



Office of the Commissioner
of Lobbying of Canada

Commissariat au lobbying
du Canada

Report on Investigation

The Lobbying Activities of Mark Jiles

November 2011

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Rapport d'enquête – Les activités de lobbying de Mark Jiles

Commissioner of Lobbying



Commissaire au lobbying

Ottawa, Canada K1A 0R5

The Honourable Noël A. Kinsella
Speaker of the Senate
The Senate
Ottawa, Ontario
K1A 0A4

Dear Mr. Speaker:

Pursuant to section 10.5 of the *Lobbying Act*, I have the honour of presenting to you a Report on Investigation on the lobbying activities of Mr. Mark Jiles for tabling in the Senate. The investigation was conducted in accordance with the provision of section 10.4 of the Act.

Sincerely yours,

A handwritten signature in black ink, consisting of a stylized 'K' and 'S' followed by a long horizontal line.

Karen E. Shepherd

Commissioner of Lobbying



Commissaire au lobbying

Ottawa, Canada K1A 0R5

The Honourable Andrew Sheer, M.P.
Speaker of the House of Commons
Room 316-N, Centre Block
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Mr. Speaker:

Pursuant to section 10.5 of the *Lobbying Act*, I have the honour of presenting to you a Report on Investigation on the lobbying activities of Mr. Mark Jiles for tabling in the House of Commons. The investigation was conducted in accordance with the provision of section 10.4 of the Act.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Karen E. Shepherd'.

Karen E. Shepherd

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Commissioner's Comments

As Commissioner of Lobbying, I have the responsibility to investigate allegations of activities that might be in breach of laws and rules surrounding lobbying at the federal level. This case first came to the attention of my predecessor, the Registrar of Lobbyists. I decided to continue the ongoing administrative review, at the conclusion of which I opened an investigation under subsection 10.4(1) of the *Lobbying Act*.

Issue

Lobbyists have certain legal and professional obligations to follow when they work on behalf of clients or employers. Individual consultant lobbyists are required to file a return with the Commissioner if, for payment, they undertake to arrange meetings or communicate with public office holders in respect of: the development of any legislative proposal; the introduction, passage, defeat or amendment of any Bill or resolution; the making or amendment of any regulation; the development or amendment of any policy or program; the awarding of any grant, contribution or financial benefit; or, the awarding of any contract.

It was alleged that Mr. Mark Jiles of Vancouver, British Columbia, a consultant associated with the Progressive Group and the Blue Stone Group, engaged in lobbying activity during a period when he was not registered as a lobbyist.

Investigation

An administrative review concerning the allegations under the former *Lobbyists' Registration Act*¹ and the *Lobbyists' Code of Conduct* was initiated by the Registrar of Lobbyists in 2008. It involved interviews and a review of correspondence and payments made to Mr. Jiles. In March of 2010, based upon information provided to me in an administrative review report, I opened an investigation. As I had reasonable grounds to believe that a breach of the *Lobbyists Registration Act* had occurred, I also referred this matter to the Royal Canadian Mounted Police (RCMP) in March, 2010. In September of 2010, the file was returned to my Office by the RCMP, with an indication that no charges would be laid in the matter. As I had formed the opinion that I had sufficient grounds to do so, I decided to continue the investigation into alleged breaches of the *Lobbyists' Code of Conduct*. Mr. Jiles was provided with an opportunity to present his views and, after considering his comments, I prepared this Report to Parliament.

¹ The *Lobbyists Registration Act* was amended and renamed the *Lobbying Act* by the *Federal Accountability Act*, S.C. 2006, c. 9. The amendments came into force on July 2, 2008.

Conclusions

In this report, I conclude that Mr. Jiles arranged client meetings with public office holders, received payment for his services, engaged in activities that required him to register as a lobbyist and breached the *Lobbyists' Code of Conduct*, specifically the Principle of Professionalism, Rule 2 (Accurate information) and Rule 3 (Disclosure of obligations).

The *Lobbyists' Code of Conduct*

Lobbying is a legitimate activity. When carried out ethically and transparently, and in conformity with the highest standards of conduct, it can provide a useful dialogue between government and Canadians.

The *Lobbyists' Code of Conduct* came into effect on March 1, 1997, as a complement to the former *Lobbyists Registration Act*. It was instituted to assure Canadians that the lobbying of federal public office holders is carried out in a manner that ensures public confidence and trust in the integrity, objectivity and impartiality of government decision-making. Individuals who engaged in activity deemed registrable under the *Lobbyists Registration Act*, and now the *Lobbying Act*, must also comply with the *Lobbyists' Code of Conduct*. The *Lobbyists' Code of Conduct* has not changed since its introduction.

During the period covered by this report, July 2005 to June 2007, individuals paid to communicate with federal public office holders concerning the subjects listed in the relevant registration sections of the *Lobbyists Registration Act*, or arrange meetings with federal public office holders, were required to register their activities in the Registry of Lobbyists. The same requirements are in place today, under the current *Lobbying Act*. The definition of “public office holder” in the legislation is broad, and includes virtually anyone occupying a position in the Government of Canada, including members of the Senate and the House of Commons and their staff, as well as employees of federal departments and agencies, members of the Canadian Forces and members of the Royal Canadian Mounted Police.

The *Lobbyists' Code of Conduct* establishes mandatory standards of conduct for individuals who engage in activity deemed registrable under the Act. Like most professional codes, the *Lobbyists' Code of Conduct* begins with a preamble that states its purpose and places it in a broader context. Next, a body of overriding principles sets out, in positive terms, the goals and objectives to be achieved, without establishing precise standards. The principles of Integrity and Honesty, Openness and Professionalism are set out as goals that should be pursued by lobbyists and were intended as general guidance to the profession.

The principles are followed by a series of eight rules that place specific obligations and requirements on lobbyists. The rules are organized into three categories: Transparency; Confidentiality; and Conflict of Interest. Under the rules of Transparency, lobbyists have an obligation to provide accurate information to public office holders, and to disclose the identity of the person or organization on whose behalf their representation is made, as well as the purpose of the representation. They must also disclose to their client, employer or organization their obligations under the *Lobbying Act* and the *Lobbyists' Code of Conduct*. Under the rules of Confidentiality, lobbyists may not divulge confidential information, nor use insider information to the disadvantage of their client, employer or organization. The Conflict of Interest rules prohibit lobbyists from representing conflicting or competing interests without the consent of those whose

interests are involved or placing public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence.

Investigations of Alleged Breaches of the *Lobbyists' Code of Conduct*

Lobbyists have a legal obligation to comply with the *Lobbyists' Code of Conduct*. Under the *Lobbying Act*, the Commissioner is required to conduct an investigation if the Commissioner has reason to believe that an investigation is necessary to ensure compliance with the Act or the Code, as applicable.

Breaches of the *Lobbyists' Code of Conduct* do not result in sanctions of a penal nature, as they do not carry fines or jail sentences. However, the Commissioner's report of the investigation, including the findings, conclusions, and reasons for those conclusions, must be tabled in both Houses of Parliament. There is no limitation period for investigating breaches of the *Lobbyists' Code of Conduct*.

The following Report on Investigation concerns the activities of an individual whom I have concluded should have registered his activities under the *Lobbying Act* and was, therefore, subject to the *Lobbyists' Code of Conduct*.

Background

History of the Case Prior to the *Lobbyists' Code of Conduct* Investigation

On June 9, 2008, the former Registrar of Lobbyists commenced an administrative review after receiving a letter of complaint from Mr. Leonard Krog, the Member of the British Columbia Legislative Assembly for Nanaimo and Peter Julian, the Member of Parliament for Burnaby-New Westminster. The letter contained allegations that Patrick Kinsella and Mark Jiles, consultants associated with the Progressive Group and the Blue Stone Group, had engaged in unregistered lobbying activity.

The complainants provided documents acquired from the State of Washington through an access to information request. They included contractual agreements between the Progressive Group and the State of Washington, monthly reports; and invoices of payment relating to the undertakings.

The complainants requested that the Office of the Registrar of Lobbyists investigate five issues "...with regard to failure to register and disclose activities as required of consultant lobbyists by the Lobbyists Registration Act." The allegations were described as follows:

1. Lobbying activities conducted by the Progressive Group, Blue Stone Group and their principals and staff on behalf of the State of Washington directed at the Government of Canada and related 2010 Olympic Games and supporting activities.
2. Lobbying activities conducted by the Progressive Group, Blue Stone Group and their principals and staff on behalf of the State of Washington directed at Government of Canada appointees to the 2010 Vancouver Olympics Organizing Committee (VANOC) and related 2010 Olympic Games and supporting activities.
3. Lobbying activities conducted by the Progressive Group, Blue Stone Group and their principals and staff on behalf of Orca Creative directed at Government of Canada appointees to VANOC and related 2010 Olympic Games and supporting activities.
4. Lobbying activities conducted by the Progressive Group, Blue Stone Group and their principals and staff on behalf of Canfor Forest Products directed at the Government of Canada, related to the Softwood Lumber Agreement and other forestry issues.

5. Lobbying activities conducted by the Progressive Group, Blue Stone Group and their principals and staff on behalf of the Motion Picture Production Industry Association directed at the government of Canada.

The complainants contended that documents enclosed with their letter confirmed that the Progressive Group conducted lobbying activities, including the arrangement of personal meetings with federal government appointees, senior cabinet ministers, senior government officials and staff, as part of a government relations strategy to further the interests of various clients.

Prior to January 2009, neither Mr. Kinsella nor Mr. Jiles was registered to lobby federal public office holders. In January 2009, Mr. Jiles registered in the federal Registry of Lobbyists as a consultant lobbyist acting on behalf of an organization unrelated to this file.

When the Office of the Commissioner of Lobbying (OCL) was created in July 2008, the administrative review commenced by the Office of the Registrar of Lobbyists was continued. Based on information obtained during that review, I had reason to believe that an investigation was necessary to ensure compliance with the Act and the *Lobbyists' Code of Conduct* and I opened an investigation. I also determined that I had reasonable grounds to believe that by failing to register his activities on behalf of his client, Mr. Jiles had committed an offence under the *Lobbyists Registration Act*. As a result, I referred the matter to the Royal Canadian Mounted Police (RCMP) on March 2, 2010 as required by the *Lobbying Act*. I also suspended the investigation by the Office that was underway, as required by the *Lobbying Act*.

On September 17, 2010, the RCMP advised me that they had decided not to lay charges against Mr. Jiles. Later that month, I determined that I had sufficient information to continue with an investigation in relation to the *Lobbyists' Code of Conduct*.

The *Lobbyists' Code of Conduct* Investigation

The investigation conducted by the Investigations Directorate indicated that there was no evidence upon which to conclude that Mr. Kinsella had communicated or arranged meetings with federal public office holders on behalf of any of the clients listed in the allegations of the complainants.

In terms of Mr. Jiles, the Investigations Directorate found no basis upon which to conclude that he had communicated or arranged meetings with federal appointees to the Vancouver Olympics Organizing Committee (Allegation 2), or that he communicated or arranged meetings with federal public office holders on behalf of the Orca Creative Group (Allegation 3) or on behalf of Canfor Forest Products (Allegation 4). As a result, this Report on Investigation does not report on those matters.

However, the Investigations Directorate found a basis to conclude that Mr. Jiles engaged in activities requiring registration as a consultant lobbyist when, for payment, he arranged meetings between federal public office holders and two of his clients: the State of Washington (Allegation 1), and the Motion Picture Production Industry Association of British Columbia (Allegation 5). The activities in question occurred between March 2006 and March 2007. This Report on Investigation is concerned only with those activities.

The *Lobbyists' Code of Conduct* investigation of Mr. Jiles covered his activities on behalf of the State of Washington and the Motion Picture Production Industry Association of British Columbia during the period of his engagement by those organizations. It involved an examination of various materials provided by the complainant, including contracts between Mr. Jiles and his clients and invoices for services rendered, correspondence with federal public office holders, and interviews with federal public office holders, Mr. Jiles and Mr. Kinsella, as well as the clients of Mr. Jiles.

The Subject

Mark Jiles is a former account director with Hill and Knowlton Canada Inc., a public relations and government relations firm. He runs a public affairs company, the Blue Stone Group, which specializes in sports marketing, and is also a partner with Patrick Kinsella at the Progressive Group.

The Clients

The State of Washington

According to documents obtained by my Office, the Progressive Group was engaged by the State of Washington, Department of Community, Trade and Economic Development (CTED), on at least two occasions. The contracts were for services provided from May 1 to September 30, 2006 and from January 12 to June 30, 2007. The information obtained during the investigation indicates that the Progressive Group was engaged by the State of Washington to find business opportunities associated with the 2010 Olympics in Vancouver, in order to "...assist Washington State's 2010 Task Force and the Trade and Economic Development Division of CTED with its 2010 Olympics public affairs and business development strategies".

The initial contract specified that the Contractor (Progressive Group) was to provide the following services:

- identify 2010 business opportunities for Washington State companies;
- develop relationships with key 2010 stakeholder groups;
- monitor all 2010 activities and announcements; and
- assist in securing business opportunities for Washington State companies.

An attachment to the contract, entitled “Scope of Work,” outlines the services and deliverables to be provided by the Contractor, and includes a “Relations Building Program” that is described as follows:

“...we will facilitate opportunities for Washington State to develop important relationships with key individuals within targeted business, political and Olympic circles... We have strong relationships with these individuals and Ministers; however we are also able to engage other groups, Ministers or Olympic officials, as required.”

The Scope of Work section contains a list of “key individuals” including the Honourable David Emerson, formerly the federal minister responsible for the 2010 Olympics. The contract provides that the contractor will be paid a total of \$15,000 in two \$7,500 increments on May 30 and June 30, 2006.

In January 2007; Mr. Jiles signed a second contract to represent and advance Washington’s interests in relation to the 2010 Olympic Winter Games. The “Scope of Work and Deliverables” described in an attachment to the contract describes the responsibilities of the contractor as follows:

The Contractor will provide services in three broad categories: matchmaking services; relationship development services (events and programs); and opportunity intelligence (B.C., Canada and the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games (VANOC)), as well as other duties.

The list of matchmaking services included: developing a strategy of events and activities that further business introductions and partnership opportunities; working with CTED client companies to provide intelligence in their market and introductions to advance their business opportunities; making introductions to key decision-makers and potential business partners to position companies for successful commercial engagement; and, maintaining records of activities and results.

The contract amount was set at \$32,500 for the period from January 12 to June 30, 2007.

Invoices sent to the State of Washington CTED were listed as payments of a “monthly retainer fee for consulting services provided by Mark Jiles and Patrick Kinsella...”

The Motion Picture Production Industry Association

According to documents obtained by my Office, the Blue Stone Group was retained by the Motion Picture Production Industry Association of British Columbia (MPPIA) during the period of July 2005 to March 2007 with respect to the following mandate: “To convince the Provincial government to extend the foreign tax credits and to convince the Federal Government to drop the idea of taxing residual profits on motion pictures made in Canada.”

The MPPIA represents participants in the motion picture industry in British Columbia, and describes itself as "...a broad-based film and television industry association 80 members strong and growing." It has an interest in working with various levels of government in order to improve competitiveness.

During an interview conducted by my Office, the chairman of the of the Motion Picture Production Industry Association of British Columbia indicated that Mr. Jiles has been working for the MPPIA since 2005 and that he had been retained to provide government relations services, mostly at the municipal, regional and provincial levels. In addition, Mr. Jiles was engaged to stay aware of issues at the federal level.

The Blue Stone Group developed a government relations strategy for its client, the MPPIA. In July 2005, Mr. Jiles proposed a program to assist the MPPIA with a government relations strategy "...to advance the MPPIA's business objectives within the various levels of government." The objectives of the strategy included: the renewal of tax credits; caucus relations; and, relationships with key stakeholder groups. That contract was subsequently renewed in January 2006, in order to maintain "...on-going relationships with key stakeholder groups." Mr. Jiles indicated to his clients that "...the federal government, which within the next week could potentially be a new government, needs to be educated on the impact that a residual tax on productions would have on the industry."

Mr. Jiles sought a further renewal of his existing agreement with the MPPIA in January 2007, in which he indicated that a "Provincial and Federal Government Relations and reception" was included among the objectives of his government relations strategy. He indicated that he sought to "...facilitate opportunities for MPPIA to develop important relationships with key individuals within targeted bureaucratic and political circles..." among them key federal ministers with regional responsibilities for British Columbia. The contracts between the MPPIA and Mr. Jiles provided for a fee structure for the cost of the services of Mr. Jiles. The MPPIA paid Mr. Jiles for his services accordingly.

Process

The *Lobbyists' Code of Conduct* investigation of Mr. Jiles covered his activities on behalf of the State of Washington during the period March 2006 to March 2007 and on behalf of the Motion Picture Production Industry Association of British Columbia during the period July 2005 to June 2007. The investigation involved an examination of the following:

- materials provided by the complainants, including contracts between Mr. Jiles and his clients and invoices for services rendered;
- interviews and correspondence with federal public office holders;
- interviews and correspondence with the clients of Mr. Jiles and Mr. Kinsella; and
- interviews with Mr. Jiles and Mr. Kinsella.

Following the investigation, a copy of the Investigations Directorate's report was sent to Mr. Jiles to give him an opportunity to present his views. He provided his response in a letter dated May 3, 2011.

The Investigations Directorate report and Mr. Jiles' views were taken into consideration, and form the basis of my Report on Investigation.

Lobbyist Registration

The Requirement to File a Return (Consultant Lobbyists)

Subsection 5(1) of the *Lobbyists Registration Act*, which was in effect during the period covered by this report, set out the requirement for consultant lobbyists to register their lobbying activities. It provided as follows:

5. (1) An individual shall file with the registrar, in the prescribed form and manner, a return setting out the information referred to in subsection (2), if the individual, for payment, on behalf of any person or organization (in this section referred to as the "client"), undertakes to

(a) communicate with a public officer holder in an attempt to influence

- (i) the development of any legislative proposal by the Government of Canada or by a member of the Senate or House of Commons,
- (ii) the introduction of any Bill or resolution in either House of Parliament or the passage, defeat or amendment of any Bill or resolution that is before either House of Parliament,

- (iii) the making or amendment of any regulation as defined in subsection 2(1) of the *Statutory Instruments Act*,
- (iv) the development or amendment of any policy or program of the Government of Canada,
- (v) the awarding of any grant, contribution or other financial benefit by or on behalf of Her Majesty in right of Canada, or
- (vi) the awarding of any contract by or on behalf of Her Majesty in right of Canada, or

(b) arrange a meeting between a public officer holder and any other person,

An individual shall file the return referred to in subsection (1) not later than 10 days after entering into the undertaking.

The Elements of Registrable Activity for Consultant Lobbyists

The following two elements were considered in the analysis of whether an activity deemed registrable under subsection 5(1) of the *Lobbyists Registration Act* took place:

- Whether the individual in question undertook to:
 - communicate with a public officer holder in respect of subjects listed in paragraph 5(1)(a) of the *Lobbyists Registration Act*; or
 - arrange a meeting between a public officer holder and any other person.
- The individual did so for payment and on behalf of any person or organization.

Findings

Report of the Investigations Directorate

The Investigations Directorate examined whether Mr. Jiles engaged in activities requiring registration as a lobbyist. Evidence was obtained from various sources, including federal public office holders, Mr. Jiles and his clients, supporting the following findings.

The State of Washington

With respect to whether Mr. Jiles undertook to arrange a meeting between one or more federal public office holders and representatives of the State of Washington, it is clear that Mr. Jiles and the Progressive Group entered into two contracts for services with the State of Washington Department of Community, Trade and Economic Development. Those contracts were for the periods May to September 2006 and January to June 2007. As the state's contractor, Mr. Jiles was described as being responsible for assisting the Washington State 2010 [Olympic] Task Force in developing relationships with stakeholder groups. The contract specified that the contractor was responsible for developing a 'Relations Building Program' with key business and government decision makers. The Honourable David Emerson, federal minister responsible for the 2010 Olympics, is listed as a key individual within targeted business, political and Olympic circles.

In May 2006, Mr. Jiles contacted Minister Emerson's ministerial assistant and asked her to meet with representatives of the State of Washington. The ministerial assistant met with a number of key officials from the State of Washington in the Minister's British Columbia regional office to discuss business opportunities in relation to the 2010 Olympics. A delegation from the State of Washington attended an event in Vancouver on October 18, 2006, that was coordinated by the Progressive Group and attended by a federal public office holder.

With respect to whether Mr. Jiles engaged in registrable lobbying activities for payment, the Investigations Directorate determined that the first contract for professional services between the Progressive Group and the State of Washington provided that the state would pay the contractor \$15,000 in two \$7,500 instalments on May 30 and June 30, 2006. Invoices sent from the Progressive Group to the attention of the 2010 Olympics Program Manager, State of Washington (CTED), are described as concerning the "monthly retainer for consulting services by Mark Jiles and Patrick Kinsella as per agreement (includes expenses). Contract No. 06-22107-003." The second contract for professional services provided for payment of \$32,500 for the period from January 12 to June 30, 2007. The Progressive Group sent six invoices to the State of Washington, each of which requested payments of \$5,416. The invoices submitted by the Progressive Group were described as: "monthly retainer for consulting services provided by Mark Jiles and Patrick Kinsella."

After completing an investigation of the activities of the Progressive Group on behalf of the State of Washington, and in respect of the 2010 Olympics, the Investigations Directorate concluded that Mr. Jiles, for payment, arranged one or more meetings between public office holders and his client and, therefore, engaged in activity requiring registration under paragraph 5(1)(b) of the *Lobbyists Registration Act*². He was required under subsection 5(1.1) of the *Lobbyists Registration Act* to file a consultant lobbyist return not later than 10 days after entering into an undertaking, but failed to do so.

The Motion Picture Production Industry Association of British Columbia (MPPIA)

In the complaint received by my Office, it was alleged that the Progressive Group engaged in unregistered lobbying on behalf of the Motion Picture Production Industry Association of British Columbia (MPPIA). The Progressive Group described its retainer for the MPPIA during the period of July 2005 to March 2007, as follows: “to convince the Provincial government to extend the foreign tax credits and to convince the Federal Government to drop the idea of taxing residual profits on motion pictures made in Canada.”

The MPPIA describes itself as “...a broad-based film and television industry association 80 members strong and growing.” The organization represents participants in the motion picture industry in British Columbia. It has an interest in working with various levels of government in order to improve competitiveness.

The Canadian Audio-Visual Certification Office is part of Canadian Heritage and is responsible for co-administering, along with the Canada Revenue Agency, two tax credit programs related to the movie industry: the Canadian Film or Video Production Tax Credit and the Film or Video Production Services Tax Credit. Those tax credits exist to encourage Canadian programming, develop the domestic production sector and enhance Canada as a location of choice for film and video productions employing Canadians. The tax credits allow corporations to claim labour expenditures incurred on certain productions.

The residual tax issue deals with the tax treatment of income derived from repeat broadcasts of programs. In addition to fees for services, actors involved in productions are entitled to additional “residual” payments that are based on repeat broadcasts. The Canada Revenue Agency takes the position that residual payments made to non-resident actors are subject to Canadian taxation and may be deferred to subsequent years.

² The *Lobbyists Registration Act*, in effect during the period covered by this report, was amended and renamed the *Lobbying Act* by the *Federal Accountability Act*, S.C. 2006, c. 9. The amendments came into force on July 2, 2008.

The Investigations Directorate sought to determine whether federal public office holders at the Department of Canadian Heritage, including the offices of the Minister and Deputy Minister, had information regarding communications or meetings arranged by Mr. Jiles concerning this issue.

In an interview conducted by the Investigations Directorate, the chairman of the Motion Picture Production Industry Association of British Columbia indicated that Mr. Jiles has been working for the MPPIA since 2005. He was retained to provide government relations services, mostly at the municipal, regional and provincial levels and to stay aware of issues at the federal level.

During the period from 2006 to 2007, Mr. Jiles' efforts were directed primarily at the provincial level until the issue of a residual tax became an area of interest. Mr. Jiles organized meetings on behalf of the MPPIA with a number of federal public office holders, including cabinet ministers Gary Lunn, Chuck Strahl and Vic Toews, and with the Director of Regional Affairs in Minister Strahl's regional office.

The Investigations Directorate's review of the proposals and agreements involving the Blue Stone Group and the MPPIA indicate that the Blue Stone Group had developed a government relations strategy for its client. In a letter from the Blue Stone Group dated July 7, 2005, Mr. Jiles proposed a program to assist the MPPIA with a government relations strategy "...to advance the MPPIA's business objectives within the various levels of government." The letter described the objectives of the strategy as being: renewal of tax credits; caucus relations; and, relationships with key stakeholder groups. That contract was subsequently renewed in order to maintain, as Mr. Jiles indicated in a letter to the MPPIA dated January 10, 2006, "...on-going relationships with key stakeholder groups." In that letter, Mr. Jiles indicated that "...the federal government, which within the next week could potentially be a new government, needs to be educated on the impact that a residual tax on productions would have on the industry."

Mr. Jiles proposed a further renewal of his existing agreement with the MPPIA in a letter dated January 15, 2007, in which he indicated that a "provincial and federal government relations and reception" plan was included among the objectives of his government relations strategy. He indicated that he sought to "...facilitate opportunities for MPPIA to develop important relationships with key individuals within targeted bureaucratic and political circles", among them key federal ministers with regional responsibilities for British Columbia.

The Investigations Directorate determined that meetings with federal public office holders were arranged on behalf of the MPPIA by Mr. Jiles. Those meetings included a meeting with the Regional Affairs Director for the Minister of Agriculture and Agri-Food Canada on June 7, 2006, which Mr. Jiles arranged, but did not attend. The meeting with a federal public office holder employed by the Minister of Agriculture and Agri-Food concerned issues concerning residual tax, immigration and border crossing. In that case, Mr. Jiles' role was limited to making the introduction. At the time of the meeting, the

public office holder in question was the Director of Regional Affairs in the Vancouver office of the Minister of Agriculture and Agri-Food Canada.

On June 15, 2006, Mr. Jiles sent an email to his client containing an invitation to a breakfast with the federal Minister of Natural Resources, Gary Lunn. The meeting was scheduled to take place the following day in Vancouver. His client attended that meeting.

On November 7, 2006, Mr. Jiles sent an email to his client concerning upcoming meetings and a series of appointments, primarily with municipal or provincial officials, including a meeting with the Honourable Chuck Strahl, then Minister of Agriculture and Agri-Food Canada. The meeting with Minister Strahl took place on December 8, 2006, in the Minister's regional office and Mr. Jiles' clients had the opportunity to speak directly to Minister Strahl about issues of concern to the MPPIA. Mr. Jiles organized, but did not attend, the meeting.

In an email dated March 8, 2007, Mr. Jiles forwarded an invitation to attend a roundtable discussion with the Minister of Justice and Attorney General of Canada, Vic Toews. The meeting took place on March 12, 2007. The discussion, organized by the British Columbia Institute of Technology Foundation, was described as an opportunity for British Columbia Institute of Technology executives and board members, and a small group of businessmen, to have an exchange with the Minister regarding matters of interest. His client attended that meeting.

The British Columbia minister's regional office plays the role of facilitator by connecting people in British Columbia with the government in Ottawa. The Investigations Directorate found that Mr. Jiles helped facilitate meetings between the minister's regional office and representatives of the British Columbia film industry. Those meetings involved issues such as the treatment of foreign workers in Canada and means of encouraging the American industry to film in Canada. Other meetings were on the issue of temporary workers and were within the jurisdiction of the Department of Human Resources and Skills Development (HRSDC). Mr. Jiles did not attend each meeting, but he did arrange the initial meeting on behalf of his clients.

The Investigations Directorate interviewed Mr. Jiles regarding the allegation that he conducted unregistered lobbying activities on behalf of the Motion Picture Production Industry Association of British Columbia (MPPIA). Mr. Jiles explained that he was paid to provide advice to the MPPIA on provincial issues. He indicated that he accompanied the chairperson of the MPPIA to meet with federal staff who wanted to establish a relationship with the industry.

After completing an investigation of the activities of Mr. Jiles on behalf of the MPPIA, the Investigations Directorate concluded that Mr. Jiles, for payment, arranged one or

more meetings between public office holders and his client and, therefore, engaged in activity requiring registration under paragraph 5(1)(b) of the *Lobbyists Registration Act*³. He was required under subsection 5(1.1) of the *Lobbyists Registration Act* to file a consultant lobbyist return not later than 10 days after entering into an undertaking, but failed to do so.

Registration

Mr. Jiles was not registered as a consultant lobbyist for either the State of Washington or the Motion Picture Production Industry Association of British Columbia when the activities described in this report took place.

³ The *Lobbyists Registration Act*, in effect during the period covered by this report, was amended and renamed the *Lobbying Act* by the *Federal Accountability Act*, S.C. 2006, c. 9. The amendments came into force on July 2, 2008.

Mr. Jiles' Views and my Perspective on those Views

Subsection 10.4(5) of the *Lobbying Act* provides that, before finding that a person under investigation has breached the *Lobbyists' Code of Conduct* (the Code), the Commissioner must give that person a reasonable opportunity to present their views. On April 7, 2011, I sent a copy of the Investigation Directorate's Report to Mr. Jiles and requested that he provide written comments within 30 days.

Mr. Jiles' reply, received on May 5, 2011, contained the following statement:

"I write in response to your letter dated April 7, 2011 (received by me on April 12, 2011) in respect of your Investigation Report, dated April 4, 2011 (the "report").

First, with regard to both of the allegations regarding the State of Washington and the Motion Picture Production Industry Association of British Columbia (MPPIA), the report observes that neither the State of Washington or the MPPIA considered that they retained me for any lobbying purpose whatsoever. In light of this evidence, I dispute that your office can legitimately characterize my activities as lobbying based solely on your interpretation of the *Lobbyists Registration Act* ("LRA"), an interpretation not shared by the parties or any other enforcement agency involved in this matter. Your report appears to draw conclusion supported by no other person or organization that has looked at this matter, and is patently flawed.

Second, your Report concludes that I arranged meetings with federal officials for the MPPIA. On the contrary, I responded to requests made by federal officials for meetings with the MPPIA and, therefore, at no time did I seek any such meetings or attempt to arrange them on behalf of the MPPIA. If anything, I provided assistance to the federal officials who requested the meeting(s) because they wanted to learn about the MPPIA and the film industry in B.C. Such conduct cannot reasonably be considered to be arranging a meeting for a client. Your report's conclusion that this constitutes lobbying is, once again, an isolated interpretation shared by no other enforcement agency, and is fundamentally flawed, unwarranted, overly broad and, quite frankly, absurd interpretation of the LRA, entirely inconsistent with the purpose of the legislation."

I disagree with Mr. Jiles' assertion that he never engaged in registrable lobbying activity. He arranged meetings with federal public office holders on behalf of his clients, for payment. These are activities deemed registrable under paragraph 5(1)(b) of the *Lobbyists Registration Act*. I take the view that those who are engaged in registrable lobbying activity must comply with the *Lobbyists' Code of Conduct*. This is the manner in which subsection 10.3(1) of the *Lobbyists Registration Act*, and now, the *Lobbying Act*, address the issue of compliance with the Code.

Conclusions

Companies and other organizations attempting to put forward their views on federal laws, regulations and policies, or to obtain licences and certifications required under federal law, sometimes hire lobbyists to assist them through the process. These individuals may also arrange meetings between the company or organization and government officials or communicate with government officials to clarify the details of a company's proposal or to negotiate the terms of an agreement.

These are legitimate actions on the part of companies and organizations and those they hire. The *Lobbying Act* and its predecessor, the *Lobbyists Registration Act*, acknowledge this legitimacy but impose certain obligations of disclosure and behaviour on those who, for payment, undertake to assist companies in this way.

I have taken both the report of the Investigations Directorate and the representations of Mr. Jiles into consideration in reaching my conclusions. I have concluded that Mr. Jiles was paid to arrange meetings between federal public office holders and his clients and that he failed to register his undertakings as required under the *Lobbyists Registration Act*. He also neglected to provide accurate information and inform his clients of his obligations under the *Lobbyists' Code of Conduct*.

This chapter summarizes my conclusions regarding the activities of Mr. Jiles on behalf of his clients, and my reasons for reaching these conclusions.

1. Whether Mr. Jiles arranged a meeting between a public office holder and any other person

Evidence obtained during the course of this investigation reveals that, on several occasions between July 2005 and June 2007, Mr. Jiles arranged meetings between federal public office holders and his clients, the State of Washington and the Motion Picture Production Industry Association of British Columbia. This is a registrable lobbying activity if performed for payment pursuant to paragraph 5(1)(b) of the *Lobbyists Registration Act* and remains registrable lobbying activity under the *Lobbying Act*.

Meetings arranged on behalf of the State of Washington

Mr. Jiles, on behalf of the State of Washington Department of Community, Trade and Economic Development, arranged one or more meetings between public office holders involved in planning for the Vancouver Olympics of 2010 and his client, the State of Washington.

Meetings arranged on behalf of the Motion Picture Production Industry Association (MPPIA)

Mr. Jiles, on behalf of his client the Motion Picture Production Industry Association, contacted federal officials to arrange for introductions and to enable meetings between his clients and federal officials who had expressed an interest in meeting with the MPPIA in order to become familiar with the MPPIA's work and the issues that the MPPIA was interested in.

2. Whether Mr. Jiles did so for payment

Evidence obtained during the course of the investigation demonstrates that the work performed by the Blue Stone Group and the Progressive Group on behalf of both the State of Washington and the MPPIA was for payment.

The Undertaking for the State of Washington

The Progressive Group was engaged by the State of Washington, Department of Community, Trade and Economic Development (CTED) on at least two occasions. The contracts were for services provided from May 1 to September 30, 2006 and from January 12 to June 30, 2007. Each of the contracts for services provided that the Progressive Group would be paid based upon invoices for services rendered by Mr. Jiles at agreed fees. The State of Washington paid the Progressive Group, in May and June of 2006 and during the first six months of 2007.

The Undertaking for the Motion Picture Production Industry Association (MPPIA)

The Blue Stone Group was retained by the MPPIA to assist the MPPIA in an effort to "...convince the Provincial government to extend the foreign tax credits and to convince the Federal Government to drop the idea of taxing residual profits on motion pictures made in Canada."

Mr Jiles was paid for his services on behalf of the MPPIA. Each of the proposals that he submitted and which were approved by the MPPIA contained estimated costs of his services, and the MPPIA paid the Blue Stone Group for the services rendered by Mr. Jiles.

3. Whether Mr. Jiles engaged in activity requiring registration under the *Lobbyists Registration Act*

Mr. Jiles, for payment and on behalf of the above-mentioned clients, conducted activity described in subsection 5(1)(b) of the Act when he arranged meetings between his clients and federal public office holders. Mr. Jiles was, therefore, engaged in activity necessitating registration as a consultant lobbyist, and was required to file a lobbyist registration return not later than 10 days after entering into his undertakings, but failed to do so.

4. Whether Mr. Jiles was in breach of the Principle of Professionalism

Individuals who conduct activities requiring registration as a lobbyist must comply with the *Lobbyists' Code of Conduct** that is based on a body of overriding principles, one of which is the Principle of Professionalism.

Professionalism

Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with not only the letter but the spirit of the *Lobbyists' Code of Conduct* as well as all the relevant laws, including the *Lobbyists Registration Act* and its regulations.

By failing to file a lobbyist registration return within time limits prescribed in the *Lobbyists Registration Act*, Mr. Jiles engaged in activity on behalf of the State of Washington and the MPPIA that was in breach of the Principle of Professionalism in the *Lobbyists' Code of Conduct*.

5. Whether Mr. Jiles was in breach of Rule 2 of the *Lobbyists' Code of Conduct*

Individuals who engage in activity requiring registration must also comply with a series of eight rules set out in the *Lobbyists' Code of Conduct**. In an effort to promote transparency, Rule 2 requires that lobbyists must provide accurate information.

* This version of the *Lobbyists' Code of Conduct* was in effect during the period covered by this Report (July 2005 to June 2007).

Accurate information

Lobbyists shall provide information that is accurate and factual to public office holders. Moreover, lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.

By failing to register as a lobbyist, Mr. Jiles did not appropriately identify himself as a lobbyist and, as a result, he did not provide accurate information to public office holders. As a consequence, individuals and organizations with an interest in the lobbying activities of the State of Washington and the MPPIA were misled about the existence of lobbying activity. I have concluded that Mr. Jiles was in breach of Rule 2 of the Code (Accurate information).

6. Whether Mr. Jiles was in breach of Rule 3 of the *Lobbyists' Code of Conduct*

Transparency is also enhanced by requiring that lobbyists advise their clients of their obligations under the federal lobbying registration regime.

Disclosure of obligations

Lobbyists shall indicate to their client, employer or organization their obligations under the *Lobbyists Registration Act*, and their obligation to adhere to the *Lobbyists' Code of Conduct*.*

Mr. Jiles' clients, the State of Washington and the MPPIA, were unaware of his obligation to register as a consultant lobbyist acting on their behalf. It may be inferred that he did not disclose his obligations under the *Lobbyists Registration Act* and the *Lobbyists' Code of Conduct* and, therefore, I have concluded that he was in breach of Rule 3 (Disclosure of obligations) of the Code with respect to these undertakings.

* This version of the *Lobbyists' Code of Conduct* was in effect during the period covered by this Report (July 2005 to June 2007).

Appendix A – Lobbyists’ Code of Conduct*

Preamble

The *Lobbyists’ Code of Conduct** is founded on four concepts stated in the *Lobbyists Registration Act*:

- Free and open access to government is an important matter of public interest;
- Lobbying public office holders is a legitimate activity;
- It is desirable that public office holders and the public be able to know who is engaged in lobbying activities; and,
- A system for the registration of paid lobbyists should not impede free and open access to government.

The *Lobbyists’ Code of Conduct* is an important initiative for promoting public trust in the integrity of government decision-making. The trust that Canadians place in public office holders to make decisions in the public interest is vital to a free and democratic society.

To this end, public office holders, when they deal with the public and with lobbyists, are required to honour the standards set out for them in their own codes of conduct. For their part, lobbyists communicating with public office holders must also abide by standards of conduct, which are set out below.

Together, these codes play an important role in safeguarding the public interest in the integrity of government decision-making.

* This version of the *Lobbyists’ Code of Conduct* was in effect during the period covered by this Report (July 2005 to June 2007).

Principles

Integrity and Honesty

Lobbyists should conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

Openness

Lobbyists should, at all times, be open and frank about their lobbying activities, while respecting confidentiality.

Professionalism

Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with not only the letter but the spirit of the *Lobbyists' Code of Conduct* as well as all the relevant laws, including the *Lobbyists Registration Act* and its regulations.

Rules

Transparency

1. Identity and purpose

Lobbyists shall, when making a representation to a public office holder, disclose the identity of the person or organization on whose behalf the representation is made, as well as the reasons for the approach.

2. Accurate information

Lobbyists shall provide information that is accurate and factual to public office holders. Moreover, lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.

3. Disclosure of obligations

Lobbyists shall indicate to their client, employer or organization their obligations under the *Lobbyists Registration Act*, and their obligation to adhere to the *Lobbyists' Code of Conduct*.

Confidentiality

4. Confidential information

Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.

5. Insider information

Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

Conflict of interest

6. Competing interests

Lobbyists shall not represent conflicting or competing interests without the informed consent of those whose interests are involved.

7. Disclosure

Consultant lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest, and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

8. Improper influence

Lobbyists shall not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder.