penalty is appropriate in the circumstances?

RELEVANT SECTIONS OF THE LRA

"client" means a person or organization on whose behalf a consultant lobbyist undertakes to lobby;

"consultant lobbyist" means an individual who, for payment, undertakes to lobby on behalf of a client;

"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....

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

[4] On November 29, 2010, the lobbyist registered with the ORL as a consultant lobbyist for the NRRM under Registration ID 2316881. The lobbyist filed a return with an undertaking start date of November 29, 2010, and an end date of December 31, 2011.

[5] On January 16, 2013, the lobbyist again registered as a consultant lobbyist for NRRM, this time under Registration ID 14387806. The lobbyist filed a return with an undertaking start date of January 16, 2012, and an end date of December 31, 2014. For clarification, I note that the actual start date of the undertaking was January 1, 2012, rather than January 16, 2012. This discrepancy is not relevant to the outcome of this investigation.

[6] The LRA, s. 3(1), requires a consultant lobbyist to file a return within 10 days after entering into an undertaking to lobby on behalf of a client.

[7] ORL staff noted that the lobbyist filed the return associated with Registration ID 14387806 one year after the declared start date of January 16, 2012.

INVESTIGATION

[8] The ORL commenced an investigation under s. 7.1 of the LRA to determine whether the lobbyist had complied with the LRA.

[9] On July 29, 2013, and in later communications, the ORL asked the lobbyist for more information about Registration ID 14387806.

[10] The lobbyist stated that his new undertaking with the NRRM was for a three-year term from January 1, 2012 to December 31, 2014. He explained that it was an error on his part that he had not extended his earlier Registration ID 2316881 within the LRA timelines.

[11] On October 7, 2013, the Deputy Registrar sent, pursuant to s. 7.2(1) of the LRA, a notice to the lobbyist setting out the basis for the allegation that the lobbyist had not complied with s. 3(1) of the LRA. He invited the lobbyist to respond in writing to the alleged contravention and provide any information or documentation pertinent to the

alleged contravention and any potential penalty. The file was assigned to me for review and decision.

[12] The lobbyist responded on November 5, 2013. He explained that he has “worked for the NNRM continuously for a number of years”. He had entered into a new undertaking with the NRMM for the period January 1, 2012 to December 31, 2014. In January 2013, the lobbyist realized that he had forgotten to renew his registration to reflect this new undertaking. Following discussions with the ORL, the lobbyist filed a return relating to this new undertaking under Registration ID 14387806.

FINDING

[13] Based on the evidence, I find that the lobbyist did not comply with s. 3(1) of the LRA when he failed to file a return within 10 days after entering into an undertaking to lobby on behalf of a client.

ADMINISTRATIVE PENALTY

[14] The LRA makes clear that transparency includes timeliness. 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.

[15] Section 12.3 of the ORL Policies and Procedures March 2011 provides that the following will be considered in determining the amount of an administrative penalty:

- previous enforcement actions for contraventions of a similar nature by the person
- the gravity and magnitude of the contravention
- whether the contravention was deliberate
- any economic benefit derived from the contravention
- the person’s efforts to report and/or correct the contravention
- the need to deter the individual and others from contravening the Act in the future
- other relevant factors

[16] I have considered these factors.

[17] There have been no previous enforcement actions for contraventions of a similar nature by the lobbyist.

[18] On the question of the gravity and magnitude of the contravention under investigation, the lobbyist filed a return as a consultant lobbyist on January 16, 2013, with an undertaking start date of January 16, 2012. This was approximately one year after the time required for filing by the LRA. During this time, the lobbyist was lobbying on behalf of his client, outside the purview of the LRA.

[19] The lobbyist says the contravention resulted from forgetfulness. I accept this was the case.

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

[21] The lobbyist initiated the communication with the ORL when he realized that he had forgotten to record the details of his new undertaking that began in January 2012.

[22] On the question of specific and general deterrence, it is important for the objectives of the LRA that lobbyists be diligent in meeting their legal obligations to file their returns as required by the legislation.

[23] The ORL policies and procedures, which are intended only as a guide, suggest that a penalty between \$100 and \$5,000 be levied for a first contravention of the LRA by registering late.

CONCLUSION

1. Under s. 7.2(2) of the LRA, I find that the lobbyist contravened s. 3(1) of the LRA in respect of Registration ID 14387806.
2. The notice of alleged contravention has been substantiated.
3. I impose an administrative penalty of \$700.
4. The lobbyist must pay this penalty no later than April 25, 2014.

If the lobbyist requests reconsideration under s. 7.3 of the LRA, he 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, Str. Prov. Govt.
Victoria, BC V8W 9A4

Email: info@bcorl.ca

March 14, 2014

ORIGINAL SIGNED BY

Darrel Woods, Investigator
Office of the Registrar of Lobbyists