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May 20, 1998

Bradley Scheminske
Scheminske, Lyons & Bussman, LLP
Kruse Woods One, Suite 181
5285 SW Meadows Road
Lake Oswego, OR 97035-3227

Re: *Petition for Public Records Disclosure Order: Workers' Compensation Records*

Dear Mr. Scheminske:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on May 15, 1998, asks the Attorney General to direct the Workers' Compensation Board (Board) to make available workers' compensation carriers and employers printouts. Based on the following reasoning, we respectfully deny your petition.

The Public Records law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. If a public record contains exempt and nonexempt material, the public body must separate the materials and make the nonexempt material available for examination if it is "reasonably possible" to do so while preserving the confidentiality of the exempt material. *Turner v. Reed*, 22 Or App 177, 186 n 8, 538 P2d 373 (1975).

Nevertheless, the Public Records Law does not require an agency to create a public record, even if the agency has the means to do so. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (1997) at 5. You have requested a "Workers' compensation carriers and employer printout." No such document exists. In the past, the Board voluntarily created the document you requested. Creation of that document, however, is

time consuming, and the Board is no longer willing to utilize staff time to create the requested document. For this reason, we deny your petition to compel disclosure.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

JAA02B92
cc: Joan Fraser, WCB Administrator