

# ALBERTA

## OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

### ORDER P2007-009

January 24, 2008

### CANADIAN SKIN CANCER FOUNDATION

Case File Number P0490

Office URL: <http://www.oipc.ab.ca>

**Summary:** The Complainant received medical treatment several years ago from her doctor, Dr. Barry Lycka ("Dr. L."), at a physician office clinic ("Clinic"). In 2006, the Complainant received four pieces of correspondence pertaining to soliciting for fundraising from Dr. L., through the Dr. Barry Lycka Professional Corporation ("Professional Corporation"), on behalf of the Canadian Skin Cancer Foundation ("Foundation" or "Organization").

Dr. L. created a mailing list ("Database") that includes the individuals who were patients at the Clinic. Dr. L. shares the Database with the Corona Rejuvenation Centre & Spa ("Corona") and the Foundation. The Complainant said that the Foundation contravened the *Personal Information Protection Act*, S.A. 2003, c. P-6.5 ("PIPA"), by collecting, using and disclosing her personal information for purposes of soliciting for fundraising. The matter was set down for a written inquiry ("Inquiry").

The Inquiry was held in conjunction with an inquiry for Case File Number H1331, which resulted in Order H2007-004 and involves the same Complainant and Dr. L. under the *Health Information Act*, R.S.A. 2000, c. H-5 ("HIA"). Dr. L. is involved in two other inquiries for Case File Numbers H1284 and H1325, which resulted in Order H2007-001 and Order H2007-003. The Foundation is involved in three other inquiries for Case File Numbers P0494, P0481 and P0489, which resulted in Orders P2007-007, P2007-008 and P2007-012.

The Endermologie Centre Corporation (trade name is Corona) is involved in an inquiry under Case File Number P0493, which resulted in Order P2007-006. The Professional Corporation is

involved in an inquiry for Case File Number P0482, which resulted in Order P2007-011. There are a total of nine inquiries pertaining to the Database.

The Adjudicator found that:

- The Foundation falls under section 56(2) of PIPA, and is thereby excluded from the application of PIPA as a non-profit organization that did not collect, use or disclose the Complainant's personal information in connection with a commercial activity; and
- Due to the above finding, there was no jurisdiction to decide any of the Inquiry issues.

**Orders Cited:** AB HIA: H2007-004, H2007-003, H2007-001; AB PIPA: P2007-012, P2007-011, P2007-008, P2007-007, P2007-006.

**Statutes Cited:** *Health Information Act*, R.S.A. 2000, c. H-5 ("HIA"); *Personal Information Protection Act*, S.A. 2003, c. P-6.5 ("PIPA"), ss. 52, 56(1), 56(1)(a), 56(1)(b), 56(1)(b)(i), 56(2), 56(3).

## I. BACKGROUND

[para 1] The Complainant received medical treatment several years ago from her doctor, Dr. Barry Lycka ("Dr. L."), at a physician office clinic ("Clinic"). In 2006, the Complainant received four pieces of correspondence soliciting for fundraising from Dr. L., through the Dr. Barry Lycka Professional Corporation ("Professional Corporation"), for the Canadian Skin Cancer Foundation ("Foundation" or "Organization").

[para 2] Dr. L. created a mailing list ("Database") that includes the individuals who were patients at the Clinic. Dr. L. shares the Database with the Corona Rejuvenation Centre & Spa ("Corona") and the Foundation. The Complainant alleged that the Foundation contravened the *Personal Information Protection Act*, S.A. 2003, c. P-6.5 ("PIPA") by collecting, using and disclosing her personal information for purposes of soliciting for fundraising. The matter was set down for a written inquiry ("Inquiry").

[para 3] The Information and Privacy Commissioner, Frank Work, Q. C. ("Commissioner") delegated me to hear the Inquiry. At the Inquiry, the parties provided written initial submissions and the Complainant provided a written rebuttal submission, which was exchanged between the parties. The Complainant provided an *in camera* rebuttal submission as well. The Complainant requested anonymity, so her name was removed before her submissions were exchanged.

[para 4] The Inquiry was held in conjunction with an inquiry for Case File Number H1331, which resulted in Order H2007-004 and involves the same Complainant and Dr. L. under the *Health Information Act*, R.S.A. 2000, c. H-5 ("HIA"). Dr. L. is involved in two other inquiries for Case File Numbers H1284 and H1325, which resulted in Order H2007-001 and Order H2007-003. The Foundation is involved in three other inquiries for Case File Numbers P0494, P0481 and P0489, which resulted in Orders P2007-007, P2007-008 and P2007-012.

[para 5] The Endermologie Centre Corporation (trade name is Corona) is involved in an inquiry under Case File Number P0493, which resulted in Order P2007-006. The Professional Corporation is involved in an inquiry for Case File Number P0482, which resulted in Order P2007-011. The respondents provided the same written initial submission for seven of the inquiries. There are a total of nine inquiries pertaining to the Database.

## II. RECORDS/INFORMATION

[para 6] As this is a complaint, there are no records at issue in the usual sense. The Inquiry pertains to the authority of the Foundation to collect, use and disclose personal information for purposes of marketing and soliciting for fundraising. The Foundation says the information in the Database consists of name, telephone number, mailing address, gender and services requested.

## III. INQUIRY ISSUES

[para 7] The issues in the Notice of Inquiry are:

ISSUE A: Should neither party have the burden of proof for the definitional issues (personal information, organization, collect, use and disclose)?

ISSUE B: Should the Organization have the burden of proving that any collection, use or disclosure was in accordance with section 7(1) of PIPA? In particular:

- Should the Organization have the burden of proving that any collection, use or disclosure without consent was permitted by section 14, section 17 or section 20 of PIPA?
- Alternatively, if the Organization did not have the authority to collect, use or disclose without consent, should the Organization have the burden of proving that any collection, use or disclosure was permitted with consent in accordance with section 8 of PIPA?

ISSUE C: Should the Organization have the burden of proving that notification was not required, or alternatively, that it provided notification in accordance with section 13 of PIPA?

ISSUE D: Should the Organization have the burden of proving that any collection, use or disclosure was reasonable under section 11(1), section 16(1) and section 19(1) of PIPA?

ISSUE E: Should the Organization have the burden of proving that any collection, use or disclosure was reasonable under section 11(2), section 16(2) and section 19(2) of PIPA?

ISSUE F: Should the Organization have the burden of proving that the personal information was collected directly, or alternatively, that it collected the personal information indirectly in accordance with section 12 of PIPA?

ISSUE G: Did the “Organization” “collect”, “use” or “disclose” “personal information”, as these terms are defined in PIPA?

[para 8] If I find that the answer to the above question is “yes”, I will decide the following issues:

ISSUE H: Did the Organization collect, use or disclose the personal information in accordance with section 7(1) of PIPA (no collection, use or disclosure without either authorization or consent)? In particular:

- Did the Organization have the authority to collect, use or disclose the personal information without consent, as permitted by section 14, section 17 or section 20 of PIPA (authorization for collection, use or disclosure without consent)?
- Alternatively, if the Organization did not have the authority to collect, use or disclose the personal information without consent, did the Organization obtain consent to collect, use or disclose the personal information in accordance with section 8 of PIPA (collection, use or disclosure with consent)?

ISSUE I: Did the Organization collect the personal information in accordance with section 13 of PIPA? In particular, was the Organization required to provide, and if so did it provide, notification in accordance with section 13 of PIPA (notification required for collection)?

ISSUE J: Did the Organization collect, use or disclose the personal information in accordance with sections 11(1), section 16(1) and section 19(1) of PIPA (collection, use and disclosure for purposes that are reasonable)?

ISSUE K: Did the Organization collect, use or disclose the personal information in accordance with sections 11(2), section 16(2) and section 19(2) of PIPA (collection, use and disclosure to the extent reasonable for meeting the purposes)?

ISSUE L: Did the Organization collect the personal information directly from the Complainant (direct collection)?

ISSUE M: If the Organization did not collect the personal information directly from the Complainant, was the collection in accordance with section 12 (limitation on sources for collection)?

[para 9] The Inquiry pertains only to collection, use and disclosure of personal information for purposes of marketing and soliciting for fundraising. The corollary is

that collection, use and disclosure of personal information for other purposes, such as for the provision of health services, is *not* at issue.

[para 10] The more complete version of the facts, evidence and argument for the Foundation is provided in Order H2007-001. As the Complainant provided the same written initial and rebuttal submissions for the two concurrent inquiries, the more complete version of the Complainant's facts, evidence and argument is provided in Order H2007-004. That information will not be repeated in this Order.

#### IV. SUMMARY OF FACTS, EVIDENCE AND ARGUMENT

##### *The complainant*

[para 11] In her initial written submission, the Complainant summarized the facts as follows:

In March 2006, I received a letter from [name of individual] in Dr. Barry Lycka's office. The letter stated that I had been a patient of Dr. Lycka's within the past two years and have been helped with a health problem. It stated that Dr. Lycka will be 50 years old this year, and that I was invited to attend a surprise celebration in his honor. Details of the celebration were included with the letter in a separate envelope marked "Top Secret".

On two separate dates in May 2006, I received two more pieces of correspondence from Dr. Lycka's office, a card and a letter reminding me of the event.

In June 2006, I received a letter a letter [sic] from the Canadian Skin Cancer Foundation, signed by [name of individual], Office Manager, and listing Dr. Barry Lycka as a signatory (his signature does not appear on the letter). It apologizes to anyone who was offended by the content of the letter and states that this was not the intention. However, it requests that I reconsider the invitation and purchase a ticket, since I had not responded to the previous reminders.

My personal contact information as a patient in Dr. Lycka's office was used to invite me to a personal celebration for this physician. My contact with this physician and his staff has only ever been on a professional level as a patient.

[para 12] The Complainant summarized the four pieces of correspondence that she received, as follows:

##### March 2006

- Outside envelope. My name and home address have been blacked out.
- Letter from [name of individual], Controller, Dr. Barry Lycka Professional Corporation, dated March 2006.
- Envelope labeled "Top Secret" - This was included in the outer envelope with the March 2006 letter above.
- Three pages of details outlining the event referred to as "Operation Old Buzzard".

##### May 2006

- Outside envelope. My name and home address have been blacked out.

- A two-sided card reminding me of the upcoming event.

May 2006

- Outside envelope. My name and home address have been blacked out.
- A letter from [name of individual] as another reminder to attend the event.

June 2006

- Outside envelope. My name and home address have been blacked out.
- A letter from the Canadian Skin Cancer Foundation, listing [name of individual] and Dr Larry Lycka as signatories. Only [name of individual's] signature appears on the letter.

[para 13] In her written initial submission, the Complainant provided copies of the four pieces of correspondence that she received, together with the envelopes, which are as follows:

- *First correspondence: March 2006 (Dr. L./Professional Corporation)* – This four-page package from the Professional Corporation to the Complainant, consists of a covering letter and a three-page attachment that begins, “Dear Friend”. The letter says, “I am writing to you because you have visited Dr. Lycka as a patient in the last two years ... That means in the last two years Dr. Lycka has helped you in some way with a health or cosmetic problem.” The letter has the signature and typewritten name of the individual who is the Controller of the Professional Corporation. The Complainant blocked out her name and mailing address on the envelope.
- *Second correspondence: Undated (Dr. L./Professional Corporation)* – This two-sided card reads, “[S]how your support for the Canadian Skin Cancer Foundation” and “If you haven’t bought your ticket – what are you waiting for??.” The Complainant blocked out her name and mailing address on the envelope.
- *Third correspondence: Undated (Dr. L./Professional Corporation)* – This single page letter is addressed by first name, “[D]isappointed and saddened am I”. The first paragraph says, “A few weeks ago we sent you an invitation to what will be the social event of 2006. We didn’t hear from you so we wrote you again. Still no response. So I’m writing again to make sure you still have a heart beat.”
- The last paragraph reads, “We know how many people he has helped over the last twenty years or so – tens of thousands to be exact – and how passionate he is about the cause.” The bottom of this letter has the same typewritten name of the same individual who signed the first correspondence of March 2006. The Complainant blocked out her name and mailing address on the envelope and her name in the letter.
- *Fourth correspondence: June 14, 2006 (Foundation)* - This single page letter appears to be addressed to the Complainant by first name. The letter refers to the above described undated letter and to Dr. Lycka’s birthday party on June 26<sup>th</sup> and says, “We have received some phone calls from a few of you that were offended by the content in

that letter. Please accept our deepest apologies as we had no intention of offending anyone.”

- This letter contains the signature and typewritten name and title of the Office Manager of the Foundation as well as the typewritten name of Dr. Barry Lycka, FRCP, Canadian Skin Cancer Foundation. The Complainant blocked out her name and mailing address on the envelope and her name and address inside the letter.

[para 14] In her written initial submission, the Complainant also said:

#### Burden of Proof under the Personal Information Protection Act

- With respect to Issue #1, I believe that the Canadian Skin Cancer Foundation collected, used and disclosed “personal information” that they received from the Dr. Barry Lycka Professional Corporation. The personal information included collection, use and disclosure of my name and home address in order for the Canadian Skin Cancer Foundation to solicit for a fundraiser event. I am not aware if any other personal information was collected, used or disclosed, but I have no reason to believe that information other than my name and home address were involved.
- With respect to Issue #6, the Canadian Skin Cancer Foundation did not directly request nor obtain my consent to use my personal information.

[para 15] The part of the Complainant’s written rebuttal submission that specifically pertains to the Foundation is as follows:

#### **Personal Information Privacy [sic] Act**

55 states that personal information “was collected and used. It was not disclosed to anyone”. *My information was provided to Dr. Barry Lycka, and was disclosed to the Canadian Skin Cancer Foundation. These are separate entities as described in my rebuttal to #48 above.*

56 states that “the Respondents received consent of the individuals.” *I did not provide consent.*

57 states that certain sections are not relevant “because consent was obtained.” *I did not provide consent.*

59 states that, “by consenting to being on a mailing list...[the individuals] are deemed to have consented.” *I did not consent.*

61 states that “information was collected directly from the users of the Respondents services” and that “the Respondents believe they would have provided the information”. *My consent cannot be assumed.*

#### ***The Foundation***

[para 16] The Foundation’s written initial submission describes the development of the Database and the evolution of the relationships among Dr. L., the Clinic, the

Professional Corporation, Corona, Endermologie Centre Corporation (“Endermologie”) and the Foundation.

[para 17] The Foundation says that the Database was established in 2000, but “major changes” were subsequently made. In 2004, a new Patient History Form (“Form”) was developed, which patients completed when they returned to the Clinic. The Foundation says that the Database was updated, which included information obtained from the Form, about 18 months before the complaints arose that gave rise to the Inquiry.

[para 18] The Foundation says that the primary purpose of the Database is “keeping track of all the patients seen in the Clinic”. The secondary purpose is to “facilitate information distribution” to patients and non-patients. The Foundation says that to begin with the Database only included Clinic patients, but over time the Database expanded to include non-patients such as Corona clients, Corona seminar attendees, Foundation donors and other individuals. The Foundation shares the Database with Corona and Dr. L.

[para 19] The Foundation says that approximately 59,000 letters were sent out in four mailings, as follows:

- April 10, 2006 – 14,992 letters sent;
- May 23, 2006 – 14,836 letters sent;
- June 12, 2006 – 14,716 letters sent; and
- June 19, 2006 – 14,635 letters sent.

[para 20] The Foundation’s initial written submission says:

The first letters used humour to get the attention of the recipients. There was some feedback that some individuals were offended by some of the content of the letter, and therefore the last letter contained an apology.

[para 21] The Foundation’s initial written submission contains ten tabs and a “Table of Authorities”. The Foundation’s first eight tabs pertain to evidence. The tabs that are relevant to the Inquiry are:

- *Tab 2: Alberta Corporation Registration Information (Foundation)* - The Canadian Skin Cancer Foundation was registered as an Alberta Society on October 31, 2003. Dr. Barry Lycka is the President and a Director of the Foundation.
- *Tab 3: Canadian Skin Cancer Foundation Registered Objects (Foundation)* - This Special Resolution created new objects for the Foundation on December 9, 2004, which are to prevent skin cancer by providing public and physician education on early skin cancer detection, awareness and prevention.

- *Tab 5: Consent Form (Foundation)* - This one-page form is addressed, "Dear Valued Patient". Within the form, Barry S. Lycka, MD, FRCPC, announces the "formation of a new society that I am intimately involved with". The form describes the society as a non profit organization called the Canadian Skin Cancer Foundation.
  
- *Tab 8: Letters re: Party for Dr. Lycka*
  - *First letter: April 2006 (Dr. L./Professional Corporation)* - This four-page package is almost identical to the March 2006 letter that was provided as the first piece of correspondence in the Complainant's submission. However, this letter has a different date and the second paragraph reads differently as follows, "I am writing to you because of your association in one way or another with Dr. Lycka. All of the many patients, colleagues, family members and friends are very aware of the health and cosmetic problems that Dr. Lycka has helped so many people with for over twenty years in Edmonton." The letter is signed by the Controller of the Professional Corporation.
  
  - *Second letter: Undated (Dr. L./Professional Corporation)* - This single page letter is identical to the fourth piece of correspondence in the Complainant's initial submission. This letter is addressed to recipient by first name and says, "[D]isappointed and saddened am I". The letter says, "A few weeks ago we sent you an invitation to what will be the social event of 2006. We didn't hear from you so we wrote you again. Still no response. So I'm writing again to make sure you still have a heart beat." This letter is signed by the same individual as the first letter.
  
  - *Third letter: June 2006 (Foundation)* - This single page letter is identical to the fourth piece of correspondence in the Complainant's initial submission. This letter is addressed to recipient by first name. The letter refers to the above described undated letter and to Dr. Lycka's birthday party on June 26<sup>th</sup> and says, "We have received some phone calls from a few of you that were offended by the content in that letter. Please accept our deepest apologies as we had no intention of offending anyone." This letter is signed by the Office Manager of the Foundation.

[para 22] The Foundation takes the position that PIPA was not contravened in the mailings. The Foundation says that the Clinic patients with information in the Database consented to the collection, use and disclosure of personal information for purposes of soliciting for fundraising, and therefore, any collection, use or disclosure is authorized under PIPA. The Foundation concedes that some Clinic patients may have come before the new Form was developed in 2004, and may not have returned to complete the Form. The Foundation provided two Investigation Reports issued by the Office in support of its position.

## V. DISCUSSION OF PRELIMINARY ISSUES

### *Anonymity*

[para 23] The usual procedure at an inquiry is that the parties disclose their identities to each other. However, there are exceptions to the general rule. An exception arises when one of the parties has a compelling reason why his or her name should not be disclosed during the process of an inquiry. The Complainant requested anonymity in these proceedings on the basis that she is currently Dr. L.'s patient.

[para 24] I take the same approach to this issue as in Orders H2007-001, H2007-004, P2007-006, P2007-007 and P2007-008 as well as in Order H2007-004, which pertains to the same Complainant. I accept that it is the Complainant's perception that disclosing her identity to Dr. L. in these proceedings could compromise her in terms of obtaining health services. In my view, the Complainant has provided a sufficient reason for anonymity in these proceedings.

### *Non-inquiry issue*

[para 25] The Foundation's initial written submission says:

The Complainants found the content of the letter to be insulting and in poor taste. That is not relevant to this inquiry. ... Just because a few of the recipients did not like, or were offended by the content of the letter does not mean there was a breach of either act.

[para 26] The Complainant's written rebuttal submission says:

72 and 73 states that the content of the letters is not relevant to this inquiry. I agree that the content is not relevant. *My complaint did not comment on this.*

[para 27] I accept the Foundation's submission that whether this letter is "insulting and in poor taste" is not relevant to the Inquiry. The Complainant agrees. This Order takes the same approach as Orders H2007-001, H2007-003, P2007-006, P2007-007, P2007-009, P2007-011 and P2007-012, as well as Order H2007-004, which pertains to the same Complainant. I said that whether the letters were "insulting and in poor taste" was not relevant to the issues that were before me at the Inquiry.

[para 28] My jurisdiction at the Inquiry and the scope of this Order are restricted to the collection, use and disclosure issues at the Inquiry, as those issues pertain to the Foundation under PIPA. Section 52 allows me to issue an Order that relates to the Organization and to the Inquiry issues, such as requiring an organization to stop collecting, using or disclosing personal information in contravention of PIPA (section 52(3)(e), or requiring an organization to destroy personal information collected in contravention of PIPA (section 52(3)(g)).

### *Commercial activity*

[para 29] The Complainant did not address whether the Foundation is a non-profit organization under PIPA or whether the Foundation was involved in any commercial activity with regard to her personal information. The Foundation says it is a non-profit charitable organization that was registered as a non-profit society in 2003. The Corporate Search under Tab 2 of the Foundation's initial submission shows that the Foundation was registered as an Alberta Society on October 31, 2003.

[para 30] The relevant parts of section 56 of PIPA, under Part 6 (Professional Regulatory and Non-Profit Organizations), read:

56(1) In this section,

(a) "commercial activity" means

(i) any transaction, act or conduct, or

(ii) any regular course of conduct,

that is of a commercial character and, without restricting the generality of the foregoing, includes the following:

(iii) the selling, bartering or leasing of membership lists or of donor or other fund-raising lists;

(b) "non-profit organization" means an organization

(i) that is incorporated under the *Societies Act* or the *Agricultural Societies Act* or that is registered under Part 9 of the *Companies Act*.

56(2) Subject to subsection (3), this Act does not apply to a non-profit organization or any personal information that is in the custody of or under the control of a non-profit organization.

56(3) This Act applies to a non-profit organization in the case of personal information that is collected, used or disclosed by the non-profit organization in connection with any commercial activity carried out by the non-profit organization.

[para 31] The general rule is that PIPA does not apply to non-profit organizations. Pursuant to section 56(2), PIPA does *not* apply to non-profit organizations or to the personal information that is in the custody of or under the control of non-profit organizations. I accept the submission of the Foundation that it is a non-profit organization that was incorporated under the *Societies Act*. In my view, this means that the Foundation falls under section 56(1)(b)(i) of PIPA, and as a general rule, PIPA does not apply to the Foundation by virtue of section 56(2) of PIPA.

[para 32] The exception to the general rule is that PIPA does apply to non-profit organizations where there is any commercial activity. Pursuant to section 56(3), PIPA

does apply to non-profit organizations and to the personal information that is in the custody or under the control of non-profit organizations when the information is collected, used or disclosed in connection with “any commercial activity”.

[para 33] I take the same approach to the interpretation of “commercial activity” for a non-profit organization under PIPA, as I did in Orders P2007-007, P2007-008 and P2007-012. This means that whether PIPA applies to a non-profit organization is a question that must be considered in the particular circumstances and determined on a case-by-case basis. The Complainant did not specifically address section 56 of PIPA or provide evidence to show that the Foundation is engaged in any commercial activity with respect to her personal information.

[para 34] On the other hand, the Foundation has provided evidence of its non-profit status, in that it is registered under the *Societies Act* in Alberta. The only evidence I have before me shows that the soliciting for fundraising that related to the Foundation was an activity that was conducted solely for the purpose of fundraising for charitable purposes, rather than to raise funds for regular operations or for other non-charitable purposes.

[para 35] In my view in the circumstances of this case, the Foundation was acting as a non-profit organization and was not involved in any commercial activity, as defined in PIPA. In this particular situation, I find that the Foundation was not involved in any transaction, act or conduct, or in any regular course of conduct that is of a commercial character and was not involved in the selling, bartering or leasing of membership lists or of donor or other fundraising lists, pursuant to section 56(1) and section 56(3) of PIPA.

[para 36] For all of the above reasons, I find that section 56(2) of PIPA applies to the Foundation. This means that in this case the Foundation is excluded from the application of PIPA because it is a non-profit organization that did not collect, use or disclose the Complainant’s personal information in connection with any commercial activity.

[para 37] Furthermore, it was Dr. L. through the Professional Corporation and not the Foundation, which sent the letters that were solicitations for fundraising. The only letter that is signed by an individual at the Foundation is the letter of June 2006, which was a letter of apology for the previous letter from the Professional Corporation.

## **VI. DISCUSSION OF INQUIRY ISSUES**

[para 38] Due to my finding that PIPA does not apply to the Foundation in this case, this means that I do not have jurisdiction over the Foundation or over the personal information that is in the custody or under the control of the Foundation. Therefore, it follows that I also do not have the authority to decide any of the above Inquiry issues.

[para 39] I note that the situation may be different under PIPA in the future due to Recommendation 5 of the Select Special Personal Information Protection Act Review

Committee, *Final Report* (November 2007), which recommended fully including non-profit organizations under PIPA.

## VII. ORDER

[para 40] I make the following Order under section 52 of PIPA:

- I find that:
  - The Foundation falls under section 56(2) of PIPA, and is thereby excluded from the application of PIPA as a non-profit organization that did not collect, use or disclose the Complainant's personal information in connection with a commercial activity; and
- Given the above finding, I do not have authority to decide any further issues at the Inquiry.

Noela Inions, Q. C.  
Adjudicator