



OFFICE OF THE  
INFORMATION & PRIVACY  
COMMISSIONER  
*for British Columbia*

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Order P14-02

## **PAMELA S. BOLES LAW CORPORATION**

Tim Mots, Adjudicator

February 26, 2014

Quicklaw Cite: [2014] B.C.I.P.C.D. No. 10

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**SUMMARY:** The applicant requested the organization provide her access to her personal information and an explanation on how her personal information was collected, used and disclosed. The organization failed to meet its obligations under ss. 28 and 29(1) of PIPA. The organization was ordered to respond to the applicant on or before March 7, 2014.

**Statutes Considered:** *Personal Information Protection Act*, ss. 28 and 29(1).

**Authorities Considered:** Order F13-11, [2013] B.C.I.P.C.D. No. 12; Order F06-04, [2006] B.C.I.P.C.D. No. 9; Order 04-30, [2004] B.C.I.P.C.D. No. 31; Order 02-38, [2002] B.C.I.P.C.D. No. 38.

### **INTRODUCTION**

[1] On September 23, 2013, the applicant requested the Pamela S. Boles Law Corporation (“organization”) provide her with copies of the following information:

Any and all information specifically that which has not been disclosed to my legal counsel and collected by court order.

[2] The applicant also asked how the organization collected and used her personal information and who the organization disclosed her personal information to.

[3] The organization failed to respond to the applicant within the legislated timelines set out in s. 29(1) of the *Personal Information Protection Act* (“PIPA”).

[4] On November 27, 2013, the applicant asked this Office to review the organization's decision to not respond to her request.

[5] An inquiry was then held under Part 11 of the Act.

## **ISSUES**

[6] The issues to be decided here are these:

1. Did the organization make every reasonable effort to assist the applicant and to respond to her as accurately and completely as reasonably possible under s. 28 of PIPA?
2. Did the organization fail to respond to the applicant's request within the legislated timelines set out in s. 29(1) of PIPA?

## **DISCUSSION**

[7] PIPA imposes obligations on an organization to respond to personal information requests accurately and completely, as reasonably possible, within a specified timeline. An organization can extend or ask the Commissioner for a time extension for response under certain circumstances. The relevant sections of PIPA are as follows:

### **Duty to assist individuals**

28 An organization must make a reasonable effort

- (a) to assist each applicant,
- (b) to respond to each applicant as accurately and completely as reasonably possible...

### **Time limit for responding**

29(1) Subject to this section, an organization must respond to an applicant not later than

- (a) 30 days after receiving the applicant's request, ...

[8] The organization argues that it has made a reasonable effort in its attempt to respond to the applicant. It has reassembled the related files, which comprise six banker boxes. The organization says it has taken a great deal of time to review the records. It states that this has been a "daunting task" for a sole practitioner. The organization states that it "...was unable to complete the task within the time

required despite [its] very best efforts...”. The organization recognizes that it should have notified the applicant with an explanation of why it could not meet the legislated timelines, but it did not.

[9] The organization states it made a reasonable effort to assist the applicant by devoting many hours to preparing a response for her, and therefore did not breach its duty under s. 28 of PIPA.

[10] The applicant submits that the organization did not respond to her request within the timelines set out in s. 29 of PIPA.

[11] The organization admits it failed to respond on time. In its submissions the organization apologized to the applicant. The organization notes that it can provide the applicant with a response by February 28, 2014.

## **ANALYSIS**

[12] Section 28 of PIPA requires an organization to “...make a reasonable effort to assist each applicant, to respond to each applicant...as reasonably possible”. The organization in this case represented the applicant’s adversary in a court action. I accept that this relationship made processing this request a complex and laborious task. The organization had to determine which records had been disclosed to the applicant through the court process. Then, it had to determine which of the remaining information constituted the personal information of the applicant. Finally, it had to determine whether any of that information was subject to solicitor-client privilege, before it could be disclosed.

[13] Regardless of these circumstances, the organization did not respond to the applicant within the prescribed time limits in PIPA, nor did it provide the applicant with reasons for this failure. Therefore, I conclude that the organization breached s. 29 of PIPA. In failing to respond to the applicant at all, the organization did not meet its obligations under s. 28 of PIPA.

### ***What is the appropriate remedy?***

[14] Typically in these cases, the remedy is to order the organization to respond to the applicant on or before a specific date. In reviewing the organization’s submissions, I recognize that the organization, a sole proprietor in this case, was faced with reviewing a large volume of records, which dealt with a sensitive matter. The organization is still working on its response to the applicant. It notes that it will be able to respond by February 28, 2014.

## **CONCLUSION**

I have found that the organization failed to meet its duty to respond to the applicant under s. 28 of PIPA within the timelines set out in s. 29(1) of PIPA. Pursuant to s. 52 of the Act, I order the Organization to respond completely to the applicant on or before **March 7, 2014**. I also require the organization to copy me on its cover letter to the applicant.

February 26, 2014

## **ORIGINAL SIGNED BY**

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Tim Mots, Adjudicator

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