



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

ORDER P-342

Appeal P-910474

Ministry of Financial Institutions



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

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

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

ORDER

BACKGROUND:

The Ministry of Financial Institutions (the institution) received a request for all information relating to a review performed by the Ontario Securities Commission in response to a complaint made by the requester into the activities of a named stockbroker.

The records identified by the institution as being responsive to the request consist of two reports, one prepared by the Toronto Stock Exchange and one by the Ontario Securities Commission.

The institution denied access to the records, claiming section 14(2)(a) of the Freedom of Information and Protection of Privacy Act (the Act).

Attempts to mediate this appeal were not successful and the matter proceeded to inquiry. Notice that an inquiry was being conducted to review the decision of the head was sent to the appellant and the institution. Enclosed with the Notice of Inquiry was a letter prepared by the Appeals Officer, intended to assist the parties in making representations to this office concerning the subject matter of the appeal. Written representations were received from both parties.

The sole issue in this appeal is whether the records qualify for exemption under section 14(2)(a) of the Act.

Section 14(2)(a) reads as follows:

A head may refuse to disclose a record,

that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law;

In its representations, the institution submits that the facts of this appeal are virtually identical to those in Order 30, where former Commissioner Sidney B. Linden found that complaint investigation reports prepared by the Investment Dealers Association as agent for the Ontario Securities Commission qualified for exemption under section 14(2)(a). The appellant makes no direct reference to the requirements of section 14(2)(a) in his representations.

In my view, the records satisfy the three requirements for exemption under section 14(2)(a) of the Act:

- both records are clearly "reports";

- the records were prepared in the course of law enforcement, inspections or investigations, namely an investigation into a potential violation of the Securities Act; and
- the body preparing the reports (ie. the Ontario Securities Commission, and the Toronto Stock Exchange acting in the capacity of agent) is an agency which has the function of enforcing and regulating compliance with a law, namely the Securities Act.

(Orders 136, 200)

Section 14 of the Act is a discretionary exemption. I have reviewed the reasons outlined in the institution's representations for exercising discretion in favour of claiming the section 14(2)(a) exemption, and I find nothing improper in the circumstances.

ORDER:

I uphold the head's decision.

Original signed by: _____ August 12, 1992
Tom Mitchinson
Assistant Commissioner