

MOSTYN LAW FIRM

TEXAS TRIAL LAWYERS

OFFICES IN HOUSTON, BEAUMONT, AUSTIN AND SAN ANTONIO

September 10, 2010

Via Facsimile 512-482-0342

Mr. Jim Oliver
c/o David Wright Attorney for Texas Windstorm Insurance Association
General Manager
Texas Windstorm Insurance Association
5700 South MoPac Expressway
Building E, Suite 530
Austin, Texas 78749

Dear Mr. Oliver:

I understand you have received a letter from Representative Larry Taylor requesting certain information. It is unclear to me whether Mr. Taylor's letter is a request for information for legislative purposes under Section 552.008, Government Code, or if the letter purports to be some sort of "legislative investigative request" or other similar language suggesting that the request is issued under color of law. It is issued and signed under his formal capacity as an elected official.

First, you are advised that I represent individuals whose private information is sought by Mr. Taylor and much of that information requested is confidential under statute, administrative rulings, judicial decision, and common-law doctrines.

Second, Mr. Taylor has no authority to issue a "legislative investigative request" or any other document under color of law that would compel the production of documents. Under Chapter 301, Government Code, and the Rules of the Texas House of Representatives, a subpoena may be issued only upon a vote of the full committee. There are no public records, including meeting minutes, that show that any vote has been taken to issue a subpoena. Further, a request for assistance or information may only be requested of a state agency, which the Association is not.

Even if the Association were to be determined to be a governmental agency, Mr. Taylor is not entitled to the confidential information under Chapter 552, Government Code, unless **he signs a confidentiality agreement and agrees not to disclose the information to a third party.**

As you should know Mr. Taylor's request comes immediately after my call to Mike Hull who works for the political action group Texans for Lawsuit Reform contacted your counsel seeking the same specific information regarding my clients and the fees earned by my firm. Mr. Hull's request for information came at the same time that an article appeared in the Austin American Statesman about me and my wife being top political donors to the Democratic Party. Your counsel Davis & Wilkerson did the right thing by refusing to produce private information. In addition, Mr. Taylor's request for information comes immediately after a partisan effort to obtain records from the Galveston County Clerk by a political operative. As those documents were not available to that individual, the timing of Mr. Taylor's strongly suggests that he is using his position on the legislative oversight committee for non-legislative purposes, namely political and partisan purposes. This suggestion is also backed by the fact that there has been no committee meeting previously on this matter.

As you know, any state official, including a Member of the Legislature, who uses his office for improper reasons unrelated to his official position commits a criminal offense under Chapter 39, Penal Code, including Abuse of Official Capacity under Section 39.02, Penal Code, Official Oppression under Section 39.03, Penal Code, and Misuse of Official Information under Section 39.06, Penal Code, all of which carry the possibility of fines or jail time, or both.

I appreciate your cooperation in this matter, in regards to not tendering any document in response to the request until this matter can be heard by a court of proper jurisdiction.

Sincerely,



J. Steven Mostyn

cc: Ms. Susan Denmon Banowsky
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