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November 7, 1988

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Re: Inspection of Public Records Regarding Western Contour

Dear Mr. Rosen:

This letter is in response to your request under the Oregon Public Records Law, ORS 192.410 to 192.505, for disclosure of Department of Justice records regarding Western Contour and its distribution and sale of adjustable and custom fitted lounge chairs in Oregon. For the reasons that follow, we claim an exemption as to only a small portion of our records, and otherwise will allow you to inspect and copy the records you seek.

The records requested are contained in approximately three cardboard boxes at our offices located at 240 Cottage Street S.E., in Salem. These records include investigative reports, interview summaries, photographs, affidavits, videotapes of advertisements by Western Contour, and materials relating to negotiations towards a resolution of the State of Oregon's claims against Western Contour. These materials, with exceptions described below, will be available to you for your review during your visit to Oregon next week.

We claim an exemption under two provisions of the Public Records Law for a small volume of materials. Those documents relate to fees charged by television stations for advertisements purchased by Western Contour.

First, those materials are exempt as confidential information, ORS 192.502(3). The cooperating television stations were concerned that disclosure of this information would place them at a competitive disadvantage. Because this pricing information was helpful in our investigation, we agreed in good faith that this confidential information would not be divulged. Based on that assurance, the television stations voluntarily provided this information to us in confidence. We believe that this information reasonably should be considered confidential. Moreover, because our investigative efforts would suffer in the future if we were to release information obtained under these circumstances, the public interest would suffer by disclosure. Accordingly, these documents fall squarely under Oregon's confidential information exemption.

Second, this pricing information constitutes "trade secrets" within the meaning of ORS 192.501(2). See Public Records Order dated December 30, 1987 (O'Neill, Witter). We find that the public interest does not require disclosure in this particular instance. See also, ORS 646.461 et seq. (Uniform Trade Secrets Act). Therefore, we also assert the trade secrets exemption.

We will make facilities available for you to review the nonexempt materials, which are substantial. I hope that your trip to Oregon proves successful, and that you enjoy your time in our state.

Very truly yours,

JAMES E. MOUNTAIN, JR.
Special Counsel to the
Attorney General

JEM:cm
cc: Richard Wasserman, Assistant Attorney General
Tom Lerner, Assistant Attorney General
Jan Margosian, Consumer Information Coordinator
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