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LBJ State Office Building

John Sharp
Comptroller of Public Accounts
Austin, Texas 78774

REC-10

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Opinion Committee

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FILE # ML-30756
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June 15, 1994

I.D.# ~~27016~~
(serened issue from 27016)

The Honorable Dan Morales
Attorney General of Texas
William P. Clements Building
300 W. 15th St., 12th Floor
Austin, TX 78701

HAND-DELIVERED

Attention: Open Government Section,
Opinion Committee

RQ-771

Dear General Morales:

The Comptroller of Public Accounts requests your decision pursuant to Subsections 301 and 305 of the Open Records Act, TEX. GOV'T. CODE ANN. §552 (the Act).

Attached are copies of the following:

1. June 7, 1994 Open Records Request from Ross Ramsey, reporter, Houston Chronicle.
2. Information requested by Mr. Ramsey.

Ross Ramsey submitted a request for information on June 7, 1994, regarding certain judgment and settlement information maintained by our office. We have previously provided Mr. Ramsey with a report on judgment and settlement information that contains, in part, the payee name, case name, description of the case and warrant amount. We informed Mr. Ramsey that information on fifty additional judgments and settlement was designated as confidential and was not included in the release. Mr. Ramsey subsequently requested in his June 7, 1994, letter information on the judgments and settlements designated as confidential.

Our office processes payments for judgments and settlements regularly based on information provided by your office. On occasion, we receive settlement and judgment information that has been designated as confidential. Normally, it is the settlement and release which indicates the documents are confidential. In an effort to insure the confidentiality of those settlements and judgments, our office designates, with a "confidential indicator" on our computer system,

those settlements and judgments that are identified as confidential by the documents your office sends to us.

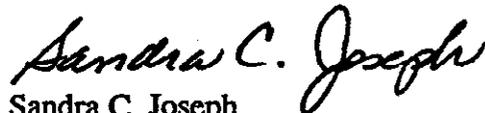
We do not receive copies of court orders from your office that would seal court records but rely on the information provided. Some of the "Settlement and Release" documents clearly denote a nondisclosure agreement. Other settlements and judgments are simply designated as confidential by your office.

There may be other information maintained by your office that we do not receive relevant to the confidentiality determination. For example, we may receive a settlement agreement that your office denotes as confidential, but contains no statement to that effect in the settlement documents. In these circumstances, there may be a court order that was simply not necessary to process the voucher, and that therefore, was not sent to our office. We are cognizant of our responsibilities in maintaining confidential information where that is required by law. On the other hand, we certainly want to release public information that is not otherwise deemed confidential.

There are three exceptions under the Open Records Act that may exempt these documents from disclosure. The confidentiality exception in Section 552.101 refers to information that is confidential by law. The question raised by this exception is whether an agreement between the parties in a "Settlement and Release" is sufficient to be considered "confidential by law." The other relevant exceptions are Sections 552.103 involving litigation or settlement negotiations and 552.107 where a court has prohibited disclosure.

Enclosed are copies of the judgment and settlement information that have been designated as confidential pursuant to the materials provided by your office. Please contact me if further information is needed. Thank you for your attention to this request.

Sincerely,



Sandra C. Joseph
Open Records Counsel/Disclosure Officer

SCJ:

Enclosures