

RECONSIDERATION 14-04
(INVESTIGATION REPORT 14-09)
LOBBYIST: WILLIAM BELSEY

Summary: The findings in Investigation Report 14-09 that the consultant lobbyist contravened ss. 3(1) and 4(3) of the *Lobbyists Registration Act* are upheld. The administrative penalty of \$1,200 imposed on the lobbyist is also upheld. The lobbyist did not provide compelling grounds that the Deputy Registrar's findings should be varied.

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

INTRODUCTION

[1] Deputy Registrar Jay Fedorak issued Investigation Report 14-09 ("IR14-09") on June 4, 2014. The circumstances surrounding IR14-09 relate to the responsibility under the *Lobbyists Registration Act* ("LRA") of consultant lobbyist William Belsey to file a return in a timely manner that sets out his lobbying responsibilities and to inform the Registrar in a timely manner of the completion or termination of his lobbying activities.

[2] In IR14-09, the Deputy Registrar determined under s. 7.2(2) of the LRA that Mr. Belsey had contravened ss. 3(1) and 4(3) of the LRA and imposed an administrative penalty of \$1,200. On July 8, 2014, Mr. Belsey requested a reconsideration under s. 7.3 of the LRA of both the findings that he had not complied with the LRA and the administrative penalty amount.

BACKGROUND

[3] This reconsideration focuses on "consultant lobbyists", *i.e.*, individuals such as Mr. Belsey who undertake to lobby for payment on behalf of a client. A consultant lobbyist is required under s. 3(1) of the LRA to file a return that sets out his or her lobbying activities with the Office of the Registrar of Lobbyists for British Columbia ("ORL") within 10 days of entering into an undertaking to lobby on behalf of a client. The return is what ensures the individual is registered as a consultant lobbyist under the LRA.

[4] A consultant lobbyist is also required under s. 4(3) of the LRA to inform the Registrar of the completion or termination of an undertaking and indicate the date on which this occurred within 30 days of the completion or termination.

[5] The *Globe and Mail* published a story on November 7, 2012, quoting Mr. Belsey as saying he was a registered lobbyist. An ORL staff member noted the story and reviewed the Registry that day and found that Mr. Belsey was not registered.

[6] On November 20, 2012, Mr. Belsey registered with the ORL an undertaking to lobby as a consultant lobbyist on behalf of the Gitxaala Nation. In his registration, Mr. Belsey stated that his undertaking to lobby commenced on November 1, 2012, with an end date of November 19, 2013.

[7] Upon Mr. Belsey's registration, ORL staff received an automated system alert that the lobbyist's registration appeared to be non-compliant. This alert prompted the ORL's investigation.

[8] On November 27, 2012, ORL staff wrote to the client contact person for the Gitxaala Nation named on Mr. Belsey's registration, requesting that this individual verify the start and end dates listed on the lobbyist's registration.

[9] On December 17, 2012, and February 6, 2013, ORL staff wrote to Mr. Belsey requesting that he provide details of any lobbying he might have conducted on behalf of the Gitxaala Nation and a copy of any written agreement he had with his client.

[10] On February 6, 2013, Mr. Belsey provided a copy of a document dated March 9, 2012, which outlined services he was to provide to the Gitxaala Nation. The description of services included arranging meetings with government officials. In a cover email, the lobbyist also provided details concerning a meeting with public office holders that took place on November 15, 2012.

[11] In February 2013, ORL staff contacted several public office holders named as lobbying targets in Mr. Belsey's registration. Two stated they had met with him in relation to the subject matter of the registration in November 2012. A third stated that the lobbyist had attempted to arrange a meeting with him in December 2012, but that the meeting did not take place due to scheduling difficulties.

[12] On February 19, 2013, former Deputy Registrar of Lobbyists Mary Carlson sent a formal notice to the lobbyist setting out the basis for the allegation that he had not complied with s. 3(1) of the LRA. She invited the lobbyist to respond in writing to the alleged contravention.

[13] On February 25, 2013, the lobbyist responded to the former Deputy Registrar's notice, stating, "The offer to perform various types of services was never agreed to by both parties and there was never any undertaking as defined in the Act. Parts of the offer were undertaken, but at no time did I Lobby [*sic*] any government official and there was no communication with any public office on behalf of the Gitxaala Band." Mr. Belsey also stated that his offer of services expired in August 2012, and that in November 2012 the Gitxaala Band asked him to lobby on their behalf, at which time he registered with the ORL.

[14] On February 14, 2014,¹ a representative of the Gitxaala Nation informed the ORL that the lobbyist had entered into an undertaking to lobby on their behalf during the week prior to October 1, 2012. The Gitxaala Nation's representative further stated that the lobbyist communicated with him on October 5, 2012, regarding steps he had taken to arrange a meeting with a public office holder.

[15] On February 20, 2014, the Deputy Registrar wrote the lobbyist to provide formal notice under s. 7.2(1)(a) of the LRA that the ORL had received new information regarding the investigation. The Deputy Registrar notified the lobbyist that he had formed the preliminary belief that the lobbyist had not complied with s. 4(3) of the LRA in addition to the previous notice regarding the contravention of s. 3(1). He invited the lobbyist to respond in writing to the alleged contraventions. The lobbyist did provide a brief written response that day.

ISSUES

[16] The first issue in this reconsideration is whether I should confirm or rescind the Deputy Registrar's finding of non-compliance with s. 3(1) of the LRA reached in IR14-09.

[17] The second issue in this reconsideration is whether I should confirm or rescind the Deputy Registrar's finding of non-compliance with s. 4(3) of the LRA reached in IR14-09.

[18] The third issue is whether I should confirm or vary the \$1,200 administrative penalty imposed by the Deputy Registrar.

[19] The fourth issue is whether IR14-09 and this reconsideration should be published.

¹ The ORL's delay in completing this investigation was due to difficulties in obtaining the necessary information from the representative of the Gitxaala Nation. The ORL ultimately made an application to the Supreme Court of British Columbia under ss. 7.5 and 7.6 of the LRA to compel the Gitxaala Nation to answer certain questions relevant to this investigation.

DISCUSSION

Should I confirm or rescind the Deputy Registrar's finding of non-compliance with s. 3(1) of the LRA?

[20] In IR14-09, the Deputy Registrar found that the consultant lobbyist failed to file a return with the ORL within 10 days of entering into an undertaking to lobby on behalf of a client. As a result, the Deputy Registrar found that the consultant lobbyist failed to meet his obligation under s. 3(1) of the LRA.

[21] The Deputy Registrar noted that the evidence of the representative of the Gitxaala Nation was that the lobbyist entered into an undertaking to lobby by October 1, 2012. The Deputy Registrar also noted that even if the lobbyist was correct in stating that he entered into this undertaking on November 1, 2012, by registering with the ORL on November 20, 2012, he still failed to register the undertaking within 10 days as required under s. 3(1) of the LRA.

[22] Mr. Belsey submits that he was working on the ORL registration process within 10 days of November 1, 2012, but did not complete it until November 20, 2012 because he was confused by the process and wrongly believed he had completed his registration.

[23] Ultimately, compliance with the LRA is the responsibility of the consultant lobbyist. If he was confused with the registration process, he should have contacted the ORL before the expiration of the 10 days allowed under s. 3(1) of the LRA to ensure he was registered.

[24] Based on the information before me, I am satisfied that the consultant lobbyist failed to file a return with the ORL within 10 days of entering into an undertaking to lobby with the Gitxaala Nation. As a result, I confirm the Deputy Registrar's finding that Mr. Belsey failed to meet his obligation under s. 3(1) of the LRA.

Should I confirm or rescind the Deputy Registrar's finding of non-compliance with s. 4(3) of the LRA?

[25] The Deputy Registrar noted that the lobbyist certified in his registration with the ORL that his undertaking end date was November 19, 2013. However, the lobbyist's own evidence, which is consistent with the evidence before me, was that all of his lobbying activities were completed by the end of 2012.

[26] The lobbyist's registration with the ORL remained in an active status until November 19, 2013, the end date he entered in his registration.

[27] The lobbyist submits that he told the ORL during its investigation that he was no longer lobbying and he believed this was sufficient to end any further obligations.

[28] As I have discussed above, the responsibility for compliance under the LRA lies with the lobbyist. Under s. 4(3) of the LRA, within 30 days after the completion or termination of an undertaking for which a return was filed, a consultant lobbyist must inform the Registrar of the completion or termination of the undertaking and indicate the date on which the completion or termination occurred. However, at no point did the lobbyist correct the end-date on his registration.

[29] Based on the information before me, I confirm the Deputy Registrar's finding that the lobbyist did not properly inform the Registrar of his completion or termination of lobbying for the Gitxaala Nation within 30 days and is therefore in contravention of s. 4(3) of the LRA.

Should I confirm or vary the \$1,200 administrative penalty imposed by the Deputy Registrar?

[30] The Deputy Registrar stated in IR14-09 that the "purpose of the LRA is to promote transparency in lobbying by requiring lobbyists to register in a timely fashion and to disclose accurate, current and complete information." He also noted that "[f]ailing to keep information in the Lobbyists Registry current and accurate undermines the ability of the public to know who is actually attempting to influence government at any point in time, thereby defeating the LRA's goal of transparency."

[31] The Deputy Registrar identified various factors this Office considers in determining the amount of an administrative penalty. In considering attempts to report or correct the contraventions, the Deputy Registrar noted that the lobbyist did not register until after a media report identified him as a lobbyist. The Deputy Registrar also noted that the lobbyist did not update his registration with a correct end-date, but instead allowed it to terminate automatically approximately one year after he had stopped lobbying.

[32] The Deputy Registrar also considered the gravity and magnitude of the contraventions of the consultant lobbyist and noted that Mr. Belsey was quoted in a media report published on November 7, 2012, as stating he was a registered lobbyist. In his submissions, Mr. Belsey states that at that time he did not understand the difference between registering with the ORL and having an

undertaking to lobby. Almost two weeks after the media report was published, Mr. Belsey registered his undertaking to lobby with a start date of November 1, 2012. While there is some discrepancy in the evidence from the lobbyist and from his client as to when he began lobbying, both dates result in a contravention. I agree with the Deputy Registrar that “[b]eing aware of the legal obligation to register yet failing to do so in a timely manner is a serious omission.”

[33] It is also important that lobbyists ensure their registrations are accurate and up to date. Mr. Belsey’s failure to update the end-date on his registration to accurately reflect the completion of his lobbying is also a serious omission.

[34] I am satisfied that this investigation, reconsideration and the resulting administrative penalty will be sufficient to encourage Mr. Belsey to meet his obligations under the LRA in the future.

[35] I am in agreement with the Deputy Registrar regarding the importance of general deterrence and the reminder to “all lobbyists to be diligent in complying with their legal obligations to register when required and update their registrations as required in a timely fashion.”

[36] I also agree with the reasoning of the Deputy Registrar as set out above and find that the \$600 administrative penalty for each of the two contraventions of the LRA is appropriate to meet the objectives of specific and general deterrence in relation to contravention of the LRA. Given the nature of Mr. Belsey’s contravention of s. 3(1), I would have confirmed a larger penalty and will consider varying penalties upwards in the future where appropriate. The amount set by the Deputy Registrar is consistent with the gradual escalation in administrative penalties imposed by my Office since this power was brought into force in 2010. As a result, I confirm the \$1,200 administrative penalty the Deputy Registrar imposed in IR14-09.

Should IR14-09 and this reconsideration be published?

[37] The Deputy Registrar found that IR14-09 should be made public as “the publication of this report and recognition that the ORL will issue administrative penalties to lobbyists for contraventions of the LRA will remind all lobbyists to be diligent in complying with their legal obligations to register when required and update their registrations as required in a timely fashion.” Mr. Belsey did not make any submissions on this point.

[38] I have the authority to publicly disclose reports under s. 7.91 of the LRA. I agree with the Deputy Registrar that the publication of IR14-09 is desirable as

a reminder to all lobbyists and the public of the need to comply with their legal requirements under the LRA in a timely fashion.

CONCLUSION

[39] For the above reasons, under s. 7.3(3)(b) of the LRA, I confirm the Deputy Registrar's determination in IR14-09 that Mr. Belsey was in contravention of ss. 3(1) and 4(3) of the LRA and should pay an administrative penalty of \$1,200. I have also decided to publicly disclose this decision and IR14-09.

[40] As required by s. 7.3(3)(c) of the LRA, I extend the date by which the confirmed administrative penalty of \$1,200 must be paid to 30 days after the publication of this decision, that is on or before **September 18, 2014**.

August 6, 2014



Elizabeth Denham
Registrar of Lobbyists

