



Information and Privacy
Commissioner/Ontario

Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER P-952

Appeal P-9400777

Ministry of Consumer and Commercial Relations



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of Consumer and Commercial Relations (the Ministry) received a request for access to all government files related to a named collection agency (the Agency). The Agency had been licensed by the Ministry pursuant to the Collection Agencies Act (the CAA), but after an investigation had been conducted into its affairs, its licence was revoked and its accounts frozen. The request was made by a reporter who maintains that there is a public interest in the disclosure of the information he has requested.

The Ministry identified numerous records as being responsive to the request, and granted partial access to them. The requester appealed this decision.

During mediation, the appellant limited the scope of the appeal to **exclude** the personal information of any "third party" individuals or any identifying information of "third party" companies. It was agreed that "third party" individuals and companies would be defined as those individuals and companies that are **not** directly related to the Agency (i.e. as owners or related holding companies or members). Thus, any information contained in the records which refers to the Agency's clients or individuals or companies from which it tried to collect monies is **not at issue** in this appeal. I have highlighted this information in blue on the copies of the records provided to the Freedom of Information and Privacy Co-ordinator of the Ministry with this order.

A Notice of Inquiry was provided to the Ministry, the appellant and five individuals whose interests might be affected by some of the records at issue in this appeal (the affected parties). Representations were received from the Ministry, the appellant, counsel representing two of the affected parties and their companies (counsel) and the president of the Agency (the President).

The records at issue are described in Appendix A to this order. They were located in four Ministry files dealing with the Agency: (1) the Sentry System (SS); (2) the Business Affairs Branch (BAR); (3) the Legal Services Branch (LSB); and (4) the Investigation Branch (IB). In the Appendix, the records are categorized and numbered according to the system used by the Ministry. In this order, I will use the bracketed abbreviations to refer to the Ministry file source of each record I consider.

PRELIMINARY MATTERS

THE RAISING OF ADDITIONAL DISCRETIONARY EXEMPTIONS LATE IN THE APPEALS PROCESS

Upon receipt of the appeal, this office provided the Ministry with a Confirmation of Appeal notice. This notice indicated that the Ministry had 35 days from the date of the notice (until January 27, 1995) to raise any additional discretionary exemptions not claimed in the decision letter. No additional exemptions were raised during this period.

Subsequently, in its representations dated April 21, 1995, the Ministry indicated for the first time that it wished to claim an additional discretionary exemption for one record originally identified in its decision letter. This record and the additional discretionary exemption now being claimed is Record IB24: section 14(2)(a).

Previous orders issued by the Commissioner's office have held that the Commissioner or his delegate has the power to control the manner in which the inquiry process is undertaken. This includes the authority to set time limits for the receipt of representations and to limit the time frame during which an institution can raise new discretionary exemptions not originally cited in its decision letter.

In Order P-658, I explained why the prompt identification of discretionary exemptions is necessary to maintain the integrity of the appeals process. I indicated that, unless the scope of the exemptions being claimed is known at an early stage in the proceedings, it will not be possible to effectively seek a mediated settlement of the appeal under section 51 of the Act.

I also pointed out that, where a new discretionary exemption is raised after the Notice of Inquiry is issued, it will be necessary to re-notify all parties to an appeal to solicit additional representations on the applicability of the new exemption. The result is that the processing of the appeal will be further delayed. Finally, I made the point that, in many cases, the value of information which is the subject of an access request diminishes with time. In these situations, appellants are particularly prejudiced by delays arising from the late raising of new exemptions.

The objective of the policy enacted by the Commissioner's office is to provide government organizations with a window of opportunity to raise new discretionary exemptions but not at a stage in the appeal where the integrity of the process is compromised or the interests of the appellant prejudiced.

In this appeal, the Ministry did initially claim the exemption in question, but only for other records. In effect, the Ministry now seeks to extend the application of this exemption to include an additional record. The fact that the Ministry has previously applied an exemption to one category of records should not presumptively mean that it can later extend this provision to other documents. In my view, the 35-day policy applies to this situation.

The Ministry was advised of the policy in question yet now wishes to apply the discretionary exemption cited above to the record indicated almost four months after the Confirmation of Appeal was issued.

The Ministry has provided no explanation for the delay in claiming that section 14(2)(a) applies to Record IB24. In fact, in its submissions the Ministry does not even acknowledge that this is the first time that it is claiming the application of this exemption to this record. In my view, a departure from the 35-day timeframe is not justified in the circumstances of this appeal. Therefore, I will not consider the application of section 14(2)(a) to Record IB24.

THE RECORDS AND THE EXEMPTIONS

There are several records for which the Ministry has now withdrawn its reliance on various discretionary exemptions. In addition, the Ministry has provided no submissions on the application of the following discretionary exemptions to the following records:

Section	Record
19	LSB14, LSB16, LSB19, LSB30, LSB38, LSB39, LSB53, IB40, IB44, IB 56
13	LSB6, LSB52, IB25, IB38, IB44, IB54, IB55, IB56, IB72

The President has submitted representations on the application of some of these exemptions to some of these records. In addition, he has claimed the application of section 19 to Record IB 68 and sections 13(1) and 19 to Record IB88. These exemptions had not previously been claimed by the Ministry to apply to these records.

As a general rule, the responsibility rests with the head of an institution to determine which, if any, discretionary exemptions should apply to a particular record. The Commissioner's office, however, has an inherent obligation to uphold the integrity of Ontario's access and privacy scheme. In discharging this responsibility, there may be rare occasions when the Commissioner or his delegate decides that it is necessary to consider the application of a discretionary exemption not originally raised by an institution during the course of an appeal, or where an affected party continues to rely on a discretionary exemption which the institution claims is no longer applicable. This result would occur, for example, when release of the record would seriously jeopardize the rights of that third party.

In my view, this appeal does not represent the kind of situation where the discretionary exemptions not originally raised or no longer relied upon by the Ministry should be considered. Accordingly, I am not prepared to consider the application of sections 13(1) and 19 of the Act to the 21 records listed above.

Both the President and/or counsel, however, have raised the application of sections 17(1) and/or 21 to several records not identified by the Ministry as being subject to these exemptions. As they are mandatory exemptions, I will consider their application to the records in question. In addition, as part of the general privacy mandate of the Commissioner's office, I will consider the application of the personal privacy exemption to some additional records.

In its representations, the Ministry also indicates that it has now completed its investigation of the Agency under the CAA. Accordingly, it has withdrawn its reliance on the exemption contained in section 14(1)(b) of the Act. As this is a discretionary exemption, I will not consider its application in this order.

The Ministry has further stated that it is prepared to disclose those records for which section 14(1)(b) was the only exemption claimed. These are Records LSB71, IB68, IB71, IB91 and IB94. I have reviewed these records and find that no mandatory exemptions apply to Records IB68, IB91 and IB94. Accordingly, they should be disclosed to the appellant. Both counsel and the President claim that the mandatory exemption provided by section 21 of the Act applies to Record LSB71. In addition, I believe that Record IB71 contains some personal information. Therefore, I will consider both of these documents in my discussion of "Invasion of Privacy".

I have not been provided with any submissions on the application of any exemptions to Records SS37, LSB6, LSB30, BAR31, BAR35, IB6, IB7, IB8, IB9, IB10, IB11, IB12 and IB 38 (with the exception of the personal information which is no longer at issue and/or discretionary exemptions which, for the reasons outlined previously, I have declined to consider). I have reviewed these records and find that no mandatory exemptions apply. Therefore, they should be released to the appellant either in their entirety, or in accordance with the blue highlighted version of the record I have provided to the Freedom of Information and Privacy Co-ordinator of the Ministry with a copy of this order.

To summarize, I will consider the application of the following exemptions in this order:

- advice and recommendations - section 13(1)
- law enforcement - sections 14(1)(d) and 14(2)(a)
- third party information - section 17(1)
- solicitor-client privilege - section 19
- invasion of privacy - section 21

DISCUSSION:

SOLICITOR-CLIENT PRIVILEGE

The Ministry claims that section 19 of the Act applies to Records LSB1-5, 7-9, 12, 18 and 32 and Records IB46 and 50.

Section 19 consists of two branches, which provide an institution with the discretion to refuse to disclose:

1. a record that is subject to the common law solicitor-client privilege (Branch 1); **and**
2. a record which was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation (Branch 2).

In order for a record to be subject to the common-law solicitor-client privilege (Branch 1), the Ministry must provide evidence that the record satisfies either of the following tests:

1. (a) there is a written or oral communication; **and**
- (b) the communication must be of a confidential nature: **and**
- (c) the communication must be between a client (or his agent) and a legal advisor; **and**
- (d) the communication must be directly related to seeking, formulating or giving legal advice;

OR

2. the record was created or obtained especially for the lawyer's brief for existing or contemplated litigation.

I find that Records LSB2, 4, 12, 18, and 32 all consist of written communications of a confidential nature between Ministry counsel and various Ministry employees who are their clients. In addition, I find that they are all directly related to the giving or seeking of legal advice. Thus, these documents meet the requirements of Branch 1 and qualify for exemption pursuant to section 19 of the Act.

Records LSB3, 5, 7, 8 and 9 are all notes, memoranda or electronic mail messages (E-mail) prepared by Ministry counsel concerning conversations between counsel, representatives of the Agency, other institutions and other Ministry employees. The Ministry submits that they satisfy part 2 of Branch 1 in that they are papers and materials prepared for contemplated litigation. "Litigation" applies to both matters in dispute before a court or a tribunal, such as the Commercial Registration Appeal Tribunal, which is the forum for a licence revocation hearing under the CAA (Order M-162). The Ministry explains that, when these documents were prepared, as there was a distinct possibility that the matters involving the Agency could not be settled, litigation was contemplated involving certain criminal charges, charges under the CAA and/or the revocation of the parties' licences. I accept this submission, and, on this basis, I conclude that Records LSB3, 5, 7, 8 and 9 are exempt pursuant to the requirements of part 2 of Branch 1 of section 19.

Record LSB1 is a letter prepared by Ministry counsel sent to counsel for the Agency. The Ministry states that it is a privileged communication between counsel as it discusses, on a "without prejudice" basis, proposals which may narrow some of the issues involved in the Agency litigation. The Ministry submits that this letter is subject to both Branch 1 and Branch 2 of the section 19 exemption. As I understand the Ministry's position, it is the second part of Branch 1 which is to apply to this document.

In Order M-477, Inquiry Officer John Higgins considered this issue in relation to the records that were before him. He concluded that while, usually, disclosure of a document to a party adverse in interest would constitute waiver of privilege, this did not arise with respect to records pertaining to settlement negotiations. I adopt this approach for the purposes of this appeal and, on this basis, find that Record LSB1 is exempt under the second part of Branch 1.

Record IB46 is an E-mail from the Registrar to counsel in which she seeks legal advice. Record IB50 is a request from legal counsel to Ministry staff seeking information which would permit counsel to prepare a document needed for litigation. These documents are both confidential communications between counsel and their clients directly related to the seeking and giving of legal advice. Branch 1 of section 19 applies to exempt them from disclosure.

To summarize, I find that section 19 applies to exempt Records LSB2, 3, 4, 5, 7, 8, 9, 12, 18, and 32 and IB46 and 50 from disclosure.

LAW ENFORCEMENT

The Ministry has denied access to the following records pursuant to section 14(1)(d) of the Act:

SS: 4 and 17
BAR: 2, 3, 8 and 13
IB: 24, 63 and 64

Section 14(1)(d) states:

A head may refuse to disclose a record where the disclosure could reasonably be expected to,

disclose the identity of a confidential source of information in respect of a law enforcement matter, or disclose information furnished only by the confidential source.

In addition, the Ministry claims that the following records are exempt from disclosure on the basis of section 14(2)(a) of the Act:

LSB: 38 and 39
BAR: 24, 27, 38 and 41
IB: 2, 18, 20, 32, 33, 36, 37, 83, 84, 89 and 92

For a record to qualify for exemption under this provision, the Ministry must satisfy each part of the following three-part test:

1. the record must be a report; **and**
2. the report must have been prepared in the course of law enforcement, inspections, or investigations; **and**
3. the report must have been prepared by an agency which has the function of enforcing and regulating compliance with a law.

In order for a record to qualify for exemption under either section 14(1)(d) or 14(2)(a), the record must relate to a "law enforcement" matter which is defined in section 2(1) of the Act as follows:

"law enforcement" means,

- (a) policing;
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b).

The Ministry states that it has a law enforcement mandate as defined above. It explains that the CAA is one piece of legislation by which it regulates several aspects of the Ontario marketplace. Pursuant to this legislation, every person who is in the business of a collection agency or who acts as a collector must be registered. The Ministry may revoke the registration or refuse the registration of those who fail to comply with the requirements of the CAA. This legislation authorizes the Ministry to investigate certain matters and prohibits certain practices that are classified as offences. Penalties in the form of fines and/or prison terms may be imposed should a company or individual be found to be in breach of the CAA.

Having considered these provisions of the CAA, I am of the view that the duties and responsibilities of the Registrar of Collection Agencies include the conduct of investigations or inspections which could lead to proceedings before a court or tribunal, the Commercial Registration Appeal Tribunal, in which the above-described penalties and sanctions could be imposed. Accordingly, the definition of "law enforcement" has been satisfied with respect to the records exempted under sections 14(1)(d) and 14(2)(a). Furthermore, I find that the Ministry is an agency which has the function of enforcing and regulating compliance with a law, in this case, the CAA.

Section 14(1)(d)

The Ministry describes Records SS4 and 17, BAR2, 3, 8 and 13, and IB24, 63 and 64 as constituting complaints received by the Ministry concerning the activities and operations of the Agency. The Ministry maintains that it has a policy of maintaining the confidentiality of all such complaints and that to disclose these documents would reveal a confidential source of information.

I have carefully reviewed these documents and find that disclosure of only certain portions of them would reveal a confidential source of information. As no other exemptions have been claimed with respect to Records IB63 and 64, they should be disclosed to the appellant in accordance with the highlighted version of the records provided to the Freedom of Information and Privacy Co-ordinator of the Ministry with this order.

Section 14(2)(a)

In order to satisfy the first part of the section 14(2)(a) test, that is to constitute a report, a record must consist of a formal statement of the results of the collation and consideration of information. Generally speaking, results would not include mere observations or recordings of fact (Order P-200).

Records IB32, 33 and 89 either constitute chronological recordings of the activities of the Ministry investigators or contain lists of documents required to support the enforcement applications. These records do not meet the

requirements of the first part of the section 14(2)(a) test in that they are not reports. On this basis, I will not consider them further under this section.

Records LSB38 and 39 are proposals to revoke or refuse the registration of the Agency and its President. The proposals contain a formal account of the results of the investigations of the parties' business activities, as well as analysis of these activities in the context of the CAA and the proposals.

Records BAR24, 27 and 38 are inspection reports prepared by Ministry compliance officers. They contain a formal statement of the results of the inspections of the Agency conducted by the Ministry employees. In addition, they contain the recommendations and comments of the inspectors with regard to how the Ministry should proceed in light of the reports. Record BAR 41 is a trust reconciliation and report on a meeting between Ministry officials and the Agency to discuss the reconciliation, and is similarly protected from disclosure under section 14(2)(a).

Records IB2, 18, 20, 36, 37, 83, 84 and 92 are documents containing information on the results of various investigations of the Agency, a consideration of this information and an analysis of these results as used to support the Ministry's application to revoke the registration of the Agency and its president as well as its application for a search warrant. I find that these records constitute "reports" for the purposes of section 14(2)(a) of the Act.

I also find that Records LSB38 and 39, Records BAR24, 27, 38 and 41, and Records IB2, 18, 20, 36, 37, 83, 84 and 92 constitute reports prepared as part of the actual investigation by the Ministry into the business affairs of the Agency. As they were prepared by the Ministry in the context of its responsibilities to enforce the provisions of the CAA, I conclude that they qualify for exemption pursuant to section 14(2)(a) of the Act. None of them were prepared in the course of routine inspections by the Ministry so the exception in section 14(4) does not apply.

ADVICE AND RECOMMENDATIONS

Of the remaining records, or parts of records at issue, the Ministry submits that the following documents are exempt from disclosure pursuant to section 13(1) of the Act:

SS: 4

LSB: 11 and 60

BAR: 8 and 13

IB: 24, 40, 48 and 85

Section 13(1) of the Act states that:

A head may refuse to disclose a record where disclosure could reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.

It has been established in a number of previous orders that advice and recommendations for the purpose of section 13(1) must contain more than mere information. To qualify as "advice" or "recommendations", the information contained in the records must relate to a suggested course of action, which will ultimately be accepted or rejected by its recipient during the deliberative process.

In Order 94, former Commissioner Sidney B. Linden commented on the scope of the exemption in section 13(1) of the Act and stated that "... [t]his exemption purports to protect the free flow of advice and recommendations within the deliberative process of government decision-making or policy-making."

In my view, the information in Record SS4 which the Ministry maintains qualifies for exemption pursuant to section 13(1) does not relate to a suggested course of action. It is merely the author's characterization of a matter which has come to his attention and which he is relaying to another Ministry employee.

Record LSB11 (and its duplicate, IB48) is a note prepared by legal counsel outlining the advice given by counsel to the Registrar of Collection Agencies. This document outlines certain factual matters concerning the Agency and its principal and then considers what the Ministry may do about the situation. This document does not, however, set out a suggested course of action which may be accepted or rejected by the recipient of the document. Accordingly, I find that the section 13(1) exemption does not apply.

Record LSB60 is a note of a meeting between the Registrar of Collection Agencies, other Ministry officials and the president of the Agency. The Ministry states that "... the document implies advice or recommendations of those who attended the meeting". This submission does not indicate whether the advice was to be provided by a Ministry employee to another as part of the deliberative process. Nor is this at all apparent from the record itself. Rather this document is more in the nature of a list of issues and items to be discussed at the meeting. Thus it does not qualify for exemption pursuant to section 13(1) of the Act.

The Ministry contends that Record BAR8 contains a recommendation as to how the Ministry should process a complaint about the Agency. As I read this record, the author is merely stating what she proposes to do unless otherwise advised. The same is true of Record BAR13 (and its duplicate, IB24). I find that neither of these documents contain advice or recommendations within the deliberative process of government decision-making or policy-making. Thus they are not exempt pursuant to section 13(1) of the Act.

Record IB40 consists of notes from the Ministry investigator assigned to the Agency file. The notes contain a recommendation as to what charges should be brought against the Agency. I find that this portion of the document satisfies the section 13(1) exemption.

The Ministry submits that the response section of Record IB85, an issue sheet prepared for the Minister concerning the Agency matter, contains a suggested response which is recommended to the Minister. As the Ministry suggests, several past orders of the Commissioner's office have held that the response portions of such issue sheets may qualify for protection under section 13(1) under the category of advice or recommendations. However, in Order P-771, Assistant Commissioner Irwin Glasberg declined to follow this approach. He concluded that the contents of the response sections of the issue sheets before him were purely factual in nature and did not contain information relating to a suggested course of action which might be accepted or rejected as part of the deliberative process.

I find that Record IB85 does not contain any information which relates to a course of action which the Minister might either accept or reject as part of the deliberative process in this case. Moreover, following the approach outlined in Order P-771, I find that the response section, like the rest of the document, is purely factual in nature. Thus, Record IB85 does not qualify for exemption under section 13(1) of the Act.

In summary, I have found that only a portion of Record IB40, which I have highlighted on the copy provided to the Freedom of Information and Privacy Co-ordinator of the Ministry with this order, qualifies for exemption under section 13(1) of the Act.

THIRD PARTY INFORMATION

PRELIMINARY MATTER

Although it originally claimed that several records were exempt pursuant to section 17(1)(b) of the Act, in its submissions, the Ministry only makes specific reference to this exemption applying to one record, IB21. As this record cannot now be located, I will consider whether the Ministry has conducted an adequate search for it in my subsequent discussion.

The Ministry then goes on to make the following statement with regard to section 17(1):

The Institution submits that investigation documents 33 and 55 among others may meet the test for a mandatory exemption under section 17 of the Act.

The Ministry does not elaborate. It thus seems to suggest that, although it is no longer claiming the application of this mandatory exemption, the decision-maker should consider it with regard to certain unidentified records. The Ministry states in its introductory submissions:

In some cases the records for which the section 14(1)(b) exemption was claimed, contain information which may be subject to the mandatory exemptions contained in section 21 and section 17 of the Act. The Institution wishes to sever this information prior to disclosure.

However, the submissions then go on to state that "At issue in this appeal, is access to **78** records...". By my count, this can only be an accurate statement if the Ministry has withdrawn its reliance on section 17(1) for **all** the records for which it was originally claimed.

As I have previously indicated, those parties whose interests may be affected by the disclosure of the information at issue in this appeal have been notified. The President of the Agency and counsel have provided submissions. Once the Ministry's new position became apparent, these parties were given an opportunity to provide supplementary representations, as they alone now bear the burden of proving that the section 17(1) exemption applies. Counsel responded to this second notification.

In these circumstances, I will consider the application of section 17(1) to those records on which the affected parties have provided submissions. They are Records:

SS: 25
LSB: 71
BAR: 19, 21, 22, 32, 34 and 36
IB: 1, 3, 4, 5, 19, 23, 26, 27, 28, 29, 30, 31, 33, 39 and 90

In addition, due to the complexity of the circumstances under which these records came to be in the custody of the Ministry, the Ministry agreed to, and did, provide the necessary factual background, in order that I might thoroughly analyze these issues.

APPLICATION OF THE EXEMPTION

For a record to qualify for exemption under section 17(1)(a), (b) or (c) the Ministry and/or the affected party 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) will occur.

[Order 36]

In this case, because the Ministry is no longer relying on the application of section 17(1), it is the affected parties who must satisfy all three parts of the test.

Part One

I have reviewed all the records to be considered under this section. I find that, with the exception of Record IB39, they all contain financial and/or commercial information related to the Agency and other companies. Accordingly, part one of the test has been satisfied with respect to these records.

Record IB39 is a Ministry of Transportation search summary on various individuals. I will consider this document under the section "Invasion of Privacy".

Part Two

In order to satisfy part two of the test, the affected parties must show that the information was supplied to the Ministry and that it was supplied in confidence, either implicitly or explicitly. In addition, information contained in a record will be said to have been "supplied" to an institution, if its disclosure would permit the drawing of accurate inferences with respect to the information actually supplied to the Ministry.

To satisfy the "in confidence" element, there must be a reasonable expectation on the part of the supplier of the information that it will be held in confidence.

As I have indicated, while the Ministry no longer relies on the application of section 17(1), it has provided some information on the circumstances under which these documents came into its custody. That result occurred in one of four ways, only three of which are relevant to the third party information records currently at issue.

The Ministry states that the bulk of the records came into its custody pursuant to search warrants executed by the Ministry at the bank where the Agency had its accounts and at the residence of the President of the Agency. The Ministry indicates that Records IB1, 3, 5, 19, 26, 27, 28, 29, 30, 31, and 90 and Records BAR32 and 34 all contain either deposit slips or bank statements which would have come into its possession pursuant to the search warrant executed at the bank.

In these circumstances, I find that these records cannot be considered to have been "supplied" by the Agency to the Ministry. The fact that they were received by virtue of a search warrant, in my view, makes them more analogous to information obtained by an institution itself, through investigations or inspections, than to information provided to an institution pursuant to a mandatory reporting requirement. Moreover, the documents were, in fact, "taken from" the bank rather than "supplied to" the Ministry. Thus, part two of the section 17(1) test has not been satisfied with respect to Records IB1, 3, 5, 19, 26, 27, 28, 29, 30, 31 and 90 and Records BAR 32 and 34 and I will not consider them further in this discussion.

The Ministry obtained some documentation through a compliance investigation conducted pursuant to sections 12, 13 and 14 of the CAA. These sections provide that upon the investigation of a complaint against a collection agency, or a compliance investigation, the Ministry is entitled to receive, have free access to and/or remove any materials related to the purpose of the inspection. The Ministry indicates that records obtained in this way would be in the nature of trust account reconciliations/and or inspection summaries.

Records BAR19, 21 and 22 fall into this category. In my view, these records were obtained by the Ministry through inspections required by statute. In these circumstances, I find that Records BAR19, 21 and 22 were not "supplied" to the Ministry for the purposes of section 17(1) of the Act. As these documents fail to satisfy part two of the test, I will not consider them further.

The third category of documents described by the Ministry are those which came into the custody of the Ministry as a result of the Agency's compliance with section 21 of the CAA. The Ministry indicates that these documents would be in the nature of financial statements filed on behalf of the Agency. Records SS25 and LSB71 are such financial statements.

Section 21(3) of the CAA imposes a mandatory reporting requirement on collection agencies to file financial statements when required by the Registrar of Collections Agencies. It has been held in previous orders of this office that information which is provided to an institution under a mandatory legislative reporting requirement is "supplied" for the purposes of section 17(1) of the Act and I so find in this case.

Both counsel and the President of the Agency state that these financial statements were provided to the Ministry in confidence. In addition, the Ministry refers to section 21(4) of the CAA which states that the information contained in a financial statement filed under section 21(4) is confidential. Based on the submissions of the affected parties and

the provisions of the CAA, I find that the Agency held a reasonable expectation that the financial statements would be kept confidential. Accordingly, I find that part two of the section 17(1) test has been met with respect to Records SS25 and LSB71.

The remaining two documents which the President of the Agency maintains are exempt pursuant to section 17(1) of the Act are Records IB4 and 33. Both of these documents are memoranda prepared by the Ministry and directed to documentation about the Agency which the Ministry requires from the bank. The only information contained in these records which can be said to have been supplied to the Ministry by the Agency are its bank account numbers. The balance of the information would not reveal information supplied by the Agency; rather it was prepared by Ministry employees.

Part Three

The only records which I will consider under this part of the test are SS25, LSB71 and the Agency bank account numbers in IB4 and 33.

As far as Records SS25 and LSB71 are concerned, both counsel and the President of the Agency object to their disclosure, albeit on different grounds. The submissions of the President emphasize the harms that may occur to individuals should these records be disclosed. Thus, I will consider this submission in the Invasion of Privacy discussion.

Counsel merely states that:

... It is reasonable to conclude that the appellant wishes to widely publish this private information to the detriment of [his corporate client] and those connected to it ... to do them significant and undue harm and loss in respect of their businesses and reputations.

In my view, these submissions do not constitute sufficient evidence to establish that disclosure of these records could reasonably be expected to result in the harms described in sections 17(1) (a) or (c) of the Act.

Counsel goes on to state that:

If the press is given unrestricted access to such information, companies and individuals will become reluctant to supply such information to the government which will be contrary to the public interest.

This is, in effect, a section 17(1)(b) argument. However, as I have previously noted, these records were provided to the Ministry pursuant to a mandatory legislative requirement. In such circumstances, section 17(1)(b) of the Act cannot apply (Order P-323).

With respect to the bank account numbers in Records IB4 and 33, the President states that:

... specifics regarding bank account numbers which are not public information, would also be released should this document be made available and potentially create a situation of jeopardizing future relations with given clients.

As I have previously indicated, the Agency is no longer in business as a collection agency. The President has had his licence revoked. Thus, I cannot accept the Agency's position on the harms that it considers could reasonably be expected to occur should Records IB4 and 33 be disclosed. Accordingly, these two documents should be released to the appellant in their entirety.

INVASION OF PRIVACY

Of the records remaining at issue, the Ministry and/or counsel or the President claim that the following records contain personal information and are exempt pursuant to section 21 of the Act:

SS: 4, 17, 19, 21, 24, 25, 26, 33, 34, 36 and 40

LSB: 11, 14, 22, 43, 52, and 71

BAR: 2, 3, 8, 9, 13, 14, 15, 18, 19, 21, 22, 25, 32, 33, 34, and 36

IB: 3, 4, 5, 12, 17, 18, 19, 22, 25, 26, 27, 29, 30, 35, 39, 40, 48, 58, 61, 73, 78, 85 and 90

In addition, I will consider whether this mandatory exemption applies to several other records.

PERSONAL INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including any identifying number assigned to the individual and the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

With this definition in mind, there are a number of other considerations and principles I have applied in my review of the records to determine which ones contain personal information. They are as follows:

1. The personal information contained in Records SS4, and some of the personal information in Records SS17, BAR2, BAR3, BAR8 and BAR13 has already been held exempt pursuant to section 14(1)(d) of the Act (confidential source of information in a law enforcement matter). Therefore, I need not consider it here. On this basis, Record SS4 should be disclosed in accordance with the highlighted copy of the record provided to the Freedom of Information and Privacy Co-ordinator of the Ministry with this order.
2. It has been established in a number of previous orders that information provided by an individual in a professional capacity or in the execution of employment responsibilities is not "personal information". Some information contained in the records relates to Ministry employees functioning in these capacities. Accordingly, this information does not constitute the personal information of these individuals.
3. Where, however, the information involves an evaluation of an employee's performance or an investigation into his or her conduct, these references are to be considered to be the individual's personal information. On this basis, I find that the references in the records to the President and other employees of the Agency constitute the personal information of these individuals.
4. Further, information which relates to non-natural persons, such as companies, limited partnerships and other business entities is not "personal information" as defined in the Act (Orders 16 and 53). Records SS25 and LSB71 (the financial statements of the Agency) contain information about loans payable from other companies. In these circumstances, I find they do not contain any personal information and should be disclosed to the appellant in their entirety.

More specifically, the fact that a corporation (Corporation 1) is a shareholder of another corporation (Corporation 2) does not constitute the personal information of any of the officers, directors and/or shareholders of Corporation 2 (Order P-532).

5. Some of the personal information contained in the records is not at issue in that it relates to the names of clients of the Agency. The only information not disclosed in Records BAR9 and BAR15 is of this nature. As I have indicated, I have highlighted these portions in blue. Accordingly, the balance of these records should be disclosed to the appellant.
6. Having considered the above principles, I find that the following records contain no personal information which is at issue. As I have disposed of all the issues related to them, they should be disclosed to the appellant:

BAR: 34

IB: 3, 4, 5, 26, 28, 33 and 90

7. Based on the application of the above principles, I find that the following records contain personal information which I will address in this section:

SS: 17, 19, 21, 24, 26, 33, 34, 36, 39, 40 and 42

LSB: 11, 13, 14, 16, 19, 22, 43, 52, 53 and 60

BAR: 2, 3, 8, 13, 14, 18, 19, 20, 21, 22, 25, 32, 33 and 36,

IB: 1, 17, 19, 22, 23, 24, 25,27, 29, 30, 31, 32, 35, 39, 40, 44,48, 52, 54, 55, 56, 58, 61, 62, 71, 72, 78, 85 and 89

Once it has been determined that a record contains personal information, section 21(1) of the Act prohibits the disclosure of this information except in certain circumstances.

Sections 21(2), (3) and (4) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of personal privacy. Where one of the presumptions in section 21(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is if the personal information falls under section 21(4) or where a finding is made that section 23 of the Act applies to the personal information.

If none of the presumptions in section 21(3) apply, the Ministry must consider the application of the factors listed in section 21(2) of the Act, as well as all other circumstances that are relevant in the circumstances of the case.

The Ministry claims that the following presumptions contained in section 21(3) apply to the personal information at issue:

- section 21(3)(a) - medical history
- section 21(3)(b) - information compiled as part of an investigation into a possible violation of law
- section 21(3)(d) - employment history
- section 21(3)(f) - financial history or activities

In addition, counsel submits that the presumption contained in section 21(3)(g)(personal evaluations), is applicable to the information contained in Records SS26 and IB25.

Having reviewed the personal information at issue, I find that it all falls within the presumptions contained in sections 21(3)(b), (d) and/or (f) of the Act. Much of it was compiled by the Ministry as part of its investigation into the activities of the Agency to ascertain if there had been a breach of the provisions of the CAA. As far as the

application of section 21(3)(b) is concerned, past orders of this office have determined that this presumption can apply irrespective of the fact that, as in this case, charges were not laid.

In addition, the personal information relates to the employment history of several individuals involved with the Agency and describes the financial activities in which these, and other individuals, were involved.

None of the personal information falls under section 21(4) of the Act. Therefore, disclosure of any of the personal information at issue would result in an unjustified invasion of personal privacy pursuant to section 21 of the Act.

PUBLIC INTEREST IN DISCLOSURE

The appellant submits that there is a public interest in the disclosure of the records he has requested from the Ministry. Section 23 of the Act states:

An exemption from disclosure of a record under sections 13, 15, 17, 18, 20 and 21 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

As sections 14 and 19 are not referred to in this section, I will only consider the application of the "public interest override" to those records, or portions of records, which I have found qualify for exemption pursuant to sections 13, 17 and 21 of the Act.

In order for section 23 of the Act to apply to a record, two requirements must be met. First, there must be a compelling public interest in the disclosure of the record. Second, this interest must clearly outweigh the purpose of the exemption which otherwise applies to the record.

Both in his letter of request and appeal, the appellant states that it was his contention that the public has a right to know what happened to the Agency and that "... how the government of Ontario behaved in relation to [the Agency], is an important subject for public scrutiny". In his submissions, he explains further:

I want to examine how the government dealt with this case. I want to examine the allegations of fraud... Here are two [grounds of compelling public interest]: Scrutiny of the government's mishandling of the [Agency] affair, from mistakes in licensing, to mistakes in overseeing the company, to mistakes in not properly following up on the fraud allegations. Scrutiny of the company itself, and the financial and personal damage it caused to citizens of the province.

The first point advanced by the appellant relates to the manner in which the Ministry oversaw the business affairs of the Agency. As I interpret this submission, it is essentially an argument pursuant to section 21(2)(a) of the Act, that is, that disclosure of personal information is desirable for the purposes of subjecting the activities of the Government of Ontario and its agencies to public scrutiny. As I have found that all of the personal information at issue is subject to one or more of four presumptions found in section 21(3) of the Act, this factor does not establish a ground for the disclosure of such information.

As far as the second point is concerned, the Ministry notes that neither the Agency, nor its President are now licensed to operate a collection agency in the province. Thus, it submits that the public is not, nor may it be, exposed to potential problems involving the Agency. Moreover, both the Ministry and counsel submit that there is no public interest in disclosure of the records, merely the private interest of the appellant.

As a result of this order, the appellant will be receiving access to a number of additional documents which, in conjunction with the materials he has already received, should provide him with some additional information on how the Ministry dealt with the problems with the Agency. After carefully weighing the competing arguments of the parties, and the information to be disclosed as a result of this order, I find that there does not exist a compelling public interest in the disclosure of the remaining records. Accordingly, section 23 does not apply in the circumstances of this appeal.

REASONABLENESS OF THE SEARCH FOR RECORD IB21

Record IB21 was listed in the Index of Records provided to this Office by the Ministry as one of the records responsive to the request. However, a copy of this document was not actually forwarded to this office. Accordingly, in the Notice of Inquiry the Ministry was requested to provide the record or, in the alternative, provide an affidavit of search regarding the missing record.

In this case, the appellant was not made aware of the fact that Record IB21 was missing. Consequently, he was not in a position to provide any submissions on this issue. In addition, as this is a case in which the Ministry admits that it initially had the record but was unable to subsequently locate it, this is not a situation like the general "reasonable search" appeal in which an institution claims that responsive records do not exist.

Nonetheless, I believe that it is still my responsibility to ensure that the Ministry has made a reasonable effort to locate any records which have gone missing during the course of a request and/or an appeal. In such a case, it is my view that the Ministry must provide me with sufficient evidence to show that it has made a **reasonable** effort to locate any such records.

The Ministry subsequently provided an affidavit sworn by its Freedom of Information and Privacy Co-ordinator (the Co-ordinator). The Co-ordinator indicates that when the request was being processed and the Index of Records prepared, Record IB21 was identified and included in the list. During the processing of the request and appeal, the Ministry was still conducting its investigation into the activities of the Agency. Accordingly, the Ministry investigator was still making active use of the file and responsive records.

The Co-ordinator then states that when it was necessary to compile copies of the records for the purposes of the appeal, Record IB21 was missing. In her affidavit, the Co-ordinator explains that she conducted a thorough review of the Ministry files and the materials she had prepared for this file. In addition, she requested that her staff search the freedom of information and privacy offices, and those of the investigator and program areas in an attempt to locate the document. These searches were conducted on three separate occasions to no avail.

Based on the affidavit provided by the Freedom of Information Co-ordinator, I am satisfied that the Ministry has taken all reasonable steps to locate Record IB21.

NOTIFICATION OF THE AFFECTED PARTY

In his submissions, counsel for the affected party indicates that the Ministry has refused to produce the following records to him for the purposes of this inquiry:

SS: 4 and 17

BAR: 2, 3, 8, 13, 24, 27, 38 and 41

LSB: 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 18, 32 and 60

IB: 2, 20, 21, 24, 32, 37, 40, 46, 48, 50, 58, 63, 64, 83, 84, 85, 89 and 92

He makes the following submissions on this matter:

With respect to these documents, it is our submission that if the withholding of any of these documents is prima facie held to be unjustified, then we should be given an opportunity to review those documents or those parts of documents which refer to our clients so that further submissions can be made before a final determination is made with respect to each particular document.

I have carefully reviewed the documents referred to by counsel (with the exception of IB21 which the Ministry claims has been lost). With the exception of five records which I will discuss below, none of these documents contain any references to any of his clients. Records LSB3, LSB18, IB37 and IB84 do contain references to these affected parties. However, I have upheld the application of the exemptions applied by the Ministry so they will not be disclosed to the appellant.

The Ministry provided submissions on the application of sections 13(1) and 21 to Record IB85. I have not upheld the application of section 13(1). The section 21 exemption applies to the personal information of one of counsel's clients. However, this document does contain information related to one of the corporate clients such that counsel should be apprised of this information and have the opportunity to make submissions to me on this. Therefore, I remain seized of this appeal until this matter is resolved.

In the provisions which follow, I have ordered the Ministry to disclose many thousands of pages of documents to the appellant in a severed format. Prior to preparing these records for disclosure, I would suggest that the Ministry contact the appellant to discuss the most efficient and expeditious manner in which such disclosure should occur.

In addition, the only information that I have ordered withheld from a number of records is the name and/or the office, telephone number, home address or registration number of the President of the Agency. The Ministry should delete this identifying information from the records in question before they are released to the appellant. I will **not** be providing highlighted copies of these records to the Ministry with a copy of this order.

ORDER:

1. I uphold the decision of the Ministry to deny access to the following records in their entirety:

BAR: 24, 27, 38 and 41

LSB: 1, 2, 3, 4, 5, 7, 8, 9, 12, 18, 32, 38 and 39

IB: 2, 18, 20, 36, 37, 39, 46, 50, 78, 83, 84 and 92

and the highlighted portions of the following records:

SS: 4, 17, 19, 26, 33, 36, 39, 40 and 42

BAR: 2, 3, 8, 9, 13, 14, 15, 19, 21, 22, 25, 33, 35 and 36

LSB: 43

IB: 6, 7, 8, 9, 10, 11, 12, 17, 19, 22, 24, 25, 26, 27, 30, 31, 32, 40, 48, 55, 58, 61, 62, 63, 64, 71, 89 and 90

and the identifying information of the President of the Agency, as described above, in the following records:

SS: 21, 24 and 34

BAR: 18, 20 and 32

LSB: 11, 13, 14, 16, 19, 22, 52, 53 and 60

IB: 1, 23, 29, 35, 44, 52, 54, 56 and 72

2. I order the Ministry to disclose to the appellant the following records in their entirety:

SS: 25 and 37

BAR: 31 and 34

LSB: 6, 30 and 71

IB: 3, 4, 5, 28, 33, 38, 68, 91 and 94

and the non-highlighted portions of the following records:

SS: 4, 17, 19, 26, 33, 36, 39, 40 and 42

BAR: 2, 3, 8, 9, 13, 14, 15, 19, 21, 22, 25, 33, 35 and 36

LSB: 43

IB: 6, 7, 8, 9, 10, 11, 12, 17, 19, 22, 24, 25, 26, 27, 30, 31, 32, 40, 48, 55, 58, 61, 62, 63, 64, 71, 89 and 90

and the portions of the following records which do not include any identifying information about the President of the Agency:

SS: 21, 24 and 34

BAR: 18, 20 and 32

LSB: 11, 13, 14, 16, 19, 22, 52, 53 and 60

IB: 1, 23, 29, 35, 44, 52, 54, 56 and 72

3. I order the Ministry to disclose the records described in Provision 2 to the appellant within forty-five (45) days after the date of this order but not earlier than the fortieth (40th) day after the date of this order.
4. In order to verify compliance with this order, I reserve the right to require the Ministry to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 2.
5. I order the Ministry to provide counsel with a copy of Record IB85 within fifteen (15) days of the date of this order. Counsel will then have thirty (30) days to provide submissions to this office on the application of the mandatory exemption in section 17(1) of the Act. Should counsel not provide any submissions within that time, the Ministry is ordered to release Record IB85 to the appellant. This office will contact the Freedom of Information and Privacy Co-ordinator of the Ministry **only** in the event that such submissions are received.

6. I order the Ministry to provide me with a copy of the communication referred to in Provision 5 within twenty (20) days of the date of this order. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by: _____

Anita Fineberg
Inquiry Officer

_____ July 13, 1995

APPENDIX A

INDEX OF RECORDS AT ISSUE

Appeal Number P-9400777

SENTRY SYSTEM RECORDS (SS)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
04	Memo to Registrar from Registration Officer re: employee complaint against the Agency, May 10, 1993	14(1)(b), 21(1), 13(1), 14(1)(d)	Disclose in Part
17	Complaint against the Agency transferred from British Columbia Ministry of Labour, April 27, 1993	14(1)(b), 21(1), 14(1)(d)	Disclose in Part
19	Letter from the Agency re: registration of employee, February 5, 1993	21(1)	Disclose in Part
21	Notice of Cancellation of Bond from The Guarantee Co. of North America for the Agency, April 17, 1992 and letter from Guarantee Co. to Ministry re: bond	21(1)	Disclose in Part
24	Application for Business Registration, 1991	21(1)	Disclose in Part
25	Financial statement attachment to Application for Business Registration and bond, August 23, 1991	21(1)	Disclose in Full
26	Attachment to Application of the Agency for Business Registration, 1991	21(1)	Disclose in Part
33	Letter from President of the Agency to Ministry Assistant Registrar, February 11, 1991	21(1)	Disclose in Part
34	Letter from President of the Agency to Assistant Registrar, May 9, 1990	21(1)	Disclose in Part
36	Application for Registration of the	21(1)	Disclose in Part

SENTRY SYSTEM RECORDS (SS)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
	Agency, 1989		
37	Financial statement attachment to Application for Business Registration and bond, 1989	21(1)	Disclose in Full
39	Letter from law firm re: Application for Registration, August 16, 1989	21(1)	Disclose in Part
40	Letter from Assistant Registrar to President of the Agency re: his examination mark, June 14, 1989	21(1)	Disclose in Part
42	Application for Registration, Notice of Employee Change, 1989	21(1)	Disclose in Part

BUSINESS AFFAIRS BRANCH RECORDS (BAR)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
02	Corporate Services Bureau (CSB) complaint file #93001919, letters of April 27, March 25, April 21, 1993 re: complaint against the Agency	14(1)(b), 21(1), 13(1), 14(1)(d)	Disclose in Part
03	CSB complaint file #93001923, letters of April 26, March 16, February 4, February 18, 1993 re: complaint against the Agency	14(1)(b), 21(1), 13(1), 14(1)(d)	Disclose in Part
08	CSB complaint, memo to Assistant Registrar, September 9, 1992, complaint summary, letters of August 21, 20, 1992 re: complaint against the Agency	14(1)(b), 21(1), 13(1), 14(1)(d)	Disclose in Part
09	Account reconciliation for the Agency	14(1)(b), 21(1)	Disclose in Part
13	CSB complaint #92004578, memos to Assistant Registrar, February 22, 1993, September 9, 1992, complaint progress sheet, summary, letters of August 21, 20 and December 15, 1992, February 23, 1993, and attachments (memo of September 9, 1992, letters of August 21, 20, 1992 duplicates to parts of Record 08)	14(1)(b), 21(1), 13(1), 14(1)(d)	Disclose in Part
14	Trust account reconciliation, September 15, 1992	14(1)(b), 21(1)	Disclose in Part
15	Trust account statement and	14(1)(b), 21(1)	Disclose in Part

BUSINESS AFFAIRS BRANCH RECORDS (BAR)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
	reconciliation, June 30, 1992		
18	Trust account reconciliation for July, 1992, dated September 10, 1992	14(1)(b), 21(1)	Disclose in Part
19	Bank statement, trust account reconciliation, July 17, 1992	14(1)(b), 21(1)	Disclose in Part
20	Trust account reconciliation, July 22, 1992	14(1)(b), 21(1)	Disclose in Part
21	Trust account reconciliation, bank statement, July 17, 1992, (some pages duplicates of portions of record 19)	14(1)(b), 21(1)	Disclose in Part
22	Trust account reconciliation, bank statement, August 14, 1992 (duplicates within record)	14(1)(b), 21(1)	Disclose in Part
24	Memo to Ministry Compliance Officer with Inspection Report, July 17, 1992	14(1)(b), 14(2)(a), 21(1)	Decision Upheld
25	Letter from President of the Agency to Ministry, July 16, 1992 and SENTRY employee information	21(1)	Disclose in Part
27	Report to Registrar with Inspection Deficiency Notices, July 16, 1992 (last page duplicate to second page of record 24)	14(1)(b), 14(2)(a)	Decision Upheld
31	Ministry Compliance Officer's calculations, July 16, 1992	14(1)(b), 14(2)(a)	Disclose in Full
32	Bank statement of June 29, 1992	14(1)(b), 17(1)(b)	Disclose in Part
	Employee transfers and terminations,		

BUSINESS AFFAIRS BRANCH RECORDS (BAR)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
33	June 16, 1992	21(1)	Disclose in Part
34	Bank deposit slips copies for the Agency	14(1)(b), 17(1)(b), 21(1)	Disclose in Full
35	Trust reconciliation, June, 1992 (some duplicates of record 22)	14(1)(b), 14(2)(a), 21(1)	Disclose in Part
36	Cancelled cheques drawn on the Agency accounts	14(1)(b), 21(1)	Disclose in Part
38	Inspection Report dated March 2, 1990	14(1)(b), 14(2)(a)	Decision Upheld
41	Notes on meeting with President of the Agency, September 16, 1992 and account reconciliations	14(1)(b), 14(2)(a)	Decision Upheld

LEGAL SERVICES RECORDS (LSB)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
01	Letter to the Agency's legal counsel (April 19, 1993) including unsigned consent form for release of information to the public/media	19, 14(1)(b)	Decision Upheld
02	Notes by Ministry Director of Business Regulation Branch, April 15, 1993	19, 13(1), 14(1)(b)	Decision Upheld
03	Notes re: President of the Agency April 15, 1993, April 20, 1993	14(1)(b), 17(1)(b), 21(3)(b), 19	Decision Upheld

LEGAL SERVICES RECORDS (LSB)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
04	Investigator's Notes, April 19, August 26, 1993	14(1)(b), 19, 13(1)	Decision Upheld
05	Notes re: discussions with Revenue Canada, President of the Agency, April 21, 23, 27, 1993, January 5, 1994	14(1)(b), 19	Decision Upheld
06	Note of Forensic Accountant, May 7, 1993	14(1)(b), 13(1)	Disclose in Full
07	Discussion with the Agency's legal counsel, April 26, April 29, 1993	14(1)(b), 19	Decision Upheld
08	Notes, Registrar, May 28, 1993, July 7, 1994	14(1)(b), 19	Decision Upheld
09	Notes to Registrar, April 20, 1993, June 1, 1993, July 28, 1993	14(1)(b), 19	Decision Upheld
11	Notes, April 22, 1993	14(1), 13(1), 21(3)(b)	Disclose in Part
12	Note from Ministry Director, April 22, 1993	19, 13(1)	Decision Upheld
13	Notes from Registrar, April 23, 1993	19, 13(1)	Disclose in Part
14	Letter to the Agency's legal counsel from Ministry Legal Services Branch, April 28, 1993	14(1)(b), 19	Disclose in Part
16	Letter from the Agency's legal counsel to Ministry's legal counsel, April 29, 1993	14(1)(b), 19	Disclose in Part
18	Memo to Registrar, May 7, June 4, 1993	19, 13(1)	Decision Upheld

LEGAL SERVICES RECORDS (LSB)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
19	Letter to Legal Counsel of President of the Agency, June 9, 1993	14(1)(b), 19	Disclose in Part
22	Letter from President of the Agency, July 28, 1993	21(1)	Disclose in Part
30	Memoranda from Registration Officer, June 7, June 30, 1994	19	Disclose in Full
32	Notes to Special Project Officer, June 30, 1994	19	Decision Upheld
38	Notice of Proposal to Refuse Registration (President of the Agency), June 9, 1993	14(1)(b), 14(2)(a), 19	Decision Upheld
39	Notice of Proposal to Revoke Registration (the Agency), June 9, 1993	14(1)(b), 14(2)(a), 19	Decision Upheld
43	Memo to Registrar with Final Notice (above), July 30, 1994	21(1)	Disclose in Part
52	Transfer Form, April 23, 1993	14(1)(b), 13(1)	Disclose in Part
53	Memo to Registrar from legal counsel, April 23, 1993	19	Disclose in Part
60	Notes from interview between Registrar's Office and President of the Agency, April 20, 1993	14(1)(b), 13(1)	Disclose in Part
71	Letter from Accountants with Financial Report for the Agency as of July 31, 1991	14(1)(b)	Disclose in Full

INVESTIGATION BRANCH (IB)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
01	Resolution Regarding Banking and Security from bank dated December 3, 1991, original certified copy	14(1)(b), 17(1)(b)	Disclose in Part
02	Affidavit of Compliance Officer in the matter of the Agency and its President dated April 7, 1993 and attachments: Inspection Deficiency Notice for the Agency dated July 16, 1992	14(1)(b), 14(2)(a)	Decision Upheld
03	Monthly bank account statement of the Agency starting July 31, 1992 through April 30, 1993, original certified copy	14(1)(b), 17(1)(b)	Disclose in Full
04	Memorandum to bank re: the Agency documentation required dated June 6, 1994	14(1)(b), 14(2)(a), 17(1)(b)	Disclose in Full
05	Bank account statement of the Agency, April 30, 1992, original certified copy	14(1)(b), 14(2)(a), 17(1)(b)	Disclose in Full
06	Spreadsheet financial summaries dated February 1, 1993 to February 26, 1993	14(1)(b), 21(1)	Disclose in Part
07	Spreadsheet summary of account deposits August, 1992, dated August 4, 1992 to August 31, 1992	14(1)(b), 21(1)	Disclose in Part
08	Spreadsheet financial summaries dated September 1, 1992 to September 30, 1992	14(1)(b), 21(1)	Disclose in Part
09	Spreadsheet financial summaries dated October 1, 1992 to October 30, 1992	14(1)(b), 17(1)(b), 21(1)	Disclose in Part
10	Spreadsheet financial summaries dated November 2, 1992 to November 30,	14(1)(b), 21(1)	Disclose in Part

INVESTIGATION BRANCH (IB)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
	1992		
11	Spreadsheet financial summaries dated December 1, 1992 to December 30, 1992	14(1)(b), 21(1)	Disclose in Part
12	Spreadsheet financial summaries dated January 4, 1993 to January 29, 1993	14(1)(b), 21(1)	Disclose in Part
17	Spreadsheet monthly financial summaries from bank from August, 1992 to March, 1993	14(1)(b), 21(1)	Disclose in Part
18	Inspection Deficiency Notice to the Agency dated April 2 and April 6, 1993	14(1)(b), 14(2)(a)	Decision Upheld
19	Monthly account statement deposits and cheques of the Agency from December 31, 1992 to January 29, 1993	14(1)(b), 17(1)(b), 21(1)	Disclose in Part
20	Memorandum to Ministry Manager from Compliance Officers regarding the Agency dated April 7, 1993	14(1)(b), 14(2)(a)	Decision Upheld
21	Financial statement from the Agency dated April 2, 1993	14(1)(b), 17(1)(b)	Unable to Locate
22	SENTRY system Business Registration Summaries	21(1)	Disclose in Part
23	Memorandum from bank to the Agency dated April 5, 1993	14(1)(b), 17(1)(b)	Disclose in Part
24	Memo to Registrar, <u>Collection Agencies Act</u> , from Consumer Services Officer regarding the Agency dated February 22, 1993 and copy of complaint file	14(1)(b), 21(1), 13(1), 14(1)(d)	Disclose in Part

INVESTIGATION BRANCH (IB)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
25	Memo regarding notes for Issue Sheet dated May 5, 1993	14(1)(b), 21(1), 13(1)	Disclose in Part
26	Deposit slip copies bank to the Agency dated February, 1993	14(1)(b), 17(1)(b), 21(1)	Disclose in Part
27	Cancelled cheque copies from the Agency to various companies from January to February, 1993	14(1)(b), 17(1)(b)	Disclose in Part
28	Monthly bank account statements copies from January 29 to February 26, 1993	14(1)(b), 17(1)(b)	Disclose in Full
29	Cancelled deposit copies from the Agency - various	14(1)(b), 17(1)(b)	Disclose in Part
30	The Agency's monthly bank account statement copy from January 29 to February 26, 1993	14(1)(b), 17(1)(b)	Disclose in Part
31	The Agency's monthly account statement copy from bank dated July 31, 1992	14(1)(b), 17(1)(b)	Disclose in Part
32	Ministry investigator's notes dated November 1, 1993	14(1)(b), 14(2)(a)	Disclose in Part
33	Memorandum to bank regarding trust account re: the Agency	14(1)(b), 14(2)(a)	Disclose in Full
35	Warrant to Search to bank dated October 20, 1993	14(1)(b), 21(1)	Disclose in Part
36	Warrant to Search dwelling dated October 29, 1993 and attachments	14(1)(b), 14(2)(a), 21(1)	Decision Upheld

INVESTIGATION BRANCH (IB)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
37	Information to Obtain a Search Warrant for bank, dated October 20, 1993 and attachments	14(1)(b), 14(2)(a)	Decision Upheld
38	Note from forensic accountant to investigator	14(1)(b), 13(1)	Disclose in Full
39	Ministry of Transportation Search Summary for President of the Agency and other parties, various dated 1993, 1994	14(1)(b), 17(1)(b), 21(1), 21(3)(b)	Decision Upheld
40	Investigator's notes re: the Agency	14(1)(b), 21(1), 13(1), 19	Disclose in Part
44	Memo to Legal Services Branch, from Registrar, <u>Collection Agencies Act</u> , regarding the Agency dated April 23, 1993	14(1)(b), 19, 13(1)	Disclose in Part
46	E-mail to Legal Services from Registrar dated April 23, 1993 and E-mail to Registrar from Legal Services re: the Agency	14(1)(b), 19, 13(1)	Decision Upheld
48	Notes, no date	14(1), 13(1), 21(3)(b)	Disclose in Part
50	E-mail to Compliance Officers from Legal Services Counsel, dated April 6, 1993	14(1)(b), 19, 13(1)	Decision Upheld
52	SENTRY system summary - the Agency	14(1)(b), 14(2)(a)	Disclose in Part
54	Notes to file on conversation with President of the Agency dated April 21, 1993	14(1)(b), 13(1)	Disclose in Part

INVESTIGATION BRANCH (IB)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
55	E-mail from Registrar to Legal Services, dated April 20, 1993, requesting freeze order	14(1)(b), 21(3)(b), 13(1), 19	Disclose in Part
56	E-mail from Legal Services, to Registrar, dated April 20, 1993	13(1), 19	Disclose in Part
58	Letter to Registration Officer from Legal Counsel, dated July 20, 1993	21(1)	Disclose in Part
61	Letters to President of the Agency dated April 26, 1993, April 22 and April 16, 1993 labelled Exhibit B to the Affidavit sworn June 3, 1993	14(1)(b), 14(1)(d), 21(1)	Disclose in Part
62	Letter to Legal Counsel, from Registration Officer, dated June 14, 1993	21(1)	Disclose in Part
63	Letter to Director under <u>Ministry of Consumer and Commercial Relations Act</u> from legal counsel, dated June 3, 1993	14(1)(d)	Disclose in Part
64	Affidavit sworn June 3, 1993 regarding the Agency	14(1)(b), 14(1)(d)	Disclose in Part
68	Investigator's notes	14(1)(b)	Disclose in Full
71	Investigation Assignment dated May 6, 1993	14(1)(b)	Disclose in Part
72	Transfer forms dated April 23 and April 29, 1993	14(1)(b), 13(1)	Disclose in Part
73	Director's Direction in the matter of the Collection Agencies and the Agency and its President dated April 7, 1993 and	14(1)(b), 14(1)(d)	Previously Disclosed

INVESTIGATION BRANCH (IB)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
	April 22, 1993 (several copies)		
78	Credit report on President of the Agency, Equifax Canada, labelled confidential, dated April 6, 1993	21(3)(f)	Decision Upheld
83	Affidavit of Registrar in the matter of the <u>Collection Agencies Act</u> and the Agency and its President and attachments sworn April 21, 1993	14(1)(b), 14(2)(a)	Decision Upheld
84	Affidavit of Compliance Officer in the matter of the <u>Collection Agencies Act</u> and the Agency and its President and attachments sworn April 7, 1993	14(1)(b), 14(2)(a)	Decision Upheld
85	Issue Sheet on a named company and the Agency dated June 28, 1993	13(1)	Ministry to Notify Counsel
88	Director's Investigation Order in the Matter of the <u>Collection Agencies Act</u> and the Agency and its President dated April 7, 1993 (several copies)	14(1)(b), 14(2)(a)	Previously Disclosed
89	Investigator's notes dated April 8, 1993	14(1)(b), 14(2)(a)	Disclose in Part
90	Monthly bank statements of accounts ranging from July 31, 1992 to April 30, 1993 (several copies), originals certified copies	14(1)(b), 17(1)(b)	Disclose in Part
91	Note from forensic accountant to investigator regarding the Agency	14(1)(b)	Disclose in Full
92	Inspection file including the Inspection Assignment dated April 1, 1993, Inspection Report dated April 6, 1993,	14(1)(b), 14(2)(a)	Decision Upheld

INVESTIGATION BRANCH (IB)			
RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
	memo to Manager dated April 6, 1993, Report to Registrar dated April 2, 1993, Analysis Sheet dated April 2, 1993		
94	Note regarding two computer tapes dated June 7, 1994	14(1)(b)	Disclose in Full