OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER

British Columbia
Canada

Order 00-19

INQUIRY REGARDING BRITISH COLUMBIA SECURITIES COMMISSION RECORDS

David Loukidelis, Information and Privacy Commissioner
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Summary: Allegation that public body failed to assist applicant not established. Evidence did not establish disappearance or suppression of requested records. Public body adopted a reasonable interpretation of the scope of the applicant's requests and was justified in applying s. 14 to notes of telephone advice from its lawyer and s. 22 to names of confidential referees. It was permissible for the public body to combine three requests for closely related material for the purpose of calculating 'free' location and retrieval time under s. 75(2)(a) of the Act.

Key Words: Solicitor client privilege – duty to assist – calculation of fee estimate.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 6(1), 14, 22, 75, Schedule 1 definition of "record"; *Interpretation Act*, s. 28(3).

Authorities Considered: B.C.: Order No. 240-1998; Order No. 302-1999. **Ontario:** Order 93; Order P-260; Order P-943; Order M-726; Order M-872.

Cases Considered: *Minister of Environment, Lands, and Parks* v. *British Columbia Information and Privacy Commissioner* (1995), 16 B.C.L.R. (3d) 64 (S.C.).

1.0 INTRODUCTION

In a period of roughly six months, the applicant made numerous access to information requests to the British Columbia Securities Commission ("BCSC") under the *Freedom of Information and Protection of Privacy Act* ("Act"). Ten of his requests are relevant to this inquiry. It should be noted, at this point, that this decision relates to the same applicant, and similar issues, as are dealt with in Order 00-20, which is released concurrently with this order.

The applicant raises issues under ss. 14 and 22 of the Act; he also alleges the BCSC has deliberately destroyed or withheld records, thus making its responses to others of his requests less than complete. The applicant also says the BCSC improperly combined several of his requests into one, in order to levy a fee that serves as a barrier to his right of access. He also says that the BCSC has improperly held up some of his access requests pending his payment of a fee estimate levied in connection with other requests. The BCSC defends its actions on all fronts.

2.0 ISSUES

The notice of written inquiry sets out the following issues:

1. Was the BCSC authorized by s. 14, or required by s. 22, of the Act to refuse access to information?

2. Should the BCSC's fee estimate be confirmed or reduced?

3. Has all of the applicant's personal information been disclosed to him without a fee?

It is clear from the applicant's August 17, 1999 request for review, under s. 52 of the Act, that he also alleges the BCSC's responses were incomplete. His initial submission addressed this issue and the BCSC responded to it. I have therefore also considered the applicant's request for review on the basis of s. 6 of the Act.

Under s. 57(1) of the Act, the BCSC bears the burden of proving that it was authorized by s. 14 to refuse access to information. Under s. 57(2), the applicant must establish that personal information can be disclosed to him without unreasonably invading the personal privacy of a third party, as contemplated by s. 22(1). Consistent with previous decisions, the BCSC bears the burden of proof in relation to the fee issues and the completeness of its responses.

3.0 DISCUSSION

3.1 Applicant's Preliminary Procedural Objection – The BCSC submitted four affidavits with its reply submission. The applicant says these affidavits should not be accepted or he should be allowed to comment on them. He cites this Office's procedures for inquiries which, the applicant says, provide that "no additional affidavits were to be filed with reply submissions".

The notice of written inquiry issued by this Office does not say that further affidavits must not be filed with reply submissions. It says that a "reply submission should not include new facts or raise new issues". In my view, there is nothing wrong in what the BCSC did here. In his initial submission, the applicant made a number of serious allegations of deliberate wrongdoing by the BCSC in relation to the processing of his requests. The affidavits filed by the BCSC responded to those allegations. The affidavits did not raise new issues. Nor did they include facts which the BCSC should properly

have included in its initial submission. I also find that the applicant had an adequate opportunity to make his case in his initial submission and in his reply submission, both of which were comprehensive. Further commentary from the applicant would have repeated points already made, or would have made points that could readily have been made, in the applicant's already filed material. Moreover, further commentary would be extraneous to resolution of the true issues before me in this inquiry.

3.2 Duty to Assist – Section 6(1) of the Act requires the head of a public body to "make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely". The applicant says the BCSC has failed to fulfill this duty in two ways.

Allegedly Missing E-mails

The applicant says the BCSC failed to comply with its obligation to respond completely because it failed to locate two e-mails that were the "principal objects of my search". These two e-mails, the applicant says, are laudatory e-mails that were sent to him in March and April of 1999. The applicant says that he has previously examined, on the BCSC's premises, e-mails sent to him between January and May of 1999, but the two e-mails described above were missing. He contends that the BCSC must have improperly suppressed these positive e-mails.

In response, the BCSC says the applicant's allegation is "baseless and untrue" and has provided affidavits of three staff members, whom I will call AA (a supervisor), BB (another supervisor) and CC (a human resources supervisor). (I use these designations to help protect the applicant's privacy. The applicant received copies of the affidavits.) AA deposes that she has never had access to the applicant's e-mail account. AA was aware of only two e-mail messages which comment on the applicant and they were sent late in 1998 by BB. BB deposes that one e-mail message he sent in December of 1998 dealt with the applicant's proposed attendance at what appears to have been a meeting or conference. BB also deposes that he wrote an e-mail message in November of 1998 about the applicant. Copies of both e-mail messages are attached to BB's affidavit. CC deposes that she never had access to the applicant's e-mail account and that the BCSC's Access to Information Coordinator was given copies of all e-mails and notes in CC's possession or control relating to the applicant.

The applicant's allegation of missing e-mail messages is tied to his recollection that two missing messages were sent in March or April of 1999. It is apparent from the BB, AA and CC affidavits that two 1998 e-mails favourable to the applicant have been located, but that none has been located for 1999. It is also apparent that the BCSC has made significant efforts to assist the applicant with his requests for e-mail, including allowing him to examine e-mails on two occasions and inviting him to do so a third time. In these circumstances, I am unable to conclude that the BCSC has deleted e-mail requested by the applicant, deliberately or otherwise. The evidence is at least as consistent with the applicant being mistaken as to the dates or content of the targetted e-mails as it is with a conclusion that the BCSC lost, suppressed or destroyed e-mails. The evidence before me

does not lead to a conclusion that the BCSC has failed to comply with its obligation under s. 6 of the Act in relation to this aspect of the applicant's requests.

BCSC's Interpretation of the Requests

The second ground for the applicant's contention that the BCSC has failed to comply with its s. 6(1) obligation relates to his request for:

> ... all papers in hardcopy or electronic form relating to myself in any way, in the possession of, or within the control of [AA]. Without limiting the generality of the foregoing, this request includes notes, memoranda, jottings on pieces of paper, electronic mail, notes in diaries, agenda books, calendar pads, notes in the margins of paper, and comments on memoranda.

The applicant says the BCSC's response to this request is incomplete. He says that AA "keeps" all of her e-mail and that there were far more than 22 e-mails (the number disclosed to the applicant) between the applicant and AA during the ten-month period covered by his request. He also says that "[o]ften officials sent e-mail to ... [AA] concerning myself".

It is clear from the BCSC's initial and reply submissions that it treated the applicant's various requests to relate to information touching on the applicant – in the context of his employment performance, among other things – as opposed to information either written by the applicant or sent to him that related to the functions of the BCSC as a whole or to the applicant's communications on behalf of the BCSC. In my view, this was a reasonable interpretation of the applicant's various access requests, to the extent they sought records "relating to myself in any way". The BCSC, quite reasonably in my view, interpreted the applicant's request as being for access to records touching on himself as an individual, as opposed to records that touched him and others, generally, only because they related to the BCSC's operations or functions. I note, among other things, that in some of the requests the applicant explicitly sought records "containing any references to myself". In the case of the applicant's May 25, 1999 access request, he sought "[c]opies of all uncorrected deficiencies that were brought to my attention in writing". This language would reinforce the entirely reasonable view, on the part of the BCSC, that the applicant's use of words such as "relating to myself" did not refer to records that he had created on behalf of his employer or received in the same capacity. Although it would have been helpful for the BCSC to have contacted the applicant to clarify his various requests, it is sufficient, in the circumstances of this case, that the BCSC's responses to the various requests proceeded on a reasonable interpretation of them.

On the s. 6(1) issue, I am satisfied that the BCSC did not improperly hold up other access requests by the applicant pending his payment of the fees estimated in connection with other requests. Exhibit "A" to the first affidavit of Brian Feeney, Acting Manager of Public Information and Records at the BCSC, indicates that the processing of other request items, which were numerous, was completed while the fee estimate dealt with in this decision was outstanding.

Finally, the applicant has complained about the quality of photocopied records provided to him by the BCSC. I am satisfied from the evidence before me that if poor copies were produced, this was not intentional. I note the BCSC responded to the problem appropriately by offering to provide more legible copies. The BCSC has not fallen short of its s. 6(1) duty on this account.

For the reasons given above, I find the BCSC has fulfilled its s. 6(1) duties to the applicant.

3.3 Solicitor Client Privilege Issues – The applicant argues the BCSC is not entitled to rely on s. 14 of the Act, which permits a public body to refuse to disclose to an applicant any information that is "subject to solicitor client privilege". The applicant says the BCSC was wrong to apply this section to notes made of a telephone conversation between BCSC employees and the BCSC's lawyer. He says:

> Section 14 is restricted to advice to a client concerning litigation or advice given in contemplation of litigation. That is the policy reason for the exemption. It does not cover every statement made by a solicitor.

The applicant's understanding of the scope of s. 14 is incorrect. Section 14 incorporates the common law of solicitor client privilege. See, for example, *Minister of Environment, Lands, and Parks* v. *British Columbia Information and Privacy Commissioner* (1995), 16 B.C.L.R. (3d) 64 (S.C.). At common law, solicitor client privilege has two branches. The first branch protects all confidential communications between a lawyer and his or her client for the purpose of giving or receiving legal advice. The second branch is the so-called litigation privilege rule, to which the applicant refers. It protects confidential communications for the dominant purpose of preparing for, or conducting, litigation that was either underway, or in reasonable prospect, at the time the communication came into existence. Such communications need not be between lawyer and client. They may include third party communications.

In this case, BCSC employees made notes of advice given to them over the telephone by a BCSC lawyer. These notes are clearly privileged under the first branch of solicitor client privilege. The BCSC's affidavit evidence establishes that the sole purpose of the telephone call between its employees and its lawyer was to obtain legal advice. There is no suggestion the BCSC has waived the privilege. I find the BCSC is authorized by s. 14 to refuse to disclose information in the disputed records to the applicant.

3.4 Third Party Personal Information – The applicant objected, in his initial submission, to the BCSC's severance under s. 22 of "names of government officials" from various records released to him. The BCSC addressed the personal privacy issue in its initial submission, but noted that the applicant bears the burden of establishing that personal information can be disclosed to him without unreasonably invading third party personal privacy.

In his reply submission, the applicant abandoned his request to see any personal information described in paras. 6.1 through 6.5 of the BCSC's initial submission. Had

the applicant not abandoned this point, I would have found – in light of all relevant circumstances (including those in s. 22(2) of the Act) – that s. 22(1) of the Act requires the BCSC to withhold this personal information from him.

The applicant also says he should be given access to the identity of three individuals who provided what the BCSC has established, on the evidence before me, were confidential references for the applicant. The applicant has not persuaded me that the identities of these confidential referees should be disclosed to him. The BCSC has disclosed summaries of the references to the applicant. My finding that the identities of the referees should be withheld is consistent with views expressed by my predecessor in Order No. 302-1999, with which I agree. I find the BCSC is required by s. 22(1) to withhold this personal information from the applicant.

3.5 Calculation of Fee Estimate – The applicant takes issue with the imposition of a fee under s. 75 of the Act. By a letter dated July 23, 1999, the BCSC told the applicant he would have to pay a $255 fee for request-processing, plus another $30 fee for preparing records for disclosure and copying them. The BCSC also told the applicant it would charge him $0.25 to copy each page of records. These fee estimates related to several of the applicant's access requests, each of which dealt with e-mails and other documents sent to or written by the applicant. According to the BCSC's evidence in this inquiry, it calculated that these request entailed approximately 18.5 hours of staff time. The BCSC's fee of $255 had been based on 8.5 hours of labour, despite the fact that its employees actually spent 10 hours more than that processing the requests.

Fee for Records Handling

The applicant first objects to the $30 fee for preparing and handling records for disclosure, which the BCSC says includes time to be spent collating records, stapling pages, assembling documents and putting the response package together. According to the applicant, the e-mail he requested does not need to be collated, stapled or assembled for release. It only needs to be printed and put in an envelope. To charge for anything further, he says, would amount to a fee for services he has not requested.

I find for the BCSC on this issue. As is noted above, the BCSC has prepared its fee estimate in a way that distinguishes between time spent locating and retrieving records and time spent preparing records for disclosure and handling. I see nothing wrong with that distinction. The first category is subject to the 'free' time entitlement in s. 75(2)(a), whereas the second category is not. The one hour allocated for preparation and handling is not unreasonable. In my view, the applicant's insistence that the e-mail he requested should not be collated or stapled is an attempt to dictate the precise manner in which this public body must approach its response under the Act. The BCSC has a duty to respond accurately and completely. Preparing its response in an orderly way by collating and stapling the e-mails to be disclosed is a sensible way to fulfill that obligation. I will not interfere with the BCSC's judgement in that regard, in this case, and allow the applicant to impose his methods on the BCSC. The applicant may feel that the time required to carry out such tasks is inconsequential and therefore should not be the subject of a fee,

but I accept that these tasks take time and that the BCSC's one-hour estimate is acceptable in this case.

Combining of Requests

The applicant also objects that the BCSC "improperly combined" several of his requests for the purposes of calculating a fee estimate and determining his entitlement to 'free' location and retrieval time under s. 75(2)(a) of the Act. The applicant says the BCSC has combined separate requests for different information in order to increase fees. He says this functions as a barrier to his right of access.

Although the material before me is somewhat confusing on this issue, I have been able to determine that the BCSC issued a single fee estimate in respect of records, some of which overlap, which the applicant requested on the same day using four different access request forms. The four requests in issue on this point were as follows:

1. Copies of all memoranda, letters, notes, documents and other "papers" that the applicant wrote, either in electronic form or hard copy form and in the possession of AA;

2. All electronic mail to the applicant, from January 1999 onward;

3. All electronic mail to the applicant, from August 4, 1998 to January 1999; and

4. All electronic mail from the applicant, from August 4, 1998 to May 19, 1999.

The BCSC says that, given the similar nature of these four requests, it was justified in combining them for the purpose of determining an appropriate fee. In the alternative, it points out that even if the requests were treated as three separate requests for the calculation of fees – e-mail to the applicant, e-mail from the applicant, and other documents written by the applicant – deducting nine 'free' hours from the 18.5 hours of actual time spent by BCSC staff still justifies the 8.5 hour ($255) fee estimate that it assessed. Finally, it notes that the applicant has never requested a fee waiver under s. 75(5).

The applicant argues he is entitled to separate processing of the requests and a separate fee assessment for each and every request for access to a record. He says the fact that he used separate documents to request the four items listed above means he has made four different requests, each of which triggers three 'free' location and retrieval hours under s. 75(2)(a) of the Act. The approach taken by the BCSC empties s. 75(2)(a) of meaning, the applicant argues, and has the effect of preventing records from being accessible to applicants.

It was permissible, in my view, for the BCSC to combine these particular access requests for s. 75 purposes. In reaching this conclusion, I have not been influenced by the BCSC's alternative position, as set out above, because its validity depends upon whether

one characterizes the four items listed above as three requests (attracting nine 'free' location and retrieval hours) or four requests (attracting 12 'free' location and retrieval hours). That characterization depends, in turn, on whether the number of requests is the number of access request documents submitted by the applicant (being four), or the number of "requests" as assessed by the BCSC (being three). The difficulty of sorting out these distinctions reveals their artificiality and leads me to the following analysis of how s. 75(2)(a) of the Act is intended to operate.

Sections 75(1) and (2) read as follows:

> 75(1) The head of a public body may require an applicant who makes a request under section 5 to pay to the public body fees for the following services:
>
> (a) locating, retrieving and producing the record;
>
> (b) preparing the record for disclosure;
>
> (c) shipping and handling the record;
>
> (d) providing a copy of the record.
>
> (2) An applicant must not be required under subsection (1) to pay a fee for
>
> (a) the first 3 hours spent locating and retrieving a record, or
>
> (b) time spent severing information from a record.

The intent of the Legislature, as explicitly set out in s. 75, is that: public bodies are to have a discretion to charge fees for certain, but not all, services associated with the processing of access requests; there should be an element of 'free' processing time given to applicants; and public bodies should consider excusing fees in particular circumstances.

The question of a public body's authority to combine requests for the purpose of calculating fees under s. 75 has not received much consideration in British Columbia. In Order No. 240-1998, at p. 5, my predecessor said the following:

> The applicant contends that he made a request for three separate sets of records and that he should have had three full hours of search time for each request. Section 75(2) provides that an applicant must not be required under subsection (1) to pay a fee for the first three hours spent locating and retrieving a record. In my view, the burden is on an applicant to establish how much free time he or she can expect per request. If the request for records of three properties is contained in one formal request, then it is appropriate for a public body to treat them as one request, thus providing only three 'free' hours of search time.

In that case, my predecessor was addressing multiple items contained in one piece of request correspondence. The situation here differs. It involves multiple, single-item

request documents, all for related records. It is also not clear, to my mind, whether the s. 75(2)(a) issue in Order No. 240-1998 turned on the fact that there was one "formal request" or on a perception that the items in that request covered related records.

On a literal reading, s. 75(1) refers to "a" request under s. 5 and contemplates "fees" for the location, retrieval, preparation and handling of "the" record involved. Similarly, s. 75(2) refers to the locating and retrieving of "the" record. The reality, of course, is that an access request very often will relate to many records, including because the number of responsive records may not be known when the request is made. Further, every public body should strive to process access requests effectively and efficiently, including because of the s. 6(1) obligation discussed above. It makes sense, in that light, for related requests to be grouped for processing purposes. This serves the interests of access applicants by reducing processing time and therefore fees and response delays. It also serves the interests of public bodies and therefore the public interest, by promoting the responsible use of public resources.

From a statutory interpretation perspective, s. 28(3) of the *Interpretation Act* is also relevant. It provides as follows:

> 28(3) In an enactment words in the singular include the plural, and words in the plural include the singular.

I also note that the definition of "record" in Schedule 1 of the Act is expressed in the plural:

> "record" includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records.

Although the s. 75 issue of 'free' location and retrieval time is not present, or present in exactly the same terms, in other access to information legislation in Canada, Ontario decisions are of some assistance on this point. In Ontario, before 1996, the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act* provided that where no provision was made for a fee, each person who made a request for access to a record was required to pay "a search charge for every hour of manual search required in excess of two hours to locate a record." (In January of 1996 these Acts were amended to eliminate 'free' search time altogether.)

Most of the Ontario orders before 1996 applied the principle that an applicant should not be penalized for having listed multiple requests in one letter. See Orders 93, P-260, M-726, M-872 and P-943. Each enumerated request for records was to be viewed as a separate request for the purpose of calculating 'free' search time. It was not necessary to attempt to gain the benefit of more 'free' search time by making requests in multiple request documents. The Ontario cases also reflected the concern that public bodies should proceed with searches in a way that made practical sense in terms of limiting the size of fees to the applicant and promoting organizational efficiency for the public body.

This is consistent with what I said about this above. Last, two different approaches were taken in Ontario to an applicant's separation of related requests which could logically have been combined into one search. In Orders M-726 and M-872, the applicant obtained the benefit of two hours of 'free' time for each *search* rather than each *request*. In contrast, in Orders P-260 and P-943, each request warranted its own 'free' search time, even when the public body conducted a combined search for reasons of efficiency.

A public body should not be able to combine access requests at will for the purposes of s. 75(2)(a) of the Act. There is nothing improper about an applicant making more than one request to a public body. The public body should not be able to automatically combine those requests so the applicant loses the benefit of 'free' location and retrieval time. The language of s. 75 does not dictate this result and, in the absence of clear statutory language, I am unwilling to conclude that such a result was intended by the Legislature. The 'free' time in s. 75(2)(a) was obviously intended to benefit applicants by facilitating access without fees or with fees that do not serve as a barrier to access. This benefit was meant to be real, not an illusion. A public body should not be able to minimize, or get around, the benefit so conferred by combining, on a blanket basis, all contemporaneous requests from an applicant. By the same token, an applicant should not be penalized, for the purposes of s. 75(2)(a), if he makes a number of discrete, and unrelated, access requests in a single piece of correspondence to a public body.

At the same time, I do not believe the Legislature intended that an applicant would be able to dictate separate processing and fee estimates for clearly related access requests made contemporaneously to the same public body. This would interfere with the ability of the public body to fulfill its s. 6(1) duties and to administer the Act efficiently, by permitting the applicant to impose processing inefficiency for the sole purpose of manipulating the assessment of fees. A public body would be wise to undertake location and retrieval, or research, on a combined basis for contemporaneous, related requests from an applicant. Minimizing processing time is a benefit to the public body. It also benefits the requester, however, and may be viewed as an element of the public body's duty to assist under s. 6(1) of the Act. I doubt the Legislature intended that, for the calculation of fees, applicants would receive the benefit of time saved when a public body combines related items or requests for the purpose of location and retrieval of records, without the combined processing of related requests also being taken into account for the purpose of calculating the 'free' time entitlement under s. 75(2)(a).

The four request items in question in this inquiry are closely related in both their subject and in the location and retrieval tasks necessary to process them. The applicant also submitted them contemporaneously to the BCSC. Accordingly, I find that the BCSC was justified in treating these items as a single matter for the purposes of the location and retrieval of records, including the calculation of 'free' time under s. 75(2)(a) of the Act. On this basis, the applicant was entitled to three 'free' hours of location and retrieval time.

Fees and Personal Information

In addition to the 'free' time given in s. 75(2), s. 75(3) provides that "subsection (1) does not apply to a request for the applicant's own personal information." The applicant argues he should not have been required to pay any fee in this case, because his requests were for access to his own personal information. The BCSC says the requested records "are all work related and, apart from bearing the Applicant's name or signature, do not contain any information about the applicant." It also says the following:

> The Applicant complains that, in response to his request for all papers 'relating to the Applicant' in the possession of [AA], he did not receive a copy of every e-mail message that had ever been sent to him by [AA]. It is the Commission's position that e-mail messages sent to the Applicant that address only policy or other work related issues are papers relating to the issues they address. Work related papers that do not refer to the Applicant's work performance, or refer in any other way refer [*sic*] to information about the Applicant, are not papers 'relating to the Applicant'. Such work related e-mail messages fall within the scope of the Applicant's request for all e-mail sent to him, and are subject to the Commission's fee assessment.

I agree with the BCSC that the four items for which it issued a combined fee estimate, as set out above, were not exempt requests for the applicant's personal information within the meaning of s. 75(3) of the Act. The definition of "personal information" in Schedule 1 of the Act includes an individual's name. This does not mean a request for work-related communications from or to the applicant, which bear the applicant's name but contain no other information about him, is in substance a request for his own "personal information" as contemplated by s. 75. The applicant is not seeking these records with reference to their inclusion of his name as his personal information. It was therefore permissible for the BCSC to assess a fee in the circumstances of this case. I note, in passing, that the applicant did not request a waiver of the fee under s. 75(5) of the Act.

Reasonableness of Fee Estimate

Last, the applicant is adamant that the BCSC fee estimate is unreasonable because it could not possibly require that much time to locate, retrieve, handle and prepare the requested records for disclosure. To borrow the applicant's colourful language, he says there must have been a lot of "goofing off and giggling" to account for the amount time the BCSC has claimed was needed, which is 18.5 hours. I find the first affidavit of Brian Feeney offers a sufficient explanation and justification of the time claimed by the BCSC. It says, in part, as follows:

> All of the e-mail massages sent to or by [the applicant] during the period of his employment with the Commission amount to a total of 1,229 messages... .
>
> I reviewed each of the 1,229 e-mail messages sent to or by [the applicant]. Based on my review, I believe 1,135 e-mail messages are work related and, apart from [the applicant's] name, do not contain any information about [the applicant]. The 1,135 e-mail messages (and attachments) have been printed and they comprise a bundle of documents that is approximately 9" thick. I identified only 94 e-mail

> messages that may contain information about [the applicant], and those e-mail messages have been disclosed to him.

The affidavit also speaks to the estimated hours spent by Brian Feeney and other BCSC staff in locating and retrieving records responsive to the request items for which it has issued a fee estimate. The amount of time claimed by the BCSC is plausible and I decline to interfere with it.

4.0 CONCLUSION

For the reasons given above, I make the following orders:

1. Under s. 58(2)(b) of the Act, I confirm the BCSC's decision that it was authorized to refuse access to the information it withheld from the applicant under s. 14 of the Act; and

2. Under s. 58(2)(c) of the Act, I require the BCSC to refuse access to the third party personal information it withheld from the applicant under s. 22 of the Act.

In view of my findings in respect of s. 6 and s. 75 of the Act, no order is necessary under s. 58(3) of the Act.

June 30, 2000

David Loukidelis
Information and Privacy Commissioner
for British Columbia