



# The Attorney General of Texas

September 22, 1978

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An Equal Opportunity  
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Honorable Ned Price  
State Board of Insurance  
1110 San Jacinto  
Austin, Texas 78786

Open Records Decision No. 207

Re: Whether letters of assurance presented to the State Board of Insurance are public under the Open Records Act.

Dear Judge Price:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether letters of assurance presented to the State Board of Insurance are subject to disclosure.

In 1975, a representative of the State Board of Insurance conducted a disciplinary hearing relating to possible violations of the Insurance Code by Independent Research Agency for Life Insurance [IRA] and United Services Planning Association [USPA]. On October 16, 1975, the Commissioner of Insurance entered an order which disposed of the matters under investigation and which directed that

USPA and IRA will take such actions as may be necessary . . . to make it clear that USPA is not engaged as an agent in the insurance business, that IRA is an agent engaged in the insurance business, and to delineate the role or functions of each entity in any integrated or joint program of insurance and securities solicitations and sales. . . .

No formal finding of guilt was entered, and both companies, while agreeing to the Commissioner's order, refused to admit to the violation of any law. At the Commissioner's request, however, and upon the condition that its contents would not be made available to the public, each company also submitted a "letter of assurance," detailing those practices which it agreed to avoid in the future. The Board has now received a request for copies of these letters of assurance.

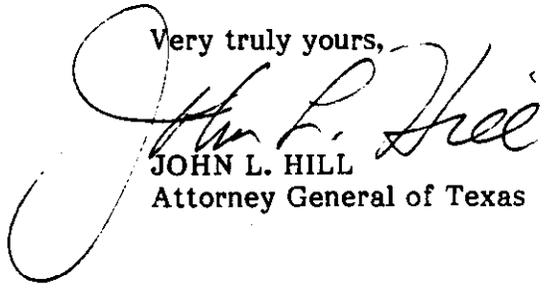
In Open Records Decision No. 180 (1977), we held that training materials submitted to IRA and USPA in connection with the disciplinary hearing were

not excepted from disclosure under sections 3(a)(1), 3(a)(3), 3(a)(4), or 3(a)(10) of the Open Records Act. In our opinion, these exceptions are equally inapplicable to the letters of assurance at issue here. As we said in Open Records Decision No. 180,

[w]e do not believe that IRA/USPA could condition its production of records on the Board's maintenance of confidentiality. Information is not excepted from disclosure solely because the individual furnished it with the expectation that access to it would be restricted. Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d at 677.

Furthermore, a governmental body is prohibited by the Act "from making agreements to keep information confidential." Open Records Decision No. 55A (1975). See Attorney General Opinion H-258 (1974). It is therefore our decision that letters of assurance furnished to the State Board of Insurance constitute public information and should be disclosed.

Very truly yours,

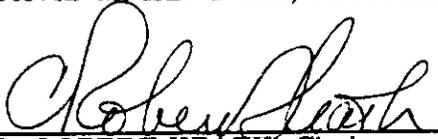


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APPROVED:



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C. ROBERT HEATH, Chairman  
Opinion Committee

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