

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER P2023-10**

December 8, 2023

**FROHLICH ROLLINS SCHWAB, BARRISTERS AND SOLICITORS**

Case File Number 020422

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** The Complainant complained that Frohlich Rollins Schwab, Barristers and Solicitors (the Organization) collected and used his personal information in contravention of the *Personal Information Protection Act* (PIPA). The Organization collected one page of a psychiatrist’s letter (the Letter) containing personal information about the Complainant’s health from its client, the Complainant’s estranged wife, whom it was representing in divorce proceedings against the Complainant. The Complainant alleged that the Letter was stolen.

The Adjudicator considered what the relevant circumstances were for the purposes of assessing “reasonableness” as defined in section 2 of PIPA. The Adjudicator found that the relevant circumstances were those at the time it collected and used the letter, prior to the Letter being placed in a court file at which point PIPA ceased to apply to it. These circumstances included the Organization’s duty to its client as her legal representative.

The Adjudicator found that the Organization complied with sections 14(d) and 17(d) of PIPA, collection for the purposes of a legal proceeding. The Adjudicator found that purpose was a reasonable purpose for collection and use under sections 11(1) and 16(1).

The Adjudicator considered the Complainant’s claim that the Letter was stolen, and found that the Letter was his and that he did not intend to share it with his estranged wife or the Organization. These circumstances factored into consideration of whether the Organization complied with sections 11(2) and 16(2), collection and use to a reasonable extent. The Adjudicator considered whether the Organization could have reasonably known that it was handling the Letter contrary to the Complainant’s property rights to it

when it collected and used the information. Under the circumstances of the case, the Adjudicator found that the Organization complied with sections 11(2) and 16(2).

The Adjudicator found that the Organization complied with PIPA.

**Statutes Cited: AB:** *Consumer Protection Act*, RSA 2000, c. C-26.3; *Personal Information Protection Act*, S.A. 2003, c. P-6.5 ss. 1(1)(k), 2, 4(3)(k), 7(1), 11, 11(1), 11(2), 12, 14(d), 16, 16(1), 16(2), 17(d), 52.

**Authorities Cited: AB:** Orders P2008-010, P2018-09, P2020-03, P2020-07

**Cases Cited:** *Edmonton Journal v Alberta (Attorney General)*, [1989] 2 SCR 1326; *R v Dymont*, [1988] 2 SCR 417; in *R v Neil*, 2002 SCC 70; *Regina v Widdifield et al*, [1995] OJ No 2383; *Sprung Instant Structures Ltd v Royal Bank of Canada*, 2008 ABQB 30 (Canlii).

## I. BACKGROUND

[para 1] In May 2018, the Complainant and his wife separated and divorce proceedings were under way. The Complainant's (now) estranged wife was represented by legal counsel with the firm Frohlich Rollins Schwab, Barristers and Solicitors (the Organization).

[para 2] The Complainant states that on October 14, 2018, he agreed to, and was ordered to, vacate the matrimonial home he and his estranged wife had been sharing. In the weeks prior to leaving, the Complainant searched for his medical file, which he intended to take with him. The file had previously been stored in his office, but he had moved it to the basement of the matrimonial home, in which he was living apart from his estranged wife, at the time. The Complainant could not locate the file. He states that he asked his estranged wife where it was, but she informed him that she did not know. He left the matrimonial home, as ordered, without his medical file.

[para 3] On October 4, 2019, the Complainant's estranged wife filed an application for interim spousal and child support. In response, the Complainant filed a cross-application seeking reduced support payments, including a supporting affidavit. Among the matters touched on in his affidavit was his ability to work and earn an income. The Complainant's affidavit indicated that his working hours needed to be reduced due to medical complications.

[para 4] On October 23, 2019, the Complainant's estranged wife filed a rebuttal affidavit (the Affidavit) addressing the Complainant's argument that his ability to work was reduced. The Affidavit included, as an exhibit, one page of a psychiatrist's letter (the Letter) describing the Complainant's mental health as it was in 1982. Through the Organization, the Affidavit was filed in court.

[para 5] The Complainant recognized the Letter as a document from his medical file, and informed his lawyer that he believed his estranged wife had stolen his medical file.

The Complainant's legal counsel informed the Organization that the Complainant's privacy had been breached and that if the Letter was not withdrawn, the Complainant would report the Complainant's estranged wife's lawyer to the Law Society of Alberta and the Organization to the Information and Privacy Commissioner. The Letter was not withdrawn.

[para 6] During the applications hearing in Court, the Complainant and his legal counsel objected to the inclusion of the Letter in the divorce proceedings on the basis that it was stolen and had been filed without the Complainant's consent. As described by the Complainant, the judge hearing the application asked the Complainant's estranged wife's legal counsel for an explanation. Legal counsel argued that the Letter was relevant to the Complainant's ability to work despite suffering from medical conditions for many years. After hearing the explanation, the judge ordered the Letter, along with other medical information about the Complainant which is not at issue here, to be expunged from the proceedings. The order to expunge included medical information about the Complainant that had been filed by the Complainant himself. The judge also ordered that any of the Complainant's medical records left in the matrimonial home be returned to his possession. The judge did not make any ruling on whether the Letter, or any other information about the Complainant, was stolen or handled improperly by the Organization.

[para 7] Roughly two months after the hearing, the Complainant received an e-mail from his estranged wife wherein she informed him that his medical file was in a filing cabinet in his office, in the matrimonial home. The Complainant found it there, despite that it was not in that location at the time when he left the matrimonial home, or when he searched for it earlier.

[para 8] The Complainant brought the matter to the attention of the Law Society of Alberta in a complaint. That body ultimately determined that it did not have jurisdiction to investigate a breach of the Complainant's privacy under privacy legislation. The complaint to the Law Society was otherwise dismissed.

[para 9] On February 3, 2020, the Complainant filed a complaint with this Office alleging that the Organization contravened the *Personal Information Protection Act*, S.A. 2003, c. P-6.5 (PIPA), when it collected the Letter from his estranged wife, and used it in the divorce proceedings.

[para 10] Investigation and mediation were authorized to attempt to resolve the issue, but did not do so. The matter proceeded to inquiry.

## II. ISSUES

### 1. Did the Organization collect and/or use “personal information” of the Complainant as that term is defined in PIPA? Including,

- a. **How, if at all, did the Organization obtain the Letter, or other personal information about the Complainant?**
2. **Where PIPA references a standard of reasonableness (as defined in section 2) in a section at issue in this case (sections 11, 14(d), 16, and 17(d)), or in a section identified by the parties as relevant to the issues in this case, what are the relevant circumstances when considering reasonableness?**
3. **Did the Organization use and/or disclose the information contrary to, or in compliance with, section 7(1) of PIPA (no collection or use without either authorization or consent)? Including,**
  - a. **Did the Organization have the authority to collect and use the information without consent, as permitted by sections 14(d) and 17(d) of PIPA (reasonable for the purposes of a legal proceeding)?**
4. **Did the Organization collect or use the information contrary to, or in accordance with sections 11 and 16 of PIPA (reasonable and to the extent reasonable for the purpose)?**

### III. DISCUSSION OF ISSUES

*Preliminary Matter – PIPA does not apply to information in a court file*

[para 11] Section 4(3)(k) of PIPA states,

*This Act does not apply to the following:*

...

*(k) personal information contained in a court file, a record of a judge of the Court of Appeal of Alberta, the Court of King’s Bench of Alberta or the Alberta Court of Justice, a record of an applications judge of the Court of King’s Bench of Alberta, a record of a justice of the peace other than a non-presiding justice of the peace under the Justice of the Peace Act, a judicial administration record or a record relating to support services provided to the judges of any of the courts referred to in this clause;*

...

[para 12] The purpose and effect of section 4(3)(k) is to exempt court proceedings from review under PIPA. Accordingly, this inquiry is limited to collection and use of the Complainant’s personal information that occurred prior to the time when it was filed in court. To the extent that the Letter and the information in it remained in a court file, PIPA did not apply to it.

1. **Did the Organization collect and/or use “personal information” of the Complainant as that term is defined in PIPA? Including,**

**a. How, if at all, did the Organization obtain the Letter, or other personal information about the Complainant?**

[para 13] The Organization acknowledges that the Letter contained the Complainant's name and his health information, and that such information is the Complainant's personal information. Upon reviewing the Letter, I agree. It contains the Complainant's personal information per the definition of "personal information" in section 1(1)(k) of PIPA:

*(k) "personal information" means information about an identifiable individual*

[para 14] The personal information consists of diagnoses and symptoms of the Complainant's medical condition in 1982, as well as other medical history. The Complainant states that information could be damaging to him professionally. I agree that is the case given the Complainant's profession and the content of the Letter.<sup>1</sup>

[para 15] The Organization further acknowledges that it collected the Letter from its client, the Complainant's estranged wife, who informed her legal counsel that she obtained it from the matrimonial home once shared by her and the Complainant. The Organization notes that the Complainant's estranged wife denies and continues to deny that the Letter was stolen.

**2. Where PIPA references a standard of reasonableness (as defined in section 2) in a section at issue in this case (sections 11, 14(d), 16, and 17(d)), or in a section identified by the parties as relevant to the issues in this case, what are the relevant circumstances when considering reasonableness?**

[para 16] Section 2 of PIPA states,

*2 Where in this Act anything or any matter*

*(a) is described, characterized or referred to as reasonable or unreasonable, or*

*(b) is required or directed to be carried out or otherwise dealt with reasonably or in a reasonable manner,*

*the standard to be applied under this Act in determining whether the thing or matter is reasonable or unreasonable, or has been carried out or otherwise dealt with reasonably or in a reasonable manner, is what a reasonable person would consider appropriate in the circumstances.*

[para 17] Section 2 defines "reasonableness" for the purposes of PIPA as "what a reasonable person would consider appropriate in the circumstances". The factual circumstances are, as always, relevant. However, those circumstances are unusual. The

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<sup>1</sup> For the sake of preventing the harm from which disclosing the information could result, I do not mention the Complainant's profession.

Complainant states that the Letter was stolen by the person who gave it to the Organization and that the Organization was only able to collect his personal information by collecting what was his. The Organization also had particular duties to the Complainant's estranged wife as her legal representative in the divorce proceedings. Additionally, the individual lawyer who collected the information is subject to the Law Society of Alberta's Code of Conduct for the legal profession (the Code of Conduct). In light of these unusual circumstances, I asked the parties to consider whether the following are relevant circumstances for the purposes of section 2 of PIPA:

- The circumstances under which the Complainant's ex-spouse obtained the Letter, or other personal information about the Complainant collected by the Organization.
- Whether the Organization was aware of the circumstances under which the Complainant's ex-spouse obtained the Letter, or other personal information about the Complainant collected by the Organization.
- The Organization's duties to the Complainant's ex-spouse as legal counsel to her.
- Any provisions of the Law Society of Alberta's Code of Conduct for the legal profession, including chapters 3.1-2, 3.2-13, 5.1-1, 5.1-2, and 5.1-9.
- Whether any documents containing the Complainant's personal information were expunged from the legal proceedings in which the Organization represented the Complainant's ex-spouse.
- If the Organization collected the original Letter or a copy of it, or originals or copies of other documents containing the Complainant's personal information, whether the Organization had a right to possess any of those documents.
- If the Organization collected the original Letter or a copy of it, or originals or copies of other documents containing the Complainant's personal information, whether the circumstances raise the possibility that handling the documents may constitute *trespass to chattel, conversion, or detinue*. See *Sprung Instant Structures Ltd v Royal Bank of Canada*, 2008 ABQB 30 (Canlii) for descriptions of, and contrast between, *trespass to chattel, conversion, and detinue*.

[para 18] The parties also provided submissions as to what they considered were relevant circumstances in relation to the questions I must decide.

[para 19] After considering the submissions of the parties, I have concluded that some, but not all of the above are relevant circumstances when evaluating the standard of reasonableness.

[para 20] The Organization's duties to the Complainant's estranged wife as her legal counsel are relevant circumstances in this case.

[para 21] As its client, the Organization's has a duty of loyalty to her which includes a "duty of commitment to the client's cause" as described in *R v Neil*, 2002 SCC 70, at

para. 19. The approach that a lawyer must take in order to fulfill this duty, and the importance of the duty to the legal system as a whole were neatly stated by the Supreme Court of Canada in *Regina v Widdifield et al*, [1995] OJ No 2383,

Counsel must be competent in order to render effective assistance. No one suggests that the appellants' counsel was incompetent. The accused is, however, entitled to more than competence. A lawyer can render effective assistance only when that lawyer gives the accused's cause the undivided loyalty which is a prerequisite to proper legal representation. Within the limits imposed by legal and ethical constraints, the lawyer must champion the accused's cause without regard to counsel's personal interests or the interests of anyone else: G.A. Martin, "The Role and Responsibility of the Defence Advocate" (1970), 12 Crim. L.Q. 376 at pp. 383-86; W.F. Schroeder, "Some Ethical Problems in the Criminal Laws", Special Lectures of the Law Society of Upper Canada 1963, Part IV: Representing an Arrested Client and Police Interrogation (Toronto: de Boo, 1963), at pp. 100-04. This duty of undivided loyalty not only serves and protects the client, but is essential to the maintenance of the overall integrity of the justice system: *MacDonald Estate v. Martin*, [1990] 3 S.C.R. 1235, 77 D.L.R. (4th) 249 per Sopinka J. at p. 1243 S.C.R., p. 254 D.L.R., per Cory J. (in dissent) at pp. 1264-65 S.C.R., pp. 271-72 D.L.R.

[underlining mine]

[para 22] In the context of the divorce proceedings, the Organization must foremost be concerned with representing its client's interests and not the Complainant's interests in the Letter. This responsibility applies no less when collecting and using personal information.

[para 23] I have also considered whether, if the Letter was stolen as alleged by the Complainant, that would be relevant. My consideration of this aspect of the case includes my questions of whether the Organization's handling of Letter constitutes trespass to chattel, detinue, or conversion, or whether it had some right to possess the Letter. Since the Complainant's estranged wife is the one who provided the Letter to the Organization, it also includes considering whether the circumstances under which the Complainant's estranged wife obtained the Letter are relevant as well. If the Letter were the Complainant's property then it, and his personal information therein, were his to keep to himself to the exclusion of his estranged wife, and the Organization, as a matter of common law property rights. That is to say that the Complainant's property rights to the Letter should have prevented collection of his personal information therein.

[para 24] In my view, such considerations are relevant where the circumstances are such that an organization collecting information should reasonably know that in collecting information, it is handling property contrary to someone else's property rights. I find this is so since it has previously been held that where other laws prohibit collection of personal information under the circumstances of a case, a violation of those laws will inform what is reasonable.

[para 25] This was the case in Order P2020-03. In that Order, the fact that collection of personal information in a credit report was an offence under the *Consumer Protection*

*Act*, RSA 2000, c. C-26.3 (the CPA) was indicative that collection was unreasonable under the circumstances under PIPA.

[para 26] Though laws in question here are common law property rights, as opposed to statutory law expressly intended to protect personal information, they are nevertheless relevant in the same way as section 44 of the CPA in Order P2020-03. Property rights have long worked to protect privacy, including privacy of information, by securing it against intrusion by others. The historical use of property rights to that end was noted by the Supreme Court of Canada in *R v Dymont*, [1988] 2 SCR 417, at pp. 428 – 430 and *Edmonton Journal v Alberta (Attorney General)*, [1989] 2 SCR 1326 at para. 65.

[para 27] I have considered the Organization’s argument to the contrary, that how it collected the Complainant’s information does not matter, so long as it collects for purposes that are in compliance with PIPA. Here, I understand the Organization to be arguing that it did not matter whether the Letter was the Complainant’s property, or how the letter made its way into its hands, if the information in it was collected for proper purposes. The Organization cites Order P2018-09 in support of its conclusion.

[para 28] In Order P2018-09, a complainant complained that her personal information regarding her employment history, credit, and motor vehicle registration had been collected by an organization, Maxim Research and Consulting Corporation Ltd. (Maxim), in contravention of PIPA. Maxim then passed the information to legal counsel for the complainant’s spouse’s former wife, Elise J. Lavigne Professional Corporation (the law firm). The information then appeared in an affidavit in a legal proceeding involving the spouse’s former wife. One of the factual issues was how Maxim obtained the complainant’s information, which was never made clear. In finding that Maxim and the law firm collected personal information in compliance with section 14(d), the Adjudicator stated at para. 22,

Maxim disputes that a conversation between its representative and Service Alberta took place as the Complainant claims. Regardless, even assuming that the Organization obtained information from the Complainant's garbage, or that it obtained it from the client in the circumstances the Complainant alleges, (there is insufficient evidence before me to make findings of this kind) PIPA is not concerned with *how* information is collected, but an organization's *purpose* for collecting personal information.

[para 29] While the Adjudicator in Order P2018-09 makes clear that how information was collected did not matter in that case, it is also clear that in saying so, she did not intend to suggest that collecting information by unlawful means was irrelevant to the question of reasonableness or the circumstances of that case. The Adjudicator stated at para. 19,

Section 44(2) makes it an offence for a person to collect a credit report (and the information it contains) for any purpose other than those enumerated in section 44(1). Collecting a credit report for the purpose of litigation is not a purpose authorized by section 44(1). If it were the case that the Organizations collected the Complainant’s credit report from a credit reporting agency, it would be arguable that it would not be reasonable to



collect the personal information for legal proceedings, given that it would be an offence under section 44(2) of the CPA to do so.

[para 30] As for the rest of the circumstances that I asked the parties to comment on, in light of the facts of the case as I find them here, I find that none of them are relevant. Some of the other circumstances, such as the judge's decision to expunge the Letter, related to facts or events that occurred after collection and use, and could not have informed the Organization's decision to collect the Letter. The matter of the applicability of the Code of Conduct might have been relevant had there been a violation of it, but the Law Society of Alberta did not find one.

**3. Did the Organization use and/or disclose the information contrary to, or in compliance with, section 7(1) of PIPA (no collection or use without either authorization or consent)? Including,**

**a. Did the Organization have the authority to collect and use the information without consent, as permitted by sections 14(d) and 17(d) of PIPA (reasonable for the purposes of a legal proceeding)?**

[para 31] Section 7(1) of PIPA states,

*7(1) Except where this Act provides otherwise, an organization shall not, with respect to personal information about an individual,*

*(a) collect that information unless the individual consents to the collection of that information,*

*(b) collect that information from a source other than the individual unless the individual consents to the collection of that information from the other source,*

*(c) use that information unless the individual consents to the use of that information, or*

*(d) disclose that information unless the individual consents to the disclosure of that information.*

[para 32] The Organization did not have the Complainant's consent to collect his personal information. As such, its compliance with section 7(1) rests on whether it collected and used information under circumstances where the Complainant's consent to collect personal information was not required.

[para 33] Section 12 of PIPA states that an Organization may collect information from someone other than the individual it is about, without that individual's consent, if collection is permitted under section 14 of PIPA. Section 14(d) of PIPA states,

*14 An organization may collect personal information about an individual without the consent of that individual but only if one or more of the following are applicable:*

...

*(d) the collection of the information is reasonable for the purposes of an investigation or a legal proceeding;*

...

[para 34] The general line of inquiry when considering section 14(d) in the context of legal proceedings is whether the information is germane to the legal proceeding in question. There are numerous ways it may be. The information may be relevant to a legal issue in the proceeding (Order P2018-09 at para. 18). In Order P2008-010 it was reasonable for the Organization to collect information about police officers in order to defend a charge against a client, or to prepare to defend against a future charge. In Order P2020-07 it was reasonable to collect information that was of a sort typically collected in anticipation of litigation wherein the information could be relevant.

[para 35] I find that collecting the information in the Letter was reasonable for the purposes of the divorce proceedings.

[para 36] The Organization argues that the information in the Letter was relevant to the application for interim child and spousal support. One of the issues in that application was whether the Complainant's ability to work, and his ability to earn an income, were medically impaired at the time of the divorce proceedings. The Organization argues that the information in the Letter concerned the Complainant's health, and that it could be used to show that he was capable of carrying out his regular work duties even if he was experiencing some medical issues. As such, collecting the information was reasonable for the purposes of a legal proceeding under section 14(d).

[para 37] The Complainant disputes the relevancy of the information in the Letter to his ability to work. The Complainant notes that the Letter is from a time before he was engaged in the work that he was performing at the time of divorce proceedings. The Complainant also argues that other medical information introduced in the divorce proceedings addressed his ability to carry on his occupation and that the information in the Letter was effectively superfluous in light of it.

[para 38] While the information in the Letter is arguably of little assistance to the Organization's arguments in the application for the reasons given by the Complainant, it is not totally irrelevant to the issue of the Complainant's ability to work. It at least relates to his overall ability to function while experiencing some medical issues, which would serve the Organization's argument in the application.

[para 39] The Complainant also argues that the information in the Letter was highly sensitive and not of the sort that he would ever willingly disclose. While that may be the case, such protests suggest that the Complainant did not consent to disclosure, which is not in issue here; it is clear he did not consent.

[para 40] Given the relevancy of the information in the Letter to the issues in the application, I find the Organization complied with section 14(d).

[para 41] I now consider whether the Organization's use of the Letter complied with section 17(d):

*17 An organization may use personal information about an individual without the consent of the individual but only if one or more of the following are applicable:*

...

*(d) the use of the information is reasonable for the purposes of an investigation or a legal proceeding;*

...

[para 42] The Organization's use of the Complainant's personal information in the Letter consists of its use in preparing for the application and assembling the Affidavit sworn by the Complainant's estranged wife, to which it was appended as an exhibit.

[para 43] For the same reasons why I find that collection was in compliance by section 14(d), I find that the Organization's use of information was in compliance with section 17(d). I note here that the fact that Complainant's legal counsel informed the Organization that the Complainant considered the Letter to be stolen prior to the applications hearing does not factor into this conclusion. At that time, the Letter was part of a court file to which the provisions of PIPA concerning collection, use, and disclosure of personal information do not apply.

**4. Did the Organization collect or use the information contrary to, or in accordance with sections 11 and 16 of PIPA (reasonable and to the extent reasonable for the purpose)?**

[para 44] Sections 11 and 16 of PIPA state,

*11(1) An organization may collect personal information only for purposes that are reasonable.*

*(2) Where an organization collects personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is collected.*

\* \* \*

*16(1) An organization may use personal information only for purposes that are reasonable.*

*(2) Where an organization uses personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is used.*

[para 45] I consider sections 11(1) and 16(1) first.

[para 46] The Organization collected and used the Complainant's personal information for the purposes of a legal proceeding. That purpose is expressly permitted under sections 14(d) and 17(d), and is a reasonable one.

[para 47] I now consider sections 11(2) and 16(2).

[para 48] Here I address the Complainant's allegation that the Letter was "stolen" and the reasonableness of collecting personal information in the context of his property rights in the Letter.

[para 49] Certainly, the Complainant makes a case that his medical file and the Letter were his, and were taken from him. The facts that the Organization obtained the Letter from his estranged wife, the judge ordered his medical file returned to "*his possession*", and it was his estranged wife who informed him where it was, lead to that conclusion. It is also clear that the Complainant wished to keep the Letter, as his property, to himself, thereby excluding his estranged wife and the Organization from his personal information therein. The Organization did not provide any explanation to the contrary. However, these facts did not come to light until the later point at which the Complainant's lawyer raised them after they had been filed with the court. The question I must determine concerns the point at which the Complainant's estranged wife presented the letter to the Organization.

[para 50] The fact that the Complainant's estranged wife was the intermediary between the Complainant's loss of the Letter and the Organization's collection of it is highly significant. It is not the case that the Organization itself prowled through the Complainant's files while they were in his possession in order to collect the information in the Letter from him. If such had been the case, it seems to me that it must first have a clear right to do so. Rather, the Organization was presented the Letter by its client, who had it in her possession.

[para 51] Given that married couples often share the personal details of their lives with one another, including those that might be found or reflected in personal documents, and given that she had possession of the Letter at a time when she and the Complainant were living apart, I do not believe there would have been a reason for the Organization to query whether she had obtained it contrary to the Complainant's rights, as opposed to having had access to it as a function of the terms of their relationship and separation. In my view, these circumstances are of the sort that are to be expected to arise from time to time in the context of litigation; especially in divorce proceedings where the parties may continue to have access to each other's property.

[para 52] Bearing the foregoing in mind, I do not see how the Organization could reasonably have concluded that it was improper for it to collect the information by handling the Letter. Its only method for examining the provenance of the Letter would be to question its own client's conduct, which seems inconsistent with its duty of loyalty to

her, to champion her cause. Even if it had, its client's position has always been that the Letter was not stolen.

[para 53] The same reasoning applies to the Organization's use of the Letter. The Organization would have had no reason to conclude it was unreasonable to use the Letter in the Affidavit. I note that by the time the Complainant and his legal counsel objected to its inclusion, by telephone and at the hearing, it had already been placed in a court file, and hence PIPA ceased to apply to it.

[para 54] I find that the Organization complied with sections 11(2) and 16(2).

#### **IV. ORDER**

[para 55] I make this Order under section 52 of the PIPA.

[para 56] I confirm that the Organization collected and used the Complainant's personal information in compliance with PIPA.

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John Gabriele  
Adjudicator