



Order P24-09

## **SOLUS TRUST COMPANY LIMITED**

Elizabeth Vranjkovic  
Adjudicator

June 24, 2024

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**Summary:** In Order P24-08, the adjudicator ordered Solus Trust Company Limited (Solus) to produce to her a document so she could decide if ss. 23(4)(c) (personal information about another individual) or 23(4)(d) (identity of an individual who provided personal information about another individual) of the *Personal Information Protection Act* (PIPA) apply. In this order, the adjudicator found that s. 23(4)(c) applied to the information in dispute. The adjudicator also found that s. 23(5) required Solus to disclose some portions of the information in dispute to the applicant.

**Statutes Considered:** *Personal Information Protection Act*, SBC 2003, c. 63, ss. 1 (definitions of “personal information,” “contact information,” “work product information”), 23(4)(c) and 23(5).

### **INTRODUCTION**

[1] An applicant requested her personal information from Solus Trust Company Limited (Solus) under the *Personal Information Protection Act* (PIPA). In response, Solus provided the applicant with access to some of her personal information but refused to disclose other information under several PIPA exceptions. The applicant requested the Office of the Information and Privacy Commissioner (OIPC) review Solus’ decision to refuse access. Mediation by the OIPC did not resolve the issues in dispute and the matter proceeded to inquiry.

[2] At the inquiry, Solus did not provide all of the information withheld under s. 23(3)(a) (solicitor-client privilege) of PIPA for my review.<sup>1</sup> Instead, it provided affidavit evidence, which I was found was sufficient to decide whether s. 23(3)(a) applied to the information withheld on that basis.

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<sup>1</sup> From this point forward, whenever I refer to section numbers I am referring to sections of PIPA.

[3] On June 13, 2024, I issued order P24-08. In that order, I found that s. 23(3)(a) did not authorize Solus to withhold some information in an email from the Client's lawyer to the Client's realtor (the e-mail). I also found that ss. 23(4)(c) and/or (d) may apply to that information. As a result, under s. 38(1)(b), I ordered Solus to produce the email for my review so that I could determine whether Solus was authorized to withhold the disputed information in the email under ss. 23(4)(c) or (d).

[4] Solus complied with my s. 38(1)(b) order. In this order, I will dispose of the remaining issues.

## **ISSUES**

[5] At this inquiry, I must decide whether Solus is required to refuse access to the applicant's personal information under ss. 23(4)(c) or (d).

[6] Section 51(a) places the burden on Solus, as the organization, to prove that the applicant has no right of access to her personal information.

## **BACKGROUND**

[7] Solus is a professional trust company that provided services to an individual (Client).

[8] In 2013, the applicant was named as the Client's power of attorney. In August 2015, the Client revoked the applicant's power of attorney and appointed Solus as his power of attorney. Solus acted as the Client's power of attorney until his death and is now the executor of the Client's estate.

## **INFORMATION AT ISSUE**

[9] The information at issue consists of two sentences in an email from the Client's lawyer to the Client's real estate agent.<sup>2</sup>

## **DISCUSSION**

[10] Under s. 23(1), applicants have the right to access their own personal information under the control of an organization, subject to some exceptions set out in ss. 23(3) and 23(4). The information at issue must qualify as the applicant's personal information for the applicant to have a right of access under s. 23(1)(a).

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<sup>2</sup> In Order P24-08, I made a finding that, with some exceptions that are not relevant to the information that is the subject of this order, the information in dispute was the applicant's "personal information" within the meaning of PIPA. See paras 19-34.

[11] Under s. 1, “personal information” means information about an identifiable individual and includes employee personal information but does not include “contact information” or “work product information.” Those terms are defined in s. 1 of PIPA as follows:

“contact information” means 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 email or business fax number of the individual;

“work product information” means information prepared or collected by an individual or group of individuals as part of the individual’s or group’s responsibilities or activities related to the individual’s or group’s employment or business but does not include personal information about an individual who did not prepare or collect the personal information.

[12] In Order P24-08, I found that, with some exceptions that are not relevant to the information that is the subject of this order, the information in dispute was the applicant’s “personal information” within the meaning of s. 1.<sup>3</sup> I adopt that finding here and conclude that the information in dispute is the applicant’s personal information.

***Personal information about another individual, s. 23(4)(c)***

[13] Section 23(4)(c) says that an organization must refuse to disclose information if the disclosure would reveal personal information about another individual. The term “another individual” refers to an individual other than the applicant.<sup>4</sup>

[14] I find that the disputed information is about individuals who are identified by name in the email. This information is not contact information because it was not provided for the purpose of contacting those individuals at their place of business. It is not work product information because the individuals did not prepare or collect the personal information as part of their activities or responsibilities related to their employment or business.

[15] I conclude that s. 23(4)(c) applies to all of the applicant’s personal information in the email because it would reveal the personal information of individuals other than the applicant. As a result, I need not consider whether s. 23(4)(d) also applies to that information.

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<sup>3</sup> Order P24-08, 2024 BCIPC 59 at paras 19-34.

<sup>4</sup> Order P14-03, 2014 BCIPC 49 at para 13; Order P11-01, 2011 BCIPC 9 at para 17.

### **Severing s. 23(5)**

[16] Section 23(5) says that if an organization is able to remove the information referred to in ss. 23(3)(a), (b) or (c) or 23(4) from a document that contains personal information about the individual who requested it, the organization must provide the individual with access to the personal information after the information referred to in ss. 23(a), (b) or (c) or 23(4) is removed.

[17] In my view, some of the applicant's personal information is so intertwined with the information that Solus must withhold under s. 23(4)(c) that it is not possible to provide it to the applicant.

[18] However, I find that some portions of the applicant's personal information can be disclosed without revealing the personal information of another individual. Therefore, I find that Solus must provide the applicant with some of her personal information under s. 23(5).

### **CONCLUSION**

[19] For the reasons given above, under s. 52(2) of PIPA, I make the following orders:

1. I require Solus to refuse the applicant access to the personal information to which I found s. 23(4)(c) applies.
2. I require Solus to give the applicant access to the information that I have found can be severed under s. 23(5). I have highlighted this information in blue on the copy of the document that will be provided to Solus with this order.
3. Solus must provide the OIPC registrar of inquiries with proof that it has complied with the terms of this order, along with a copy of the document described at item 2 above.

[20] Pursuant to s. 53(1), Solus is required to comply with the above orders by **August 7, 2024**.

June 24, 2024

### **ORIGINAL SIGNED BY**

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Elizabeth Vranjkovic, Adjudicator

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