

INVESTIGATION REPORT 14-01

LOBBYIST: MICHAEL KLASSEN

March 14, 2014

SUMMARY: A consultant lobbyist filed a registration to undertake lobbying on behalf of a client organization. Three months before the end date the lobbyist specified for that undertaking, an organization hired him as an in-house lobbyist and he ceased to lobby on behalf of the client organization. The lobbyist did not update his registration until four months after the actual termination of his undertaking. He was found to be in contravention of s. 4(3) of the *Lobbyists Registration Act* and fined \$500.

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

INTRODUCTION

[1] This report concerns an investigation under section 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. Relevant to this report are “consultant lobbyists”, individuals who undertake to lobby for payment on behalf of a client. The LRA requires that, within 10 days of entering into an agreement to lobby, consultant lobbyists register the fact that they have entered into such an undertaking. The LRA, s. 4(3), also requires consultant lobbyists, within 30 days of the completion or termination of an undertaking for which a return was filed, to inform the Registrar of the completion or termination of the undertaking and indicate the date on which the completion or termination occurred.

[3] On October 25, 2012, the lobbyist registered with the Office of the Registrar of Lobbyists (“ORL”) as a consultant lobbyist for the BC Care Providers Association (“BCCPA”) under Registration ID 12891308. The undertaking in the return the lobbyist filed had a start date of October 1, 2012, and an end date of May 3, 2013.

[4] This investigation, conducted under the authority delegated by the Registrar under s. 7(4)(d) of the LRA, commenced as a result of an ORL environmental scan of news media on April 25, 2013. The scan located a news release dated February 6, 2013, announcing that the lobbyist had been hired by a different organization to work as an in-house lobbyist. The lobbyist had not amended the end date of his undertaking with the BCCPA.

ISSUES UNDER CONSIDERATION

[5] The questions that must be determined are:

- (a) whether the lobbyist, who registered an undertaking to lobby on behalf of the BC Care Providers Association, complied with s. 4(3) of the LRA, and
- (b) if he did not comply, 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.

Form and Content of Return

- 4(3) Within 30 days after the completion or termination of an undertaking for which a return was filed, the consultant lobbyist who filed the return must inform the registrar of the completion or termination of the undertaking and indicate the date on which the completion or termination occurred.

BACKGROUND

[6] On October 25, 2012, the lobbyist registered an undertaking to lobby for the BCCPA with the ORL. This is Registration ID 12891308.

[7] The LRA, s. 4(1)(b)(ii), requires a consultant lobbyist to indicate the start date and scheduled end date of any undertaking to lobby. The lobbyist provided an undertaking start date of October 1, 2012, and an end date of May 3, 2013.

[8] On April 25, 2013, the ORL conducted an environmental scan and identified a news release dated February 6, 2013, announcing that the lobbyist had a new position as an in-house lobbyist for another organization. The ORL wrote to the lobbyist on April 25, 2013:

Please advise if you are still also working on the undertaking for the BC Care Providers. If not, you are required to go into your registration and add the correct end date of the undertaking. We realize that the end date is coming up shortly but these need to be revised to reflect accurate information.

[9] The lobbyist responded on April 30, 2013, by confirming that his undertaking with the BCCPA was no longer active. On April 30, 2013, the lobbyist updated the undertaking end date to January 1, 2013.

[10] Section 4(3) of the LRA requires consultant lobbyists to update their registration within 30 days of the completion or termination of an undertaking.

INVESTIGATION

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

[12] The ORL wrote to the lobbyist on June 6, 2013, asking him to explain the discrepancy between the legislated deadline for reporting the termination of the undertaking and the date on which the lobbyist submitted his updated registration.

[13] The lobbyist responded on June 6, 2013, and explained that in December 2012, there had been some uncertainty as to when his undertaking would end. When it became clear that the undertaking had ended, he overlooked the matter of updating his registration.

[14] The Acting Deputy Registrar sent, pursuant to s. 7.2 of the LRA, a notice dated September 26, 2013, to the lobbyist setting out the basis for the allegation that the lobbyist had not complied with s. 4(3) 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.

[15] The lobbyist responded on November 4, 2013, and provided information about his contractual relationship with BCCPA. He explained that his contract effectively ended on December 14, 2012, with the retirement of the CEO who had contracted his services. The new CEO, who took over on January 7, 2013, was to decide whether the lobbyist would continue to work for the BCCPA. In the end, the lobbyist and the new CEO did not communicate about this matter.

[16] As of the end of January 2013, the lobbyist had a position with a new organization. The lobbyist should have informed the Registrar of the termination of his undertaking within 30 days after the termination.

FINDING

[17] Based on the evidence, I find that the lobbyist did not comply with s. 4(3) of the LRA when he failed to inform the Registrar of the termination of his undertaking with BCCPA within 30 days after the termination.

ADMINISTRATIVE PENALTY

[18] Information in the registry must be accurate to meet the LRA goal of transparency. Accordingly, it is important that designated filers comply with LRA deadlines for providing and updating information.

[19] 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

[20] I have considered these matters.

[21] There have been no previous enforcement actions for contraventions of a similar nature by the lobbyist. However, the lobbyist's file history indicates that he received a letter from the ORL regarding possible non-compliance for a late filing for registration as a consultant lobbyist for BCCPA, and a warning that further instances of possible non-compliance would result in the ORL taking further action. This letter offered an educational opportunity and alerted the lobbyist to his responsibilities under the LRA. Therefore, the lobbyist was aware of his responsibility to comply with the LRA.

[22] On the question of the gravity and magnitude of the contravention under investigation, the lobbyist updated his registration on April 30, 2013, to provide a new end date for his undertaking of January 1, 2013. This was three months after the time required for updating by the LRA.

[23] I accept that the contravention resulted from inattention.

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

[25] The ORL notified the lobbyist of the need to correct the end date of his undertaking on April 25, 2013. The lobbyist corrected it on April 30, 2013.

[26] 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 keep their registrations current and report the termination or completion of an undertaking within 30 days.

[27] The ORL policies and procedures, which are intended to act only as a guide, suggest that a penalty between \$100 and \$5,000 be levied for a first offence of failing to report changes or late reporting of changes to a registration.

CONCLUSION

1. Under s. 7.2(2) of the LRA, I find that the lobbyist contravened s. 4(3) of the LRA in respect of Registration ID 12891308. The notice of alleged contravention has been substantiated.
2. I impose an administrative penalty of \$500.
3. The lobbyist must pay this penalty no later than April 25, 2014.

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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

March 14, 2014

ORIGINAL SIGNED BY

Darrel Woods, Investigator
Office of the Registrar of Lobbyists