ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 9, 2014

Ms. Laurie B. Hobbs
Assistant General Counsel
Office of Consumer Credit Commissioner
2601 North Lamar Boulevard
Austin, Texas 78705

OR2014-05887

Dear Ms. Hobbs:

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# 519178 (OCC File # OR-14-113).

The Office of Consumer Credit Commissioner (the "commissioner's office") received a request for 2012 payday and auto title lending activities reported to the commissioner's office. You state you have released some of the requested information. You claim the remaining requested information is excepted from disclosure under sections 552.101 and 552.110 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of numerous Credit Access Businesses (the "CABs"). Thus, pursuant to section 552.305 of the Government Code, you notified the CABs of the request and of their rights to submit arguments to this office as to why the submitted information should not be released. *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 statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from numerous CABs as well from the Consumer Service Alliance of Texas (the "CSAT")

on behalf of all licensed CABs.[1] We have considered the submitted arguments and reviewed the submitted information.

The commissioner's office argues the submitted information is excepted from disclosure under section 552.110 of the Government Code. Section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the arguments submitted by the commissioner's office under section 552.110. However, we will discuss the CABs' and CSAT's arguments under section 552.110.

CSAT claims the submitted information is excepted under section 552.110 of the Government Code. Section 552.110(b) protects "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]" Gov't Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* Open Records Decision No. 661 at 5 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm).

CSAT argues the submitted information consists of commercial and financial information the release of which would cause licensed CABs substantial competitive harm under section 552.110(b) of the Government Code. CSAT explains the requested quarterly and annual reports submitted by licensed CABs reveal detailed financial data that would reveal an individual CAB's financial breaking point that would allow competitors to drive them out of business. CSAT explains that CABs operate in a highly competitive landscape. Upon review, we find CSAT has demonstrated the remaining requested information constitutes commercial or financial information, the release of which would cause substantial competitive injury. Accordingly, the commissioner's office must withhold the remaining requested information under section 552.110(b) of the Government Code.[2]

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.

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[1] In CSAT's brief to our office, CSAT informs us it was asked to summit comments on behalf of licensed CABs, both CSAT's members and non-members.

[2] As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Lana L. Freeman
Assistant Attorney General
Open Records Division

LLF/bhf

Ref: ID# 519178

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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