



**Information and Privacy
Commissioner/Ontario**

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

ORDER P-1096

Appeal P_9500505

Ministry of Finance



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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 Finance (the Ministry) received a request for the following:

- a photocopy of the front and back of a Power of Attorney to Transfer Bonds or Shares (the P/A), and
- a photocopy of any document that evidences that [a named family member] received [a named Corporation's] cheque in payment of the 1800 CRK Shares referred to in the above P/A.

In its decision letter, the Ministry indicated that the requester had already been provided with records pertaining to this request, and that no other records exist which are responsive. The requester appealed this decision.

With respect to the Ministry's decision, I note that the requester (now the appellant) made an access request in 1994 for the information requested in the first part of the current request. The issues pertaining to this request were disposed of in Appeal Number P-9400350. Therefore, I will not deal with this part of the request again in this order. The appellant was advised accordingly during the mediation stage of this appeal.

A Notice of Inquiry was sent to the Ministry and the appellant. Representations were received from both parties. The sole issue to be determined in this appeal is whether the Ministry's search for records responsive to the second part of the request was reasonable in the circumstances.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which he is seeking and the Ministry indicates that further records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Ministry to prove with absolute certainty that further records do not exist. However, in my view, in order to properly discharge its obligations under the Act, the Ministry must provide me with sufficient evidence to show that it has made a **reasonable** effort to identify and locate records responsive to the request.

In its representations, the Ministry outlines the steps taken to search for records responsive to the second part of the appellant's request. The Ministry states that an Investigation Assistant at the Ontario Securities Commission (the OSC) reviewed the OSC and Registration files for the company to which the shares related, and for the named corporation (referred to above), for the period 1981 through 1993. The Investigation Assistant provided an itemized list of documents which were located in the relevant files. She indicated that the majority of these documents were provided to the OSC by the appellant.

None of these documents are responsive to the second part of the appellant's request. The Investigation Assistant confirms that no other documentation was located which would be responsive to this request.

The appellant indicates that there should be some evidence that the transaction occurred, and that a record should exist in the form of correspondence and/or cancelled cheque(s).

In my view, the Ministry took reasonable steps to locate responsive records. Accordingly, I find that the Ministry's search for responsive records was reasonable in the circumstances.

ORDER:

The search for records responsive to the second part of the appellant's request was reasonable and this appeal is denied.

Original signed by: _____
Laurel Cropley
Inquiry Officer

January 10, 1996