



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

# ORDER P-415

Appeal P-9200579

Ministry of Financial Institutions



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# ORDER

The Ministry of Financial Institutions (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to a number of records concerning activities involving the Superintendent of Insurance and the requester. The requester subsequently clarified his request to the following records:

- (1) a memorandum or report prepared by a staff member of the office of the Superintendent of Insurance, dated approximately October 23, 1986, which is referred to in a letter of the same date from the then-Superintendent to the requester.
- (2) any records in the custody or control of the Superintendent of Insurance concerning an allegation of fraud by a named investigator with the office of the Superintendent of Insurance, in the context of preparing an investigation report on the sale of Phoenix Assurance during 1974 or 1975.
- (3) a preliminary report on the Phoenix Assurance sale, which was prepared by a named employee in the office of the Superintendent of Insurance in 1977, and referred to in a December 16, 1977 letter from the Ombudsman to the requester.

The Ministry responded by advising the requester that no responsive records exist. The requester appealed the Ministry's decision.

Mediation was not successful, and notice that an inquiry was being conducted to review the Ministry's decision was sent to the Ministry and the appellant. Written representations were received from both parties.

The sole issue in this appeal is whether the Ministry's search for the requested records was reasonable in the circumstances.

In its representations, the Ministry provided a sworn affidavit which outlines the steps taken to locate the requested records. These steps include:

- consultation with the Records Administrator for the Ontario Insurance Commission concerning its records retention policy;
- consultation with the Investigations Branch of the Ministry of Financial Institutions concerning any records it might have in relation to the appellant's request;
- consultation with the Senior Manager, Industry and Consumer Practices of the Ontario Insurance Commission.

The Senior Manager identified one record, a memorandum dated November 14, 1986 from the then-Director of the Investigations Branch to the Superintendent of Insurance, which he felt

might be responsive to Item 1 of the appellant's request. No exemptions were raised by the Ministry with respect to this record, and it should be released to the appellant in its entirety.

No other responsive records were located.

The Ministry does not deny that other responsive records may have existed at one time; rather, it points out that any records for the time period covered by the appellant's request would have been destroyed in accordance with the records retention schedules for these type of records.

Having carefully reviewed all representations, I am satisfied that the searches conducted by the Ministry for records responsive to the appellant's request were reasonable in the circumstances.

**ORDER:**

1. I order the Ministry to disclose the record described as a memorandum dated November 14, 1986 from the Director of the Investigations Branch to the Office of the Superintendent of Insurance, within 15 days of the date of this Order.
2. In order to verify compliance with the provisions of this Order, I order the Ministry to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1, only upon my request.

Original signed by: \_\_\_\_\_  
Tom Mitchinson  
Assistant Commissioner

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February 18, 1993