

January 14, 1999



OFFICE OF THE  
ATTORNEY GENERAL  
STATE OF TEXAS

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JOHN CORNYN  
Attorney General

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Mr. Ryan Tredway  
Staff Attorney  
Legal and Compliance Division  
Texas Department of Insurance  
333 Guadalupe Street  
Austin, Texas 78714-9104

OR99-0104

Dear Mr. Tredway:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121116.

The Texas Department of Insurance (the "department") received a request for information about Southwest Viatical, Inc. ("Southwest Viatical"). You state that you will provide the requestor with some of the requested information. On behalf of Southwest Viatical, you raise section 552.305 of the Government Code for the remaining information because you are concerned that disclosure of this information might implicate the proprietary interests of Southwest Viatical. You have submitted a representative sample of the information at issue to this office for review.<sup>1</sup>

Since you raised section 552.305 on behalf of Southwest Viatical, we notified Southwest Viatical about the request for information. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). We did not receive a

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<sup>1</sup>We 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.

response from Southwest Viatical, and therefore, we have no basis to conclude that the information at issue is excepted from disclosure. See Gov't Code § 552.110 (protects trade secrets and commercial and financial information from disclosure); Open Records Decision Nos. 639 at 4 (1996) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3 (1990). Accordingly, we conclude that the department must release the information at issue to the requestor.

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.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 121116

Enclosures: Submitted documents

cc: Mr. Steve McVicker  
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(w/o enclosures)

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