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Order F17-05

BRITISH COLUMBIA SECURITIES COMMISSION

Chelsea Lott
Adjudicator

February 6, 2017

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Summary: A third party objected to BCSC's decision to disclose records related to a complaint he made to BCSC. The third party argued that disclosure of any of the records would unreasonably invade third party personal privacy under s. 22. The adjudicator found BCSC was required to withhold some third party personal information, but the remaining information was to be disclosed to the applicant.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, s. 22.

Authorities Considered: B.C.: Order 01-27, 2001 CanLII 21581 (BC IPC); Order 01-51, 2001 CanLII 21605 (BC IPC); Order 01-53, 2001 CanLII 21607 (BC IPC); Order F14-47, 2014 BCIPC 51 (CanLII); Order F16-32, 2016 BCIPC 35 (CanLII); Order F06-11, 2006 CanLII 25571 (BC IPC); Order F15-33, 2015 BCIPC 36 (CanLII); Order F14-45, 2014 BCIPC 48 (CanLII); Order 00-52, 2000 CanLII 14417 (BC IPC); Order 02-01, 2002 CanLII 42426 (BC IPC); Order F05-18, 2005 CanLII 24734 (BC IPC); Order 01-26, 2001 CanLII 21580 (BC IPC); Order 03-34, 2003 CanLII 49213 (BC IPC); Order 02-02, 2002 CanLII 42427 (BC IPC); Order 04-33, 2004 CanLII 43765 (BC IPC); Order F10-11, 2010 BCIPC 18 (CanLII); Order F07-02, 2007 CanLII 2529 (BC IPC); Order F10-41, 2010 CanLII 77327 (BC IPC); Order F16-12, 2016 BCIPC 14 (CanLII).

INTRODUCTION

[1] This inquiry involves the applicant's request for records related to a complaint made to the British Columbia Securities Commission ("BCSC") involving the applicant. BCSC gave notice of the request to the third party responsible for the complaint and requested his position regarding disclosure of the records. The third party responded by advising BCSC that he opposed disclosure of the records to the applicant. After considering the third party's

objections, BCSC informed the third party that it had decided to disclose the records with some severing under s. 22(1) (disclosure harmful to personal privacy) of the *Freedom of Information and Protection of Privacy Act* (“FIPPA”).

[2] The third party requested that the Office of the Information and Privacy Commissioner (“OIPC”) review BCSC’s decision. Investigation and mediation by the OIPC did not resolve the matters in dispute, and the third party requested an inquiry. The applicant, BCSC, and the third party all provided submissions for the inquiry.

ISSUE

[3] The issue to be decided in this inquiry is whether BCSC is required to withhold information pursuant to s. 22 of FIPPA.

[4] BCSC has decided to disclose personal information of third parties and elsewhere withhold a small amount of personal information of third parties. Given that personal information is at issue, s. 57 places the burden on the applicant to establish that disclosure of personal information contained in the requested records would not unreasonably invade third party personal privacy.

DISCUSSION

Background

[5] BCSC is a provincial government agency established under the *Securities Act* and is responsible for regulating capital markets in British Columbia. Section 142(1) authorizes BCSC to appoint a person to “make an investigation the commission considers expedient” for the administration of the *Securities Act*. Complaints to BCSC may lead to formal investigations and enforcement proceedings.

[6] The applicant is the president, CEO, and a director of a public company registered in British Columbia (the “Company”). The third party is a former director of the Company (the “complainant”). The complainant had concerns regarding the financial reporting and management of the Company. He reported these concerns to BCSC and provided a copy to the TSX Venture Exchange. The applicant and another third party were the subjects of the complaint to BCSC. I have no evidence before me as to what, if any, steps BCSC undertook to investigate the allegations. BCSC advises that there is no ongoing investigation.

Information in Dispute

[7] The records in dispute comprise 167 pages including: two internal BCSC documents, one internal BCSC email, some correspondence between the

complainant and BCSC, a number of the Company's business related documents, and some court pleadings.¹

[8] BCSC has not disclosed any of the records to the applicant. BCSC provided the OIPC with copies of the records marked to indicate the information BCSC considers it is required to withhold under s. 22(1) of FIPPA. BCSC has minimally severed the records – primarily the complainant's home address and telephone number.

[9] BCSC has also withheld: a sentence about the complainant's status as director, a sentence about a court proceeding, a sentence about the employment history of a third party, the name of a third party who is also the subject of a BCSC complaint, and a sentence identifying Company shareholders. The applicant continues to seek access to the disputed records in their entirety, while the third party resists disclosure of any of the information.

Approach to s. 22

[10] Section 22 provides that the head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy. In Order 01-53,² former Commissioner Loukidelis set out the manner in which s. 22 is to be applied, and I have applied the same analytical framework in this case.

Personal Information

[11] For s. 22 to apply, the information in dispute must be the personal information of a third party. FIPPA defines personal information as "recorded information about an identifiable individual other than contact information." Contact information is defined as:

...information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;³

[12] Some information falls outside the meaning of personal information contained in FIPPA. The records contain information about the Company and other corporate entities. As this information is not about an identifiable individual, it is not personal information and does not fall within s. 22.⁴ I include in this

¹ Section 3(1)(a) excludes "a record in a court file" from the scope of FIPPA. However, s. 3(1)(a) does not apply to copies of such records in the custody of a public body. For an analysis of this issue see: Order 01-27, 2001 CanLII 21581 (BC IPC) and Order 01-51, 2001 CanLII 21605 (BC IPC).

² Order 01-53, 2001 CanLII 21607 (BC IPC) at p. 7.

³ See Schedule 1 of FIPPA for these definitions.

⁴ Order F06-11, 2006 CanLII 25571 (BC IPC) at para. 45.

category of information: corporate financial information such as corporate assets and share information, non-personal office expenses (e.g. rent, internet and copying), a webpage listing of stock trades, a news release about a private placement, and business names and contact information.

[13] The records also contain some contact information of BCSC employees. BCSC employees' names and sometimes their department name, appear in the sender and recipient fields of emails where you would expect their email addresses. The emails relate to BCSC matters and so in the context, I consider the individual's names and department name to be contact information.

[14] The information in the records which is not personal information is not subject to s. 22 and must be disclosed.

[15] I find that the balance of the information in dispute is the personal information of third parties. Some of it is the complainant's personal information. There are also instances where the complainant makes statements about the applicant, which are both the personal information of the applicant and complainant.⁵

[16] There is also some personal information of the directors, officers, employees and professional consultants of the Company and other businesses related to the Company as well as a small amount of personal information of BCSC employees.

Section 22(4) Factors

[17] The second step in a s. 22 analysis is to determine whether the personal information falls into any of the categories in s. 22(4), which set out specific circumstances when the disclosure of personal information is not an unreasonable invasion of personal privacy. None of the parties have identified any provisions of s. 22(4) which may apply.

[18] I pause to comment that s. 22 is a mandatory exception, which means that information must be withheld when s. 22 applies. I have therefore, throughout my analysis, considered all of the provisions of s. 22, even where not expressly raised by the parties.

[19] I have considered s. 22(4)(e), which provides that a disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if the information is about the third party's position, functions or remuneration as an officer, employee or member of a public body. I find that s. 22(4)(e) applies to portions of emails sent by BCSC employees which provide general information

⁵ Order F14-47, 2014 BCIPC 51 (CanLII) at para. 14; Order F16-32, 2016 BCIPC 35 (CanLII) at para. 51.

about BCSC policy and procedures.⁶ Some of it is duplicated and appears to be BCSC's pro forma response to inquiries. The emails contain information describing the routine functions of BCSC employees, and is therefore captured by s. 22(4)(e).⁷

[20] In addition, the records contain two one-page internal BCSC records which summarize details of queries made to BCSC.⁸ The summaries appear to be administrative in nature and include information such as which employee from BCSC received the query and its disposition. As with the emails, insofar as the information is about the functions of BCSC employees, I consider it to come within s. 22(4)(e).

[21] Disclosing the information which I have found falls within s. 22(4)(e) would not be an unreasonable invasion of third party personal privacy and is not required to be withheld under s. 22(1).

Presumption of Invasion of Privacy – s. 22(3)

[22] The third step in a s. 22 analysis is to determine whether any of the presumptions in s. 22(3) apply, such that disclosure is presumed to be an unreasonable invasion of privacy. The applicant submits that none of the factors in s. 22(3) apply. Neither the complainant nor BCSC directly address whether any of the information falls within s. 22(3). Although not raised by the parties, in my view, ss. 22(3)(b), (d) and (f) are relevant factors and I have considered them.

Investigation into possible violation of law - s. 22(3)(b)

[23] Section 22(3)(b) provides a presumption against disclosure where the personal information was "compiled and is identifiable as part of an investigation into a possible violation of law..." The applicant submits this section is not relevant because BCSC did not commence an investigation after receipt of the complaint. BCSC's submissions simply state that "there is no ongoing investigation by the BCSC."⁹

[24] In Order 00-52,¹⁰ Commissioner Loukidelis found that s. 22(3)(b) applied to BCSC records of an investigation of the applicant. However, in that case there was evidence from the BCSC Deputy Director of Compliance indicating that the records were obtained or created by BCSC staff in the course of investigating a possible violation of law. The records themselves also clearly related to investigation of third parties.

⁶ Records #2, p. 1; #3, p. 1; #9, p. 1; #22, p. 1; #24, p. 1; #27, p. 1; #28, pp. 1-2.

⁷ Order F14-45, 2014 BCIPC 48 (CanLII) at paras. 44-48.

⁸ Record #1, p. 1 and #30, p. 1.

⁹ BCSC submissions at para. 11(b).

¹⁰ Order 00-52, 2000 CanLII 14417 (BC IPC).

[25] I have no evidence before me from the parties or from the records themselves to indicate there was an investigation into a possible violation of law. Therefore, I am unable to conclude that the information in dispute is subject to the presumption in s. 22(3)(b).

Occupational history - s. 22(3)(d)

[26] Disclosing personal information that relates to a third party's employment or occupational history is a presumed invasion of that individual's privacy under s. 22(3)(d). Although none of the parties have addressed this presumption, I have considered its application.

[27] Previous orders have established that personal information relating to disciplinary matters by a self-regulating profession is information that relates to the individual's occupational history.¹¹ In Order 02-01, the Commissioner found information about the existence of a complaint to the BC Law Society about a lawyer was the employment or occupational history of the lawyer within the meaning of s. 22(3)(d). He commented that even though such information was not an indication of any wrongdoing, negative conclusions could be drawn from the mere existence of such information.¹²

[28] One third party was the subject of the complaint to BCSC. BCSC is a government agency which regulates the securities industry, and the fact that a complaint was made to BCSC could have negative consequences for the third party professionally. I have no difficulty concluding that the personal information of the third party who was the subject of the complaint, is that third party's occupational history within the meaning of s. 22(3)(d).

[29] I also find that s. 22(3)(d) applies to information regarding the third parties contained in records numbered 11 to 19. These records outline detailed allegations of wrongdoing involving them. These third parties were not the subject of the complaint to BCSC; however, given the nature of the allegations against these third parties, I also consider s. 22(3)(d) applies to the allegations about these individuals.

[30] Lastly, I find that information about the complainant's conflict with the applicant and employment status to be the occupational or employment history of the complainant within the meaning of 22(3)(d). These are significant occupational events, and I find that this information is covered by s. 22(3)(d).

¹¹ See for example: Order 02-01, 2002 CanLII 42426 (BC IPC); Order F05-18, 2005 CanLII 24734 (BC IPC).

¹² Order 02-01, *supra* at para. 55.

Financial information - s. 22(3)(f)

[31] Although none of the parties raised this point, I have considered whether some of the information contained in the records falls under the presumed unreasonable invasion of personal privacy created by s. 22(3)(f). Section 22(3)(f) captures personal information describing a third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness.

[32] Having reviewed the records, I consider there to be significant amounts of third party personal information which is subject to s. 22(3)(f). The information which I am referring to is comprised of:

- communications between the complainant and the Company discussing his work-related expenses and remuneration as a director;
- court records regarding a dispute over the complainant's remuneration;
- information about a third party's expenses which the Company paid for;
- information about third parties' shareholdings in various companies;
- information about third parties' consulting fees;
- information about employee expenses and salaries, including overtime payments; and
- a SEDI¹³ report for a third party.

[33] In my view, the information I have described comes squarely within s. 22(3)(f). I note that the information does not come within the ambit of s. 22(4)(e), which covers information about a third party's remuneration as an officer, employee or member of a public body. This is because the third parties I am referring to worked in the private sector, and so s. 22(4)(e) does not apply to this type of information.

Relevant Circumstances – s. 22(2)

[34] The final step in the s. 22 analysis is to consider the impact of disclosure of the personal information in light of all relevant circumstances, including those listed s. 22(2). The parties' arguments focused on ss. 22(2)(e) and 22(2)(f). I have also considered s. 22(2)(h).

Exposure to harm - s. 22(2)(e)

[35] Section 22(2)(e) requires a public body to consider whether disclosure of a third party's personal information will unfairly expose the third party to financial or other harm. The complainant submits he will be subjected to harm if the information is disclosed. He explains that he has been "subjected to abuse,

¹³ System for Electronic Document by Insiders (SEDI) is the electronic filing system for disclosing insider trading as required by Canadian securities law.

vilification, and social and business ostracisation” because of the complaint.¹⁴ He states that threats have been made against him. The complainant explains that he works in a part of the world where the applicant has considerable wealth and influence and he considers the potential harm to be very real and of great concern. The complainant also alleges the applicant intends to pursue threats of litigation against him in relation to the complaint.

[36] The applicant denies all of the complainant’s allegations.

[37] BCSC did not address whether disclosure of the information in dispute would cause third parties the type of harm contemplated by s. 22(2)(e). However, in response to the complainant’s allegations of possible harm, BCSC submits it considered whether the information should be withheld under s. 19(1)(a) because disclosure may threaten anyone’s safety or mental or physical health. It decided it would not, so it chose not to withhold the information under that exception.

[38] The fact of the complaint to BCSC is not a secret. The complainant advised the applicant (and others) that he had filed a formal complaint to BCSC about the Company.¹⁵ Further, the complainant repeats the gist of his original complaint to BCSC in his submissions for this inquiry, so the applicant is aware of them. Given his previous disclosures about the complaint, I am not persuaded by the complainant’s argument that he will be exposed unfairly to financial or other harm.

[39] Any harm the applicant might do to the complainant does not hinge on him receiving the personal information in dispute in this case, which I note was provided to BCSC over five years ago. Without further explanation or evidence explaining how disclosure of personal information will lead to financial or other harm, I do not consider s. 22(2)(e) to be relevant in this case.

[40] I have also considered s. 22(2)(e) with respect to the personal information of other third parties and find that it is not relevant. I will address the issue of harm to professional and personal reputation below in s. 22(2)(h).

Supplied in confidence – s. 22(2)(f)

[41] Section 22(2)(f) is a circumstance which weighs against disclosure where the personal information was supplied in confidence. Much of the parties’ arguments focused on this issue.

[42] The complainant says that he was assured by BCSC that their communications would be treated with “absolute confidentiality”¹⁶ and asserts

¹⁴ Complainant submissions at para. 17.

¹⁵ Buquet affidavit, Exhibit A.

¹⁶ Complainant submissions at para. 10.

that any release of the information he shared with the regulator would be a “breach of faith and trust.”¹⁷

[43] BCSC states that it generally keeps complaints in confidence. BCSC references its complaint form which states that BCSC keeps confidential all complaints it receives. BCSC also points to s. 11 of the *Securities Act* which requires the regulator to keep information it receives confidential:

11(1) Every person acting under the authority of this Act must keep confidential all facts, information and records obtained or provided under this Act, or under a former enactment, except so far as the person's public duty requires or this Act permits the person to disclose them or to report or take official action on them.

...

[44] Despite this evidence, BCSC submits that s. 22(2)(f) is not relevant in this case because the complainant never expected confidentiality. BCSC relies on the records as evidence of this argument.

[45] The applicant joins BCSC in arguing s. 22(2)(f) is not relevant. The applicant submitted evidence in the form of emails which indicate the complainant notified the Company's board of directors (including the applicant) that he had filed a formal complaint with BCSC.¹⁸ When asked by the Company's lawyer to provide a copy of the complaint, the complainant responded by saying he could not, but that he believed BCSC would be in contact and may be able to supply the complaint. The applicant also stated that although BCSC offered the complainant the option of “anonymity” he refused it.¹⁹

[46] The evidence of the applicant's communications with the board of directors about his BCSC complaint persuades me that s. 22(2)(f) is not a circumstance which weighs in favour of withholding the information. In his submissions, the complainant acknowledges that at the time of his complaint to BCSC, he wanted the applicant to know about it.²⁰

[47] The complainant now argues that there is a difference between keeping his identity confidential versus keeping the materials he sent to BCSC confidential. He states that, based on BCSC assurances, he “fully expected the exchanges, written and otherwise, with the BCSC to be treated with complete and unqualified confidentiality.”²¹ I am not persuaded that is the case given his initial disclosure to the Company directors regarding his communications with

¹⁷ Complainant submissions at para. 20.

¹⁸ Buquet affidavit, Exhibit A.

¹⁹ Buquet affidavit, Exhibit B.

²⁰ Complainant reply submissions at para. 3.

²¹ Complainant reply submissions at para. 4.

BCSC. Further, none of the information the complainant sent to BCSC is labelled as being confidential.

Chilling effect

[48] Continuing with his argument that he shared the information in confidence with BCSC, the applicant submits that release of the information would “create a serious future deterrent to company directors similarly motivated to protect the interests of shareholders.”²² The complainant raises a “chilling effect” argument which has been considered and rejected in numerous orders.²³ I am similarly not persuaded by the argument in this case.

Unfairly damage reputation - s. 22(2)(h)

[49] Section 22(2)(h) requires a public body to consider whether disclosure of personal information may unfairly damage a third party’s reputation. BCSC submits disclosure of the applicant’s personal information in the form of third parties’ opinions or complaints would not cause unfair damage to any third party’s reputation in this case.²⁴ The applicant and complainant did not address this circumstance.

[50] I find that disclosure of the applicant’s personal information would not unfairly damage any third parties’ reputation, including the complainant. It is difficult to imagine a situation where disclosure of an applicant’s own personal information would unfairly damage a third party’s personal reputation. This is particularly so, where the complainant contends that his representations about the applicant were “well-founded, neither spurious nor malicious.”²⁵

[51] However, with respect to the third party who was the subject of the complaint to BCSC, as well as the third parties who were the subject of allegations contained in records 11 to 19, I find s. 22(2)(h) is a circumstance which weighs in favour of withholding their personal information. This is because of the negative character of the information.

[52] It is evident that such allegations could be very damaging to individuals’ professional and personal reputations. Disclosure of such information would be “unfair” as BCSC appears to have not investigated and, accordingly, these third parties have not responded to the allegations. I consider s. 22(2)(h) to be a circumstance which weighs in favour of withholding the identities of, as well as the allegations against, these third parties.

²² Complainant submissions at para. 20.

²³ See for example: Order 01-26, 2001 CanLII 21580 (BC IPC) at paras. 42-44; Order 03-34, 2003 CanLII 49213 (BC IPC) at para. 42; Order 02-02, 2002 CanLII 42427 (BC IPC) at paras. 45-46; Order 04-33, 2004 CanLII 43765 (BC IPC) at para. 41.

²⁴ Citing Order F06-11, 2006 CanLII 25571, at para. 62.

²⁵ Complainant submissions at para. 16.

[53] Having considered the relevant circumstances listed in s. 22(2), I turn to consider whether any other relevant circumstances impact disclosure of personal information, in particular the applicant's awareness of information and the parties' motivations.

Other Relevant Circumstances

Applicant's awareness of the information

[54] Past orders have held that an applicant's awareness of the information in dispute can be a circumstance which weighs in favour of disclosure.²⁶ In Order F14-47, which involved a police investigation of a motor vehicle accident, the adjudicator held that the fact that the applicant already had a general knowledge of much of the information, and also had knowledge of certain specific withheld information (including the identity of almost all of the third parties), weighed in favour of disclosure.²⁷

[55] It is important to note that the applicant is the CEO, president, and a director of the Company. Other companies are also discussed in the records, and it is clear, from my review of the records, that the applicant plays a similar role in governance of those companies. It is also evident from the records that the Company is operated by a small number of people. Given the applicant's position within the companies, he would already have access to much of the information in dispute. More importantly, the initial complaint to BCSC centered on the applicant's actions, and so the applicant would already be aware of much of the information in dispute because it directly involves him.

[56] In some of the records, the applicant's personal information exists in the context of emails in which the applicant was either the sender or a recipient of the email. There are also meeting minutes which were emailed to the applicant, as well as a news release authored by the applicant. It is evident that the applicant would have knowledge of this information.

[57] There are a number of documents evidencing the applicant's expenses, such as payment vouchers, invoices, cheques and entries in cheque and petty cash journals. There is also a contract for the applicant's services. Again, the applicant would clearly be aware of this type of information.

[58] The records also contain court pleadings in which the Company is a defendant, as well as a letter from the complainant addressed to the Company directors regarding the same. Given the applicant's position with the Company, he would clearly already have knowledge of this information and has likely reviewed these documents.

²⁶ Order F10-11, 2010 BCIPC 18 (CanLII) at paras. 32-34. Adjudicator Fedorak considered the applicant's awareness of the disputed information to be a "key consideration" in that inquiry.

²⁷ Order F14-47, 2014 BCIPC 51 (CanLII) at paras. 37-39.

[59] However, the applicant would not be aware of all of the information in dispute. In particular, the complainant had some ongoing communications with BCSC after the initial complaint about matters which don't obviously relate to the applicant. It is not apparent from my review of the records, that the applicant would have any knowledge of the issues discussed in these further records.²⁸

[60] In my view, the applicant's awareness of much of the information in dispute is a significant factor in this case favouring disclosure.

Parties' motives

[61] Much of the complainant's submissions address his motivations for making a complaint to BCSC. He argues that his complaint to BCSC was "well-founded" and made in "good faith" and points to evidence he says substantiated his complaint. In contrast, he submits the applicant's motives in this inquiry are malicious.²⁹

[62] The complainant's belief in the veracity of his representations to BCSC is not relevant to this inquiry. The complainant has not referred me to, nor am I aware of, any OIPC orders where that was a circumstance in favour of withholding personal information.

[63] The applicant's motivation for requesting personal information may be a relevant circumstance,³⁰ however, I am not satisfied that is the case here. The complainant's assertions that the applicant's motives for requesting the information are nefarious are just speculative. Without further evidence, I do not consider the applicant's motives to be a relevant circumstance.

Conclusion on s. 22(1)

[64] I have found that there is a presumption against disclosing the personal information of certain third parties since the personal information relates to their occupational history and/or personal finances (ss. 22(3)(d) and (f)). I have also found that disclosure of some of the personal information may unfairly damage the reputation of some third parties, which is a circumstance which weighs in favour of withholding that personal information (s. 22(2)(h)).

[65] However, I have concluded that the applicant's awareness of the information is a circumstance which favours disclosing some of the information.

²⁸ I refer here to portions of the following records: #5; #7; #8; #9, pp. 1-2; #20; #22 pp. 1-2; #23; #24 pp. 1-2; #25; #27 pp. 1-2.

²⁹ Complainant submissions at paras. 18-19.

³⁰ See for example: Order F14-32, 2014 BCIPC 35; Order 02-27, 2002 CanLII 42457 (BC IPC); Order F07-20, 2007 CanLII 52745 (BC IPC).

[66] I have considered the presumptions and weighed the relevant circumstances in arriving at my conclusions below.

Applicant's personal information

[67] One of the records, a SEDI report, is solely the personal information of the applicant.³¹ It would not unreasonably invade third party personal privacy to disclose to the applicant his own personal information in this record.

[68] In this case, there are many instances where disclosure of the applicant's personal information would also disclose third party personal information. Disclosure of the complainant's opinions and allegations about the applicant would reveal the complainant's identity. However, the applicant already knows the complainant's identity because the complainant told the applicant that he had filed a formal complaint with BCSC.

[69] Where the applicant's personal information is interwoven with that of other third parties, the third parties would be identifiable to the applicant because the third parties are a small group of business associates, with some of whom he has a close personal relationship. Further, the interwoven information involves joint action by, or interactions between, the applicant and third parties so he would be able to identify the third parties.

[70] Previous orders have stated that it would only be in rare circumstances where disclosure to an applicant of his own personal information would be an unreasonable invasion of a third party's personal privacy.³² I do not consider this to be one of those rare circumstances. I am satisfied that the applicant's existing knowledge of the third party personal information is such that it would not unreasonably invade third party privacy to disclose the applicant's personal information, even where it is interwoven with third party personal information.

Communications between the applicant and third parties

[71] As discussed previously, in some of the records, the applicant's personal information exists in the context of emails in which the applicant was either the sender or a recipient. There are also meeting minutes which were emailed to the applicant, as well as a news release authored by the applicant.

[72] The applicant is entitled to his personal information contained in these communications. I am also satisfied that, in the circumstances of this case, it would not be an unreasonable invasion of third parties' privacy to disclose the entirety of these records given the fact that the applicant either authored the

³¹ Record #1 at pp. 70-75.

³² Order F14-47, 2014 BCIPC 51 (CanLII) at para. 36; Order F07-02, 2007 CanLII 2529 (BC IPC); Order F10-41, 2010 CanLII 77327 (BC IPC) at para. 26.

communications or was a recipient, and he clearly has direct knowledge of what is contained in these communications.

[73] There are also a series of emails regarding Company business in which the applicant was not copied. It is evident from the records that the applicant already knows the email addresses in these emails because they are the same email addresses which appear in the emails in which he was included. I find it would not unreasonably invade third party privacy to disclose the email addresses contained in emails where the applicant was not included.

[74] With respect to the court pleadings in which the Company is a defendant, as well as a letter from the complainant addressed to the Company directors, I am satisfied that it would not unreasonably invade third party personal privacy to disclose these records. As the Company director, and president, the applicant would be privy to this information. I also note that the court pleadings would be available to the public at the court registry.

Applicant's expenses

[75] With regards to the applicant's expenses, such as payment vouchers, invoices, cheques and entries in cheque and petty cash journals, this is the applicant's personal information. The expenses were charged through the Company and contain some third party signatures. Although disclosure may reveal third party personal information, given the applicant's ability to access this information, and his existing knowledge of these expenses, I find that it would not unreasonably invade third party personal privacy to disclose these records.

Third parties' personal information

[76] I turn now to consider the personal information which is solely that of third parties, including the complainant. The applicant has the burden to establish that disclosure of personal information contained in the requested records would not unreasonably invade third party personal privacy. Some of the third party personal information is subject to presumptions against disclosure, as previously discussed. The only circumstance which favours disclosure of the third party personal information is the applicant's awareness of it. The other relevant circumstance, in particular s. 22(2)(h), weighs against disclosure of the third party information. Without more, I am not persuaded that the third party personal information should be disclosed and I find that disclosure would be an unreasonable invasion of the third parties' personal privacy under s. 22(1).

Severing personal information – s. 4(2)

[77] Section 4(2) requires public bodies to sever information that is exempted from disclosure, if that can be reasonably done and give the applicant access to the remainder of the requested record. Severance cannot be reasonably done

where it would result in the document becoming meaningless, misleading, or unintelligible.³³

[78] I have marked in red the information which I have found is subject to s. 22(1) in a copy of the records I am providing to BCSC with this Order. Where severance would result in the document becoming meaningless, misleading, or unintelligible, I have indicated that the entire page should be redacted.

CONCLUSION

[79] For the reasons above, I make the following order under s. 58 of FIPPA:

1. I require BCSC to refuse to give the applicant access, pursuant to s. 22(1), to the information marked in red on the copies of the records in dispute provided to BCSC with this Order.
2. BCSC must comply with this Order on or before **Monday, March 20, 2017**. BCSC must concurrently copy the OIPC's Registrar of Inquiries on its cover letter to the applicant, together with a copy of the records.

February 6, 2017

ORIGINAL SIGNED BY

Chelsea Lott, Adjudicator

OIPC File No.: F15-61519

³³ See Order F16-12, 2016 BCIPC 14 (CanLII) at paras. 37-39 for a discussion of this issue.