

INVESTIGATION REPORT 15-12

LOBBYIST: Peter Walters

December 17, 2015

SUMMARY: A consultant lobbyist filed a return to register as a lobbyist on behalf of a client after the deadline required by the *Lobbyists Registration Act*. The lobbyist was found to be in contravention of section 3(1) of the LRA and an administrative penalty of \$700 was imposed.

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

INTRODUCTION

[1] This report concerns an investigation commenced 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 is or has been compliance by any person 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] This report and determination are issued under the authority delegated to me by the Registrar under s. 7(4)(d) of the LRA.

ISSUES UNDER CONSIDERATION

[4] The questions for consideration are:

- (a) whether the lobbyist, who registered an undertaking under Registration ID 24759359 to lobby as a consultant on behalf of Oka Holdings, complied with s. 3(1) of the LRA, and
- (b) if the lobbyist did not comply with the requirements of the LRA, 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

"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

[5] On August 17, 2015, the lobbyist submitted a return as a consultant lobbyist for Oka Holdings under Registration ID 24759359. The undertaking in the return filed by the lobbyist had a start date of March 2, 2015 and an end date of March 31, 2017.

[6] The Registrar received an automatic system alert that the consultant lobbyist registration filed by the lobbyist appeared to contravene the required timelines stipulated in the LRA. Section 3(1) of the LRA requires a consultant lobbyist to file a return within 10 days after entering into an undertaking to lobby on behalf of a client.

INVESTIGATION

[7] The Office of the Registrar of Lobbyists (“ORL”) commenced an investigation under s. 7.1 of the LRA to determine whether the lobbyist had complied with s. 3(1) of the LRA.

[8] On September 17, 2015, ORL staff sent the lobbyist a compliance investigation letter asking the lobbyist to explain the discrepancy between the deadline for submitting a registration and the date on which he registered. In addition, the lobbyist was asked to provide a copy of any written agreement to lobby or the date the lobbyist reached a verbal agreement with his client and to provide the details of any meetings arranged and attended with public office holders on behalf of his client.

[9] The lobbyist responded on September 29, 2015. He wrote:

“...I was unaware that the work proposed by Oka Holdings (my client) would be defined as lobbying under the LRA, nor was I aware of the registration requirement under that Act.”

[10] The lobbyist advised that a fellow consultant made him aware of the requirement to register in August.

[11] The lobbyist confirmed that his agreement with his client was verbal and was reached on or after March 2, 2015. He stated that he believed neither party considered it to be an agreement to lobby. However, the lobbyist provided the details of several meetings that the lobbyist both arranged and participated in during the period of April 7 to August 17, 2015. The definition of “lobby” in s. 1(1) of the LRA includes:

“in relation to a consultant lobbyist only, to arrange a meeting between a public office holder and any other individual”

[12] Furthermore, the lobbyist stated the agreement included “... making sure that potentially affected ministries were kept informed of my discussions ...” and “... making sure that the direction aligned with government goals.” His registration states, under *Details of subject matter and intended outcomes* that “Oka Holdings wants to establish a First Nations ... centre in Whistler, and wants the Province to use and support the

facility.” These services appear to reflect an undertaking to lobby on behalf of his client as well as intended activities that meet the definition of “lobby” in the LRA.

[13] On October 16, 2015, I 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. I 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.

[14] The lobbyist responded on October 30, 2015 advising that “I believe your letter summarizes the situation accurately.”

DISCUSSION

[15] The meetings the lobbyist arranged and attended between April 7 and August 17, 2015 on behalf of his client with a number of public office holders fall clearly within the definition of lobbying in the LRA, that is “...to arrange a meeting between a public office holder and any other individual...”. Therefore, the lobbyist had actually lobbied in advance of registering with the Lobbyists Registry. This is taken into consideration in determining any potential administrative penalty.

FINDING

[16] 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

[17] The purpose of the LRA is to promote transparency in lobbying by requiring lobbyists to disclose accurate, current and complete information.

[18] The LRA makes clear that transparency includes timeliness. This includes the requirement to file a return within the legislated deadline. Failing to file a return in a timely manner undermines the ability of the public to know who is attempting to influence government at any point in time, thereby defeating the LRA’s goal of transparency.

[19] In assessing the amount of a penalty, I must consider the following:

- the gravity and magnitude of the contravention,
- previous enforcement actions for contraventions by the person,
- 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 LRA in the future, and
- other relevant factors.

[20] I have considered these factors and the submissions made by the lobbyist.

[21] On the question of the gravity and magnitude of the contravention under investigation, the lobbyist was approximately five months late in submitting a registration. During this period of time the lobbyist had lobbied on a number of occasions.

[22] There have been no previous enforcement actions for contraventions by the lobbyist. This is the first registration that the lobbyist has submitted to the Lobbyists Registry.

[23] The lobbyist described the contravention as a misunderstanding on his part that the work he was performing on behalf of his client constituted lobbying. I have no evidence to suggest otherwise or that the lobbyist gained an economic benefit by registering late.

[24] The lobbyist's initial filing was submitted without prompting from the ORL.

[25] Together with the above factors, I have also considered whether an administrative penalty is necessary for specific or general deterrence. In my view, the circumstances of this case call for an administrative penalty both to encourage this lobbyist to be aware of his obligations under the LRA and to remind all lobbyists of their legal obligations to be diligent in keeping their registrations current and accurate.

[26] The ORL policies and procedures, which are intended only as a guide, suggest a range of penalties for contraventions of the LRA. The penalty for a late filing has a range of \$100 and \$5,000 for a first instance of non-compliance.

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 registering his undertaking on behalf of Oka Holdings. 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 January 28, 2016.

4. 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, Stn. Prov. Govt.
Victoria, BC V8W 9A4

Email: info@bcorl.ca

December 17, 2015

ORIGINAL SIGNED BY

Darrel Woods, Investigator and
Delegate of the Registrar of Lobbyists