



THE ATTORNEY GENERAL
OF TEXAS

JIM SLATTON
ATTORNEY GENERAL

April 24, 1990

Mr. A. W. Pogue
Commissioner
State Board of Insurance
1110 San Jacinto
Austin, Texas 78701-1998

OR90-156

Dear Mr. Pogue:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S.

The State Board of Insurance (SBI) received several open records requests for various investigative, disciplinary, and enforcement files. A list of the requests and their corresponding identification numbers is attached at the end of this ruling.

These requests concern matters subject to pending or anticipated litigation in an administrative forum, see Open Records Decision No. 368 (1983), or a judicial forum. We have considered the exceptions you claimed and reviewed the documents at issue. Your requests for open records decisions with regard to section 3(a)(3) of the Open Records Act fall within previous decisions of this office. You must release documents already known to the party adverse to the State Board of Insurance, assuming that the request encompasses these items. These would include affidavits signed by the party investigated, correspondence between him and the board, formal notice, and court pleadings. See Open Records Decision Nos. 465 (1987); 349 (1982).

On the other hand, you may withhold during the pendency of litigation or settlement negotiations, the following types of documents pursuant to section 3(a)(3): correspondence between the board and third parties concerning the investigations, the identities of witnesses and their statements, information compiled internally for purposes of evaluating the cases, and internal memoranda and notes. See generally Attorney General Opinion JM-292 (1984); Open Records Decision No. 551 (1990). Once these documents have

been released to the opposing party, they are no longer excepted from disclosure by section 3(a)(3) of the Open Records Act. If, upon the conclusion of the litigation or settlement negotiations, the requestor still seeks, and you intend to withhold, records not previously released to the opposing party, you must submit to this office the documents and your arguments as to what exceptions apply.

Your requests for decisions regarding section 3(a)(12) of the Open Records Act are governed by Open Records Decision No. 158 (1977); you may withhold the insurance company examination reports and accompanying investigators' notes. You should also withhold all personal financial information pertaining to private individuals pursuant to the common-law right to privacy, which is incorporated by section 3(a)(1) of the Open Records Act. See Open Records Decision No. 481 (1987).

If recent developments in any of these matters require us to consider them further, please let us know. If you have questions about this ruling, please refer to OR90-156.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/RWP/le

Ref.: ID#s 6055, 6287, 6391, 6721, 6801, 7017, 7133, 7255,
7454, 7615, 7616, 7644, 7682, 7790

Enclosures: ORD Nos. 551, 481, 465, 368, & 158
Attorney General Opinion JM-292

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STATE BOARD OF INSURANCE
REQUESTS FOR OPEN RECORDS DECISIONS
OR90-156

ID# 6055 North American Indemnity and American Lloyd's
ID# 6287 Savoy Reinsurance Co.; American Transportation
Underwriters; Paul England
ID# 6391 American Surety and Aztec Surplus Lines Agency
ID# 6721 Appling & Herman; Andrea & Herman
6801
ID# 7017 James B. Lowry and Senior Citizens Protective
Agency
ID# 7133 State Farm Lloyds'
ID# 7255 National Federation of Retired Persons
ID# 7454 Erik Franklin Probst
ID# 7615 Western World Annuity
ID# 7616 Ron Martin
ID# 7644 Printing Industries of the Gulf Coast, Graphic
Arts Employee Benefit Trust, and Print Care Plan
ID# 7682 Marvin Henry Lessmann II and Don Edd Robison
ID# 7790 National County Mutual and Mayflower General
Agency