



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 29, 2005

Mr. Robert Giddings
Assistant General Counsel
Texas Department of Banking
2601 North Lamar Boulevard
Austin, Texas 78705-4294

OR2005-06830

Dear Mr. Giddings:

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# 229199.

The Texas Department of Banking (the "department") received a request for copies of the contracts being utilized by each of the private child support enforcement agencies that are currently registered or certified with the department. You claim that the requested information may be exempted from disclosure under sections 552.101 and 552.110 of the Government Code. You make no arguments and take no position as to whether the submitted information is exempted from disclosure under these exceptions. You provide documentation showing that you notified the thirteen third parties whose proprietary interests may be implicated of the request for information and of their right to submit arguments to this office as to why the requested information relating to them should not be released.¹ See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* 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 Act in certain circumstances). We have considered the claimed exceptions and reviewed the submitted information.

¹The submitted notification letters show that the department notified the following: 1) Bureau of Child Support Enforcement, LLC; 2) Child Support - 2 Collect, Inc.; 3) Child Support Assistance Network, Inc.; 4) Child Support Assistance; 5) Child Support Specialist, Inc.; 6) Child Support Network, Inc.; 7) Enforce-It, LLC; 8) Innovative Collection Concepts, Inc.; 9) Kids Income Depends on Support, Ltd.; 10) Kids Support Enforcement Agency and Child Support Enforcement Center; 11) Parent Financial Services, Inc.; 12) Support the Children, Inc.; and 13) Human Interest Agency.

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 decision, none of the notified third parties has submitted to this office any reasons explaining why its information should not be released. Therefore, none of these third parties has provided us with a basis to conclude that any of them have a protected proprietary interest in any of the submitted information related to them. *See, e.g.*, Gov't Code § 552.110(b) (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); Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990). As the submitted information is not otherwise confidential by law, it must be released to the requestor.

We note, however, that some of the submitted information is protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990).

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the

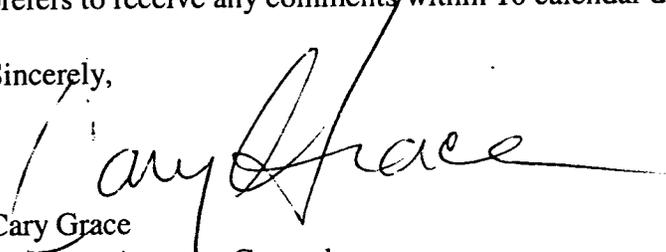
Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cary Grace
Assistant Attorney General
Open Records Division

ECG/jev

Ref: ID# 229199

Enc. Submitted documents

c: Mr. Eric Rosenkoetter
Executive Counsel for Legislative Affairs
Supportkids, Inc.
c/o Mr. Robert Giddings
Assistant General Counsel
Texas Department of Banking
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Austin, Texas 78705-4294
(w/o enclosures)

Bureau of Child Support
Enforcement, LLC
3988 North Highway 287
Alvord, Texas 76225
(w/o enclosures)

Child Support - 2 Collect, Inc.
The Carriage House
105 West Woodlawn
San Antonio, Texas 78212
(w/o enclosures)

Child Support
Assistance Network, Inc.
1103 Romaine
Houston, Texas 77090
(w/o enclosures)

Child Support
Assistance Network, Inc.
d.b.a. Child Support Assistance
1103 Romaine
Houston, Texas 77090
(w/o enclosures)

Child Support Specialist, Inc.
d.b.a. Child Support Specialists
2500 Wilcrest, Number 300
Houston, Texas 77042
(w/o enclosures)

Child Support Network, Inc.
212 East Osborn Road, Suite 210
Phoenix, Arizona 85012
(w/o enclosures)

Enforce-It LLC
14181 Northwest Freeway
Houston, Texas 77040
(w/o enclosures)

Innovative Collection Concepts, Inc.
11260 Cornell Park Drive, Suite 706
Cincinnati, Ohio 45242
(w/o enclosures)

Kids Income Depends on Support, Ltd.
d.b.a. K.I.D.S., Ltd. and KIDS, Ltd.
7166 Oaklawn
San Antonio, Texas 78229
(w/o enclosures)

Mr. M. J. "Mike" Human
d.b.a. Human Interest Agency
3001 Motley Drive, Suite J
Mesquite, Texas 75150
(w/o enclosures)

Mr. Jack R. Taylor
d.b.a. Kids Support Enforcement Agency
and Child Support Enforcement Center
200 North 13th Street, Suite 101
Corsicana, Texas 75006
(w/o enclosures)

Parent Financial Services, Inc.
3141 Hood Street, Suite 512
Dallas, Texas 75219
(w/o enclosures)

Support the Children, Inc.
5502 Springlake
Garland, Texas 75043
(w/o enclosures)