

# INFLUENCING BC

A quarterly e-zine on lobbying, lobbyists, and transparency in public influence

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

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## THE WAY FORWARD:

### IT IS TIME FOR A BC LOBBYISTS CODE OF CONDUCT

Over a year ago sweeping amendments to the BC Lobbyists Registration Act ("LRA") came into force. Since then, the number of registered lobbyists in BC has doubled. This law is all about transparency. It attempts to enhance public trust in government decision-making processes by making lobbying activities transparent. Declarations by lobbyists about their activities are placed in an easily accessible online registry. The LRA fulfills the public's right to know who is attempting to influence government decisions by requiring lobbyists to publicly register, declare who they are lobbying, on whose behalf, on what subject matter and why.

Internationally, many jurisdictions have included enforceable codes of conduct (standards of behaviour that must be followed) in their laws. The Organization for Economic Cooperation ("OECD") in their 2008 report "Lobbyists, Governments and Public Trust: Building a Legislative framework for and Accountability in Lobbying" recommended that standards of conduct be made part of any regulatory framework overseeing lobbying activities. This will foster a culture of integrity in lobbying. Those standards typically require that lobbyists behave honestly in their relations with public officials, that they disclose relevant and accurate information in their representations and that they avoid placing themselves and public

office holders in conflict of interest situations.

The current lobbyist oversight model in BC is like a single bookend. Public office holders are prohibited from improperly disclosing confidential information, from accepting cash or other gifts, and from operating in a conflict of interest situation. But there is nothing prohibiting lobbyists under the LRA from receiving and using confidential information, attempting to influence by providing gifts or other benefits or from trying to obtain a result that could put a public office holder in a potential conflict of interest position.

In the recent BC Basi/Virk trial, it was acknowledged that instances of highly unethical lobbying took place. But this type of behaviour is atypical. Lobbyists are, in most cases, engaged in entirely legal activities and add value to the public decision-making processes. Lobbying laws are often introduced or amended in the wake of scandal. The dangers of this knee-jerk approach, however, range from excessive administrative paperwork to unnecessary and potential harmful muzzling of communications with government.

I believe the time has come in BC for a dispassionate public dialogue about the need, value and implementation of a lobbyist code of conduct. Any resulting code of conduct should affirm the legitimate role of lobbying and recognize

its important role in our democracy. It should support and highlight the respectable activities of the vast majority of lobbyists and deal separately with those who behave otherwise.

In my view, the enforcement of such a code, be it by the government, the Registrar of Lobbyists or by the industry itself - is secondary to the content of the code and the willingness of the lobbying community and the public to accept such a code as being a satisfactory framework for establishing professional and ethical standards in lobbying practices.

As Registrar of Lobbyists, I have initiated this discussion with the provincial government and with the Advisory Committee of Lobbyists, set up a year ago to provide us with feedback on the implementation of the LRA amendments. I intend to bring more voices into this conversation in the hope of generating the public momentum necessary to achieve lasting reform.

Elizabeth Denham  
Registrar of Lobbyists



# THE INDUSTRY PERSPECTIVE:

## *A Career Path to Lobbying*

In this edition of *Influencing BC*, we interviewed Serge Corbeil, Government Relations Manager, BC, Saskatchewan and Manitoba, Insurance Bureau of Canada to find out how one becomes a lobbyist and the types of skills needed to succeed in the profession.

### **How did you get into the profession of government relations?**

My story will sound quite familiar to a lot of lobbyists. I got into the government relations profession after a few years as a political assistant in Ottawa. My original aspiration was to become a reporter. After my studies, I did work as a reporter for a weekly newspaper. In that role, I was in regular contact with local politicians. An opportunity arose to examine my fascination with politics from the inside when I was offered a position with my local Member of Parliament. I eventually became an assistant to a cabinet minister until 1993. That's when the electorate decided it had other plans for me. I then heard the calling "to move West young man" and migrated to Vancouver.

A job opening for a government relations coordinator at a provincial non-profit organization allowed me to use the knowledge acquired on Parliament Hill and officially start my government relations career.

### **What skills do you think are needed to be successful in the lobbying world?**

Firstly, I would say that the most important skill is to have an understanding of the government machinery. This involves both the inner workings of the public service and the dynamics of political par-

ties. Secondly is the ability to take what are sometime complex matters and "translate" them in a language that is easily understandable to your audience. Lastly, I believe that strong interpersonal and negotiations skills are essential.

*"...new technologies, especially the wave of new media, are creating a lot of noise..."*

### **What do you think public office holders need to know about lobbyists?**

I actually do not think that they are many aspects of our work that is not known to public office holders. My experience leads me to believe that they are well aware of the legitimate role lobbyists play in our society. Whether it is someone working for a client or an organization with an interest in seeing changes to a law or a group of local residents asking for a new neighborhood park, they are constantly in communication with persons trying to inform their decision.

### **Have changes to technology changed the way you lobby?**

Fundamentally I don't think they've had a big impact. However, I must admit that technologies do make it easier on some levels. For example, the research part of any endeavor is greatly simplified and facilitated by the technological advances. The same

holds true for the ability to follow developments impacting governments. On the other hand, new technologies, especially the wave of new media, are creating a lot of "noise" that can easily detract attention from what's real and what are personal musings and mere rumors.

But technologies have not changed the fact that lobbying is in large part built on relationships that can't be built solely through a Facebook page or Twitter account.



### **What has been your greatest success?**

In my current role it is having the BC Legislature pass a new Insurance Act harmonized with Alberta's.

## WHERE DOES THE WORD "LOBBYING" COME FROM?

The term "lobbying" is almost exclusively associated with politics and public policymaking, perhaps because it originated in political life. Both Washington and Westminster claim to be the birthplace of the term.

According to the British Broadcasting Corporation (BBC), "lobbying" comes from the gathering of Members of Parliament and peers in the hallways (or lobbies) of Houses of Parliament before and after parliamentary debates. Another story maintains that the term originated at the Willard Inn in Washington, DC, where it was used by Ulysses S. Grant to describe the political wheelers and dealers who frequented the hotel's lobby to access Grant, who was often there to enjoy a cigar and brandy.

### **Websites of Interest**

**BC Lobbyists Registry**  
[www.lobbyistsregistrar.bc.ca](http://www.lobbyistsregistrar.bc.ca)

**The Lobby Monitor**  
[www.arcpub.com](http://www.arcpub.com)

**Office of Commissioner of Lobbying of Canada**  
[www.ocl-cal.gc.ca](http://www.ocl-cal.gc.ca)

**Policy Monitor Canada**  
[www.policymonitor.ca](http://www.policymonitor.ca)

**Government Relations Institute of Canada**  
[www.gric-irgc.ca](http://www.gric-irgc.ca)

# THE ANSWER BIN

**Q.** *I am a designated filer for an organization. How do I know if and when I have to re-register?*

**A.** The designated filer for an organization cannot re-register its in-house lobbyists until the current registration has expired. Organization registrations expire every six months. When your registration reaches its expiration date, you have thirty days to re-register. You are required to re-register if in the twelve months preceding the expiration of your current registration, employees of your organization, either alone or together, have lobbied 100 hours or more. If they have not lobbied 100 hours or more, re-registration is not necessary.

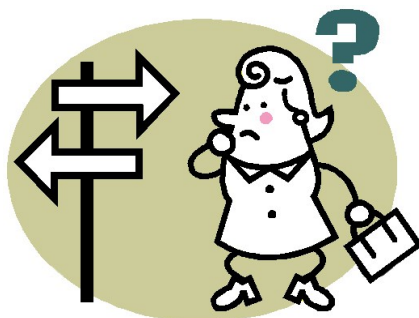
This means that you must keep reasonable records of the amount of time that has been spent lobbying, and train your staff to understand what types of activities constitute lobbying, which includes all preparatory activities directly related to and necessary for the lobbying.

**Q.** *I am a consultant lobbyist, and my undertaking has no real "end date." Should I just enter an end date far into the future to avoid having to update or worry about it expiring?*

**A.** No. Section 4(1)(b)(ii) requires a consultant lobbyist to provide the date on which the undertaking with the client was entered into and the date it is scheduled to terminate. If you do not select an end date for your undertaking, your undertaking end date will automatically six

months from the date of registration. When six months has passed, you will be sent a notice that your undertaking has expired, and be given thirty days to change the end date if the undertaking remains active.

Entering a date sometime in the future that is not correct is not compliant with the law, and may result in an investigation and/or penalty.



**Q.** *I have had trouble accessing the Lobbyist Registry. Instead of getting into the system, I get the message "Multiple sessions are not allowed". What does this mean?*

**A.** It means that you must close all your web-based applications and open a new browser session and try again. If that doesn't work, you may have to reboot your computer, and without opening any other web-based application, open a new browser session and try again.

**Q.** *I forgot what my BCeID and/or password is. Can you help me?*

**A.** No, we cannot. The Office of the Registrar of Lobbyists and the BCeID

program are two entirely separate entities and only the BCeID program can help you recover your BCeID and password. The BCeID is essentially electronic credentials that allow you to access a number of BC government online services, including the Lobbyist Registry.

**Q.** *I registered/updated my registration/re-registered, but when I searched for my registration using the Search the Registry function, I could not find it. What happened to my registration?*

**A.** It could be one of several things.

- If you searched on the day you registered or made changes, it could still be in the Registry Manager's pending queue and hasn't yet been reviewed. Only registrations with a status of "active" or "terminated" are displayed when you search for your registration.
- The Registry Manager may have reviewed it and decided that more information is required. If this is the case, your registration has a status of "awaiting update" and therefore is not displaced when you search for it.
- You may have clicked the Save & Exit button instead of the Submit button on the last screen. If this is the case, you will have to open your registration and submit it. You only have 10 days from the day you saved it to submit it before the system automatically deletes it.

# CALENDAR OF EVENTS

**May 9<sup>th</sup>**  
Lobbyists Advisory Committee Meeting  
Vancouver, BC

**May 9<sup>th</sup>**  
Lobbyist Compliance Workshop  
Peter Kaye Room  
1 to 2:30 p.m.  
Vancouver Public Library

**May 10<sup>th</sup>**  
Lobbyists Compliance Workshop  
Peter Kay Room  
Noon to 1:30 p.m.  
Vancouver Public Library

**May 18<sup>th</sup>**  
Lobbyist Compliance Workshop  
Office of the Registrar of Lobbyists—2<sup>nd</sup> Floor Boardroom  
Noon to 1:30 p.m.  
947 Fort Street, Victoria

**June 1<sup>st</sup>**  
Lobbyists Compliance Workshop  
Prince George Civic Centre,  
808 Civic Plaza  
12:00 to 1:30  
Prince George

See Page 6 for more information on the Lobbyist Compliance Workshops. (No Charge Event)

## TORONTO'S LOBBYIST REGISTRAR FINDS LOBBYISTS BROKE THE LAW

In March 2011, Toronto's Lobbyist Registrar Linda Gehrke tabled a report to City Council finding that five lobbyists had lobbied contrary to the city's bylaws during a procurement process. The investigation pertained to a request for proposal (RFP) that was issued for professional services for the operation of beach volleyball at two City parks. A contract was awarded by City Council at meetings held on March 31 and April 1, 2010.

Toronto's Lobbying By-law and Procurement Processes Policy create a "blackout period" during procurement processes during which lobbyists are prohibited from lobbying. The Registrar's investigation disclosed that five lobbyists lobbied about the RFP during the

blackout period, contrary to the by-law. In addition, the prior license holder and his lobbyist failed to register before lobbying. The successful bidder lobbied about the RFP while registered for a different subject matter. The bidder and his associate proponents lobbied members of Council when it became clear that they might lose their bid. A fifth lobbyist lobbied for an alternative proposal to the RFP. The registrar revoked all five RFP-related subject matter registrations and also closed the related lobbyist registrations.

The lobbying described in the report suggested that clarification of the Lobbying By-law would help to avoid breaches of the lobbying rules on procurements. The registrar

issued an Interpretation Bulletin, *Lobbying and Procurements*, on April 30, 2010 ([www.toronto.ca/lobbying/](http://www.toronto.ca/lobbying/)). Her report to council recommended that the following actions be taken to clarify and strengthen the effectiveness of the existing prohibitions on lobbying during City procurement processes:

- the City Solicitor in consultation with the Lobbyist Registrar report back to Council on clarifying and strengthening the Lobbying By-law with respect to lobbying during City procurement processes.
- the City Manager and the City Solicitor report back to Council on measures to require City staff to

report breaches of the Lobbying By-law to the Lobbyist Registrar.

City Council adopted these recommendations and one additional recommendation:

- the City Solicitor and the Lobbyist Registrar to develop guidelines and protocols to deal with the procurement process as it relates to the retention of consultants and in particular report on provisions to condition their lobbying activities after working for the city on contract.

Linda L. Gehrke, Lobbyist Registrar, City of Toronto  
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## KEY CHANGES MADE TO ONTARIO'S LOBBYIST REGISTRATION ACT

Ontario legislators made a key change to provincial lobbyist registration legislation this year. The law now requires consultant lobbyists to provide additional information about their clients.

The Lobbyists' Registration Act, 1998, was amended to introduce new rules prohibiting certain public sector organizations from using public funds to hire external, or consultant lobbyists.

The restriction applies to certain public bodies, hydro entities, larger broader public sector organizations such as hospitals, school boards and universities, and every other publicly funded organization that receives more than \$10 million in government funding.

The changes were enacted

through the Broader Public Sector Accountability Act, 2010, and came into effect Jan. 1, 2011. Since then, all consultant lobbyists have been required to answer the following new question on the registration form to ensure they comply with the rules:

Is your client one of the following?

- an agency of the government of Ontario
- a designated broader public sector organization
- Hydro One Inc. and each of its subsidiaries
- Ontario Power Generation Inc. and each of its subsidiaries
- Ontario Power Authority
- Independent Electricity System Operator

If the answer is yes, the consultant lobbyist is required to have the client's senior officer sign an attestation that states no public funds were used for the lobbying activity. The attestation is submitted to the Lobbyists' Registrar and kept on file.

"Consultant lobbyists were cooperative in updating their

registrations to be sure they complied with the new rule," said Lobbyist Registrar Lynn Morrison. "We updated our website with new FAQs and materials, and sent numerous emails to be sure everyone had plenty of time to understand the rule and make the required changes to their registrations."

## WORDS OF WISDOM

*"Professional lobbyists know their territory. They make very efficient use of their client's time. They can find out where your problem lies, who to talk to, and what questions to ask. They can tell you what information you need to have, and what questions you will have to answer. You will find out who you have to convince and why. Essentially, they guide you through the jungle of government and public opinion."*

- Honourable John Reid, The Question of Lobbying



## UNDERTAKING START DATES FOR LOBBYISTS EMPLOYED BY LOBBYING FIRMS

Government relations firms often enter into general agreements with clients to provide a suite of services, including environmental monitoring, research, issues management, strategic advice, and, when required, advocacy (lobbying) services. Often, a significant amount of time elapses from the time the agreement between the firm and the client was made to the time a lobbyist from the firm is assigned to lobby on behalf of the client.

Section 3 of the *Lobbyists Registration Act* states that a return must be filed by a consultant lobbyist within ten days from the consultant lobbyist entering into an agreement to lobby on behalf of a client.

So, despite the fact that the original service agreement is between the client and the government relations firm, it is the legal obligation of the employee assigned to lobby on behalf of the client to register that undertaking to lobby.

If you are employed by a lobbying firm, the start date of your undertaking is the date your employer assigns you the specific job of lobbying on behalf of the client, and not the date the general agreement was originally made with the government relations firm.

## INDUSTRY ASSOCIATION ABIDES BY VOLUNTARY CODE OF CONDUCT

The Government Relations Institute of Canada (GRIC) is a national association that represents government relations and public affairs officers. Members of GRIC must adhere to the following professional code of conduct:

Members of the Institute shall at all times:

- a) Comply with the letter and the spirit of all applicable laws and regulations regarding lobbying, campaign finance, political activities and business-government relations;
- b) Conduct their relations with and discharge their duties to employers and clients, elected and non-elected public office holders and officials, the public and fellow members of the profession with integrity, and professionalism;
- c) Serve recipients of their public affairs and government relations services (including employers, clients and members) in a conscientious, diligent and efficient manner;
- d) Not knowingly disseminate false or misleading information, and exercise care not to do so inadvertently;
- e) Disclose fully all fees, dues and other charges to the recipients of their public affairs and government relations services, and ensure the latter are fair and reasonable;
- f) Honour confidences given in the course of professional activity;
- g) Avoid any conflict of interest and where conflict is unavoidable, communicate the facts fully and freely to those involved;
- h) Participate in the activities of the Institute and assist in maintaining its effectiveness;
- i) Strive to increase public understanding of the role of government relations through individual and collective educational efforts;
- j) Continue to pursue professional development through various means to acquire enough knowledge to continue to effectively discharge their duties, and enhance the reputation of the profession.

Source: Government Relations Institute of Canada—<http://www.gric-irgc.ca>

## UPDATING YOUR REGISTRATION FOLLOWING A CABINET SHUFFLE

The current BC political landscape is akin to a famous song by Bob Dylan—"the times, they are a changin'." Changes to cabinet portfolios create obligations on designated filers to update their registrations.

When a cabinet shuffle occurs, both designated filers for organizations and consultant lobbyists must ensure that their registrations reflect the correct minister's name. If lobbyists have lobbied both the previous position-holder

and the current one, their registrations must contain information about both lobbying occurrences.

There are two scenarios that arise when a cabinet shuffle takes place:

The first is when you have lobbied or expect to lobby the previous minister **and** you intend to lobby the new minister. In this case, you would be required to update the "Target Contacts" portion of your registration with the new

minister's name, subject matter and intended outcome details. The fact that you lobbied or intended to lobby the previous minister will remain on your registration.

The second scenario is when you have already lobbied the previous minister, but **do not** intend to lobby the new minister. In this situation, you would not be required to update your registration.

While the ORL keeps up-to-date tables of all cabinet min-

isters, it is up to each designated filer and consultant lobbyist to be aware of and keep track of cabinet shuffles and update your registration (s) accordingly.

Remember, the *Lobbyists Registration Act* requires you to update your registration within 30 days of any changes to the information in the registration or within 30 days of the date you became aware of any changes to the information.

# PRESIDENT OBAMA AND THE REVOLVING DOOR

On January 21, 2009, the day after his Inauguration, President Obama signed an executive order on the Ethics Commitments by Executive Branch Personnel. The order laid out a pledge that all new administration appointees must commit to as a condition of employment. All appointees agree that, for two years after joining the administration, they will not participate directly or substantially in any matter where one of their former clients or former employers is involved. This prohibition includes not only contractual matters, but also regulatory issues where a former client or employer might be a party or representing a party.

The pledge goes much further in the commitments it extracts from lobbyists. A new administration employee who was registered to lobby at any time in the two years preceding his appointment must agree that he will not participate in any matter on which he previously lobbied. More broadly, the pledge requires that lobbyists not even participate in any general issue area of previous lobbying work. And finally, the pledge prohibits former lobbyists from working in any capacity for any agency previously lobbied. Thus, if an individual was registered as a lobbyist for a

defense contractor, he could not get a job in the administration working for the Department of Defense for two years after his lobbyist registration was terminated.

The executive order permits a waiver of the restrictions in particular circumstances where it would either frustrate the purpose of the order to apply it literally, or where it is in the public interest to waive. Such a public interest might

*“...there is a danger that limiting the areas in which a lobbyist may serve the government will prevent the lobbyist from serving at all...”*

be in the areas of national security or the economy. Twenty one waivers were granted in the year following the issuance of the Executive Order, the first just two days after the President took office. The existence of the waiver provisions speaks to the dangers inherent in overly severe restrictions related to lobbyist employment. Namely, there is a danger that limiting the areas in which a lobbyist may serve the government will prevent the lobbyist from serving at all. The waiver provisions suggest an awareness that people are the most valu-

able asset at the administration's disposal, and that there are occasions when securing the services of knowledgeable individuals is the most important consideration. Indeed, the restriction on working in issue areas where there was previous lobbying activity may in fact have the consequence of placing the knowledge that is most wanted – industry-specific and technical expertise – out of reach of the administration.

The most looming danger, though, is that the restrictions create perverse effects. Individuals who hope for a position in the administration may avoid registering as lobbyists when they should, for fear of the restrictive consequences on their later public service. In this way, the restrictions could frustrate the greater

system of lobbyist registration and ethical standards put in place for the protection of all p a r t i e s .

The executive order also imposes post public service lobbying restrictions. Appointees who take the pledge agree that, upon leaving government service, they will not lobby the President, his political appointees, and senior executive officials for the remaining length of the administration. Only after a finding that the pledge has been violated is a flat five-year ban on lobbying imposed. Only senior and very senior executive employees are subject to a full "cooling off" period of prohibited lobbying activity, and in their case the restriction is lifted after two years. A similar post-employment cooling off period applies to members of Congress and their senior staff – lasting one year for all but former Senators, who have a two year period.

- By Kenneth A. Gross and Shayla Key Parker

## LOBBYING IN CANADA: CROSS COUNTRY CHECK-UP AS OF APRIL 28, 2011

Active Consultant Lobbyist Registra- tions	Active In-House Lobbyists	Total Number of Registrations
British Columbia: 320	British Columbia: 611	Toronto: 938
Alberta: 93	Alberta: 470	Newfoundland and Labrador: 139
Ontario: 307	Ontario: 1448	Nova Scotia: 250
Quebec: 204	Quebec: 694	
Canada: 791	Canada: 4320	

## COMPLIANCE WORKSHOPS (NO CHARGE!)

Are you unsure of your obligations to register under the *Lobbyists Registration Act*?

The ORL is offering four free compliance workshops for lobbyists. The focus of the workshop is compliance with the Act. The workshops will be hosted by the Deputy Registrar of Lobbyists, and will cover registration requirements for both consultant lobbyists and in-house lobbyists.

The first two workshops are in Vancouver on May 9<sup>th</sup> and

10<sup>th</sup> at the Peter Kaye Room, Vancouver Public Library. The third is a workshop in Victoria, to be held on May 18<sup>th</sup>, in the training room of the Office of the Registrar of Lobbyists, 2<sup>nd</sup> Floor, 947 Fort Street. The fourth workshop will be held on June 1 in Prince George in room 201, Civic Centre, 808 Civic Plaza.

Although the workshops are free, space is limited, so please reserve a seat by emailing us at [info@bcorl.ca](mailto:info@bcorl.ca). Further details about the workshops can be found at [www.lobbyistsregistrar.bc.ca](http://www.lobbyistsregistrar.bc.ca).

# GRASSROOTS COMMUNICATIONS

## A PART OF LOBBYING?

“Grassroots” lobbying means communicating with and attempting to mobilize the public to influence a public office holder. Grassroots lobbying has been recognized as an established method by which lobbying organizations seek to take a particular issue “to the country” and over the heads of its politicians.

The term can potentially encompass three broad types of practices:

- A speech to the general public conveying a particular point of view and policy preference with the hope that members of the public will communicate with their MLA to urge adoption of the policy advocated;
- An advertisement in a newspaper of general circulation discussing an issue and advocating a point of view, incidentally noting that politicians are currently considering an

issue and that citizens should take an interest in the matter by contacting their MLA; and/or

- An advertisement advocating a point of view and urging readers to contact their MLA (with or without a printed form of protest to be filled in and mailed, faxed or emailed).

What these practices have in common is that they seek to persuade others to join the

cause and contact their elected officials. While these communications are undoubtedly motivated by the same interests that animate the direct lobbying of politicians, the means are different. Ultimately, they depend on an independent agent (a citizen) agreeing with the message and exercising the call to action.

As such, grass roots lobbying is not captured by the *BC Lobbyists Registration Act*.

# ASK THE READER

Obtaining compliance with lobbying laws is notoriously difficult. The field of lobbyists is extensive and often individuals are lobbying unaware; definitions in legislation are excessively malleable; negative perceptions of lobbying discourage registration, oversight agencies lack adequate resources and enforcement tools.

The federal Commissioner of Lobbying has recently been criticized for a perceived lack of enforcement. However, some believe the real problem rests with the lack of enforcement tools the Commissioner is provided under the federal Lobbying Act. If the Commissioner finds non-compliance following an investigation, her only real option is to refer alleged matters

of non-compliance to the RCMP.

In BC the Registrar has the ability to fully investigate matters of non-compliance and issue an administrative penalty of up to \$25,000. An administrative penalty must not be confused with a fine or penalty in criminal proceedings.

In the event of, for example, a registration filed late, the BC

Registrar has the option, following an investigation and finding of non-compliance, to levy an administrative penalty. Contrast this with the need for the Commissioner of lobbying to refer the same type of matter to the RCMP for prosecution.

Do you believe the federal Commissioner of Lobbying should be given the power to levy administrative penalties?

## We're Online!

[www.lobbyistsregistrar.bc.ca](http://www.lobbyistsregistrar.bc.ca)

### Thanks for reading the second issue of Influencing BC!

To find out more about the Office of the Registrar of Lobbyists British Columbia, or to comment on any of the information contained in this e-zine, please visit our website at [www.lobbyistsregistrar.bc.ca](http://www.lobbyistsregistrar.bc.ca), or contact our office.

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