



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 6, 1997

Ms. Mary Barrow Nichols
General Counsel
Texas Workers' Compensation
Insurance Fund
221 West 6th Street, Suite 300
Austin, Texas 78701

OR97-0013

Dear Ms. Nichols:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102955.

The Texas Workers' Compensation Insurance Fund (the "Fund") received a request for its most recent portfolio of investments. You inform us that the Fund has released to the requestor information published by the Texas Department of Insurance in Part 1 of Schedule D of the Fund's Annual Statement. You assert that portions of the requested information are excepted from required public disclosure based on Government Code sections 552.101 and 552.110.

Section 552.101 of the Government Code excepts from required public disclosure information that is deemed confidential by law, including information that is made confidential by statute. You raise section 2(b) of article 5.76-3 of the Insurance Code. That provision states that the Fund may "refuse to release information relating to claims, rates, the Fund's underwriting guidelines, and other information that would give advantage to competitors or bidders." You assert that the requested information is "other information that would give advantage to competitors or bidders."

You state:

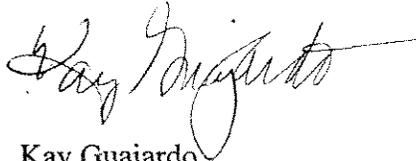
As with any insurance company operating in this state, the Fund must carefully choose its investment options in order to maintain its financial viability; investment income can be a very big part of the overall financial health of an insurer. The Fund's financial program through the use of investments could be undermined by the release of

inside investment information. Our investment strategies would be scrutinized by our competitors, who could then adjust their own investment strategies accordingly, at the expense of the Fund. The Fund's competitive position in the marketplace could suffer in an inverse relationship with the economic gains made by the Fund's competitors through the use of the Fund's inside investment information.

We agree that the release of the requested information could give advantage to the Fund's competitors. Thus, pursuant to section 552.101 of the Government Code in conjunction with section 2(b) of article 5.76-3 of the Insurance Code, you must withhold the requested information.

In light of our decision under Government Code section 552.101, we need not address your section 552.110 claim. 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,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 102955

Enclosures: Submitted documents

cc: Mr. Jay Greene
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(w/o enclosures)