

## INVESTIGATION REPORT 15-10

**LOBBYIST: Robert Lindstrom**

**October 20, 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 \$600 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 23330756 to lobby as a consultant on behalf of Teal Jones Group, 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.

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## BACKGROUND

[5] On March 11, 2015, the lobbyist sent an email to the Office of the Registrar of Lobbyists (“ORL”) advising that he had tried to complete a registration he had saved and was unable to access the Lobbyists Registry. ORL staff advised the lobbyist that the ORL registry was being updated and acknowledged that he might not be able to submit his registration at that time due to technical issues. ORL staff looked into the matter and found that the lobbyist’s registration was cancelled by the system. Saved registrations are cancelled after 10 days if the lobbyist does not complete and submit the registration to the Lobbyists Registry. Therefore, the lobbyist was advised that he was required to complete and submit a new registration.

[6] On March 24, 2015, the lobbyist submitted a return as a consultant lobbyist for the Teal Jones Group under Registration ID 23330756. The undertaking in the return filed by the lobbyist had a start date of November 25, 2014.

[7] 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.

[8] ORL staff sent the lobbyist a compliance review email on March 24, 2015 requesting responses to several questions regarding his undertaking on behalf of this client.

[9] The lobbyist responded on the same day to advise that he had a verbal agreement with his client and that they “...decided in late November that it was time to bring their concerns to the Minister of Forests.”

[10] The lobbyist also advised that he had contacted a public office holder on November 25, 2014 to arrange a meeting between his client and the Minister. He explained that he originally believed January 27, 2015 was the undertaking start date as that was the date scheduled for the meeting between his client and the Minister. After discussions with ORL staff, he realized this was incorrect and was attempting to correct the undertaking start date when he was unable to access the registration he had saved.

## INVESTIGATION

[11] The 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.

[12] On March 30, 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.

[13] The lobbyist responded on March 31, 2015. He wrote, “I was late in registering my activity as I did not understand my obligations at the time to register. I should have investigated the [LRA] and my duty to register earlier.” The lobbyist further advised that as soon as he realized that he may not have been in compliance, he took the appropriate steps to register.

[14] On May 1, 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.

[15] The lobbyist responded by email on May 5, 2015 advising that he had “...provided all the information noted in your letter” and “...realized too late that I should have made my submission within ten days.” The lobbyist explained that he had not intended to breach the legislation.

## **DISCUSSION**

[16] While I recognize that system issues hindered the lobbyist from amending and submitting his previously saved registration, he did not attempt to complete his registration until March 11, 2015 for an undertaking that started November 25, 2014.

[17] The meeting the lobbyist arranged on November 25, 2014 on behalf of his client with a public office holder falls 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**

[18] 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**

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

[20] 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.

[21] 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.

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

[23] On the question of the gravity and magnitude of the contravention under investigation, the lobbyist was approximately three months late in attempting to register. During this period of time the lobbyist had lobbied.

[24] 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.

[25] The lobbyist described the contravention as a misunderstanding on his part as to when registration is required. I have no evidence to suggest otherwise or that the lobbyist gained an economic benefit by registering late.

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

[27] 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.

[28] 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. The penalty in this case is intended to reflect the lobbyist's three-month delay in filing his return and the fact that the lobbyist had actually lobbied without being registered.

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## 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 Teal Jones Group. The notice of alleged contravention has been substantiated.
2. I impose an administrative penalty of \$600.
3. The lobbyist must pay this penalty no later than December 1, 2015.
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](mailto:info@bcorl.ca)

October 20, 2015

## ORIGINAL SIGNED BY

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Darrel Woods, Investigator and  
Delegate of the Registrar of Lobbyists