



**PERSONAL INFORMATION PROTECTION ACT**  
**Breach Notification Decision**

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| <b>Organization providing notice under section 34.1 of PIPA</b>  | DBH Law (Organization)  |
| <b>Decision number (file number)</b>   | P2020-ND-133 (File #014844)   |
| <b>Date notice received by OIPC</b>  | January 29, 2020  |
| <b>Date Organization last provided information</b>   | January 29, 2020  |
| <b>Date of decision</b>  | November 3, 2020  |
| <b>Summary of decision</b>   | There is a real risk of significant harm to the individuals affected by this incident. The Organization is required to notify the individuals pursuant to section 37.1 of the <i>Personal Information Protection Act</i> (PIPA).  |
| <b>JURISDICTION</b>  |   |
| <b>Section 1(1)(i) of PIPA “organization”</b>  | The Organization is an “organization” as defined in section 1(1)(i) of PIPA.  |
| <b>Section 1(1)(k) of PIPA “personal information”</b>  | <p>The incident involved the following information:</p> <ul style="list-style-type: none"><li>• name,</li><li>• address,</li><li>• email address,</li><li>• telephone number, and</li><li>• Social Insurance Number.</li></ul> <p>This information is about identifiable individuals and is “personal information” as defined in section 1(1)(k) of PIPA.</p> |
| <b>DESCRIPTION OF INCIDENT</b>   |   |
| <input type="checkbox"/> loss <input type="checkbox"/> unauthorized access <input checked="" type="checkbox"/> unauthorized disclosure |   |
| <b>Description of incident</b>   | <ul style="list-style-type: none"><li>• The Organization filed exempt market distribution forms for two subscribers on January 17, 2020 and January 27, 2020. The filings inadvertently included copies of the subscription agreements which disclosed the information at issue.</li></ul>  |

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|  | <ul style="list-style-type: none"> <li>• Alberta Securities Commission (ASC) staff noted the first breach and had the file marked private on January 21, 2020. The ASC notified the Organization on January 27, 2020.</li> <li>• On January, 28, 2020, the Organization reported the second incident to the ASC and requested that the filings be made private until such time as the Organization could complete a refiling.</li> </ul>   |
| <b>Affected individuals</b>  | The incident affected 2 individuals.   |
| <b>Steps taken to reduce risk of harm to individuals</b>   | <ul style="list-style-type: none"> <li>• Made the filings private as soon as the release of the information was discovered.</li> <li>• Reviewed policies and procedures for SEDAR filing and additional training will be implemented for SEDAR filers.</li> </ul>  |
| <b>Steps taken to notify individuals of the incident</b>   | Affected individuals were notified by letter on January 28, 2020.  |
| <b>REAL RISK OF SIGNIFICANT HARM ANALYSIS</b>  |  |
| <p><b>Harm</b><br/>Some damage or detriment or injury that could be caused to affected individuals as a result of the incident. The harm must also be “significant.” It must be important, meaningful, and with non-trivial consequences or effects.</p> | <p>The Organization reported “Possible harm includes identity theft and other forms of fraud”.</p> <p>I agree with the Organization’s assessment. A reasonable person would consider that the contact and identity information at issue could be used to cause the harms of identity theft and fraud. Email address could be used for phishing, increasing the likelihood of identity theft and fraud. These are significant harms.</p>  |
| <p><b>Real Risk</b><br/>The likelihood that the significant harm will result must be more than mere speculation or conjecture. There must be a cause and effect relationship between the incident and the possible harm.</p>                             | <p>The Organization reported:</p> <p style="text-align: center;"><i>As the information for Filing 03008410 was only available from approximately Friday January 17 to Tuesday January 21, 2020 the likelihood of harm should be marginal. The Filing was made private on Janaury [sic] 21, 2020 and we are in the process of refiling the Form 45-106.</i></p> <p style="text-align: center;"><i>The information for filings 03010616 and 03010628 were available from approximately 4 pm on Janaury [sic] 27, 2020 to 10am on Janaury [sic] 28, 2020;... however, the SEDAR website and information on it is widely available and could be used for identity theft or fraud. There was no malicious intent or purpose for the unauthorized use and release of the information. There are no vulnerable individuals involved such as youth or seniors.</i></p> <p>In my view, a reasonable person would consider that the likelihood of harm resulting from this incident is decreased because the</p> |

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|  | breach did not result from malicious intent, but rather human error. The information was, however, available on a public website for a period of time and the Organization did not report any information to confirm that it was not accessed during that time. |
| <b>DECISION UNDER SECTION 37.1(1) OF PIPA</b>  |   |
| <p>Based on the information provided by the Organization and given the circumstances of the incident, I have decided that there is a real risk of significant harm to the affected individuals.</p> <p>A reasonable person would consider that the contact and identity information at issue could be used to cause the harms of identity theft and fraud. Email address could be used for phishing, increasing the likelihood of identity theft and fraud. These are all significant harms.</p> <p>The likelihood of harm is decreased because the breach did not result from malicious intent, but rather human error. The information was, however, available on a public website for a period of time and the Organization did not report any information to confirm that it was not accessed during that time.</p> <p>I require the Organization to notify the affected individuals in accordance with section 19.1 of the <i>Personal Information Protection Act Regulation</i> (Regulation).</p> <p>I understand the affected individuals were notified by letter on January 28, 2020. The Organization is not required to notify the affected individuals again.</p> |   |

Jill Clayton  
Information and Privacy Commissioner