

**OREGON GOVERNMENT ETHICS COMMISSION  
MEETING AGENDA**

**January 27, 2017  
9:00 a.m.**

**2nd Floor Conference Room  
3218 Pringle Rd SE, Suite 220, Salem, OR 97302-1544**

Note: The OGEC may take action on any agenda items listed below or related thereto.

| <u>Item</u>  | <u>Page</u> |
|--|-------------|
| 1. Approval of minutes of the December 16, 2016 Commission meeting ..... | 1           |

**CONSENT CALENDAR**

Reports of Investigation

None.

Lobbyist Penalty Correspondence

|  |   |
|--|---|
| 2. Mark D. Boesen, 1 <sup>st</sup> qtr 2016, Letter of Education ..... | 9 |
|--|---|

Lobbyist Client Penalty Correspondence

|   |    |
|---|----|
| 3. American Insurance Association, 3 <sup>rd</sup> qtr 2016, Letter of Education..... | 15 |
|---|----|

Statement of Economic Interest Penalty Correspondence

None.

**End of Consent Calendar**

Lobbyist Penalty Correspondence

|   |    |
|---|----|
| 4. Amy Julkowski, 1 <sup>st</sup> and 2 <sup>nd</sup> qtrs 2016, no recommendation..... | 19 |
|---|----|

Lobbyist Client Penalty Correspondence

|  |    |
|--|----|
| 5. Oregon School-Based Health Alliance, 4 <sup>th</sup> qtr 2016, no action .....      | 25 |
| 6. Oregon Municipal Electric Utilities Assn, 4 <sup>th</sup> qtr 2016, no action ..... | 29 |

|     |  |    |
|-----|--|----|
| 7.  | Independent Employer Association, 3 <sup>rd</sup> qtr 2016, no recommendation..... | 33 |
| 8.  | Oregon Assn of Conservation Districts, 4 <sup>th</sup> qtr, no action.....         | 39 |
| 9.  | Tom Bowerman (client) 4 <sup>th</sup> qtr 2016, no action .....                    | 43 |
| 10. | Arthritis Foundation, 4 <sup>th</sup> qtr 2016, no action .....                    | 47 |
| 11. | Laborers Local 737, 4 <sup>th</sup> qtr 2016, no action.....                       | 51 |

**STIPULATED FINAL ORDERS**

|     |   |    |
|-----|---|----|
| 12. | <b><u>16-142SDG</u></b> , Mark Reynolds, Legislative Assembly Candidate [9] ..... | 55 |
| 13. | <b><u>16-143SDG</u></b> , Dana Smith, Councilor, City of Silverton [9] .....      | 59 |

**DEFAULT FINAL ORDERS**

None.

**CONTESTED CASE PROPOSED FINAL ORDERS**

None.

**REPORTS OF INVESTIGATIONS**

None.

**ADVISORY OPINIONS**

|     |  |    |
|-----|--|----|
| 14. | <b><u>No. 16A-1004</u></b> , Oregon Board of Accountancy re conflicts of interest relating to addressing complaints against individual board members ..... | 63 |
|-----|--|----|

**CORRESPONDENCE RECEIVED/RESPONSES**

Staff Opinions

|     |   |    |
|-----|---|----|
| 15. | <b><u>No. 17-S001</u></b> , Vial Fotheringham re whether possible contract could violate the prohibition of consideration contingent on the success of lobbying ..... | 77 |
|-----|---|----|

Staff Advice (non-action informational only items)

None.

Other Correspondence (non-action informational only items)

None.

**MISCELLANEOUS ITEMS**

|     |  |     |
|-----|--|-----|
| 16. | <b><u>No. 16-151EDG</u></b> , Linda Hald<br>Consideration of suspension of investigation ..... | 83  |
| 17. | Review of Advisory Opinions to be rescinded .....  | 85  |
| 18. | Trainers' Report .....   | 147 |
| 19. | Director's Report .....  | 151 |

**EXECUTIVE SESSION**

To consider Preliminary Reviews pursuant to ORS 244.260(4)(d) and to consider possible own motion reviews pursuant to ORS 244.260(2)(d).

**ADJOURNMENT**

**NOTE:**

THE NEXT MEETING DATE OF THE OREGON GOVERNMENT ETHICS COMMISSION IS SCHEDULED FOR **FRIDAY, MARCH 10, 2017 AT 9:00 A.M.** IN THE 2nd FLOOR CONFERENCE ROOM OF THE MORROW CRANE BUILDING AT 3218 PRINGLE RD SE, #220, SALEM, OREGON.



**OREGON GOVERNMENT ETHICS COMMISSION**  
**MEETING MINUTES**  
**December 16, 2016**  
9:00 a.m.

(:01)

Chair Charles Tauman called the meeting to order at 9:25 a.m. The meeting was held in the 2nd Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE Salem, Oregon. Other Commissioners present were Dan Golden, Chuck Lee, Richard Burke, and Jan Hooper. Commissioners who joined by telephone were Mary Kremer, Alison Kean, and Marilyn Cover. Kenny Montoya was excused from attendance. Staff present were OGEC Counsels Lynn Rosik and Amy Alpaugh, Executive Director Ron Bersin, Program Manager Virginia Lutz, Compliance and Training Coordinator Marie Scheffers, Investigator Diane Gould, Investigator Michael Thornicroft, and Administrative Specialist Kathy Daniel.

Bersin introduced David Hunter, new hire for the vacant OS2 position, who will be joining the Commission staff on January 3, 2017.

(3:39)

AGENDA ITEM 1, Approval of the minutes of the November 4, 2016 Commission meeting. Chair Tauman called for approval of the minutes of the November 4, 2016 Commission meeting. The minutes were approved without correction.

**CONSENT CALENDAR**

(4:01)

Kremer requested removal of Agenda Item 4 for discussion. Golden moved for the approval of the remaining Consent Calendar items and the staff recommendation on each as follows:

Reports of Investigation

None.

Lobbyist Penalty Correspondence

AGENDA ITEM 2, Luis Rodriguez, 3rd qtr 2016, Letter of Education

AGENDA ITEM 3, Chandler Willison-Gish, 2<sup>nd</sup> and 3<sup>rd</sup> qtrs 2016, Letter of Education

AGENDA ITEM 5, Robert Jenks, 2<sup>nd</sup> qtr 2016, Letter of Education

---

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS MEETING. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORT A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE AUDIO RECORDINGS AT <http://www.oregon.gov/OGEC/Pages/comissionmeet.aspx>.

---

AGENDA ITEM 6, Alyson Kraus, 3<sup>rd</sup> qtr 2016, Letter of Education

AGENDA ITEM 7, Debbie Koreski, 3<sup>rd</sup> qtr 2016, Letter of Education

AGENDA ITEM 8, Wim Wiewel, 3<sup>rd</sup> qtr 2016, Letter of Education

Lobbyist Client Penalty Correspondence

AGENDA ITEM 9, Oregon Advocacy Commission, 3<sup>rd</sup> qtr 2016, Letter of Education

AGENDA ITEM 10, Citizens' Utility Board, 2<sup>nd</sup> qtr 2016, Letter of Education

AGENDA ITEM 11, Oregon Society of Oral and Maxillofacial Surgeons, 3<sup>rd</sup> qtr 2016, Letter of Education.

AGENDA ITEM 12, TransUnion, 3<sup>rd</sup> qtr 2016, Letter of Education

AGENDA ITEM 13, American Massage Therapy Assn, 2<sup>nd</sup> and 3<sup>rd</sup> qtrs 2016, Letter of Education. Christina Weber, representing client was present, no comment.

Statement of Economic Interest Correspondence

None.

Consent Calendar roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

End of Consent Calendar

Lobbyist Penalty Correspondence

(6:14)

AGENDA ITEM 4, Kappy Eaton, 2<sup>nd</sup> and 3<sup>rd</sup> qtrs 2016, Letter of Education. The Commission generally discussed the matter. Kremer moved to impose no sanction for the late filing of the 2<sup>nd</sup> and 3<sup>rd</sup> qtrs 2016 Lobbyist Expenditure Reports and that all accrued penalties be waived. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

(10:40)

AGENDA ITEM 14, Andrew Rogers, 3<sup>rd</sup> qtr 2016. No recommendation. The Commission generally discussed the matter. Burke moved to issue a Letter of Education for the late filing of the 3<sup>rd</sup> qtr 2016 Lobbyist Expenditure Report. Roll call vote was taken as follows:

---

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS MEETING. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORT A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE AUDIO RECORDINGS AT <http://www.oregon.gov/OGEC/Pages/comissionmeet.aspx>.

---

Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

### STIPULATED FINAL ORDERS

(14:40)

AGENDA ITEM 15, 15-211EDG, Judy Rygg, City Recorder for Island City, Secretary for Island City Cemetery Maintenance District and Island City Area Sanitation District. Gould summarized the case. Rygg did not address the Commission. The Commission generally discussed the matter. Hooper moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the Chairperson be authorized to sign it as such. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

(19:32)

AGENDA ITEM 16, 15-262XDG, Molly McCargar, Gervais School District Board of Directors. Gould summarized the case. McCargar did not address the Commission. Lee abstained from participation citing personal relationship with respondent. Golden moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the Chairperson be authorized to sign it as such. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Tauman, aye. Motion passed 7-0 with one abstention.

(21:17)

AGENDA ITEM 17, 15-278EDT, Fred Clauson, Lakeside RFPD Board of Directors. Scheffers summarized the case. Clauson did not address the Commission. Golden moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the Chairperson be authorized to sign it as such. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

(23:00)

AGENDA ITEM 18, 16-111XMT, Samantha Rowan, Sumpter City Council. Rowan did not address the Commission. Thornicroft summarized the case. Hooper moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the Chairperson be authorized to sign it as such. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

---

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS MEETING. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORT A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE AUDIO RECORDINGS AT <http://www.oregon.gov/OGEC/Pages/comissionmeet.aspx>.

---

(24:30)

AGENDA ITEM 19, 16-128EDG, Jessie Groves, Port of Cascade Locks Commissioner.

AGENDA ITEM 20, 16-132EDG, Glenda Groves, Cascade Locks City Councilor.

Gould summarized the cases. The Groves did not address the Commission. The Commission discussed the matters. Burke moved that the Commission approve the proposed stipulated final orders as the final orders in this matter and that the Chairperson be authorized to sign them as such. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

### DEFAULT FINAL ORDERS

None.

### CONTESTED CASE PROPOSED FINAL ORDERS

None.

### REPORTS OF INVESTIGATION

(26:51)

AGENDA ITEM 21, 16-131SDG, Cary Clarke, City of Sumpter Planning Commissioner.

Gould summarized the case. Clarke did not address the Commission. Hooper moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.060 by Cary Clarke, if this evidence is not rebutted by contrary evidence, and that this public official be offered contested case proceeding. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

(30:00)

AGENDA ITEM 22, 16-143SDG, Dana Smith, Report on filing of Statements of Economic Interest. Gould summarized the case. Smith was present and addressed the Commission. The Commission generally discussed the matter. Burke moved to accept preliminary findings of violation. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

### ADVISORY OPINIONS

(39:50)

AGENDA ITEM 23, No. 16A-1004, Request for time extension. Scheffers summarized the request. Lee moved to approve the request for time extension. Roll call vote was

---

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS MEETING. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORT A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE AUDIO RECORDINGS AT <http://www.oregon.gov/OGEC/Pages/comissionmeet.aspx>.

---



taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

**CORRESPONDENCE RECEIVED/RESPONSES**

Staff Opinions

None.

Staff Advice

(non-action informational only items)

None.

Other Correspondence

(non-action informational only items)

None.

The Commission recessed at 10:05 a.m.

The Commission convened into executive session at 10:15 a.m. to consider Preliminary Reviews pursuant to ORS 244.260(4)(d), to consider possible own motion reviews pursuant to ORS 244.260(2)(d), and to conduct the annual Executive Director performance review pursuant to ORS 192.660(2)(i).

**EXECUTIVE SESSION CONSENT CALENDAR**

Reports of Preliminary Review

None.

End of Executive Session Consent Calendar.

**OTHER ITEMS**

Reports of Preliminary Review

(removed from consent calendar)

(:50) Recorder timed out during break.

AGENDA ITEM 28, 16-147EDG, Taner Elliott, Councilor, City of The Dalles.

Gene Parker, city attorney, and Elliott joined via telephone. Hooper moved that the Commission find that there is a substantial, objective basis for believing that Taner Elliott may have violated ORS 244.040 ORS 244.120(2) and that the Commission should investigate accordingly. Roll call vote was taken as follows:

---

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS MEETING. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORT A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE AUDIO RECORDINGS AT <http://www.oregon.gov/OGEC/Pages/comissionmeet.aspx>.

---

Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

(11:00)

AGENDA ITEM 28-A, 16-148EMT, Sophia Seban, Springfield Property Management Specialist. Seban did not address the Commission. Burke moved that the Commission find that there is a substantial, objective basis for believing that Sophia Seban may have violated ORS 244.040 ORS 244.120 and that the Commission should investigate accordingly. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

Preliminary Review Stipulated Final Orders  
(discussion only, action in open session)

None.

Own Motion Reviews

(20:23)

AGENDA ITEM 29, Possible Own-Motion Preliminary Review re Linda Hald, former Columbia County Office Mgr, Adult Division of the Community Justice Dept. Burke moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Linda Hald has violated ORS Chapter 244. Roll call vote was taken as follows: Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. (Hooper temporarily absent.) Motion passed unanimously.

(23:20)

AGENDA ITEM 30, Possible Own-Motion Preliminary Review re James Raussen, former Director of the Oregon Educators Benefits Board. Golden moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether James Raussen has violated ORS Chapter 244. Roll call vote was taken as follows: Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. (Hooper temporarily absent.) Motion passed unanimously.

Other Items  
(non-action informational only items)

(25:15)

AGENDA ITEM 31, Executive Director Performance Review. The Commission conducted the annual performance review for Director Bersin.

(51:00)

AGENDA ITEM 32, Summary of Pending Cases. The Commission reviewed the list of pending cases without comment.

---

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS MEETING. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORT A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE AUDIO RECORDINGS AT <http://www.oregon.gov/OGEC/Pages/comissionmeet.aspx>.

---

The Commission reconvened into regular session at 11:15 a.m.

The Commission recessed for a working lunch at 11:15 a.m. and reconvened into regular session at 11:30 a.m.

### MISCELLANEOUS ITEMS

(51:44)

AGENDA ITEM 24, Review of Advisory Opinions to be rescinded. Rosik summarized the Advisory Opinions that need to be rescinded. The Commission generally discussed the matter. Weedn reviewed the opinions to be rescinded and noted that some may be re-written. Cover moved to rescind the listed opinions. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

(1:03:44)

AGENDA ITEM 25, Election of Chair & Vice Chair for 2017.

Tauman nominated Commissioner Golden for Chair for 2017. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

Burke nominated Commissioner Kean for Vice Chair for 2017. Roll call vote was taken as follows: Hooper, aye; Kremer, aye; Golden, aye; Cover, aye; Burke, aye; Kean, aye; Lee, aye; Tauman, aye. Motion passed unanimously.

(1:14:11)

AGENDA ITEM 26, Trainers' Report. Weedn summarized the training activities and reviewed upcoming training opportunities. New Boards and Commissions training now only available in iLearn.

(1:21:25)

AGENDA ITEM 27, Director's Report. Bersin discussed the status of:

- Reporting System: EFS development is now complete and currently working with NIC USA on system issues. Discussion re upgrading system following potential legislative changes.
- Budget: 2017-19 budget request was approved by Governor's Office without changes.
- Legislation: All four legislative concepts were accepted and will move forward.

---

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS MEETING. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORT A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE AUDIO RECORDINGS AT <http://www.oregon.gov/OGEC/Pages/comissionmeet.aspx>.

---

- Case Management System: Ready to deploy Phase 1 to meet statutory requirement of January 1, 2017. Advice and Opinions will be searchable by Public through the CMS.
- Other:
  - Staff Recruitment: David Hunter was appointed to the OS2 position and will join staff January 3, 2017.
  - Commission Turnover: Four Commissioners' terms will end and will be replaced in 2017: Tauman, Cover, Kremer, and Montoya.
  - Scheffers was accepted into Leadership Oregon program.
  - Lynn Rosik was thanked and congratulated on her retirement for her many years of service as OGEC Counsel.

Chair Tauman adjourned the meeting at 12:15 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for Friday, January 27, 2017, at 9:00 a.m. The meeting will be held in the 2<sup>nd</sup> Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, Suite 220, in Salem, Oregon.

---

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS MEETING. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORT A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE AUDIO RECORDINGS AT <http://www.oregon.gov/OGEC/Pages/comissionmeet.aspx>.

---



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 11, 2017

Mark D. Boesen  
2730 E. Mead Ct.  
Gilbert AZ 85298

Dear Mr. Boesen:

The written explanation of why your Q1 2016 expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Friday, January 27 at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$5,000 penalty will be extended to coincide with the January 27, 2017 meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



# Lobbyist Activity

## Q1 2016

Lobbyist Code: 412  
User Name: mdboesen  
Email: mark.boesen@alkermes.com

Q1 2016 Filing: 4/4/2016  
Q1 2016 Expended: \$0.00  
Q1 2016 Penalty: \$5,000.00

Mark Boesen  
2730 E Mead Ct  
Gilbert, AZ 85298

### Activity Log - Q1 2016 to Date

01/04/16 12:39:51.567 - User Profile Created - User profile created for Boesen Mark  
01/04/16 12:39:52.583 - User Profile Created - A new user profile was created.  
01/04/16 12:39:52.583 - Lobbyist Profile Created - A new lobbyist profile was created.  
01/04/16 12:43:31.440 - User Successfully Authenticated -  
01/04/16 12:45:18.610 - User Successfully Authenticated -  
01/04/16 12:49:11.060 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.  
04/04/16 02:43:38.167 - User Failed to Authenticate -  
04/04/16 02:44:10.647 - User Failed to Authenticate -  
04/04/16 02:44:20.257 - User Failed to Authenticate -  
04/04/16 02:45:55.690 - User Successfully Authenticated -  
04/04/16 02:46:52.463 - Lobbyist Report Submitted - Lobbyist Report Submitted  
04/08/16 10:28:43.493 - User Successfully Authenticated -  
04/08/16 10:29:01.323 - User Successfully Authenticated -  
04/08/16 10:29:27.910 - User Password Reset - The user's password was reset from the "My Profile" page.  
04/08/16 10:29:27.943 - User Profile Updated - User profile updated for Boesen Mark  
04/08/16 10:29:27.957 - User Profile Updated - The user's main profile was updated.  
04/08/16 10:29:40.110 - User Failed to Authenticate -  
04/08/16 10:29:51.313 - User Successfully Authenticated -  
04/08/16 01:33:11.370 - User Successfully Authenticated -  
04/11/16 02:22:09.980 - User Successfully Authenticated -  
07/16/16 01:30:27.140 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/17/16 01:30:26.647 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/18/16 01:30:24.580 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/19/16 01:30:27.783 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/20/16 01:30:26.320 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/21/16 01:30:31.917 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/22/16 01:30:30.707 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/23/16 01:30:27.843 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/24/16 01:30:49.620 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/25/16 01:30:28.610 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/26/16 01:30:30.147 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
08/03/16 01:30:10.747 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/04/16 01:30:12.283 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/05/16 01:30:11.460 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/06/16 01:30:13.923 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/07/16 01:30:15.750 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/08/16 01:30:09.643 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/09/16 01:30:13.200 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/10/16 01:30:13.253 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/11/16 01:30:17.483 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/12/16 01:30:12.000 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/13/16 01:30:11.750 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/14/16 01:30:11.513 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/15/16 01:30:12.090 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/16/16 01:30:12.360 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/17/16 01:30:12.323 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/18/16 01:30:34.197 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/19/16 01:30:12.850 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/20/16 01:30:11.423 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/21/16 01:30:11.973 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/22/16 01:30:13.393 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/23/16 01:30:11.593 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/24/16 01:30:11.423 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/25/16 01:30:11.637 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/26/16 01:30:12.720 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/27/16 01:30:11.297 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2

# Lobbyist Activity

Q1 2016

Lobbyist Code: 412  
User Name: mdboesen  
Email: mark.boesen@alkermes.com

Q1 2016 Filing: 4/4/2016  
Q1 2016 Expended: \$0.00  
Q1 2016 Penalty: \$ 5,000.00

Mark Boesen  
2730 E Mead Ct  
Gilbert, AZ 85298

08/28/16 01:30:11.727 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/29/16 01:30:11.663 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/30/16 01:30:11.810 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/31/16 01:30:14.040 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/01/16 01:30:12.793 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/01/16 09:19:12.953 - User Profile Updated - The user's main profile was updated.  
09/01/16 09:19:13.947 - User Profile Updated - User profile updated for Mark Boesen  
09/02/16 01:30:11.160 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/03/16 01:30:11.730 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/04/16 01:30:12.730 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/05/16 01:30:12.137 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/06/16 01:30:13.053 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/07/16 01:30:13.533 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/08/16 01:30:13.433 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/09/16 01:30:12.883 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/10/16 01:30:11.680 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/11/16 01:30:11.860 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/12/16 01:30:13.490 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/13/16 01:30:14.240 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/14/16 10:23:25.700 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/15/16 01:30:12.773 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/16/16 01:30:13.503 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/17/16 01:30:13.657 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/18/16 01:30:16.217 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/19/16 01:30:12.603 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/20/16 01:30:13.577 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/21/16 01:30:13.680 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/22/16 01:30:16.893 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/23/16 01:30:33.897 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/24/16 01:30:12.577 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/25/16 01:30:34.347 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/26/16 01:30:12.853 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/27/16 01:30:14.583 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/28/16 01:30:11.210 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/29/16 01:30:12.060 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/30/16 01:30:11.653 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
09/30/16 07:01:43.083 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/02/16 01:30:12.253 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/03/16 01:30:12.970 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/04/16 01:30:11.803 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/05/16 01:30:10.753 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/06/16 01:30:12.620 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/07/16 01:30:13.567 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/08/16 01:30:12.013 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/09/16 01:30:29.207 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/10/16 01:30:12.127 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/11/16 01:30:14.417 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/12/16 01:30:13.873 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/13/16 01:30:11.883 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/14/16 01:30:10.663 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/15/16 01:30:10.513 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/16/16 01:30:11.373 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/17/16 01:30:11.647 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/18/16 01:30:12.337 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/19/16 01:30:13.113 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/20/16 01:30:13.390 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/21/16 01:30:13.193 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/22/16 01:30:11.110 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2

# Lobbyist Activity

Q1 2016

Lobbyist Code: 412  
User Name: mdboesen  
Email: mark.boesen@alkermes.com

Q1 2016 Filing: 4/4/2016  
Q1 2016 Expended: \$0.00  
Q1 2016 Penalty: \$5,000.00

Mark Boesen  
2730 E Mead Ct  
Gilbert, AZ 85298

10/23/16 01:30:11.133 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/24/16 01:30:14.547 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/25/16 01:30:11.653 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/26/16 01:30:14.403 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/27/16 01:30:15.000 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/28/16 01:30:15.567 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/29/16 01:30:15.230 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/30/16 01:30:15.690 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
10/31/16 01:30:13.890 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
11/01/16 01:30:13.927 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
11/02/16 01:30:13.770 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
11/03/16 01:30:14.220 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
11/04/16 01:30:13.630 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
11/05/16 01:30:15.270 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
11/06/16 01:30:43.653 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
11/07/16 01:30:14.013 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
11/08/16 01:30:13.213 - Automated Late Fee Applied - Late fee of amount \$40.00 applied for reporting requirement 2016 Q2  
01/03/17 10:58:00.813 - User Failed to Authenticate -  
01/03/17 10:58:32.790 - User Successfully Authenticated -

KathyD January 12th, 2017 at 10:59 AM

1/11/17 Mark called and also sent in a letter of explanation. Letter of Acknowledgement sent. Reminder to change his email address and update all contact information in his account.

KathyD January 11th, 2017 at 1:53 PM

1/11/17 Paul Nielsen, Mark's former colleague and friend, called to see what needs to happen because of the fine. I explained how our system works and told him I've not been able to contact Mark. He's going to try to get ahold of him and ask that he call me. kd

No previous late filings. OGEC staff recommendation is as follows:

*Luther* *A EJ*  
*AD*



JAN 11 2017

OREGON GOVERNMENT  
ETHICS COMMISSION

January 11, 2017

Dear Ethics Commissioners,

I am writing to you today to express my sincerest apologies for failing to timely file a lobbyist disclosure report for the second quarter (Q2) of 2016. I understand my responsibilities to file timely reports. In this case, however, I truly did not understand my reporting responsibility. The following is an explanation I hope you will consider as you deliberate my penalty. I hope you will find that no further action, or fine, is warranted.

Course of Events

In the first quarter (Q1) of 2016 I was registered as a lobbyist with the Commission and worked for Alkermes, Inc. Alkermes is a biotech pharmaceutical manufacturer based in Massachusetts. Among the products it manufactures is a drug that treats opiate addiction and alcoholism (extended-release naltrexone). Because I represented the company and discussed potential legislative and administrative initiatives that would improve access to the medication for Oregonians, I registered as a lobbyist. I never spent any reportable money on any lawmaker or fundraiser and always reported zero dollar reports timely. I left Alkermes on March 31, 2016. I filed a termination of my lobbyist registration with the Commission, and it was accepted and recorded on April 4, 2016. I understand that staff at the Commission attempted to contact me over the next several months, but the email address and telephone number on file with the Commission were my employers' email and mobile phone number that had been assigned to me during my employment relationship. Immediately upon resigning from Alkermes, I surrendered my technology devices to my former employer. I, however, maintained my home address with the Commission just in case there was any follow up correspondence necessary from your office. Because my service with Alkermes ended on the last day of the Q1- 2016, and my termination was accepted 4 calendar days later, I assumed my reporting obligations were over. Alkermes new lobbyist, Mr. Paul Neilsen, maintained the timely reporting of lobbyist disclosures on behalf of Alkermes.

Today, January 11, 2017, I received a call from my replacement, Mr. Neilsen, who informed me that my registration showed a fine of \$5,000 when he was reviewing a routine audit of lobbying compliance. He asked that I contact the Commission immediately to clear up the issue. I spoke with Ms. Kathy Daniel today, January 11, 2017, who informed me that I had the option of requesting the Commission review my reason for failing to file the Q2-2016 report.

Compassionate Relief Requested

I have not worked for Alkermes since March of 2016. I have not engaged in any lobbying activity since March 31, 2016, for any entity. I thought my filing of a termination notice would end my reporting obligation. However, Ms. Daniel informed me that since my termination was not recorded until April 4, 2016, there were 4 days in Quarter 2 in which the Commission expected a report. For this I sincerely apologize. I would have never purposefully avoided my obligation to report to the Commission. My delay in sending you this letter is due to the fact that I did not receive correspondence via US Mail. Since my email address and telephone number on file were canceled by my employer upon my resignation from Alkermes, I did not know there was a pending obligation. At this time, if the fine is upheld, I would need to pay the fine personally and I do not have the financial means to pay the \$5000 fine. And, since I no longer work for the entity for which I lobbied, I cannot ask them for financial assistance. Please consider my plea and my explanation of mitigating circumstances when deciding how to proceed with my case.

Sincerely,  
Mark D. Boesen  
2730 E Mead Ct  
Gilbert, AZ 85298  
(602) 616-8831 Mobile  
[mdboesen@cox.net](mailto:mdboesen@cox.net)

(

(

(



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

December 20, 2016

Katherine Pettibone  
American Insurance Association  
1201 K Street, Suite 1850  
Sacramento CA 95814

Dear Ms. Pettibone:

The written explanation of why your Q3 expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Friday, January 27, 2017, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

I am returning your check at this time as it is not possible to issue a refund should the Commission mitigate all or some of the penalty.

The due date for the \$1,250 penalty will be extended to coincide with the 1/27/17 meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



# Client/Employer Activity

## Q3 2016

Client Code: 741  
User Name: Steven Suchil  
Email: kpettibone@aiadc.org

Q3 2016 Filing: 11/21/2016  
Q3 2016 Expended: \$10,500.00  
Q3 2016 Penalty: \$1,250.00

American Insurance Association  
Attn: Katherine Pettibone  
AIA  
Sacramento, CA 95814

### Activity Log - Q3 2016 to Date

07/11/16 10:25:18.917 - User Successfully Authenticated -  
07/11/16 10:30:59.803 - Client Report Submitted - Client Report Submitted  
08/31/16 03:04:16.293 - User Successfully Authenticated -  
10/16/16 01:30:13.543 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/17/16 01:30:13.343 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/18/16 01:30:13.413 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/19/16 01:30:14.093 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/20/16 01:30:14.263 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/21/16 01:30:14.020 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/22/16 01:30:11.747 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/23/16 01:30:11.790 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/24/16 01:30:15.203 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/25/16 01:30:12.247 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/26/16 01:30:21.563 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/27/16 01:30:22.510 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/28/16 01:30:23.160 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/29/16 01:30:21.950 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/30/16 01:30:21.163 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/31/16 01:30:21.503 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/01/16 01:30:20.687 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/02/16 01:30:20.913 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/03/16 01:30:21.163 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/04/16 01:30:20.430 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/05/16 01:30:21.607 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/06/16 01:30:50.310 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/07/16 01:30:21.123 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/08/16 01:30:18.330 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/09/16 01:30:17.737 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/10/16 01:30:18.410 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/11/16 01:30:19.713 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/12/16 01:30:18.703 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/13/16 01:30:22.270 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/14/16 01:30:19.220 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/15/16 01:30:18.543 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/16/16 01:30:16.127 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/17/16 01:30:17.330 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/18/16 01:30:15.980 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/19/16 01:30:19.650 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/20/16 01:30:17.257 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/21/16 01:30:16.097 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
11/21/16 10:14:12.417 - Admin User Reset Initiated - An admin user reset was initiated.  
11/21/16 10:16:08.597 - Admin User Password Reset Completed - A user reset their password using an admin reset.  
11/21/16 10:16:30.947 - User Successfully Authenticated -  
11/21/16 10:17:20.510 - User Profile Updated - The user's main profile was updated.  
11/21/16 10:17:26.033 - User Profile Updated - User profile updated for Steven Suchil  
11/21/16 10:18:19.790 - User Successfully Authenticated -  
11/21/16 10:19:44.643 - User Profile Updated - The user's main profile was updated.  
11/21/16 10:19:50.117 - User Profile Updated - User profile updated for Steven Suchil  
11/21/16 10:21:04.463 - User Profile Updated - The user's main profile was updated.  
11/21/16 10:21:09.763 - User Profile Updated - User profile updated for Katherine Pettibone  
11/21/16 10:22:54.970 - User Successfully Authenticated -  
11/21/16 10:24:52.917 - User Successfully Authenticated -  
11/21/16 10:35:30.730 - User Successfully Authenticated -  
11/21/16 10:36:35.763 - User Security Questions Reset - The user's security questions were reset from the "My Profile" page.  
11/21/16 10:36:35.877 - User Profile Updated - The user's main profile was updated.

## Client/Employer Activity

### Q3 2016

Client Code: 741  
User Name: Steven Suchil  
Email: kpettibone@aiaadc.org

Q3 2016 Filing: 11/21/2016  
Q3 2016 Expended: \$10,500.00  
Q3 2016 Penalty: \$1,250.00

American Insurance Association  
Attn: Katherine Pettibone  
AIA  
Sacramento, CA 95814

11/21/16 10:36:41.293 - User Profile Updated - User profile updated for Katherine Pettibone  
11/21/16 10:38:12.053 - User Password Reset - The user's password was reset from the "My Profile" page.  
11/21/16 10:38:12.083 - User Profile Updated - The user's main profile was updated.  
11/21/16 10:38:17.073 - User Profile Updated - User profile updated for Katherine Pettibone  
11/21/16 10:49:38.870 - Client Report Saved - Client Report Saved for Q3 2016  
11/21/16 10:56:13.300 - Client Report Submitted - Client Report Submitted for Q3 2016  
01/09/17 09:37:17.337 - User Successfully Authenticated -  
01/09/17 09:48:56.690 - Client Report Submitted - Client Report Submitted for Q4 2016

**KathyD December 20th, 2016 at 1:44 PM**

12/19/16 Received letter of request for mitigation via USPS as well as a check for payment in full, \$1,250.  
I'm returning the check with a Letter of Acknowledgement that the Commission will review this case at  
its next meeting, January 27, 2017.

**KathyD December 14th, 2016 at 8:28 AM**

12/14/16 Received letter of request for mitigation.

No previous late filings. OGEC staff recommendation is as follows:

*Letter to Ed*  
*ED*



RECEIVED

DEC 19 2016

OREGON GOVERNMENT  
ETHICS COMMISSION

WESTERN REGION

1201 K Street

Suite 1850

Sacramento, CA 95814

916-442-7617

[www.aiadc.org](http://www.aiadc.org)

To: Oregon Government Ethics Commission  
3218 Pringle Rd SE, Suite 220  
Salem OR 97302-1544

From: Katherine Pettibone, Vice President Western Region, American Insurance Association

Re: Request of Mitigation of Penalty for Late Q3 Filing

Dear Members,

I am writing to firstly apologize and explain our late third quarter client report. I am also asking for mitigation of a very stern fine for a mistake that will definitely not happen again! The American Insurance Association has gone through a number of personnel changes this year and unfortunately, those folks that were signed up as the responsible officers and contacts for the state of Oregon departed AIA before the report was due. Ogec's notification for the overdue report went to both emails that were defunct ([abarrios@aiadc.org](mailto:abarrios@aiadc.org) and [ssuchil@aiadc.org](mailto:ssuchil@aiadc.org)).

I am the new western region vice-president but this is my first experience in working in multiple states and I was not aware that Oregon had a quarterly reporting requirement, so the lack of information or notice didn't raise alarm bells until too late when I was cleaning up files from my departed colleague's office. I realize it is incumbent on those of us doing business in your state to be aware of the rules that apply to us, and I acknowledge my failure to do so and ensuing mortification. Although a penalty is in order, the fine of \$1250 is very large for what was not a deliberate act of ignoring our responsibilities and I am asking the Commission to consider reducing the penalty. I have ensured that we have set up an ongoing system in the home office so that this does not happen again.

Thank you for your consideration.

Sincerely  
Katherine Pettibone

A handwritten signature in black ink, appearing to read 'Katherine Pettibone', written over a horizontal line.

Vice President, State Affairs  
American Insurance Association



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 11, 2017

Amy Julkowski  
Portland Habilitation Center, Inc.  
5312 NE 148<sup>th</sup> Ave.  
Portland OR 97230

Re: Debra Houston, Lobbyist

Dear Ms. Julkowski:

The written explanation of why Debra Houston's Q1 and Q2 2016 expenditure reports were filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Friday, January 27, 2017 at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$2,310 penalties will be extended to coincide with the January 27 meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff  
v/lobby



# Lobbyist Activity

## Q1 2016

Lobbyist Code: 720  
User Name: dhoustonphcnw  
Email: deb@phcnw.com

Q1 2016 Filing: 8/10/2016  
Q1 2016 Expended: \$0.00  
Q1 2016 Penalty: \$1,800.00

Debra Houston  
5312 NE 148th Avenue  
Portland, OR 97230

### Activity Log - Q1 2016 to Date

01/27/16 11:10:04.397 - User Profile Created - User profile created for Debra Houston  
01/27/16 11:10:05.240 - User Profile Created - A new user profile was created.  
01/27/16 11:10:05.257 - Lobbyist Profile Created - A new lobbyist profile was created.  
01/27/16 11:34:49.033 - User Successfully Authenticated -  
05/05/16 11:12:53.280 - Admin User Reset Initiated - An admin user reset was initiated.  
05/05/16 05:38:12.183 - User Failed to Authenticate -  
05/06/16 10:33:10.253 - User Failed to Authenticate -  
05/06/16 10:33:30.130 - User Failed to Authenticate -  
05/10/16 03:37:11.687 - Admin User Reset Initiated - An admin user reset was initiated.  
05/31/16 02:33:31.333 - User Failed to Authenticate -  
05/31/16 02:38:40.757 - Admin User Reset Initiated - An admin user reset was initiated.  
06/14/16 01:30:26.437 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/15/16 01:30:26.903 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/16/16 01:30:26.827 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/17/16 01:30:28.287 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/18/16 01:30:27.517 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/19/16 01:30:26.493 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/20/16 01:30:24.643 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/21/16 01:30:26.187 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/25/16 01:30:30.100 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/26/16 01:30:27.107 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/27/16 01:30:25.820 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/28/16 01:30:28.573 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/29/16 01:30:30.210 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/30/16 01:30:26.697 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
07/13/16 01:30:25.223 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/14/16 01:30:29.680 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/15/16 01:30:34.763 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/16/16 01:30:26.800 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/16/16 01:30:27.483 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/17/16 01:30:26.333 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/17/16 01:30:26.880 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/18/16 01:30:24.190 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/18/16 01:30:24.830 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/19/16 01:30:27.490 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/19/16 01:30:27.973 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/20/16 01:30:26.023 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/20/16 01:30:26.430 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/21/16 01:30:31.603 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/21/16 01:30:32.010 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/22/16 01:30:30.423 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/22/16 01:30:30.800 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/23/16 01:30:26.660 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/23/16 01:30:27.937 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/24/16 01:30:48.670 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/24/16 01:30:49.730 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/25/16 01:30:27.613 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/25/16 01:30:28.703 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/26/16 01:30:29.057 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/26/16 01:30:30.243 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
08/03/16 01:30:10.373 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/03/16 01:30:10.810 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/04/16 01:30:11.487 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/04/16 01:30:12.393 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/05/16 01:30:10.803 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/05/16 01:30:11.537 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2



# Lobbyist Activity

## Q1 2016

Lobbyist Code: 720  
User Name: dhoustonphcnw  
Email: deb@phcnw.com

Q1 2016 Filing: 8/10/2016  
Q1 2016 Expended: \$0.00  
Q1 2016 Penalty: \$1,800.00

Debra Houston  
5312 NE 148th Avenue  
Portland, OR 97230

08/06/16 01:30:13.113 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/06/16 01:30:14.000 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/07/16 01:30:15.003 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/07/16 01:30:15.830 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/08/16 01:30:08.893 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/08/16 01:30:09.690 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/09/16 01:30:12.250 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/09/16 01:30:13.403 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/10/16 01:30:12.253 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/10/16 01:30:13.317 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/10/16 10:15:12.133 - User Profile Updated - The user's main profile was updated.  
08/10/16 10:15:12.160 - User Profile Updated - User profile updated for Debra Houston  
08/10/16 10:18:36.577 - Admin User Reset Initiated - An admin user reset was initiated.  
08/10/16 10:20:02.283 - Admin User Password Reset Completed - A user reset their password using an admin reset.  
08/10/16 10:23:30.180 - User Successfully Authenticated -  
08/10/16 10:24:20.147 - User Profile Updated - The user's main profile was updated.  
08/10/16 10:24:20.153 - User Profile Updated - User profile updated for Debra Houston  
08/10/16 10:55:36.293 - User Successfully Authenticated -  
08/10/16 10:56:07.413 - User Profile Updated - User profile updated for Debra Houston  
08/10/16 10:56:07.417 - User Profile Updated - The user's main profile was updated.  
08/10/16 11:00:20.853 - User Successfully Authenticated -  
08/10/16 11:07:48.287 - User Failed to Authenticate -  
08/10/16 11:08:44.957 - User Successfully Authenticated -  
08/10/16 11:11:26.143 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q1 2016  
08/10/16 11:15:08.950 - User Successfully Authenticated -  
08/10/16 11:16:12.430 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q2 2016  
09/19/16 01:10:03.180 - User Successfully Authenticated -  
10/05/16 01:53:17.377 - User Successfully Authenticated -  
10/07/16 10:22:50.530 - User Failed to Authenticate -  
10/07/16 10:23:28.887 - User Successfully Authenticated -  
10/10/16 01:44:46.597 - User Successfully Authenticated -  
10/14/16 11:09:00.313 - User Failed to Authenticate -  
10/14/16 11:09:25.097 - User Successfully Authenticated -  
10/14/16 11:17:00.857 - User Successfully Authenticated -  
10/14/16 11:17:29.560 - Lobbyist Report Saved - Lobbyist Report Saved for Q3 2016  
10/14/16 01:31:13.033 - User Successfully Authenticated -  
10/14/16 01:33:11.977 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2016  
10/14/16 01:34:46.563 - User Profile Updated - The user's main profile was updated.  
10/14/16 01:34:49.260 - User Profile Updated - User profile updated for Debra Houston  
01/10/17 10:52:38.330 - User Successfully Authenticated -  
01/10/17 11:27:17.323 - User Successfully Authenticated -  
01/10/17 11:31:25.827 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q4 2016

# Lobbyist Activity

## Q2 2016

Lobbyist Code: 720  
User Name: dhoustonphcnw  
Email: deb@phcnw.com

Q2 2016 Filing: 8/10/2016  
Q2 2016 Expended: \$0.00  
Q2 2016 Penalty: \$510.00

Debra Houston  
5312 NE 148th Avenue  
Portland, OR 97230

### Activity Log - Q2 2016 to Date

05/05/16 11:12:53.280 - Admin User Reset Initiated - An admin user reset was initiated.  
05/05/16 05:38:12.183 - User Failed to Authenticate -  
05/06/16 10:33:10.253 - User Failed to Authenticate -  
05/06/16 10:33:30.130 - User Failed to Authenticate -  
05/10/16 03:37:11.687 - Admin User Reset Initiated - An admin user reset was initiated.  
05/31/16 02:33:31.333 - User Failed to Authenticate -  
05/31/16 02:38:40.757 - Admin User Reset Initiated - An admin user reset was initiated.  
06/14/16 01:30:26.437 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/15/16 01:30:26.903 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/16/16 01:30:26.827 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/17/16 01:30:28.287 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/18/16 01:30:27.517 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/19/16 01:30:26.493 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/20/16 01:30:24.643 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/21/16 01:30:26.187 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/25/16 01:30:30.100 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/26/16 01:30:27.107 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/27/16 01:30:25.820 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/28/16 01:30:28.573 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/29/16 01:30:30.210 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
06/30/16 01:30:32.697 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
07/13/16 01:30:25.223 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/14/16 01:30:29.680 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/15/16 01:30:34.763 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/16/16 01:30:26.800 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/16/16 01:30:27.483 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/17/16 01:30:26.333 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/17/16 01:30:26.880 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/18/16 01:30:24.190 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/18/16 01:30:24.830 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/19/16 01:30:27.490 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/19/16 01:30:27.973 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/20/16 01:30:26.023 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/20/16 01:30:26.430 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/21/16 01:30:31.603 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/21/16 01:30:32.010 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/22/16 01:30:30.423 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/22/16 01:30:30.800 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/23/16 01:30:26.660 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/23/16 01:30:27.937 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/24/16 01:30:48.670 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/24/16 01:30:49.730 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/25/16 01:30:27.613 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/25/16 01:30:28.703 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/26/16 01:30:29.057 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/26/16 01:30:30.243 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
08/03/16 01:30:10.373 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/03/16 01:30:10.810 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/04/16 01:30:11.487 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/04/16 01:30:12.393 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/05/16 01:30:10.803 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/05/16 01:30:11.537 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/06/16 01:30:13.113 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/06/16 01:30:14.000 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/07/16 01:30:15.003 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/07/16 01:30:15.830 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2

# Lobbyist Activity

## Q2 2016

Lobbyist Code: 720  
User Name: dhoustonphcnw  
Email: deb@phcnw.com

Q2 2016 Filing: 8/10/2016  
Q2 2016 Expended: \$0.00  
Q2 2016 Penalty: \$510.00

Debra Houston  
5312 NE 148th Avenue  
Portland, OR 97230

08/08/16 01:30:08.893 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/08/16 01:30:09.690 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/09/16 01:30:12.250 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/09/16 01:30:13.403 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/10/16 01:30:12.253 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
08/10/16 01:30:13.317 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2  
08/10/16 10:15:12.133 - User Profile Updated - The user's main profile was updated.  
08/10/16 10:15:12.160 - User Profile Updated - User profile updated for Debra Houston  
08/10/16 10:18:36.577 - Admin User Reset Initiated - An admin user reset was initiated.  
08/10/16 10:20:02.283 - Admin User Password Reset Completed - A user reset their password using an admin reset.  
08/10/16 10:23:30.180 - User Successfully Authenticated -  
08/10/16 10:24:20.147 - User Profile Updated - The user's main profile was updated.  
08/10/16 10:24:20.153 - User Profile Updated - User profile updated for Debra Houston  
08/10/16 10:55:36.293 - User Successfully Authenticated -  
08/10/16 10:56:07.413 - User Profile Updated - User profile updated for Debra Houston  
08/10/16 10:56:07.417 - User Profile Updated - The user's main profile was updated.  
08/10/16 11:00:20.853 - User Successfully Authenticated -  
08/10/16 11:07:48.287 - User Failed to Authenticate -  
08/10/16 11:08:44.957 - User Successfully Authenticated -  
08/10/16 11:11:26.143 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q1 2016  
08/10/16 11:15:08.950 - User Successfully Authenticated -  
08/10/16 11:16:12.430 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q2 2016  
09/19/16 01:10:03.180 - User Successfully Authenticated -  
10/05/16 01:53:17.377 - User Successfully Authenticated -  
10/07/16 10:22:50.530 - User Failed to Authenticate -  
10/07/16 10:23:28.887 - User Successfully Authenticated -  
10/10/16 01:44:46.597 - User Successfully Authenticated -  
10/14/16 11:09:00.313 - User Failed to Authenticate -  
10/14/16 11:09:25.097 - User Successfully Authenticated -  
10/14/16 11:17:00.857 - User Successfully Authenticated -  
10/14/16 11:17:29.560 - Lobbyist Report Saved - Lobbyist Report Saved for Q3 2016  
10/14/16 01:31:13.033 - User Successfully Authenticated -  
10/14/16 01:33:11.977 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2016  
10/14/16 01:34:46.563 - User Profile Updated - The user's main profile was updated.  
10/14/16 01:34:49.260 - User Profile Updated - User profile updated for Debra Houston  
01/10/17 10:52:38.330 - User Successfully Authenticated -  
01/10/17 11:27:17.323 - User Successfully Authenticated -  
01/10/17 11:31:25.827 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q4 2016

**KathyD January 12th, 2017 at 11:43 AM**

1/10/17 Received email Letter of Explanation. Mailed letter of acknowledgement.

**KathyD January 10th, 2017 at 11:34 AM**

1/10/17 Amy Julkowski called explaining the situation with Ms. Houston. She did not get terminated as a lobbyist until Q4 and will be filing the report today. Amy will be writing a Letter of Explanation and emailing today.

**KathyD August 10th, 2016 at 10:35 AM**

8.10.16 I made the email address change she provided today and my communications to that address bounced back. I left a message for her on her cell to send me an email with the correct address.

Account now inactive.

Q1 late penalty = \$1,800

Q2 late penalty = \$510 TOTAL = \$2,310

OGEC staff recommendation is as follows:

*Ms. [unclear]*  
*[Signature]*

**DANIEL Kathy \* OGEC**

---

**From:** Amy Julkowski <ajulkowski@phcnw.com>  
**Sent:** Tuesday, January 10, 2017 2:47 PM  
**To:** OGEC Mail \* OGEC  
**Cc:** Deb Houston; Alysa Rose  
**Subject:** Quarterly report filing and accrual of penalties

RECEIVED  
JAN 10 2017  
OREGON GOVERNMENT  
ETHICS COMMISSION

Dear Commissioners for the Oregon Government Ethics Commission:

This is an appeal to the Oregon Government Ethics Commission to forgive the penalties accrued under Debra (Deb) Houston as a registered lobbyist. She served as an Interim CEO and President of Portland Habilitation Center NW until Alysa Rose was hired around which time Debra should have unregistered as a lobbyist. During the transition, our office was without Administrative help and the notifications to file quarterly reports went unnoticed, hence the accrual of penalties. We would greatly appreciate your consideration in this matter. Please let us know if you need further information or clarification.

Sincerely,  
Amy Julkowski

Amy M. Julkowski  
Executive Assistant to Alysa Rose  
Portland Habilitation Center, Inc.  
5312 NE 148<sup>th</sup> Avenue  
Portland, OR 97230  
503-408-3014  
[ajulkowski@phcnw.com](mailto:ajulkowski@phcnw.com)



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 18, 2017

Oregon School-based Health Alliance  
Attn: Laurie Huffman, MS  
310 SW 4<sup>th</sup> Ave., Suite 905  
Portland OR 97204

Dear Ms. Huffman:

The written explanation of why your Q4 expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Friday, January 27, 2017, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$20 penalty will be extended to coincide with the 1/27/17 meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



## Client/Employer Activity Q4 2016

---

Client Code: 952  
User Name: OSBHA  
Email: laurie@osbha.org

Oregon School Based Health Alliance  
Attn: Laurie Huffman  
310 SW 4th Avenue, suite 905  
Portland, OR 97204

Q4 2016 Filing: 1/17/2017  
Q4 2016 Expended: \$5,530.67  
Q4 2016 Penalty: \$20.00

---

### Activity Log - Q4 2016 to Date

10/12/16 11:14:33.187 - User Successfully Authenticated -  
10/12/16 02:12:49.553 - User Successfully Authenticated -  
10/12/16 02:15:39.727 - Client Report Submitted - Client Report Submitted for Q3 2016  
10/12/16 02:39:45.307 - User Successfully Authenticated -  
10/12/16 02:41:53.970 - Client Report Submitted - Client Report Submitted for Q3 2016  
01/15/17 04:42:36.313 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/15/17 06:11:41.537 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/16/17 01:38:51.437 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/16/17 06:20:27.650 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/17/17 01:38:35.917 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/17/17 10:11:59.150 - User Successfully Authenticated -  
01/17/17 10:15:05.740 - Client Report Submitted - Client Report Submitted for Q4 2016

1/18/17 Laurie called and spoke to David. He suggested sending in a letter of explanation, which she immediately emailed in.

No previous late filings. OGE staff recommendation as follows:

**HUNTER David \* OGEC**

**From:** Laurie Huffman <laurie@osbha.org>  
**Sent:** Tuesday, January 17, 2017 10:19 AM  
**To:** OGEC Mail \* OGEC  
**Cc:** Maureen Hinman  
**Subject:** 2016 Q4 report

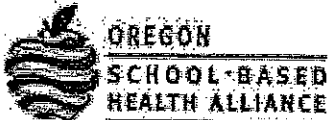
**RECEIVED**  
JAN 17 2017  
OREGON GOVERNMENT  
ETHICS COMMISSION

I am writing to request that the civil penalty for late filing of our Q4 report be waived as closures due to weather and road conditions and the 1/16/2017 MLK holiday interfered with timely filing.

I filed the report today, 1/17/2017, receipt # A 639 R18.

Thank you,

.....  
Laurie Huffman, MS  
Executive Director  
503.719.4515



[Facebook](#) | [Twitter](#) | [eNews](#) | [osbha.org](#)

*No Action  
off consent*

(

(

(





# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 18, 2017

Beth Vargas Duncan  
Oregon Municipal Electric Utilities Association  
1201 Court Street NE, Suite 102  
Salem OR 97301

Dear Ms. Vargas Duncan:

The written explanation of why your Q4 expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Friday, January 27, 2017, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$20 penalty will be extended to coincide with the 1/27/17 meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



## Client/Employer Activity Q4 2016

---

Client Code: 902  
User Name: bethomeu  
Email: bvargasduncan@omeu.org

Q4 2016 Filing: 1/17/2017  
Q4 2016 Expended: \$30,546.95  
Q4 2016 Penalty: \$20.00

Oregon Municipal Electric Utilities Association  
Attn: Beth Vargas Duncan  
1201 Court Street NE, Suite 102  
Salem, OR 97301

---

### Activity Log - Q4 2016 to Date

10/13/16 03:21:51.587 - User Failed to Authenticate -  
10/13/16 03:22:28.900 - User Successfully Authenticated -  
10/13/16 03:26:25.093 - Client Report Submitted - Client Report Submitted for Q3 2016  
01/15/17 04:42:36.140 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/15/17 06:11:37.903 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/16/17 06:20:26.293 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/17/17 11:46:14.113 - User Successfully Authenticated -  
01/17/17 11:49:26.313 - Client Report Submitted - Client Report Submitted for Q4 2016  
01/18/17 08:25:13.230 - User Profile Updated - User profile updated for Beth Vargas Duncan  
01/18/17 08:25:21.423 - User Profile Updated - The user's main profile was updated.

*KathyD January 18th, 2017 at 8:21 AM*

1/17/17 I spoke with Ms. Vargas Duncan when she called with concerns over accumulating late penalties. She pointed out that she never received a reminder notification through the system that the window to file Q4 was now open and due by January 15, 2017. I reviewed her communication in her account and verified that the system had not sent any notifications since October 2016. It is her belief that because of no notification, she should not be charged late filing penalties. She also informed me that she will be leaving OMEU and I told her she needs to change the email address in her account prior so she will receive future notifications. She said she will send in a letter of explanation asking for mitigation of \$20 penalty.

No previous late filings. OGEC staff recommendation is as follows:

**DANIEL Kathy \* OGEC**

**From:** Beth Vargas Duncan <bvargasduncan@omeu.org>  
**Sent:** Tuesday, January 17, 2017 7:18 PM  
**To:** DANIEL Kathy \* OGEC; OGEC Mail \* OGEC  
**Subject:** Correction and request - FW: Failure to File Quarterly Report  
**Attachments:** FW: Receipt of Late Quarterly Report

RECEIVED  
JAN 17 2017  
OREGON GOVERNMENT  
ETHICS COMMISSION

Dear Kathy,

I realize the OGEC system is having multiple errors in its system, as we discussed earlier this morning. Despite what is indicated in the enclosed email, you confirmed with me this morning that OGEC failed to send any notifications or reminders whatsoever to OMEU or me for Q4 2016 reporting. I attached my previous correspondence for your convenience.

Again, considering all the circumstances, OMEU and I are requesting that OGEC waive any and all potentially related penalties for the Q4 filing 2016.

Please note, as I updated within the OGEC filing system, after tomorrow noon I will have a new email address.

Thank you,  
Beth Vargas Duncan  
Email: [vargasduncanb@gmail.com](mailto:vargasduncanb@gmail.com)

-----Original Message-----

**From:** [ogec.notification@egov.com](mailto:ogec.notification@egov.com) [mailto:[ogec.notification@egov.com](mailto:ogec.notification@egov.com)]  
**Sent:** Tuesday, January 17, 2017 6:12 PM  
**To:** [bvargasduncan@omeu.org](mailto:bvargasduncan@omeu.org)  
**Subject:** Failure to File Quarterly Report

Dear Beth Vargas Duncan,

\*\*\*\* If you are receiving this notice, your filing was/is late and you have accrued penalties. The system previously experienced an error wherein those who filed timely received erroneous late notices and penalty accruals. That issue has been corrected, and notices are being re-sent to those who are/were late, and have penalties due or accruing. \*\*\*\*

You were registered with the Oregon Government Ethics Commission in the role of Client. You were notified on 1/1/2017 that the reporting window for the 2016 Q4 reporting period was open and you were reminded again on 1/10/2017 and 1/15/2017.

You must file a report even if you have no activity to report during the reporting period, and you must file a report for any portion of a reporting period prior to a termination or expiration. There is no grace period or allowance for extensions.

We have not yet received your filing, and as such, a civil penalty is now accruing at the rate of \$10 per day for the first 14 days and \$50 per day thereafter until the filing is made or the maximum of \$5000 is reached. Your civil penalty accrual as of today is .

Please access the Electronic Filing System now by visiting:  
<https://apps.oregon.gov/OGEC/EFS/Home/SignIn>

Please remember to update your profile if you have changes to your email address or other personal information. If you have any questions regarding this process, please contact the Oregon Government Ethics Commission office at 503-378-5105 or by email at [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov).

Please do not reply to this email as replies will not be delivered to the Commission.

Thank you,

*No Action  
-A constant*

(

(

(



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 12, 2017

Independent Employer Assoc  
Attn: Grover Simmons  
19800 SW Touchmark Way Apt 391  
Bend OR 97702

Dear Mr. Simmons:

The written explanation of why your Client/Employer Q3 expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Friday, January 27, 2017 at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$200 penalty will be extended to coincide with the January 27, 2017 meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



# Client/Employer Activity

## Q3 2016

Client Code: 1006  
User Name: IEA  
Email: groversimmons29@gmail.com

Q3 2016 Filing: 10/31/2016  
Q3 2016 Expended: \$100.00  
Q3 2016 Penalty: \$200.00

Independent Employer Assoc.  
Attn: Grover Simmons  
19800 SW Touchmark Way Apt 391  
Bend, OR 97702

### Activity Log - Q3 2016 to Date

07/13/16 01:30:25.380 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/14/16 01:30:29.773 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/15/16 01:30:34.843 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/16/16 01:30:26.860 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/16/16 01:30:29.043 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/17/16 01:30:26.427 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/17/16 01:30:28.567 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/18/16 01:30:24.317 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/18/16 01:30:26.483 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/19/16 01:30:27.597 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/19/16 01:30:29.250 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/20/16 01:30:26.133 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/20/16 01:30:27.583 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/21/16 01:30:31.713 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q1  
07/21/16 01:30:33.117 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2  
07/21/16 04:10:16.177 - Client Report Submitted - Client Report Submitted for Q1 2016  
07/21/16 04:11:10.707 - Client Report Submitted - Client Report Submitted for Q2 2016  
07/21/16 04:19:52.023 - Admin User Reset Initiated - An admin user reset was initiated.  
07/21/16 04:22:04.177 - Admin User Password Reset Completed - A user reset their password using an admin reset.  
07/21/16 04:22:36.440 - User Successfully Authenticated -  
07/21/16 04:30:16.317 - User Password Reset - The user's password was reset from the "My Profile" page.  
07/21/16 04:30:16.620 - User Profile Updated - User profile updated for Grover Simmons  
07/21/16 04:30:16.693 - User Profile Updated - The user's main profile was updated.  
08/16/16 11:28:46.707 - Penalty Accrual Disabled - Penalty accrual disabled for user IEA for client filing period 2016Q1.  
10/16/16 01:30:13.837 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/17/16 01:30:13.640 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/18/16 01:30:13.570 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/19/16 01:30:14.297 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/20/16 01:30:14.420 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/21/16 01:30:14.190 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/22/16 01:30:11.873 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/23/16 01:30:11.930 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/24/16 01:30:15.343 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/25/16 01:30:12.373 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/26/16 01:30:23.157 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/27/16 01:30:23.957 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/28/16 01:30:24.440 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/29/16 01:30:23.180 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/30/16 01:30:26.733 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q3  
10/31/16 01:30:23.000 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q3  
10/31/16 01:36:19.280 - Admin User Reset Initiated - An admin user reset was initiated.  
10/31/16 01:53:50.390 - Client Report Submitted - Client Report Submitted for Q3 2016  
11/03/16 04:56:58.957 - Penalty Accrual Enabled - Penalty accrual enabled for user IEA for client filing period 2016Q1.  
01/11/17 12:13:02.367 - Client Report Submitted - Client Report Submitted for Q4 2016

---

**KathyD January 18th, 2017 at 8:33 AM**

1/12/17 Grover called with problems. He has two accounts: Lobbyist and Client/Employer. His Lobbyist account was successfully filed and he received a Letter of Education from the Commission to mitigate penalties on his lobbyist account.

He did not complete the filing for his client account and was misunderstanding that both accounts were taken care of, which was not the case.

He sent in a letter seeking mitigation of the Q3 penalty for his client account.

He's rewritten a mitigation letter but can't send via email, so he's putting it in the USPS.

---

**KathyD January 11th, 2017 at 12:31 PM**

1/11/17 Grover called and I assisted over the phone with his Q4 filing. Severe winter weather prevented him from coming here to Salem to file in the office. kd

---

**KathyD December 30th, 2016 at 11:53 AM**

12/29/16 Grover called and I reviewed our last communication and need for him to find a solution to the electronic filing issues he's having. He sent in a letter of explanation.

---

**KathyD October 31th, 2016 at 2:51 PM**

10/31/16 Grover called after getting late notifications for Q3 on client account. I spent a lot of time on the phone with him trying to assist with accessing his account on his computer. He couldn't manage. With his permission and information, I filed Q3. I explained to him the importance of finding someone that has a computer and can work with him each quarter. He will write a letter to the commission. He has a home computer however I'm not sure how updated it is as his screen wasn't moving forward as I walked him through.

---

**KathyD January 18th, 2017 at 8:36 AM**

Mr. Simmons has had extensive issues with electronic filing in 2016 resulting in late filing penalties and mitigation from the Commission.

OGEC staff recommendation for Q3 late filing of Client account is as follows:

*Mr. Simmons  
of consent*

From: Grover Simmons <groversimmons29@gmail.com>  
Subject: Mitigation letter  
Date: January 12, 2017 2:32:54 PM PST  
To: kathy.daniel@oregon.gov

RECEIVED

Oregon Government Ethics Commission  
3218 Pringle Rd. SE, Suite 220  
Salem, Oregon 97302-1544

JAN 17 2017  
OREGON GOVERNMENT  
ETHICS COMMISSION

Commissioners,

Earlier today I spoke with the Ethics Commission Staff seeking information about filing my 4th quarter lobbyist report as I didn't want to miss another filing deadline. It was surprising to learn that my 3rd quarter report had not been filed and that I was being fined \$200.

In seeking mitigation of the fine, it is my hope the Commission will review the record of my 33 years in Salem and my efforts to comply with the highest ethical standards.

The fine was indeed a surprise because it was my understanding the reports had in fact been filed and I was current with the Commission. My records show receipt of communications from the Commission that "This report has been successfully filed. Q3 Confirmation Number AW48N2G date filed 10/31/2016 and a second similar confirmation number CX6NGN date filed 10/5/20 Q3 I also received a Letter of Education admonishing me for past shortcomings.

In any event it is clear there has been a substantial misunderstanding of some sort. Filing paper rather than electronic reports was my goal as I have so little skill on the computer. But I will try the computer for the 4th quarter, and do it on time.

Please advise as my status with the Commission.

Sincerely,



Grover Simmons  
Independent Employer Association  
19800 SW Touchmark Way  
Apt. #391  
Bend, Oregon 97702  
Phone 541-312-1757  
Email groversimmons29@gmail.com



Oregon Government Ethics Commission  
Attn: Kathy Daniel  
3218 Pringle Road. SE Suite 220  
Salem, Oregon 97302

Please let my Ethics Commission file show that I have authorized Kathy Daniel to assist in preparation of my fourth quarter lobbyist reports. Her help was vital and truly appreciated.

Sincerely,

  
Grover Simmons





# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 18, 2017

Oregon Association of Conservation Districts

Attn: Jerry Nicolescu

1130 Leberly St SE, Suite 3

Salem OR 97302

Dear Mr. Nicolescu:

The written explanation of why your Q4 expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Friday, January 27, 2017, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$30 penalty will be extended to coincide with the 1/27/17 meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



# Client/Employer Activity

## Q4 2016

Client Code: 10  
User Name: oacd.45  
Email: jerry.nicolescu@oacd.org

Q4 2016 Filing: 1/18/2017  
Q4 2016 Expended: \$0.00  
Q4 2016 Penalty: \$30.00

Oregon Association of Conservation Districts  
Attn: Jerry Nicolescu  
1130 Liberty Stree SE, Suite 3  
Salem, OR 97302

### Activity Log - Q4 2016 to Date

10/05/16 11:43:30.103 - User Successfully Authenticated -  
10/05/16 11:44:22.970 - Client Report Submitted - Client Report Submitted for Q3 2016  
01/15/17 04:42:34.377 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/15/17 06:11:14.460 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/16/17 06:20:10.243 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/18/17 01:30:37.930 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/18/17 11:56:37.573 - User Successfully Authenticated -  
01/18/17 11:57:23.560 - Client Report Submitted - Client Report Submitted for Q4 2016

1/18/17 He emailed in a letter of explanation to go to the Commission. Letter of Acknowledgement sent via USPS.

No previous late filings. OGEC recommendation is as follows:

*No return  
No consent calendar*

RECEIVED

JAN 18 2017

DANIEL Kathy \* OGEC

From: Jerry Nicolescu <jerry.nicolescu@oacd.org>  
Sent: Wednesday, January 18, 2017 12:26 PM  
To: OGEC Mail \* OGEC  
Subject: Late Filing for Jerry Nicolescu and the Oregon Association of Conservation Districts

OREGON GOVERNMENT  
ETHICS COMMISSION

Oregon Government Ethics Commission,

I have recently been assessed a late filing penalty as a lobbyist, and the organization I represent, the Oregon Association of Conservation Districts (OACD) has also been assessed a penalty. I file for myself and OACD. I would ask your indulgence and a waiving of the fees. I ask for a waiver for the following reasons.

I was one the first to agree to try the electronic filing. I use a total Apple computer system which had and continues to have issues with the system the Commission has in place.

Many times in the previous filings multiple attempts must be made to have the system recognize the log-in specifics and to accept the submittal. I have used the help line at those time to complete the filing.

I did not receive the initial notice on January 1, 2017 that the report was due nor the subsequent reminders on the 10th or 15th. In discussion with OGEC staff members at the help desk the notices may not have been received because of the previous issues I have had in filing quarterly reports.

Given the possibility that I may not receive notice of the need to file quarterly reports I have implemented an internal organization calendar reminder to ensure the late filing will not occur.

I appreciate your consideration of the request for a waiving of the late fees.

Thank you.

Jerry Nicolescu  
Executive Director  
OACD  
1130 Liberty Street SE, Suite 3  
Salem, OR 97302  
(503) 566-9157  
(503) 779-9011 (cell)  
Email: [jerry.nicolescu@oacd.org](mailto:jerry.nicolescu@oacd.org)

(

(

(



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 18, 2017

Tom Bowerman  
33707 McKenzie View  
Eugene OR 97408

Dear Mr. Bowerman:

The written explanation of why your Q4 expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Friday, January 27, 2017, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$30 penalty will be extended to coincide with the 1/27/17 meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



# Client/Employer Activity

## Q4 2016

Client Code: 630  
User Name: Tom Bowerman  
Email: tbowerman001@gmail.com

Q4 2016 Filing: -  
Q4 2016 Expended: -  
Q4 2016 Penalty: \$30.00

Tom Bowerman  
Attn: Tom Bowerman  
33707 McKenzie View  
Eugene, OR 97408

### Activity Log - Q4 2016 to Date

10/05/16 10:48:57.550 - User Successfully Authenticated -  
10/05/16 10:51:35.007 - User Profile Updated - User profile updated for Tom Bowerman  
10/05/16 10:51:39.870 - User Password Reset - The user's password was reset from the "My Profile" page.  
10/05/16 10:51:39.930 - User Profile Updated - The user's main profile was updated.  
10/05/16 10:53:10.830 - User Profile Updated - User profile updated for Tom Bowerman  
10/05/16 10:53:15.620 - User Password Reset - The user's password was reset from the "My Profile" page.  
10/05/16 10:53:15.680 - User Profile Updated - The user's main profile was updated.  
01/15/17 04:42:35.750 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/15/17 06:11:29.777 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/16/17 06:20:21.460 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/17/17 07:07:50.047 - User Successfully Authenticated -  
01/18/17 01:30:46.993 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/18/17 08:38:07.733 - User Successfully Authenticated -  
01/18/17 08:42:54.623 - User Successfully Authenticated -

*KathyD January 18th, 2017 at 11:21 AM*

1/18/17 Mr Bowerman called and spoke to David. He had not been receiving communications from the EFS until penalties began to accrue. He send in Letter of Explanation and Letter of Acknowledgement mailed to him via USPS.

No previous late filings. OGEC staff recommendation is as follows:



**HUNTER David \* OGEC**

**From:** Tom Bowerman <tbowerman001@gmail.com>  
**Sent:** Wednesday, January 18, 2017 8:56 AM  
**To:** OGEC Mail \* OGEC  
**Subject:** Problems with filing on lobbyist report online

RECEIVED  
JAN 18 2017  
OREGON GOVERNMENT  
ETHICS COMMISSION

1/18/2017

RE: Problems with online filing of lobby payment

Dear Ethics Commission:

I am a client of a lobbyist. My name is Tom Bowerman. I received an e-mail message yesterday, January 17th at 7:10 pm from your office that my lobbyist client activity filing was delinquent, pertaining to original e-mail notification of requirement to file on 1/1/2017 and reminders to file on the 10th and 15th of this January.

I looked back at my email records and found no e-mail from your office on those three dates. I immediately filed using the on-line portal, for \$2000 of payments to lobbyist Zach Mulholland for the final quarter of 2016.

I called your office this morning of January 18th at 8:30 and talked with David of your office. He looked into my portal and observed verbally to me that he did not see evidence of those messages being sent, nor did he see evidence of my filing of last night of the 4th quarter. He said he would look into this with "Cathy" and get back to me.

After that conversation I went to my e-mail and noticed yet another notice of penalty delinquency. I logged back into the filing system portal and for myself saw that there is a record of notifications of those above dates of notifications and penalty phase, but now there is no record posted of my entering and posting of the \$2000 to Mulholland yesterday.

Obviously something is amiss with how the system is interacting with me. Even though I have talked with David on the phone, I want this e-mail record to memorialize what has happened here because I had some similar problems with this site back in 2016. I expect there is something incorrectly although in reviewing with David it seems like it should be functioning correctly. My e-mail is tbowerman001@gmail.com.

I would appreciate a timely resolution of this troublesome issue.

Thank you,

Tom Bowerman  
33707 McKenzie View  
Eugene, Oregon 97408

---  
Tom Bowerman  
Desk: 541 726 7116  
Mobile(urgent only): 541 554 6892

*No action  
Cathy*

(

(

(



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 18, 2017

Arthritis Foundation  
Attn: Sandie Preiss  
1615 L St. NW  
Washington DC 20036

Dear Ms. Preiss:

The written explanation of why your Q4 expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Friday, January 27, 2017, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$30 penalty will be extended to coincide with the 1/27/17 meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



## Client/Employer Activity

### Q4 2016

---

Client Code: 1270  
User Name: arthritisfoundation  
Email: advocacy@arthritis.org

Q4 2016 Filing: 1/18/2017  
Q4 2016 Expended: \$0.00  
Q4 2016 Penalty: \$30.00

Arthritis Foundation  
Attn: Sandie Preiss  
1615 L St. NW  
Washington, DC 20036

---

### Activity Log - Q4 2016 to Date

10/31/16 09:15:11.800 - User Profile Created - A new user profile was created.  
10/31/16 09:15:11.970 - Client Profile Created - The client profile was created.  
10/31/16 09:15:14.967 - User Profile Created - User profile created for Sandie Preiss  
01/15/17 04:42:36.997 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/16/17 01:40:14.307 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/16/17 06:20:33.703 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/17/17 01:40:11.987 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/18/17 01:30:56.087 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/18/17 08:54:06.263 - User Failed to Authenticate -  
01/18/17 08:54:17.967 - User Failed to Authenticate -  
01/18/17 08:57:14.287 - User Successfully Authenticated -  
01/18/17 09:01:24.300 - Client Report Submitted - Client Report Submitted for Q4 2016

1/18/17 Letter of Explanation received from lobbyist for Arthritis Foundation and Letter of Acknowledgement sent to contact Preiss at AF.

No previous late filings. OGEC staff recommendation as follows:

**HUNTER David \* OGEC**

---

**From:** Schultz, Steven <sschultz@arthritis.org>  
**Sent:** Wednesday, January 18, 2017 9:05 AM  
**To:** OGEC Mail \* OGEC  
**Subject:** Arthritis Foundation

RECEIVED  
JAN 18 2017  
OREGON GOVERNMENT  
ETHICS COMMISSION

Hello,

I am writing in regards to the Arthritis Foundation's fees associated with Sandie Preiss as a result of not getting the quarterly report filed by the 15th.

This was our first one together since a transition so I wondering if you would be able to waive the fees from the 3 days?

Thank you for your consideration.

Steven Schultz

*Lobbyist for AF*

*No Action  
w/ consent*

(

(

(



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 18, 2017

Laborers Local 737  
Attn: David Tischer  
17230 NE Sacramento St, Suite 202  
Portland OR 97230

Dear Mr. Tischer:

The written explanation of why your Q4 expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Friday, January 27, 2017, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$30 penalty will be extended to coincide with the 1/27/17 meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



## Client/Employer Activity

### Q4 2016

---

Client Code: 1164  
User Name: DJTischer737  
Email: dtischer@local737.org

Q4 2016 Filing: 1/18/2017  
Q4 2016 Expended: \$0.00  
Q4 2016 Penalty: \$30.00

Laborers Local 737  
Attn: David Tischer  
17230 NE Sacramento St Suite 202  
Portland, OR 97230

---

### Activity Log - Q4 2016 to Date

10/04/16 11:16:21.460 - User Successfully Authenticated -  
10/04/16 11:27:26.893 - Client Report Submitted - Client Report Submitted for Q3 2016  
11/29/16 09:13:10.190 - User Successfully Authenticated -  
01/15/17 04:42:36.857 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/15/17 06:11:53.220 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/16/17 01:30:15.310 - Lobbyist/Client Registration Request Unconfirmed - The client did not respond to the registration invitation in the allotted amount of time.  
01/16/17 06:20:31.160 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/18/17 01:30:53.940 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4  
01/18/17 09:37:04.440 - Client Report Submitted - Client Report Submitted for Q4 2016  
01/18/17 10:28:51.353 - User Profile Updated - User profile updated for David Tischer  
01/18/17 10:28:59.733 - User Profile Updated - The user's main profile was updated.

**KathyD January 18th, 2017 at 10:23 AM**

1/18/17 David called and just received notice of late filing for Q4. His account shows the system has not been communicating with him since October 2016. With his permission, I assisted with his filing for Q4. He terminated all lobbyists on 10/4/16 and did not realize he owed a Q4 report since he didn't receive any notices until penalties began to accrue. He's sending in a Letter of Explanation.

Received LoE and sent Acknowledge Letter via USPS.

---

**KathyD October 4th, 2016 at 11:23 AM**

10/4/16 I spoke with Dave Tischer. He said none of the registered lobbyists work for 737 any longer and he is going to terminate them all. He will complete the Q3 report and no longer have any active registrations for lobbyists. He is retiring soon.

No past late filings. OGE staff recommendation as follows:



**DANIEL Kathy \* OGEC**

**From:** Dave Tischer <dtischer@local737.org>  
**Sent:** Wednesday, January 18, 2017 10:03 AM  
**To:** DANIEL Kathy \* OGEC  
**Subject:** Re: Request for mitigation of Q4 2016

**RECEIVED**  
JAN 18 2017  
OREGON GOVERNMENT  
ETHICS COMMISSION

I am sending this email to request mitigation of the late filing fee on the Q4 lobbyist report. I had spoken to Kathy on October 4th of last year to let her know that I was retiring and no longer needed to be active. I filed my Q3 report and thought I was done. I had not received any notification of any reports due until an email was sent at 1:31 this morning. I called Kathy immediately and with my permission she filed my Q4 report. I appreciate your consideration in this matter.

David J Tischer  
503-507-7198

*Laborers Local 737*

Sent from my iPhone

On Jan 18, 2017, at 9:42 AM, DANIEL Kathy \* OGEC <[Kathy.DANIEL@oregon.gov](mailto:Kathy.DANIEL@oregon.gov)> wrote:

Please submit your Letter of Explanation and request for mitigation for the \$30 late filing fee to this email.

**Kathy Daniel**

OR Government Ethics Commission  
3218 Pringle Rd SE, Suite 220  
Salem OR 97302-1544  
Ph: 503-378-2170 Fx: 503-373-1456

*0 Amount  
No action  
~~Kathy Daniel~~  
RD*



**BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION**

In the Matter of )

Mark Reynolds )

) **STIPULATED FINAL ORDER**

) **CASE NO. 16-142SDG**

- \_\_\_\_\_ )
1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Mark Reynolds.
  
  2. JURISDICTION: At all material times, Mark Reynolds was a candidate for the Legislative Assembly. Mark Reynolds was subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.
  
  3. STIPULATED FACTS:
    - A. Candidates for the Legislative Assembly are required to file an annual verified Statement of Economic Interest (SEI) with the Oregon Government Ethics Commission, pursuant to ORS 244.050(1)(c). Mark Reynolds was a 2016 candidate to represent House District 52 in the Legislative Assembly and was required to file an SEI which disclosed his financial interests for the calendar year 2015. Mr. Reynolds timely filed his 2016 SEI on 4/15/16.
  
    - B. ORS 244.060(3) required Mark Reynolds to identify the sources of income received by him or an adult member of his household during the 2015 year that produced 10% or more of the total annual household income. Mark Reynolds initially failed to identify one of the reportable sources of his annual household income, but he did amend his SEI on 10/20/16 to add the third reportable source.

- C. ORS 244.060(4) required Mark Reynolds to disclose addresses of any real property they have an ownership interest in (other than their primary residence), located within the geographic boundaries of their jurisdiction. Candidates for the Legislative Assembly are required to disclose any real property within the geographic boundaries of the state. Mark Reynolds initially failed to include all the reportable real property on his SEI, but he did amend the report on 9/12/16 and 9/13/16 and added other properties within the state.
- D. Each of the actions described in paragraph B and C above constituted distinct violations of ORS 244.060.
- E. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$5,000 per violation.
- F. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 244.060.

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On 11/4/16, the Commission acted to find cause to initiate an investigation into the matter. Mr. Reynolds indicated that he wished to negotiate a settlement prior to the completion of the investigative phase by agreeing to the terms and conditions of his order.

- B. In lieu of a civil penalty, as authorized by ORS 244.350, Mark Reynolds will receive a letter of education to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Mark Reynolds within the scope of the above-referenced proceedings.
- F. Mark Reynolds will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

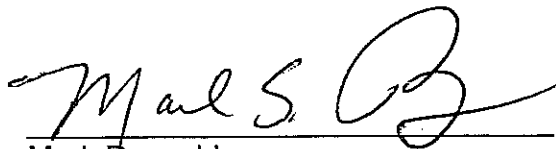
6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Mark Reynolds agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Mark Reynolds agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.

  
\_\_\_\_\_  
Mark Reynolds

12/31/2016  
Date

\_\_\_\_\_  
Daniel T. Golden, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of

Dana Smith

)  
)  
)  
)  
)

STIPULATED FINAL ORDER

CASE NO. 16-143SDG

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) in the above cited case against Dana Smith.
  
2. JURISDICTION: At all material times, Dana Smith was a City Councilor for the City of Silverton. Dana Smith was a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.
  
3. STIPULATED FACTS:
  - A. As a City Councilor for the City of Silverton, Dana Smith was required by ORS 244.050(1)(j) to file an annual verified statement of economic interest (SEI) on or before April 15 of each year.
  
  - B. Dana Smith failed to file the required SEI in a timely fashion by April 15, 2015.
  
  - C. The action described above in paragraph B constitutes a violation of ORS 244.050.
  
  - D. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$5000 for the late filing of an SEI.

- E. Following notification of this case, Dana Smith filed a 2015 statement of economic interest with the Commission on 11/28/16.
- F. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 244.050.

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On December 16, 2016, the Commission acted to find violation of ORS 244.050 and move to a negotiated settlement or a contested case hearing. The December 16, 2016 action was a preliminary finding of violation of Oregon Government Ethics law, as a prelude to a stipulated settlement or a contested case hearing, and not a final conclusion regarding a violation of Oregon Government Ethics law by Dana Smith.
- B. Dana Smith will receive a letter of education in lieu of a civil penalty, as authorized by ORS 244.350 in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Dana Smith within the scope of the above-referenced proceedings.
- D. Dana Smith will initiate no claims, litigation or other action against the Commission as a result of these proceedings.



5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.


6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Dana Smith agrees to waive her right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Dana Smith agrees to waive her right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.

  
\_\_\_\_\_  
Dana Smith

1/12/17  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Daniel T. Golden, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date

SMITH, DANA STIPULATED FINAL ORDER - Page 3

(

(

(



# Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 27, 2017

via email and USPS

Oregon Board of Accountancy  
3218 Pringle Rd SE, Suite 110  
Salem, OR 97302

Dear Board of Accountancy,

At its January 27, 2017 meeting, the Oregon Government Ethics Commission (Commission) adopted the following advisory opinion in response to the request set forth in your letter to the Commission dated November 16, 2016.

## **OREGON GOVERNMENT ETHICS COMMISSION ADVISORY OPINION NO. 16A-1004**

### **SYNOPSIS OF FACTS AS PRESENTED TO THE COMMISSION:**

The following factual information is derived from your original letter to the Commission and follow-up emails.

The Oregon Board of Accountancy (Board) is a governor-appointed board charged under ORS 673.010 to 673.465 with regulating individuals and business entities licensed or registered to engage in public accountancy in the State of Oregon.

In 2015, the Board sanctioned an individual named Darren Michael Hall, who had been licensed as a certified public accountant (CPA) by the Board based on reciprocity with another state. The sanction, which was based on a Settlement Agreement and Stipulated Final Order, included a suspension of the individual's CPA license.

The Board subsequently opened a new inquiry, a precursor to a formal investigation, to determine if Mr. Hall was engaging in work that constituted a violation of the settlement agreement.

After the opening of the inquiry, Mr. Hall filed complaints in several forums. Most relevant to this inquiry, he filed complaints with the Board alleging professional misconduct by current and former members of the Board who are also licensees of the Board. He also



filed a tort claim notice against the Board's executive director and the investigator from his original case, a regulatory complaint with the Board alleging professional misconduct by the investigator, who is also a CPA, and a bar complaint with the Oregon State Bar against the Board's legal counsel. He has also made allegations against these individuals and the Board claiming violations of due process.

The Board has jurisdiction over the complaints made against the licensee members of the Board. Board procedure requires that complaints be investigated and the investigation report, together with the licensee's rebuttal, be considered by a complaints committee (BOACC) made up of persons appointed by the Board. Respondent licensees may attend the executive session at which the BOACC considers their matter. The BOACC makes a recommendation to the Board of Accountancy about whether or not the Board should make a preliminary finding of sufficient evidence to support a violation. If a finding of violation is made, a respondent licensee may negotiate a settlement for approval by the Board or request a contested case hearing under ORS Chapter 183. A finding of violation may result in a reprimand or place a licensee's license to practice public accountancy at risk of suspension, revocation or non-renewal. In virtually all cases, a civil penalty ranging from \$200 to \$5000 is imposed for each separate violation.

The Board is concerned about the application of Oregon Government Ethics law when the Board considers the complaints about Board members who are also licensees of the Board.

#### **LEGAL BACKGROUND:**

Under Oregon Government Ethics law, appointed members of boards and commissions are public officials and must comply with the provisions of ORS Chapter 244. (See ORS 244.020(15) for the definition of public official.)

#### Prohibited Use of Office for Financial Gain –

ORS 244.040(1) prohibits a public official from using or attempting to use the public official's position or office to obtain financial gain or avoidance of financial detriment for the public official (or a relative, a member of household, or a business with which the public official, relative, or member of household is associated), if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office. ORS 244.040(1). This provision applies regardless of whether a public official properly handles a conflict of interest in the manner described below. See ORS 244.040(7).

The prohibition on use of office for financial gain does not forbid a public official from accepting certain specific financial benefits, which include official compensation from the public body the public official serves, honoraria, gifts that fall within the limitations of

Oregon Government Ethics law, and items that are expressly excluded from the definition of gift in Oregon Government Ethics law. ORS 244.040(2).

#### Conflicts of Interest –

A public official is met with a conflict of interest when the public official is called upon to take an action or make a decision or recommendation in an official capacity that could or would result in a personal financial benefit or detriment to the public official (or to a relative or a business with which the public official or a relative is associated). The public official is met with a potential conflict of interest if the effect of the official action, decision or recommendation *could* be to the personal financial benefit of the public official or the other previously mentioned parties; that is, if a financial effect is possible but uncertain. See ORS 244.020(13). The public official is met with an actual conflict of interest if the effect of the official action, decision or recommendation *would* be to the personal financial benefit of the public official or the other previously mentioned parties; that is, if a financial effect is certain. See ORS 244.020(1).

A public official does not have a conflict of interest if the financial benefit or detriment arises out of an interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position, or out of any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group in which the person or the person's relative is associated, is a member or is engaged. ORS 244.020(13)(a), (b).

#### Methods of Handling Conflicts of Interest –

When an appointed official serving on a board or commission is met with a potential conflict of interest, the public official must publicly announce the nature of the potential conflict of interest before taking any action thereon in the capacity of a public official. ORS 244.120(2)(a). When met with an actual conflict of interest, the public official must publicly announce the nature of the actual conflict of interest and refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue. The public official is eligible to vote on the matter if the public official's vote is necessary to meet a requirement of a minimum number of votes necessary to take official action, but the public official must not participate as a public official in any discussion or debate on the issue out of which the actual conflict of interest arises. ORS 244.120(2)(b).

**ANALYSIS:**

**Conflict of Interest** –

Each member of the Board of Accountancy who is also a licensee of the Board will be met with an actual conflict of interest under ORS 244.020(1) when called upon to participate as a public official in a discussion and vote on whether to make preliminary findings of violation on that member's case. The outcome of the vote will create or avoid financial consequences for a licensee Board member. If the case is dismissed, a licensee Board member will, with a certainty, face no financial consequences. If findings of violation are made, a licensee Board member will either incur financial penalties and possible suspension of their license or proceed to a contested case hearing, which bears its own costs. Even if the licensee Board member finally prevails in a contested case hearing and is awarded attorney fees, the process will have a negative financial impact on the licensee Board member in terms of the costs of attending a contested case hearing. Each member of the Board must, when the complaint against that member is considered, follow the method laid out in ORS 244.120(2)(b) for handling an actual conflict of interest: announce publicly the nature of the actual conflict of interest and refrain from participating as a public official in any discussion, debate or vote on the issue out of which the actual conflict of interest arises.

**Prohibited Use of Office** –

If a licensee member of the Board of Accountancy participates as a public official in a discussion or vote on a complaint made against that individual and, in so doing, advocates for their own financial gain or avoidance of a financial detriment by opposing preliminary findings of violation, the member of the Board will also be in violation of the prohibition on use of official position or office for financial gain or avoidance of financial detriment. This is because the outcome of the case will determine whether or not the public official incurs the financial detriment that accompanies a finding of violation, as described above. Such participation as a public official constitutes at least an attempt to avoid the personal financial detriment that could result from a preliminary finding of violation, an opportunity that would not be available if the person were not a member of the Board of Accountancy.

**Question 1:** Can the Board as a group properly consider and vote on the disciplinary matters that Hall has raised against each member without running afoul of the financial gain/avoidance of detriment provisions [of] ORS Chapter 244?

**Answer 1:** No. Each member of the Board against whom a complaint has been filed will have an actual conflict of interest when the case against that member comes before the Board of Accountancy. Because of the conflict of interest and prohibited use of office provisions of ORS Chapter 244, no member of the Board may participate as a public official in consideration of the complaint against that individual member. The Board member whose case is being considered must follow the procedures for handling conflicts

laid out in ORS 244.120(2)(b), which are discussed more fully in the response to Question 3, below.

The other members of the Board who do not have a conflict of interest in the individual matter before the Board may participate as Board members without running afoul of the conflict of interest or prohibited use of office for financial gain provisions of ORS Chapter 244.

**Question 2:** If the Board is the only body that has the authority to adjudicate violations of ORS 673.010 to 673.457, will the class exception, or any other exception to the financial gain/avoidance of a detriment standard apply to permit the Board sitting *en banc* to hear the complaint(s) against individual members?

**Answer 2:** No. There is no class exception to the prohibition on use of office for personal financial gain in ORS 244.040. The critical issue for analysis of this provision of Oregon Government Ethics law is the question of "but for." Would the person, if not for the holding of the official position or office, have the same opportunity to act in their own financial interest? Clearly, no other licensee of the Board of Accountancy would have the same opportunity to deliberate and vote on a complaint made with the Board regarding that licensee. Any discussion, deliberation or vote by a member of the Board on their own case before the Board, regardless of whether complaints were also filed against other members of the Board, would constitute a prohibited use of office for financial gain or avoidance of financial detriment.

The class exception described in ORS 244.020(13)(a) relates to conflicts of interest. That exception provides that a public official does not have a conflict of interest if the financial benefit or detriment that would result from the action before the public official arises out of an interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position. This exception does not apply here, because the complaints were not filed against nor do they apply to every member of the profession of public accounting. They were filed against specific members of the profession, namely the members of the Board who are also licensed members of the profession. Each case pending before the Board is an accusation that arises out of a specific complaint against that individual, not out of the person's mere membership in the profession.

**Question 3:** If the answer to questions (1) and/or (2) is no, can the Board ask the member whose case the Board is considering to recuse (and excuse) themselves during the Board's discussion and vote on the recused member's case and then return to the meeting for consideration of the cases against each of the other Board members? This would essentially amount to a revolving door where a Board member would not participate in consideration of his or her own case, but would participate in the cases against all other members that are effectively based on the same allegations of wrongdoing.

**Answer 3:** The Board may consider the complaints against each individual member separately. Each public official is individually responsible for complying with Oregon Government Ethics law. Each member of the Board against whom a complaint is filed will have an actual conflict of interest when the Board considers the complaint against that individual member.

When met with this actual conflict of interest, the Board member must follow the procedures in ORS 244.120(2)(b): first, announce publicly the nature of the actual conflict of interest (why the member's personal financial interest is at stake in the matter), and second, refrain from participating in any discussion, debate or vote on the matter in the capacity of a public official. The individual Board member who has the conflict of interest in the case need not leave the room, and excusing oneself from the meeting is not sufficient to meet the requirements for announcement of a conflict of interest.

The announcement of the nature of the conflict of interest must occur in a public meeting. If consideration of these matters takes place in executive session, the public announcement must take place in the public meeting preceding the executive session. If the Board considers these matters in open session, the announcement must be made before the Board considers the case involving the individual member.

The member of the Board whose case is being considered may participate in the meeting in their capacity as a licensee, with the same rights as any licensee who comes before the Board. That is, if licensees are permitted to be present at the meeting and to make presentations to the Board, the member may be present in the meeting as a licensee and may make any presentation to the Board that a licensee is entitled to make. The member may not, however, participate in deliberations. Once the Board begins deliberations, the member may only respond to informational questions asked of the member by the deliberating members of the Board.

The remaining members of the Board, who do not have a conflict of interest in the matter, may deliberate and vote on the case involving the recused member before proceeding to the next case and repeating the process above.

**Question 4:** If none of the above present a viable option for processing the Hall allegations of professional misconduct against the Board members, what options does the Commission believe are available to the Board to process the Hall complaint(s) without violating government ethics standards?

**Answer 4:** Because the Board of Accountancy may, as described above, consider the complaints against each member individually, with that member not participating as a member of the Board but only as any licensee might, there is no need to address this question.



**CONCLUSION:**

No member of the Board of Accountancy may participate as a Board member in deliberations on a complaint brought against that specific Board member because such action in the Board member's official capacity would constitute an actual conflict of interest and a prohibited use of office for financial gain. When met with the actual conflict of interest created by the complaint against an individual member of the Board, that member must follow the announcement and recusal procedures laid out in ORS 244.120(2)(b) before assuming the role of a respondent in the case.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT ETHICS COMMISSION PURSUANT TO ORS 244.280. A PERSON SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY GOOD FAITH ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN.**

Issued by Order of the Oregon Government Ethics Commission at Salem, Oregon on the 27<sup>th</sup> day of January 2017.

\_\_\_\_\_  
Daniel T. Golden, Chairperson

  
\_\_\_\_\_  
Amy E. Alpaugh, Assistant Attorney General

16A-1004ms

## ADDENDUM

**RELEVANT STATUTES AND ADMINISTRATIVE RULES:** The following Oregon Revised Statutes (ORS) are applicable to the issues addressed in this opinion:

**244.020 Definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (13) of this section...

(13) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code...

(15) "Public official" means the First Partner and any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

**244.040 Prohibited use of official position or office; exceptions; other prohibited actions.** (1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

(2) Subsection (1) of this section does not apply to:

(a) Any part of an official compensation package as determined by the public body that the public official serves.

(b) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042.

(c) Reimbursement of expenses.

(d) An unsolicited award for professional achievement.

(e) Gifts that do not exceed the limits specified in ORS 244.025 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest.

(f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest.

(g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.

(h) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(3) A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.

(4) A public official may not attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of holding position as a public official or activities of the public official.

(5) A person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.

(6) A person may not attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate.

(7) The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed under ORS 244.120.

**244.120 Methods of handling conflicts; Legislative Assembly; judges; appointed officials; other elected officials or members of boards.** (1) Except as provided in subsection (2) of this section, when met with an actual or potential conflict of interest, a public official shall:

(a) If the public official is a member of the Legislative Assembly, announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official.

(b) If the public official is a judge, remove the judge from the case giving rise to the conflict or advise the parties of the nature of the conflict.

(c) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict.

Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(2) An elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, shall:

(a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.



RECEIVED

NOV 17 2016

OREGON GOVERNMENT  
ETHICS COMMISSION

OREGON BOARD OF ACCOUNTANCY

MEMORANDUM

DATE: November 16, 2016

TO: Oregon Government Ethics Commission

FROM: Oregon Board of Accountancy *SBED 11/17/16*

CC: Ron Bersin, Executive Director, Oregon Ethics Commission  
Martin Pittioni, Executive Director, Oregon Board of Accountancy  
Susan G. Bischoff, Sr. Assistant Attorney General

SUBJECT: REQUEST FOR FORMAL COMMISSION ADVISORY OPINION

---

The Oregon Board of Accountancy (Board) has been confronted with a matter for which it feels compelled to seek an Ethics Commission Advisory Opinion as provided in ORS 244.280 prior to taking Board action. Although the issue(s) presented are immediately applicable to the Board of Accountancy, the Ethics Commission's response may have a statewide impact and ultimately apply to all regulatory boards and commissions in Oregon that are comprised primarily of licensees of the regulated profession over which the board or commission has jurisdiction. The relevant background and facts are set forth below.

Background and Facts. The Oregon Board of Accountancy is a seven member body appointed by the Governor as provided in ORS 673.410. The Board is charged with the responsibility to regulate the practice of public accountancy by persons and business entities that hold licenses and registrations issued under its enabling statutes, ORS 673.010 to 673.465; adopt rules to implement the provisions of these enabling statutes; adopt rules governing professional standards by which a licensee's or registrant's work will be measured; and adopt rules of professional conduct for the purpose of controlling the quality and probity of the services offered by its licensees and registrants. The rules of professional conduct adopted concern such topics as (A) the independence, integrity and objectivity required to practice public accountancy; (B) the competency and technical expertise required to practice public accountancy; (C) responsibilities to the public; and (D) responsibilities to clients. See ORS 673.410(5)(c). The rules adopted by the Board are found at OAR Chapter 801; the rules relating to professional standards and professional conduct are found primarily at OAR Chapter 801, Division 030. Under ORS 673.410 and the Administrative Procedures Act, the Board is the ultimate decision maker on all

disciplinary matters involving Oregon certified public accountants (CPAs) and public accountants (PAs).

On or about March 17, 2014, Darren Michael Hall (Hall) applied for an Oregon CPA license under the Board's reciprocity statutes based upon his then active CPA license issued by the State of Maine. The Oregon license was granted by the Board on April 7, 2014. In July 2014, the Board received information that at the time Hall applied for an Oregon license he was under investigation by the Maine Board of Accountancy (Maine Board). Hall failed to disclose this pending disciplinary action in Maine on his Oregon application for licensure by reciprocity, which is a requirement of the application process.

An investigation by the Board into Hall's conduct revealed that Hall had failed to disclose at least two prior employers on his Oregon license application and that he was providing tax services to approximately 60 clients under the name of his former Maine CPA firm, McCurdy and Hall. This firm was not registered as an Oregon CPA firm and its registration/license in Maine had, in fact, expired in December 2012 due to Hall's failure to renew the registration. The investigation also revealed that Hall had been terminated from one of the employers that he had failed to disclose on his Oregon license application, Bangor Gas, because he had converted company funds in the amount of \$7,000 to his personal use without the authority or knowledge of Bangor Gas.

On or about May 18, 2015, the Board voted to make preliminary findings that Hall was in violation of multiple statutes and rules governing the practice of public accountancy in Oregon. On October 14, 2015, and after consultation with his legal counsel, Hall signed a Settlement Agreement and Stipulated Final Order (Agreement) in which he admitted he had engaged in professional misconduct, had failed to comply with firm registration requirements and had failed to properly report the status of the Maine disciplinary action at the time he met with the Board's complaints committee in April 2015. The Board approved the Agreement at its meeting on October 19, 2015 and a copy of the Agreement was provided to Hall on October 21, 2015. The Agreement suspended Hall's Oregon CPA license and also contained provisions regarding civil penalties and the recovery of costs. The Board approved the draft minutes of the October 19, 2015 meeting at which the Hall Agreement was approved at its meeting on December 7, 2015.

Since the time the Agreement was approved by the Board, the Board opened an inquiry on Hall in an effort to determine if the work Hall was performing through his employer Accountemps was a violation of the Agreement reached between the parties. An "inquiry" at the Board is a precursor to a formal investigation during which Board staff attempts to determine whether there is sufficient indicium of a violation to open a formal investigation. The Hall inquiry remains in open status to date and a formal investigation has not yet been opened.

The inquiry into Hall's Accountemps employment began what may best be summarily described as a very tumultuous relationship between Hall and the Board investigator, the executive director, Board legal counsel and most recently the entire Board, both collectively and individually. Hall has raised a wide variety of allegations against the Board and its staff. He filed a tort claim notice against the Board's executive director, Martin Pittioni, and Theresa

Gahagan, CPA, the investigator on the case that resulted in Hall's license suspension,<sup>1</sup> he has filed a regulatory complaint with the Board against Gahagan demanding that she be investigated for professional misconduct under Board rules for what he alleges to be improper and dishonest conduct during the investigation that resulted in his 2-year license suspension;<sup>2</sup> he has filed a bar complaint with the Oregon State Bar against Board legal counsel from the Department of Justice; he has alleged what loosely appears to be a federal civil rights claim against these same persons and the Board suggesting that he has been denied due process of law; and he has now raised complaints of professional misconduct against each of the current Board members (regarding action taken by the Board in August 2016) as well as all Board members who were on the Board in December 2015 and voted to approve the minutes of the Board's October 19, 2015 meeting at which the Agreement was approved.<sup>3</sup>

Hall's complaints of professional misconduct by the Board members are subject to the jurisdiction of the Board. Although Board statutes provide that the Board "may" investigate complaints of misconduct, its administrative rules provide that complaints "shall" be investigated. Investigations of licensee misconduct are generally handled by CPA investigators employed by the agency, although from time to time the Board contracts with outside investigators who work under contract with the Board. Prior to the time a disciplinary matter is first considered by the Board, the investigation report and a licensee's rebuttal to the report are considered by a complaints committee (BOACC) that serves at the pleasure of the Board, but is not comprised of any Board members. Licensees (respondents) are invited, but not required, to attend the BOACC meeting to make a statement and answer any questions of the BOACC members. BOACC's consideration of the cases is done in a closed executive session. BOACC then makes a recommendation to the full Board.<sup>4</sup> If the Board, in turn, makes a preliminary finding of sufficient evidence to support a violation, settlement negotiations are generally undertaken by the Executive Director. Failing settlement, which is subject to Board approval, the ORS Chapter 183 notice and contested case process is undertaken. As applied here, a finding of professional misconduct or other regulatory violation, can subject a Board member's license

---

<sup>1</sup> DAS Risk Management recently denied Hall's tort claims. We understand that the statute of limitations on such claims is two years.

<sup>2</sup> The Gahagan matter is currently being investigated by a contract investigator to avoid any agency operational impacts and Ms. Gahagan has been screened from access to case materials.

<sup>3</sup> We are happy to provide more detailed information and the ups and downs of the relationship between the Board and Hall, but the specifics do not seem particularly relevant to resolution of the government ethics question(s) that has arisen.

<sup>4</sup> Note that at the recommendation of Board legal counsel, the BOACC considered the question of whether there was sufficient nexus between the allegations of misconduct raised by Hall and a Board member's fitness to practice public accountancy as contemplated by ORS 670.280 to even open an investigation. BOACC determined that an investigation should be opened only if DAS/Risk Management or a court of law determined that there was merit to Hall's tort claims. Although risk management has denied Hall's tort claim, there was no determination on the actual merits of his tort claims.

to practice public accountancy at risk.<sup>5</sup> Thus, even a preliminary decision by the Board to open an inquiry or investigation of Hall's allegations raises potential government ethics issues.

Questions presented.

(1) Can the Board as a group properly consider and vote on the disciplinary matters that Hall has raised against each member without running afoul of the financial gain/avoidance of detriment provisions ORS Chapter 244?

(2) If the Board is the only body that has the authority to adjudicate violations of ORS 673.010 to 673.457, will the class exception, or any other exception to the financial gain/avoidance of a detriment standard apply to permit the Board sitting *en banc* to hear the complaint(s) against individual members?

(3) If the answer to questions (1) and/or (2) is no, can the Board ask the member whose case the Board is considering to recuse (and excuse) themselves during the Board's discussion and vote on the recused member's case and then return to the meeting for consideration of the cases against each of the other Board members? This would essentially amount to a revolving door where a Board member would not participate in consideration of his or her own case, but would participate in the cases against all other members that are effectively based on the same allegations of wrongdoing.

(4) If none of the above present a viable option for processing the Hall allegations of professional misconduct against the Board members, what options does the Commission believe are available to the Board to process the Hall complaint(s) without violating government ethics standards?

Requested Action. As noted above, the Board is requesting that the Commission issue a formal advisory opinion to provide binding guidance regarding how the Board should address the scenario in which the same factual regulatory complaint(s) of misconduct is filed against each Board member. Board legal counsel met briefly with the AAG assigned to the Commission and she suggested that the Board consider requesting a formal advisory opinion. The formal opinion is requested for the reason that virtually any other Oregon regulatory board or commission could find itself in a similar position.

Thank you very much for your prompt attention and consideration. We look forward to hearing from you.

sgb/dm7811188-v2

---

<sup>5</sup> Analysis of the facts at issue by Board legal counsel suggests that Hall's regulatory complaints of professional misconduct by Board members is without merit and would not withstand judicial scrutiny. This does not, however, seem to diminish the underlying government ethics issue.





# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 10, 2017

Vial Fotheringham, LLP  
Attn: T. Beau Ellis  
17355 SW Boones Ferry Rd., Suite A  
Lake Oswego, OR 97035

Dear Mr. Ellis:

This opinion is issued in response to your correspondence received by the Oregon Government Ethics Commission on December 12, 2016, regarding application of ORS 171.756(3), which prohibits consideration contingent on the success of lobbying.

**OREGON GOVERNMENT ETHICS COMMISSION STAFF ADVISORY OPINION NO. 17-S001**

**STATED FACTS:** Property owners who currently own property that is outside of Portland-Metro's urban growth boundary (UGB) wish to engage a limited liability company (LLC) as their consultant to work with various state and local governments to expand the UGB to include their property, which would make the property available for urban development, thereby increasing its value. The term of the proposed consulting contract would be 10 years. If the LLC enters into the consulting contract, part of the strategy would be to lobby the legislature to demonstrate the merits of including the property within Portland-Metro's UGB.

Under Oregon law, responsibility for modification of the Portland-Metro UGB generally rests with Metro, the area regional governing body, subject to acknowledgement by the Oregon Land Conservation and Development Commission (LCDC) and review by the Oregon appellate courts, if necessary. In 2014, however, based on the rapid growth of the Portland-Metro area and urgent need for additional land to meet that growth, the Oregon legislature stepped in and passed legislation to amend the UGB process discussed above, eliminating acknowledgement by LCDC and appellate review. Similar legislation is being proposed for 2017, whereby the legislature may consider stepping in to directly determine expansion of Portland-Metro's UGB.

If the LLC accepts the contract and is successful in accomplishing UGB expansion—regardless of whether the decision is made by Portland-Metro through the usual UGB



process or by an act of legislature—the LLC will be monetarily compensated. The amount of compensation for the LLC would be based on the percent increase in property value that results from its inclusion in the UGB. However, if the UGB is not amended to include the property within the LLC's 10-year contract term, the contract terminates, and the LLC receives no payment. In either case, the LLC will directly compensate one of its members for carrying out the lobbying effort with the legislature.

In other words, payment to the LLC is based upon success in having the property included within the UGB, whether inclusion is the result of action by the Oregon Legislature or similar action by Metro, not purely by measure of whether the legislation passes or fails. In addition, the LLC member who will lobby the legislature will be lobbying for the LLC, not the property owner, and will be paid for this work, regardless of the legislative outcome.

QUESTION 1: Whether the agreement would violate Oregon Lobbying Regulation law, if payment were subject to achieving a desired outcome that can be accomplished by influencing *either* legislative officials *or* local officials.

ANSWER 1: Yes. ORS 171.756(3) prohibits “offer[ing] to lobby for consideration *any part of which* is contingent upon the success of any lobbying activity.” The fact that lobbying legislative officials *may* produce the result upon which payment is contingent is sufficient to bring the proposed agreement within the statutory prohibition.

In the context of Lobbying Regulations, the Oregon Government Ethics Commission's jurisdiction is limited to answering questions within the purview of ORS Chapter 171. ORS 171.725(7)-(8) recognizes lobbying to include (among other things) any attempt “to influence legislative action through oral or written communication with” anyone who is a “member... of the Legislative Assembly” or “any... agency, board, or committee,” as well as any “staff person, assistant or employee” of the Oregon legislative branch. Under the facts provided, the LLC proposes to enter into an agreement with property owners under which the LLC would work with state and local officials to expand the UGB to include the property owners' property. The LLC's efforts would include attempting to influence the 2017 Legislative Assembly to pass proposed legislation that will expand the UGB—such effort would be considered “lobbying.”

ORS 171.756(3) states, “[a] person may not lobby or offer to lobby for consideration *any part of which* is contingent upon the success of any lobbying activity.” Statutory examples of such consideration include “payment, distribution, loan... deposit of money or anything of value, and includes a contract, promise or agreement...” (ORS 171.725(2)). In the proposed contractual agreement, the LLC would receive consideration in the form of a percentage increase in property values, if the UGB were expanded to include the property. Receipt of such consideration is contingent on one of two things happening, one of which includes successfully lobbying the legislature for the desired outcome. Thus,

in the proposed contract, the agreed upon consideration would be, in *part, contingent upon the success of lobbying* the legislature for the UGB to be expanded. In other words, the fact that services other than lobbying might result in satisfaction of the contingency does not alter the fact that the agreement offers to lobby for consideration contingent on the success of lobbying.

QUESTION 2: Whether the LLC's agreement for consideration contingent on the success of lobbying circumvents violation of ORS 171.756(3) if the LLC directly compensates the individual providing lobbying services, regardless of success.

ANSWER 2: No. Although an LLC member would be directly compensated— independent of success—to lobby for inclusion of the property within the UGB, the terms of the agreement would nonetheless provide consideration to both the LLC and its lobbyist-member, if the effort were successful, in violation of ORS 171.756(3).

In ORS 171.756(3)'s prohibition against lobbying for "consideration any part of which is contingent upon the success of any lobbying activity," the statute specifically prohibits a "*person*" from engaging in the activity. According to the stated facts, the individual who would lobby legislature in support of the proposed legislation would be directly compensated for the service in an established manner that is independent of the success of the lobbying effort. However, in this circumstance, the individual who would provide the lobbying service is also a member of the LLC that proposes to enter into the contingency agreement, and as such is an owner of the LLC who would be entitled to share in the generated profits if his or her lobbying efforts were successful.

Furthermore, ORS 171.756(3) also appears to apply to the LLC as a legal entity. Although "person" is not defined for purposes of this statute, other provisions of the lobbying regulation statutes clearly refer to "persons" in a sense that is not limited to individual human beings (*see, e.g.*, ORS 171.740(1) (requiring lobbyists to name "each *person* that employs... or in whose interest the lobbyist appears or works"); ORS 171.740(2) (stating that an "official of each *person*" that employs, or in whose interest, the lobbyist appears or works must sign lobbying authorization); ORS 171.735(1) (providing that the lobbying statutes do not apply to "the following *persons*" including "[n]ews media")). Moreover, if ORS 171.756(3) were interpreted as limited to individual human beings, legal entities, like LLCs, could enter into agreements to provide lobbying services contingent on the success of those services but individuals could not, which would appear counter to the intent of the statute.

Please remember that per the scope of Oregon Government Ethics Commission jurisdiction, the answer provided is limited to the terms of the proposed contract as related to the lobbying of "legislative officials" or "executive officials" per ORS 171.725. Portland-Metro maintains authority over lobbying regulations within its own jurisdiction.

RELEVANT STATUTES: The following Oregon Revised Statutes (ORS) are applicable to the issues that are addressed in this opinion:

**171.725 Definitions for ORS 171.725 to 171.785.** As used in ORS 171.725 to 171.785, unless the context requires otherwise:

(2) "Consideration" includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.

(7) "Legislative official" means any member or member-elect of the Legislative Assembly, any member of an agency, board or committee that is part of the legislative branch, and any staff person, assistant or employee thereof.

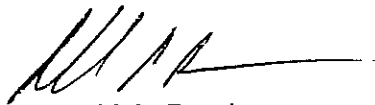
(8) "Lobbying" means influencing, or attempting to influence, legislative action through oral or written communication with legislative officials, solicitation of executive officials or other persons to influence or attempt to influence legislative action or attempting to obtain the goodwill of legislative officials.

**171.756 Prohibited conduct.** (3) A person may not lobby or offer to lobby for consideration any part of which is contingent upon the success of any lobbying activity.

**THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS 171 TO THE FACTS STATED HEREIN. ANY RELEVANT INFORMATION, WHICH WAS NOT INCLUDED BY THE REQUESTER OF THIS OPINION IN THE STATED FACTS, COULD COMPLETELY CHANGE THE OUTCOME OF THIS OPINION. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A COMMISSION ADVISORY OPINION PURSUANT TO ORS 171.776. THIS OPINION DOES NOT EXEMPT A PUBLIC OFFICIAL FROM LIABILITY UNDER ORS CHAPTER 171 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS ONLY MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT ETHICS COMMISSION.**

Please contact this office if you would like this opinion submitted for adoption as a Commission advisory opinion pursuant to ORS 171.776.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/hw 17-S001

RECEIVED

DEC 12 2016



VIALFOTHERINGHAM<sup>LLP</sup>  
LAWYERS

OREGON GOVERNMENT  
ETHICS COMMISSION

T. BEAU ELLIS  
503.684.4111 x336  
DIRECT 503.594.8116  
FAX 503.598.7758  
[Beau.Ellis@vf-law.com](mailto:Beau.Ellis@vf-law.com)  
Admitted to practice in:  
Oregon

December 8, 2016

*Via first class mail*

P14253-001

Oregon Government Ethics Commission  
3218 Pringle Rd. SE, Suite 220  
Salem, OR 97302-1544

RE: Request for Staff Opinion

Dear Commission Staff:

This letter constitutes a request for a staff opinion regarding the application of ORS 171.756(3) to legislation being proposed in the 2017 Oregon legislative session, and whether my client, who is a registered Oregon lobbyist, can engage in lobbying in support of the proposed legislation.

My client is a member of a limited liability company (LLC) that desires to enter into consulting agreements with property owners who own land that is currently outside the Portland-Metro urban growth boundary (UGB). The property owners wish to engage the LLC as their consultant in an effort to work with the various state and local governments to expand the UGB to include their property, thus making the property available for urban development, and increasing the property's value. My client and the other LLC members would use their knowledge and experience in this specialized area (land use) to demonstrate to the responsible governing body that there is a need to amend the UGB to include additional land, and, if the responsible governing body determines that an UGB amendment is needed, that the property meets the criteria for inclusion into the UGB.

If the LLC is successful in accomplishing the desired amendments to the UGB, the LLC will receive payment based upon a percentage of the increase in the property's value resulting from inclusion of the property in the UGB. The proposed consulting contract term is 10 years – if the property is not brought within the UGB during the term of the contract, the contract terminates, and the LLC receives no payment.

Under Oregon law, responsibility for modification of the Portland-Metro UGB rests with Metro, the area regional governing body, subject to acknowledgment by the Oregon Land Conservation and Development Commission and review by the Oregon appellate courts, if necessary. In 2014, however, based upon a determination of rapid growth in the Portland-Metro area and a finding of urgent need for additional land to meet that growth which could not wait for the lengthy UGB expansion process required by Oregon law, the Oregon legislature stepped into Metro's shoes and passed legislation which legislatively amended the UGB, eliminating the acknowledgment by LCDC and review by the court of appeals. Similar legislation is being proposed for 2017.

---

Vial Fotheringham LLP, 17355 SW Boones Ferry Rd., Suite A, Lake Oswego, OR 97035  
503.684.4111 [www.vf-law.com](http://www.vf-law.com)

December 8, 2016  
Letter to Oregon Government Ethics Commission  
RE: Request for Staff Opinion  
P14253-001  
Page 2

---

If the LLC were to enter into the consulting agreements being proposed, my client would lobby the legislature seeking to demonstrate the merits of including the property within the UGB. My client would receive compensation from the LLC for lobbying efforts. If the legislature enacted the proposed legislation and the property was included within the UGB, then the LLC would be entitled to receive a percentage of the increase in value resulting from the property being included within the UGB as payment from the property owner under the consulting agreement. If the legislation failed, the LLC would proceed to obtain UGB inclusion of the property through Metro utilizing the normal UGB amendment process.

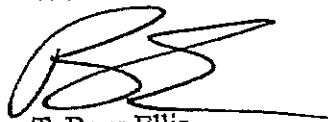
In other words, payment to the LLC is based upon success in having the property included within the UGB, whether inclusion is the result of action by the Oregon legislature or similar action by Metro, not whether the legislation passes or fails. If the legislation passes, and the property is included, then the LLC will have fulfilled its obligations under the consulting agreement and be entitled to payment. If the legislation fails, the LLC will still be entitled to payment if it can convince Metro to include the property within the UGB in the course of the 10 year contract term. In addition, my client will lobby for the LLC, not the property owner, and will receive payment from the LLC which is not dependent upon the outcome of the legislation.

My client does not wish to violate ORS 171.756(3), and does not believe that the prohibition of lobbying for contingent pay applies to this particular situation. Nevertheless, my client seeks a staff opinion on the issue. If you need additional facts or have additional questions, please advise, and I will provide them to you.

Thank you in advance for your professional courtesies.

Best wishes,

**VIAL FOTHERINGHAM LLP**



T. Beau Ellis  
Attorney at Law

TBE:tbe



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544


Telephone: 503-378-5105

Fax: 503-373-1456

E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

DATE: January 19, 2017

TO: Ronald A. Bersin   
Executive Director

FROM: Diane Gould  
Investigator

RE: Linda Hald  
Case No. 16-151EDG

The purpose of this memorandum is to request that the investigative phase of the case against Linda Hald, Case No. 16-151EDG be suspended, as allowed by statute.

The preliminary review of this matter was opened on 12/16/16 by the Commission's own motion. On 1/27/17, the Commission is expected to vote on whether or not to initiate an investigation of the matter.

ORS 244.260(6)(c)(A), which is applicable to complaints filed or own motions initiated after July 1, 2015, provides that the time limit imposed on the Commission's investigation may be suspended if there is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the Commission and the Commission determines that it cannot adequately complete its investigation until the pending criminal investigation is complete.

Materials upon which the preliminary review was initiated, indicate that there is a pending criminal matter against Ms. Hald in Columbia County for theft of funds from Columbia County's Community Justice Department while she served as the Department's Office Manager.

Attorney Michael Staropoli is representing Ms. Hald in this matter. Mr. Staropoli requested, in an email dated 12/15/16, that the Oregon Government Ethics case be suspended pending the resolution of the current criminal case against Ms. Hald pertaining to the same circumstances.



(

(

(



**Oregon Government Ethics Commission**  
**Advisory Opinions Recommended for Rescission**  
**January 27, 2017**

| Opinion No. | Subject  | Reason for Rescinding  |
|-------------|--|--|
| 98A-1001    | Conflicts of interest for ERB board member (SEI filer) receiving reportable "income" for prior work done for a firm that may appear before the ERB.                    | ORS Chapter 244 identifies a conflict of interest to exist if a public official makes an action, decision, or recommendation that would or could result in financial benefit to a business association of the public official. For SEI filers, ORS 244.020(3)(d) considers any business listed as a "source of income" to be a business association. This ERB board member would have been required to list the firm as such a "source of income" on the 1998 SEI form, and would have conflicts of interest with regard to the firm as a result. 98A-1001 fails to identify <i>any</i> conflict of interest, and as a result may be misleading for similarly situated SEI filers who read it. |
| 01A-1010    | Retiring public official wishes use remaining vacation time until date of retirement; during this time the public official may begin a second, post-retirement career. | 01A-1010 determines lawfulness of the circumstances involved (in a conclusory manner) via conflict of interest analysis. Presently, the Guide for Public Officials and OGEC staff analyze similar questions regarding private employment through the lens of ORS 244.040, not the conflict of interest provisions, because the public official would not be acting in his official capacity.   |
| 01A-1013    | Legislator obtains private employment as fundraiser for lobbyist of a PAC; addresses how to report association on SEI.   | In Q1 – 2, 01A-1013 determines lawfulness of the public official accepting the position in a conclusory manner. Presently, the Guide for Public Officials and OGEC staff analyze similar questions regarding private employment through the lens of ORS 244.040. In Q3, the opinion provides a partial answer as to how the association should be reported on the public official's SEI, but fails to contemplate ORS 244.070(3) and ORS 244.090, service for a fee and association with a lobbyist.   |
| 02A-1005    | Public official's personal use of publicly owned fax machine <i>if</i> public use is/not allowed and/or <i>if</i> a fee is charged for use.                            | ORS 244.040 generally prohibits public officials from realizing any financial benefit that would not be available if the public official did not hold the public position. One exception to this general prohibition is anything made part of the public official's "official compensation, package." In 02A-1005, Q1 fails to contemplate use as part of "official compensation"; Q2 fails to consider whether employee fee-for-use is a "financial benefit" as 244.040 requires (if no avoidance of detriment, no violation).  |
| 02A-1010    | Public entity proposes to obtain vendor contract to offer public officials discounts on home computers for official and personal use.                                  | This opinion misstates the ruling in <i>Davidson v. OGEC</i> , 300 Or. 415 (1985), by relying on the fact that other employers could make similar deals (In <i>Davidson</i> , the Court ignores appellant's argument that employees of private companies could receive the same benefit, ultimately finding that acceptance of such benefit violates ORS 244.040.). 02A-1010 also relies on 98A-1003, which was rescinded at this Commission's last meeting on 12/16/16.   |

|          |  |  |
|----------|--|--|
| 02A-1011 | Public employees who hold positions on their public entity's "employee benefit committee" are required to recommend employee health and wellness benefits.   | Though Q1 – 2 provide a valid analysis of ORS 244.040 and in mentioning conflicts of interest if business associations exist, the opinion fails to recognize that members of the benefit committee would have conflicts of interest as a result of recommending benefits they may in turn receive as employees. Q3 also misstates the ruling in <i>Davidson</i> (leaving it subject to the same flawed reasoning as 02A-1010 above).   |
| 05A-1003 | Public official's personal use of publicly owned cell phone as part of "official compensation".  | Q1 relies on 98A-1003, which was rescinded at this Commission's last meeting on 12/16/16; Q2 relies on 98A-1003, as well as 02A-1008, which was also rescinded by this Commission on 12/16/16. Opinion also determines some formally adopted written policies as insufficient to be considered part of an "official compensation package," in contrast with how the Guide for Public Officials and OGEC staff presently advise.  |
| 05A-1004 | A group purchasing organization, of which many public associations are members, wishes to give members' employees personal discount prices on certain perks.   | Determining lawful acceptance of discounts on personal goods or services previously required analysis of ORS 244.040, but a 2008 revision of this provision added gifts not violating Oregon Government Ethics law to its list of exceptions (at ORS 244.040(2)(e)-(g)). As a result, the ORS 244.040 analysis is no longer appropriate; only consideration of the gift provisions (ORS 244.020(7), ORS 244.025) is necessary to determine whether acceptance of such discount offers is allowable. The Commission rescinded other opinions using the same analysis (04A-1003, 04A-1004, 07A-1002, 08A-1001, 09A-1003, 09A-1004) on 12/16/16.  |
| 12A-1002 | Nike distributes employee store passes to Nike employees, organizations Nike is associated with, and at various public and charitable events. Public officials may be offered such passes for various reasons. | As with 05A-1004, determining lawful acceptance of discounts on personal goods or services no longer requires analysis of ORS 244.040, only the gift provisions. Furthermore, this opinion is misleading in that it fails to analyze ORS 244.025 as to the "source" of Nike passes offered to public officials. ORS 244.025 applies the \$50 gift limit any time the "source" might have a legislative or administrative interest in the public official's decision-making. The opinion acknowledges that not all Nike passes will be given to a public official from Nike—some passes may be given by a Nike employee, vendor, etc. Through transference of possession, Nike would no longer be the "source", so a public official may not always be permitted to accept. |
| 13A-1001 | Governor wishes to accept compensation for speaking engagements associated with his private business.  | This opinion has been legislatively superceded. Per statutory changes adopted during the 2015 Legislative session, ORS 244.042 now contains a new subsection (4)(a), which states "the Governor...may not solicit or receive an honorarium, money or any other consideration, as defined in ORS 171.725, for any speaking engagement or presentation."   |

January 8, 1998

Kathryn T. Whalen  
Employment Relations Board  
528 Cottage Street NE, Suite 400  
Salem, Oregon 97310

Dear Ms. Whalen:

At its January 8, 1998, meeting, the Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION ADVISORY  
OPINION NO. 98A-1001**

**STATED FACTS:** An attorney worked for a law firm for approximately 10 years prior to withdrawing as a partner effective June 30, 1996. When the attorney withdrew as a partner, the attorney retained certain rights to receive income for work that had been performed by the law firm prior to the attorney's withdrawal. The attorney is still receiving payments from the law firm and will likely do so through calendar year 1997. The attorney has no right to receive any money for any work that the law firm has performed or will perform since the attorney's withdrawal. The attorney's economic interest in matters pending in the law firm prior to the attorney's withdrawal exceeds \$1,000 in value.

In May 1997, the governor of Oregon appointed the attorney to serve on the Oregon Employment Relations Board (ERB). The board consists of three members including a labor representative, a management representative and a public representative. The attorney was appointed to serve as the labor representative on the board. The Oregon legislature approved the attorney's appointment and the attorney now serves on the board and is hearing and deciding cases which come before that body.

The board interprets, administers and enforces the provisions of the Oregon Public Employee Bargaining Act (PECBA). Among other things, it determines whether employers or labor organizations have committed unfair labor practices as that term is used under the

PECBA. The board also resolves questions involving the representation of public

Kathryn T. Whalen  
January 8, 1998  
Page 2

employees by labor organizations. The board handles other matters, but these are the more common types of disputes which come before that body.

Disputes which are filed with the board are typically assigned to an Employment Relations Administrative Law Judge (ALJ) who investigates the matter to determine whether a hearing is warranted. If it is determined that a hearing is necessary, the ALJ usually schedules and conducts the hearing.

Following the close of the hearing, the ALJ issues a Recommended Order and serves a copy to the parties. Following receipt of the Recommended Order, the parties may file specific written objections with the board. The board then hears oral argument from the parties and/or considers their written arguments in aid of or in lieu of oral argument. Thereafter, the board issues the final order based on the record made during the hearing and on all the written and oral submissions of the parties.

In situations in which a ALJ conducts hearings, the ALJ generally does not discuss the case with board members. Moreover, the subject board member has given specific instructions to ALJs that they are not to discuss with the board member any cases in which the member s former law firm represents a party.

The law firm represents a number of labor organizations which could become involved in disputes that ultimately will be considered and decided by the board. During the period of time that the board member practiced with the law firm, the board member would have provided legal services for many if not all of those labor organizations. Given the passage of time between the board member s departure from the law firm and the member s appointment to the board, it is unlikely that any dispute that the law firm would take before the board would have been pending in the law firm s office at the time of the member s departure. In the unlikely event that such a dispute ultimately comes before the board, the law firm would assume that it would not be appropriate for the law firm to handle that specific dispute.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

ORS 244.020(1): Actual conflict of interest means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person s relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (8)(a) to (c) of this section.

ORS 244.020(2): Business means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official is associated in a nonremunerative capacity.

ORS 244.020(3): Business with which the person is associated means any business of which the person or the person's relative is a director, officer, owner or employee, or agent or any corporation in which the person or the person's relative owns or has owned stock worth \$1,000 or more at any point in the preceding calendar year.

ORS 244.020(7): Potential conflict of interest means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

ORS 244.020(15): Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

ORS 244.040: Code of ethics; prohibited actions; honoraria. The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120.

(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

ORS 244.120: Methods of handling conflicts; generally; application to elected officials or members of boards. (1) Except as provided in subsection (2) of this

Kathryn T. Whalen  
January 8, 1998  
Page 4

section, when met with an actual or potential conflict of interest, a public official shall:

(c) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

QUESTION #1: Once the law firm has completed all of its payments due to the board member, will there be any restrictions on the law firm's ability to appear before the member or in the member's ability to participate in and render a decision on cases which the law firm brings to the board?

OPINION: The GSPC has jurisdiction over public officials as defined in ORS 244.020(15). The GSPC does not have jurisdiction over private businesses. The law firm would not be restricted from appearing before the member nor would it appear that the member would be restricted from participating in cases the law firm brings before the board.

ORS 244.040(1)(a) prohibits a public official from using, or attempting to use, official position or office to obtain financial gain or avoidance of financial detriment for the official, the official's relative or a **business** with which the official or the official's relative is associated. This prohibition exists regardless of whether actual conflicts of interest or potential conflicts of interest are disclosed pursuant to ORS 244.120.

The contractual right to payments based on prior services rendered does not make the member a director, officer, owner or employee of the firm, and the member does not own stock in the firm. The member simply has a contract right to payment. Therefore the firm is not a business with which the public official is associated. There the member may take action in the member's capacity as an ERB member which may or will financially affect the law firm without violating ORS 244.040(1)(a) or ORS 244.120.

QUESTION #2: While the law firm is still making payments due to the board member, can the law firm file complaints and other actions with the ERB and pursue them until the ALJ issues the ALJ's Recommended Order to the board?

OPINION: Again, the law firm is not regulated by Government Standards and Practices

Kathryn T. Whalen  
January 8, 1998  
Page 5

laws. The subject board member may take actions with respect to cases filed by the law firm because the law firm is not a business with which the board member is associated. See answer to question #1.

QUESTION #3: Would it be proper for the board member to consider an ERB case that the law firm has pursued through the ALJ level, so long as the law firm no longer represents the client when the case proceeds to the board level and so long as the law firm derives no further income for work on that case?

OPINION: Yes. The board member has no conflict of interest with respect to the law firm. The law firm may handle cases at any level within the agency.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon on the \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
Ilo Bonyhadi, Chairperson

\_\_\_\_\_  
Lynn Rosik  
Assistant Attorney General


Date

AO\1001.98





July 20, 2001

Roger Hoffman  


Dear Mr. Hoffman:

The Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion at its July 20, 2001 meeting:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION**  
**ADVISORY OPINION 01A-1010**

**STATED FACTS:** An Oregon State Police officer is planning on retiring from state service on December 1, 2001. The officer anticipates going on paid vacation leave at the end of September and would remain on vacation until the officer's retirement date. The officer has no intent of returning to duty during that time.

The officer has applied for a law enforcement position with the United Nations Civilian Police In Kosovo, Yugoslavia. It is possible the officer could be hired for that position prior to December 1, 2001, while he was still employed by the state police.

**RELEVANT STATUTES:** The following Oregon Revised Statutes are applicable to the issues addressed herein:

244.020(1) "'Actual conflict of interest' means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (7) of this section."

244.020(7) "'Potential conflict of interest' means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:"

244.020(15) "'Public official' means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services."

244.040 "**Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:"

244.040(1)(a) "No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated."

QUESTION: Would it be a conflict of interest, in violation of Oregon Government Standards and Practices law, ORS Chapter 244, for the officer to accept and be hired by another employer during a period of paid vacation from the Department of Oregon State Police?

OPINION: No. Conflicts of interest arise under ORS Chapter 244 only when a public official takes official action that could or would be to the private pecuniary benefit or detriment of the person or the person's relative or a business with which the person or a relative of the person is associated. The stated facts do not indicate that the officer would be taking any such official action.

In previous advisory opinions of a similar nature, the Oregon Government Standards and Practices Commission (GSPC) has issued guidelines related to public officials who choose to engage in outside employment or professional activity. Those guidelines have been based upon Oregon law pursuant to ORS Chapter 244 and include the following:

**GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS**

1. That private business not be conducted on public time.
2. That public supplies, facilities, equipment, personnel, records or any other public resources not be used to carry out private business.
3. That no official action toward a third party be conditioned on a private business relationship with that third party.
4. That no confidential information be used to obtain financial benefit for the employee.
5. That employees will notify their appointing authority in writing of a potential or actual conflict of interest if private endeavors could or would be affected by public employment.

There is no difference in a public official engaging in outside employment during a regular vacation period and the officer who takes extended vacation prior to retirement and, during that vacation, is hired by another entity.

This opinion addresses only the application of relevant provisions of ORS Chapter 244 to the stated facts. This opinion does not limit a public employer's right to establish and impose a more restrictive policy upon its employees.

Roger Hoffman  
July 20, 2001  
Page 4

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon on the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

---

Katherine E. Tennyson, Chairperson

Date

---

Lynn Rosik  
Assistant Attorney General

Date

MismacMM01A-1010-JP

November 28, 2001

John DiLorenzo, Jr.  
Hagen, Dye, Hirschy & DiLorenzo  
Pioneer Tower, Suite 1000  
888 S.W. Fifth Avenue  
Portland, Oregon 97204-2024

Re: Your File No. 4327.001

Dear Mr. DiLorenzo:

At its November 28, 2001 meeting, the Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION**  
**ADVISORY OPINION NO. 01A-1013**

**STATED FACTS:** A lobbyist/treasurer of a multi-candidate political action committee (PAC) was successful in raising substantial funds during the last campaign cycle. The committee thereupon distributed contributions to various candidates for election to the Oregon House and Senate. The lobbyist/treasurer of the committee was, and continues to be, one of the prime decision makers with respect to allocation of the committee's resources.

This PAC is an unincorporated association that is tax exempt under Internal Revenue Code Section 527. The PAC files contributions and expenditures reports with the Office of the Secretary of State, has filed Internal Revenue Service Form 8871 and files Internal Revenue Services Forms 8872 on a regular basis with the Internal Revenue Service pursuant to the McCain Amendments which were enacted in 1999.

The lobbyist/treasurer of the committee is contemplating retaining as an independent contractor a person to assist the lobbyist/treasurer in raising funds for the committee during this campaign cycle. Although the lobbyist/ treasurer hopes to raise substantially greater sums than in the past cycle, neither the character of the committee or the nature of its contributions will change substantially. The lobbyist/treasurer proposes to retain the fundraiser pursuant to a contract between the fundraiser and the committee. The fundraiser's compensation will, in large part, be contingent upon the success which the fundraiser has in raising funds for the committee. The compensation formula will be similar to that which prevails in the community. The fundraiser will solicit funds for the

committee primarily by way of personal contacts. The fundraiser will solicit funds for the benefit of the committee only during the interim and will not solicit funds during any period of time in which the Legislature is in session.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

244.020(2) "'Business' means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official is associated in a nonremunerative capacity."

244.020(3) "'Business with which the person is associated' means any business of which the person or the person's relative is a director, officer, owner or employee, or agent or any corporation in which the person or the person's relative owns or has owned stock worth \$1000 or more at any point in the preceding calendar year."

244.020(15) "'Public official' means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services."

244.040 **"Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:"

244.040(1)(a) "No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated."

QUESTION #1: Would it be a violation of Oregon Government Standards and Practices laws for the committee to retain as its contract fundraiser a person who is a current member of the Oregon Legislature?

OPINION: Oregon Government Standards and Practices law, ORS Chapter 244, does not prohibit a current member of the legislature from being retained as an independent contract fundraiser for the committee. ORS Chapter 244 also does not prohibit members of the legislature from holding employment in addition to their position in the legislature.

In previous advisory opinions of a similar nature the Oregon Government Standards and Practices Commission (GSPC) has issued guidelines related to public officials who choose to engage in outside employment or professional activity. Those guidelines have been based upon Oregon law pursuant to ORS Chapter 244 and include the following:

**GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS**

1. That private business not be conducted on public time.
2. That public supplies, facilities, equipment, personnel, records or any other public resources not be used to carry out private business.
3. That no official action toward a third party be conditioned on a private business relationship with that third party.
4. That no confidential information be used to obtain financial benefit for the employee.

QUESTION #2: Would the opinion to question #1 change if the legislator who is retained is currently term limited and will, therefore, not be a member of the 2003 Legislative Assembly?

OPINION: The opinion would not change.

QUESTION #3: If the arrangement does not violate Oregon Government Standards and Practices laws, will the legislator be required to report compensation received from the committee on the legislator's Annual Verified Statement of Economic Interest (SEI)?

OPINION: The legislator would be required to report the compensation received from the committee on the legislator's SEI if any of the following criteria apply:

1. If the income is 10% but less than 50% of the combined total gross household income.
2. If the income produced 50% or more of the total combined household income.
3. If the income is more than \$1,000, only if the source could be expected to do business with the official's public body or if the source has a legislative or administrative interest in the public body. (If not reported under either of the previous criteria)

QUESTION #4: Assuming the source of payment to the fundraiser is directly from political contributions raised on behalf of the committee, will the lobbyist/treasurer of the committee or any of the contributors be required to reflect compensation paid from the committee to the fundraiser on lobby reporting forms?

OPINION: No. According to the stated facts, such expenditures do not appear to be lobbying expenses.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN. OTHER LAWS OR REGULATIONS NOT WITHIN THE JURISDICTION OF THE GSPC MAY ALSO APPLY.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon on the 28<sup>th</sup> day of November, 2001.

---

Katherine E. Tennyson, Chairperson

---

Lynn Rosik  
Assistant Attorney General

---

Date

MismacMM-01A-1013-JP



May 31, 2002

Dave Kanner  
Deputy County Administrator  
Jackson County  
10 S. Oakdale, Rm. 214  
Medford, Oregon 97501

Dear Mr. Kanner:

At its May 31, 2002 meeting, the Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION**  
**ADVISORY OPINION NO. 02A-1005**

**STATED FACTS:** The various departments within a county government have fax machines. Some departments have a practice that allows employees the personal use of the fax machines. The conditions required for this personal use are that it must be infrequent, the matter must be one that needs to be resolved during business hours and the calls are to be local.

The county airport has established a fee schedule for the use of the department fax machine. The fees were established to accommodate the requests of traveling public patrons of the airport. The department adopted a policy that granted the employees permission to use the department fax machine under the same conditions as offered to the public.

The county wishes to formulate a policy for all agencies addressing the personal use of fax machines by employees that would conform to the provisions of ORS Chapter 244.

**RELEVANT STATUTES:**

244.020(15) "'Public official' means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent

or otherwise, and irrespective of whether the person is compensated for such services."

244.040 "**Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:"

244.040(1)(a) "No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated."

QUESTION NO. 1: Would there be circumstances under which county employees could make personal use of their department fax machines without violating Oregon Government Standards and Practices laws?

OPINION: Yes. The circumstances under which this practice would be permitted would have to mirror the circumstances under which public use would be permitted.

ORS 244.040(1)(a) prohibits all public officials in the State of Oregon from using their official position to obtain a financial benefit or avoid a financial detriment if the opportunity to do so arises only because of the holding of the position. Generally, if a public official made personal use of the public employer's fax machine it would be a violation of this statute. In a previous ruling by the Oregon Supreme Court, the justices indicated that a public official could not avail himself/herself to any of the assets and resources of the public employer that would not be available to a similarly situated private individual.

While personal use of an agency fax machine can be approached much like that of a telephone or computer there is one important difference. Commercial businesses charge appreciably more for this service than would be paid for a local telephone call. For example, a business which offers customers the service of sending and receiving faxes might charge \$3.00 for the first page and \$1.00 for succeeding pages, etc.

Any countywide policy on the personal use of fax machines must apply the same criteria to county employees as is applied to private individuals. Whether a use fee is charged or the service is offered free of charge makes no difference.

QUESTION NO. 2: Would the county employees be in violation of Oregon Government Standards and Practices laws if the county departments established a fee schedule for the personal use of fax machines that excluded public use?

OPINION: As was discussed in the previous question, public officials are prohibited, by ORS 244.040(1)(a), from realizing a financial gain by availing themselves to assets and resources of the public employer that would not be available to them but for the public position held.

The county could establish a fee schedule that would allow only public officials to pay for the personal use of the county fax machines. If the county established a fee schedule for the use of fax machines the fee schedule must be equal to or exceed the prevailing rates offered at commercial businesses. In establishing rates equal to those available commercially, the employees can avoid realizing the financial gain that is prohibited by ORS 244.040(1)(a).

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN. OTHER LAWS OR REGULATIONS NOT WITHIN THE JURISDICTION OF THE GSPC MAY ALSO APPLY.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon on the 31st day of May, 2002.

---

Katherine E. Tennyson, Chairperson

---

Lynn Rosik, Assistant Attorney General

02A-1005dc



October 11, 2002

Brian Bray  
Director of Technology  
Lebanon Community School District 9  
485 South Fifth Street  
Lebanon, Oregon 97355-2602

Dear Mr. Bray:

At its October 11, 2002 meeting, the Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION**  
**ADVISORY OPINION NO. 02A-1010**

**STATED FACTS:** The director of technology of an Oregon public school district wishes to increase the utilization of technology in the school district as well as integrate technology tools into the curriculum. In order to achieve these goals the technology director would like to facilitate the purchase of home computers by the school district staff.

The technology director proposes to do the following:

1. Assist in selecting a limited number of computer models that can be recommended for purchase by staff.
2. Organize a volume purchase with a retailer for the selected computer models.
3. Recommend software suite and applications to staff.
4. Facilitate installation of district applications if licensing allows.
5. Introduce staff to finance options such as through their credit union.
6. Sponsor an evening "unpack and setup" seminar to be conducted by the technology director for no compensation and without flexing hours.
7. Create Novell network connectivity appropriately.
8. Do not support the machines past network connectivity.
9. Encourage a "users group" of people with similar machines.
10. Clarify any workplace rules that may apply.

If an employee purchases a portable machine the technology director proposes to allow them network connectivity at work, including the Internet, for work purposes and also for personal purposes within the same parameters as they are allowed to do personal activities on a district owned computer.

The technology director would secure a letter from the selected vendor stating that the pricing extended to the school district employees is the same pricing that would be extended to anyone in the public who organized a similar group purchase and is in no way extended because of the purchaser's school district position.

The technology director will not personally purchase a machine under this agreement and will receive no type of consideration from the vendor.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

244.020(15) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services."

244.040 **"Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:"

244.040(1)(a) "No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated."

QUESTION: Would the proposed group purchases described in the stated facts place participating public officials in violation of Oregon Government Standards and Practices laws?

OPINION: ORS 244.040(1)(a) prohibits a public official from using, or attempting to use, their official position or office to obtain a financial gain or the avoidance of a financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, the reimbursement of

expenses or an unsolicited award for professional achievement for the public official.

The Supreme Court, in Davidson v Oregon Government Ethics Commission, 300 OR 414, 712p. 2d 87 (1985), identified the broad policy of Oregon's ethics laws as ensuring that government employees do not gain personal financial advantage through their access to the assets and other attributes of government. In that case, the Supreme Court held that a public official could not use his official position to obtain financial gain for himself where, through access to his governmental body's buying power, he purchased an automobile at a discount price. The Court emphasized that the term "use" in ORS 244.040(1)(a) includes availing oneself of a benefit not available to the general public. The Court applied a **but for** test, i.e., but for his position, the public official would have been unable to purchase the car at the discount price and, thus, obtain a personal gain. 712 p 2d 92.

The stated facts appear to indicate that the technology director is researching computer models that would be acceptable to the school staff. The director would then check various retailers selling the computer models selected by the school staff and obtain price quotes for a volume purchase. Written assurance would be obtained from the retailer that the retailer would make these same computer models available in like volume to others who are not public officials at the same prices. Accordingly, if the computer retailer's buying program is also available to a substantial segment of the population who are not public officials, participation by the school district employees would not appear to violate Oregon Government Standards and Practices laws. If the volume-buying program were available only to the school district employees it would appear that their participation would place them in violation of ORS 244.040(1)(a).

If, as indicated in the stated facts, the technology director intends the personally owned computers to be used for work as well as personal purposes, within the same parameters as they are allowed to do personal activities on a district owned computer, the guidelines previously set forth by the GSPC in advisory opinion 98A-1003 must be adhered to. A copy of that opinion is attached.

The technology director would not violate Oregon Government Standards and Practices laws by recommending software suite and applications to school staff if, by doing so, the director was not financially impacted.

The above opinion addresses proposals one through three in the stated facts. Proposals four through 10 appear to be school district policy issues.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION**

Brian Bray  
October 11, 2002  
Page 4

**CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon on the 11<sup>th</sup> day of October 2002.

\_\_\_\_\_  
Alice Schlenker, Chairperson

\_\_\_\_\_  
Lynn Rosik  
Assistant Attorney General

\_\_\_\_\_  
Date

MismacMM-02-1010-JP



November 22, 2002

Jim Bruce  
Douglas County Human Resources Department  
Human Resources Director  
Courthouse, Room 322  
Roseburg, Oregon 97470

Dear Mr. Bruce:

At its November 22, 2002 meeting the Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION**  
**ADVISORY OPINON NO. 02A-1011**

**STATED FACTS:** An Oregon county has had an Employee Benefit Committee (EBC) since 1988. The EBC was established by order of the board of commissioners. The committee is made up of general county employees and members from both county bargaining units. It is their responsibility to meet on a monthly basis with a benefits consultant and recommend changes to county employee medical plans within the insurance cap limits set by the board of commissioners.

The EBC made recommendations to the county board of commissioners in a memo titled "Wellness Subcommittee Recommendations." The county counsel felt it appropriate that the EBC obtain an advisory opinion on items #1 and #4 of this memo.

Item #1 of the Wellness Subcommittee Recommendations is as follows:

1. Contract with a provider for a comprehensive wellness program.

A Request For Proposal (RFP) would include requirements for offering classes for employee and spouse (nutrition, stress reduction, specialized exercise techniques, stop smoking), provide health screenings for employee and spouse (blood pressure, cholesterol, blood sugar, body fat analysis, flexibility analysis, health status questionnaire), provide a

newsletter and other written health information. A budget would be based on the responses to the RFP.

Item #4 of the memo is as follows:

4. Arrange corporate memberships with various health clubs. Different health clubs offer corporate memberships to any company. The EBC would only ask for the corporate discount given to any other business. The EBC is not asking for the county to pay for individual employee memberships, but that our employees are offered the standard corporate membership rate. This normally involves waiver of an enrollment fee, but may also involve a slightly reduced monthly rate. We have been advised by county counsel that participation will probably result in the reporting of taxable income to the employee based on the waiver of initiation fees.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

244.020(1) "Actual conflict of interest' means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (7) of this section."

244.020(2) "'Business' means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official is associated in a nonremunerative capacity."

244.020(3) "'Business with which the person is associated' means any business of which the person or the person's relative is a director, officer, owner or employee, or agent or any corporation in which the person or the person's relative owns or has owned stock worth \$1000 or more at any point in the preceding calendar year."

244.020(7) "'Potential conflict of interest' means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is

associated, unless the pecuniary benefit or detriment arises out of the following:"

244.020(15) "'Public official' means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services."

244.040 **"Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:"

244.040(1)(a) "No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated."

244.120 **Methods of handling conflicts; generally; application to elected officials or members of boards.** (1) Except as provided in subsection (2) of this section, when met with an actual or potential conflict of interest, a public official shall:"

244.120(2)(a) "When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or"

244.120(2)(b) "When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:"

244.120(2)(b)(A) "Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue."

244.120(2)(b)(B) "If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises."

QUESTION #1: Would it be a violation of Oregon Government Standards and Practices laws for the EBC to make recommendations to the county board of commissioners regarding contracting with a provider for a comprehensive program as set forth in item #1 of the EBC memo?

OPINION: ORS 244.040(1)(a) prohibits a public official from using, or attempting to use, their official position or office to obtain a financial gain or the avoidance of a financial detriment, for the public official or a relative of the public official, that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, the reimbursement of expenses or an unsolicited award for professional achievement for the public official.

In this situation, the employees' actions with respect to making recommendations to obtain contracted "wellness" services would appear to be included in the exception for "official salary" and thus not prohibited under ORS 244.040(1)(a).

There appears to be one element in the stated facts where an EBC member could possibly violate Oregon Government Standards and Practices laws. If an EBC member, or a relative of the member, was associated with any of the businesses that could provide the services identified in the recommendations submitted to the board of commissioners, a violation of conflict of interest statutes could occur. If the member, or a relative of the member, were associated with any businesses that could provide these services the member would be required to adhere to the guidelines set forth in the appropriate conflict of interest disclosure statutes contained in ORS 244.120, as well as comply with ORS 244.040(1)(a).

QUESTION #2: Would it be a violation of Oregon Government Standards and Practices laws for the EBC to make recommendations to the county board of supervisors regarding arranging for corporate membership with various health clubs as set forth in item #4 of the EBC memo?

OPINION: The issues pertaining to use of office and conflict of interest disclosures outlined in question #1 also apply to this question.

QUESTION #3: Would it be a violation of Oregon Government Standards and Practices laws for county employees to accept a corporate discount rate if that same rate were given to other businesses?

OPINION: The Supreme Court, in Davidson v Oregon Government Ethics Commission, 300 OR 414, 712p. 2d 87 (1985), identified the broad policy of Oregon's ethics laws as ensuring that government employees do not gain personal financial advantage through their access to the assets and other attributes of government. In that case, the

Supreme Court held that a public official could not use his official position to obtain financial gain for himself where, through access to his governmental body's buying power, he purchased an automobile at a discount price. The Court emphasized that the term "use" in ORS 244.040(1)(a) includes availing oneself of a benefit not available to the general public. The Court applied a **but for** test, i.e., but for his position, the public official would have been unable to purchase the car at the discount price and, thus, obtain a personal gain. 712 p 2d 92.

The GSPC believes there may be limited circumstances when public officials may take advantage of group discounts or other marketing incentives. Those would include instances when the benefit is unsolicited by the public official and is available to others who are not public officials. Accordingly, if the EBC were recommending certain health clubs where county employees could receive discounts and the health clubs were offering the same discounts to a substantial segment of the population who were not public officials, participation by a public official would not appear to violate Oregon Government Standards and Practices laws. If the discount were available only to public officials, participation by public officials would place them in violation of ORS 244.040(1)(a).

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon on the 22<sup>nd</sup> day of November 2002.

---

Alice Schlenker, Chairperson

---

Lynn Rosik  
Assistant Attorney General

---

Date

MismacMM-02A-1011-JP

Jim Bruce  
Advisory Opinion 02A-1011  
November 22, 2002  
Page 6

June 3, 2005

Dianne Hunt  
Human Resources Director  
City of Keizer  
P.O. Box 21000  
Keizer, Oregon 97307

Dear Ms. Hunt:

At its June 3, 2005 meeting, the Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION  
ADVISORY OPINION NO. 05A-1003**

**STATED FACTS:** A city has several policies regarding employee use of city desk and wireless telephones. All of the policies affirm that city telephones are for official business. Exceptions to the official use restriction are provided in three current policies. There is one general policy, a policy for the police department and another for the public works department. The city is considering a new policy for all departments related to the use of wireless telephones that would be integrated into the existing policies.

The substance of each of the three existing policies is as follows:

1. GENERAL POLICY

This policy allows personal calls with desk and wireless telephones. The policy on desk telephones requires personal calls to be brief and kept to a minimum. The policy on personal wireless calls only specifies that they be kept to a minimum but does not address duration. Except for emergencies, employees are prohibited from charging the cost of personal long distance telephone calls to the city. In the case of an emergency call, the employee must reimburse the city for the cost. On a monthly basis, employees are required to reimburse the city for the cost of all personal wireless and long distance calls.

## 2. POLICE DEPARTMENT

The current policy addresses two types of use. One is for employees in patrol units that are provided a wireless telephone while on duty. The other level of use is for employees who are designated to carry a wireless telephone at all times.

Employees in patrol units are allowed personal wireless calls and are encouraged to keep call duration to less than five minutes. Frequency of personal wireless calls is not addressed. Employees who are assigned wireless telephones are not given specific limitations on personal calls.

Under the police department service plan, each wireless telephone is allocated 500 minutes each month. Employees must reimburse the department each month according to the following criteria:

Employees must reimburse the department for any personal long distance calls.

If the minutes of use do not exceed the allotted 500 minutes, no reimbursement for personal use is required.

If the minutes of use do exceed the allotted 500 minutes, the responsible employee must reimburse the department for personal calls at 35 cents per minute.

When the total minutes for personal calls is greater than the sum of minutes over 500, the responsible employee must reimburse the department for all minutes exceeding the allotted 500 at 35 cents per minute.

## 3. PUBLIC WORKS DEPARTMENT

The city policy on the personal use of wireless telephones by employees in the public works department was dictated by the terms of a collective bargaining agreement. The wireless telephone service plan for the public works department allocates each telephone with 500 minutes per month. The employee must reimburse the department each month according to the following criteria:

Employees are allowed to make personal calls and are encouraged to keep such calls to a minimum.



The employees are required to reimburse the public works department for personal calls as follows:

Personal use occurring within the allotted 500 minutes is reimbursed at a rate of 10 cents per minute.

If the employee's total use exceeds the 500 minutes, personal calls are reimbursed at 40 cents per minute.

**PROPOSED POLICY REVISION:**

The city intends to consolidate the three policies into a single city-wide policy. These would be the elements of the proposed policy:

The city will select a wireless service provider, service plan and brands of wireless telephones to be used by city employees. The city may act as the service provider.

Selected city employees will be provided a monthly allowance of \$50 to obtain a wireless telephone for personal and official use.

The \$50 allowance will be a taxable portion of the employee's compensation package.

**RELEVANT STATUTES:** The following Oregon Revised Statutes (ORS) are applicable to the issues that are addressed in this opinion:

244.020(15) " 'Public official' means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services."

244.040 **"Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:"

244.040(1)(a) "No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of

expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated."

QUESTION NO. 1: Would city employees violate Government Standards and Practices law if their personal use of city telephones was limited to that allowed under the current general policy?

OPINION: ORS 244.040(1)(a) prohibits public officials from using or attempting to use an official position or public office to obtain financial gain or avoid a financial detriment, the opportunity for which would not otherwise be available but for the public official's holding the official position or office. The only exceptions to the prohibition are, official salary, honoraria, reimbursement of expenses and an unsolicited award for professional achievement.

Previous GSPC advisory and staff opinions have allowed for public officials' personal telephone calls using agency telephones to be infrequent and brief. GSPC Advisory Opinion 98A-1003 gives examples of the types of personal telephone calls that would be permitted. Such calls are to be for the purpose of managing personal matters that can only be accomplished during regular working hours, such as calls to medical care providers, service technicians or to a child's school.

The subject city's current general policy provides for a monthly review of telephone billing statements and imposes a requirement for employees to reimburse the city for personal wireless and/or long distance calls. While this requirement may allow the city to recover the cost for the personal use, it does not shield public officials from the possibility of violating ORS 244.040(1)(a). There is often a misconception of how this provision of ORS Chapter 244 applies. It is a public official's responsibility to not accept the financial benefits prohibited by ORS 244.040(1)(a). By using the city's telephones for personal calls, a public official could realize a financial gain or the avoidance of a financial detriment in different ways. These include the agency's payment of long distance tolls, wireless minutes, which could include long distance calls, monthly service fees and the telephone itself. This would apply even if public officials reimburse the agency for the cost of personal minutes used.

QUESTION NO. 2: Would police department employees violate Government Standards and Practices law if their personal use of department wireless telephones was limited to that allowed under the current police department policy?

OPINION: The application of ORS 244.040(1)(a) and the guidance of GSPC opinions (Advisory Opinions 98A-1003 and 02A-1008) would be the same for employees of the police department as those governed by the city's general policy. Brief and infrequent personal telephone calls would be permitted under the circumstances discussed for Question No. 1.

The police department's policy exposes employees to a greater risk of violating ORS 244.040(1)(a) than employees abiding by the general city policy. For example, employees in patrol units are encouraged to keep personal wireless calls to less than five minutes in duration, but there is no restriction on the frequency of personal calls. Police department employees with assigned wireless telephones are also given no restrictions as to frequency or duration of personal wireless calls.

As noted previously, the cost of wireless minutes is not the only financial benefit involved. For example, if a public official is permitted to use an agency wireless telephone for personal calls and reimburses the agency for the cost for those calls, the official would still avoid the personal expenses of purchasing a personal wireless telephone and subscribing to a service plan.

QUESTION NO. 3: Would public works department employees violate Government Standards and Practices law if their personal use of department wireless telephones was limited to that allowed under the current public works department policy?

OPINION: The primary distinction between the public works department policy on the personal use of wireless telephones and other city policies is that it is based on the terms of a collective bargaining agreement.

If public works employees restrict personal use of wireless telephones to the specific terms of the collective bargaining agreement, they would not violate Government Standards and Practices law because such usage would constitute "official salary" which is permitted financial gain under ORS 244.040(1)(a). Any personal usage not specified by the collective bargaining agreement could cause employees to violate ORS 244.040(1)(a).

QUESTION NO. 4: Would city employees violate Government Standards and Practices law if their personal use of department wireless telephones was limited to that allowed under the proposed revisions to the city's general policy?

OPINION: No. While ORS 244.040(1)(a) prohibits a public official from attempting to use or from using his/her public position for financial gain, it also provides some exceptions. Official salary is one of those exceptions. In previous

opinions the GSPC has said that official salary includes all components of the compensation received by a public official (Advisory Opinion No. 02A-1012 and Staff Opinion No. 02S-015). This would include, but not be limited to, salary, insurance, vacation or various allowances.

The proposed monthly allowance for a personal wireless telephone would be considered a portion of the city employee's official salary. Accordingly, it appears that making personal calls on a personally owned wireless telephone under this proposed policy would not violate Government Standards and Practices law.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN. OTHER LAWS OR REGULATIONS NOT WITHIN THE JURISDICTION OF THE GSPC MAY ALSO APPLY.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon on the 3rd day of June 2005.

---

Carl Visintainer, Vice Chair

---

Lynn Rosik, Assistant Attorney General

05A-1003dc

August 26, 2005

Bruce R. Busch  
Chief Legal Counsel  
National Purchasing Partners, LLC  
1100 Olive Way, Suite 900  
Seattle, Washington 98101

Dear Mr. Busch:

At its August 26, 2005 meeting, the Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION  
ADVISORY OPINION NO. 05A-1004**

**STATED FACTS:** National Purchasing Partners, LLC (NPP) is a group purchasing organization that uses the volume purchasing potential of its membership to negotiate contracts with vendors at substantially discounted rates.

NPP membership is drawn from both public and private associations. In Oregon, organizations that participate in NPP include the League of Oregon Cities (LOC), Special Districts Association of Oregon (SDAO), International Association of Fire Chiefs (IAFC), Oregon Restaurant Association, the Master Builder's Association and hotel chains. Discounts offered by a vendor to a member association are occasionally offered to employees of the member associations. This would include fire district employees through IAFC and employees of cities through LOC.

NPP management studied the provisions of Oregon Government Standards and Practices law and reasoned that employees of NPP member associations, who are defined in ORS Chapter 244 as public officials, may individually accept the discount pricing from NPP vendors without violating Government Standards and Practices law.

NPP has suggested a number of reasons that they believe would enable Oregon public officials to accept discounts without violating ORS Chapter 244. Those reasons are as follows:

1. In Oregon, member associations, whose employees are defined as public officials, are non-profit organizations. Therefore, ORS 244.040(1)(a), regarding prohibited financial gain, would not apply since the associations are not defined as a business in ORS 244.020(2).
2. The discounts are only offered to public officials who join a member association and not to those who are merely eligible for membership. Accordingly, the discounts are available only because of association membership and not the underlying employment defining the member as a public official.
3. There are some public officials who could be eligible to join NPP member associations not only because of a public official position, but because of personal pursuits. For example a fire chief, member of IAFC, may also be a homebuilder and a member of the Master Builder's Association. Discounts would be available to the fire chief in either case.
4. Discount pricing is available to a large number of employees in both public and private entities.

RELEVANT STATUTES: The following Oregon Revised Statutes (ORS) are applicable to the issues that are addressed in this opinion:

244.020(15) " 'Public official' means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services."

244.040 "**Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:"

244.040(1)(a) "No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the

official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.”

QUESTION: Would a person, who is defined as a public official and who is eligible for the NPP discounts because of public employment, violate Government Standards and Practices law by accepting the discounts?

OPINION: ORS 244.040(1)(a) prohibits a public official from using or attempting to use an official position or office to obtain financial gain or the avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office. The only exceptions are official salary, honoraria, reimbursement of expenses or an unsolicited award for professional achievement.

The stated facts indicate that NPP membership is offered to both public and private entities. NPP negotiates to gain discounts from vendors on behalf of their member entities. Occasionally, employees and/or members of the entities might also be offered discounts on individual purchases.

The factors presented in support of the NPP view that accepting discounts would not violate Oregon law are discussed as follows:

1. Whether or not the public official's employer is a non-profit<sup>1</sup> has no impact on the application of ORS 244.040(1) in this situation. The issue is not about a business or a business with which the official is associated, but about a financial benefit a public official would be prohibited from accepting.
2. The stated facts make a distinction between those public officials that are eligible for discounts through electing to join an NPP association and those public officials who are not eligible by electing not to join. NPP apparently believes that this distinction means that the discounts are available because of association membership and not public employment. We disagree. Membership in a NPP association and subsequent opportunities for discounts would not be available without the underlying public position. The NPP distinction has no impact on the application of

---

<sup>1</sup> In fact, the public official's employers are public bodies, whether cities, special districts or fire departments. Those public bodies may belong to intergovernmental entities created under ORS Chapter 190, such as the League of Oregon Cities or the Special District Association of Oregon.

ORS 244.040(1)(a). Again, the issue is the action of the individual public official by accepting a benefit that would not otherwise be available but for the public official status.

3. The stated facts point to situations where a public official might be eligible for discounts both as a public official and due to private business endeavors. The example given was a fire chief eligible for NPP discounts through IAFC and also eligible as a member of the Master Builder's Association through personal business endeavors. Again, the issue is the action of an individual public official accepting a benefit that would not otherwise be available but for the public official status. NPP eligibility gained through personal business cannot be used to justify the same benefit offered to the holder of a public position. Accordingly, the fire chief in the example may accept discounts as a private business owner, but not as a fire chief.
4. The stated facts indicate that a large number of employees from both public and private entities might be eligible for discounts through NPP memberships. Oregon Government Standards and Practices law, ORS 244.040(1)(a), prohibits a public official from accepting a financial benefit that would not be available but for the public position held. This is often referred to as the "but for" test. NPP contends that the availability of their discounts is offered to enough employees, public and private, so as to override the "but for" test.

While NPP membership includes both public and private entities, the discounted pricing through NPP membership is not offered to the general public (e.g., Costco). In addition, NPP discounts are described as an exclusive member benefit to employees of membership associations, who choose to join NPP. In this case, the Costco example is helpful in evaluating what portion of the public and private population would have to have the opportunity of NPP discounts available to mitigate the "but for" test. The discounts available from NPP are not offered to the general public, but as an exclusive benefit to members. Accordingly, it does not appear that the current rules regarding NPP membership and the potential size of the group offered discounts would reach the size necessary to override the "but for" test of the statute.

Based on the information and analysis of these issues it appears that, if a public official accepted a discount offered to NPP members, whose eligibility and



Bruce R. Busch  
GSPC Advisory Opinion 05A-1004  
August 26, 2005  
Page 5

membership stemmed from the public position, it would be a violation of ORS 244.040(1)(a).

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN. OTHER LAWS OR REGULATIONS NOT WITHIN THE JURISDICTION OF THE GSPC MAY ALSO APPLY.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon on the 26th day of August 2005.

---

John P. Kopetski, Chairperson

---

Lynn Rosik, Assistant Attorney General

05A-1004dc





# Oregon

John A. Kitzhaber, MD, Governor

## Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1544

503-378-5105

E-mail: [ogec.mail@state.or.us](mailto:ogec.mail@state.or.us)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

June 1, 2012

George Okulitch, J.D.  
State Street Solutions  
P.O. Box 2348  
Lake Oswego, Oregon 97035

Dear Mr. Okulitch:

At its June 1, 2012 meeting, the Oregon Government Ethics Commission (Commission) adopted the following advisory opinion:

### OREGON GOVERNMENT ETHICS COMMISSION ADVISORY OPINION NO. 12A-1002

**STATED FACTS:** Nike, Inc., located in Washington County, operates an employee store that was established for the sole purpose of selling merchandise at discounted prices. The employee store is not open to the general public.

Nike employees, retirees, and their families have unlimited access to make purchases from the store. Others, who are not affiliated with Nike, are provided access to the store to make purchases through the distribution of passes.

Nike employees are each provided up to 15 passes per year to distribute to friends and acquaintances of their choosing. In addition, Nike frequently supplies vendors, not-for-profit organizations, charitable organizations or events, youth athletic programs, and community or business associations with passes. Nike allows each organization to use or distribute passes at the organization's discretion.

Information indicates, in total, each year, more than 600,000 customers visit the store and have access to purchase merchandise at discounted prices. Nike estimates, of the store's total annual customers, nearly 500,000 are members of the general public. Nike does not have information available to substantiate the number of customers, of the nearly 500,000, that may be repeat customers. Consequently, the actual number of unique public customers may be less than 500,000. However, the discounted prices of the merchandise sold in the store are the same for all customers, employee or otherwise.

**QUESTION:** Would Oregon public officials violate Oregon Government Ethics law by purchasing merchandise sold at discounted prices in the Nike employee store while utilizing passes provided by Nike employees or other organizations as discussed in the stated facts?

**ANSWER:** No. Oregon Government Ethics law defines "gift" in ORS 244.020(6)(a):

"Gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials or candidates.

Initial consideration of the stated facts may create the perception that if a public official were to receive a pass from a friend or acquaintance that is a Nike employee, or from an organization that Nike provided passes to, that the value of any discount the public official received when making any purchases would be a gift. However, as described in ORS 244.020(6)(a), an analysis of the terms and conditions under which "others" who are not public officials may be extended something of economic value is pivotal in determining if the financial benefit offered to a public official meets the definition of a gift.

The Commission has historically interpreted "others" to indicate a significant portion of the general public in Oregon who are not public officials or candidates, as is stated on page 26 of the *Guide for Public Officials* the Commission adopted on October 26, 2010.

The stated facts indicate that the same discounted prices are available to all customers of the Nike employee store. Nike estimates nearly 500,000 of the 600,000 annual customers are members of the general public. Although the actual number of unique public customers is unknown, the information illustrates the customer totals include a significant portion of the general public. It appears any discounts obtained by public officials purchasing merchandise in the store after receiving passes as discussed in the stated facts would not be gifts, as defined in ORS 244.020(6)(a), because the same financial benefits are also extended to "others" who are not public officials under the same terms and conditions. Therefore, the gift limits identified in ORS 244.025(1) would not be applicable to the value of any discounts accepted by Oregon public officials as discussed in the stated facts.

Public officials also must understand that ORS 244.040(1) prohibits public officials from using or attempting to use an official position or office to obtain financial gain or to avoid financial detriment that would not otherwise be available but for the public officials' holding an official position or office. However, the stated facts do not appear to describe circumstances in which public officials would be using or attempting to use their official positions or offices to obtain financial benefits. If public officials receive

passes, as discussed in the stated facts, from a friend or acquaintance that is a Nike employee, or from an organization that Nike provided passes to, separate and apart from their public position, in circumstances that are unrelated to the person's status as a public official, it appears the public officials could accept the associated discounts when making purchases from the Nike employee store without violating ORS 244.025 or ORS 244.040(1).

This opinion is offered and based on the limited and specific facts provided in this opinion request. Public officials who obtain access or passes to the Nike employee store, and receive associated discounts when making purchases, under terms or conditions that differ from those discussed in the stated facts of this opinion should understand that the application of Oregon Government Ethics law may differ from the application discussed in this opinion. Further, this opinion should not be applied to other discount offers that might be made to public officials.

The statutes relevant to the issues addressed in this opinion are provided as an addendum to this Commission Advisory Opinion.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT ETHICS COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN. OTHER LAWS OR REGULATIONS NOT WITHIN THE JURISDICTION OF THE COMMISSION MAY ALSO APPLY.**

Issued by Order of the Oregon Government Ethics Commission at Salem, Oregon on the 1st day of June 2012.

  
\_\_\_\_\_  
Larry L. Campbell, Chairperson

  
\_\_\_\_\_  
Lynn Rosik, Assistant Attorney General

12A-1002df

## ADDENDUM

**RELEVANT STATUTES:** The following Oregon Revised Statutes (ORS) are applicable to the issues that are addressed in this opinion:

ORS 244.020(6)(a) "Gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials or candidates.

ORS 244.020(9) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in:

(a) Any matter subject to the decision or vote of the public official acting in the public official's capacity as a public official; or

(b) Any matter that would be subject to the decision or vote of the candidate who, if elected, would be acting in the capacity of a public official.

ORS 244.020(14) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

**ORS 244.025 Gift limit.** (1) During a calendar year, a public official, a candidate or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest.

**ORS 244.040 Prohibited use of official position or office; exceptions; other prohibited actions.** (1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

ORS 244.040(2) Subsection (1) of this section does not apply to:

- (a) Any part of an official compensation package as determined by the public body that the public official serves.
- (b) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042.
- (c) Reimbursement of expenses.
- (d) An unsolicited award for professional achievement.
- (e) Gifts that do not exceed the limits specified in ORS 244.025 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest in a governmental agency in which the official holds any official position or over which the official exercises any authority.
- (f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest in a governmental agency in which the official holds any official position or over which the official exercises any authority.
- (g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.
- (h) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.







# Oregon

John A. Kitzhaber, MD, Governor

Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1544

503-378-5105

E-mail: [ogec.mail@state.or.us](mailto:ogec.mail@state.or.us)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

January 17, 2013

Liani J. Reeves  
General Counsel  
Office of the Governor  
254 State Capitol  
Salem, Oregon 97301-4047

Dear Ms. Reeves:

At its January 17, 2013, meeting, the Oregon Government Ethics Commission (Commission) adopted the following advisory opinion, in response to the request set forth in your letter to the Commission dated December 10, 2012:

**OREGON GOVERNMENT ETHICS COMMISSION ADVISORY OPINION NO. 13A-1001**

**STATED FACTS:** John A. Kitzhaber, M.D., is a medical doctor and holds the elected position of Governor of Oregon. Previously, Governor Kitzhaber served in the Oregon House of Representatives from 1978-1980; in the Oregon State Senate from 1980-1993; as the Governor of Oregon from 1994-2002; and was an emergency room physician. Governor Kitzhaber's priorities have included access to health care for low and moderate-income Oregon families.

After leaving public office in 2002, Governor Kitzhaber continued working in his private profession to improve access to cost-effective health care, becoming a nationally recognized speaker on health care reform. Governor Kitzhaber appeared at speaking engagements for a fee across the country on health care issues, drawing on his expertise as a medical professional and as a health care policy maker.

Separate and apart from his public position, Governor Kitzhaber is considering the possibility of continuing his services as a national expert on health care policy and reform including speaking engagements for a fee. The speaking engagements would be arranged through a speakers' bureau where the bureau would facilitate possible speaking opportunities for Governor Kitzhaber to consider. The topics on which he would speak would be related to health care policy and reform and would draw from his many years of expertise and experience as a medical professional and a policy maker.

Should Governor Kitzhaber resume his private profession while in public office, he proposes to operate within the following parameters:

- Speaking engagements for a fee would be coordinated by and presented to Governor Kitzhaber by a speakers' bureau which would take a commission of any speaker fee. The speakers' bureau would not prominently advertise Governor Kitzhaber as the "Governor of Oregon." His years as a public official, including his current term as Governor, would be included with all other elements of work history in a biographical profile but his status as a public official would not be highlighted as a title or prominently displayed in promotional materials.
- Governor Kitzhaber would not solicit his own speaking engagements for a fee. He will not use his position as a public official or the authority of the Office of the Governor to pursue speaking engagements for a fee. He would not accept any offers to speak for a fee that have come to him only by virtue of his holding of public office.
- Governor Kitzhaber would accept speaking opportunities only from entities that are operating outside of the State of Oregon that have no or could not reasonably be anticipated to have any economic or legislative interest in the State of Oregon or the Office of the Governor.
- Governor Kitzhaber would review every proposed speaking engagement including the source of any fee. He would not accept any speaking engagement where he would be paid by an entity that has or might reasonably be anticipated to have a legislative or administrative interest in the State of Oregon or the Office of the Governor.
- Any speaking activities where Governor Kitzhaber would be presented a fee would be conducted on his personal time. He would not use any state resources to prepare for or travel to such an engagement. For example, he would not engage in speaking engagements for a fee while on a trip paid for with state funds and he would not use state issued equipment or resources to develop or pursue speaking activities including staff, supplies, time, facilities, equipment, records and contacts developed as a public official, including the ability to obtain access to individuals or representatives of businesses or other organizations.
- Any solicitation or receipt of a fee would be for services performed in relation to the private profession, occupation, avocation and expertise of Governor Kitzhaber as a medical professional and expert in health care policy, not in exchange for his appearance or performance of official duties as a public official.
- The topic of speaking engagements would encompass health care policy reform issues and would draw from his many years as a health care professional and policy maker. He would not use any confidential information or information known to him only because of his office as a public official.
- He would track all speaking engagements for a fee and report any required activity on his Annual Verified Statement of Economic Interest.

**QUESTION 1:** Would Governor Kitzhaber violate Oregon Government Ethics law by accepting compensation for speaking engagements, as discussed in the stated facts, while holding the position of Governor of Oregon?

**ANSWER 1:** No, with the understanding of and the compliance with the limitations and restrictions as described in this opinion.

ORS 244.040(1) prohibits a public official from using or attempting to use an official position to obtain financial gain or to avoid financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official, a relative or member of the household of the public official are associated, if the opportunity would not otherwise be available but for the public official's holding the position. ORS 244.040(1) also prohibits a public official from using or attempting to use an official position to create or accept a private income producing opportunity that would not otherwise be available but for holding the official position.

The Oregon Government Ethics Commission (Commission) has long recognized that there are public officials who have and will continue to pursue private income producing activities while holding public positions. Difficulties may arise, however, when the distinction between private and public roles becomes blurred. The Commission has established guidelines to assist public officials who may wish to engage in private income producing activities so as to avoid violating Oregon Government Ethics law:

**GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS**

1. Public officials are not to engage in private business interests or other employment activities on their governmental agency's time.
2. A governmental agency's supplies, facilities, equipment, employees, records or any other public resources are not to be used to engage in private business interests.
3. The position as a public official is not to be used to take official action that could have a financial impact on a private business with which you, a relative or member of your household are associated.
4. Confidential information gained as a public official is not to be used to obtain a financial benefit for the public official, a relative or member of the public official's household or a business with which any are associated.
5. When participating in an official capacity and met with a potential or actual conflict of interest related to a business, associated with the public official, relative or household member, the public official must disclose the nature of the conflict of interest using one of the following methods:

Employees of governmental agencies must give written notice to their appointing authority.

Elected or appointed public officials must publicly disclose once during each meeting convened by the governing body they serve.

The primary principle underscored in the guidelines is that a public official, who also engages in private income producing activities, must maintain a clear distinction between the use of official time and resources of the government body and personal time and resources of the official. The Governor of Oregon must take particular care to insure that the official position is not used in any manner related to private income producing activities.

The stated facts indicate potential speaking engagements would be arranged through a speakers' bureau that would facilitate possible speaking opportunities for Governor Kitzhaber's consideration. Although utilization of a speakers' bureau may assist the Governor in keeping his public position and any private income producing activities separate, such an arrangement does not, by itself, insulate the Governor from possible ethics law violations. The Governor needs to evaluate, on each occasion, whether speaking opportunities are available to him because he is the Governor of Oregon, or if an opportunity is available to him separate and apart from his official position. Further, the Governor would need to consider whether he used or attempted to use his public position, including his access and authority, to create or advance an opportunity.

If the Governor were to accept or pursue speaking opportunities in circumstances where it is not clear that the opportunity would be available to him apart from his official position, he could potentially violate ORS 244.040(1). This risk also arises in circumstances where it might appear that the Governor used his official position to create or advance a speaking opportunity. Although ORS 244.040(1) does not prohibit the Governor from pursuing or engaging in all private income producing activities, it does require the Governor to pursue or engage in such opportunities separate and distinct from his public position.

The stated facts indicate should Governor Kitzhaber resume his private speaking profession while in public office, he proposes to operate within specific parameters that generally appear to comport with or exceed the aforementioned guidelines; however, it should be noted, the Commission would caution the Governor, or any speakers' bureau representing the Governor, against advertising the Governor's current public position while obtaining or attempting to obtain paid speaking engagements. While the Governor's current public position is an element of his professional resume and public officials may seek opportunities and accept offers related to private income producing activities based on skills and abilities gained or demonstrated in their public positions, such opportunities may only be pursued separate and distinct from the public position. The Governor, or his representatives, must be rigorous in the complete separation of these activities from his public position because he may not use, or attempt to use, the resources or authority of his public position to pursue or advance his private business interests.

Although it is not apparent in the stated facts, it should also be understood that ORS 244.040(3) prohibits a public official from, directly or indirectly, soliciting or accepting the promise of future employment based on the understanding that the offer would influence

the public official's vote, official action or judgment. Any employer who may directly or indirectly offer employment under these conditions may also violate this provision.

**QUESTION 2:** Would Governor Kitzhaber's pursuit of paid speaking engagements, as discussed in the stated facts, create an actual or potential conflict of interest?

**ANSWER 2:** No. The mere existence of a particular situation or set of circumstances, such as holding the elected position of Governor of Oregon and performing speaking engagements for a fee, does not create a conflict of interest as defined by Oregon Government Ethics law.

Oregon Government Ethics law defines actual conflict of interest [ORS 244.020(1)] and potential conflict of interest [ORS 244.020(12)]. A public official is met with a statutory conflict of interest when participating in any official action, decision or recommendation, the effect of which would or could be to the private pecuniary benefit or detriment of the public official, the public official's relative or any business with which the public official or a relative is associated.

The difference between an actual conflict of interest and a potential conflict of interest is determined by the words "would" and "could." An actual conflict of interest occurs when a public official participates in an official action that would have a direct and specific financial impact on that official, the official's relative or any business with which the official or a relative is associated. A potential conflict of interest exists when a public official takes action that could possibly have a financial impact on that official, a relative of that official or a business with which the official or the relative of that official is associated.

Although it is not apparent in the stated facts, before the Governor participates in any official action, decision or recommendation, he must also determine if the action would or could financially affect him, his relatives or any other business with which he or his relatives are associated.

**QUESTION 3:** What steps should Governor Kitzhaber take in the event that his role as a public official gives rise to an actual or potential conflict of interest?

**ANSWER 3:** When met with conflicts of interest, the Governor would be required to handle them in accord with the methods described in ORS 244.120.

ORS 244.120 requires the Governor to publicly announce the nature of any conflict of interest before taking action on the matter. The Commission would advise the Governor a public announcement may include a press release or other official announcement widely available to the public such as information published on the Governor's official website. In the case of an actual conflict of interest, the Governor would then be required to refrain from further participation, including discussion or debate, in official action on the issue that gave rise to the conflict of interest.


**QUESTION 4:** Could Governor Kitzhaber's pursuit of paid speaking engagements, as discussed in the stated facts, require additional reporting on the Governor's Annual Verified Statement of Economic Interest (SEI)?

**ANSWER 4:** Yes; however, as Governor Kitzhaber's private income producing activities are still proposed it is difficult to provide a clear and definitive opinion regarding the impact of specific SEI reporting requirements. The SEI form requests information that is required to be disclosed by ORS Chapter 244 and Commission staff can provide further assistance to the Governor if requested.


The statutes relevant to issues addressed in this opinion are provided as an addendum to this Commission Advisory Opinion.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT ETHICS COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN. OTHER LAWS OR REGULATIONS NOT WITHIN THE JURISDICTION OF THE COMMISSION MAY ALSO APPLY.**

Issued by Order of the Oregon Government Ethics Commission at Salem, Oregon on the 17th day of January 2013.



Ian Whitlock, Chairperson



Lynn Rosik, Assistant Attorney General

13A-1001dl

## ADDENDUM

**RELEVANT STATUTES:** The following Oregon Revised Statutes (ORS) are applicable to the issues that are addressed in this opinion:

244.020(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (12) of this section.

244.020(2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

244.020(3) "Business with which the person is associated" means:

(a) Any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year;

(b) Any publicly held corporation in which the person or the person's relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;

(c) Any publicly held corporation of which the person or the person's relative is a director or officer; or

(d) For public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060 (3).

244.020(8) "Income" means income of any nature derived from any source, including, but not limited to, any salary, wage, advance, payment, dividend, interest, rent, honorarium, return of capital, forgiveness of indebtedness, or anything of economic value."

244.020(10) "Member of household" means any person who resides with the public official or candidate."

244.020(12) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

244.020(14) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee, agent or otherwise, irrespective of whether the person is compensated for the services.

(15) "Relative" means:

(a) The spouse of the public official or candidate;

(b) Any children of the public official or of the public official's spouse;

(c) Any children of the candidate or of the candidate's spouse;

(d) Siblings, spouses of siblings or parents of the public official or of the public official's spouse;



- (e) Siblings, spouses of siblings or parents of the candidate or of the candidate's spouse;
- (f) Any individual for whom the public official or candidate has a legal support obligation;
- (g) Any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment; or
- (h) Any individual from whom the candidate receives benefits arising from that individual's employment.

**244.040 Prohibited use of official position or office; exceptions; other prohibited actions.** (1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

244.040(2) Subsection (1) of this section does not apply to:

- (a) Any part of an official compensation package as determined by the public body that the public official serves.
- (b) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042.
- (c) Reimbursement of expenses.
- (d) An unsolicited award for professional achievement.
- (e) Gifts that do not exceed the limits specified in ORS 244.025 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest in a governmental agency in which the official holds any official position or over which the official exercises any authority.
- (f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be

known to have a legislative or administrative interest in a governmental agency in which the official holds any official position or over which the official exercises any authority.

(g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.

(h) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

244.040(3) A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.

244.040(4) A public official may not attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of holding position as a public official or activities of the public official.

244.040(5) A person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.

244.040(6) A person may not attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate.

244.040(7) The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed under ORS 244.120.

**244.050 Persons required to file statement of economic interest; filing deadline.** (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and members of the Legislative Assembly.

244.050(5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the filing deadline for the statewide general election.

**244.060 Form of statement of economic interest; contents.** The statement of economic interest filed under ORS 244.050 shall be on a form prescribed by the Oregon Government Ethics Commission. The public official or candidate filing the statement shall supply the information required by this section and ORS 244.090, as follows:

244.060(1) The names of all positions as officer of a business and business directorships held by the public official or candidate or a member of the household of the public official or candidate during the preceding calendar year, and the principal address and a brief description of each business.

244.060(2) All names under which the public official or candidate and members of the household of the public official or candidate do business and the principal address and a brief description of each business.

244.060(3) The names, principal addresses and brief descriptions of the sources of income received during the preceding calendar year by the public official or candidate or a member of the household of the public official or candidate that produce 10 percent or more of the total annual household income.

244.060(4)(a) A list of all real property in which the public official or candidate or a member of the household of the public official or candidate has or has had any personal, beneficial ownership interest during the preceding calendar year, any options to purchase or sell real property, including a land sales contract, and any other rights of any kind in real property located within the geographic boundaries of the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

244.060(4)(b) This subsection does not require the listing of the principal residence of the public official or candidate.

244.060(8) The name, principal address and brief description of each source of income exceeding an aggregate amount of \$1,000, whether or not taxable, received by the public official or candidate, or a member of the household of the public official or candidate, during the preceding calendar year, if the source of that income is derived from an individual or business that has a legislative or administrative interest or that has been doing business, does business or could reasonably be expected to do business with the governmental agency of which

the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

**244.070 Additional statement of economic interest.** A public official or candidate shall report the following additional economic interest for the preceding calendar year only if the source of that interest is derived from an individual or business that has a legislative or administrative interest or that has been doing business, does business or could reasonably be expected to do business with the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority:

244.070(2) The name, principal address and brief description of the nature of each business in which the public official or candidate or a member of the household of the public official or candidate has or has had a personal, beneficial interest or investment, including stocks or other securities, in excess of \$1,000, except for individual items involved in a mutual fund or a blind trust, or a time or demand deposit in a financial institution, shares in a credit union, or the cash surrender value of life insurance.

244.070(3) Each person for whom the public official or candidate has performed services for a fee in excess of \$1,000, except for any disclosure otherwise prohibited by law or by a professional code of ethics.

**244.090 Report on association with compensated lobbyist.** (1) Each public official or candidate required to file a statement of economic interest under this chapter shall include on the statement the name of any compensated lobbyist who, during the preceding calendar year, was associated with a business with which the public official or candidate or a member of the household of the public official or candidate was also associated.

244.090(2) Subsection (1) of this section does not apply if the only relationship between the public official or candidate and the lobbyist is that the public official or candidate and lobbyist hold stock in the same publicly traded corporation.

244.090(3) As used in this section, "lobbyist" has the meaning given that term in ORS 171.725.

**244.120 Methods of handling conflicts; Legislative Assembly; judges; appointed officials; other elected officials or members of boards.** (1) Except as provided in subsection (2) of this section, when met with an actual or potential conflict of interest, a public official shall:

244.120(2) An elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, shall:

(a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

244.120(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

**244.130 Recording of notice of conflict; effect of failure to disclose conflict.**

(1) When a public official gives notice of an actual or potential conflict of interest, the public body as defined in ORS 174.109 that the public official serves shall record the actual or potential conflict in the official records of the public body. In addition, a notice of the actual or potential conflict and how it was disposed of may in the discretion of the public body be provided to the Oregon Government Ethics Commission within a reasonable period of time.

(2) A decision or action of any public official or any board or commission on which the public official serves or agency by which the public official is employed may not be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest.



## Trainers' Report January 27, 2017

This report covers the time period of December 19, 2016, through January 27, 2017.

### Completion of training:

- Association of Oregon Counties (AOC), New Employee Orientation – ORS 244 (Salem)
- Oregon Department of Fish and Wildlife – ORS 244 (Salem)
- Department of Administrative Services, New to Public Management – ORS 244 (Salem)
- City of Sisters – ORS 244 (Sisters)
- Jackson County – ORS 244 (Medford)
- Association of Oregon Counties (AOC), "County College 2017" – ORS 244 (Salem)
- Oregon Association County Assessors (OSACA) – ORS 244 (Salem)
- Oregon Health Authority, New Employee Orientation – ORS 244 (Salem)

### Upcoming Trainings:

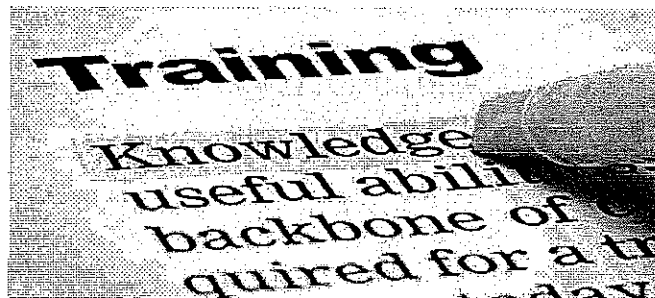
| <u>Date</u> | <u>Time</u>     | <u>Public Body (Topic)</u>                      | <u>Address</u>  |
|-------------|-----------------|---|---|
| 1/30/2017   | 8:30 – 10:00 AM | Marion County Housing Authority (ORS 244)       | 2645 Portland Road N.E., Ste 200<br>Salem, OR 97301   |
| 1/31/2017   | TBD             | Oregon Housing and Community Services (ORS 244) | TBD   |
| 2/1/2017    | 6:30 – 8:00 PM  | City of Donald (ORS 244)                        | City of Donald Fire Hall<br>20909 Feller Street<br>Donald, OR 97020   |
| 2/7/2017    | 5:15 – 6:45 PM  | City of Hillsboro (ORS 244)                     | Hillsboro Civic Center<br>150 E Main Street<br>Conference Room B & C 1 <sup>st</sup> Floor<br>Hillsboro, OR 97123 |
| 2/15/2017   | 8:30 – 10:00 AM | DAS Foundational Training (ORS 244)             | Chemeketa Center for Business & Industry (CCBI)<br>626 High St. N.E.<br>Salem, OR 97301                           |

|           |                |  |  |
|-----------|----------------|--|--|
| 2/21/2017 | 1:00 – 3:00 PM | Oregon State Police Academy (ORS 244)  | Department of Public Safety Standards & Training (DPSST)<br>4190 Aumsville Hwy SE<br>Salem, OR 97317 |
| 2/22/2017 | 1:00 – 2:15 PM | Oregon Health Authority (ORS 244)  | 3420 Cherry Ave NE<br>"Discovery Room"<br>Keizer, OR 97303   |
| 2/28/2017 | 1:30 – 3:30 PM | Department of Human Services/ Oregon Health Authority Executive Leadership (ORS 244) | Department of Human Services Room: TBD<br>500 Summer Street<br>Salem, OR 97301                       |

**Upcoming Conferences:**

|           |                  |   |  |
|-----------|------------------|---|--|
| 9/11/2017 | 10:00 – 11:30 AM | Association of County Treasurers & Finance Officers (ORS 244) | 5500 Running Y Road<br>Klamath Falls, OR 97601 |
|-----------|------------------|---|--|

|                 |               |              |  |
|-----------------|---------------|--------------|--|
| Training Staff: | Tammy Hedrick | 503-378-6802 | <a href="mailto:tammy.r.hedrick@oregon.gov">tammy.r.hedrick@oregon.gov</a> |
|                 | Hayley Weedn  | 503-378-8066 | <a href="mailto:hayley.weedn@oregon.gov">hayley.weedn@oregon.gov</a>       |





# February 2017

## Oregon Government Ethics Commission AdobeConnect Webinar Training Calendar

| Monday  | Tuesday                                    | Wednesday | Thursday   | Friday |
|---|--|-----------|--|--------|
|   |  | 1         | 2  | 3      |
|   |  |           | New Employees: you're a public official, now what!<br>10:30 – 11:30 AM |        |
| 6   | 7  | 8         | 9  | 10     |
|   | Use of Position/Office<br>10:30 – 11:30 AM |           | Conflicts of Interest<br>2:30 – 3:30 PM                                |        |
| 13  | 14   | 15        | 16   | 17     |
|   |  |           | Lobby law<br>2:30 – 3:30 PM  |        |
| 20  | 21   | 22        | 23   | 24     |
| Presidents Day- Office Closed   | Executive Session<br>2:30 – 3:30 PM        |           | Gifts<br>10:00 – 11:00 AM  |        |
| 27  | 28   |           |  |        |
| <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">           Email <a href="mailto:ogec.training@oregon.gov">ogec.training@oregon.gov</a> to register for a webinar.         </div> |  |           |  |        |

(

(

(

## Executive Director's Report

January 27, 2016

- Reporting System
  - Experienced problem with Notices for 4<sup>th</sup> quarter 2016
  - Sent late and penalty accrual Notices when reports filed timely,
  - NIC USA thought had problems solved, but was unsuccessful.
  - Notices have been turned off until tested and fixed. All filers have been informed, corrections have been made.
  
- Budget
  - 2015-17 biennial budget
    - Agency completed audit for 2017-19 budget
    - Fund 4150, General Fund
      - Spending average of \$80,114.91 with \$103,880.77 to spend per month. A difference of \$10,636.55.
    - Fund 4160 Electronic Reporting System
      - Moneys in this fund have been spent in accordance with financial plan. The agency will not spend any other moneys in this fund.
    - Fund 4170 Case Management System
      - Spending an average of \$6,897.00 with \$20,154.99 to spend per month. A difference of \$10,466.59.
    - Fund 4180 Case Management System, Professional Services
      - \$310.75 surplus projected through 6/30/17.
  - 2017-19 biennial budget
    - Budget hearing tentatively scheduled for the week of February 20th.
    - Governor's Recommended Budget books will be completed by January 31. Copies will be given to all Commissioners.
  
- Legislation
  - Met with Governor's office and Legislature (Committee Administrator) concerning 2017 legislation.
  
- Case Management System
  - Launched Phase 1 of CMS timely.
  - Website contains advice given and will list final dispositions.
  - Working on Phase 2 of project containing investigation tools.
  
- Other
  - Website is scheduled for an update to the new format. Agency will be working with NIC USA on update.
  - HB 2577 pre-session filed bill by Rep. Rayfield concerning Lobby laws

(

(

(