



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2011

Ms. Susan Denmon Banowsky
Vinson & Elkins
2801 Via Fortuna, Suite 100
Austin, Texas 78746-7568

OR2011-01122

Dear Ms. Banowsky:

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# 406865.

The Texas Windstorm Insurance Association ("TWIA"), which you represent, received six requests from the same requestor for twelve specified categories of information relating to named lawyers or law firms that were involved with settlements of claims from Hurricane Ike.¹ You state TWIA does not have some of the requested information.² You also state TWIA has released some of the requested information, but claim the submitted information, which you state is a representative sample of the information at issue, is excepted from disclosure under sections 552.101, 552.107, and 552.111 of the Government Code and

¹TWIA sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed).

²The Act does not require a governmental body to disclose information that did not exist when the request for information was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

privileged under Texas Rule of Evidence 503 and Texas Rule of Civil Procedure 192.5.³ You also believe these requests for information may implicate the interests of third parties.⁴ You inform us the interested parties were notified of these requests and of their right to submit arguments to this office as to why the requested information should not be released.⁵ You have submitted copies of correspondence TWIA received from The Law Offices of A. Craig Eiland, P.C. ("Eiland"), Clark, Burnett, Love & Lee, GP ("Clark"), Mostyn Law Firm ("Mostyn"), Bradley, Wimberley, Steel & Chatelain LLP ("Bradley"), Doyle & Raizner ("Raizner"), and The Merlin Law Group, PA ("Merlin"), all of whom object to the release of the requested information. We have also received correspondence from Mostyn and an attorney for the requestor.⁶ We have considered all of the submitted arguments and reviewed the submitted representative sample of information.

Initially, we note that, in each of his requests for information, the requestor excluded "personal tax information, social security numbers, home addresses, or names of insureds or claimants unless that information is part of or has already been disclosed in a public record." As some of the claimants have filed lawsuits in regard to their claims, their information is presumably part of a public record, and, thus, is responsive to the request. On the other hand, the information of claimants who did not file lawsuits in regard to their claim is not part of or disclosed in a public record and, thus, is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the requests, and TWIA is not required to release this information, which we have marked, in response to these requests.

³We assume 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 those records contain substantially different types of information than that submitted to this office.

⁴You inform us the third parties concerned are: The Law Offices of A. Craig Eiland, P.C.; Clark, Burnett, Love & Lee, GP; The Voss Law Firm, P.C.; Monk Law Firm; Solis & Smith, P.C.; Bush Lewis, PLLC; Clint Brasher, Attorney at Law; Barton Law Firm; Bettison, Doyle, Apffel & Guarino, PC; The Wenzholz Law Firm; Faubus & Scarborough; Weller, Green, Toups & Terrell, L.L.P.; Snider Byrd, LLP; The Ciofalo Law Firm, PLLC; Speights Law Firm; The Merlin Law Group, PA; Doyle & Raizner; John Grazier; Lindsay Law Firm, PLLC; Arnold & Itkin LLP; Bradley, Wimberley, Steel & Chatelain LLP; Sanders & Junell, P.C.; Arguello, Hope & Associates, PLLC; Weller, Green, Toups & Terrell, LLP; Gauthier, Haughtaling & Williams; Rick Carrasco & Associates, PLLC; Robert Collins; Loree, Hernandez and Lipscomb; Rocky Lawdermilk, Attorney at Law; Scott Renick, Attorney; Mostyn Law Firm; Reaud, Morgan & Quinn, LLP; The Buzbee Law Firm; Trey Martinez Fischer; and V Gonzalez & Associates, P.C.

⁵*See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

⁶*See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

We next note Mostyn argues TWIA must withhold a spreadsheet related to court-ordered mediation under section 552.101 of the Government Code in conjunction with section 154.073 of the Civil Practices and Remedies Code. However, TWIA did not submit the spreadsheet to us for review and informs us it has released this spreadsheet to the requestor. This ruling does not address information beyond what TWIA has submitted to us for review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested). Accordingly, this ruling is limited to the information TWIA submitted as responsive to the request for information. *See id.*

We turn now to the injunction in the case of *Vardell v. Texas Windstorm Insurance Association*, Cause No. 09-CV-2012, 122nd Judicial District Court, Galveston County, Texas. You initially withheld from disclosure some of the requested information pursuant to this injunction. However, you now inform us, and provide documentation establishing, that the injunction was dissolved on December 16, 2010. You also inform us that, as a result of the dissolution of the injunction, TWIA has provided to the requestor information that was previously covered by the injunction.

Next, you state TWIA will rely on Open Records Letter No. 2010-17600 (2011) to withhold portions of the responsive information. In that ruling, we determined TWIA may withhold premediation reports under Texas Rule of Evidence 503 and must withhold mediation reports under section 552.101 of the Government Code in conjunction with section 154.073 of the Civil Practice and Remedies Code, but must release the remaining requested information, to the extent it is responsive to the requests. Although the dissolution of the injunction noted above is a change in circumstances since Open Records Letter No. 2010-17600 was issued, the injunction's dissolution does not affect the conclusions of that prior ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). Accordingly, TWIA must continue to rely on Open Records Letter No. 2010-17600 as a previous determination and withhold or release this information in accordance with that ruling. *See* ORD No. 673.

Next, you inform us the submitted information consists of case evaluations, a summary chart of settlement amounts paid, case summaries, and mediation reports. This information falls within the scope of section 552.022(a) of the Government Code, which provides that several categories of information are subject to required public disclosure unless they are made expressly confidential under "other law." *See* Gov't Code § 552.022(a)(1) (completed report, audit, evaluation, or investigation made of, for, or by governmental body), (3) (information in account, voucher, or contract relating to receipt or expenditure of public or other funds by governmental body), (5) (all working papers, research material, and information used to estimate need for or expenditure of public funds or taxes by governmental body, on

completion of estimate), (18) (settlement agreement to which governmental body is party). Therefore, this information must be released pursuant to section 552.022, unless the information is expressly confidential under other law. *See id.* § 552.022(a). Sections 552.107(1) and 552.111 of the Government Code are discretionary exceptions to disclosure that protect a governmental body's interests. *See id.* § 552.007; Open Records Decision Nos. 677 at 10 (2002) (attorney work product privilege under Gov't Code § 552.111 may be waived), 676 at 10-11 (2002) (attorney-client privilege under Gov't Code § 552.107(1) may be waived), 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, sections 552.107(1) and 552.111 are not other law that makes information confidential for the purposes of section 552.022. Therefore, TWIA may not withhold any of the information subject to section 552.022 under section 552.107(1) or 552.111. The Texas Supreme Court has held, however, that the Texas Rules of Evidence and Texas Rules of Civil Procedure are "other law" that makes information confidential for the purposes of section 552.022. *See In re City of Georgetown*, 53 S.W.3d 328, 336 (Tex. 2001). The attorney-client privilege, as encompassed by section 552.107(1), also is found at Texas Rule of Evidence 503, and the attorney work product privilege, as encompassed by section 552.111, also is found at Texas Rule of Civil Procedure 192.5. Accordingly, we will consider TWIA's assertions of the attorney-client and attorney work product privileges under rules 503 and 192.5 for the submitted information. Section 552.101 also constitutes other law for purposes of section 552.022; therefore, we will consider whether this section requires TWIA to withhold any of the information at issue.⁷

TWIA claims Texas Rule of Evidence 503 for Exhibit 3. Rule 503 encompasses the attorney-client privilege and provides in part the following:

A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client:

- (A) between the client or a representative of the client and the client's lawyer or a representative of the lawyer;
- (B) between the lawyer and the lawyer's representative;
- (C) by the client or a representative of the client, or the client's lawyer or a representative of the lawyer, to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein;

⁷Mostyn inform us that "[t]he plaintiffs are not contesting the release of any final settlement agreement signed by the parties."

(D) between representatives of the client or between the client and a representative of the client; or

(E) among lawyers and their representatives representing the same client.

TEX. R. EVID. 503(b)(1). A communication is “confidential” if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication. *Id.* 503(a)(5).

Thus, in order to withhold attorney-client privileged information from disclosure under rule 503, a governmental body must: (1) show that the document is a communication transmitted between privileged parties or reveals a confidential communication; (2) identify the parties involved in the communication; and (3) show that the communication is confidential by explaining that it was not intended to be disclosed to third persons and that it was made in furtherance of the rendition of professional legal services to the client. Upon a demonstration of all three factors, the information is privileged and confidential under rule 503, provided the client has not waived the privilege or the document does not fall within the purview of the exceptions to the privilege enumerated in rule 503(d). *See Pittsburgh Corning Corp. v. Caldwell*, 861 S.W.2d 423, 427 (Tex. App.—Houston [14th Dist.] 1993, no writ).

TWIA states the information in Exhibit 3 consists of communications from TWIA’s outside attorneys to TWIA to advise TWIA regarding the defense of pending litigation. TWIA also states these communications were not intended to be and have not been disclosed to anyone other than TWIA’s own representatives and attorneys. Based on TWIA’s representations and our review of the information at issue, we conclude TWIA may withhold Exhibit 3 under Texas Rule of Evidence 503.⁸

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses information other statutes make confidential. Section 154.073 of the Civil Practice and Remedies Code provides in relevant part that

a communication relating to the subject matter of any civil or criminal dispute made by a participant in an alternative dispute resolution procedure, whether before or after the institution of formal judicial proceedings, is confidential, is not subject to disclosure, and may not be used as evidence against the participant in any judicial or administrative proceeding.

⁸As our ruling is dispositive, we do not address the other arguments to withhold this information.

Civ. Prac. & Rem. Code § 154.073(a). In Open Records Decision No. 658 (1998), this office found that communications during the formal settlement process were intended to be confidential. *See* Open Records Decision No. 658 at 4; *see also* Gov't Code § 2009.054(c). TWIA contends the mediation reports in Exhibit 4 are confidential under section 154.073. Mostyn seeks to withhold "any confidential communication or information created or shared in the court-ordered mediation that is included in the information at issue" on that same ground. In addition, Eiland, Clark, Bradley, Raizner, and Merlin each assert in correspondence to TWIA that "some of the requested information is made confidential pursuant to . . . section 154.073." TWIA states the reports in Exhibit 4 are "confidential mediation submissions provided to TWIA's litigation counsel by opposing counsel, solely for meditation purposes, and have been maintained as confidential by TWIA and its counsel as required by chapter 154 of the Civil Practice and Remedies Code." Based on TWIA's representations and our review of the information at issue, we conclude TWIA must withhold Exhibit 4 under section 552.101 of the Government Code in conjunction with section 154.073(a) of the Civil Practice and Remedies Code.⁹

TWIA asserts portions of the remaining information are excepted from public disclosure under section 552.101 in conjunction with the Gramm-Leach-Bliley Act (the "GLB Act") and relevant state insurance regulations. *See* 15 U.S.C. §§ 6801-6809; Ins. Code §§ 601.002 (covered entity must comply with 15 U.S.C. §§ 6802-6803), 601.051 (commissioner of insurance shall adopt rules necessary to carry out and keep privacy requirements consistent with GLB Act); 28 T.A.C. §§ 22.1-22.26. The purpose of the GLB Act is to promote competition in the financial services industry. *See* H.R. Conf. Rep. No. 106-434, at 245 (1999), *reprinted in* 1999 U.S.C.C.A.N. 245, 245. Reflecting Congressional concern regarding the dissemination of consumers' personal financial information, the GLB Act provides certain privacy protections "to protect the security and confidentiality of [consumers'] nonpublic personal information." 15 U.S.C. § 6801(a). The statute defines nonpublic personal information ("NPI") as "personally identifiable financial information ["PIFI"] - (i) provided by a consumer to a financial institution; (ii) resulting from any transaction with the consumer or any service performed for the consumer; or (iii) otherwise obtained by the financial institution." *Id.* § 6809(4)(A); *see id.* § 6809(4)(c)(I) (PIFI includes "any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any [NPI]"). Federal regulations define PIFI as

any information: (i) [a] consumer provides to [a regulated financial institution] to obtain a financial product or service . . . ; (ii) [a]bout a consumer resulting from any transaction involving a financial product or service between [a regulated financial institution] and a consumer; or (iii) [a

⁹As our ruling is dispositive, we do not address the other arguments to withhold this information. We also note TWIA does not seek to withhold any of the remaining submitted information under section 552.101 in conjunction with section 154.073.

regulated financial institution] otherwise obtain[s] about a consumer in connection with providing a financial product or service to that consumer.

16 C.F.R. § 313.3(o)(1). Sections 6802(a) and (b) of title 15 of the United States Code provide in pertinent part as follows:

(a) Notice requirements

Except as otherwise provided in this subchapter, a financial institution may not, directly or through any affiliate, disclose to a nonaffiliated third party any nonpublic personal information, unless such financial institution provides or has provided to the consumer a notice that complies with section 6803 of this title.

(b) Opt out

(1) In general

A financial institution may not disclose nonpublic personal information to a nonaffiliated third party unless—

(A) such financial institution clearly and conspicuously discloses to the consumer, in writing or in electronic form or other form permitted by the regulations prescribed under section 6804 of this title, that such information may be disclosed to such third party;

(B) the consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and

(C) the consumer is given an explanation of how the consumer can exercise that nondisclosure option.

15 U.S.C. § 6802(a), (b). “Nonaffiliated third party” is defined as “any entity that is not an affiliate of, or related by common ownership or affiliated by corporate control with, the financial institution, but does not include a joint employee of such institution.” *Id.* § 6809(5). Section 6809(3)(A) of title 15 of the United States Code defines financial institution as “any institution the business of which is engaging in financial activities as described in section 1843(k) of Title 12.” 15 U.S.C. § 6809(3)(A). Section 1843(k)(4)(b) of title 12 defines the following activity as financial in nature: “Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and

issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing, in any State.” 12 U.S.C. § 1843(k)(4)(B).

Similarly, subchapter A of chapter 22 of the Texas Administrative Code governs the treatment of nonpublic personal financial individuals by covered entities. 28 T.A.C. § 22.1(a); *see id.* § 22.1(b) (providing scope of subchapter A of chapter 22). A covered entity is defined as “[a]n individual or entity who receives an authorization from the Texas Department of Insurance[,]” including an individual or entity to which chapter 82 of the Insurance Code is applicable. *Id.* § 22.2(11) (defining “covered entity”); *see also* Ins. Code § 82.002 (listing types of companies to which chapter 82 of Insurance Code applies). For purposes of subchapter A, “nonpublic personal financial information” includes

- (i) personally identifiable financial information;
- (ii) any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available; and
- (iii) any list of individuals’ names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

22 T.A.C. 22.2(21). Section 22.14 of title 28 of the Texas Administrative Code provides as follows:

(a) Conditions for disclosure. Except as otherwise authorized in this subchapter, a covered entity may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

- (1) the covered entity has provided to the consumer an initial notice as required under § 22.8 of this title (relating to Initial Privacy Notice);
- (2) the covered entity has provided to the consumer an opt out notice as required in § 22.11 of this title (relating to Form of Opt Out Notice to Consumers and Opt Out Methods);
- (3) the covered entity has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and
- (4) the consumer does not opt out.

28 T.A.C. § 22.14(a). For purposes of section 22.14, a nonaffiliated third party is “[a]n entity that is not an affiliate of, or related to by common ownership or affiliated by corporate control with, the covered entity.” *Id.* § 22.2(20).

TWIA is an association composed of all property insurers authorized to engage in the business of property insurance in Texas, other than insurers prevented by law from writing on a statewide basis coverages available through TWIA. Ins. Code § 2210.051(a); *see id.* §§ 2210.006, 2210.051(b) (to engage in business of insurance in Texas, property insurer must be member of TWIA); *see also* 28 T.A.C. § 5.4001(c)(2)(D). The primary purpose of TWIA is to provide an adequate market for windstorm and hail insurance in Texas seacoast territories. *Id.* § 2210.001. In addition, you state TWIA is an insurance company. *See id.* §§ 2210.053(a)(1), 2210.203(a); *see also Tex. Windstorm Ins. Ass’n v. Poole*, 255 S.W.3d 775, 777 (Tex. App.—Amarillo 2008, pet. denied) (TWIA has “attributes of a private insurance business while operating under a governmental cloak”) Based on these representations, we agree TWIA is a financial institution for purposes of the GLB Act and a covered entity for purposes of section 22.14. We understand the requestor is a nonaffiliated third party. *See* 15 U.S.C. § 6809(5); 28 T.A.C. § 22.2(20).

You seek to withhold the following information regarding policy holders under the GLB Act and chapter 22 of title 28 of the Texas Administrative Code: name, address, policy numbers, phone numbers, mortgage information, liability limits, coverage amounts, premium information, claim information, and claim amounts, and other financial information, such as valuations, depreciation, and deductible amounts. You state these categories of information were provided to TWIA for the purpose of obtaining insurance and are also information resulting from transactions with insureds or services performed for insureds by TWIA, a regulated financial institution. *See* 15 U.S.C. § 6809(4)(A), 16 C.F.R. § 313.3(o)(1). The remaining submitted information does not include phone numbers, mortgage information, liability limits, coverage amounts, premium information, claim information, or claim amounts. You state TWIA provides notice to its customers of its privacy practices and procedures. However, you do not indicate TWIA provided opt out notices to the insureds. Because the names and contact information were provided to TWIA by the insureds in order to obtain a service, this information falls under the definition of PIFI. *See generally Individual Reference Servs. Group, Inc. v. Federal Trade Comm’n*, 145 F. Supp.2d 6, 26-31 (D.D.C. 2001) (discussing language, structure, and history of GLB Act to determine whether certain information meets definition of PIFI). Furthermore, the policy numbers are also PIFI because they are personal identifiers similar to account numbers. *See* 28 T.A.C. § 22.2(23). We also find this information consists of nonpublic personal financial information for purposes of section 22.14. Based on your representations and our review, we determine TWIA is prohibited by section 6802(a) and (b) of title 15 of the United States Code and section 22.14(a) of title 28 of the Texas Administrative Code from releasing the submitted responsive policy numbers, claimants’ names, and claimants’ addresses, which we have marked; therefore, TWIA must withhold this information from disclosure under section 552.101 in conjunction with section 6802(a) and section 22.14. Upon review,

however, we find the remaining information at issue does not personally identify claimants. Accordingly, we find you have not established the remaining information constitutes PIFI or nonpublic personal financial information, and TWIA may not withhold it under section 552.101 in conjunction with the GLB Act or section 22.14(a).

Section 552.101 also encompasses section 36.159 of the Insurance Code, which governs the Texas Department of Insurance subpoena powers and duty to protect confidentiality of privileged records. You assert section 36.159(c) makes confidential the remaining information at issue. Subchapter C of chapter 36 pertains to the power of the commissioner of the Texas Department of Insurance (the "commissioner") to issue subpoenas with respect to a matter that the commissioner has authority to consider or investigate. *See* Ins. Code § 36.152. Section 36.159 provides in relevant part the following:

(a) A record subpoenaed and produced under this subchapter that is otherwise privileged or confidential by law remains privileged or confidential until admitted into evidence in an administrative hearing or a court.

...

(c) Specific information relating to a particular policy or claim is privileged and confidential while in the possession of an insurance company, organization, association, or other entity holding a certificate of authority from the department and may not be disclosed by the entity to another person, except as specifically provided by law.

Ins. Code § 36.159(a), (c). You assert the remaining information at issue is confidential under section 36.159(c) because TWIA is an insurance company and association, and the requested information relates to particular policies and claims in TWIA's possession. *See id.* § 36.159(c). However, you have not shown the requested information is otherwise privileged and confidential by law and relates to a matter in which the commissioner has issued a subpoena pursuant to subchapter C of the Insurance Code. *See id.* §§ 36.152, 36.159(a). Accordingly, we find you have failed to establish the remaining information is confidential under section 36.159(c) of the Insurance Code, and TWIA may not withhold it under section 552.101 of the Government Code on that ground.

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Prior decisions of this office have found financial information relating only to an individual ordinarily satisfies the first requirement of the test for common-law privacy but there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 600 (1992), 545

(1990), 373 (1983). For example, information related to an individual's mortgage payments, assets, bills, and credit history is generally protected by the common-law right to privacy. *See* Open Records Decision Nos. 545, 523 (1989); *see also* ORD 600 (personal financial information includes choice of particular insurance carrier). Upon review, we find the remaining information does not implicate an individual's privacy rights; therefore, the remaining information is not confidential under common-law privacy, and TWIA may not withhold it under section 552.101 on that ground.

Finally, we understand Mostyn to contend that release of the remaining responsive information is prohibited by a "Standing Pretrial Order Concerning Hurricane Ike Residential Property Claims" entered in *In re: Hurricane Ike Residential Property Claim Litigation*, 212th Judicial District Court for Galveston County, Texas, and a "Standing Pretrial Order Concerning Hurricane Ike Commercial Claims Filed in County and District Court" entered in *In re: Hurricane Ike Commercial Claim Litigation*, 212th Judicial District Court, Galveston County, Texas (the "standing orders").¹⁰ However, as we have already noted, the information at issue is subject to section 552.022 of the Government Code. Section 552.022(b) of the Government Code provides as follows:

A court in this state may not order a governmental body or an officer for public information to withhold from public inspection any category of public information described by Subsection (a) or to not produce the category of public information for inspection or duplication, unless the category of information is expressly made confidential under other law.

Id. § 552.022(b). Under section 552.022(b), a court may not order a governmental body to withhold from the public information encompassed by section 552.022(a) – unless that information is expressly made confidential under other law. *Id.* The standing orders do not find the remaining responsive information to be confidential under other law. Therefore, because the Act prohibits a court from ordering TWIA to withhold information subject to section 552.022(a), unless that information is expressly made confidential under other law, TWIA may not rely on the standing orders to withhold the remaining responsive information, to the extent the standing orders could be read as purporting to have that effect.

We conclude the following: (1) TWIA must continue to rely on Open Records Letter No. 2010-17600 as a previous determination and withhold or release the information at issue in that ruling in accordance with that ruling; (2) TWIA may withhold Exhibit 3 under Texas Rules of Evidence 503; (3) TWIA must withhold Exhibit 4 under section 552.101 of the Government Code in conjunction with section 154.073(a) of the Civil Practice and Remedies Code; (4) TWIA must withhold the information we have marked in Exhibit 1 under

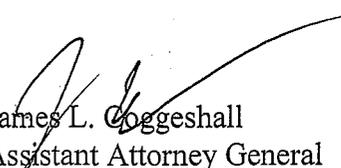
¹⁰Mostyn has submitted copies of the standing orders. We also note Mostyn does not contest the release of any final settlement agreement signed by the parties.

section 552.101 of the Government Code in conjunction with the GLB Act; and (5) TWIA must release the remaining responsive information to the requestor.

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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tf

Ref: ID# 406865

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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