

**REPORT WITH RESPECT TO THE APPLICATION FOR REVIEW OF [REDACTED]
[REDACTED] TO INFORMATION REQUESTED FROM SASKATCHEWAN
GOVERNMENT INSURANCE**

[1] [REDACTED] (the “applicant”) filed an Access to Information Request form which was received by Saskatchewan Government Insurance (the “Respondent”) on January 7, 2003. The Applicant requested “medical and personal injuries and correspondence from an accident that occurred on Dec 30, 1996” and the application also stated “want to see the complete, original file.”

[2] By letter dated April 9, 2003 the Respondent replied to the Applicant’s request as follows:

“Your Access to Information Request Form under *The Freedom of Information and Protection of Privacy Act* (“the Act”) has been referred to my attention. I am the Access and Privacy Officer for SGI under the Act.

It is my understanding that your adjuster, [REDACTED], provided you with a copy of your file ([REDACTED]), but withheld certain documents. In your request you ask that those documents be provided to you.

I have reviewed the documents in question. The 54 attached documents are being disclosed.

I can advise that 73 documents are being withheld because they would disclose consultations and deliberations involving officers or employees of SGI. These records are exempt from disclosure by way of subsection 17(1)(b)(i) of the Act. In addition, a further seven documents are being withheld as they involve advice or consultations given by SGI’s Legal Department. Such records are exempt

from disclosure under section 22 of the Act, which protects solicitor-client privilege. An additional five documents are being withheld pursuant to subsection 15(1)(f) of the Act as they would disclose the identities of confidential sources of information and disclose information furnished by those sources in the course of an investigation.

If you wish to have this decision reviewed, you may do so within one year of this notice. To request a review you must complete a "Request For Review" form which is available at any SGI Claims Centre. Your Request For Review should be directed to:

Richard P. Rendek, Q.C.
Information and Privacy Commissioner
208-2208 Scarth Street
Regina, Saskatchewan
S4P 2J6

Further correspondence on this request should be directed to me at SGI Legal Department, 14th Floor, 2260 – 11th Avenue, Regina, Saskatchewan, S4P 0J9, telephone: (306) 775-6301.

Yours truly,

Mitchell Miller
Access and Privacy Officer
Freedom of Information
SGI

[3] On April 29, 2003 I received from the Applicant a Request for Review as a result of which I wrote to the Respondent on April 30, 2003 as follows:

“Saskatchewan Government Insurance
Legal Department
2260 – 11th Avenue
Regina, Saskatchewan
S4P 0J9

Attention: Mr. Mitch Miller, Access Officer, Freedom of Information

Dear Mr. Miller:

RE: [REDACTED] and Saskatchewan Government Insurance
Our File: F 2203/026 RPR

I have received a Request for Review from the above named, and enclose herewith the yellow copy of same. Also enclosed is a copy of laboratory report that was attached to the applicant's request for review.

I hereby advise you of my intention to conduct a review and would ask that you provide me with a copy of the Applicant' original Access to Information request form as well as your response.

I would also appreciate your forwarding to me copies of the documents or records to which access has been denied, together with your reasons and authority for refusing such access.

Please feel free to call me if you have any questions.

Yours truly,

Richard P. Rendek, Q.C.
Acting Freedom of Information
and Privacy Commissioner
Province of Saskatchewan”

[4] The Respondent replied by letter dated May 2, 2003 which I received on May 9, 2003 which stated:

“Dear Sir:

RE: [REDACTED] and SGI

Your File: F2003/026 RPR

Our File: [REDACTED]

Thank you for your letter of April 30, 2003. Enclosed are copies of [REDACTED] original Access to Information Request Form, together with a copy of my response of April 9, 2003. Also enclosed are copies of the 85 documents that SGI did not disclose to [REDACTED]. As noted in my letter, 73 of these documents were not disclosed because they involved consultations or deliberations of officers or employees of SGI (exempt under subsection 17(1)(b)(i) of the Act). Seven documents were withheld because they contained information subject to solicitor-client privilege (which is exempt under s. 22 of the Act). The five remaining documents were withheld pursuant to subsection 15(1)(f) of the Act as they would have disclosed the identities of confidential sources of information and disclosed information furnished by those sources in the course of an investigation.

Our reasons for refusal of disclosure have not changed.

I look forward to receiving your recommendation.

Yours truly,

Mitchell Miller

Access, Privacy and Ethics Officer

SGI”

[5] On May 12th, 2003 I wrote to the Applicant as follows:

“Dear [REDACTED]:

RE: [REDACTED] and SGI

Our File: F 2003/026 RPR

Further to our previous correspondence, I have now received a response from SGI. Enclosed herewith is a copy of their letter to me of May 2, 2003.

SGI has also forwarded to me the eighty-five documents which they have not disclosed to you and I am now proceeding to review these documents.

In the interim, if you have any submissions or representations you wish to make with respect to your being granted access to these documents I would be pleased to receive same at this time.

[6] Enclosed with the Respondent’s letter of May 2, 2003 were 85 documents to which access by the Applicant was denied by the Respondent. These documents were classified into 3 separate groups, namely:

Group 1 – 73 documents

Group 2 – 7 documents

Group 3 – 5 documents

[7] The Respondent denied access to the documents in Group 1 by reliance on Section 17(1)(b)(i) of the *Freedom of Information and Protection of Privacy Act* which states:

“17(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

...

(b) consultations or deliberations involving:

...

(i) officers or employees of a government institution”

[8] I have examined each of these 73 documents and they may all be categorized as file memoranda, inter-office memoranda, e-mails, faxes or correspondence involving discussions, recommendations and decisions by officers or employees of the Respondent. They include file reviews, injury reviews, surveillance commentary, claim status, periodic file updates and various options available to the Respondent in the handling of the Applicant’s claim.

[9] In my view each of these 73 documents constitute consultations or deliberations of officers or employees of the Respondent as contemplated by Section 17(1)(b)(i) of the Act. I should point out that none of these documents consisted of doctor’s reports or doctor’s notes.

[10] The Respondent denied access to the seven documents in Group 2 by virtue of Section 22 of the Act which states:

“22 A head may refuse to give access to a record that:

(a) contains information that is subject to solicitor-client privilege;

(b) was prepared by or for an agent of the Attorney General for Saskatchewan or legal counsel for a government institution in relation to a matter involving the provision of advice or other services by the agent or legal counsel; or

(c) contains correspondence between an agent of the Attorney General for Saskatchewan or legal counsel for a government institution and any other person in relation to a matter involving the provision of advice or other services by the agent or legal counsel.

[11] The seven documents in question constitute file memoranda by lawyers in the Respondent’s legal department or correspondence to or from these lawyers. They contain

information that is clearly subject to solicitor-client privilege and as such are exempt by virtue of Section 22.

[12] The five documents comprising Group 3 are statements from 5 separate witnesses as to their observations of the Applicant's activities. The Respondent claims they are exempt from disclosure by the provisions of Section 15(1)(f) of the Act which states:

“15(1) A head may refuse to give access to a record, the release of which could:

...

(f) disclose the identity of a confidential source of information or disclose information furnished by that source with respect to a lawful investigation or a law enforcement matter;”

[13] Production of these statements would disclose the identity of their author and would also disclose information provided by the author to the Respondent in confidence. Again, they fall within the exemption provided by Section 15(1)(f).

[14] In summary, for the above reasons, I would recommend that the Respondent continue to deny access to the Applicant to the documents in question.

[15] Dated at Regina, in the Province of Saskatchewan, this 28th day of May 2003.

RICHARD P. RENDEK, Q.C.
Acting Commissioner of Information
and Privacy for Saskatchewan