



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER P-697

Appeal P-9200644

Ontario Securities Commission



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

FINAL ORDER

This is my Final Order disposing of the one outstanding issue referred to in Interim Order P_677, dated May 11, 1994.

In Interim Order P-677, I indicated that I remained seized of Appeal Number P-9200644 for the purpose of determining whether the mandatory exemption provided by section 17 of the Freedom of Information and Protection of Privacy Act (the Act) applied to three records: Record 101 in its entirety and the non-highlighted pages of Records 48 and 92. These records are described in Appendix A to Interim Order P-677.

As stated in Interim Order P-677, I had not been provided with any representations from the five companies whose interests might be affected by the disclosure of the information contained in these records (the Companies). I therefore determined that I would solicit representations from these Companies before making a final decision on the application of the section 17 exemption.

In order to notify the Companies, searches were carried out at the Companies Branch of the Ministry of Consumer and Commercial Relations to determine if the Companies were still in existence and to obtain the names of their corporate officers and the Companies' addresses. Based on this information, Notices of Inquiry were sent to the Companies at their last known addresses, inviting them to make submissions regarding the disclosure of the information contained in the records.

All of the notices were returned to the Commissioner's office indicating that the addressee had moved or was unknown at the address listed.

As I stated in Interim Order P-677, for a record to qualify for exemption under sections 17(1)(a) or (c) of the Act, the party resisting disclosure must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; **and**
2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; **and**
3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in (a), (b) or (c) of subsection 17(1) will occur.

[Order 36]

I have already determined in Interim Order P-677 that the records qualify under part one of the test as they contain financial and/or commercial information.

As far as the third part of the test is concerned, in the absence of any submissions from the Companies, I cannot conclude from my review of the records that their disclosure could reasonably be expected to result in the harms identified in sections 17(1)(a) or (c) of the Act. As part three of the test has not been satisfied, I find that the exemption provided by sections 17(1)(a) or (c) does not apply.

As there were no other exemptions claimed with respect to these records, they should be disclosed to the appellant.

ORDER:

1. I order the Ontario Securities Commission to disclose to the appellant Record 101 in its entirety and the non-highlighted portions of Records 48 and 92 within thirty-five (35) days after the date of this final order but not earlier than the thirtieth (30th) day following the date of this order. Highlighted copies of Records 48 and 92 were provided to the Assistant Freedom of Information and Privacy Co-ordinator for the Ministry with Interim Order P-677.
2. In order to verify compliance with the provisions of this order, I reserve the right to require the Ontario Securities Commission to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 1.

Original signed by: _____
Anita Fineberg
Inquiry Officer

_____ June 9, 1994