



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 19, 2011

Ms. Kara L. Kennedy  
General Counsel  
Texas State Securities Board  
P.O. Box 13167  
Austin, Texas 78711-3167

OR2011-13511

Dear Ms. Kennedy:

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# 430349.

The Texas State Securities Board (the "board") received a request for information relating to two named oil and gas companies. The board received a second request for information relating to one of the same named oil and gas companies. You state the board is withholding some of the requested information it obtained in connection with an investigation pursuant to the previous determination we issued to the board in Open Records Letter No. 2004-0239 (2004).<sup>1</sup> You claim the remaining information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

---

<sup>1</sup>In Open Records Letter No. 2004-0239, we granted the board a previous determination authorizing it to withhold information obtained by the board in connection with an investigation to prevent or detect a violation of the Texas Securities Act or a board rule or order under section 552.101 of the Government Code in conjunction with article 581-28 of the Texas Securities Act, without the necessity of requesting an attorney general decision. *See* Gov't Code § 552.301(a); *see* Open Records Decision No. 673 at 7-8 (2001) (delineating elements of second type of previous determination under section 552.301(a)).

<sup>2</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

You inform us that the information at issue in Tabs B and C is not subject to the previous determination granted in Open Records Letter No. 2004-0239 because it is not “information obtained” by the board in connection with an investigation. However, you contend that this information is confidential pursuant to article 581-28 of the Texas Securities Act. Section 552.101 exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. Article 581-28 provides in pertinent part:

A. Investigations by Commissioner. The Commissioner shall conduct investigations as the Commissioner considers necessary to prevent or detect the violation of this Act or a Board rule or order. For this purpose, the Commissioner may require, by subpoena or summons issued by the Commissioner, the attendance and testimony of witnesses and the production of all records, whether maintained by electronic or other means, relating to any matter which the Commissioner has authority by this Act [footnote omitted] to consider or investigate, and may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence; provided, however, that all information of every kind and nature received in connection with an investigation and all internal notes, memoranda, reports, or communications made in connection with an investigation shall be treated as confidential by the Commissioner and shall not be disclosed to the public except under order of court for good cause shown. . . .

V.T.C.S. art. 581-28(A). You state the e-mail and letter at issue in Tabs B and C were made by the board and sent to persons from whom the board had received a complaint or other information in connection with an investigation to prevent or detect a violation of the Texas Securities Act or a board rule or an order. Based on your representation and our review, we agree the information in Tabs B and C constitutes communications made in connection with board investigations. Therefore, we conclude the submitted information is confidential under article 581-28 of the Texas Securities Act and must be withheld pursuant to section 552.101 of the Government Code.

You request that this office issue a “previous determination” that would permit the board in the future to withhold from disclosure all information prepared by the board and received in connection with an investigation to prevent or detect a violation of the Texas Securities Act, a board rule, or an order without the need of requesting a ruling from us about whether such information can be withheld from disclosure. We decline to issue such a previous determination at this time. Accordingly, 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,

A handwritten signature in black ink that reads "Kirsten Brew". The signature is written in a cursive, flowing style.

Kirsten Brew  
Assistant Attorney General  
Open Records Division

KB/em

Ref: ID# 430349

Enc. Submitted documents

c: Requestors  
(w/o enclosures)