



Office of the Attorney General

State of Texas

November 27, 1996

DAN MORALES

ATTORNEY GENERAL

Ms. Mary Keller
Senior Associate Commissioner
Texas Department of Insurance
Legal and Compliance, MC 110-1A
P.O. Box 149104
Austin, Texas 78714-9104

OR96-2274

Dear Ms. Keller:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102090.

The Texas Department of Insurance (the "department") received a request from the Texas Worker's Compensation Insurance Facility (the "facility") for certain information concerning Allison-McDermid, Inc. (the "company"). The facility stated that it was seeking the information in accordance with article 5.76-4(f) of the Insurance Code, which provides that the Texas Worker's Compensation Insurance Fund¹ and the facility:

may exchange information relating to actual or suspected fraud by any applicant, policyholder, claimant, agent, or insurer with respect to worker's compensation insurance policies issued by, or applications for coverage submitted to, the facility or the fund. That information may be kept confidential and is not subject to disclosure under the open records act.

You do not indicate that article 5.76-4(f) is applicable in this situation. You assert that the information requested includes social security numbers that are confidential under article 5.58(d) of the Insurance Code, in conjunction with section 552.101 of the Government Code. You also assert that some of the information responsive to the request may involve the property or privacy interests of the company.

Section 552.101 excepts from required public disclosure information that is deemed confidential by law, including information made confidential by statute. Article 5.58(c)(1) provides that the social security number of a claimant must be provided on a workers'

¹Section 21 of Article 5.76-3 provides that the Texas Worker's Compensation Insurance Fund is an insurance company.

compensation claim. Article 5.58(d) provides that these social security numbers may not be disclosed. To the extent the information at issue provides the social security numbers required to be provided under article 5.58(c)(1), these social numbers are confidential and may not be disclosed.

As to the remaining information at issue, you have asserted that the company's privacy or property interests may be implicated by release of this information. We note that there is no protected common-law privacy interest in commercial or financial information about a business. Open Records Decision No. 192 (1978) at 4 (right of privacy protects feelings of human beings, not property, business, or other monetary interests). Section 552.110 of the Government Code excepts from disclosure two types of information (1) trade secrets and (2) commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision. This office will accept a claim that information is excepted from disclosure under the trade secret aspect of section 552.110 if a prima facie case is made that the information is a trade secret and no argument is submitted that rebuts that claim as a matter of law. Open Records Decision No. 552 (1990) at 5; *see* Open Records Decision No. 542 (1990) (governmental body may rely on third party to show why information is excepted from disclosure). Section 552.110 also protects commercial or financial information when a company shows that release of the information would cause substantial competitive harm. Open Records Decision No. 639 (1996).

As provided under section 552.305, this office sent a letter to the company, inviting the company to provide information as to why the information at issue should not be disclosed. However, we received no response. We thus have no basis on which to conclude that section 552.110 is applicable to any portion of the records at issue. *See* Open Records Decision No. 363 (1983) (third party duty to establish how and why exception protects particular information).

We are resolving this matter with this 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 may 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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 102090

Enclosures: Submitted documents

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