



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 1, 2010

Ms. Cynthia Villarreal-Reyna  
Section Chief, Agency Counsel  
Legal and Regulatory Affairs Division  
Texas Department of Insurance  
MC 110-1A  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2010-14940

Dear Ms. Villarreal-Reyna:

You ask 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# 396167 (TDI# 106925).

The Texas Department of Insurance (the "department") received a request for the correspondence from the closed United Re file, the closed file on a named third party, and the deposition of a named individual and correspondence from the open United Re file.<sup>1</sup> You state you have released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of De Leon, Boggins & Icenogle ("De Leon"). Accordingly, you state, and provide documentation showing, you notified De Leon of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from De

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<sup>1</sup>We note the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request).

Leon explaining why its submitted information should not be released. Therefore, we have no basis to conclude De Leon has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990). Accordingly, the department may not withhold the submitted information on the basis of any proprietary interest De Leon may have in the information. As no exceptions to disclosure have been raised, the submitted information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/tp

Ref: ID# 396167

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Hector DeLeon  
DeLeon, Boggins & Icenogle  
221 West 6<sup>th</sup> Street, Suite 1050  
Austin, Texas 78701  
(w/o enclosures)