



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
— for —
British Columbia

Order 03-31

MINISTRY OF FINANCE

James Burrows, Adjudicator
July 22, 2003

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Summary: The applicant requested copies of cheques issued by the Ministry of Finance in payment of legal fees on behalf of a third party. Section 14 authorizes the Ministry to refuse to disclose information.

Key Words: solicitor-client privilege.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, s. 14.

Authorities Considered: B.C.: Order 03-30, [2003] B.C.I.P.C.D. No. 30.

1.0 INTRODUCTION

[1] As indicated in Order 03-30, [2003] B.C.I.P.C.D. 30, issued concurrently with this decision, in October 2002, the applicant made an access request to the Ministry of Attorney General, under the *Freedom of Information and Protection of Privacy Act* (“Act”), for records relating to the amount spent on legal fees for the civil litigation involving a third party. The Ministry of Attorney General obtained clarification from the applicant as to the nature of the requested records, which were an accounting of the legal fees and copies of the fronts and backs of the cheques which had paid for the legal fees. The Ministry of Attorney General then transferred the portion of the request for the cheques to the Ministry of Management Services. On December 3, 2002 the Ministry of Finance (“Ministry”), which had custody of the cheques, responded to the applicant by withholding the cheques under ss. 14 and 15(1)(k) of the Act.

[2] In a letter received on December 16, 2002, the applicant requested that this Office review the decision of the Ministry in denying access to the records under ss. 14 and 15(1)(k) of the Act. As mediation by this Office was not successful, a written inquiry was scheduled under Part 5 of the Act. On March 13, 2003, the third party was notified and on March 17, 2003, a Notice of Inquiry was issued. The written inquiry respecting this aspect of the applicant's request was held on April 24, 2003.

[3] I have dealt with this inquiry, by making all findings of fact and law and the necessary order under s. 58, as the delegate of the Information and Privacy Commissioner under s. 49(1) of the Act.

2.0 ISSUES

[4] The issues that I must consider here are:

1. Is the Ministry authorized by s. 14 of the Act to refuse to disclose the information?
2. Is the Ministry authorized by s. 15(1)(k) of the Act to refuse to disclose the information?

[5] Section 57(1) of the Act provides that the Ministry has the burden of proof respecting ss. 14 and 15(1)(k).

3.0 DISCUSSION

[6] **3.1 Procedural Issues** – I have dealt with the applicant's procedural issues related to *in camera* documents submitted by the Ministry in Order 03-30, and need not deal further with his objections.

[7] **3.2 Legal Fees and Privilege** – The background to this case, and the nature of the disputed information, have been described in Order 03-30. Applying the reasoning in that decision, I am persuaded that s. 14 permits the Ministry to refuse to disclose the amount of the legal fees paid by each of the cancelled cheques and the identity of the lawyers acting for the third party. Disclosure of this information would disclose privileged information that has otherwise been properly withheld under s. 14, as decided in Order 03-30. Nothing in the facts here supports any other conclusion and, as in Order 03-30, the court cases indicate that I must find that this information is protected under s. 14.

[8] As I have determined that s. 14 permits the withholding of these documents, I have not considered the application of s. 15(1)(k).

4.0 CONCLUSION

[9] For the above reasons, under s. 58 of the Act, I confirm that s. 14 authorizes the Ministry of Finance to refuse to disclose the information it has withheld under s. 14 of the Act.

July 22, 2003

ORIGINAL SIGNED BY

James Burrows
Adjudicator