



The Attorney General of Texas

March 11, 1983

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Affirmative Action Employer

Mr. Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy
3301 Northland Drive, Suite 500
Austin, Texas 78731

Open Records Decision No. 365

Re: Information maintained by
Board of Public Accountancy
concerning complaint against
business entity

Dear Mr. Bradley:

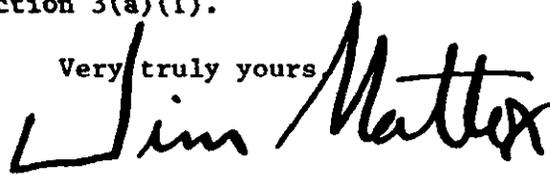
You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to the availability of information maintained by the State Board of Public Accountancy [hereinafter "the board"] with regard to a complaint against a business entity.

You explain that the Texas Association of Public Accountants [hereinafter "TAPA"] has requested a copy of the board's file in the matter of a particular business entity which performs bookkeeping and tax services. This company is one of a large number of non-licensed individuals and entities which the board believes is violating section 8(f) of article 41a-1, V.T.C.S., by representing themselves to the public as "accountants." It is our understanding that the company or individual is neither an applicant, licensee, or former licensee. See V.T.C.S. art. 41a-1, §25. TAPA is also the moving party in a declaratory judgment action presently pending in the 167th District Court of Travis County to prohibit the board from enforcing section 8(f) against such non-licensed individuals and entities. You suggest that the board's file in this matter is excepted from disclosure under section 3(a)(3), as "information relating to litigation."

Section 3(a)(3) is applicable only where litigation is pending or reasonably anticipated in regard to a specific matter. Open Records Decision Nos. 351, 331, 328, 326, 311 (1982); 289 (1981); 208 (1978). In this instance, litigation is presently pending. The assistant attorney general who represents the board has determined that the requested information is relevant to that litigation, that disclosure would prejudice the board's position in the litigation, and that, as a result, the information should be withheld. See Open Records Decision Nos. 282, 280 (1981). In our opinion, the material in the file supports this determination. Accordingly, it is our decision that the board may at this time withhold from public disclosure its entire file in the matter of this particular business which is providing

bookkeeping and tax services. In view of this determination, we need not address the applicability of section 3(a)(1).

Very truly yours

A handwritten signature in black ink that reads "Jim Mattox". The signature is written in a cursive style with a large, sweeping initial "J".

J I M M A T T O X
Attorney General of Texas

TOM GREEN
First Assistant Attorney General

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Prepared by Rick Gilpin
Assistant Attorney General

APPROVED:
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