



Office of the Attorney General

State of Texas

September 15, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Jeff Hankins  
Legal Assistant, Program Division  
Legal Services, 110-1C  
Texas Department of Insurance  
P. O. Box 149104  
Austin, Texas 78714-9104

OR92-544

Dear Mr. Hankins:

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# 16999.

You have received a request for information relating to a number of agents and insurance companies licensed by the Texas Department of Insurance (the "department"). Specifically, the requestor seeks licensing files and all related documents for Diversified Insurance Services, Inc., McCall Insurance Agency, agents Jack Raymond Hughes and Jay Eron Gerstenhaber; "[a]ll correspondence and files regarding all closed investigations by the Fraud Unit or its predecessors on Diversified Insurance Services, Inc. . . . including the complaint filed by Texas American Bank against Diversified in 1986 or 1987 for withholding return premiums"; the commissioners' orders and related documents concerning Ideal Life Insurance Company, Ameristar Financial Services, Inc., and agents Jack Raymond Hughes, Jay Eron Gerstenhaber, Everett Gary Husband, and James Clarence Coleman; and copies of the commissioners' monthly list of closed disciplinary hearings for the last 48 months. You advise us that you have made some of the requested information available to the requestor. However, you claim that some of the requested information is excepted from required public disclosure by sections 3(a)(7) and 3(a)(11) of the Open Records Act.

In Open Records Decision No. 574 (1990) (copy enclosed), this office held that protection of section 3(a)(7) was limited to information that revealed client confidences to an attorney or that revealed the attorney's legal advice. Information that does not contain legal advice or opinion or reveal client confidences is not

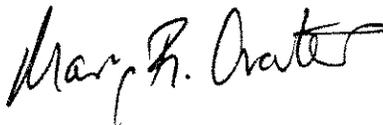
protected by section 3(a)(7). *Id.* Section 3(a)(11) excepts advice, opinion, or recommendation intended for use in the entity's policy making or deliberative process, *id.* at 1-2, but does not protect facts and written observations of fact, Open Records Decision No. 582 (1990).

You have submitted to us for review representative samples of the information you claim is excepted from required public disclosure under sections 3(a)(7) and 3(a)(11). However, you have not marked the documents to identify the portions that reveal client confidences to an attorney or the attorney's legal advice, nor have you marked the portions consisting of opinion, advice, or recommendation. Severable factual information is not excepted from disclosure to the public by sections 3(a)(7) and 3(a)(11). If you wish to waive the protection of sections 3(a)(7) and 3(a)(11) as to some or all of the material, the Open Records Act permits you to do so.

We are returning your documents to you. Please resubmit them with markings that correlate with the exceptions you claim. You have seven days from the date of this letter to resubmit the marked documents to us. Otherwise, the information that is not deemed confidential by law must be released.

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 OR92-544.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/GCK/lmm

Enclosures: Documents  
Open Records Decision No. 574

Ref.: ID# 16999  
ID# 17063

cc: Mr. Tommy H. Hollon, Jr.  
4358 Boca Bay  
Dallas, Texas 75244