

MAY 03 2024



NO. S-242875
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BRITISH COLUMBIA SECURITIES COMMISSION

PETITIONER

AND

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER OF BRITISH
COLUMBIA and VICKI IRENE PASQUILL and VICKER HOLDINGS LTD.

RESPONDENTS

PETITION TO THE COURT

ON NOTICE TO: **Office of the Information and Privacy
Commissioner for British Columbia**
4th Floor, 947 Fort Street
Victoria BC V8V 3K3

AND TO: **Vicki Irene Pasquill and Vicker Holdings Ltd.**
c/o their solicitors

The address of the registry is:

800 Smithe Street
Vancouver BC V6Z 2E1

The petitioner estimates that the hearing of the petition will take 2 hours.

- This matter is an application for judicial review.
 This matter is not an application for judicial review.

This proceeding is brought for relief set out in Part 1 below, by:

- the person named as petitioner in the style of proceeding above

If you intend to respond to this petition, you or your lawyer must:

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner(s)
- (i) 2 copies of the filed response to petition, and
- (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or,
- (d) if the time for response has been set by order of the court, within that time.

(1)	The ADDRESS FOR SERVICE of the petitioner(s) is: Alexander Holburn Beaudin & Lang LLP 2700-700 West Georgia Street Vancouver, BC V7Y 1B8 Attention: Naomi Krueger Fax number address for service of the petitioner: 604-484-9700 E-mail address for service (if any) of the petitioner: service@ahbl.ca nkrueger@ahbl.ca
(2)	The name and office address of the petitioner's lawyer is: Alexander Holburn Beaudin & Lang LLP 2700-700 West Georgia Street Vancouver, BC V7Y 1B8 Attention: Naomi Krueger

Claim of the Petitioner

Part 1: ORDERS SOUGHT

1. An order pursuant to s. 2 of the *Judicial Review Procedure Act*, RSBC 1996, c. 241 ("JRPA"), quashing or setting aside Order F24-20 (the "Order") insofar as the Order requires the Petitioner to disclose pages 2-58 of document BCSC00312 (the "TMX Document").
2. An order directing the Information and Privacy Commissioner for British Columbia (the "Commissioner") to allow TMX Group Limited (the "Third Party") to make submissions on the application of any applicable sections, including but not limited to

ss. 13 and 21 of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165 ("FIPPA"), to the TMX Document.

3. An order directing the Commissioner reconsider and determine the application of any applicable sections, including but not limited to ss. 13 and 21 of FIPPA, to the TMX Document.
4. An order for costs if opposed by any party.

Part 2: FACTUAL BASIS

1. The Petitioner is a provincial government agency established under the *Securities Act*, RSBC 1996 c. 418 (the "*Securities Act*"). The Petitioner is a public body as defined in Schedule 1 & 2 of FIPPA.
2. The Respondents Vicki Irene Pasquill and Vicker Holdings Ltd (the "Applicants"), requested that the Petitioner provide them with access to various communications and records related to the Petitioner's penalty collection rate, amendments to the *Securities Act*, and the Petitioner's collection action against the Applicants.
3. The Petitioner provided the Applicants with responsive records but withheld some information under various sections of FIPPA, including ss. 13(1) (advice or recommendations) and 21(1) (harm to business interests of a third party) (the "Withheld Records").
4. The Applicants requested that the Respondent Office of the Information and Privacy Commissioner ("OIPC") review the Petitioner's decision.
5. On March 20, 2024, a delegate of the Commissioner (the "Adjudicator") issued the Order in respect of the Applicant's request for a review of the Withheld Records.
6. On April 16, 2024, the Petitioner notified the Third Party that, pursuant to the Order, the Petitioner was required to disclose the TMX Document. The Petitioner sought the Third Party's views on harm if the TMX Document was disclosed to the Applicants.
7. On April 25, 2024, the Petitioner wrote to the OIPC advising that the Third Party may take a position on potential harms as the TMX Document contained sensitive information not intended for the public. The OIPC did not respond to the Petitioner's letter of April 25, 2024.
8. On April 29, 2024, the Third Party wrote to the OIPC requesting:
 - (a) a stay of the Order with respect to the TMX Document;
 - (b) standing as an appropriate person;
 - (c) the opportunity to provide written submissions on the application of s. 21 to the TMX Document; and
 - (d) a reconsideration of the Order with respect to the TMX Document.
9. On May 1, 2024, the Petitioner declined to grant the stay as requested for lack of jurisdiction pursuant to s. 59 FIPPA.

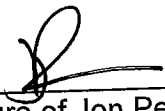
Part 3: LEGAL BASIS

1. The Petitioner relies on the following:
 - (a) *Securities Act*, RSBC 1996 c. 418;
 - (b) *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165;
 - (c) *Judicial Review Procedure Act*, RSBC 1996, c. 241; and
 - (d) the inherent jurisdiction of the court.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Christiane Babin made May 3, 2024; and
2. Such further materials as counsel may advise.

Dated: May 3, 2024



Signature of Jon Peters, on behalf of Naomi Krueger,
counsel for the Petitioner, British Columbia Securities
Commission

To be completed by the court only:	
Order made	
<input type="checkbox"/> in the terms requested in paragraphs _____ of Part 1 of this petition	
<input type="checkbox"/> with the following variations and additional terms: _____ _____ _____	
Date:[date]..... Signature of [] Judge [] Associate Judge