

DETERMINATION DECISION 23-01

Domtar Inc.

Designated Filer: Daniel Buron

January 9, 2023

SUMMARY: The designated filer for Domtar Inc. was found to have contravened sections 3(3), 4(1)(c), 4(1)(k) and 4.1 of the *Lobbyists Transparency Act* (LTA). The designated filer received an administrative penalty totaling \$3,150 for the contraventions.

Statutes considered: *Lobbyists Transparency Act*, S.B.C. 2001, c. 42.

Authorities considered: Investigation Report¹ 15-01, Investigation Report 15-03, Investigation Report 17-07 and Investigation Report 19-05.

INTRODUCTION

[1] This report concerns an investigation under s. 7.1 of the *Lobbyists Transparency Act* (LTA). This section gives the Registrar of Lobbyists (Registrar) the authority to conduct an investigation to determine compliance with the LTA or its regulations. If the Registrar or delegate believes that the person under investigation has not complied with a provision of the LTA or its regulations, s. 7.2 of the LTA requires the Registrar to give the person notice of the alleged contravention and the reasons why the Registrar believes 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 LTA recognizes two types of lobbyists: consultant lobbyists and in-house lobbyists. This report focuses on the activities of Domtar Inc. (Domtar), an organization that employs in-house lobbyists. An in-house lobbyist is a paid employee, officer or director of an organization who lobbies on behalf of the organization or affiliate.

¹ Under the LRA, Investigation Reports were equivalent to what are now named Compliance Decisions under the LTA.

[3] Section 3(3) of the LTA sets out the date the designated filer of an organization must file a Registration Return (a Return) with the Registrar, while s. 4(1) outlines the information that must be contained in each Return.

[4] Section 4.1 of the LTA sets out the additional requirement for filing Monthly Returns that are due no later than 15 days after the end of every month, beginning with the month the Return under s. 3 is filed. Section 4.2(2) sets out the information that must be contained in each Monthly Return.

[5] Under section 7(4)(d) of the LTA, the Registrar has delegated me the authority to conduct this investigation.

ISSUES UNDER CONSIDERATION

[6] The issues for consideration are:

- (a) Whether the designated filer contravened section 3(3) of the LTA by filing Domtar's Registration Return later than the legislated deadline.
- (b) Whether the designated filer contravened sections 4(1)(a), (c) and (k) of the LTA by failing to list the correct name and business address of the designated filer, failing to list all of its in-house lobbyists and failing to indicate it was planning to lobby Member(s) of the Legislative Assembly (MLAs) for BC in Domtar's Return.
- (c) Whether the designated filer contravened section 4.1 of the LTA by filing Domtar's Monthly Return later than the legislated deadline.

RELEVANT SECTIONS OF THE LTA

[7] **"designated filer"** means

- (a) a consultant lobbyist, or
- (b) in the case of an organization that has an in-house lobbyist,
 - (i) the most senior officer of the organization who receives payment for performing the officer's functions, or
 - (ii) if there is no senior officer who receives payment, the most senior in-house lobbyist;

[8] **"senior public office holder"** means an individual who

- (a) is a member of the Executive Council,

(b) is employed, other than as administrative support staff, in the office of a member of the Executive Council,

(c) is a member of the Legislative Assembly,

(d) is employed, other than as administrative support staff, in the office of a member of the Legislative Assembly,

(e) is a parliamentary secretary,

(f) occupies a senior executive position in a ministry, whether by the title of deputy minister, chief executive officer or another title,

(g) occupies the position of associate deputy minister, assistant deputy minister or a position of comparable rank in a ministry, or

(h) occupies a prescribed position in a Provincial entity;

[9] **Requirement to file Registration Return**

3(3) The designated filer of an organization must file with the registrar, within 10 days of the date the organization first has an in-house lobbyist, a Registration Return in the prescribed manner and containing the information required by section 4.

[10] **Form and content of Registration Return**

4 (1) Each Registration Return filed under section 3 must include the following information, as applicable:

(a) the name and business address of the designated filer, and whether the designated filer is a consultant lobbyist or the designated filer for an in-house lobbyist;

(c) if the Registration Return is filed in respect of an in-house lobbyist, the name of each in-house lobbyist for the organization;

(k) if a lobbyist named in the Registration Return has lobbied or expects to lobby a public office holder employed by or serving in a ministry of the government of British Columbia or a Provincial entity, the name of the ministry or Provincial entity and any prescribed information respecting the ministry or Provincial entity.

[11] **Requirement to file Monthly Return**

4.1 A designated filer who has filed a Registration Return under section 3 must file with the registrar a Monthly Return, in the prescribed form and manner and containing the information required under section 4.2(2), no later than 15 days after the end of every

month, beginning with the month in which the Registration Return under section 3 is filed.

[12] **Certification of documents and date of receipt**

5(1) An individual who submits a document, including a Return, to the registrar under this Act must certify,

(a) on the document, or

(b) in the manner specified by the registrar, if the document is submitted in electronic or other form under section 6,

that, to the best of the individual's knowledge and belief, the information contained in the document is true.

[13] **Power to investigate**

7.1(1) If the registrar considers it necessary to establish whether there is or has been compliance by any person with this Act or the regulations, the registrar may investigate.

(2) The registrar may refuse to investigate or may cease an investigation with respect to any matter if the registrar believes that

(b) the matter is minor or trivial,

(c) dealing with the matter would serve no useful purpose because of the length of time that has elapsed since the matter arose,

[14] **Hearing and administrative penalty**

7.2 (1) If after an investigation under section 7.1 the registrar believes that a person under investigation has not complied with a provision of this Act or the regulations, the registrar must

(a) give notice to the person

(i) of the alleged contravention,

(ii) of the reasons why the registrar believes there has been a contravention, and

(iii) respecting how the person may exercise an opportunity to be heard under paragraph (b) of this subsection, and

(b) give the person a reasonable opportunity to be heard respecting the alleged contravention.

(2) If after giving a person under investigation a reasonable opportunity to be heard respecting an alleged contravention the registrar determines that the person has not complied with a prescribed provision of this Act or the regulations, the registrar

- (a) must inform the person of the registrar's determination that there has been a contravention,
- (b) may impose an administrative penalty of not more than \$25 000, and
- (c) must give to the person notice

- (i) of the registrar's determination that the person has not complied with a prescribed provision of this Act or the regulations and the reason for the decision,

- (ii) if a penalty is imposed, of the amount, the reason for the amount and the date by which the penalty must be paid, and

- (iii) respecting how the person may request reconsideration, under section 7.3, of the determination of non-compliance or the imposition or amount of the penalty.

BACKGROUND

[15] This Determination Decision considers four potential sections of the LTA. For the sake of clarity, I have arranged the information under subheadings for each of these sections.

[16] Throughout this investigation, I corresponded with Domtar's Regional Public Affairs Manager, who is a Representative for the designated filer. I will refer to the Representative in place of the designated filer throughout this decision.

Section 3(3)

[17] On May 4, 2020, a number of amendments to the *Lobbyists Registration Act* (LRA) came into force. Among them, the title was changed to the *Lobbyist Transparency Act* (LTA)². Prior to May 4, 2020, Domtar had an active Registration under the LRA with an end date of August 26, 2020.

[18] Between August 14 and August 19, 2021, the Representative corresponded with the ORL about Domtar's Registration and how to ensure it met the new requirements under the LTA.

²[*Lobbyists Registration Amendment Act*](#)

[19] The ORL told the Representative that Domtar's Registration would migrate to the new system, but that they would be required to update Domtar's Registration to include the information required under the May 4, 2020 amendments. The ORL advised the Representative that the most senior paid officer would need to register as the designated filer.

[20] In November and December 2021, the Representative contacted the ORL for guidance on filing a Monthly Return for a lobbying activity Domtar conducted on October 26, 2021. As a result, the ORL noticed that Domtar was likely required to file a new Registration Return no later than November 5, 2021. The Representative filed the Return on December 2, 2021.

Sections 4(1)(a),(c) and (k)

[21] Section 4(1) of the LTA sets out information that must be included in each Registration Return.

[22] Section 4(1)(a) states that the Registration Return must contain the name and business address of the designated filer. The designated filer is defined in section 1 of the LTA as "...the most senior officer of the organization who receives payment for performing the officer's functions, or if there is no senior officer who receives payment, the most senior in-house lobbyist."

[23] Between November and December 2021, the ORL attempted to contact Domtar to confirm that the contact information for the designated filer was correct. This is because Domtar's website identified another person (John Williams) as Domtar's President and Chief Executive Officer. Additionally, during a telephone conversation on November 12, 2021, the Representative identified the individual listed on the website as Domtar's most senior paid officer.

[24] In my April 6, 2022 Notice letter to Domtar, I requested clarification regarding the identity of the designated filer. Domtar responded to my request for clarification in its response letter dated May 9, 2022, explaining that Daniel Buron was the correct designated filer as he is the most senior officer of Domtar Inc. the Canadian entity of Domtar, who receives payment for performing the officer's functions.

[25] Section 4(1)(c) requires an organization to include in its Registration Return the name of each in-house lobbyist for the organization. After submitting the Registration Return on December 2, 2021, the Representative submitted a Monthly Return under s. 4.1 of the LTA. As a result, the ORL noticed that two in-house lobbyists identified in Domtar's Monthly Return (Jean-Claude Allaire and Stephanie Blier) were not included in Domtar's Registration Return.

[26] The ORL brought this to the attention of Domtar's Representative on December 14, 2021. The Representative amended the Registration Return to include the two names on December 16, 2021.

[27] Section 4(1)(k) states a Registration Return must contain the name of the ministry or Provincial entity the lobbyist has, or expects, to lobby and any prescribed information respecting the ministry or Provincial entity.

[28] In the Registration Return filed on December 2, 2021, the Representative did not submit that Domtar intended to lobby MLAs that were identified in Domtar's Monthly Return. After the ORL brought this to their attention on December 14, 2021, the Representative submitted an update to their Registration Return on December 16, 2021 that included MLAs.

Section 4.1

[29] Under s. 4.1 of the LTA, a designated filer who has filed a Registration Return under section 3 of the LTA, must file a Monthly Return in the prescribed form and manner and containing the information required under s. 4.2 once lobbying starts. The Monthly Return must be filed no later than 15 days after the end of every month that lobbying has occurred, beginning with the month in which the Registration Return under section 3 is filed. It must contain the information set out in section 4.2 of the LTA.

[30] Based on the date Domtar's Registration Return was due (November 5, 2021), its Monthly Return was due on December 15, 2021. The Representative submitted Domtar's Monthly Return on December 17, 2021.

INVESTIGATION

[31] The ORL commenced an investigation under section 7.1 of the LTA to determine whether Domtar had complied with various sections of the LTA.

[32] On April 6, 2022, I provided the Representative with formal notice under section 7.2(1)(a) of the LTA outlining the basis for the allegations that they had contravened sections 3(3), 4.1, 4(1)(a), (c) and (k), and s. 4.2(2)(a) to (d) of the LTA. I asked the Representative to respond in writing to the alleged contraventions and to provide any information pertinent to the contraventions and any potential penalties. I asked the Representative to confirm the identity of the designated filer.

[33] I subsequently sent notice to Domtar that the investigation into the alleged contravention relating to section 4.2 (a) to (d) was ceased as the relevant matters are properly addressed under s. 4.1.

[34] On May 9, 2022, the Representative responded to the 7.2(1)(a) notice. The Representative provided the following information regarding the alleged contraventions:

Registration Return s. 3(3) of the LTA

[35] The Representative stated they misunderstood section 3(3) of the LTA. They stated they thought “reporting was only applicable to filers who first appoint an in-house lobbyist in British Columbia.” The Representative stated they understood the term “first has” in section 3(3) to mean first obtaining or appointing an in-house lobbyist. The Representative explained: “Since we had in-house lobbyists in BC for a while, we did not think this section and the corresponding report requirements were applicable to us.”

Designated filer s. 4(1)(a) of the LTA

[36] The Representative stated that Daniel Buron is the most senior paid officer of Domtar Inc. who receives payment for performing the officer’s functions. They explained that Domtar Inc. is the Canadian entity of the Domtar group of companies of which Domtar Corp (a USA entity) is the parent. The Representative stated that Domtar’s website refers to the group of entities worldwide and lists the Chief Executive Officer of the US entity, John Williams. John Williams is the CEO of Domtar Corporation, but is not an officer of Domtar Inc.

In-house lobbyists s. 4(1)(c) of the LTA

[37] In Domtar’s May 9, 2022 response to my April 6, 2022 notice letter, the Representative did not make any submissions relating to section 4(1)(c) and instead requested clarification regarding the alleged contravention of section 4(1)(c) of the LTA. The Representative stated they believed all required names were listed in Domtar’s Registration Return.

[38] I responded on May 11, 2022, explaining that when the Representative submitted Registration Return 8397-1270-17 on December 2, 2021, they did not include the names of two in-house lobbyists: Jean Claude Allaire and Stephanie Blier. I asked the Representative to contact me by May 19, 2022 if they had any additional questions or if they required any further clarification regarding section 4(1)(c).

[39] The Representative did not provide any additional information or request further clarification regarding section 4(1)(c) of the LTA.

Members of the Legislative Assembly s. 4(1)(k) of the LTA

[40] With respect to Domtar’s initial failure to list in its Registration Return that it intended to lobby MLAs, the Representative indicated they were experiencing technical difficulties, specifically a password issue. The Representative also pointed out confusion on their part with respect to the correct designated filer. Domtar stated that once these issues were resolved, they filed the report, acknowledging it was filed late.

Monthly Return s. 4.1 of the LTA

[41] In its response, Domtar did not specifically address section 4.1. The Representative stated that after speaking to ORL staff in November 2021, the matter of section 4.1 was clarified alongside section 3(3).

[42] Section 4.1 of the LTA requires a designated filer who has filed a Registration Return under section 3, to file a Monthly Return no later than 15 days after the end of every month, beginning with the month in which the Registration Return under section 3 is filed. I note that the April 6, 2022 Notice Letter, contains a typographical error which states the Monthly Return was due November 15, 2021 rather than December 15, 2021.

DISCUSSION AND FINDINGS

Registration Return s. 3(3) of the LTA

[43] As noted, with respect to section 3(3) of the LTA, the Representative stated they misunderstood the term “first has” in the amended legislation.

[44] Prior to the May 4, 2020 amendments, section 3(3) of the LRA stated:

3(3) The designated filer of an organization must file with the registrar, a return in the prescribed form and containing the information required by section 4,

(a) if no return has been filed previously, within 60 days of the date the organization first has an in-house lobbyist, or

(b) if a return has been filed previously, within 30 days of the end of each 6 month period after the date of filing the previous return.

[45] As of May 4, 2020, section 3(3) of the LTA states:

3(3) The designated filer of an organization must file with the registrar, within 10 days of the date the organization first has an in-house lobbyist, a Registration Return in the prescribed form and manner and containing the information required by section 4.

[46] Between December 3, 2010 and May 4, 2020 (the date the new legislation came into place), Domtar filed 16 registrations. These registrations show that Domtar was aware of the requirement under the LRA to properly file Registration Returns.

[47] The Representative said they did not believe they were required to submit a Registration Return under the LTA. They believed the amendments in section 3(3), specifically

the term “first has”, meant that only filers who first obtain or appoint an in-house lobbyist in BC were required to file a Registration Return under the LTA. Since Domtar previously had in-house lobbyists in BC, registered under the LRA, the Representative did not think that section 3(3) of the LTA was applicable and therefore they did not need to file a Registration Return.

[48] I am not persuaded by Domtar’s misunderstanding of the phrase “first has” as meaning first obtaining or appointing. While I acknowledge the language in this section changed slightly when the legislation was amended, the new language does not remove an organization’s obligation to file a Registration Return. Regardless of the Representative’s interpretation of the term, “first has,” in the LTA, once Domtar began to lobby, they had an in-house lobbyist and were required to register within a specified number of days.

[49] To believe that Domtar no longer needed to submit a Registration Return after lobbying is contrary to the very purpose of the lobbying legislation in BC, which is to make who is lobbying public office holders transparent for the public.

[50] Based on Domtar’s lobbying date of October 26, 2021, its Registration Return was due no later than November 5, 2021. The Representative did not submit Domtar’s Registration Return until December 2, 2021, contravening section 3(3) of the LTA.

[51] I find that the designated filer contravened section 3(3) of the LTA when they failed to submit a Registration Return within 10 days of lobbying conducted by an in-house lobbyist.

Designated Filer s. 4(1)(a) of the LTA

[52] In its May 9, 2022 response to my letter, the Representative responded, as outlined above, to my questions about Domtar’s designated filer. I reviewed the information submitted by the Representative. I also reviewed Domtar’s Corporate Registration. The Registration shows that Domtar Inc. is a registered entity in Canada. Therefore, I accept Domtar’s explanation that Daniel Buron is the most senior paid officer of Domtar Inc. and is the correct designated filer.

[53] I find that the designated filer did not contravene section 4(1)(a) of the LTA as the designated filer was correctly identified in Domtar’s Registration Return submitted December 2, 2021.

In-house Lobbyist s. 4(1)(c) of the LTA

[54] As previously stated, the Representative requested clarification regarding the alleged contravention under section 4(1)(c) of the LTA. After I provided clarification on May 9, 2022, Domtar did not provide a submission or request further clarification regarding section 4(1)(c) of the LTA.

[55] I find that the designated filer contravened section 4(1)(c) of the LTA by failing to enter the names of two in-house lobbyists in its December 2, 2021 Registration Return.

Members of the Legislative Assembly s. 4(1)(k) of the LTA

[56] In Domtar's Registration Return filed December 2, 2021, the Representative did not submit that they intended to lobby MLAs in their list of Ministries/Provincial Entities being lobbied. In their response to my notice letter, the Representative cited technical difficulties with respect to the allegation under section 4(1)(k) of the LTA.

[57] I can see from ORL correspondence records that the Representative corresponded with the ORL in November and December 2021 regarding their password/login. The ORL assisted Domtar with these issues and the Representative was able to submit the Registration Return on December 2, 2021. I note that the password/login issues have no bearing on the *content* of the Registration Return that was submitted.

[58] I find that the designated filer contravened section 4(1)(k) of the LTA by failing to include information that they intended to lobby MLAs in their December 2, 2021 Registration Return.

Monthly Return s. 4.1 of the LTA containing lobbying activity

[59] The Representative submitted Domtar's Monthly Return on December 17, 2021, two days after the legislated due date of December 15, 2021. The Representative did not provide an explanation regarding section 4.1 of the LTA in their May 9, 2022 response except to say that after speaking with the ORL in November 2021, section 4.1 "was clarified with appreciation." I understand this to be referring to a telephone conversation the Representative had with the ORL on November 12, 2021, regarding the Representative's login issue and the designated filer.

[60] I find that the designated filer contravened section 4.1 of the LTA by failing to submit their Monthly Return by the legislated due date.

ADMINISTRATIVE PENALTY

[61] Section 7.2(2) of the LTA provides that if, after giving a person under investigation a reasonable opportunity to be heard respecting an alleged contravention, the Registrar determines that the person has not complied with a prescribed provision of the Act or the regulation, the Registrar must inform the person of the Registrar's determination that there has been a contravention and may impose an administrative penalty of not more than \$25,000.

[62] Such person must be given notice of the contravention determination and, if a penalty is imposed, "the amount, the reason for the amount, and the date by which the penalty must be paid."

[63] Section 7.2 of the LTA confers discretion on the Registrar to impose administrative penalties. To provide a measure of structure in the exercise of that discretion, the ORL has published a guidance document “Registrar of Lobbyists: Guide to Investigations” (guide to investigations)³ to advise members of the public and those engaged in lobbying about what guides the ORL in exercising its duties under the LTA and the regulations. As the guide to investigations makes clear, its purpose is to structure discretion. It does not fetter discretion. It is not law. I have followed that guidance in the exercise of my delegated discretion to determine a penalty based on the facts before me.

[64] The guide to investigations first sets out a general financial range for infractions, depending on whether they are first, second or third infractions. Second, it provides a list of factors that will be considered in determining administrative penalty amount. Finally, it includes a clear statement that, “These guidelines do not bind or fetter the ORL’s ability to depart from these guidelines, both in respect of administrative monetary penalties and prohibitions, in appropriate circumstances.”

[65] In determining the appropriate administrative penalty within that range, I have taken the following factors into account:

- Previous enforcement actions for contraventions by this person;
- The gravity and magnitude of the contravention;
- Whether the contravention was deliberate;
- Whether the registrant derived any economic benefit from the contravention;
- Any efforts made by the registrant to report or correct the contravention;
- Whether a penalty is necessary for specific and general deterrence; and
- Any other factors that, in the opinion of the registrar or their delegate, are relevant to the administrative penalty.

[66] I have considered these factors and the submissions made by the Representative.

[67] The purpose of the LTA is to promote transparency in lobbying by requiring designated filers to disclose accurate, current and complete information about their organization’s lobbying activities. This is a solemn legal obligation. It reflects the legislative intent that while organizations have a right to lobby, the public also has a right to expect that the information entered into the Registry is complete and accurate and that the organizations will submit it in a timely manner.

³ [Registrar of Lobbyists Guide to Investigations, pages 10-11.](#)

Registration Return s. 3(3) of the LTA

[68] Based on the date of their October 26, 2021 lobbying activity, the Representative was required to file a Registration Return by November 5, 2021. The Representative filed the Registration Return on December 2, 2021, almost one month late.

[69] Failing to file a Registration Return in a timely manner defeats the LTA's goal of transparency because it undermines the public's ability to know who is attempting to influence government at any given time. The 10-day time limit is not optional or arbitrary. It is linked to the public's right to not only know the information set out in section 4 of the LTA, but to have that information provided in a timely manner. In this case, the public was unaware of information they had a legal right to know for approximately one month.

[70] While I consider the contravention itself to be serious, the relatively short time between the due date and the date the Registration Return was filed makes it less serious than a case in which the Registration Return is late by several months or longer. As a result, I consider the gravity and magnitude of this contravention to be moderate.

[71] In my view, the Representative's statement that they misunderstood the term "first has" found in section 3(3) of the LTA is not a mitigating factor. The ORL is available to assist organizations with the terminology of the LTA, either through discussions (which the Representative had) or through guidance documents available on the ORL website. Information is available on the ORL website that makes it clear that Registration Returns are due within 10 days of lobbying. The Representative could have taken steps to clear up any uncertainty regarding the term "first has." Domtar has been registered to lobby for several years and is responsible for understanding their obligations under the LTA.

[72] I also note that in 2020, prior to May 4, 2020 (the date the amended legislation came into effect), the ORL sent reminder notices to all lobbyists with active registrations (which Domtar had at the time), reminding them of their obligations under the LTA and providing a list of important dates to remember. In addition, on August 18, 2020, the ORL sent a reminder notice to Domtar because they had not yet updated their registration. Domtar's registration under the LRA had an end date of August 26, 2020. The Representative was advised that they had until September 15, 2020, to update their registration in order to keep it active. The Representative also spoke to the ORL in August 2020 and was reminded that they would be required to update Domtar's registration to comply with the amended legislation. Although letting a registration lapse when not lobbying is not a contravention of the LTA, the above demonstrates that there were many opportunities for Domtar to clarify any potential misunderstandings with the ORL.

[73] I am not aware of any previous contraventions under the LTA or the LRA for Domtar. I have no evidence that the contravention was deliberate and I have no information which would lead me to believe Domtar derived any economic benefit as a direct result of the contravention.

[74] I have considered and rejected the view that this might be a case where “no penalty” is appropriate. These provisions have been in place since April of 2010. The amendments to the LRA did not change the lobbyist’s responsibilities in this case. The Representative should be aware of their obligations under the LTA, including the requirement to file a Registration Return within the legislated timeline.

[75] The suggested penalty found in the guide to investigations for registering late is between \$100 and \$5000 for the first instance of non-compliance. In order to assess an appropriate penalty, I have considered previous decisions.

[76] In Investigation Report (IR) 15-03, the designated filer was fined \$1,000 for the late (approximately six weeks) filing of a registration. The designated filer cited “technical misunderstandings.” In that case, despite having no obligation to do so, the ORL had corresponded with the designated filer on multiple occasions reminding them of their obligations, prior to the late filing. The investigator found that the designated filer was aware of their obligations and could have filed the registration within the legislated timeline.

[77] In IR 15-01, the consultant lobbyist was also six weeks late and they were fined \$1,500. In that case, it was the consultant lobbyist’s second contravention.

[78] In IR 17-05, the designated filer was fined \$1,500 for failing to file a registration within 30 days of the end date of its previous registration contrary to section 3(3)(b) of the LRA. In that case, the designated filer attributed it to human error/oversight. The organization was 14 months late in filing the registration, despite a courtesy email reminder from the ORL.

[79] This case shares the most in common with IR 15-03. Both cases involved organizations rather than consultant lobbyists, both were less than two months late registering and both had corresponded with the ORL about their registrations prior to the date on which they were required to register. Therefore, I impose a penalty of \$1,000, the same as that in IR 15-03.

In-house Lobbyists s. 4(1)(c) of the LTA

[80] In Domtar’s December 2, 2021 Registration Return, the Representative neglected to include the names of two in-house lobbyists.

[81] I have considered and rejected the view that this might be a case where “no penalty” is appropriate. These provisions have been in place from April of 2010. Recent amendments under the LTA did not change the lobbyist’s responsibilities in this case. The Representative should have been aware of their obligations under the LTA, including the obligations to enter

accurate information required under s. 4(1)(c) of the LTA. The Representative entered inaccurate information into Domtar's Registration Return and certified it to be correct under s. 5(1) of the LTA.

[82] The LTA makes clear that transparency includes accuracy. Failing to include information in a Registration Return frustrates the ability of the public to know who is attempting to influence the government at any given time. In this case, once the Registration Return was filed the content was inaccurate. I consider the gravity and magnitude of this contravention to be moderate.

[83] The suggested penalty in the guide to investigations for a first instance of providing information that is not accurate in a Return is between \$1,000 and \$7,500.

[84] In IR 17-07, an organization received a penalty of \$1,000 for failing to update their registration to reflect a new designated filer. The registration was out of date for four months, however the designated filer sought to immediately correct the error once it was brought to their attention. It was the designated filer's first contravention.

[85] In IR 19-05, an organization failed to update its registration to add a new in-house lobbyist within 30 days contrary to section 4(2) of the LRA. In this case, it was the organization's first contravention, the investigator accepted the contravention was accidental and the organization did not derive any economic benefit as a result of the contravention. The organization corrected the error in a timely manner. The organization in IR 19-05 received a monetary penalty of \$1,250, with the investigator noting that it was a large and sophisticated organization that regularly lobbied the government and therefore should have been aware of their obligation. In addition, the organization's registration was not corrected for 17 months.

[86] IRs 17-07 and 19-05 have circumstances similar to Domtar's, such as no previous enforcement actions, non-deliberate contraventions, no known economic benefit and prompt remedying of errors. In 19-05, an aggravating factor was the 17-month period during which the registration remained inaccurate. That was not the case here in which the Representative made the corrections to Domtar's Registration Return within two days of being made aware of the error.

[87] To my knowledge, the contravention did not result in any economic benefit for Domtar, nor was it deliberate. Domtar has no previous contraventions. These factors weigh towards a penalty in the lower range.

[88] Although I consider the gravity and magnitude of the contravention itself to be moderate, I have also considered and given weight to the aforementioned mitigating factors. As such, I impose the minimum penalty of \$1,000 for contravening section 4(1)(c) of the LTA.

Members of the Legislative Assembly s. 4(1)(k) of the LTA

[89] In Domtar's December 2, 2021 Registration Return, the Representative failed to submit that they intended to lobby MLAs in their list of Ministries/Provincial Entities being lobbied. The Representative cited technical difficulties with respect to this contravention.

[90] The technical difficulties (password/login issues) were resolved with the ORL's assistance such that the Representative was able to submit their Registration Return on December 2, 2021. Once entered, the Registration Return did not contain information that they intended to lobby MLAs in their list of Ministries/Provincial Entities being lobbied. If Domtar experienced technical difficulties in entering this particular information into their Registration Return, they should have brought it to the attention of ORL staff. I do not see any indication in the correspondence between Domtar and the ORL that this concern was raised. For this reason, I do not consider technical issues a mitigating factor with respect to this contravention under section 4(1)(k) of the LTA.

[91] I have considered and rejected the view that this might be a case where no penalty is appropriate. These provisions of the LTA and that of its predecessor, the LRA, have been in place since April 2010. The recent amendments did not change the lobbyists' responsibilities to provide accurate information about who it was lobbying. The Representative should have been aware of the importance of entering accurate information as required under section 4(1)(k) of the LTA. The Representative entered inaccurate information into its Registration Return and certified it to be correct under s. 5(1) of the LTA.

[92] As already noted, entering accurate information into a Registration Return is a solemn legal obligation tied to the key purpose of the LTA, which is transparency. Domtar's failure to enter an entity it lobbied or expected to lobby directly undermines this key purpose. Based on this, I consider the gravity and magnitude of the contravention to be moderate.

[93] The guide to investigations suggests a penalty of \$1,000 to \$5,000 for a first instance of failing to enter accurate information into a Registration Return.

[94] In assessing an appropriate penalty, I have again taken guidance from IRs 17-07 and 19-05.

[95] In this case, similar to IRs 17-07 and 19-05, it is the Representative's first contravention, there was no known economic benefit as a result of the error and it was corrected promptly once the Representative was made aware. These factors weigh in favour of a lower penalty. I do not consider the technical difficulties the Representative was experiencing to be a mitigating factor. The technical difficulties were password/login related and had no bearing on the accuracy of the information entered into the Return.

[96] Taking the above into account, I have determined that a \$1,000 penalty is appropriate in this case for Domtar's contravention of section 4(1)(k) of the LTA.

Monthly Return s. 4.1 of the LTA

[97] The Representative submitted Domtar's Monthly Return on December 17, 2021. It was due on December 15, 2021.

[98] Because the Monthly Return was late by only two days, I considered the view that this may be a case where "no penalty" is appropriate. I rejected this option. The timelines in the LTA are directly linked to public accountability and transparency. An organization should not be able to avoid a penalty simply because it wasn't very late. In addition, there were five instances of lobbying which took place on October 26, 2021. The multiple instances of lobbying compounds the gravity and magnitude of the contravention.

[99] However, I have also considered the minimal duration of the contravention, that Domtar did not derive any economic benefit as a result of the late filing and the fact that it was the Representative's first contravention.

[100] The guide to investigations suggests a penalty in the range of \$100 to \$5,000 for a first instance of a late Monthly Return.

[101] Taking the above factors into account, I impose a penalty of \$150 for the contravention under section 4.1 of the LTA as outlined above.

CONCLUSION

1. Under s. 7.2(2) of the LTA, I find that:

- i. The designated filer contravened section 3(3) of the LTA when they failed to submit a Registration Return within 10 days of lobbying conducted by an in-house lobbyist. The notice of alleged contravention has been substantiated.
- ii. The designated filer did not contravene section 4(1)(a) of the LTA as the designated filer was correctly identified in Domtar's Registration Return submitted December 2, 2021. The notice of alleged contravention has not been substantiated.
- iii. The designated filer contravened section 4(1)(c) of the LTA by failing to enter the names of two in-house lobbyists in its December 2, 2021 Registration Return. The notice of alleged contravention has been substantiated.
- iv. The designated filer contravened section 4(1)(k) of the LTA by failing to include information that they intended to lobby MLAs in their December 2, 2021 Registration Return. The notice of alleged contravention has been substantiated.

- v. The designated filer contravened section 4.1 of the LTA by failing to submit their Monthly Return by the legislated due date. The notice of alleged contravention has been substantiated.

2. I impose the following administrative penalties for the reasons set out above:

- i. \$1,000 for contravening s. 3(3) of the LTA;
- ii. \$1,000 for contravening s. 4(1)(c) of the LTA;
- iii. \$1,000 for contravening s. 4(1)(k) of the LTA; and
- iv. \$150 for contravening section 4.1 of the LTA.

The total amount of administrative penalties is \$3,150.

- 3. The designated filer must pay the amount for the penalties no later than **February 21, 2023**.
- 4. If the designated filer requests reconsideration under s. 7.3 of the LTA, they are 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

Date: January 9, 2023

ORIGINAL SIGNED BY

Shannon Hodge, Investigator and
Delegate of the Registrar of Lobbyists