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

ORDER PO-2591

Appeal PA06-262

Ministry of Finance

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NATURE OF THE APPEAL:

The requester in this appeal is a named pension fund that is currently undergoing an examination by the Financial Services Commission of Ontario (FSCO). The requester submitted a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to the Ministry of Finance (the Ministry) for access to information relating to this examination. The specific request is as follows:

1. All complaints and allegations concerning the Pension Fund that were received by FSCO and which prompted the present examination. This request includes complaints and allegations that were received by email, and all attachments and enclosures to such complaints and allegations; and

2. The names of the complainants whose complaints and allegations prompted the present examination; and

3. The names of the agents, if any, of the complainants who are described in the preceding paragraph.

The Ministry located 13 responsive records and denied access to them pursuant to the discretionary exemptions in sections 13(1) (advice or recommendations), 14(1)(a) to (d) (law enforcement) and 19 (solicitor-client privilege) and the mandatory exemption in section 21(1) (invasion of privacy) of the *Act*.

The requester (now the appellant) appealed the Ministry's decision.

During the course of mediation, the Ministry provided the appellant with a copy of an Index of Records. After reviewing the index, the appellant indicated that it would not pursue access to Records 2, 4, 9, 11 and 12, and these records are therefore no longer at issue in this appeal.

Also during mediation, the mediator held a teleconference call with the parties. During this call, the Ministry advised that it intended to issue a new decision letter, as it took the position that a number of the records were incorrectly identified as responsive to this request. Specifically, the Ministry indicated that it considers only Records 5, 7 and 13 as responsive records. The appellant disagreed with the Ministry's position.

Mediation could not resolve this or any other remaining issues, and the file was forwarded to the adjudication stage of the appeal process.

Subsequent to the issuance of the Mediator's Report, the Ministry issued a revised decision indicating that only Records 5, 7 and 13 are responsive to the request. The Ministry applied the exemptions previously claimed for these three records. The appellant wrote to this office indicating that it disagreed with this decision. As a result, Scope of the Request/ Responsiveness of Records was added as an issue in this appeal.

I decided to seek representations from the Ministry, initially. The Ministry submitted representations in response and has consented to sharing most of them with the appellant. The Ministry asked that I withhold portions of its representations due to confidentiality concerns.

After reviewing the Ministry's request and the portions it sought to have withheld, I concurred with its request and reasons. Accordingly, I enclosed the non-confidential portions of the Ministry's submissions with the Notice that I sent to the appellant. The appellant also submitted representations.

In its submissions, the Ministry withdrew its reliance on the discretionary exemption at section 14(1)(c) generally, as well as section 13(1) for Record 7. Accordingly, these two exemptions are no longer at issue.

RECORDS:

There are 8 records remaining at issue and they are comprised of e-mails, handwritten notes and a draft briefing note.

SCOPE OF THE REQEUST/RESPONSIVENESS OF RECORDS

The Ministry takes the position that only Records 5, 7 and 13 as identified in the Index of Records are responsive to the appellant's request, as worded. The appellant disagrees and believes that Records 1, 3, 6, 8 and 10 are also responsive.

The Ministry submits that the appellant's request was for very specific information regarding the complaints and allegations which prompted the examination, the names of the individuals making such complaints and the names of the complainants' agents (if any). The Ministry claims that Records 5, 7 and 13 provide this information. It contends that Records 1, 3, 6, 8 and 10 are only responsive to the request, as worded, to the extent that they provide further information as to the identity of the complainants and their agents (if any). According to the Ministry's interpretation of the request, the appellant does not seek all documents that identify the complainants and their agents (if any), and therefore, records that provide additional information are not responsive to the request.

The appellant submits that any information that is reasonably related to its request should be considered to be responsive.

Section 24 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

> (1) A person seeking access to a record shall,
>
> (a) make a request in writing to the institution that the person believes has custody or control of the record;
>
> (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record; and

. . . . .

> (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

Previous orders of this office have directed institutions to adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*, and have found, generally, that ambiguity in the request should be resolved in the requester's favour (Orders P-134, P-880). Moreover, to be considered responsive to the request, records must "reasonably relate" to the request (Order P-880).

In my view, the request was very clear. The appellant was seeking records that contained all complaints and allegations concerning the pension fund that were received by FSCO and which prompted the examination. The appellant was also seeking records that contained the names of the complainants whose complaints and allegations prompted the examination, and their agents, if any existed. In my view, the appellant was not seeking all information surrounding the complaints, such as internal administrative activities of FSCO, even though these activities might have been in response to the complaints. Where records that contain this type of information do not refer to or reveal the specific information requested, they would not be reasonably related to the appellant's request. In this case, I find that the administrative details described in the e-mails contained in Records 1, 3, 6, 8 and 10 are not reasonably related to this request, as worded.

On the other hand, the request did not limit the number of records that the appellant was seeking that contained information specified in the request. The Ministry apparently did not consult with the appellant to clarify this point or to perhaps remove redundant information once it determined that the information that the appellant sought was contained in another record. I do not find the Ministry's interpretation of the request as restricting the information in such a way to be reasonable. Therefore, I find that any record that contains the information specifically requested is reasonably related to the request and is, therefore, responsive. Certain portions of Records 1, 3, 6, 8 and 10 contain references to complainants and/or their agents, and these portions are responsive to the request.

Accordingly, the records at issue in this appeal consist of Records 5, 7 and 13, in their entirety, and the portions of Records 1, 3, 6, 8 and 10 that contain the complainants' (or agents') name as well as any other information in each of these five records that would reveal the identity of the complainants.

In order to avoid undue delay, the Ministry has provided representations on the application of the exemptions claimed to all of the records, which I will discuss below.

DISCUSSION:

BACKGROUND

In order to place this appeal in perspective, both the Ministry and the appellant provided background information relating to the pension fund, the role of FSCO and the relationship between the two.

The Ministry indicates that FSCO is an arms length regulatory agency of the Ministry and is responsible for the regulation of various financial sectors in Ontario, including insurance, loan and trust corporations, credit unions, caisse populaires, trust companies, co-operatives and mortgage brokers. Of particular relevance in the current appeal is its role in the regulation of pension plans, which includes the appellant.

In carrying out its mandate with respect to pension plans, the Superintendent of Financial Services exercises the powers and duties conferred upon him under the *Pension Benefits Act* (the *PBA*). The Pension Plan Branch (PPB) supports the Superintendent and the Legal Services Branch of FSCO provides legal advice and litigation services to support the activities of FSCO.

The *PBA* sets out minimum standards for the contents and administration of pension plans, including the administration and management of the investments held by a pension plan. In order to ensure compliance with the requirements of the *PBA*, the Superintendent can make a written request for information under section 98 of the *PBA*, and can conduct an examination of the records of a pension plan at a location where such records are held under section 106 of the *PBA*.

The appellant pension fund is a multi-employer pension plan which is administered by a Board of Trustees. On June 23, 2005, FSCO sent the appellant a written request for information and documents relating to the investments of the pension fund pursuant to section 98 of the *PBA*. The appellant's response did not provide sufficient information to permit FSCO to conclude that it had complied with the requirements of the *PBA*. FSCO continues to seek information pertaining to the appellant's investments.

According to the appellant, the pension fund first became aware of the examination as a result of the June 23, 2005 letter, which referred to "a number of concerns…expressed related to certain investments…" The appellant outlined the sequence of events that followed its receipt of the June 23, 2005 letter, which ultimately led to an on-site examination by FSCO. The appellant states that it has co-operated fully with FSCO throughout this examination.

The appellant also indicates that it believes that one of its former employees copied and provided confidential information to certain individuals without authorization. It indicates further that it is currently involved in litigation involving employment related claims and claims involving breach of contract, breach of trust and breach of fiduciary duty as a result. The appellant believes that

the complaints and allegations that resulted in the examination revealed and included some of this confidential information.

I will first examine the application of section 14(1)(d) of the *Act* to the records.

LAW ENFORCEMENT

Section 14(1)(d) of the *Act* states as follows:

> 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 order for a record to qualify for exemption under section 14(1)(d), it must relate to "law enforcement", 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 the predominant purpose of an information request under section 98 of the *PBA* and an examination under section 106 of the *PBA* is to determine compliance with the *PBA*. The Ministry notes that section 109 of the *PBA* makes it an offence to contravene the *PBA*, and section 110 states that fines can be imposed against a person found guilty of an offence under the *PBA*. The Ministry submits that an examination of a pension plan under section 98 or 106 constitutes an inspection that could lead to court proceedings in which a penalty or sanction could be imposed and thus qualifies as "law enforcement".

The appellant concedes that an examination of a pension plan under the *PBA* meets the definition of "law enforcement" under the *Act*.

Many previous orders of this office have found that examinations that may turn up statutory violations which are then subject to regulatory prosecutions meet the definition of law enforcement (see, for example: Orders P-302, P-1098, P-1181 and PO-2329). Directly on point,

in Order P-542, it was found that an examination under section 106 of the *PBA* relates to a law enforcement investigation. Consistent with these previous orders and based on the submissions made in the current appeal, I find that the activities undertaken by FSCO in this case also relates to law enforcement.

Generally, the law enforcement exemption must be approached in a sensitive manner, recognizing the difficulty of predicting future events in a law enforcement context [*Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.)].

Except in the case of section 14(1)(e), where section 14 uses the words "could reasonably be expected to", the institution must provide "detailed and convincing" evidence to establish a "reasonable expectation of harm". Evidence amounting to speculation of possible harm is not sufficient [Order PO-2037, upheld on judicial review in *Ontario (Attorney General) v. Ontario (Information and Privacy Commissioner)*, [2003] O.J. No. 2182 (Div. Ct.), *Ontario (Workers' Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 (C.A.)].

It is not sufficient for an institution to take the position that the harms under section 14 are self-evident from the record or that a continuing law enforcement matter constitutes a *per se* fulfilment of the requirements of the exemption [Order PO-2040; *Ontario (Attorney General) v. Fineberg*].

Section 14(1)(d): confidential source

In order for a record to qualify for exemption under section 14(1)(d), the Ministry must establish the existence of a reasonable expectation that the identity of the source or the information given by the source would remain confidential in the circumstances [Order MO-1416].

The Ministry states that the Superintendent relies on pension plan members and other individuals who have involvement with the pension plans to bring forward concerns and complaints relating to the administration of these plans without fear of reprisal or harassment. The Ministry notes generally, that often pension plan members will be subject to a degree of vulnerability because their employer is also the administrator of the pension plan about which they wish to raise concerns.

The Ministry asserts that if FSCO could not provide reasonable assurances to complainants that their identities would be kept confidential, it is likely that other complainants will be less willing to come forward, thus hampering FSCO's law enforcement activities.

The Ministry notes that, in this case, the complainants approached FSCO in confidence and have never agreed to have their names released. The Ministry refers to the last page of Record 5 where staff specifically raised the issue of whether the identities of the complainants could be released.

The appellant submits that the Ministry has failed to provide any evidence to support its claims and has thus failed to meet its onus. In particular, the appellant submits that there is no evidence that pension plan members would be less willing to come forward to the Superintendent with issues concerning a pension plan's administration if FSCO were unable to offer confidentiality assurances. Referring to the Ministry's comments regarding Record 5, the appellant asserts that the issue of confidentiality only arose after the complainants approached FSCO. The appellant argues that if confidentiality were a significant concern to the complainants, it is reasonable to expect that they would have raised it as an initial concern before the meeting reflected in Record 5. Moreover, the appellant submits, if confidentiality were significant, the issue would have been discussed at the beginning of this meeting, rather than at the end.

The appellant then suggests that if I were to decide that section 14(1)(d) applies to the names of the complainants, this information can be severed and the remaining information in the records disclosed. In this regard, the appellant points out that it is a very large pension plan with over 45,000 active members, former members and pensioners residing in a number of provinces across the country. The appellant submits that once the names of the complainants are removed, given these numbers, it would be possible to sever out the information they provided without identifying them.

The Ministry does not believe that information can be severed from the records. It takes the position that disclosure of the records, even with the identity of the complainants removed, would nonetheless reveal the identity of the complainants to a knowledgeable individual.

Numerous orders of this office have considered the application of section 14(1)(d) in cases similar to the current appeal (see, for example: P-1098, PO-2329, P-1181, P-302, P-1293 and P-338). While the regulatory schemes and/or situations might vary, the principles underlying the protection of confidential source information have been consistently applied across the different scenarios.

In my view, the inclusion of section 14(1)(d) of the *Act* is a recognition of the common law principle of *informer privilege*. This privilege applies where there is a public interest in preserving the identity of an informant, either to protect the informant's safety or to ensure the continued supply of information from informants to government officials. There is a longstanding recognized public interest in protecting such information. (See: T.G. Cooper, *Crown Privilege*, Canada Law Book, 1990, Chapter VII.)

The rationale for the principle of informer privilege is set out by Cooper as follows (at pages 263-4):

> The rationale of informer privilege is derived from two related theories. The "protection/inhibition theory" recognizes the civic duty of all members of society to assist in the detection of crime. The dangers inherent in the discharge of this duty may relate to personal safety or economic interests. Society, therefore, has a reciprocal duty to extend protection to those who assume the risks associated with fulfillment of such obligations.

> The second theory is related to the "inhibition" aspect of the first. The "continual flow theory" is based on the logical premise that those who elect to provide information pertaining to criminal activities would not do so in the absence of social guarantees of anonymity. It is imperative, then, that prospective informers be able to subjectively assess the risks involved in relating information. ... Predictability is essential. The common law has responded to these concerns by providing the rule of law of informer privilege. Informer privilege operates to prevent disclosure of an informer's identity, the contents of any confidential communication which could indirectly reveal identity and sometimes, where the identity of the informer has been discovered, communications which indicate the extent of the information provided. With respect to the latter situation, the danger to which the informer is, by virtue of his or her identification, exposed may increase significantly if the entire communication to the authorities is disclosed.
>
> The public interest supporting informer privilege requires such claims to be held to be conclusive in all cases except that in which some degree of disclosure is necessary in order to enable a criminal defendant to present a full answer and defence. Where the defendant demonstrates a sufficient need for disclosure, the public interest -- that the liberty of an innocent person should not be jeopardised by a conviction -- outweighs the public interest on which informer privilege is based. Where the "full answer and defence" exception is asserted the court must engage in a process of deliberation. ... If a defendant's **need** for disclosure is such that, in the circumstances of the particular case, a full answer and defence cannot be made in the absence of disclosure of the informer's identity or confidential communication, the exception will **always** operate so as to compel the degree of disclosure demonstrably justified. (Emphasis in original.)

This rationale is echoed in the discussion of the law enforcement exemption, with particular emphasis on "confidential source" information in *Public Government for Private People, The Report of the Commission on Freedom of Information and Individual Privacy/1980* (the William's Commission Report). In the William's Commission Report, it was recognized that, for the same reasons cited above, an exemption must be designed for information supplied by informants whose identity must not be revealed. In coming to this conclusion, the William's Commission Report also saw no reason for drawing a distinction between criminal law enforcement information and civil and regulatory enforcement information, and thus proposed that an exemption relating to confidential sources be applicable to both kinds of information.

The Ministry has relied on these principles in protecting the identities of individuals who bring allegations or complaints to the Superintendent's attention under the *PBA*. I am satisfied that such individuals would have a reasonable expectation that their identities would be held in confidence. I am not persuaded by the appellant's arguments that the date of the meeting to which Record 5 refers was the first time the issue of confidentiality arose or that the timing of the

discussion about possible disclosure of their identities is evidence of a lack of an expectation of confidentiality. Rather, this record was simply put forth as evidence that the issue was being considered. According to the Ministry's submissions, the complainants approached FSCO in confidence. As I indicated above, their expectation that their complaints would be held in confidence was reasonably held in the circumstances. Accordingly, I find that section 14(1)(d) applies to the identities of the complainants, their agents and any information that would serve to identify them.

Although I accept the appellant's submissions that it is a very large pension plan, with many members and it is possible that without the name of an individual, some information could be rendered anonymous by sheer numbers, I do not find this to be the case with respect to the information at issue in Records 1, 3, 6, 7, 8 and 10 or to much of the information in Record 5 and small portions of Record 13. Accordingly, I find that these portions of the records qualify for exemption under section 14(1)(d).

There are, however, portions of Records 5 and 13 that could be severed in such a way that would not reveal the identity of the confidential source or information furnished only by that source. I will consider whether the discretionary exemption at section 19 applies to this information.

SOLICITOR-CLIENT PRIVILEGE

The Ministry claims that section 19 applies to all of the information contained in Records 5 and 13, which comprise the handwritten notes made by legal counsel at two meetings.

Section 19 of the *Act* reads:

> A head may refuse to disclose a record,
>
> (a) that is subject to solicitor-client privilege;
>
> (b) that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation; or
>
> (c) that was prepared by or for counsel employed or retained by an educational institution for use in giving legal advice or in contemplation of or for use in litigation.

Section 19 contains two branches, a common law privilege and a statutory privilege. The institution must establish that one or the other (or both) branches apply.

Branch 1: common law privileges

This branch applies to a record that is subject to "solicitor-client privilege" at common law. The term "solicitor-client privilege" encompasses two types of privilege:

- solicitor-client communication privilege
- litigation privilege

Solicitor-client communication privilege

Solicitor-client communication privilege protects direct communications of a confidential nature between a solicitor and client, or their agents or employees, made for the purpose of obtaining or giving professional legal advice [*Descôteaux v. Mierzwinski* (1982), 141 D.L.R. (3d) 590 (S.C.C.)].

The rationale for this privilege is to ensure that a client may confide in his or her lawyer on a legal matter without reservation [Order P-1551].

The privilege applies to "a continuum of communications" between a solicitor and client:

> . . . Where information is passed by the solicitor or client to the other as part of the continuum aimed at keeping both informed so that advice may be sought and given as required, privilege will attach [*Balabel v. Air India*, [1988] 2 W.L.R. 1036 at 1046 (Eng. C.A.)].

The privilege may also apply to the legal advisor's working papers directly related to seeking, formulating or giving legal advice [*Susan Hosiery Ltd. v. Minister of National Revenue*, [1969] 2 Ex. C.R. 27].

Confidentiality is an essential component of the privilege. Therefore, the institution must demonstrate that the communication was made in confidence, either expressly or by implication [*General Accident Assurance Co. v. Chrusz* (1999), 45 O.R. (3d) 321 (C.A.)].

Litigation privilege

Litigation privilege protects records created for the dominant purpose of existing or reasonably contemplated litigation [Order MO-1337-I; *General Accident Assurance Co.*].

Branch 2: statutory privileges

Branch 2 is a statutory solicitor-client privilege that is available in the context of institution counsel giving legal advice or conducting litigation. Similar to Branch 1, this branch encompasses two types of privilege as derived from the common law:

- solicitor-client communication privilege
- litigation privilege

The statutory and common law privileges, although not necessarily identical, exist for similar reasons. One must consider the purpose of the common law privilege when considering whether the statutory privilege applies.

Statutory solicitor-client communication privilege

Branch 2 applies to a record that was "prepared by or for counsel employed or retained by an institution for use in giving legal advice."

Statutory litigation privilege

Branch 2 applies to a record that was prepared by or for counsel employed or retained by an institution "in contemplation of or for use in litigation."

Solicitor-client communication privilege

The Ministry states that the records originate from the files of legal counsel, who was involved in the matter solely for the purpose of providing legal advice to the Legal Services Branch's client, the PPB. The Ministry provides the following submissions regarding Records 5 and 13:

> Records 5 and 13 are hand written notes prepared by counsel. These notes were taken by counsel during meetings with the complainants and their agents (if any). [C]ounsel's attendance at the meetings and his notes taken were for the purposes of providing legal advice to PPB and the Superintendent concerning the issues raised by the complainants and the conduct of any regulatory activities arising out of those complaints.

The Ministry acknowledges that these records do not set out advice from a lawyer to a client, but submits that privilege attaches to the working papers of counsel directly relating to the seeking or providing of legal advice. The Ministry submits that Records 5 and 13 are exempt under both branches of solicitor-client communication privilege.

The appellant notes that this office has found that the mere presence of a solicitor at a meeting does not automatically spread an "umbrella of privilege" over all of the proceedings. Moreover, referring to previous orders of this office, the appellant indicates that notes prepared by legal counsel setting out facts as understood from meetings with individuals do not come within the exemption where there is no indication that they will be used for litigation or to provide legal advice. The appellant submits that in this case, the notes of legal counsel were taken for the purpose of gathering facts and information, rather than providing legal advice. Further, the appellant submits that even if a portion of the records was subject to solicitor-client privilege, the severance principles may apply to those portions of the records that are not protected.
Referring back the description of FSCO and the role legal counsel plays in the overall structure of the organization, I am satisfied that legal counsel would have been present at a meeting at which a complaint is being made so that he would be in a position to have the required

background information to enable him to provide legal advice to the Superintendent regarding the issues that arose during that meeting, particularly where those issues pertained directly to the Superintendent's responsibilities under the *PBA*. I am also satisfied that any notes made by counsel during this meeting would have been made to assist him in formulating and providing his legal advice. Based on the Ministry's submissions and my review of the records at issue, I find that Records 5 and 13, in their entirety, are legal counsel's handwritten notes representing his working papers used to formulate and give his legal advice.

Having found that Records 5 and 13 constitute a legal advisor's working papers directly related to seeking, formulating or giving of legal advice, I am satisfied that these records qualify for exemption under the solicitor-client communication privilege in section 19 of the *Act*.

EXERCISE OF DISCRETION

Sections 14 and 19 are discretionary exemptions. When a discretionary exemption has been claimed, an institution must exercise its discretion in deciding whether or not to disclose the records. On appeal, the Commissioner may determine whether the institution failed to do so.

The Commissioner may find that the institution erred in exercising its discretion where, for example,

- it does so in bad faith or for an improper purpose
- it takes into account irrelevant considerations
- it fails to take into account relevant considerations

In such a case this office may send the matter back to the institution for an exercise of discretion based on proper considerations (Order MO-1573). This office may not, however, substitute its own discretion for that of the institution [section 54(2)].

The Ministry has provided detailed representations on the factors it considered in deciding to exercise its discretion to withhold access to the records for which it claimed exemption under sections 14 and 19. These factors include the apparent reasons for the request and the appellant's interests in being able to respond appropriately to the issues raised in the examination, the nature of the information contained in the records, the nature and purpose of the exemptions in sections 7 and 12, and FSCO's normal practices with respect to the way it deals with complaints and examinations.

The appellant sets out the impact this examination has had on it, including the length of time the examination has taken and the volume of documentation that must be produced in order to respond to it. The appellant expresses concern about the time and money that has been spent and the taxing of its resources to respond to FSCO's queries. It is concerned about the erosion of member confidence and the possible impact a lengthy examination could have on the growth of the pension plan. The appellant does not believe that FSCO's practices are adequate in the circumstances. The appellant contends that knowledge of the details of the complaints and the

identity of complainants would assist it in understanding and responding to questions that are raised by FSCO, and would allow it to address the particular complaints directly. The appellant also believes that having the information it requested would assist it in the matters related to the litigation in which it is currently involved.

On my review of all of the circumstances surrounding this appeal, including the Ministry's representations on the manner in which it exercised its discretion, I am satisfied that the Ministry has not erred in the exercise of its discretion not to disclose the records withheld under sections 14 and 19. I am satisfied that it has taken relevant factors into consideration, including the concerns and interests of the appellant in wishing to obtain the information. I have no evidence before me that the Ministry acted in bad faith or for an improper motive. Accordingly, I uphold the Ministry's exercise of discretion and find that the portions of Records 1, 3, 6, 8 and 10 at issue and Record 7, in its entirety, are exempt from disclosure pursuant to section 14 and that Records 5 and 13 are exempt under sections 14 and 19.

Because of the findings I have made in this Order, it is not necessary for me to address the other exemptions claimed by the Ministry.

ORDER:

I uphold the Ministry's decision to withhold the records at issue from disclosure.

Original signed by; June 20, 2007
Laurel Cropley
Adjudicator