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March 31, 2026

VIA E-MAIL ONLY: pmockford@pfglaw.com; lrh@pfglaw.com

Paul Mockford
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1030 SW Morrison St
Portland, OR 97205

Re: Petition for Public Records Disclosure Order
Division of Financial Regulation, Department of Consumer and Business Services
DOJ File No.: 440030-GA0062-26

Dear Mr. Mockford:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.431. Your petition asks the Attorney General to order the Division of Financial Regulation (DFR) of the Oregon Department of Consumer and Business Services (DCBS) to disclose copies of records concerning certain captive insurance companies. For the reasons discussed below, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law, and exemptions from disclosure must be express. In addition to the express exemptions contained in ORS 192.345 to 192.355, any other records or information that is confidential, privileged, or prohibited from being disclosed under other Oregon laws is also exempt from public disclosure. ORS 192.355(9)(a). Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain its actions. *Id*.

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Your records request to DCBS, dated January 14, 2026, sought copies of annual statements and related documentation for several captive insurers. DCBS denied your request on January 15, 2026, claiming that the records you requested are exempt from disclosure under ORS 735.156. Your petition followed.

Your petition states that you represent the named insureds under the captive insurance policies. You also explain that, due to the nature of captive insurance, the principals of the named insureds are also the managing members of the captive insurers. In other words, your clients are seeking documents relating to insurance policies issued by their principals' other companies to cover their own companies. You also provided releases signed by the managing members of the captive insurance companies.

In response to your petition, we contacted Gail Gage, a compliance specialist in DFR. She explained DCBS' position that the annual statements and related records you seek are confidential under ORS 735.156, a provision that provides that all "documents, materials and other information in the possession of [DCBS] under ORS 735.150 to 735.190[1] are confidential and subject to public disclosure only as provided in ORS 705.137."[2] She further explained that there is no provision authorizing disclosure of confidential material to persons from whom DCBS may have received that material. She noted that while ORS 705.137 contains certain exceptions to the prohibition on public disclosure, none of those exceptions permit the disclosure of the requested documents in this instance.

We find that the annual statements and other records you seek are "documents, materials, and other information" in the possession of DCBS pursuant to its regulatory authority over captive insurers. ORS 735.156. They are therefore confidential and "subject to public disclosure only as provided in ORS 705.137." *Id*. As it does not appear that any provision of ORS 705.137 would permit DCBS to disclose the requested records to you, we conclude that they are exempt from public disclosure under ORS 192.355(9)(a).

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[1] ORS 705.150 to 735.190 sets out the regulatory authority and obligations of DCBS with respect to captive insurers.

[2] ORS 705.137(1) provides that "a document, material or other information that [DCBS] possesses or controls for the purpose of administering * * * the Insurance Code and that is described in statute as confidential * * * is not subject to disclosure under" under the public records law.

You argue that providing these records to the captive insurers or the insureds is not a "public disclosure" because the records are not "confidential" as to the captive insurers or the insureds on policies they issued. We are not convinced by this argument. You have made a public records request for these documents. If they are not exempt, then the records are subject to public disclosure because "[e]very person has a right to inspect" them under the Public Records Law. ORS 192.314(1). ORS 735.156 does not contain an exception that would expressly permit or require DCBS to give special consideration to requests from captive insurance companies or their insureds.

For the foregoing reasons, we conclude that DCBS has sustained its burden and was permitted to withhold the records from you under ORS 735.156 and ORS 192.355(9)(a).[3] We therefore respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP:pjn
c via e-mail only: Gail Gage (DCBS)

[3] Your petition references a protective order entered in separate litigation. This order only addresses your right to obtain these records under the Public Records Law. It does not address what rights you may have to access them under the rules of civil discovery insofar as they may be relevant to private litigation.