



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

January 16, 1990

Mr. Fabian S. Gomez
Staff Attorney
Casualty Division
State Board of Insurance
1110 San Jacinto
Austin, Texas 78701-1998

Dear Mr. Gomez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 5961; this decision is OR90-026.

The State Board of Insurance (SBI) received an open records request for "all recent letters of complaint from policyholders, etc., regarding the Christian Brotherhood Fraternal insurance company" (the insurance company). You contend that the requested documents come under the protection of both section 3(a)(3) as information pertaining to pending litigation and section 3(a)(7) as information protected by court order.

You state that SBI is currently involved in litigation with the insurance company and contend that a protective order issued during the litigation protects the complaint letters. You have submitted to this office a signed copy of the protective order, which contains the following language:

IT IS THEREFORE, ORDERED that:

* * * *

10. The issue of closing the record with respect to this matter and the appointment of the Outside Conservator be submitted to the Court by Christian Brotherhood for resolution. The Parties refrain from making or disseminating any false, deceptive, misleading or disparaging remark about each other. Specifically, but not in the way of limitation, no comment may be made, published, or disseminated that Christian Brotherhood is

insolvent, is unable to pay its claims, is financially unsound, or should be avoided as an insurer.

This office has reviewed the documents at issue and has determined that they reasonably come under the protection of the protective order. You must therefore withhold the complaint letters from the general public pursuant to section 3(a)(7) during the pendency of the litigation or until the appointed conservator determines that the letters may be released. Open Records Decision No. 143 (1976). Please note that, as with information coming under the protection of section 3(a)(3), once the litigation has concluded, the requested information is no longer protected and must at that time be released. See, e.g., Open Records Decision Nos. 350, 309 (1982) (regarding sections 3(a)(3) and 3(a)(7) respectively).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-026.

Yours very truly,

*Open Government Section
of the Opinion Committee*

SG

Open Government Section
of the Opinion Committee
Approved by Susan Garrison
Assistant Attorney General

SG/RWP/le

Ref.: ID# 5961, 5762, 6151

cc: Robert Cullick
Reporter
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