



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 31, 1996

Mr. William Treacy
Texas State Board of Public Accountancy
333 Guadalupe, Tower III, Suite 900
Austin, Texas 78701-3900

OR96-0851

Dear Mr. Treacy:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39647.

The Texas State Board of Public Accountancy (the "board") received a request for two categories of documents regarding the requestor's resignation. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 25 of the Public Accountancy Act of 1991 provides:

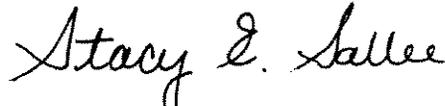
Any file maintained or information gathered or received by the board from a third party concerning a candidate, licensee, or former licensee shall be available for inspection by that candidate, licensee, or former licensee during normal business hours at the office of the board in Austin. A candidate, licensee, or former licensee by written communication may authorize the board to make any information gathered or received by the board from a third party about that candidate, licensee, or former licensee available for inspection by designated persons or available for inspection by the public at large. Except upon such written authorization, all information received or gathered by the board concerning the qualifications of any licensee or candidate and all information received or gathered by the board

concerning a disciplinary proceeding against a licensee or applicant to take the uniform CPA examination under Section 22 of this Act prior to a public hearing on the matter shall be confidential and shall not be subject to disclosure under [chapter 552 of the Government Code]. However, a final order issued by the board relating to a disciplinary action against a licensee, including a reprimand, censure, or admonishment, that results from an informal proceeding or a formal public hearing by the board, is subject to disclosure to the public and is available on request.

V.T.C.S. art. 41a-1, § 25. You have not supplied a written authorization from the subject of the investigation allowing disclosure of any materials gathered or received by the board from a third party. We, therefore, assume that there is no such authorization. The submitted information appears to have been "received . . . by the board concerning a disciplinary proceeding against a licensee." Consequently, we agree that the submitted information is confidential under section 25 of the Public Accountancy Act of 1991.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 39647

Enclosures: Submitted documents

cc: Ms. Inez VanderBurg
P.O. Box 49381
Austin, Texas 78765
(w/o enclosures)

¹We assume for purposes of this ruling that there has been no public hearing on this matter. Section 25 seems to indicate that information gathered or received by the board in connection with a disciplinary proceeding is confidential only "prior to a public hearing on the matter."