



July 4, 2016

Rodney Jack Wharram



Dear Rodney Jack Wharram:

**Re: Request for Review - Deemed Refusal - General  
BC Securities Commission File 1617-0002  
OIPC File F16-66268**

This will respond to your letter to the Office of the Information and Privacy Commissioner dated June 14, 2016. As I am Alison LeDuc's supervisor, I have been asked to respond.

Your letter followed the closure of our file F16-66268 on June 9, 2016. You complained that although the response from the BC Securities Commission (BCSC) was due June 6, the public body's response letter was dated June 7 and you did not receive the letter (via email) until June 8, 2016. Ms. Leduc confirmed that the BCSC was required to respond by the *Freedom of Information and Protection of Privacy Act* (FIPPA) by June 6. Based on the response letter being dated June 7, Ms. Leduc found BCSC to have failed to respond on time. Please note that FIPPA does not require that you receive the response on June 6, just that BCSC was required to respond by that date.

You asked why our office had closed our file, and you requested information regarding punishment or sanctions for non-compliance with FIPPA.

In F16-66268, our office initiated the "deemed refusal" procedure set out on our website in the Guide to OIPC Processes (FIPPA): <https://www.oipc.bc.ca/guidance-documents/1599>. We received your request for review the morning of June 8, 2016. Ms. LeDuc contacted BCSC to ascertain the status of its response to your request for information. The BCSC advised that it had responded to you under cover of letter dated June 7, 2016. At our request, BCSC provided our office a copy of the cover letter sent to you with the records, and advised that the letter and responsive records had been provided to you by email. As per our policy, because the public body had responded, we closed our deemed refusal file and advised that, in the event you believe BCSC's response did not comply with FIPPA, you have the right to file a separate request for review or complaint.

As set out on our website at <https://www.oipc.bc.ca/for-the-public/how-do-i-make-a-complaint/>, the Office of the Information and Privacy Commissioner ensures that privacy and

access legislation is properly applied in the circumstances. Our approach to resolving disputes between individuals and public bodies is remedial, which is consistent with the legislation as there is no provision in FIPPA to fine or otherwise punish a public body that has failed to respond on time. In other words, we try to assist public bodies be compliant with the law rather than punish them. When Ms. Leduc contacted BCSC on June 8, 2016 she made the BCSC aware that they had failed to comply with FIPPA. Our priority in these cases is to ensure the requestor receives a response as soon as possible.

With respect to your request that BCSC's non-compliance be recorded, our letter to you dated June 9, 2016 is our confirmation that BCSC did not meet its statutory obligation to respond within the timeframe required by FIPPA. If BCSC had complied with FIPPA our office would not have written that letter.

In summary, the OIPC is unable to levy any punishment in this matter and no further action will be taken.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Egan', written in a cursive style.

Patrick Egan  
Director of Investigations