



May 18, 1999

Mr. Don Ballard
Assistant Attorney General
Open Records Coordinator
P.O. Box 12548
Austin, Texas 78711-2548

OR99-1388

Dear Mr. Ballard:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 124243.

The Office of the Attorney General (the "OAG") received a request for "copies of any documents that the Attorney General's Office has obtained in their investigation," of Atlas Credit Company. In response to the request, you submit to this office for review a representative sample of the information at issue.¹ In your original brief to this office, you claimed that the submitted records, Exhibits 2-4, are excepted from required public disclosure by sections 552.101 and 552.111 of the Government Code. However, in a subsequent communication to this office, dated March 3, 1999, we have been advised that the OAG has decided to withdraw its objection to the release of the requested information, "except with respect to materials deemed confidential by law under Section 552.101." We have considered the exception and arguments you raise and have reviewed the information submitted.

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. You represent that the submitted documents were obtained pursuant to a Civil Investigative Demand ("CID") issued under the Texas Deceptive Trade Practices-Consumer Protection Act, section 17.61 of the Texas Business and Commerce Code (the "DTPA"). Section 17.61 authorizes the OAG's consumer protection division to serve on a person it believes may be in possession of documentary material relevant to an investigation of a possible violation of the DTPA a CID requiring the person

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

to produce the relevant material. Documents produced in response to a CID are confidential under section 17.61(f) of the Business and Commerce Code.

Section 17.61 provides in pertinent part as follows:

(f) No documentary material produced pursuant to a demand under this section, unless otherwise ordered by a court for good cause shown, shall be produced for inspection or copying by, nor shall its contents be disclosed to any person other than the authorized employee of the consumer protection division without the consent of the persons who produced the material. . . .

We believe this provision requires the OAG to withhold from required public disclosure all documentary material the consumer protection division obtained pursuant to the CID.² Therefore, we conclude that the submitted information must be withheld pursuant to section 552.101.

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.

Sincerely,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 124243

Enclosure: Marked documents

cc: Mr. Anthony Carrabba
Law Offices of John Ventura, P.C.
7 North Park Plaza
Brownsville, Texas 78521
(w/o enclosures)

²Since you have not told us to the contrary, we assume the person who produced the information in response to the CID has not consented to the release of the information.