

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

January 5, 2018

9:00 a.m.

(:01)

Chair Alison Kean called the meeting to order at 9:00 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 Richard Burke, Nathan Sosa, Charles Starr, Dan Golden, Daniel Mason, David Fiskum, and Kamala Shugar. Lee was excused from participation. Staff present were OGE Council Amy Alpaugh, Executive Director Ron Bersin, Compliance and Training Coordinator Marie Scheffers, Investigator Diane Gould, Investigator Michael Thornicroft and Administrative Specialist Kathy Daniel.

(1:00)

AGENDA ITEM 1, Comments from the Chair: Kean outlined changes to the Agenda process and procedures.

(2:33)

AGENDA ITEM 2, Approval of the minutes of the November 17, 2017 Commission meeting. Chair Kean called for approval of the minutes of the November 17, 2017 Commission meeting. The minutes were approved without correction.

CONSENT CALENDAR

(3:40)

Golden moved for the approval of the Consent Calendar items and the staff recommendation on each as follows:

Lobbyist Penalty Correspondence

AGENDA ITEM 3, Kristine Kautz, Q3 2017, Letter of Education

AGENDA ITEM 4, Kaylan Dorsch for Richard Sanders, Q1 2016, Letter of Education

AGENDA ITEM 5, Jana Gastellum, Q2 2017, Letter of Education

Lobbyist Client Penalty Correspondence

AGENDA ITEM 6, Access2Care, Q2 2016, Letter of Education

AGENDA ITEM 7, NAMI Oregon, Q2 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/commissionmeet.aspx>.

AGENDA ITEM 8, Agricultural Cooperative Council of Oregon, Q4 2016, Letter of Education

AGENDA ITEM 9, Southern Oregon University, Q1 2017, Letter of Education

Statement of Economic Interest Penalty Correspondence

AGENDA ITEM 10, Philip Darrah, 2016 & 2017, Letter of Education

AGENDA ITEM 11, Beth Niquette, 2017, Letter of Education

AGENDA ITEM 12, Jeff Bachrach, 2017, Letter of Education

AGENDA ITEM 13, Sherilyn Aasen, 2017, Letter of Education

AGENDA ITEM 14, Cathi Forsythe, 2017, Letter of Education

AGENDA ITEM 15, Sharon Kintrea, 2016, Letter of Education

Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously.

End of Consent Calendar

Lobbyist Penalty Correspondence

(5:35)

AGENDA ITEM 16, Christopher Friend, Q1, Q2, Q3 2017. No recommendation. The Commission generally discussed the matter. Burke moved to issue a Letter of Education only. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, nay; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed 7 - 1.

Lobbyist Client Penalty Correspondence

(13:15)

AGENDA ITEM 17, Living Opportunities, Q2 & Q4 2016, and Q1 2017, Letter of Education and \$50 penalty. Starr moved to accept recommendation of Letter of Education for Q2 2016 and \$50 total penalty for late filing of Q4 2016 and Q1 2017 expenditure reports. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously

(15:10)

AGENDA ITEM 18, American Cancer Society Cancer Action Network, Q4 2016, and Q1, Q2, Q3 2017. No recommendation. Starr moved for a Letter of Education for late filing of

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Q4 2016, and a \$40 total penalty for Q1, Q2, & Q3 2017 expenditure reports. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, nay; Kean, aye. Motion passed 7 - 1.

STIPULATED FINAL ORDERS

(16:15)

AGENDA ITEM 19, 17-153EDG, Roger Thompson, Port of Brookings Harbor Commissioner. Gould summarized the case. Thompson did not address the Commission. The Commission generally discussed the case. Burke 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. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

None.

CONTESTED CASE PROPOSED FINAL ORDERS

None.

REPORTS OF INVESTIGATION

(22:17)

AGENDA ITEM 20, 14-191EDT, Cylvia Hayes, Former Policy Advisor and First Lady, Office of the Governor. Scheffers summarized the case and presented a Power Point presentation. Hayes did not address the Commission. The Commission asked questions of the investigator for clarification on the presentation. Alpaugh explained the process of Contested Case proceedings. The Commission discussed the 23 presented potential violations. Mason moved to remove the presented violation #16, DPU, from consideration. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously.

Burke moved to remove the presented violation #18, Rural Development Initiative, then withdrew his motion.

The Commission further discussed the Use of Office violations. Burke moved that the Commission find that there is sufficient evidence to find 16 violations of ORS Chapter 244.040(1); 5 violations of ORS Chapter 244.120(1)(c) and 1 violation of ORS Chapter 244.025 by Cylvia Hayes and if the evidence is not rebutted by contrary evidence, that this official be offered a contested case proceeding. Vote was taken as follows: Burke,

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aye; Golden, aye; Shugar, abstained; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed 7 – 0 with one abstention.

The Commission adjourned at 10:53 a.m. for a 10 minute break and reconvened into regular session at 11:02 a.m.

(1:52:49)

AGENDA ITEM 20, 14-191EDT, Cylvia Hayes, continued
Alpaugh discussed the penalty grid with the Commission.

ADVISORY OPINIONS

(2:29:24)

AGENDA ITEM 21, 17-089A, Daniel Gilbert, Legislative Counsel re use of public time resources to solicit donations. Bersin summarized the opinion. The Commission generally discussed the matter. Kean moved to adopt the advisory opinion as presented. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously.

CORRESPONDENCE RECEIVED/RESPONSES

Staff Advice

(non-action, informational only items)

The Commission reviewed the following items without comment:

(2:31:50)

AGENDA ITEM 22, 17-166I, Matthew D. Lowe re candidate for public office compliance with Statement of Economic Interest filing requirements.

MISCELLANEOUS ITEMS

(2:32:58)

AGENDA ITEM 23: Capitol Club re lobby-to-lobby advice. Consideration of the matter has been moved to future agenda because the Capitol Club representative was unable to appear.

(2:35:49)

The Commission convened into executive session at 11:45 a.m. to consider Preliminary Reviews pursuant to ORS 244.260(4)(d) and 192.685(1), and ORS 171.778(4)(d).

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EXECUTIVE SESSION CONSENT CALENDAR

Reports of Preliminary Review

(All items removed from consent calendar for discussion.)

End of Executive Session Consent Calendar.

OTHER ITEMS

Reports of Preliminary Review (removed from consent calendar)

(2:35:00)

AGENDA ITEM 28, 17-082MT, Ted Hughes, Lobbyist. Thornicroft summarized the case. Hughes did not address the Commission. Burke moved that the Commission find that there is a substantial, objective basis for believing that Ted Hughes may have violated ORS Chapter 171.740 and that the Commission should investigate accordingly. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously.

(2:41:00)

AGENDA ITEM 29, 17-086DG, Ken DeGrange, City of Wasco Councilor. Gould summarized the case. DeGrange joined by telephone. Mason moved that the Commission find that the complaint and information before the Commission do not indicate a violation of ORS Chapter 244 or warrant further review and that this complaint be dismissed. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously.

(3:02:05)

AGENDA ITEMS 30 – 35, City of Prairie City

- o 17-093MT, Jim Hamsher, Mayor
- o 17-094MT, Carole Garrison, City Councilor
- o 17-095MT, Georgia Patterson, City Councilor
- o 17-096MT, Les Church, City Councilor
- o 17-097MT, Frank Primozic, City Councilor
- o 17-098MT, Joe Phippen, City Councilor

Thornicroft summarized the cases. Hamsher, Garrison, Patterson, Church, Primozic, Phippen did not address the Commission. Golden moved that the Commission find that there is a substantial, objective basis for believing that Hamsher, Garrison, Patterson, Church, Primozic, and Phippen may have violated ORS Chapter 192.660 and that the Commission should investigate accordingly. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, nay; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed 7 – 1.

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(3:17:00)

AGENDA ITEM 36, 17-157DG, Daily Holman, Barlow Water Improvement District Board of Directors. Gould summarized the case. Holman joined by telephone. Burke moved that the Commission find that there is a substantial, objective basis for believing that Daily Holman may have violated ORS Chapter 192.660 and that the Commission should investigate accordingly. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously.

(3:24:10)

AGENDA ITEMS 37-44, Barlow Water Improvement District Board of Directors.

- o 17-158DG, Gary Hackett, Former District Board of Directors
- o 17-159DG, Gary Olin, District Board of Directors
- o 17-160DG, Frank Veenker, District Board of Directors
- o 17-161DG, John McElheran, District Board of Directors
- o 17-162DG, Sandi Chamberlain, Former District Board of Directors
- o 17-163DG, Steve Gordon, District Board of Directors
- o 17-164DG, Larry Warren, District Board of Directors
- o 17-165DG, Davon Hodgen, District Board of Directors

Gould summarized the cases. Hackett, Olin, Veenker, McElheran, Chamberlain, Gordon, Warren, and Hodgen did not address the Commission. Golden moved that the Commission find that there is a substantial, objective basis for believing that Hackett, Olin, Veenker, McElheran, Chamberlain, Gordon, Warren, and Hodgen may have violated ORS Chapter 192.660 and that the Commission should investigate accordingly. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously.

(3:25:40)

AGENDA ITEM 45, 17-170DG, Randall Brown, Former Multnomah County Animal Services Field Program Services Manager. Gould summarized the case. Brown did not address the Commission. Shugar moved that the Commission find that there is a substantial, objective basis for believing that Brown may have violated ORS Chapter 244.040 and that the Commission should investigate accordingly. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously.

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

None.

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Own Motion Preliminary Reviews

None.

The Commission recessed for a working lunch at 12:34 p.m. and reconvened into Regular Session at 12:43 p.m.

MISCELLANEOUS ITEMS

(3:27:51)

AGENDA ITEM 24, 17-170DG, Randall Brown, Former Multnomah County Animal Services Field Program Services Manager. Golden moves to suspend investigation pending conclusion of criminal matters. Vote was taken as follows: Burke, aye; Golden, aye; Shugar, aye; Mason, aye; Sosa, aye; Starr, aye; Fiskum, aye; Kean, aye. Motion passed unanimously.

(3:30:00)

AGENDA ITEM 25, Trainers' Report. Weedn summarized the training activities.

(3:38:00)

AGENDA ITEM 26, Director's Report. Bersin discussed the following:

- 2017-2019 biennial budget was reviewed.
- Case Management System final phase has launched successfully.
- Continued work with Agency IT Strategic Plan.
- Lobbyists and Clients are renewing registrations for 2018-2019 period.
- Website redesign in final phase.
- Met with Capitol Club to discuss lobby-to-lobby.
- Scheffers graduated from Leadership Oregon program in December.
- Early discussions with DAS CFO for the 2019-21 budget, and met with the new CFO analyst.

(3:45:00)

AGENDA ITEM 27, Commission Workshop. The Commission generally discussed Commission Policy.

Chair Kean adjourned the meeting at 1:45 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for Friday, February 16, 2018, at 9:00 a.m. The meeting will be held in the large 1st Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, in Salem, Oregon.

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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

Website: www.oregon.gov/ogec

January 25, 2018

Matt Friesen
920 SW 6th Ave. Ste 250
Portland OR 97204

Dear Mr. Friesen:

The written explanation of why your Q4 Lobbyist 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, February 16, 2018, 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 February 16th 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

Q4 2017

Lobbyist Code: 200
User Name: Matt Friesen
Email: mattf@gallatinpa.com

Q4 2017 Filing: 1/18/2018
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$30.00

Matt Friesen
920 SW 6th Ave Ste. 250
Portland, OR 97204

Activity Log - Q4 2017 to Date

10/02/17 09:41:21.833 - User Successfully Authenticated -
10/02/17 09:48:09.943 - Lobbyist Report Saved - Lobbyist Report Saved for Q3 2017
10/02/17 09:48:23.283 - User Profile Updated - User profile updated for Matt Friesen
10/02/17 09:48:38.317 - User Profile Updated - The user's main profile was updated.
10/02/17 10:04:54.040 - User Successfully Authenticated -
10/02/17 10:09:29.877 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2017
11/06/17 11:12:10.190 - User Successfully Authenticated -
11/06/17 02:52:17.073 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
12/18/17 12:02:04.250 - User Successfully Authenticated -
12/18/17 12:06:23.443 - User Successfully Authenticated -
12/18/17 12:06:41.347 - User Profile Updated - User profile updated for Matt Friesen
12/18/17 12:06:41.397 - User Profile Updated - The user's main profile was updated.
12/20/17 03:18:31.620 - User Successfully Authenticated -
12/20/17 03:22:26.157 - User Successfully Authenticated -
12/20/17 03:22:41.893 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
12/20/17 03:30:08.773 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
12/20/17 05:35:05.043 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
01/01/18 01:32:13.553 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:13.567 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:13.567 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:13.583 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:13.583 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:13.600 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:13.613 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:19.933 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:22.193 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:22.570 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:23.317 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:27.920 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:28.920 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:29.107 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:29.870 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:33.177 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:33.690 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:34.033 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:34.503 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.

Lobbyist Activity

Q4 2017

Lobbyist Code: 200
Lobbyist Name: Matt Friesen
Email: mattf@gallatinpa.com


Matt Friesen
920 SW 6th Ave Ste. 250
Portland, OR 97204

Q4 2017 Filing: 1/18/2018
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$30.00

01/01/18 01:32:36.060 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:37.590 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/02/18 09:34:21.627 - User Successfully Authenticated -
01/02/18 09:43:48.663 - User Successfully Authenticated -
01/02/18 01:28:04.673 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
01/03/18 10:00:42.377 - User Successfully Authenticated -
01/03/18 10:21:38.543 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
01/03/18 10:25:28.290 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
01/03/18 11:28:05.650 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
01/03/18 01:08:33.530 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
01/03/18 06:03:08.070 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
01/08/18 09:19:41.940 - User Successfully Authenticated -
01/16/18 02:58:09.120 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/17/18 03:00:31.530 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 01:30:07.230 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 11:42:22.113 - User Successfully Authenticated -
01/18/18 11:43:49.150 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q4 2017
01/23/18 01:36:13.513 - User Successfully Authenticated -

PREVIOUS VIOLATIONS: NONE

RECOMMENDATION:

Letitia K. Ed


DANIEL Kathy * OGEC

From: Kelsey Wilson <KelseyW@gallatinpa.com>
Sent: Tuesday, January 23, 2018 1:42 PM
To: OGEC Mail * OGEC
Subject: Quarterly Expenditure Late Fee Appeal

RECEIVED
JAN 24 2018
OREGON GOVERNMENT
ETHICS COMMISSION

Good afternoon,

On behalf of Matt Friesen, who works for me at Gallatin Public Affairs, I'd like to request consideration for an appeal of the \$30.00 in late fees for failure to file his Q4 Lobby report. We have recently had some turnover in our administrative staff and in the process both my report and Greg Peden's got filed in a timely manner but Matt's appears to have fallen through the cracks. We have put measures in place so that this doesn't happen in the future and I kindly request that you forgive Matt's late fees. Please let me know if you have any additional questions and/or how I should proceed.

Thank you for your consideration,
Kelsey Wilson



Kelsey Wilson
503.220.0780 Office | 503.351.6699 Mobile | gallatinpa.com | gsquaredwins.com

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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

Website: www.oregon.gov/ogec

January 25, 2018

James Paul
775 Summer St. NE
Salem OR 97301

Dear Mr. Paul:

The written explanation of why your Q4 Lobbyist 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, February 16, 2018, 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 \$70 penalty will be extended to coincide with the February 16th 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

Q4 2017

Lobbyist Code: 861
User Name: jimpaul
Email: jim.paul@state.or.us

Q4 2017 Filing: 1/22/2018
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$70.00

James Paul
775 Summer St. NE
Salem, OR 97301-1279

Activity Log - Q4 2017 to Date

10/12/17 08:10:23.000 - User Successfully Authenticated -
10/12/17 08:11:53.170 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2017
10/12/17 08:40:56.133 - User Successfully Authenticated -
12/15/17 08:39:12.810 - User Successfully Authenticated -
12/15/17 04:26:22.157 - Lobbyist Client Registration Accepted - The lobbyist/client registration was accepted.
01/01/18 01:32:23.723 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:26.080 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/16/18 02:58:09.573 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/17/18 03:00:31.797 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 01:30:08.803 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/19/18 01:30:07.730 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/20/18 01:30:08.137 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/21/18 01:30:12.557 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/22/18 01:30:08.167 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/22/18 04:14:26.717 - User Successfully Authenticated -
01/22/18 04:16:26.880 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q4 2017
01/22/18 05:00:25.527 - User Successfully Authenticated -

PREVIOUS VIOLATIONS: NONE

RECOMMENDATION:

Howard Ed
PD

DANIEL Kathy * OGEC

From: PAUL Jim <jim.paul@state.or.us>
Date: Monday, January 22, 2018 4:53 PM
To: OGEC Mail * OGEC
Subject: Letter of explanation to the Commission regarding the late filing

RECEIVED
JAN 22 2018
OREGON GOVERNMENT
ETHICS COMMISSION

Oregon Government Ethics Commission,

By way of this email I am requesting the Commission waive the \$70 accrued penalty that was a result of my 2017 Q4 report not being filed/received until 1/22/2018.

The reason it was late is because all of the notices for the filing deadline that I've been able to locate were sent via email from ogec.notification@egov.com and routed directly to my "Junk E-mail" folder. Today, 1/22/2018, was the first I've looked in that folder since the end of December, and the first I was aware of these notices and the 1/15/2018 deadline. I also cannot find any notices being sent prior to 1/15/2018 (the last notice mentioned my being notified on 1/1/2018 and 1/10/2018, but I'm not sure those notices were actually delivered to my email address—they were not with all of the later notices that I DID find in the Junk E-mail folder.)

In light of my timely filing history, filing my notice immediately upon learning of the 2017 Q4 deadline, and the fact that the state email system routed the notifications directly to Junk E-mail, I respectfully request that the entire \$70 accrued penalty be waived by the Commission. Thank you for your time and consideration of my request.

Regards,

Jim

Jim Paul
Director
Oregon Department of State Lands
503.986.5224
jim.paul@state.or.us
www.oregon.gov/DSL

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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

Website: www.oregon.gov/ogec

December 27, 2017

Knife River
Attn: Brian Gray, President
PO Box 1145
Medford OR 97501

Dear Mr. Gray:

The written explanation of why your Q1, 2017 Client 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, February 16, 2018, 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 Q1, 2017 (\$350) penalty will be extended to coincide with the February 16th 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

Q1 2017

Client Code: 1229
User Name: brian.gray@kniferiver.com
Email: marney.kadrmass@kniferiver.com

Q1 2017 Filing: 5/4/2017
Q1 2017 Expended: \$12,000.00
Q1 2017 Penalty: \$350.00

Knife River
Attn: Marney Kadrmass
PO Box 1145
Medford, OR 97501

Activity Log - Q1 2017 to Date

01/15/17 01:50:21.297 - User Successfully Authenticated -
01/15/17 01:53:05.650 - Client Report Submitted - Client Report Submitted for Q4 2016
01/16/17 01:40:09.890 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4
01/17/17 01:40:06.543 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4
04/15/17 01:31:42.703 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/16/17 01:30:57.363 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/17/17 01:30:56.893 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/18/17 01:30:33.027 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/19/17 01:30:29.487 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/20/17 01:30:26.250 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/21/17 01:30:18.370 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/22/17 01:30:17.077 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/23/17 01:30:18.167 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/24/17 01:30:18.043 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/25/17 01:30:19.660 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/26/17 01:30:11.980 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/27/17 01:30:10.747 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/28/17 01:30:10.727 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/29/17 01:30:10.550 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/30/17 01:30:11.933 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
05/01/17 01:30:13.480 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/02/17 01:30:11.060 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/03/17 01:30:11.177 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/04/17 01:30:10.803 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/04/17 01:59:57.660 - User Failed to Authenticate -
05/04/17 02:00:16.367 - User Failed to Authenticate -
05/04/17 02:00:32.750 - User Successfully Authenticated -
05/04/17 02:04:04.753 - Client Report Submitted - Client Report Submitted for Q1 2017
05/04/17 02:10:26.860 - User Profile Updated - User profile updated for Marney Kadrmass
05/04/17 02:10:37.793 - User Profile Updated - The user's main profile was updated.
05/04/17 02:11:27.337 - User Profile Updated - The user's main profile was updated.
05/04/17 02:11:36.380 - User Profile Updated - User profile updated for Marney Kadrmass
05/04/17 02:12:20.010 - Admin User Reset Initiated - An admin user reset was initiated.
05/04/17 02:24:40.193 - User Failed to Authenticate -
05/04/17 02:25:06.913 - Admin User Password Reset Completed - A user reset their password using an admin reset.
05/04/17 02:25:42.790 - User Successfully Authenticated -
05/04/17 02:26:46.707 - User Successfully Authenticated -
07/10/17 10:33:37.880 - User Successfully Authenticated -
07/11/17 06:44:53.960 - User Successfully Authenticated -
07/11/17 06:46:56.987 - Client Report Saved - Client Report Saved for Q2 2017
07/11/17 06:50:17.970 - Client Report Submitted - Client Report Submitted for Q2 2017
09/28/17 02:38:56.960 - User Successfully Authenticated -
10/09/17 06:41:40.537 - User Successfully Authenticated -
10/09/17 06:50:49.313 - Client Report Submitted - Client Report Submitted for Q3 2017
12/14/17 05:59:45.930 - User Successfully Authenticated -

PREVIOUS VIOLATIONS: Q3 2016, one day late, \$10, paid by check.

RECOMMENDATION:

Initials & Signature

Knife River Corporation - Northwest
Metro Operations
12222 NW Marina Way
Portland, OR 97231
Ph: (503) 944-3500

Admin.: Fax (503) 944-3599
Const.: Fax (503) 944-3555
Prestress: Fax (503) 944-3566
Central Dispatch: Fax (503) 944-3588

RECEIVED
DEC 26 2017
OREGON GOVERNMENT
ETHICS COMMISSION

December 15, 2017

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

Dear Commissioners,

It has been brought to my attention that Knife River was assessed a penalty of \$350 due to a late filing for Q1 2017 reporting period.

I had taken on the responsibility of completing the quarterly filing myself. Given my other responsibilities as an executive with the company and a full travel schedule, I should have made the decision early on to delegate this task. Since realizing my error, this duty has been assigned to our Controller and all reports have been filed within the required time frame for the remainder of 2017.

I would ask that you please take the above explanation into consideration as well as the fact that this is a first-time offense and kindly waive the penalty of \$350.

Thank you for your time and attention.

Sincerely,



Brian Gray
President

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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

Website: www.oregon.gov/ogec

January 2, 2018

Oregon Housing and Community Services
Attn: Ariel Nelson
725 Summer Street NE, Suite B
Salem OR 97301

Dear Ms. Nelson:

The written explanation of why your Q1, 2017 Client 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, February 16, 2018, 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 Q1, 2017 (\$20) penalty will be extended to coincide with the February 16th 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

Q1 2017

Client Code: 1345
User Name: OHCSliaison
Email: ariel.nelson@oregon.gov

Oregon Housing and Community Services
Attn: Ariel Nelson
725 Summer Street NE, Suite B
Salem, OR 973011266


Q1 2017 Filing: 4/17/2017
Q1 2017 Expended: \$100.00
Q1 2017 Penalty: \$20.00

Activity Log - Q1 2017 to Date

01/10/17 10:27:40.580 - User Profile Created - A new user profile was created.
01/10/17 10:27:40.753 - Client Profile Created - The client profile was created.
01/10/17 10:27:49.033 - User Profile Created - User profile created for Ariel Nelson
04/15/17 01:31:49.370 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/16/17 01:31:02.977 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/17/17 01:31:02.350 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/17/17 04:20:14.000 - User Successfully Authenticated -
04/17/17 04:21:52.507 - User Successfully Authenticated -
04/17/17 04:22:35.500 - Client Report Submitted - Client Report Submitted for Q1 2017.
07/10/17 09:08:56.643 - User Successfully Authenticated -
07/10/17 09:10:33.323 - Client Report Submitted - Client Report Submitted for Q2 2017
07/10/17 09:12:01.703 - User Successfully Authenticated -
07/10/17 09:12:38.367 - Client Report Submitted - Client Report Submitted for Q2 2017
10/11/17 11:31:58.093 - User Failed to Authenticate -
10/11/17 11:32:04.653 - User Successfully Authenticated -
10/11/17 11:35:20.967 - Client Report Submitted - Client Report Submitted for Q3 2017
12/29/17 11:43:52.153 - User Successfully Authenticated -
12/29/17 12:14:21.450 - Lobbyist Client Registration Renewal Initiated - The lobbyist/client registration renewal was initiated.
12/29/17 12:15:13.527 - User Successfully Authenticated -
01/01/18 01:32:32.070 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.

PREVIOUS VIOLATIONS: NONE

RECOMMENDATION:

Liaison at 6/5/17


NELSON Ariel * HCS
RE: Lobby report

Subject:

Hi Kathy,

Thank you for reaching out on this. Per your suggestion, I would like to submit the following Letter of Explanation to the Commission. Please let me know if you need any further information from me.

Thank you,

Ariel Nelson | Government Relations and Communications Liaison
Oregon Housing and Community Services (OHCS)
725 Summer St NE, Suite B | Salem, OR 97301-1266
Direct: (503) 949-0201

Dear Oregon Government Ethics Commission,

I am writing in regards to my outstanding penalties in the amount of \$20. I received these penalties because I was two days late filing the lobbyist client/employer quarterly report for the quarter ending on 4/15/2017. At this time, I am respectfully requesting mitigation of penalty for my outstanding balance of \$20 in recognition that this was my first late filing since I first registered as a lobbyist with OGEC in 2015, and I have filed all subsequent reports on time.

In further explain that this was the first time I was for filing as a client/employer. I was used to filing as a lobbyist in my former job, but as the legislative coordinator for OHCS, I was new to filing the client/employer report. When I made the 4/15 report I was confused and didn't remember that I needed to sign in under a separate account as client/employer to file a second/separate report. You will see that my lobbyist report was filed on time. As soon as I received notice of my error I contacted OGEC staff and corrected my mistake.

Thank you for the opportunity to explain my error and I appreciate your consideration for waiving my penalties. Please don't hesitate to contact me if I can provide any further information.

Sincerely,

Ariel Nelson | Government Relations and Communications Liaison
Oregon Housing and Community Services (OHCS)
725 Summer St NE, Suite B | Salem, OR 97301-1266
Direct: (503) 949-0201

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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

Website: www.oregon.gov/ogec

January 18, 2018

Double R Ranch
Attn: Jennie Bricker
818 SW Third Ave.
Portland OR 97204

Dear Ms. Bricker:

The written explanation of why your Q4, 2017 Client 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, February 16, 2018, 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 Q4, 2017 (\$20) penalty will be extended to coincide with the February 16th 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 2017

Client Code: 1520
User Name: Jennie Bricker
Email: jennie@jbrickerlaw.com

Q4 2017 Filing: 1/17/2018
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$20.00

Double R Ranch
Attn: Jennie Bricker
818 SW Third Avenue
Portland, OR 97204

Activity Log - Q4 2017 to Date

10/03/17 04:32:47.987 - User Successfully Authenticated -
10/03/17 04:35:48.763 - Client Report Submitted - Client Report Submitted for Q3 2017
01/01/18 01:32:34.940 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/16/18 02:58:11.727 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/17/18 03:00:32.577 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/17/18 03:34:22.600 - User Successfully Authenticated -
01/17/18 03:35:58.500 - Client Report Submitted - Client Report Submitted for Q4 2017

PREVIOUS VIOLATIONS: NONE

RECOMMENDATION:

Letter to ED
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HUNTER David * OGEC

From: Jennie Bricker <jennie@jbrickerlaw.com>
Date: Wednesday, January 17, 2018 3:40 PM
To: OGEC Mail * OGEC
Subject: OGEC Q4 Report

I have filed a Q4 report, although there was no lobbying activity or expenditures to report. I still don't see the need for this exercise.

I have been ill with the flu since December 31, still not back to work full time, so I would appreciate your waiving the \$20 penalty for my failure to pay attention to these notification emails. I am a solo practitioner with no administrative staff. Thank you for your consideration.

Jennie Bricker
Land & Water Law
503-928-0976
jennie@jbrickerlaw.com
www.jbrickerlaw.com

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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

Website: www.oregon.gov/ogec

January 18, 2018

Community Providers Association of Oregon
Attn: Lorelei LaVoie
PO Box 5150
Salem OR 97304

Dear Ms. LaVoie:

The written explanation of why your Q4, 2017 Client 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, February 16, 2018, 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 Q4, 2017 (\$30) penalty will be extended to coincide with the February 16th 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 2017

Client Code: 104
User Name: CPAO
Email: loralei@omrs-dd.org

Q4 2017 Filing: 1/18/2018
Q4 2017 Expended: \$9,000.00
Q4 2017 Penalty: \$30.00

Community Providers Association of Oregon
Attn: Lorelei LaVoie
PO Box 5150
Salem, OR 97304

Activity Log - Q4 2017 to Date

10/02/17 09:19:58.360 - User Successfully Authenticated -
10/02/17 09:24:16.190 - Client Report Submitted - Client Report Submitted for Q3 2017
12/18/17 03:12:13.023 - User Successfully Authenticated -
12/18/17 03:17:39.670 - Name Change Requested - User with ID 671 requested a name change to LaVoie, Lorelei .
12/19/17 09:31:39.553 - User Successfully Authenticated -
12/19/17 09:32:24.700 - User Profile Updated - User profile updated for Brian Varley
12/19/17 09:32:24.737 - User Profile Updated - The user's main profile was updated.
12/19/17 09:45:44.393 - User Profile Updated - User profile updated for Lorelei LaVoie
12/19/17 09:45:44.417 - User Profile Updated - The user's main profile was updated.
12/25/17 02:41:03.943 - Lobbyist Client Registration Renewal Initiated - The lobbyist/client registration renewal was initiated.
12/26/17 10:11:49.593 - User Successfully Authenticated -
12/26/17 10:22:02.377 - User Password Reset - The user's password was reset from the "My Profile" page.
12/26/17 10:22:02.433 - User Profile Updated - User profile updated for Lorelei LaVoie
12/26/17 10:22:02.447 - User Profile Updated - The user's main profile was updated. -
12/29/17 10:44:59.360 - User Failed to Authenticate -
12/29/17 10:45:48.210 - User Successfully Authenticated -
01/01/18 01:32:10.790 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/03/18 09:51:51.353 - User Successfully Authenticated -
01/04/18 02:40:22.227 - User Failed to Authenticate -
01/04/18 02:40:37.327 - User Failed to Authenticate -
01/04/18 02:40:53.897 - User Failed to Authenticate -
01/04/18 02:44:47.347 - User Failed to Authenticate -
01/10/18 05:07:45.080 - User Successfully Authenticated -
01/10/18 05:14:59.597 - User Password Reset - The user's password was reset from the "My Profile" page.
01/10/18 05:14:59.657 - User Profile Updated - User profile updated for Lorelei LaVoie
01/10/18 05:14:59.957 - User Profile Updated - The user's main profile was updated.
01/10/18 05:15:37.600 - User Failed to Authenticate -
01/10/18 05:16:13.970 - User Failed to Authenticate -
01/10/18 05:16:26.373 - User Failed to Authenticate -
01/10/18 05:16:35.110 - User Failed to Authenticate -
01/10/18 05:16:53.597 - User Successfully Authenticated -
01/15/18 09:35:24.580 - User Failed to Authenticate -
01/15/18 09:36:16.813 - User Failed to Authenticate -
01/15/18 09:37:18.387 - User Failed to Authenticate -
01/15/18 09:54:32.537 - User Failed to Authenticate -
01/15/18 09:55:11.927 - User Failed to Authenticate -
01/15/18 09:56:15.630 - User Failed to Authenticate -
01/16/18 10:25:58.083 - Admin User Reset Initiated - An admin user reset was initiated.
01/16/18 02:58:10.993 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/16/18 03:22:03.803 - Admin User Password Reset Completed - A user reset their password using an admin reset.
01/16/18 03:22:20.583 - User Successfully Authenticated -
01/17/18 03:00:32.187 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 01:30:11.550 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 08:49:30.177 - User Failed to Authenticate -
01/18/18 08:50:25.077 - User Failed to Authenticate -
01/18/18 12:00:49.617 - User Successfully Authenticated -
01/18/18 12:09:54.693 - Client Report Submitted - Client Report Submitted for Q4 2017

PREVIOUS VIOLATIONS: NONE

RECOMMENDATION:

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HUNTER David * OGEC

From: Lorelei LaVoie <loralei@omrs-dd.org>
Date: Thursday, January 18, 2018 2:58 PM
To: OGEC Mail * OGEC
Subject: late filing/request to waive penalty

Jonathan Johnson, Community Provider Association of Oregon (CPAO) treasurer was having log in difficulties leading up to the deadline. He contacted your office via email on 1/15/18 to report the log in challenge and provide the information via email. I was able to get the information from him today and report it on the website. We are requesting consideration to waive the late filing penalty since it was reported to you by the deadline and previously good faith attempts had been made to report within the deadline.

Thank you for your consideration,

Loralei LaVoie
CPAO, President

HUNTER David * OGEC

From: HUNTER David * OGEC on behalf of OGEC Mail * OGEC
Sent: Tuesday, January 16, 2018 10:26 AM
To: 'Jonathan Johnson'
Subject: RE: Website Access

Hi Jonathan,
The next email from our office will be a password reset.
Click on the link in the email and change your password.
Click reset and you will be directed to a log in page to access the system and file the report.

Best Regards...

David R Hunter
Oregon Government Ethics Commission
3218 Pringle Rd SE STE 220
Salem OR 97302-1544
Direct 503-378-5105
Fax 503-373-1456

From: Jonathan Johnson [mailto:jon@cas-dd.org]
Sent: Monday, January 15, 2018 11:27 AM
To: OGEC Mail * OGEC <OGEC.Mail@oregon.gov>
Subject: Website Access

Hello:

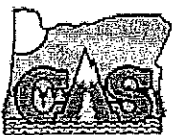
We have been attempting to log in to the system to complete the quarterly report, but not able to gain access. Attempts to reset passwords to gain access did not work. We were able to access the system last week, but when we logged on the quarterly report was not available in the queue to enter our information.

Community Provider Association of Oregon (CPAO)
Primary Contact: Lorelei LaVoie, Board President
Alternative Contact: Jonathan Johnson, Board Treasurer

Fourth Quarter Reportable Expenditures: \$9,000.00
Lobbyist: Jack Dempsey

Jonathan Johnson

Human Resources Director



**Community
Access
Services**

1815 NW 169th Place, Suite 1060 | Beaverton, OR 97006
Office: 503-533-4373 | Direct Line: 503-597-4083

HUNTER David * OGEC

From: Jonathan Johnson <jon@cas-dd.org>
Sent: Monday, January 15, 2018 11:27 AM
To: OGEC Mail * OGEC
Subject: Website Access


Follow Up Flag: Follow up
Flag Status: Flagged

Hello:

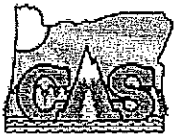
We have been attempting at log in to the system to complete the quarterly report, but not able to gain access. Attempts to reset passwords to gain access did not work. We were able to access the system last week, but when we logged on the quarterly report was not available in the que to enter our information.

Community Provider Association of Oregon (CPAO)
Primary Contact: Lorelei LaVoie, Board President
Alternative Contact: Jonathan Johnson, Board Treasurer

Fourth Quarter Reportable Expenditures: \$9,000.00
Lobbyist: Jack Dempsey



Human Resources Director



**Community
Access
Services**

1815 NW 169th Place, Suite 1060 | Beaverton, OR 97006
Office: 503-533-4373 | Direct Line: 503-597-4083

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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

Website: www.oregon.gov/ogec

January 18, 2018

Oregon Youth Authority – State of Oregon
Attn: Jennifer Thurlow
530 Center St NE
Salem OR 97301

Dear Ms. Thurlow:

The written explanation of why your Q4, 2017 Client 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, February 16, 2018, 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 Q4, 2017 (\$30) penalty will be extended to coincide with the February 16th 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 2017

Client Code: 1629
User Name: Jthurlow2
Email: jennifer.thurlow@oya.state.or.us

Q4 2017 Filing: 1/18/2018
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$30.00

Oregon Youth Authority - State of Oregon
Attn: Jennifer Thurlow
530 Center St Ne
Salem, OR 97301

Activity Log - Q4 2017 to Date

10/05/17 09:38:55.120 - User Successfully Authenticated -
10/05/17 03:12:34.913 - User Successfully Authenticated -
10/05/17 03:13:27.043 - Client Report Submitted - Client Report Submitted for Q3 2017
12/20/17 10:28:03.700 - User Successfully Authenticated -
01/01/18 01:32:36.967 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/02/18 11:36:29.673 - User Successfully Authenticated -
01/02/18 11:48:39.767 - Client Report Saved - Client Report Saved for Q4 2017
01/16/18 02:58:11.867 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/17/18 09:15:35.223 - User Successfully Authenticated -
01/17/18 03:00:32.700 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 01:30:14.967 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 08:10:35.410 - Client Report Submitted - Client Report Submitted for Q4 2017

PREVIOUS VIOLATIONS: NONE

RECOMMENDATION:

Letter to Ed
(Signature)

Subject:

OGEC Mail * OGEC
RE: Failure to File Quarterly Report

Good morning,

I am hoping to avoid the 30.00 late fee by writing to you today. I misunderstood that the pending status was something that I was waiting for you to do, when I called your office informed me that when it says pending that I need to finish something on my end. I went in can hit complete and we are now all filed.

Please consider my plea to remove the late fee from my account.

Thank you,

Jennifer

Jennifer Thurlow
Executive Assistant to the Director and Deputy Director Oregon Youth Authority
530 Center St NE, Ste. 500
Salem, OR 97301
(w) 503-373-7212
(C) 503-551-3672
jennifer.thurlow@oya.state.or.us

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

From: ogec.notification@egov.com [mailto:ogec.notification@egov.com]
Sent: Thursday, January 18, 2018 1:30 AM
To: THURLOW Jennifer <Jennifer.Thurlow@oya.state.or.us>
Subject: Failure to File Quarterly Report

Dear Jennifer Thurlow,

You were registered with the Oregon Government Ethics Commission in the role of Client. You were notified on 1/1/2018 that the reporting window for the 2017 Q4 reporting period was open and you were reminded again on 1/10/2018 and 1/15/2018.

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 \$20.00.

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





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

Website: www.oregon.gov/ogec

January 25, 2018

Portland Seed Fund
Attn: Angela Jackson
805 SW Broadway, Ste 2440
Portland OR 97205

Dear Ms. Jackson:

The written explanation of why your Q4, 2017 Client 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, February 16, 2018, 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 Q4, 2017 (\$70) penalty will be extended to coincide with the February 16th 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 2017

Client Code: 1039
User Name: abjackson
Email: angela@portlandseedfund.com

Q4 2017 Filing: 1/22/2018
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$70.00

Portland Seed Fund
Attn: Angela Jackson
805 SW Broadway, Suite 2440
Portland, OR 97205

Activity Log - Q4 2017 to Date

10/15/17 01:18:08.063 - User Failed to Authenticate -
10/15/17 01:20:40.143 - User Failed to Authenticate -
10/15/17 01:20:47.350 - User Failed to Authenticate -
10/15/17 01:21:59.927 - User Successfully Authenticated -
10/15/17 01:22:42.187 - Client Report Submitted - Client Report Submitted for Q3 2017
01/01/18 01:32:25.080 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/16/18 02:58:11.427 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/17/18 03:00:32.403 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 01:30:12.830 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/19/18 01:30:09.963 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/20/18 01:30:09.883 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/21/18 01:30:13.430 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/22/18 01:30:09.947 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/22/18 05:06:06.957 - User Successfully Authenticated -
01/22/18 05:06:48.540 - Client Report Submitted - Client Report Submitted for Q4 2017

PREVIOUS VIOLATIONS: NONE

RECOMMENDATION:

Lulu ched
PE

DANIEL Kathy * OGEC

From: angela@abjacksongroup.com on behalf of Angela Jackson
<angela@portlandseedfund.com>
Sent: Monday, January 22, 2018 5:17 PM
To: OGEC Mail * OGEC
Subject: Request to waive late filing penalty

RECEIVED
JAN 22 2018
OREGON GOVERNMENT
ETHICS COMMISSION

Dear Oregon Government Ethics Commission:

I am writing to request you consider removing the \$70 late penalty fee on Portland Seed Fund for filing a late report. Our lobbyist informed us that he was not re-registering and that we no longer needed to complete the reports. In retrospect, I believe he meant in future, and I misconstrued that to mean I could ignore the current one, which was actually for Q4 2017.

I have since done the filing. As you see, we've not been late to file before. As you also see, there is no compensation involved and this is simply a pro bono client-lobbyist relationship. I hope you will take these facts and that Portland Seed Fund has been a client in good standing under advisement in your review.

Thank you.

Best Regards,
Angela

Angela Jackson / Managing Director / Portland Seed Fund / m: 503.319.5875 / www.portlandseedfund.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

Website: www.oregon.gov/ogec

January 29, 2018

Josephine, Inc.
Attn: Matthew Jorgensen
1721 Broadway
Oakland CA 94612

Dear Mr. Jorgensen:

The written explanation of why your Q4, 2017 Client 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, February 16, 2018, 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 Q4, 2017 (\$70) penalty will be extended to coincide with the February 16th 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 2017

Client Code: 1553
User Name: josephinemeals
Email: matt@josephine.com

Q4 2017 Filing: 1/22/2018
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$70.00

Josephine, Inc.
Attn: Matthew Jorgensen
1721 Broadway
Oakland, CA 94612

Activity Log - Q4 2017 to Date

10/02/17 05:23:48.157 - User Successfully Authenticated -
10/02/17 05:40:58.667 - Client Report Submitted - Client Report Submitted for Q3 2017
12/15/17 12:56:05.060 - Lobbyist Client Registration Renewal Initiated - The lobbyist/client registration renewal was initiated.
12/18/17 12:31:08.883 - Lobbyist Client Registration Renewal Initiated - The lobbyist/client registration renewal was initiated.
12/18/17 04:27:16.043 - User Successfully Authenticated -
12/19/17 08:28:27.753 - User Successfully Authenticated -
12/25/17 01:30:05.357 - Lobbyist/Client Registration Request Unconfirmed - The client did not respond to the registration invitation in the allotted amount of time.
12/28/17 01:30:05.853 - Lobbyist/Client Registration Request Unconfirmed - The client did not respond to the registration invitation in the allotted amount of time.
01/01/18 01:32:35.330 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/01/18 01:32:35.360 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/16/18 02:58:11.787 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/17/18 03:00:32.623 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 01:30:14.000 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/19/18 01:30:10.540 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/20/18 01:30:11.023 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/21/18 01:30:13.867 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/22/18 01:30:10.300 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/22/18 05:39:49.743 - User Successfully Authenticated -
01/22/18 05:40:29.877 - Client Report Submitted - Client Report Submitted for Q4 2017

PREVIOUS VIOLATIONS: NONE

RECOMMENDATION:

Letter to Ed
(M)

DANIEL Kathy * OGEC

To: Matt Jorgensen
Subject: RE: Failure to File Quarterly Report

RECEIVED

JAN 29 2018

OREGON GOVERNMENT
ETHICS COMMISSION

From: Matt Jorgensen [mailto:matt@josephine.com]
Sent: Friday, January 26, 2018 5:25 PM
To: DANIEL Kathy * OGEC <Kathy.DANIEL@oregon.gov>
Subject: Re: Failure to File Quarterly Report

Thanks so much Kathy.

I would like to specifically request mitigation of the \$70 penalty accrued because our business is currently going into bankruptcy and these emails were going into my spam folder. We have not done any lobbying in Oregon since last summer!

On Thu, Jan 25, 2018 at 9:25 AM, DANIEL Kathy * OGEC <Kathy.DANIEL@oregon.gov> wrote:

Hi there,

I'm so sorry, but these messages have been getting screened to my spam and not received. Our company has not done any active lobbying in Oregon since last summer and we're actually in the process of filing for bankruptcy.

I've updated our registration for last quarter, but I'm wondering if it's possible to remove us from your records? We will not be doing any more lobbying.

Thank you,
Matt

----- Forwarded message -----
From: <ogec.notification@egov.com>
Date: Mon, Jan 22, 2018 at 1:30 AM
Subject: Failure to File Quarterly Report
To: matt@josephine.com

Dear Matthew Jorgensen,

You were registered with the Oregon Government Ethics Commission in the role of Client. You were notified on 1/1/2018 that the reporting window for the 2017 Q4 reporting period was open and you were reminded again on 1/10/2018 and 1/15/2018.

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 \$70.00.

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](tel:503-378-5105) or by email at ogec.mail@oregon.gov.

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

Thank you,

Oregon Government Ethics Commission
[3218 Pringle Rd. SE, #220](#)
Salem, OR [97302-1544](#)

Matt Jorgensen

Josephine Cofounder + Co-CEO

Home Cooked Meals From Your Neighbors

m. [860.614.3361](tel:860.614.3361) // [Towards a \(More\) Sharing Economy](#)



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

Website: www.oregon.gov/ogec

January 29, 2018

Jeffery Yohe
PO Box 394
Idanha OR 97350

Re: 2017 SEI Penalty

Dear Mr. Yohe:

The written explanation of why your 2017 Statement of Economic Interest 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, February 16, 2018 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 February 16th 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



SEI Activity

2017

SEI Code: 1959
User Name: jeffyohe
Email: cityofid@bmi.net

2017 Filing: 5/10/2017
2017 Penalty: \$20.00

JEFFERY YOHE
PO BOX 394
IDANHA, OR 973500394

2017 Offices Held

No data to report.

Activity Log - 2017 to Date

05/04/17 11:28:01.153 - User Profile Updated - The user's main profile was updated.
05/04/17 11:28:10.637 - User Profile Updated - User profile updated for JEFFERY YOHE
05/07/17 01:30:35.957 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017
05/09/17 01:30:12.663 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017
05/09/17 12:19:22.153 - User Failed to Authenticate -
05/09/17 12:20:02.467 - User Failed to Authenticate -
05/09/17 12:21:09.057 - User Successfully Authenticated -
05/09/17 12:26:38.710 - SEI Report Draft Saved - SEI Report Draft Saved for year 2017
05/10/17 01:31:03.070 - User Successfully Authenticated -
05/10/17 01:33:52.170 - Late SEI Report Filed - SEI Report Filed Late for year 2017

PREVIOUS VIOLATIONS: NONE

RECOMMENDATION:

Letter of EI
(P)

RECEIVED 1-19-2018

JAN 25 2018

OREGON GOVERNMENT
ETHICS COMMISSION

KATHY DANIEL,

I recently received an E-mail from your ~~the~~ office regarding a \$20⁰⁰ penalty imposed upon me as a result of a late filing of my 2017 Economic interest statement. This late filing was the result of technical issues with the City's internet service provider. These issues have since been corrected.

Having no internet access beyond that of the cities I had relied upon them for filing. I apologize for this tech-issue and subsequent oversight. Due to these circumstances, I respectfully request a waiver of this penalty as being on a fixed income it would be a financial hardship.

Thank You,
Jeff J. Yo
Mayor, City of Idanha
Jeffery J. Yohe



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

Website: www.oregon.gov/ogec

February 1, 2018

Claudia Black
4515 SW Natchez Court
Tualatin, OR 97062

Dear Ms. Black:

The written explanation of why your Q4 Lobbyist 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, February 16, 2018, 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 \$150 penalty will be extended to coincide with the February 16th 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

Q4 2017

Lobbyist Code: 329
User Name: ClaudiaBlack
Email: claudia.black@multco.us

Q4 2017 Filing: 1/30/2018
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$150.00

Claudia Black
501 SE Hawthorne, Suite 600
Portland, OR 97214

Activity Log - Q4 2017 to Date

10/16/17 01:30:12.060 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q3
10/16/17 03:56:37.740 - User Successfully Authenticated -
10/16/17 03:59:11.007 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2017
01/16/18 02:58:09.230 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/17/18 03:00:31.577 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 01:30:07.900 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/19/18 01:30:06.903 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/20/18 01:30:07.497 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/21/18 01:30:11.930 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/22/18 01:30:07.123 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/23/18 01:30:07.137 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/24/18 01:30:08.040 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/25/18 01:30:07.867 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/26/18 01:30:08.057 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/27/18 01:30:06.887 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/28/18 01:30:06.877 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/29/18 01:30:07.673 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/30/18 01:30:06.280 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/30/18 11:49:28.440 - User Failed to Authenticate -
01/30/18 11:51:42.317 - User Successfully Authenticated -
01/30/18 11:52:43.257 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q4 2017

PAST VIOLATIONS: Q2 2016, report filed 3 days late and she paid by check.

RECOMMENDATION:

\$50 *PD*

GOULD Diane * OGEC

m: Claudia Black <realclaudiablack@gmail.com>
at: Tuesday, January 30, 2018 12:40 PM
To: GOULD Diane * OGEC
Subject: Lobbyist Filing Problem

Dear Commissioners,

I am very sorry for my confusion about the filing process.

I was registered as a lobbyist this past year and retired from Multnomah County on August 1, 2017.

I was in Switzerland, visiting grandchildren, in October when I got word that I needed to file a report with you. (It had totally slipped my mind since I had retired.) I filed two days late and paid the fine. I left a voice message and, at one point, spoke to someone about no longer working for Multnomah County and cancelling my lobbyist registration. Apparently, because I had filed two days late, I had to file another form for Multnomah County, even though I would not have worked there for five months.

I tried to find a form to terminate my lobbyist registration online, but was unable to locate one.

I did not receive any reminders to file a report for the fourth quarter because they were sent to my former work email address which I do not have access to.

I woke up in the middle of the night last night with a sinking feeling that I hadn't filed a report. I called your staff immediately and found that I had a \$150 fine for late filing.

I'm retired and no longer registered as a lobbyist. I apologize for messing this up so thoroughly and hope that you will give my fine.

Thank you for your consideration,

Claudia

Claudia Black

503-789-3162

Sent from my iPhone

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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

Website: www.oregon.gov/ogec

January 22, 2018

Sarchi Consulting
Attn: Brian Sarchi
219 NW 102nd St.
Vancouver WA 98685

Dear Mr. Sarchi:

The written explanation of why your Q4, 2017 Client 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, February 16, 2018, 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 Q4, 2017 (\$10) penalty will be extended to coincide with the February 16th 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 2017

Client Code: 1593
User Name: bsarchi
Email: briansarchi@gmail.com

Q4 2017 Filing: 1/16/2018
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$10.00

Sarchi Consulting
Attn: Brian Sarchi
219 NW 102nd St
Vancouver, WA 98685

Activity Log - Q4 2017 to Date

10/13/17 01:15:11.497 - User Successfully Authenticated -
10/13/17 01:15:13.933 - User Successfully Authenticated -
10/13/17 01:16:19.413 - Client Report Submitted - Client Report Submitted for Q3 2017
12/15/17 08:43:28.613 - User Successfully Authenticated -
01/01/18 01:32:35.670 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/16/18 01:11:07.500 - User Successfully Authenticated -
01/16/18 01:12:15.157 - Client Report Submitted - Client Report Submitted for Q4 2017
01/16/18 02:58:11.833 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4

PREVIOUS VIOLATIONS: NONE

RECOMMENDATION:

*No further
SANCTIONS*

From: Brian Sarchi <briansarchi@gmail.com>
Sent: Monday, January 22, 2018 4:08 PM
To: OGEC Mail * OGEC
Subject: \$10 Penalty?

RECEIVED
JAN 22 2018
OREGON GOVERNMENT
ETHICS COMMISSION

Oregon Government Ethics Commission,

Thank you for taking the time to read this letter. I am writing you because I am confused on why I would be getting a late notice. I used a lobbyist for a one time payment and have been filling out quarterly statements through out the year. I went to fill out the 4th qtr and it said I didn't need to submit a filing. Maybe I'm mistaken but when I did get another email I filled it out and was not fined. And then I received another email saying I was fined.

I hope I will be able to get this \$10 waived. Thank you for helping me out and please let me know what the outcome is.

Sincerely,

Brian Sarchi
briansarchi@gmail.com
360.433.5234

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OREGON GOVERNMENT ETHICS COMMISSION
INVESTIGATION

CASE NO: 14-190EDT

DATE: February 8, 2018

RESPONDENT: KITZHABER, John, former Governor of Oregon

COMPLAINANT: HUGHES, Margie

Table of Contents

Synopsis	1
Relevant Statutes and Administrative Rules	2
Investigation History	12
Background	17
First Lady Work	18
Policy Role	19
Ms. Hayes's Consulting Business	26
Ms. Hayes's Work during Governor Kitzhaber's Third Term	28
Rural Development Initiatives	29
WCCEC Description	30
Governor Kitzhaber's Actions during this time period	32
Fundraising for RDI	33
Within the Governor's Office	34
WCCEC Meetings	38
WCCEC Funding	39
Ethics Questions	40
Leaving RDI	41
After RDI	41
Clean Economy Acceleration Fellowship September 2011 – December 2012	41
Fellowship Proposals and Funding	41
September 2011: First Lady/Policy Protocol	46
Ten Year Energy Plan	49
November 2011: Conflict of Interest Meeting	50
Speeches and Meetings	50
June 2012 Report on Fellowship	53
Fellowship Description and Resource Media Communications Plan	54
Clean Economy Acceleration Fellowship Program Description	55
Involvement with State Employees	59

(i)

Case No: 14-190EDT, Kitzhaber Investigation

Additional Networking	61
Press Coverage	69
Payment	70
Kitzhaber Ethics Opinion	71
Ms. Hayes/3EStrategies Contracts	73
Resource Media (February – December 2013)	73
Contract with Resource Media	74
HOHE Events	82
HOHE Plan	83
Governor’s Office Assistance in Making Arrangements for Events	85
Final Report for Resource Media Contract	86
Energy Foundation (originally May 2013 – April 2014)	86
Contract with Energy Foundation	88
Speeches	90
Demos (June – November 2013)	91
Contact with Demos	91
Introduction to GPI	92
Measuring Oregon’s GPI	93
Introducing GPI to Oregon State Government	96
Further Work with Demos; Possible Contract	98
Demos Contract	100
After Ms. Hayes’s Contracts	105
Miscellaneous Use of Staff Time and Receipt of Frequent Flyer Miles	111
Travel and Frequent Flyer Miles	111
Pets	112
Gifts	113
Former Governor Kitzhaber’s Responses	114
Conclusions	115
Member of the Household of a Public Official	115
Business with which a Public Official is Associated	116

(i)

Case No: 14-190EDT, Kitzhaber Investigation

Conflicts of Interest	116
Prohibited Use of Office for Personal Financial Gain	120
Application to Former Governor Kitzhaber's Circumstances	120
Gifts	121
Recommendations	122
Associated Documents	122
Appendix A Flow Chart	130
Appendix B Abbreviations	131

OREGON GOVERNMENT ETHICS COMMISSION

INVESTIGATION

CASE NO: 14-190EDT

DATE: February 8, 2018

RESPONDENT: KITZHABER, John, former Governor of Oregon

COMPLAINANT: HUGHES, Margie

RECOMMENDED ACTION: Make a Preliminary Finding of One (1) Violations of ORS 244.025, Three (3) Violations of ORS 244.040(1), and Seven (7) Violations of ORS 244.120(2)

1 **SYNOPSIS:** John Kitzhaber was Governor of the State of Oregon during the period
2 relevant to this investigation. The focus of this investigation was to determine if there is a
3 preponderance of the evidence to make preliminary findings that former Governor
4 Kitzhaber committed violations of the prohibited use of office for personal financial gain,
5 conflict of interest, and gift provisions of ORS Chapter 244.

6

7 A review of available information indicates that former Governor Kitzhaber used his official
8 position or office to obtain a financial gain or avoid a financial detriment for 3EStrategies,
9 a business with which he was associated, and for a member of his household when he
10 provided a member of his household, Cylvia Hayes, with a policy position in the
11 Governor's office and staff resources from the Governor's office. In this position, she
12 helped shape state policy on issues of a clean economy, ocean health, and alternative
13 economic metrics (Gross Prosperity Index), issues for which she was also paid to act as
14 an advocate in her professional capacity. She also used staff from the Governor's office
15 to further her paid work. It also indicates that former Governor Kitzhaber used his official

1 position to obtain a financial gain or avoid a financial detriment by accepting frequent flyer
2 miles for travel on which he was representing state government or using Governor's office
3 staff to make travel arrangements for his personal travel, and by permitting state
4 employees to care for Ms. Hayes's pets.

5
6 The available evidence further indicates that former Governor Kitzhaber made decisions
7 and took actions in his official capacity that could have affected the financial interest of a
8 business with which he was associated, Ms. Hayes's company 3EStrategies, and that
9 former Governor Kitzhaber failed to properly follow the conflict of interest procedures laid
10 out in ORS 244.120(2) in handling those potential conflicts of interest.

11
12 The available evidence indicates that in 2013, former Governor Kitzhaber accepted a gift
13 that exceeded the gift limits in ORS244.025 from United Airlines, a source that had a
14 legislative or administrative interest in his decision-making as a public official.

15
16 There is sufficient evidence to indicate that John Kitzhaber committed a violation of ORS
17 244.025 by accepting a gift from a source with a legislative or administrative interest in
18 his decision-making as a public official, that he committed violations of ORS 244.040(1)
19 by using his official position for personal financial gain, and that he committed violations
20 of ORS 244.120(2) by failing to properly disclose potential conflicts of interest.

21
22 **RELEVANT STATUTES AND ADMINISTRATIVE RULES:** The Oregon Legislative
23 Assembly revised portions of Chapter 244 of the Oregon Revised Statutes in 2015. The
24 following Oregon Revised Statutes are from the 2013 Edition unless otherwise noted, and
25 are applicable to the issues addressed herein, because all of the alleged conduct took
26 place before the 2015 amendments went into effect:

27
28 **244.020 Definitions.** As used in this chapter, unless the context requires otherwise:

29 (1) 'Actual conflict of interest' means any action or any decision or recommendation by a
30 person acting in a capacity as a public official, the effect of which would be to the private
31 pecuniary benefit or detriment of the person or the person's relative or any business with

1 which the person or a relative of the person is associated unless the pecuniary benefit or
2 detriment arises out of circumstances described in subsection (12) of this section.

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

9 (3) 'Business with which the person is associated' means:

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

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

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

20 (d) For public officials required to file a statement of economic interest under ORS
21 244.050, any business listed as a source of income as required under ORS
22 244.060 (3)...

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

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

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

31 (b) "Gift" does not mean:

- 1 (A) Contributions as defined in ORS 260.005.
- 2 (B) Gifts from relatives or members of the household of the public official or candidate.
- 3 (C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk
4 item, wall memento or similar item, with a resale value reasonably expected to be less
5 than \$25.
- 6 (D) Informational or program material, publications or subscriptions related to the
7 recipient's performance of official duties.
- 8 (E) Admission provided to or the cost of food or beverage consumed by a public
9 official, or a member of the household or staff of the public official when accompanying
10 the public official, at a reception, meal or meeting held by an organization when the public
11 official represents state government as defined in ORS 174.111, a local government as
12 defined in ORS 174.116 or a special government body as defined in ORS 174.117.
- 13 (F) Reasonable expenses paid by any unit of the federal government, a state or local
14 government, a Native American tribe that is recognized by federal law or formally
15 acknowledged by a state, a membership organization to which a public body as defined
16 in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt
17 under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention,
18 fact-finding mission or trip, conference or other meeting if the public official is scheduled
19 to deliver a speech, make a presentation, participate on a panel or represent state
20 government as defined in ORS 174.111, a local government as defined in ORS 174.116
21 or a special government body as defined in ORS 174.117.
- 22 (G) Contributions made to a legal expense trust fund established under ORS 244.209
23 for the benefit of the public official.
- 24 (H) Reasonable food, travel or lodging expenses provided to a public official, a relative
25 of the public official accompanying the public official, a member of the household of the
26 public official accompanying the public official or a staff member of the public official
27 accompanying the public official, when the public official is representing state government
28 as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special
29 government body as defined in ORS 174.117:
- 30 (I) On an officially sanctioned trade-promotion or fact-finding mission; or

1 (ii) In officially designated negotiations, or economic development activities, where
2 receipt of the expenses is approved in advance.

3 (I) Food or beverage consumed by a public official acting in an official capacity:

4 (i) In association with the review, approval, execution of documents or closing of a
5 borrowing, investment or other financial transaction, including any business agreement
6 between state government as defined in ORS 174.111, a local government as defined in
7 ORS 174.116 or a special government body as defined in ORS 174.117 and a private
8 entity or public body as defined in ORS 174.109;

9 (ii) While engaged in due diligence research or presentations by the office of the State
10 Treasurer related to an existing or proposed investment or borrowing; or

11 (iii) While engaged in a meeting of an advisory, governance or policy-making body of
12 a corporation, partnership or other entity in which the office of the State Treasurer has
13 invested moneys.

14 (J) Waiver or discount of registration expenses or materials provided to a public official
15 or candidate at a continuing education event that the public official or candidate may
16 attend to satisfy a professional licensing requirement.

17 (K) Expenses provided by one public official to another public official for travel inside
18 this state to or from an event that bears a relationship to the receiving public official's
19 office and at which the official participates in an official capacity.

20 (L) Food or beverage consumed by a public official or candidate at a reception where
21 the food or beverage is provided as an incidental part of the reception and no cost is
22 placed on the food or beverage.

23 (M) Entertainment provided to a public official or candidate or a relative or member of
24 the household of the public official or candidate that is incidental to the main purpose of
25 another event.

26 (N) Entertainment provided to a public official or a relative or member of the household
27 of the public official where the public official is acting in an official capacity while
28 representing state government as defined in ORS 174.111, a local government as defined
29 in ORS 174.116 or a special government body as defined in ORS 174.117 for a
30 ceremonial purpose.

1 (O) Anything of economic value offered to or solicited or received by a public official
2 or candidate, or a relative or member of the household of the public official or candidate:

3 (i) As part of the usual and customary practice of the person's private business, or the
4 person's employment or position as a volunteer with a private business, corporation,
5 partnership, proprietorship, firm, enterprise, franchise, association, organization, not-for-
6 profit corporation or other legal entity operated for economic value; and

7 (ii) That bears no relationship to the public official's or candidate's holding of, or
8 candidacy for, the official position or public office.

9 (P) Reasonable expenses paid to a public school employee for accompanying
10 students on an educational trip...

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

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

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

17 (10) 'Member of the household' means any person who resides with the public official or
18 candidate...

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

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

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

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

3 (13) 'Public office' has the meaning given that term in ORS 260.005.

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

8 (15) 'Relative' means:

9 (a) The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or
10 daughter-in-law of the public official or candidate;

11 (b) The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law
12 of the spouse of the public official or candidate;

13 (c) Any individual for whom the public official or candidate has a legal support
14 obligation;

15 (d) Any individual for whom the public official provides benefits arising from the
16 public official's public employment or from whom the public official receives
17 benefits arising from that individual's employment; or

18 (e) Any individual from whom the candidate receives benefits arising from that
19 individual's employment.

20 (16) 'Statement of economic interest' means a statement as described by ORS 244.060
21 or 244.070.

22
23 **244.025 Gift limit.** (1) During a calendar year, a public official, a candidate or a relative
24 or member of the household of the public official or candidate may not solicit or receive,
25 directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any
26 single source that could reasonably be known to have a legislative or administrative
27 interest.

28
29 **244.040 Prohibited use of official position or office; exceptions; other prohibited**
30 **actions.** (1) Except as provided in subsection (2) of this section, a public official may not
31 use or attempt to use official position or office to obtain financial gain or avoidance of

1 financial detriment for the public official, a relative or member of the household of the
2 public official, or any business with which the public official or a relative or member of the
3 household of the public official is associated, if the financial gain or avoidance of financial
4 detriment would not otherwise be available but for the public official's holding of the official
5 position or office.

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

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

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

11 (c) Reimbursement of expenses.

12 (d) An unsolicited award for professional achievement.

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

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

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

23 (h) Contributions made to a legal expense trust fund established under ORS
24 244.209 for the benefit of the public official.

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

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

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

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

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

10

11 **244.120 Methods of handling conflicts; Legislative Assembly; judges; appointed**
12 **officials; other elected officials or members of boards.**

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

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

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

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

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

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

30

31 **244.130 Recording of notice of conflict; effect of failure to disclose conflict. (1)**

1 When a public official gives notice of an actual or potential conflict of interest, the public
2 body as defined in ORS 174.109 that the public official serves shall record the actual or
3 potential conflict in the official records of the public body. In addition, a notice of the actual
4 or potential conflict and how it was disposed of may in the discretion of the public body
5 be provided to the Oregon Government Ethics Commission within a reasonable period of
6 time.

7 (2) A decision or action of any public official or any board or commission on which the
8 public official serves or agency by which the public official is employed may not be voided
9 by any court solely by reason of the failure of the public official to disclose an actual or
10 potential conflict of interest.

11

12 **292.230 Policy on out-of-state travel; guidelines; use of travel awards; rules. (2)**
13 Notwithstanding any other law, including but not limited to ORS 243.650 to 243.782, it is
14 the policy of the state that travel awards earned while conducting state business shall be
15 used to reduce the costs of state travel expenses except as otherwise required as a
16 prerequisite to receipt of federal or other granted funds. The use of travel awards obtained
17 while conducting state business for personal travel constitutes personal gain from state
18 employment and violates ORS 244.040.

19

20 The following Oregon Administrative Rules were in effect in 2014, and are applicable to
21 the issues addressed herein:

22 **199-005-0035 Guidelines for compliance with ORS 244.020(6), 244.025, 244.040,**
23 **244.042 and 244.047**

24 (1) The purpose of this rule is to define certain terms and to clarify substantive provisions
25 of ORS 244.020(6), 244.025, 244.040, 244.042 and 244.047.

26 (2) The term "official duties" means that the public official's actions are directly related to
27 serving the state of Oregon or any of its political subdivisions or any other public body as
28 a public official.

29 (3) An "official compensation package" means the wages and other benefits provided to
30 the public official. To be part of the public official's "official compensation package", the
31 wages and benefits must have been specifically approved by the public body in a formal

1 manner, such as through a union contract, an employment contract, or other adopted
2 personnel policies that apply generally to employees or other public officials. "Official
3 compensation package" also includes the direct payment of a public official's expenses
4 by the public body, in accordance with the public body's policies.

5 (4) As used in ORS 244.040(2)(c), "reimbursement of expenses" means the payment by
6 a public body to a public official serving that public body, of expenses incurred in the
7 conduct of official duties on behalf of the public body. Any such repayment must comply
8 with any applicable laws and policies governing the eligibility of such repayment.
9 Expenses paid by the public body to their own public officials need not be reported by the
10 public official under ORS 244.060.

11 (5) "Confidential information" means any record that is exempt from public disclosure or
12 inspection under state law, or any information obtained in the course of or by reason of
13 holding position as a public official that is not publicly disclosed. The record or information
14 is no longer confidential if it has been voluntarily disclosed by the public body, or been
15 disclosed through a public records disclosure order or court order.

16 (6) As used in ORS 244.047, a public contract is "authorized by" a public official if the
17 public official performed a significant role in the selection of a contractor or the execution
18 of the contract. A significant role can include recommending approval or signing of the
19 contract, including serving on a selection committee or team, or having the final
20 authorizing authority for the contract.

21 (7) As defined in ORS 244.020(14), a public official includes anyone serving the State of
22 Oregon or any of its political subdivisions or any other public body in any of the listed
23 capacities, including as an "agent." An "agent" means any individual performing
24 governmental functions. Governmental functions are services provided on behalf of the
25 government as distinguished from services provided to the government. This may include
26 private contractors and volunteers, depending on the circumstances. This term shall be
27 interpreted to be consistent with Attorney General Opinion No. 8214 (1990).

28

29 //

30 //

31 //

1 INVESTIGATION:

2
3 The Oregon Government Ethics Commission (Commission) received a letter of complaint
4 from Margie Hughes on 10/16/2014 (#PR1). Ms. Hughes alleged that John Kitzhaber,
5 who was then Governor of the State of Oregon, might have attempted to use his position
6 for the financial benefit of a member of his household, his partner Cylvia Hayes, and might
7 have violated the nepotism provisions of ORS Chapter 244 by supervising Ms. Hayes.
8 The Commission opened a preliminary review based on Ms. Hughes's complaint.

9
10 After the preliminary review began, the Commission received information that a criminal
11 investigation was being conducted by the Oregon Department of Justice (Oregon DOJ)
12 and the U.S. Department of Justice (US DOJ) regarding the same circumstances that
13 provided the basis for the preliminary review. As required by ORS 244.260(4)(e)(A)
14 (2013), the preliminary review was suspended until information was received on 6/16/17
15 that the criminal investigations were concluded. The Commission found cause to
16 investigate on 7/14/17 after considering the information developed in the preliminary
17 review. The investigation focused on whether there is enough information to find by a
18 preponderance of the evidence that former Governor Kitzhaber violated Oregon
19 Government Ethics law. Former Governor Kitzhaber was notified of the Commission's
20 actions in this matter, and was invited to provide any information that would assist the
21 Commission in conducting this investigation.

22
23 The complainant alleged, in relevant part:

24
25 "The facts and details on Governor Kitzhaber and his fiancé' [sic] Cylvia
26 Hayes, Patricia McCaig and the conflict of interest transactions,
27 employment relationships, benefits from public contracts, usage of public
28 buildings and staff for personal financial gain and business are unfolding on
29 a minute by minute basis. What we do know is that since at least January
30 of 2011 Ms. Hayes was residing with Governor Kitzhaber, which pursuant
31 to ORS 244.020(10) makes her a member of his household. We also know
32 that ORS 244.040 prohibits a public official from using their official position
33 or office to obtain financial gain for a member of their household or any
34 business associated with the member of the household. Further ORS

1 244.047 prohibits a person from obtaining a direct beneficial financial
2 interest in a public contract...

3
4 Governor Kitzhaber's representatives have stated that apparently there has
5 been private business conducted from the governor's office and/or with
6 state employee staff. Some have been booking her travel arrangements and
7 have been administering her private consulting business. As quoted in the
8 Oregonian on October 15, in December of 2011 Tom Hix apparently worked
9 with Governor Kitzhaber's chief liaison Scott Nelson and Cylvia Hayes, to
10 get the Energy Department to give an extension of time to the same
11 developers who had hired Ms. Hayes' consulting firm around that same
12 time. More recently, Ms. Hayes is apparently acting as an energy policy
13 advisor to the Governor. Some of those energy advocacy groups are listed
14 in documents to be Ms. Hayes [sic] private clients who are energy related
15 or have keen interests in public policy...If she is an employee she is in
16 violation of ORS 244.179 which prohibits a public official from supervising a
17 member of their own household. Now it appears there has been discovered
18 some discrepancies with respect to some of the contract dates with the
19 Demos contract, the Resource Media contract and the Energy Foundation
20 contract all which could be violations of ORS 244.040 or ORS 244.047 if the
21 Governor participated in authorizing contracts to those entities, or used his
22 official position to obtain financial gain for a member of his household."
23 #PR1.

24
25 The complainant included a copy of a Willamette Week article that described an
26 interaction involving staff in the Governor's office contacting the Oregon Department of
27 Energy regarding a delay of a foreclosure by the Department of Energy. The article
28 alleged that the company undergoing the foreclosure was a client or former client of Ms.
29 Hayes and that this relationship gave the company increased access to the Governor's
30 office. #PR1.

31
32 The complaint also included a copy of an OregonLive.com article that details three
33 contracts between Ms. Hayes and three organizations, describing the dates and amounts
34 of the contracts. #PR1.

35
36 Ms. Hughes filed a supplemental complaint on 10/23/14, in which she alleged that "the
37 governor's office, and senior advisors could be using the office and state roles to obtain
38 personal financial benefits for themselves and their friends." #PR2. She further alleged
39 that:

1
2 "Cylvia Hayes has received contracts due to her title, role or relationship
3 with the governor. She is advertising herself as "First Lady" the Governor's
4 public website paid for the by [sic] state has a special page for her... Ms.
5 Hayes has a client who has paid her approximately \$25,000. Part of that
6 role has been promoting Demos' method of measuring economic output and
7 the Governor has at least twice been with Hayes at events where Demos'
8 product or service method was being promoted.
9

10 Last year Oregon Business Council paid \$35,000 to give Ms. Hayes her
11 own spokesperson, while at the same time Governor Kitzhaber was
12 championing the Oregon Business Council's agenda via the "Oregon
13 Business Plan". The Governor has been quoted as saying the Oregon
14 Business Council's plan is his plan...
15

16 Hayes received some \$20,000 plus contract from Resource Media which
17 apparently was lobbying or pushing for a joint venture including multiple
18 western states. Hayes has apparently been using her paid staff Mary
19 Rowinski to schedule and do work for her consulting company. Now
20 apparently a no-bid contract was awarded to a key advisor to the Governor's
21 re-election campaign, who is also apparently handling Ms. Hayes' media
22 and responses to these recent scandals and press issues." #PR2.
23

24 Ms. Hughes included with this supplement several articles, including a Willamette Week
25 article that alleged that Ms. Hayes "pushed for economic and energy policies while
26 accepting payments from private advocacy groups seeking to influence those same
27 policies," "directed her state-paid assistant to do work for her private consulting business,"
28 and "used her title as first lady and as adviser to the governor at events when she was
29 not representing the state but instead appearing as a paid consultant." #PR2. The article
30 described several private consulting contracts between Ms. Hayes and various entities
31 with which she was working or had worked in her role as policy advisor in the Office of
32 the Governor. It also described a \$35,000 grant to hire a spokesperson to work for Ms.
33 Hayes. #PR2.
34

35 According to the Willamette Week article, Ms. Hayes's biography during at least some of
36 her private consulting work described her as "CEO of 3E Strategies," "first lady of
37 Oregon," and "policy advisor to the governor on the issues of clean energy and economic
38 development." #PR2.

1
2 On 10/13/14, Liani Reeves, then General Counsel for the Office of the Governor,
3 submitted redacted and unsigned copies of the contracts and copies of several
4 subsequent memoranda regarding Ms. Hayes's perceived potential or actual conflicts of
5 interest related to the contracts to the Commission with a request for a Commission
6 Advisory Opinion on the matter.¹ The memoranda, each titled "Disclosure of Potential or
7 Actual Conflict of Interest," are from Ms. Hayes to Curtis Robinhold, then the Governor's
8 Chief of Staff, and Ms. Reeves. Ms. Reeves and Mr. Robinhold responded within the
9 memoranda saying that they did not "anticipate a conflict of interest" during the contracts
10 because Ms. Hayes was not expected to be in a position to make decisions on behalf of
11 the State that would be to the financial benefit or detriment of the organizations with which
12 she had contracted. The memoranda provided her with instructions on how to avoid the
13 prohibition in ORS 244.040 on use of official position or office for personal financial gain.
14 #PR8.

15
16 The Commission ultimately received two versions of the memoranda. The first version,
17 which Ms. Hayes did not sign, were dated in July 2013 and prohibited Ms. Hayes from
18 using her First Lady title or Mahonia Hall, the Governor's official residence, in her contract
19 work. The second version, which Ms. Hayes did sign, were dated August 2013 and
20 provided guidelines for how Ms. Hayes could use her First Lady title and Mahonia Hall in
21 her contract work. #INV60.

22

23 This investigation focused on three areas of Oregon Government Ethics law:

24

- 25 1. Conflicts of interest, ORS 244.120(1)(c), which involved examining whether former
26 Governor Kitzhaber took any actions in his official capacity as Governor that could
27 or would have affected his personal financial interest or the financial interest of a
28 business with which he was associated, and, if so, whether he properly followed
29 the procedures for handling conflicts of interest under Oregon Government Ethics

¹ The Commission denied the request for a Commission Advisory Opinion on 11/7/14 because the events described in the request had already occurred, and because this preliminary review had begun.

1 law; and

2 2. Prohibited use of official position for personal financial gain, ORS 244.040(1),
3 which included:

4 a. Examining whether former Governor Kitzhaber used or attempted to use his
5 official position to accept financial opportunities such as contracts for Ms.
6 Hayes or a business with which he or Ms. Hayes was associated that would
7 not have been available but for his position as Governor;

8 b. Examining whether former Governor Kitzhaber used his position as
9 Governor to create or attempt to create opportunities for financial gain or
10 avoidance of a financial detriment for himself, Ms. Hayes, or a business with
11 which he or Ms. Hayes was associated, if those opportunities would not
12 have been available if he did not hold his public position; and

13 c. Examining whether former Governor Kitzhaber used or attempted to use his
14 position to provide Ms. Hayes with access to State of Oregon resources
15 such as state office equipment, state employee time, state contracts, or
16 state property to obtain a financial benefit or avoid a financial detriment for
17 former Governor Kitzhaber, Ms. Hayes, or a business with which the former
18 Governor or Ms. Hayes was associated;

19 3. Gifts, ORS 244.025, which involved examining whether former Governor Kitzhaber
20 had accepted something of economic value that was not offered to others who are
21 not public officials on the same terms and conditions, of a value exceeding the \$50
22 per year limit specified by statute, from a single source with a legislative or
23 administrative interest.

24
25 The investigation in this case involved review of many documents related to the case.
26 This included portions of Governor Kate Brown's public records releases of emails that
27 included emails to and from former Governor Kitzhaber's email accounts and emails to
28 and from Ms. Hayes that were archived because they included Governor's office staff. It
29 also included emails from Ms. Hayes's email accounts that are available from the Oregon
30 State Archives that were released pursuant to a public records request. Due to the
31 number of records that are available in this matter, most of which are publicly available in

1 electronic format, the lack of uniform or comprehensive search functions, the limited
2 staffing resources of the Commission, and the short statutory time period remaining after
3 the completion of the state and federal criminal investigation, Commission staff were not
4 able to review all of the documents available in this matter, nor could staff follow up on
5 every relevant document. The focus of this investigation was therefore limited to
6 determining whether the documents that could be reviewed during the investigation
7 period were relevant to the allegations made by the complainants in this case, and
8 whether that relevant information supported one or more preliminary findings of violation
9 of Oregon Government Ethics law. There remain, no doubt, relevant documents and
10 inquiries that could not be included due the time and staffing constraints of this
11 investigation.

12
13 Former Governor Kitzhaber was invited to provide any information that would be helpful
14 to the Commission in this matter; staff did review all of the documents that he submitted
15 to the Commission.

16
17 BACKGROUND –

18
19 John Kitzhaber was elected Governor of Oregon for his third, non-consecutive term on
20 11/2/10 and took office on 1/10/11. Although First Lady or First Gentleman is a title
21 traditionally given to the spouse of a head of state, both Governor Kitzhaber and Cylvia
22 Hayes, his significant other, referred to Ms. Hayes as “First Lady,” and she assumed that
23 role. As First Lady, her official campaign was the Oregon Prosperity Initiative, which
24 worked on issues of poverty alleviation. #INV6, GOV1489. She also announced in
25 February 2012 that she would be focusing on issues of ocean health as First Lady in
26 addition to her poverty and hunger work. #INV6, GOV194642-194647.

27
28 The Governor of Oregon is required to file an annual verified Statement of Economic
29 Interest (SEI) with the Commission each year. On his 2011 SEI, which covered the 2010
30 calendar year, former Governor Kitzhaber did not list Ms. Hayes or her business in
31 response to the required questions. Beginning with the SEI that covered the calendar

1 year 2011, which was due on 4/15/12, the former Governor listed Ms. Hayes's company,
2 3EStrategies, under Question 1, Business Office or Directorship. Ms. Hayes was
3 identified as a member of the Governor's household holding the office of CEO for
4 3EStrategies. The former Governor also listed 3EStrategies in his response to Question
5 2, Sources of Income, which asks for sources of any income received by the public official
6 or a member of their household, if the source produced 10% or more of the total annual
7 household income. The former Governor's responses to Questions 1 and 2 also included
8 3EStrategies on the SEIs that he filed in 2013 and 2014, covering the calendar years
9 2012 and 2013. #PR10.

10

11 During former Governor Kitzhaber's third and abbreviated fourth term as governor, Ms.
12 Hayes lived at least part time in Mahonia Hall, the Oregon Governor's official residence.
13 In August 2013, the Office of the Governor's Legal Counsel, Liani Reeves, sent an email
14 to Ms. Hayes "following up on our phone call" to give Ms. Hayes further direction on the
15 use of Mahonia Hall to conduct business related to Ms. Hayes's contract work and on the
16 use of the First Lady title in biographical materials related to Ms. Hayes's contract work.
17 Ms. Reeves said,

18

19 "With respect to the use of Mahonia Hall, the strict interpretation of the law would
20 include a prohibition of Mahonia Hall – a state owned facility – for convening
21 meetings for private income-producing work. However, the fact that it is your part-
22 time residence and that you routinely work from your homes, presents a unique
23 situation. In this case, the risks associated with a de minimis use of Mahonia Hall
24 are outweighed by your need to conduct your business in your home."

25

26 Ms. Reeves then provided Ms. Hayes with limitations on her use of Mahonia Hall for
27 private income-producing work. #INV60. Former Governor Kitzhaber was not copied on
28 this email.

29

30 First Lady Work:

31

1 Ms. Hayes initially expressed an interest in working on issues of at-risk children and youth
2 as First Lady, and Dr. Kitzhaber sent several emails asking people to talk with her about
3 ways she might get involved. These included Ken Thrasher, Duncan Campbell, and Tony
4 Hopson. #INV6, GOV327575. As time went by, she also stated that she wanted to work
5 on ocean acidification as First Lady. In October 2011, she sent an email to Governor
6 Kitzhaber with a list of proposed First Lady of Oregon "ocean advisors," saying, "Here is
7 my list. I don't really know most of these so I am totally open to your suggestions." #INV7,
8 Vol.14, FLO ocean advisors list, email from C. Hayes to J. Kitzhaber, 10/15/11.

9
10 On 2/15/11, Ms. Hayes forwarded to Dr. Kitzhaber an email in which Governor's office
11 staff explained to her that the state was not able to provide technology support for her
12 personal electronic devices. #INV8, *FW: Computer/Blackberry Support*, email from C.
13 Hayes to J. Kitzhaber, 2/15/11. On 2/17/11, Ms. Hayes sent an email to Dr. Kitzhaber
14 detailing her assigned follow-ups from a conversation they had that night. The list included
15 meeting with Dr. Kitzhaber's new legal counsel to help her "relax" and "indoctrinating"
16 Curtis [Robinhold], the Governor's Chief of Staff, with the "Big Picture/vision/mission," as
17 well as helping the entire staff understand the "brand and vision." #INV8, *Pings*, email
18 from C. Hayes to J. Kitzhaber, 2/17/11.

19
20 Policy Role:

21
22 In addition to acting as ceremonial First Lady during Governor Kitzhaber's third and fourth
23 term, the former Governor gave Ms. Hayes a role in creating policy in his office. In that
24 capacity, she advised the Governor on issues of clean energy and economic development
25 and helped shape the Governor's office's policies on those issues. #INV6, GOV1489. On
26 some occasions, former Governor Kitzhaber asked her to help him shape Governor's
27 office policy. On other occasions, it is less clear why he passed information on to Ms.
28 Hayes.

29
30 Staff members in the Governor's office also treated Ms. Hayes as a member of the staff
31 at times; at other times, they attempted to keep her from participating in the work of the

1 Governor's office. Curtis Robinhold, who was Chief of Staff for Governor Kitzhaber,
2 recalled that Ms. Hayes was initially not invited to weekly senior policy staff meetings,
3 because Mr. Robinhold had concerns about public meetings law. In late 2011 or early
4 2012, Mr. Robinhold recalled, she was added to the meetings at the Governor's request.
5 Ms. Hayes then attended or called into the meetings occasionally. #INV5. Throughout the
6 period 2011-2015, during the Kitzhaber administration, Ms. Hayes was invited to policy
7 meetings, both within the Governor's office and with outside entities, such as the OR-WA
8 Climate & Energy Monthly Call, whose invitees are primarily Oregon and Washington
9 officials. See, e.g. #INV6, GOV71. At one point, Dan Carol, the Director of Multi-State and
10 Strategic Initiatives in the Governor's office sent an email to Ms. Hayes, Governor
11 Kitzhaber, and Chief of Staff Curtis Robinhold that said, "Cylvia, I see you as the lead on
12 all things poverty... I also see myself, and you, and Scott, as key team players on energy
13 and many other issues. But not the leads." #INV7, Vol.33, *Re: NGA's clean energy*
14 *economic development policy academy*, email from C. Robinhold to D. Carol, 2/28/13.

15
16 It is not clear whether Ms. Hayes regularly submitted weekly reports to Mr. Robinhold and
17 received the weekly report summaries of Governor's office staff activities throughout the
18 Kitzhaber administration, but she did at times receive a copy of the weekly report
19 summary. See, e.g. #INV8, FW: Weekly Report Summary 9/28/12, email from M.
20 Rowinski to C. Hayes, 10/8/12.

21
22 A few days later, on 2/21/11, Dr. Kitzhaber sent Ms. Hayes an email (excerpted further
23 below) in which he expressed his understanding about her distaste for fundraising for her
24 job and his hope that her work and his work would come together to become "our" work.
25 He also said, "I also think that getting you set up in the office will be an important step to
26 get you out of that big house and around your loving peeps (especially this peep) during
27 the work day." #INV8, FW: *A few words from your mate*, email from J. Kitzhaber to C.
28 Hayes, 2/21/11. On 2/23/11, Ms. Hayes sent Dr. Kitzhaber a reminder email concerning
29 to check on some things they had discussed, which included whether Ms. Hayes could
30 testify about legislation and with what services Mary [Rowinski] could help Ms. Hayes.
31 "[C]ould she for instance pick up NGA supplies for me?" #INV8, *A few items*, email from

1 C. Hayes to J. Kitzhaber, 2/23/11. (It is unclear to what NGA refers.)

2
3 When Ms. Hayes received an email from John Audley, then with Renewable Northwest,
4 referring to a phone conversation they had, Ms. Hayes followed up with an email saying
5 that she could "help/ participate" with messaging in four ways: by incorporating some of
6 the message elements into the West Coast Clean Economy work (with Rural
7 Development Initiatives, see below), using the First Lady platform, keeping "the Kitz
8 Admin and key staff" aware of developments, and tying it into her work with
9 PDX2GulfCoast. #INV8, *RE: follow up*, email from C. Hayes to J. Audley, 2/28/11.

10
11 Early in Dr. Kitzhaber's third term, Ms. Hayes received, at her 3EStrategies email
12 address, an email from Bruce Sullivan, a Green Building Consultant, asking if Dr.
13 Kitzhaber would be interested in giving the keynote speech at an event in Bend. Mr.
14 Sullivan wrote that he had also left a voicemail and sent an email to the Governor's office,
15 but that he did not expect a response. Ms. Hayes forwarded the email to Dr. Kitzhaber
16 with a note that said, "Hey Dear, This would be one to refer back to me. Love, C." Dr.
17 Kitzhaber forwarded it to his scheduler. #INV7, Vol.1, *FW: NW Green Building Summit*,
18 email from J. Kitzhaber to J. Murdock, 2/16/12.

19
20 In March 2011, when the Governor's office got a request from the Oregon Environmental
21 Council for a time to brief the Governor on the Oregon Sustainability Center, the
22 Governor's scheduler, Jan Murdock, forwarded the request to Dr. Kitzhaber, saying that
23 it seemed like something that Ms. Hayes would be interested in and that she could have
24 Ms. Hayes's scheduler, Mary Rowinski add it to Ms. Hayes's calendar. "Yes," Dr.
25 Kitzhaber replied, copying Ms. Hayes at her 3EStrategies email address, "I think Cylvia
26 would be interested in this." Ms. Hayes asked that it be put on her schedule. #INV7, Vol.1,
27 *RE: request for briefing for the Governor on the Oregon Sustainability Center*, email from
28 C. Hayes to J. Kitzhaber, 3/30/11.

29
30 In April 2011, Dr. Kitzhaber made remarks at the launch of *Just Below the Surface*, a
31 discussion curriculum that resulted from the experience of 22 Oregonians who went to

1 the Gulf Coast after the BP Macondo oil spill into the Gulf of Mexico. Ms. Hayes hosted
2 the event. In the event description that was sent to the Governor's office, Ms. Hayes was
3 identified as the CEO of 3EStrategies and the Rural Development Initiative's Director of
4 the West Coast Clean Economy Collaborative. Dr. Kitzhaber had been interviewed for the
5 accompanying documentary, "Beyond the Spill," the trailer for which was shown at the
6 event. #INV7, Vol. 2, *FW: Event on April 13th - Talking points*, email from J. Murdock to J.
7 Kitzhaber, 4/12/11; *Fw: Please note - slightly revised agenda*, email from J. Murdock to
8 J. Kitzhaber, 4/12/11. Although the full documentary does not appear to be available
9 online, Dr. Kitzhaber appeared in the trailer. He was pictured in front of shelves and the
10 US and Oregon flags in what appears to be the Oregon Governor's ceremonial office, but
11 there was no accompanying text in the trailer identifying him as Governor of Oregon.
12 #INV22. Ms. Hayes had an article in the discussion curriculum entitled *Building a 21st*
13 *Century Sustainable Economy*, which also described her as the founder and CEO of
14 3EStrategies. #INV48. In her emails with the organizer, Ms. Hayes said, "Also, we should
15 promote the fact that the Gov and First Lady will be a part of this. Since this is a volunteer
16 effort on my part I can wear my First Lady hat. That's probably a better draw for really
17 good attendance." #INV8, *Re: Event on April 13th*, email from M. Rosen to C. Hayes,
18 4/6/11.

19

20 In June 2011, Dr. Kitzhaber sent a discussion paper on "Moving Toward a Clean
21 Economy" to Scott Nelson in his office. The discussion paper laid the framework for a
22 meeting to discuss a game plan for moving Oregon toward a clean economy. Dr.
23 Kitzhaber's discussion paper talked about the transition to a clean economy as a growth
24 opportunity for the economy. Mr. Nelson made some minor changes to the document,
25 and Dr. Kitzhaber suggested that the meeting, scheduled for 6/29/11, include eight
26 people, mostly from his staff, including Ms. Hayes. #INV7, Vol.6, *RE: Clean Economy*
27 *Meeting Next Tuesday*, emails from S. Nelson to J. Kitzhaber and J. Kitzhaber to S.
28 Nelson, 6/24/11. Ms. Hayes was not copied on the governor's email containing
29 attachments for the meeting, which was scheduled for 7/6/11. Dr. Kitzhaber said that "the
30 challenge of moving toward a clean economy is the next big item – and is an important
31 component of building a sustainable economy and sustainable jobs going forward." The

1 attachments laid out the broad components of the challenge, and included some elements
2 that would require a regional or multi-state approach. #INV7, Vol.6., *Clean Economy*
3 *Meeting*, email from J. Kitzhaber to C. Robinhold, et al., 7/4/11. It appears that Ms. Hayes
4 may have attended the meeting because she sent an email to several members of the
5 group, including Dr. Kitzhaber, on 7/10/11, with the subject, "Enviro vision and brainstorm
6 session" saying,

7
8 "As promised here is the list of names I captured from our meeting a few days ago.
9 These are the people we thought should attend the discussion session at the Govs
10 [sic] office... As for agenda, we talked about the following:

- 11 • General shore up about how important their issues are to the Administration
- 12 • Strategies/ messaging for enviro movement...
- 13 • Importance of 2013 elections
- 14 • Outline a work plan, gameplan for taking the movement on the offense – bold
15 vision here." #INV7, Vol.6, *FW: Enviro vision and brainstorm session*, email
16 from J. Kitzhaber to R. Whitman, et al., 7/12/11.

17
18 Dr. Kitzhaber forwarded the email to members of his staff, including some additional
19 names as well as proposed legislators to be involved. #INV7, Vol.6, *FW: Enviro vision*
20 *and brainstorm session*, email from J. Kitzhaber to R. Whitman, et al., 7/12/11.

21
22 On 7/15/11, Ms. Hayes forwarded to Dr. Kitzhaber an email she had received regarding
23 concerns that the conservation community had about some actions he had taken. In his
24 response, Dr. Kitzhaber said, "Also the real issues [sic] is to get a process in place for this
25 kind of thing so you (and I) don't have to take unnecessary incoming and burn up time
26 and focus on shadow boxing." #INV8, *RE: Forest Roads Clean Water Case*, email from
27 J. Kitzhaber to C. Hayes, 7/15/11.

28
29 Governor Kitzhaber was clearly concerned about clean economy issues, including asking
30 his staff to review the list of people scheduled to attend the Governor's trade mission to
31 Asia and see if there were additional people who should be added. #INV7, Vol.6, *RE:*

1 *governor mission itinerary and delegation list*, email from S. Nelson to J. Kitzhaber,
2 7/13/11. On 9/7/11, Governor Kitzhaber forwarded to Ms. Hayes an email string that
3 discussed the “buckets” of energy, natural resources, and environment policy issues for
4 which he was working on arranging staffing as well as a strategy, suggested by his Natural
5 Resources Policy Director, of getting a Department of Justice attorney working on coal
6 export issues. #INV7, Vol. 10, *RE.*; email from C. Hayes to J. Kitzhaber, 9/7/11.

7
8 On 10/9/11, Governor Kitzhaber sent out an email addressed to Curtis Robinhold, copying
9 Ms. Hayes and several Governor’s office staff. The subject was “Sustainable Clean
10 Economy -- Policy Development.” The Governor’s email says, “As I mentioned, I want to
11 intentionally build out this policy priority; develop more detail on the restoration and
12 conservation aspects of this as well as the innovation element -- and engage some
13 broader thinking. To do so we need a bit more structured process which I have outlined
14 below. Scott would be the policy staff lead on this overall issue.” Dr. Kitzhaber’s list of
15 steps begins with developing the attached working drafts of his Narrative for a Sustainable
16 Clean Economy and his Sustainable Clean Economy document as a project between Ms.
17 Hayes, several of Dr. Kitzhaber’s staff, and Michael Jung. The same group would develop
18 a charge for an outside work group appointed by the Governor. He hoped to have a final
19 draft of the document by the end of the year, followed by clarifying roles and
20 responsibilities, then designing “roll-out/messaging/communications strategy.” #INV7,
21 Vol.13, *Sustainable Clean Economy -- Policy Development*, email from J. Kitzhaber to C.
22 Robinhold, 10/9/11.

23
24 The drafts that Dr. Kitzhaber attached to the email described changes needed to 1. Get
25 the private sector economy going again, 2. Transform the public education system, and
26 3. Transform the health care system. He summarized the components of a sustainable
27 clean economy as the conservation economy, the restoration economy, and the
28 innovation economy, to create and retain wealth, family wage jobs, and economic activity
29 while reducing the carbon footprint and restoring the natural environment. #INV7, Vol.13,
30 *Sustainable Clean Economy -- Policy Development*, email from J. Kitzhaber to C.
31 Robinhold, 10/9/11.

1
2 When Governor Kitzhaber invited Robert Young from the University of Oregon to meet
3 with him, Ms. Hayes, and some of his staff at Mahonia Hall to talk about realigning public
4 institutions and the economy around a common set of goals and aspirations, he attached
5 to the email a document entitled, "Advancing a Healthy, Resilient Economy" that Ms.
6 Hayes had written about the clean economy, together with his Unified Theory of
7 Everything document. #INV7, Vol.26, *Monday Night Dinner*, email from J. Kitzhaber to R.
8 Young, 4/5/12.

9
10 Publication –

11
12 In 2013, Ms. Hayes had a piece published in a book called Everything We Know About
13 Leadership Is Less Than We Still Have to Learn by Jeff Golden "in dialogue with the
14 American Leadership Forum" (ALF) and others. Ms. Hayes was identified as ALF-Oregon.
15 In her piece, she said, "Now my service as first lady feels something like a doctoral
16 program in leading from beside and behind! After many years working on clean energy
17 and sustainable economy development, I suddenly felt blocked from openly contributing
18 my expertise. I wasn't a state employee or member of the governor's staff, which
19 complicated my participation in certain formal meetings. And even though I wasn't paid
20 for my policy work, the governor's team was concerned about public perception. So my
21 policy development leadership was kept behind the scenes. I was leading from behind...
22 As I grow into this role and strive to make the most of it in service to positive change, I
23 am consciously applying the lessons I learned in ALF." An electronic copy of this book
24 was attached to an email that Ms. Hayes sent to Dr. Kitzhaber, pointing her piece out to
25 him. #INV7, Vol.38, FW: Book, email from C. Hayes to J. Kitzhaber, 8/29/13.

26
27 Email Accounts:

28
29 During Governor Kitzhaber's administration, Ms. Hayes used several email accounts. She
30 used a gmail account whose signature line identified her as First Lady ("First Lady
31 account"). She used a 3EStrategies email account whose signature line identified her as

1 CEO of 3EStrategies ("3EStrategies account"). For a brief period, she also had an email
2 address with Rural Development Initiatives.

3
4 **Ms. Hayes's Consulting Business:**

5
6 According to the Oregon Secretary of State Corporate Division, Ms. Hayes is listed as the
7 registered agent and sole member of 3EStrategies. #INV3. As mentioned above, former
8 Governor Kitzhaber listed 3EStrategies as a Source of Income on his SEI that covered
9 the calendar years 2011, 2012, and 2013. #PR10.

10
11 3EStrategies, according to its website, "works with private companies, government
12 agencies and non-profit organizations to create and promote successful projects and
13 products that contribute to a healthier, more equitable and sustainable economy."

14
15 According to Ms. Hayes's résumé, available on the 3EStrategies website, she has been
16 working as a consultant in the "New Economy" field since 2009. Ms. Hayes describes her
17 mission as "to help accelerate the transition to a sustainable, resilient economy that
18 restores natural systems and improves the wellbeing of people across the income
19 spectrum." She explains that she "carried this passion and expertise into my work as First
20 Lady of Oregon tackling issues related to a faulty economic model and systemic
21 challenges of poverty." #INV1.

22
23 For her career history, Ms. Hayes lists, among others, positions as CEO and founder of
24 3EStrategies (1998 to present), First Lady of Oregon (January 2011-Feb. 2015), and
25 Senior Fellow with the Clean Economy Development Center (Feb. 2011 to August 2012).
26 Under the heading "International Experience (within the past five years)", she states, "Led
27 State of Oregon trade mission to Ghangzhou China to explore carbon-reduction
28 opportunities and lean manufacturing." Under "Additional Experience," she lists, "Political
29 experience, as a candidate, campaign manager, First Lady of Oregon and policy advisor."
30 #INV1.

1 In the Career History section, under the heading "State of Oregon" and "First Lady of
2 Oregon," Ms. Hayes says,

3
4 "As First Lady I launched the Oregon Prosperity Initiative designed to raise
5 awareness about the crises and costs of poverty and implement system-
6 wide strategies to reduce and prevent poverty. This initiative embedded
7 poverty reduction strategies into the Ten Year State Budget Plan and has
8 catalyzed numerous high impact, community-based Prosperity Impact
9 projects.

10
11 I also participated in the development of the Oregon Ten Year Energy Plan
12 and the Oregon Genuine Progress Indicator." #INV1.

13
14 Under the heading, "Clean Economy Development Center" and "Senior Fellow," Ms.
15 Hayes says that her services included:

- 16
17 • "Writing, speaking and shaping narrative for policy innovation to accelerate
18 clean economy developments. Catalyzed and advised on development of
19 multi-state, regional, clean economy policies and initiatives, beginning in the
20 Northwest.
21 • Developed/ promoted adoption of effective, sustainable economic progress
22 metrics." #INV1.

23
24 When Governor Kitzhaber took office in January 2011, Ms. Hayes was already involved
25 with working on environmental issues with other Oregonians, including John Miller,
26 President of Wildwood/Mahonia, Andrea Durbin at the Oregon Environmental Council,
27 and Pat Egan, who appears to have been a Vice President at PacifiCorp. #INV8, *FW:*
28 *From John Miller, email from J. Miller to C. Hayes, et al., 1/26/11; #INV8, RE: next 10*
29 *year energy policy meeting on Feb. 11, email from P. Egan to C. Hayes et al., 2/2/11;*
30 *#INV73. It is not clear whether she was paid for this work, which sometimes involved the*
31 *group asking her to set up meetings with the Governor or his office, whether she did it on*

1 a personal volunteer basis, or whether some of this work was at the request of the
2 Governor as a part of his transition.

3
4 Ms. Hayes's Work during Governor Kitzhaber's Third Term:

5
6 During the period 2011-2013, while former Governor Kitzhaber held the office of Governor
7 of Oregon, Ms. Hayes, his partner, supported herself financially in several different ways:

- 8
9 **1. Rural Development Initiatives:** from February to June 2011, Ms. Hayes was an
10 employee of Rural Development Initiatives (RDI), a nonprofit organization based
11 in Eugene, Oregon. Ms. Hayes held the position of Director of the West Coast
12 Clean Economy Collaborative, an initiative that she was building and for which she
13 was seeking funding;
- 14 **2. Clean Economy Acceleration Fellowship:** from September 2011 to December
15 2012, Ms. Hayes was a Clean Economy Acceleration Fellow with the Clean
16 Economy Development Center. In this role, she advised the West Coast Clean
17 Economy Alignment, worked with the Pacific Coast Collaborative (PCC), gave
18 speeches and wrote on clean economy issues, worked on ocean acidification
19 issues, and worked with Portland State University and Demos on a baseline
20 Oregon Gross Prosperity Index (GPI). She also engaged in fundraising efforts to
21 finance her fellowship or other paid contracts; and
- 22 **3. Private contracts with Resource Media, the Energy Foundation, and Demos:**
23 in 2013, Ms. Hayes entered into contracts with three organizations, Resource
24 Media, the Energy Foundation, and Demos, that continued much of the work she
25 had been doing through the Clean Economy Acceleration Fellowship. Through
26 these contracts, she was paid to work with the West Coast Clean Economy
27 Alignment and PCC, speak and write on clean economy issues, and work on ocean
28 acidification and GPI.

29
30 Rather than being distinct jobs, it appears that Ms. Hayes was doing much of the same
31 work throughout the time period 2011-2013, despite being paid for that work by several

1 different organizations. See Appendix A. It also appears that she was doing some of that
2 same work as First Lady and as a representative of the State of Oregon, including work
3 on the PCC, GPI, and ocean acidification. Some of the speeches she gave during this
4 time may have been on behalf of both the State of Oregon as First Lady and as a
5 deliverable for her fellowship or one of her contracts. During this time, Ms. Hayes
6 continued to seek funding for her fellowship or for other contracts.

7
8 Curtis Robinhold, former Governor Kitzhaber's Chief of Staff, recalled that he and
9 Governor Kitzhaber had an ongoing conversation throughout this time about how Ms.
10 Hayes could continue to do her work, including in which areas she could work. Mr.
11 Robinhold and Ms. Reeves were most concerned about whether she was using her role
12 to make money in the State of Oregon; their sense was that she could continue to do her
13 work outside the state. He recalled that there was "relentless" pressure from Ms. Hayes
14 to find a way for her to change the world and get paid, and that Ms. Hayes's view of how
15 her work was going to go did not align with the constraints of the law and ethics, but that
16 he and the former Governor were trying to find the right way to navigate the situation.
17 Yes, he said, the Governor was aware that this conflict existed.

18
19 Mr. Robinhold recalled having conversations about asking questions of the Ethics
20 Commission and did not know why no questions were submitted, but said that it was up
21 to former Governor Kitzhaber whether or not to ask questions of the Ethics Commission,
22 not up to staff. Mr. Robinhold did not, however, recall any conversation about whether
23 former Governor Kitzhaber himself had a conflict of interest in letting her into the
24 administration when she was getting paid. #INV70.

25
26 **Rural Development Initiatives (February-June 2011) –**

27
28 From 2/1-6/30/11, beginning one month after Governor Kitzhaber took office, Ms. Hayes
29 was an employee of Rural Development Initiatives (RDI), a nonprofit organization based
30 in Eugene, Oregon. According to a press release from RDI, dated 2/5/15, "Ms. Hayes was
31 hired to explore clean economy options for rural communities. The nature of her work was

1 programmatic, helping to design the framework for the Clean Economy Collaborative
2 [which would become the WCCEC], speaking about rural clean economy opportunities
3 and sharing success stories at RDI trainings and events and contributing to the RDI
4 newsletter." #INV9.

5
6 Ms. Hayes was paid \$25,675 for her five months of employment with RDI. #INV65.

7
8 WCCEC Description:

9
10 Before Ms. Hayes started working for RDI, she sent a description of the West Coast
11 Regional Clean Economy Collaborative (WCCEC), the program which she would design
12 and direct while working with RDI, by email to Curtis Robinhold, Governor Kitzhaber's
13 Chief of Staff, saying, "Here you go. Let me know what you think." #INV6, GOV57611-
14 57621, 1/27/11. Governor Kitzhaber was not copied on the email.

15
16 The attached program description listed intended outcomes of the program as:

- 17
- 18 • "Create regional interstate policy initiatives that catalyze greater energy efficiency
19 and utilization of renewable energy.
 - 20 • Create partnerships with Governors, NGO's and clean economy businesses to
21 accelerate in clean economy growth.
 - 22 • Deliver quick wins to demonstrate that clean economy policies and practices are
23 smart economic development strategies.
 - 24 • Streamline clean economy resource production in rural regions." #INV6,
25 GOV57611-57621, 1/27/11.

26
27 The program summary described the political climate and said that the WCCEC would
28 "work with assigned representatives from the Governor's offices in Washington, Oregon
29 and California to stay abreast of state-level policy developments and opportunities for
30 integrating policies regionally... The Collaborative will leverage and enhance the efforts
31 of leading NGOs and local and state government entities that are already engaged in

1 clean economy efforts. The initiative will facilitate relationships between NGO leadership
2 and Governors' offices and key state officials...The Collaborative will not develop
3 independent policy agendas or legislative concepts but will, instead, coordinate and
4 communicate credible policy opportunities being developed by leaders in the clean
5 economy field... The special value added of the WCCEC is its combination of a strong
6 track record working with governors' offices, skill in facilitating collaborative process, deep
7 understanding of rural needs and resources and broad expertise in clean economy issues
8 and policies." #INV6, GOV57611-57621, 1/27/11.

9
10 A key tool of the WCCEC, according to the description, would be "implementation of
11 Strategy Academies. Strategy Academies provide guidance on the implementation of
12 innovative policies and programs at the state and regional level. These Academies focus
13 on specific, practical steps—including executive orders, administrative rule changes, and
14 legislation—to implement effective programs in the near- and long-term. Strategy
15 Academies include experts from think tanks, university research centers, and public
16 opinion firms... Governors are consulted to select the most effective experts. Legislators,
17 other interested parties, and the media are also welcome based on the preference of the
18 participating Governors." #INV6, GOV57611-57621, 1/27/11.

19
20 The deliverables for the program included such things as, "[i]mplement Strategy
21 Academies to launch program in Oregon, Washington and California," "[i]dentify
22 legislative opportunities: work with western states' 2011 legislative sessions to enhance
23 rural clean economy development," and "[i]ntegrate rural interests into the Oregon
24 Sustainable Energy Plan." The budget called for a total of \$801,000 over three years. The
25 WCCEC is described as a joint project of RDI and the Center for State Innovation, with
26 three staff biographies included Ms. Hayes as Program Director and two senior advisors.
27 #INV6, GOV57611-57621, 1/27/11.

28
29 //

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31 //

1 Governor Kitzhaber's Actions during this time period:

2

3 On 2/15/11, Ms. Hayes sent Governor Kitzhaber an email with a subject heading of "Dan
4 D Washington contact" that said, "Here's a ping to ask Dan to let Wa Gov know about the
5 CEC." #INV8, *Dan D Washington contact*, email from C. Hayes to J. Kitzhaber, 2/15/11.

6

7 Three days later, Governor Kitzhaber sent an email to a person named Dan Dixon that
8 said, "I wanted to follow up on the Clean Economy Initiative I sent you."

9

10 Mr. Dixon responded, "Let Cylvia know I got her message. We have missed one another.
11 I will try to reach her over the weekend. I have at least one good opportunity in play. I'm
12 nonplussed at our cranky environment here. Let's definitely chat about what we can do.
13 Proud of you."

14

15 Governor Kitzhaber forwarded the email to Ms. Hayes with the note, "On the job." Ms.
16 Hayes responded, "Thanks, Dear. I will call Dan shortly." #INV8, *RE: catching up*, email
17 from C. Hayes to J. Kitzhaber, 2/19/11. No further information is available to indicate
18 whether these emails refer to the WCCEC that Ms. Hayes was working on.

19

20 On 2/21/11, Governor Kitzhaber sent Ms. Hayes an email that appears to reference her
21 work at RDI. In the email, he says,

22

23 "Let me start by saying that I appreciate that everything you are feeling right now
24 is legitimate: the concern about where the early funding is going to come from; the
25 distaste to be fundraising again for your job; the sense of isolation; the feeling that
26 you and I are not saving the world together. So let me just share a few thoughts.

27

28 First, I will continue to do everything I can to make sure that the bridge funding
29 comes through and will use my own resources if necessary. I am getting an update
30 this Friday which will hopefully offer some encouragement. And as I said to you a
31 few days ago, I think you need to lean into the WORK over this next month and

1 concentrate on the foundation front (I believe that I can send support letters to
2 foundations) for the longer term funding of what is a very exciting program.

3
4 I also think this will come together with "my" work to become our work. I don't want
5 to give you any more to do but I have attached the Transition Team Report on
6 Early Childhood which speaks to exactly the kind of system thinking and system
7 integration we need to do in the clean-economy/environment-climate change
8 work... It offers a good template and can offer a roadmap for the work (our work)
9 we can pick up once I get the budget balanced.

10
11 It seems to me that we can begin to discuss how we want that integration to happen
12 here in Oregon and what steps we can begin to put in place even now while the
13 focus is on the budget and Education/Healthcare transformation. I see the work
14 you are getting set up with the [West Coast Clean Economy Collaborative] as
15 converging with the education/social service transformation I am counting on to
16 make the budget work. I see us doing this together and realizing our dream of
17 saving our planet as a team. That is going to happen.

18
19 I also think that getting you set up in the office will be an important step to get you
20 out of that big house and around your loving peeps (especially this peep) during
21 the work day. I will get on that as soon as I get back and we will have the Green-
22 Goddess/Earth Star/FL space organized." #INV8, FW: A few words from your
23 mate, email from J. Kitzhaber to C. Hayes, 2/21/11.

24
25 It is not clear from the email to what "bridge funding" refers.

26
27 Fundraising for RDI:

28
29 Beginning around the same time, Ms. Hayes was contacting various entities to raise
30 money to support her work. For example, she exchanged emails with Guido Rahr, who
31 was President and Chief Executive of the Wild Salmon Center, as well as a fishing partner

1 of former Governor Kitzhaber, regarding two possible funders, Jubitz (apparently the
2 Jubitz Family Foundation) and Forest Capital Partners. #INV8, *RE: Jubitz*, email from C.
3 Hayes to G. Rahr, 2/24/11; *RE:*, email from C. Hayes to P. McCaig, 3/2/11; see also
4 #INV8, *Re: Weekend at Dant - December 8-10?*, email from J. Murdock to J. Kitzhaber,
5 10/9/12. Mr. Rahr forwarded a document describing Ms. Hayes's work with RDI to Forest
6 Capital Partners. The attachment was no longer attached to the email when it was
7 released to the public. Ms. Hayes sent the email thread on to Patricia McCaig, who was
8 advising the Governor on the Columbia River Crossing. Ms. Hayes suggested that it might
9 make sense for Ms. McCaig to contact Matt Donegan at Forest Capital Partners; Ms.
10 McCaig said that she would do so and asked if Ms. Hayes had an amount in mind. #INV8,
11 *RE:*, email from C. Hayes to P. McCaig, 3/2/11; *see also* #INV10.

12

13 Within the Governor's Office:

14

15 By March 2011, Governor Kitzhaber's office was developing responses to questions
16 about Ms. Hayes's work at RDI and whether it constituted a conflict of interest. Ms. Hayes
17 sent an email to Curtis Robinhold and Tim Raphael saying,

18

19 "Given that I have spent another day immersed in dealing with reporters I want to
20 reiterate that I'd like some help in getting ahead of the curve on this. Tim suggested
21 that I write up the questions and answers I've been dealing with and doing [sic]
22 out. I would prefer that you guys think through the tough questions to the various
23 audiences we noted and your suggested talking point [sic]. I will fill in my responses
24 from my position and we can go from there. What I'd like is some help on the front
25 end so that I am not alone in dealing with all of this incoming." #INV6, GOV50661-
26 50662, 3/11/11.

27

28 Mr. Robinhold responded:

29

30 "Tim's crew will put together bullets for the Governor's Office on these issues, and
31 will also address the issues relating to your role as First Lady (hunger issues, etc.).

1
2 I believe Tim was suggesting that you should prepare Q&A on your private
3 business activity for your own use. We can't help you with those issues, of course,
4 but will get started on the Govs Office stuff right away." #INV6, GOV50661-50662,
5 3/11/11.
6

7 The proposed responses for the Governor's office, sent from Curtis Robinhold to Ms.
8 Hayes, who forwarded it to Governor Kitzhaber, contained drafted responses for Ms.
9 Hayes, Governor Kitzhaber, RDI, and RDI funders to possible questions from the media.
10

11 These included, for Ms. Hayes:

12
13 *"Q: Are you concerned about appearances or potential conflicts? How will you*
14 *separate your role as First Lady from your position at RDI?*
15

16 **A:** I will not be soliciting any State funds, nor will I use my position as First Lady or
17 the Governor's position to solicit any funds for the project.
18

19 I will continue to work on WCCEC in my personal time, and pursue the
20 responsibilities of First Lady in promoting anti-hunger programs and the State of
21 Oregon generally. John is very supportive of my work and of the organization, but
22 neither the Governor nor I will use the office in any way to benefit ourselves
23 financially.
24

25 *Q: What about the appearance that those who contribute to your project might be*
26 *trying to win favor with the Governor?*
27

28 **A:** Again, the Governor will not be asking anybody for money for the project, and I
29 will be focussed [sic] on foundation funding. I think RDI is a terrific non-profit
30 organization and worth contributing to.
31

1 *Q: Have you solicited any legal advice on what guidelines apply as far as conflicts*
2 *of interest?*

3
4 **A:** Everyone in the Governor's office has been briefed on Oregon's ethics laws.
5 There are no conflicts, but I will certainly address any issues should they arise."
6 #INV8, FW: Q&A draft 1, email from C. Hayes to J. Kitzhaber, 3/13/11.

7
8 For Governor Kitzhaber:

9
10 *"Q: Do you think there is any reason to be concerned about appearances or*
11 *possible conflicts?*

12
13 **A:** No, because there isn't a conflict. I will not raise money for Cylvia's project, and
14 neither Cylvia nor I will use the office in any way to benefit ourselves financially.
15 My office will be vigilant about addressing any issues should they arise.

16
17 *Q: What about the appearance of contributors to Cylvia's project trying to gain*
18 *favor with you?*

19
20 **A:** Again, I'm not asking anyone for money.

21
22 *Q: How can Cylvia be First Lady and work in a policy position?*

23
24 **A:** Cylvia is a modern woman with a professional career. Like any Oregonian, she
25 has every right to earn a living. She loves what she does and she's good at it.

26
27 *Q: Are you concerned that Cylvia is "walking a political tightrope?"*

28
29 **A:** I am very happy for Cylvia to be able to get back to her work on energy and
30 sustainability issues. Her professional experience and expertise will be a real asset
31 to RDI and the Northwest." #INV8, FW: Q&A draft 1, email from C. Hayes to J.

1 Kitzhaber, 3/13/11.

2
3 Other questions were for funders, such as “Why did you contribute to RDI? You have
4 been a contributor to the Governor, and his companion, Cylvia Hayes, works for RDI. Are
5 you trying to gain favor or access with the Governor?” and for RDI, with questions like,
6 “Why did you hire Cylvia Hayes?” The document described Ms. Hayes’s work with RDI
7 as “focus[ing] on policy collaboration between West Coast States to advance economic
8 development initiatives that support environmental protection and restoration, energy
9 security, and economic opportunities.” #INV8, *FW: Q&A draft 1*, email from C. Hayes to
10 J. Kitzhaber, 3/13/11.

11
12 In a response to Mr. Robinhold, on which Governor Kitzhaber was not copied, Ms. Hayes
13 suggested that they should also come up with responses for Governor Kitzhaber to
14 “general questions about my involvement with policy within the Administration. I can
15 envision people asking when I attend policy briefings am I being paid by RDI? Why am I
16 part of the policy developments? How much influence does Cyl have etc.? I was asked
17 similar questions by Jeff Mapes.” #INV58.

18
19 The Bend Bulletin published an article about Ms. Hayes’s employment with RDI on
20 3/13/11, which quoted Ms. Hayes saying, “I have stepped back from my consulting work
21 and chosen to route my work through this really credible not-for-profit organization to
22 avoid any potential conflict of interest – and as many of the perception challenges as
23 possible.” The article also stated, but did not provide a quote, that the Executive Director
24 of the OGEAC, Ron Bersin, said that the Commission had not been asked whether there
25 were implications for Governor Kitzhaber and Ms. Hayes. #INV20.

26
27 In June 2011, Governor Kitzhaber taped remarks for the RDI rural conference. #INV7,
28 Vol. 3, *Talking points - taping for RDI rural conference*, email from J. Murdock to J.
29 Kitzhaber, 6/3/11. Ms. Hayes was, at the time, employed by RDI.

30
31 In emails from her RDI email address, including one sent on 3/14/11 and one on 4/1/11,

1 which Ms. Hayes later forwarded to Governor Kitzhaber and his scheduler, Jan Murdock,
2 Ms. Hayes's signature line describes her as "Director, West Coast Clean Economy
3 Collaborative." #INV8, RE: [Bulk] RE: Cylvia in Seattle, email from J. Kitzhaber to C.
4 Hayes, 4/6/11.

5
6 WCCEC Meetings:

7
8 In early April 2011, Ms. Hayes and Andrea Durbin, Executive Director of the Oregon
9 Environmental Council, began emailing to plan calls and meetings between participants
10 from Oregon, Washington, and California for the WCCEC. Ms. Durbin suggested May 11-
11 12 as a date that worked for Washington participants, the Rockefeller Brothers Fund
12 (RBF) and the Energy Foundation. "I'm crossing my fingers it works for you and JK for
13 dinner at least!" she said. Ms. Hayes responded that those dates worked for her, but "I
14 don't yet know about JK. However, I think we may need to think this through and move it
15 back a little bit to ensure we can get OR and WA governors and the other big foundations
16 – Rockefeller B, Turner, etc... My thinking is that at the end of this we put together a big
17 request that will fund all of us and make the ask of these big foundations." #INV8, *Finally!*,
18 email from C. Hayes to C. Hayes, 4/8/11.

19
20 The draft agenda for a "Tri-State Climate/Clean Energy Strategy Meeting" began with
21 inviting Governor Kitzhaber to join for dinner or dessert to talk with the group. #INV8, *Re:*
22 *Finally! – back at you*, email from A. Durbin to C. Hayes, 4/8/11. Three days later, Ms.
23 Durbin sent Ms. Hayes a draft invitation to the strategy meeting on May 11 and 12, "to
24 develop a shared agenda to propose to the Governors of Washington, Oregon and
25 California, and map out a strategy for how we'll make tangible progress in the next 2 years
26 on climate and clean energy policy at the regional level." The letter, which had both Ms.
27 Hayes and Ms. Durbin listed in the signature line, stated, "We expect to be joined for
28 dinner by Oregon's Governor Kitzhaber." #INV8, *invitation and invite list: ready to go on*
29 *Tuesday*, email from A. Durbin to C. Hayes, 4/11/11.

30 //

31 //

1 It is not clear from Governor Kitzhaber's calendar whether he attended the dinner,
2 although his attorneys' letter to the Commission in this matter indicates that he did attend
3 the dinner because it was "an opportunity to address the frequently tribal NGOs and
4 foundations as a group, and Governor Kitzhaber considered it good policy to promote
5 their alignment behind the substantive policies coming out of the West Coast governors'
6 offices. He did not attend the dinner, however, to advance Ms. Hayes's employment or
7 funding prospects." #INV64, p. 12-13; #INV67.

8

9 WCCEC Funding:

10

11 In May 2011, Ms. Hayes sent a copy of the WCCEC funding request to Michael Northrop
12 at the Rockefeller Brother Fund (RBF), asking for his thoughts on it. The proposal sought
13 funding from the governors' offices of Oregon and Washington (in kind), the federal
14 Economic Development Administration, foundations, partner organizations (in kind).
15 #INV40, pp. 36-40.

16

17 Among other things, her proposal said that the WCCEC would "coalesc[e] the Governors,
18 key not-for-profits, rural leaders and businesses in developing a common agenda and
19 implementing complementary strategies for those top priority opportunities... In essence,
20 we will function as glue, bringing the various parties together and supporting the
21 Collaborative partners to maximize outcomes... As requested by Governors and other
22 Collaboration participants... the WCCEC will convene policy design exercises, working
23 sessions, and follow up meetings with participating organizations, state executives and
24 rural leaders as needed to develop specific policies, investment and funding mechanisms
25 and other economic development tools and to facilitate an ongoing unified approach in
26 implementing the strategies targeting the top priority areas." The proposal aimed for "an
27 integrated clean economy policy agenda between the states of OR, WA, and CA" by the
28 end of 2012. #INV40, pp. 36-40.

29 //

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31 //

1 Ethics Questions:

2

3 In June 2011, Governor Kitzhaber forwarded to Ms. Hayes an email from a supporter.

4 The Governor's accompanying note to Ms. Hayes said:

5

6 "As I said in my earlier email I know how hard this time is for you. But you are not
7 alone ... I stand ready to help and support you in any way. I am getting a list of
8 possible questions for the Ethics Commission to give us clarity one way or the
9 other; when you come up for air let me know your monthly expenses so I can
10 calculate cash flow financing to allow you to be the Energy/Clean Economy Guru
11 for the administration if it comes to that. Mostly I think we need a clear plan
12 forward." #INV8, *FW: last evening*, email from J. Kitzhaber to C. Hayes, 6/2/11.

13

14 The Government Ethics Commission did not receive a request for advice regarding this
15 matter in June 2011. Former Governor Kitzhaber, through his attorneys, told the
16 Commission during this investigation that

17

18 "... [I]n June 2011, he considered asking the Ethics Commission questions related
19 to Ms. Hayes's private work for Rural Development Initiatives (RDI), through which
20 she had established the West Coast Clean Economy Collaborative ("WCCEC").
21 The list of potential questions he had considered posing to the Ethics Commission
22 at that time all concerned the WCCEC. He ultimately did not pursue an opinion
23 from the Ethics Commission because Ms. Hayes left her employment at RDI (and
24 consequently the WCCEC) at the end of June 2011, rendering moot the questions
25 that he had intended to submit to the Commission. In retrospect, however, former
26 Governor Kitzhaber regrets not having requested an opinion from the Ethics
27 Commission on the broader question regarding the parameters within which Ms.
28 Hayes could have sought paid work for non-profit organizations." #INV66.

29

30 The Commission first received a request for advice from Governor Kitzhaber's office
31 regarding Ms. Hayes in October 2014.

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Leaving RDI:

An undated "Response to Recent Media Coverage Regarding Cylvia Hayes's Employment with RDI" on the RDI website states that Ms. Hayes left RDI because "after five months of effort no funding had been secured for this body of work and because her schedule became increasingly busy." #INV9.

After RDI:

Ms. Hayes's employment with RDI and therefore her position as director of the WCCEC ended in June 2011, but on 7/27/11, she sent an email to Mr. Robinhold asking to debrief him and other governor's office staff "about the call I just had with the leading energy NGO's from Washington, Oregon, California. Some interesting intelligence that has relevance to our west coast collaborative. Can we set up a quick phone call?" #INV6, GOV28552-28553, 7/27/11.

Clean Economy Acceleration Fellowship (September 2011-December 2012) –

It appears that at least some of the work that Ms. Hayes was doing for RDI, namely work on West Coast clean economy issues, continued via a Clean Energy Acceleration Fellowship through the Clean Economy Development Center (CEDC).

Fellowship Proposals and Funding:

In June 2011, Dan Carol sent an email to Michael Northrop at RBF, and to Katie McCormack and Marcus Schneider at the Energy Foundation (EF). He attached a one-page fellowship description for a Regional Acceleration fellowship through the Clean Economy Development Center (CEDC). "My sense is that we are all ready when you are to whip up a 9 month-1 year work plan for the first fellowship and move forward based on a 100k budget from RBF and EF, and feel confident we can raise the rest when we get

1 the 100% go sign from EF," he said. "I recommend that Cylvia Hayes be the first fellow
2 given the opportunities we all agree exist in the Northwest." #INV40, pp. 48-49. Mr. Carol
3 was not yet working for Governor Kitzhaber. According to his LinkedIn profile, he worked
4 for NDN/New Policy Institute in Washington D.C. until September 2011. His LinkedIn
5 profile states that he started working for Governor Kitzhaber as Director of Multi-State
6 and Strategic Initiatives in October 2011. #INV49.

7
8 Ms. Hayes sent an early draft of the CEDC Regional Acceleration Fellowship description
9 and workplan to Michael Northrop at RBF and Katie McCormack and "Marcus" at the
10 Energy Foundation in July 2011, the work plan called for the fellow to:

- 11
- 12 • "Develop an integrated structure for a West Coast Clean Economy Initiative that
- 13 links local initiatives, state government, advocacy groups and the private sector.
- 14 • Develop the policies and financing mechanisms necessary for a collaborative
- 15 energy efficiency initiative between the states of Oregon and Washington (and lay
- 16 the foundation for the inclusion of California).
- 17 • Guide the development of the Oregon Ten Year Energy Plan and identify regional
- 18 component opportunities in the Oregon and Washington energy plans.
- 19 • Provide policy review and recommendation components to selected regional clean
- 20 economy roadshows.
- 21 • Provide additional capacity and policy expertise to the Gulf Coast Sustainable
- 22 Economies Project.
- 23 • Speak at and write for strategic venues as identified by the CEDC team."#INV40,
- 24 pp. 56-58.
- 25

26 The Goals / Intended Outcomes for Year 1 included "catalyze a bold, inspirational clean
27 energy vision in Oregon and Washington," "Establish collaborative bi-state energy
28 efficiency initiative in Oregon and Washington," and "Raise awareness about clean
29 economy opportunities among political leaders, Governors, Governors' spouses,
30 Governors' staff, economic development organizations, rural leaders, 30-55 year old
31 aspiring patriots." #INV40, p. 58. Jeffrey King, the director of the CEDC, copied Ms. Hayes

1 on another draft to the same 3 people six days later, with the language about raising
2 awareness among Governors, spouses, and staff removed. #INV40, pp. 53-55.

3
4 In July 2011, Mr. Northrop sent Governor Kitzhaber a draft agenda for a Pacific Coast
5 Clean Energy Economy Initiative "Sherpa Meeting" to be held in early to mid-August 2011.
6 The objectives, according to the draft, were "define scope of initiative," "confirm
7 commitment to pursuing initiative," "determine initial activities and target outcomes and
8 timeline," and "plan next steps." The meeting was to be sponsored by RBF/Michael
9 Northrop, Energy Foundation/Katie McCormack, and Marcus Schneider. Participants
10 included representatives from Washington, Oregon, and California; the named Oregon
11 representatives were Governor's office staff members Dan Carol, Scott Nelson, and
12 Curtis Robinhold. #INV6, GOV28990-28993, 7/25/11. As noted above, Mr. Carol was
13 apparently not yet employed by the Office of the Governor.

14
15 Mr. Northrop addressed the email to Governor Kitzhaber and Dan (presumably Dan
16 Carol), asking for edits on the draft agenda and input on logistical details. Governor
17 Kitzhaber copied Jan Murdock and Ms. Hayes on his response, saying, "This looks fine.
18 I will work with Jan Murdock to find a time that works for everyone. As I mentioned I plan
19 to send Scott Nelson, Dan Carol and possibly my Chief of Staff. I would like to ask that
20 Cylvia be kept in the loop on this even though she will not be attending this meeting."
21 #INV6, GOV28990-28993, 7/25/11.

22
23 At the end of August, Mr. Northrop sent Governor Kitzhaber a document that Mr. Northrop
24 described as "some preliminary potential analysis of potential policy options for a tri-state
25 CLEAN ENERGY ECONOMY initiative." "I can describe this briefly on the phone today,"
26 he said. The attached document was a list of possible multistate actions "that could result
27 in triple win outcomes (economic, energy, and environmental) with that are [sic] also
28 ranked highly for economic stimulus form initial investment and that are candidates for
29 creative financing mechanisms." Governor Kitzhaber forwarded the document to Ms.
30 Hayes. #INV8, FW: For our 8:30 am call if you have tie [sic] to look at it.. I will be on my
31 cell [redacted], email from J. Kitzhaber to C. Hayes, 9/2/11. Around the same time, the

1 Clean Economy Development Center was applying for funding for Ms. Hayes's fellowship
2 from RBF, Michael Northrop's organization.

3

4 On 9/13/11, Mr. Northrop sent another email, whose recipients are not visible, saying,
5 "Thanks everyone for your personal energy and commitment to trying to find ways forward
6 on energy and economy. In a short time we discussed quite a lot and found several areas
7 for potential collaboration. A good start. It felt, as well, like there might be a longer list of
8 potential topics to collaborate on over the next several years if we can get this first phase
9 done well. Katie, Marcus and I will be back to you with notes and also with a first, very
10 rough draft document that we expect you will tear to shreds several times over." Mr.
11 Northrop thanked Governor Kitzhaber's staff for helping to organize the meeting.
12 Governor Kitzhaber responded a few days later, copying Ms. Hayes and saying, "Thanks
13 for this. I look forward to seeing your draft document. And could you please copy Cylvia
14 on all this as we are pretty much joined at the hip in this policy space." #INV7, Vol.11, RE:
15 *Clean Energy Economy Initiative meeting*, email from J. Kitzhaber to M. Northrop,
16 9/21/11.

17

18 Several years later, Ms. Hayes apparently asked Mr. King for the letters that had been
19 submitted to RBF and the Energy Foundation. Mr. King forwarded them to her. The two
20 letters from the Clean Economy Development Center (CEDC) to the Rockefeller Brothers
21 Fund and the Energy Foundation, dated 8/17/11 and 8/22/11, proposed one fellowship in
22 2011, two in 2012, and three in 2013. The letter to RBF was addressed to Michael
23 Northrop. The letter to the Energy Foundation was addressed to Katie McCormack.
24 #INV6, GOV280-285. Both Mr. Northrop and Ms. McCormack were involved with the
25 Governor's office in planning and leadership of the meeting on 9/13/11, described above.
26 #INV6, GOV28990-28993, 7/25/11; #INV7, Vol.11, RE: *Clean Energy Economy Initiative*
27 *meeting*, email from J. Kitzhaber to M. Northrop, 9/21/11.

28

29 According to the letters, fellows would work on Clean Economy Roadshows that brought
30 together state, federal, and private stakeholders "to accelerate the implementation of
31 clean economy projects and outcomes" in the region. Fellows would also "[a]dvise on

1 CEDC regional plans and lead in the development of new, multi-state, regional initiatives,
2 beginning in the Northwest,” and “[w]rite, speak and evangelize for policy innovation to
3 accelerate clean economy developments at the state and multi-state regional levels.” The
4 work plan for 2011 included communications and publicity, speaking and writing, work on
5 the roadshows, consulting for the Gulf Coast Sustainable Economies Project, and
6 networking and engaging diverse, strategic stakeholders in clean economy conversation
7 and development. The goals for that year included: promoting multi-region policies,
8 projects, success stories and models, and raising awareness about clean economy
9 opportunities with, among others, political leaders. #INV6, GOV280-285.

10
11 According to the accompanying email from Jeffrey King, the Executive Director of the
12 CEDC, these formal letters were submitted to the Energy Foundation and the Rockefeller
13 Brothers Fund, who “accepted these proposals and funded the program with the
14 understanding that you and Jules Bailey would be the senior fellows.” Ms. Hayes
15 forwarded the fundraising letters to Liani Reeves, the Governor’s legal counsel. #INV6,
16 GOV280-285.

17
18 The Rockefeller Brothers Fund and the Energy Foundation provided funding for Ms.
19 Hayes’s Clean Economy Acceleration Fellowship in 2011 and 2012, and for her contract
20 with the Energy Foundation in 2013. While RBF was funding Ms. Hayes’s work, she sent
21 Mr. Northrop periodic updates by email that included, “Just wanted to let you know that it
22 looks like the West Coast Governors will be making a joint clean economy acceleration
23 announcement at the Globe Conference in March.” (1/30/12) and “Attached is the DRAFT
24 write up of the economic paradigm shift we are working on. This reflects an evolution in
25 my thinking that the work on clean economy, poverty, ocean health and the big systems
26 work of the Kitzhaber administration may be headed toward being greater than the sum
27 of their parts. We certainly need a saner economic model,” (3/11/12) #INV40, pp. 2, 47.

28 //
29 //
30 //
31 //

1 September 2011: First Lady/Policy Protocol –

2

3 Around the time that the fellowship was being finalized, the Governor, Mr. Robinhold, and
4 Ms. Hayes were discussing Ms. Hayes's role in the office and her private work. In a
5 document from September 2011, entitled First Lady/Policy Protocol, Ms. Hayes's focus
6 areas are listed as poverty/hunger, at-risk youth, ocean health, and clean economy
7 (Governor's office priority). This appears to be a draft document. It was written by Curtis
8 Robinhold and circulated to Ms. Hayes and Governor Kitzhaber, who both made
9 comments within the text. This document was provided to OGEC by Ms. Hayes as part
10 of the submission her Federal Public Defender made to the US Attorney's office in the
11 federal criminal investigation. #PR9; #INV64.

12

13 Media/Communications – In the first area, Media/Communications, the objective listed is
14 "to maintain Cylvia's role as an effective channel for moving the Governor's agenda in the
15 focus areas and to support the broader advocacy of the Governor's office." The document
16 goes on to say, "When making policy-oriented speeches on her Focus Areas, the First
17 Lady will coordinate her schedule and talking points with the communications staff and
18 the relevant policy advisor, notifying XYZ² of speaking engagements and running talking
19 points by staff as appropriate." #PR9.

20

21 Ms. Hayes added a comment that said, "I think all my speeches – policy, advocacy,
22 human interest – should be coordinated with the policy advisors and communications
23 staff. My intent here is to lean in and use my First Lady position to the best of my ability
24 to make our administration as effective as possible. That being said, there is a fine line
25 for me as I am not comfortable just being a mouth piece for others' agendas. THAT being
26 said, I know there isn't much daylight between my values and JKs so it shouldn't be a
27 problem." #PR9.

28 //

29 //

2 The draft reads "XYZ." No policy advisor is identified.

1 Governor Kitzhaber added a comment that said, "I think we need to more clearly articulate
2 the objectives/vision in the first three areas and the staff support time that will be involved.
3 But basically this part of the protocol is fine."
4

5 Ms. Hayes commented that she wanted to make a major impact in the area of poverty
6 and hunger but did not see herself doing much on the at-risk youth issue independent of
7 her work on poverty and hunger. She said,
8

9 "Ocean Health. I am still not clear on how to best help on this issue. I definitely
10 want to advocate and speak out about the fact that our oceans are in serious
11 trouble. I have had a lot of folks suggest that I take a policy-oriented role and I am
12 happy to convey ideas, but I don't have the bandwidth to get into the weeds on
13 policy issues... I would really love some help from JK, Curtis, Richard W in thinking
14 through my angle on this one. As John and I have talked about it may be helpful
15 to actually appoint me to a position associated with this issue...

16 Clean Economy. This is the area that I have real value to add from a policy
17 perspective. That being said, I do NOT have any desire to spend time drilling down
18 into really specific policy data. My best value add here is articulating vision,
19 connecting dots, sharing best practices and helping our administration go bold
20 strategically." #PR9.
21

22 Policy Advocacy – the objective in the Policy Advocacy section was "to forward the
23 relevant policy agenda, maintain policy focus in the Governor's office, maintain the
24 integrity and effectiveness of the Governor's Senior Policy advisors, and keep a
25 consistent voice on policy from the administration." #PR9. The document went on to say,
26 "Policy advisors are the owners of the policy agenda for all aspects of the Governor's
27 Office. Cylvia's primary role is to be a spokesperson and an advocate for that agenda."
28 Ms. Hayes commented, "Cylvia needs to be more than just a mouthpiece. I would never
29 go rogue (without great cause ☺) but I am not just a mouthpiece. I need to feel like a co-
30 author in the agenda I am promoting." #PR9.

1

1 Governor Kitzhaber responded in this section, saying,

2
3 "This all makes sense from the standpoint of lines of communication – but it does
4 not speak to how Cylvia play a role in policy development and advocacy. And this
5 brings us to her fourth focus area – the Clean Economy – which is a priority of the
6 Governor's Office.

7
8 Resolving this is complicated by the fact that we do not yet have a clear policy on
9 the clean economy; and that this area has an overlap between energy, natural
10 resources, the environment and economic development...

11
12 I think the real challenge involves definition and coordination.

13
14 We need a process to define and develop our policy around the clean economy
15 and Cylvia needs a role in that process because this is her area of expertise and
16 she can add value. Once we have completed this process we will be in a better
17 position to clarify roles and coordination with senior policy staff and Cylvia.

18
19 One important point is that Cylvia needs to be advocating the same clean economy
20 policy in her role as spokesperson/advocate for the Governor's Office and her role
21 as a Clean Economy Fellow. There cannot be any daylight between them. But this
22 is another reason why she needs a role in developing the policy itself.

23
24 Next Steps:

- 25 ➤ Define a sustainable clean economy
- 26 ➤ Describe the policy development process
- 27 ➤ Define Cylvia's role as a spokesperson/advocate." #PR9.

28
29 Ethics/Identification of Potential Conflicts – the objective in this section is "to obey in all
30 cases the letter and intent of the law, and to avoid any cases where Cylvia's work with
31 the Governor's Office is anything but positive." The document then says, "If Cylvia is being

1 paid by private sector clients in Oregon working on energy issues, she will not participate
2 in policy discussions on energy issues for the duration of that contract." #PR9.

3
4 Ms. Hayes commented, "I need more clarification here. Is this really mutually exclusive if
5 I sign a conflict of interest form? If so, I will pretty much have to either forgo all consulting
6 or any policy involvement with our Administration." #PR9.

7
8 The document continues, "In regard to her Fellowship, Governor's Legal Counsel will
9 work with Cylvia to complete the Declaration of Potential Conflict of Interest form. That
10 Declaration will be treated in the same method as any potential conflicts from staff: the
11 declaration to be signed and shared with the relevant manager – in this case Chief of
12 Staff Curtis Robinhold." Ms. Hayes commented, "It was my recollection that the Conflict
13 of Interest form was regarding my current waste to energy client not the fellowship."
14 Governor Kitzhaber commented, "I think there may be a qualitative difference between
15 the ethics/conflict of interest issues in Cylvia's role as a private sector contractor; her role
16 as a spokesperson/advocate for the administration; and her role as a Clean Energy
17 Fellow. We should discuss this further with Liani [Reeves, the Office of the Governor's
18 Legal Counsel]." #PR9.

19
20 Ten Year Energy Plan:

21
22 In October 2011, Governor Kitzhaber forwarded Ms. Hayes the draft work plan for a 10-
23 year energy plan for Oregon, which included proposed leadership, staffing, design teams,
24 and a timeline. Governor Kitzhaber said to Ms. Hayes, "Looks good to me but wanted to
25 get your comments." Ms. Hayes responded, "Well, I'm not totally OK with the fact that it's
26 my vision, my idea and I have no role at all. I have assumed all along that I'd have a part
27 to play in the overarching vision and direction for this. My work on the [Renewable Energy
28 Working Group] and the Green Jobs Plan lends itself to this project." #INV7, Vol.13, RE:
29 *Staffing for ten year plan*, email from J. Kitzhaber to C. Hayes, 10/9/11.

30
31 "And that is exactly why I sent the draft to you," Governor Kitzhaber said. "What do you

1 have in mind?" #INV7, Vol.13, RE: Staffing for ten year plan, email from J. Kitzhaber to
2 C. Hayes, 10/9/11.

3
4 Ms. Hayes said, "Well, I'd like to steer rather than row on this one. I think it would probably
5 make the most sense if I were on the Policy Advisor team. I don't want to be down in the
6 weeds on this but I would like to be able to influence overall direction and make sure this
7 is inspired as well as practical." #INV7, Vol.13, RE: Staffing for ten year plan, email from
8 J. Kitzhaber to C. Hayes, 10/9/11.

9
10 "Makes perfect sense to me," Governor Kitzhaber said. #INV7, Vol.13, RE: Staffing for
11 ten year plan, email from J. Kitzhaber to C. Hayes, 10/9/11.

12
13 Governor Kitzhaber's office released the 10-Year Energy Action Plan on 12/14/12. Ms.
14 Hayes was listed in the Task Force Leadership as First Lady of Oregon. The list also
15 included seven policy advisors and other staff from the Office of the Governor as well as
16 members of outside organizations. #INV13.

17
18 November 2011: Conflict of Interest Meeting –

19
20 On 11/4/11, Curtis Robinhold, the Governor's Chief of Staff, requested a meeting between
21 himself, Ms. Hayes, and the Office of the Governor's Legal Counsel, Liani Reeves. "Can
22 we three talk potential conflict issues and how to declare the [sic] in the next week or so?"
23 he asked. Ms. Hayes agreed to the meeting and told him to work with her assistant, Mary
24 Rowinski, to schedule the meeting. #PR9. No further information about this meeting or
25 Governor Kitzhaber's knowledge of it is available.

26
27 Speeches and Meetings:

28
29 During the period when she was a fellow with the Clean Economy Acceleration
30 Fellowship, Ms. Hayes made numerous visits, meetings, and speeches as First Lady of
31 Oregon on topics that included clean economy and ocean issues. She also wrote about

1 the issues. In February 2012, while on a trip to Washington D.C. for a National Governors
2 Association meeting, Ms. Hayes requested a meeting and field trip to learn more about
3 the Chesapeake Bay. The National Ocean Council arranged the trip, which featured in a
4 Spring 2012 newsletter from the US Department of the Interior. The newsletter identified
5 her as First Lady of Oregon and noted that she had identified healthy oceans as one of
6 her top priorities. #INV8, *DOI Newsletter*, email from J. Hamilton Keys to C. Hayes, 5/3/12.

7
8 Around the same time, Ms. Hayes sent an email to Ben Ward, a Special Assistant on
9 Multi-State Initiatives and Workforce Policy in Governor Kitzhaber's office, saying,
10 "Please send over a few of the clean economy success story case studies." Mr. Ward
11 responded, "Here is what I've compiled with regard to clean economy success stories.
12 Let me know if you need anything else!" He attached seven documents containing stories
13 about sustainability, energy efficiency, and alternative energy sources. #INV8, *FW:*
14 *reminder*, email from C. Hayes to C. Hayes, 3/3/12. Collecting clean economy success
15 stories was one of the deliverables for Ms. Hayes's Clean Economy Acceleration
16 Fellowship.

17
18 Ms. Hayes gave a speech in Port Orford, OR on 2/11/12 to celebrate the release of a film
19 called *Ocean Frontiers*, in which Port Orford had been featured. In this speech, she said
20 that she had been working on poverty and hunger issues as First Lady. "By nurturing a
21 culture where innovation and creativity thrive, where our solutions support quality, family-
22 wage jobs, you are propelling us toward a future that is more prosperous and sustainable
23 over time," she said. She also announced in the speech that, as First Lady, she would be
24 championing ocean health issues. Her intent, she said, was to raise awareness about the
25 economic and environmental importance of ocean and marine resources. "I believe
26 making the transition to a more resilient, prosperous, environmentally-sound economy is
27 the greatest challenge and opportunity of our generation," she said. Ms. Hayes sent the
28 speech to Governor's office staff and Ed Bowles at the Oregon Department of Fish and
29 Wildlife for review. Mr. Bowles made some comments for her to consider. #INV6,
30 GOV194642-194647.

1 In March 2012, Governor Kitzhaber and Ms. Hayes attended the Pacific Coast
2 Collaborative meeting in Vancouver, B.C. The protocol for the event includes a closed-
3 door Pacific Coast Collaborative Leaders Forum. Attendees were Washington Governor
4 Christine Gregoire, Oregon Governor John Kitzhaber, British Columbia Premier Christy
5 Clark, and California Natural Resources Agency Secretary John Laird. Each leader had
6 one to two observers in attendance. Ms. Hayes and Dan Carol attended with Governor
7 Kitzhaber. Ms. Hayes was the only First Partner present. #INV6, GOV184458-186465.
8 (As noted below, the re-invigorated PCC was one of the items listed as an
9 accomplishment of Ms. Hayes's Clean Economy Acceleration Fellowship. #INV8,
10 *Introduction to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.)

11
12 Ms. Hayes had Jan Murdock at the Governor's office book the flights to Vancouver, B.C.
13 Ms. Murdock said, "I booked your flight – charging it to JK... We cannot change to whom
14 it is charged; so I thought it was safest to use his credit card. You can reimburse him if
15 you are paying for it." Ms. Hayes responded, "According to legal I will need to have my
16 fellowship pay for this." #NV6, GOV19528-19532.

17
18 Ms. Hayes emailed Kevin Ranker, a Washington State Senator, from her First Lady email
19 account, asking about a National Ocean Policy (NOP) meeting in Seattle in April 2012.
20 She asked, "Would it be possible to meet with you to discuss how to get our states ready
21 to help with implementation of the NOP among other things?" Mr. Ranker then asked if
22 she would be attending the dinner after the workshop to continue the dialogue with other
23 attendees. #INV8, *Re: Meeting to discuss west coast national ocean policy strategy*, email
24 from K. Ranker to C. Hayes, 3/26/12.

25
26 Ms. Hayes spoke at the Port Orford Water Festival and the Oregon State University (OSU)
27 Hatfield Marine Science Center Marine Science Day in April 2012. Regarding Marine
28 Science Day, she told the organizers that she would "be happy to give some brief remarks
29 about the importance oceans [sic] and coastal communities in the emerging clean
30 economy." OSU news and communications provided the support for the event and
31 "Oregon First Lady Cylvia Hayes' appearance" at the Marine Science Day. In the course

1 of the planning, Ms. Hayes received an email from Caren Braby at the Oregon
2 Department of Fish and Wildlife (ODFW) with a PowerPoint attachment of images of wave
3 energy devices. Ms. Braby said, "Ed [Bowles, at ODFW] indicated that you needed
4 images of wave energy devices for your powerpoint. I've attached a powerpoint that has
5 some images in it. Please let me know if these do not fit your needs or if you need any
6 explanation of the images." #INV8, *RE: Marine Science Day*, email from C. Braby to C.
7 Hayes, 4/11/12. Some of these images appear in Ms. Hayes's PowerPoint Presentation
8 described below under "June 2012 Report on Fellowship."

9
10 In a follow-up email after the Marine Science Day event, Ms. Hayes referred to Mr. Bowles
11 and Ms. Braby as "oceanic advisors" and said, "I would love to connect with some of the
12 direct research (and I know the Gov would as well.)." #INV8, *RE: Thanks!*, email from M.
13 Rowinski to C. Hayes, 5/1/12.

14
15 In June 2012, Ms. Hayes wrote an article for the Medford Mail Tribune with Leesa Cobb
16 of the Port Orford Ocean Resource team that discussed Port Orford and National Ocean
17 Policy. Ms. Hayes was identified as first lady of Oregon. The brief biography said that she
18 "is championing ocean health issues." #INV8, *Fwd: FYI Article: National Ocean Policy*
19 *vital to Oregon's coastal communities*, email from J. Hamilton Keys to C. Hayes, 6/11/12.

20
21 In September 2012, Ms. Hayes emailed Gabriela Goldfarb, the Governor's Natural
22 Resources Advisor, to set a time to talk about a climate resiliency event. Her email to Ms.
23 Goldfarb said, "I think the ocean acidification issue likely has a role in this." Ms. Goldfarb
24 responded that she didn't think there would be a clear ocean acidification link, but said
25 that they could discuss it when she knew more. #INV8, *RE: climate resiliency event*, email
26 from G. Goldfarb to C. Hayes, 9/19/12.

27
28 June 2012 Report on Fellowship:

29
30 The interim report for the Clean Economy Acceleration Fellowship, submitted to the
31 Energy Foundation, states that the fellowship accomplished the following between August

1 2011 and May 2012:

2

- 3 • “Catalyzed the development of a clean economy collaboration between the West
4 Coast states, including the governor’s offices and between government and NGOs.
5 This involved numerous meetings in Oregon, Washington and British Columbia,
6 and dozens of conference calls.
- 7 • Informed development of clean energy and economic development strategies for
8 West Coast states.
- 9 • Developed an inventory of clean economy success story case studies.
- 10 • Created and began implementation of a strategic media and communications plan.
- 11 • Formulated a success-story based set of talking points and delivered 29 speeches
12 on clean economy issues.
- 13 • Toured coastal communities highlighting clean economy opportunities and
14 delivered the foundation speech that ties ocean and coastal resource management
15 to clean economy opportunities.” #INV26.

16

17 Included with the interim report was a sample speech, an ebook article, and sample
18 PowerPoint slides. The PowerPoint presentation was titled, “Creating an Economy that
19 Works, Cylvia Hayes, April 2012.” It included two slides that had photos of Ms. Hayes and
20 Governor Kitzhaber. It also included a slide of wave energy buoys. The sample speech
21 was called “Engineering the Clean Economy,” presented to the Oregon Engineers in May
22 2012. In the speech, Ms. Hayes gave several examples of situations where the clean
23 economy was working. She also told a story of visiting the Monterey Bay aquarium with
24 Governor Kitzhaber and said, “I am working on ocean health as one of my top priorities
25 as First Lady.” #INV26. Ms. Hayes’s speech to the Professional Engineers of Oregon was
26 coordinated by the Oregon Governor’s office. #INV6, GOV280329-280330.

27

28 Fellowship Description and Resource Media Communications Plan:

29

30 In early September 2012, Ms. Hayes was copied on an email from Sally Ranney, who,
31 according to her website, works in “the environmental, energy and climate change fields,”

1 to Sylvia Earle, who is an oceanographer and leader of Mission Blue at the Sylvia Earle
2 Alliance. See #INV8, *Introduction to First Lady of Oregon*, email from S. Ranney to S.
3 Earle, 9/2/12; #INV11; #INV12.

4
5 Ms. Ranney said,

6
7 "... I wanted to introduce you to the remarkable First Lady of Oregon, Cylvia Hayes.

8
9 Cylvia was a speaker at the AREDAY Summit this year and gave a supberb [sic]
10 presentation on what Oregon is doing to ramp up a clean energy economy.
11 Because Oregon is a coastal state, the state's clean energy economy is tightly
12 linked to ocean conservation, and Cylvia has taken this on as one of her primary
13 focal points as First Lady. Therefore, I knew you would be very interested in her
14 work, and am hoping the two of you can have a conversation in the very near future
15 to the mutual benefit of ocean conservation.

16
17 I have attached a couple of background documents for you which explain her work
18 in more detail, per a fellowship program in which she is engaged." #INV8,
19 *Introduction to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

20
21 Ms. Ranney attached the Clean Economy Acceleration Fellowship Program description
22 dated 8/12 and a Communications Campaign (August 2012 – June 2013) for Healthy
23 Oceans Healthy Economy.

24
25 Clean Economy Acceleration Fellowship Program Description: The Clean Economy
26 Acceleration Fellowship Program Description says,

27
28 "Fellows will submit articles and opinion pieces to strategic media outlets, deliver
29 speeches to targeted audiences, and participate in strategy discussions to identify
30 and develop clean economy opportunities. The fellowship will continue to support
31 the reinvigorated intergovernmental Pacific Coast Collaborative and the advocacy

1 organizations that are participating in the West Coast Clean Economy Alignment
2 initiative.

3
4 All of these services are intended to condition the public, political leadership and
5 media to be supportive of clean economy policies and programs.” #INV8,
6 *Introduction to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

7
8 For deliverables, the program description lists:

- 9
- 10 • “Build public and media support for clean economy and climate change
11 mitigation and adaptation efforts:
 - 12 ○ Expand the inventory of documented case studies that quantify the
13 economic benefits of the clean economy that can be used to informat
14 the media, elected officials and clean economy allies;
 - 15 ○ Work with both the clean economy and ocean conservation advocates
16 to develop mutually beneficial messaging based on an economic frame;
 - 17 ○ Submit regular articles, essays and op-eds to targeted media outlets;
 - 18 ○ Establish clean economy blogs and e-communication;
 - 19 ○ Develop and deliver speeches at strategic events to targeted audiences.
 - 20
21 • Continue to catalyze and support multi-state clean economy and ocean
22 conservation collaboration between the West Coast States.
 - 23 ○ Advise and support the Pacific Coast Collaborative and the West Coast
24 Clean Economy Alignment initiative including decision makers and
25 advocates in California, Oregon, Washington and British Columbia;
 - 26 ○ Aid in developing a strategic and coordinated approach to the issue of
27 ocean acidification;
 - 28 ○ Communicate West Coast regional successes to catalyze clean
29 economy and ocean conservation progress in other states and regions.”
30 #INV8, *Introduction to First Lady of Oregon*, email from S. Ranney to S.
31 Earle, 9/2/12.

1
2 According to the project description, "[t]he expanded Fellowship Program is strategically
3 designed to build upon the momentum and accomplishments of the first year of the
4 program." It then lists Accomplishments to Date, which are:

- 5
- 6 • In year one the Fellowship was instrumental in re-convening the
7 intergovernmental Pacific Coast Collaborative and encouraging the
8 Governors and Premiere of the four west coast jurisdictions to commit to a
9 collaborative approach to clean energy development. Concurrently, the
10 Fellowship informed leading energy and climate NGOs about the existence
11 of the PCC and the strategic opportunity to better align the agendas of the
12 advocates and Governors' offices. This resulted in the development of a
13 clean economy alignment initiative between the west coast states. The
14 Governors of California, Oregon and Washington and Premier of British
15 Columbia issued a joint resolution in support of clean economy acceleration.
16 NGO advocates and PCC staff are now in regular communication. Prior to
17 these efforts, the PCC was inactive and the NGOs did not know it existed
18 or that there was significant opportunity for collaboration across state lines.
 - 19 • Informed development of clean energy and economic development
20 strategies for west coast states including overall energy independence
21 planning and carbon pricing strategies.
 - 22 • Developed an inventory of clean economy success story case studies.
 - 23 • Developed, and began implementation, of a strategic media and
24 communications plan.
 - 25 • Formulated and delivered a success-story based set of talking points and
26 delivered 26 speeches on clean economy issues.
 - 27 • Toured coastal communities highlighting clean economy opportunities and
28 developed and delivered the foundation speech that ties ocean and coastal
29 resource management to clean economy opportunities. #INV8, *Introduction*
30 *to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

1 Under "Qualifications:" was Ms. Hayes's biography. She is the only fellow listed. Her
2 biography reads:

3
4 "Cylvia is Founder and CEO of 3EStrategies and has worked with clients including
5 government entities, real estate developers, renewable energy companies,
6 airports, engineering firms. Cylvia has 23 years of professional experience in
7 sustainable energy, economic development, workforce development, green
8 building, waste prevention and sustainable forestry and agriculture. She served as
9 member and co-chair of the Oregon Renewable Energy Working Group which
10 developed the state Renewable Energy Standard, Renewable Fuels Standard and
11 other clean energy policies. Cylvia is author of a number of papers, including
12 *Green Jobs Growth Plan: An Eight Year Map to a Green Economy in Oregon*.
13 Cylvia has been honored as a Top 50 Leader in Oregon by Oregon Business
14 magazine and was trained by former Vice President Al Gore to deliver climate
15 change educational presentations. She holds an MES from the Evergreen State
16 College and has training in oceanography and marine biology." #INV8, *Introduction*
17 *to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

18
19 Resource Media Healthy Oceans Healthy Economy Communications Plan: The
20 communications campaign plan for Healthy Oceans Healthy Economy (HOHE) that was
21 also attached to Ms. Ranney's email describes a budget of \$90,000 for a period from
22 August 2012-June 2013: \$50,000 for Resource Media (see below) to provide media
23 planning, publishing (print and digital), and speaking engagements; \$30,000 for Ms.
24 Hayes's salary, and \$10,000 for travel. The plan called for speaking engagements, op-
25 eds, articles, and television appearances for the following purposes:

- 26
27
- "Shift the narrative to increase understanding of the importance of ocean
28 conservation to local, state and national economies.
 - Provide conservation advocates and policy makers with communications tools
29 including economic data, success story case studies and messaging support.
 - Raise public awareness and commitment.
- 30
31

- 1 • Build support for strong ocean conservation policies including the National Ocean
2 Policy." #INV8, *Introduction to First Lady of Oregon*, email from S. Ranney to S.
3 Earle, 9/2/12.

4
5 Strategies for this involved focusing on the importance of healthy oceans for the economy
6 and success stories in ocean conservation, particularly states and regions implementing
7 successful policies. #INV8, *Introduction to First Lady of Oregon*, email from S. Ranney to
8 S. Earle, 9/2/12.

9
10 Involvement with State Employees:

11
12 The same day that Ms. Ranney sent out the above email, Ms. Hayes emailed Gabriela
13 Goldfarb, the Governor's Natural Resources Policy Advisor, to say, "I would like to
14 interview some shell fishers, etc. who are directly experiencing acidification issues.
15 Please check to see if there are any such opportunities in the areas of my upcoming coast
16 trips." Ms. Goldfarb responded that she would be happy to look into it and would get back
17 to Ms. Hayes as soon as possible. #INV8, *RE: upcoming coast trips and ocean*
18 *acidification*, email from G. Goldfarb to C. Hayes, 9/3/12. Ms. Hayes also emailed Ms.
19 Goldfarb to ask her for more information about an upcoming Oregon Coast Fisheries and
20 Communities Briefing, which Ms. Hayes was scheduled to attend. Ms. Goldfarb explained
21 that, as she was getting up to speed, she would be briefed by Oregon Department of Fish
22 and Wildlife (ODFW) marine program staff about key programs and activities on the coast,
23 and she heard that Ms. Hayes might be interested in participating. #INV8, *RE: Accepted:*
24 *Oregon Coast Fisheries and Communities Briefing*, email from G. Goldfarb to C. Hayes,
25 9/3/12.

26
27 Around the same time, Dan Carol, who was the Governor's Director of Multi-State and
28 Strategic Initiatives, sent Ms. Hayes and two staff of the Oregon Environmental Council
29 an email containing a draft proposal that the jurisdictions in the Pacific Coast
30 Collaborative (PCC) were discussing. The draft proposed a Climate Risk and
31 Infrastructure Forum to be held in November 2012. #INV8, *RE: climate risk and PCC*,

1 *update*, email from A. Durbin to D. Carol, 9/4/12. (As noted above, the re-invigorated PCC
2 was one of the items listed as an accomplishment of Ms. Hayes's Clean Economy
3 Acceleration Fellowship. #INV8, *Introduction to First Lady of Oregon*, email from S.
4 Ranney to S. Earle, 9/2/12.) Mr. Carol's email suggested a phone call, and scheduling
5 discussions ensued. #INV8, *RE: climate risk and PCC, update*, email from A. Durbin to
6 D. Carol, 9/4/12. Ms. Hayes apparently referred the scheduling to Ms. Rowinski in the
7 Governor's office, who had it on a list of pending calls when she checked in with Ms.
8 Hayes on 9/5/12. #INV8, *RE: list of pending meetings*, email from M. Rowinski to C.
9 Hayes, 9/5/12.

10

11 As the Climate Risk and Infrastructure Forum developed, Ms. Hayes and Mr. Carol
12 clashed over some aspects of the event. Mr. Carol said that he was the lead for the
13 Climate Risk Roundtable, and that the assignment for Ms. Hayes and others was to think
14 about who to invite, including other funders and parties interested in scaling up the west
15 coast alignment work. Ms. Hayes responded that she intended to add "the ocean
16 acidification piece" to the resiliency discussion, and would let him know if she would have
17 other ocean-specific meetings. Mr. Carol responded that "we have 25-plus multiple
18 players and personalities trying to find alignment on some specific areas of work within
19 official government agencies, so I hope you will understand that your agenda can't always
20 be at the top of the list, or on the list[.] Where you say "I intend" for ocean acidification to
21 be part of this meeting, that won't be possible given where other jurisdictions are, what
22 we are limited to by the March PCC agreement, and given the fact that folks have stripped
23 out specific work on water, emergency management and other specific aspects of
24 resiliency[.] I hope you can understand that, but as noted in the the [sic] email we can
25 explore a scoping session for your interests in ocean acidification." Mr. Carol resolved the
26 situation, in part, by saying that he would re-connect her with Wade Crowfoot in California
27 so that she and Mr. Crowfoot could develop an ocean conversation and find a space for
28 it during the forum. #INV6, GOV229497-229505. He then emailed Mr. Crowfoot, copying
29 Ms. Hayes, saying that he wanted to connect the two to them to arrange strategy sessions
30 on ocean acidification. Ms. Hayes and Mr. Crowfoot began talking about a time to speak.
31 #INV6, GOV229495-229496. Ms. Hayes then suggested to Mr. Carol that, in addition to

1 RBF and the Energy Foundation, he invite to the evening reception representatives from
2 the Turner Foundation, the Resources Legacy Fund, the Packard Foundation, the Surdna
3 Foundation, and "Bullet," which appears to refer to the Bullitt Foundation. #INV6,
4 GOV229585-229588.

5
6 Also in September 2012, Ms. Hayes received a briefing from Caren Braby at the Oregon
7 Department of Fish and Wildlife regarding the issues facing the marine resources
8 program, including ocean acidification. #INV6, GOV165645-165657.

9
10 On 9/26/12, Ms. Rowinski forwarded to Ms. Hayes a Google Alert based on the terms
11 "oregon ocean activism," which contained a link to an OregonLive.com article about
12 microplastic on Oregon shorelines. #INV8, *FW: Google Alert - oregon ocean activism*,
13 email from M. Rowinski to C. Hayes, 9/26/12.

14
15 In December 2012, Ms. Hayes sent an email with a First Lady of Oregon signature line to
16 Gabriela Goldfarb, the Governor's Natural Resources Policy Advisor, and Ed Bowles at
17 the Oregon Department of Fish and Wildlife, saying, "Greetings You Two, I want to talk
18 to a couple of salmon fishers for the article I am writing. A native American would be great.
19 Who would you recommend?" #INV6, GOV225335.

20
21 Except where noted, it does not appear that Governor Kitzhaber was copied on the above
22 communications.

23
24 Additional Networking:

25
26 Ms. Hayes also emailed Julia Roberson of the Ocean Conservancy with a copy of her
27 fellowship description dated 8/12 and the HOHE communications campaign concept
28 dated 7/27/12, saying that she would like to get Ms. Roberson's feedback. The
29 accompanying email, sent from Ms. Hayes's 3EStrategies account, said that she was
30 excited by her conversation with Ms. Roberson that day and said, "I had a GREAT
31 conversation with our ODFW marine staff today and moved the ball forward on some of

1 the strategies you and I discussed during our call." The email subject read, "Info I
2 promised." #INV6, GOV14656-14659, 9/13/12.

3
4 In November 2012, Guido Rahr, President of the Wild Salmon Center, with whom the
5 Governor sometimes went fishing, sent emails to two contacts: Aileen Lee, whose email
6 address is at the domain of the Gordon and Betty Moore Foundation, and "Leslie," whose
7 email address is at the domain of the Oak Foundation. Both emails were to introduce Ms.
8 Hayes, who was copied on the emails, as a good friend and colleague as well as
9 "Oregon's First Lady and a high profile leader in Oregon and the Pacific Northwest on
10 sustainability and marine conservation issues." #INV8, *Introduction*, emails from G. Rahr
11 to A. Lee (aileen.lee@moore.org) and "Leslie" (leslie@oakfnd.org) 11/29/12; see also see
12 also #INV8, *Re: Weekend at Dant - December 8-10?*, email from J. Murdock to J.
13 Kitzhaber, 10/9/12.

14
15 Mr. Rahr said:

16
17 "We are very excited about Cylvia's work, especially in the marine conservation
18 and ocean acidification sphere. Cylvia is about to launch a partnership with
19 Resource Media to advance these issues, and I think she would benefit from your
20 advice and any contacts you may have.

21
22 Please take a look at the attached material... In the meantime, Cylvia will likely
23 follow with you on the phone." #INV8, *Introduction*, emails from G. Rahr to A. Lee
24 and "Leslie," 11/29/12.

25
26 Attached to both of Mr. Rahr's emails were three documents:

- 27
28 1. A cover letter dated 11/20/12 from Ms. Hayes, describing her public and
29 professional roles;
30 2. A copy of the Clean Economy Acceleration Fellowship Program description for
31 2013; and

1 3. A copy of a proposal from Resource Media to the Lazar Foundation, requesting
2 a \$15,000 grant for Ms. Hayes and Resource media "to work together to
3 advance the goals of the Clean Economy Acceleration Fellowship initiative's
4 Health Oceans, Healthy Economy communications project." #INV8,
5 *Introduction*, emails from G. Rahr to A. Lee and "Leslie," 11/29/12.
6

7 Cover Letter: Ms. Hayes's cover letter read:
8

9 "Subject: Description of professional and public activities.
10

11 My combined roles as a clean economy professional and First Lady of Oregon can
12 be confusing so I offer this letter as explanation.
13

14 **The Challenge of a Unique Situation:**
15

16 I have 24 years of professional expertise in clean energy, sustainable economic
17 development and climate change issues and opportunities. Currently I am
18 probably most well-known as founder and CEO of 3EStrategies LLC, a clean
19 economy consulting firm. I specialize in developing effective clean energy, green
20 building and green jobs policy and in serving as a writer and spokesperson.
21

22 At this point in my life, however, I do not think that my highest and best use is
23 consulting for specific clients. Rather I believe my most significant contribution lies
24 in the opportunity to educate, motivate and catalyze progress toward a sustainable
25 economy. And so, I have put 3EStrategies on hold.
26

27 Unfortunately, as I am not independently wealthy and need to support myself, I
28 cannot afford not to earn a paycheck while I am in this complicated situation. And
29 Oregon State ethics laws prevent me from being paid for my work as First Lady.
30 Therefore, to make the most of this opportunity to drive positive clean economy
31 change I need to have a vehicle that allows me to pay my bills while maximizing

1 my professional expertise and unique position.

2
3 **My Professional Position:**

4
5 As a natural extension of my professional clean economy communications work
6 and policy expertise I have taken a fellowship with the Clean Economy
7 Development Center, a 501c3 organization. Through this fellowship I am working
8 to accelerate clean economy development with a special emphasis on the unique
9 links between ocean health and the emerging clean economy. I am also working
10 to advance clean economy developments through a collaboration of West Coast
11 states. The fellowship is foundation-funded and pays my salary and professional
12 travel expenses.

13
14 This is a significant portfolio and consumes the bulk of my time. However, I also
15 have undertaken some duties in the role of First Lady of Oregon. This is unpaid
16 work and is not a part of the fundraising efforts and documents accompanying this
17 letter.

18
19 **First Lady Position:**

20
21 In my role as First Lady I am working on poverty by leading the Oregon Prosperity
22 Initiative. In this work I am raising awareness about the crisis of poverty in Oregon
23 and what can be done about it. I am also leading a team in developing the first
24 comprehensive poverty reduction plan in state history.

25
26 Finally, I also perform certain, more traditional, First Lady activities including
27 hosting events at the residence, attending events with the Governor, standing in
28 for the Governor at certain events. However, I am careful to keep a lid on these
29 types of activities so that I can focus on my Clean Economy Fellowship projects.

30
31 **How it All Comes Together:**

1
2 I understand that the mosaic of my work activities is a bit complicated. However,
3 my approach to all of this work is integrated. I see all three issues -- clean economy
4 development, ocean health and poverty reduction -- as critical components in the
5 evolution of an economic system that builds fiscal capital along with natural and
6 social capital.

7
8 Bringing about such an evolved, sustainable economy is the focus of my life's
9 work. Additionally, my twenty plus years' experience as a social entrepreneur have
10 prepared me well for effectively juggling big issues in dynamic situations.

11
12 Thank you for your interest and support." #INV8, *Introduction*, emails from G. Rahr
13 to A. Lee and "Leslie," 11/29/12.

14
15 Clean Economy Acceleration Fellowship Description: The Clean Economy Acceleration
16 Fellowship Program 2013 description, dated 11/12, built on the earlier fellowship
17 description from 8/12. The program description appears to relate only to Ms. Hayes, not
18 to any other possible fellows, and it says,

19
20 "The purpose of the Clean Economy Acceleration Fellowship program is to build
21 public, political and media support for clean economy policies and projects... As a
22 Fellow, Cylvia Hayes will submit articles and opinion pieces to strategic media
23 outlets, deliver speeches to targeted audiences, and participate in strategy
24 discussions to identify and develop clean economy opportunities. The fellowship
25 will continue to support multi-state, collaborative efforts to accelerate clean
26 economy policies and developments...

27
28 As a result of the first 18 months of this fellowship program the West Coast Clean
29 Economy Alignment initiative has formed. This consists of the Pacific Coast
30 Collaborative, comprised of staff from the Governor's offices of California, Oregon,
31 Washington and British Columbia and leading energy and climate advocacy

1 other states are moving in this direction. The organization Demos is supporting
2 these states in working through applying GPI to policy and budget decisions."
3 #INV8, *Introduction*, emails from G. Rahr to A. Lee and "Leslie," 11/29/12.

4
5 Listed deliverables were:

- 6
7 • "Build public and media support for clean economy and climate change mitigation
8 and adaptation efforts:
- 9 ○ Expand the inventory and distribution of documented clean economy
10 successes case studies;
 - 11 ○ Published articles, essays and op-eds to targeted media outlets;
 - 12 ○ Establish clean economy blogs and e-communication;
 - 13 ○ Develop and deliver speeches at strategic events to targeted audiences.
 - 14 • Continue to catalyze and support multi-state clean economy and ocean
15 conservation collaboration between the West Coast states.
 - 16 ○ Advise and support the Pacific Coast Collaborative and the West Coast
17 Clean Economy Alignment initiative including decision makers and
18 advocates in California, Oregon, Washington and British Columbia;
 - 19 ○ Aid in developing a strategic and coordinated approach to the issue of
20 ocean acidification." #INV8, *Introduction*, emails from G. Rahr to A. Lee and
21 "Leslie," 11/29/12.

22
23 In addition to the accomplishments listed in the 8/12 version of the fellowship description,
24 this version included, "[c]onvened representatives from Washington, Oregon, and
25 California Governors offices and representatives from the shellfish industry to explore a
26 regional approach to addressing ocean acidification," "[p]ersuaded Huffington Post to add
27 a Clean Economy section to the HP Business section," 33 speeches on clean economy
28 issues, and "[o]versaw development of a baseline Genuine Progress Indicator for the
29 State of Oregon. Met with representatives from Maryland, Vermont and Utah to explore
30 how to apply GPI to policy and budget decisions." #INV8, *Introduction*, emails from G.
31 Rahr to A. Lee and "Leslie," 11/29/12.

KITZHABER INVESTIGATION - Page 67

1
2 The budget for the fellowship included \$95,000 for salary, \$15,000 for travel, \$45,000 for
3 communication services, and other smaller amounts, for a total of \$177,000. Under
4 Secured/ Committed Funds, the description lists \$12,000 in existing grant funds from the
5 Rockefeller Brothers Fund, \$30,000 from the Packard Foundation for the Healthy Oceans
6 Healthy Economy project, and \$15,000 from the Lazar Foundation for the Healthy Oceans
7 Healthy Economy project. #INV8, *Introduction*, emails from G. Rahr to A. Lee and "Leslie,"
8 11/29/12.

9
10 Ms. Hayes's biography is identical to the 8/12 version, save for the addition of the line,
11 "As First Lady of Oregon Cylvia is working on poverty reduction through the Prosperity
12 Initiative, which is developing the first comprehensive poverty reduction plan in Oregon's
13 history." #INV8, *Introduction*, emails from G. Rahr to A. Lee and "Leslie," 11/29/12.

14
15 Healthy Oceans Healthy Economy Proposal to Lazar Foundation – the proposal from
16 Resource Media to the Lazar Foundation, also attached to Mr. Rahr's emails, requests a
17 \$15,000 grant "for clean economy expert Cylvia Hayes and Resource Media to work
18 together to advance the goals of the Clean Economy Acceleration Fellowship initiative's
19 Healthy Oceans, Healthy Economy communications project." #INV8, *Introduction*, emails
20 from G. Rahr to A. Lee and "Leslie," 11/29/12.

21
22 Cylvia Hayes, the proposal says, "combines a background in oceanography, natural
23 resource policy *and* sustainable economic development with the political stature needed
24 to spark a new conversation, tying ocean conservation to healthy local, regional and
25 national economies, starting with the West Coast of the U.S... Cylvia Hayes, as a leading
26 West Coast spokesperson on ocean health and healthy economies opens up several
27 communications opportunities: a ground-up approach on issues that have a solid track
28 record of success at the state, not federal level; a jobs *and* environment story frame that
29 will work in recessionary and robust economic times; a solutions-oriented, positive
30 message; a unique link between clean economy and ocean conservation; and a politically
31 powerful, credible, articulate advocate." #INV8, *Introduction*, emails from G. Rahr to A.

1 Lee and "Leslie," 11/29/12.

2

3 As described in the proposal to the Lazar Foundation, the Healthy Oceans Healthy
4 Economy Communications Campaign would focus on developing messaging and
5 narrative, developing a communications campaign plan, and conducting outreach.
6 Among the criteria by which the success of the campaign would be judged was, "The
7 Clean Economy Acceleration Fellowship initiative has a clear sense of where the best
8 opportunities are for building productive connections for policy makers and community
9 leaders around clean economy growth and development and ocean conservation."
10 #INV8, *Introduction*, emails from G. Rahr to A. Lee and "Leslie," 11/29/12.

11

12 The proposal noted that, in addition to the Lazar Foundation, the campaign was also
13 seeking funding from the Packard Foundation as well as the Kingfisher, Sandler, and Oak
14 Foundations and The Center for the Next Generation. Ms. Hayes was not described as
15 First Lady of Oregon in her biography in this proposal. #INV8, *Introduction*, emails from
16 G. Rahr to A. Lee and "Leslie," 11/29/12.

17

18 Press Coverage:

19

20 At the end of November 2012, Ms. Hayes emailed Governor Kitzhaber, Curtis Robinhold,
21 and several other Governor's office staff to complain that "we do not have an effective
22 process for handling media when I am out on events" and ask what they suggested in
23 order to generate "substantive media coverage." #INV6, GOV154669. Mr. Robinhold
24 responded directly to Ms. Hayes, leaving off the other recipients, asking her what she was
25 looking for, since "We don't put ocean health in your first lady duties, so figuring out how
26 to staff it becomes challenging at best." #INV6, GOV225857-225858.

27

28 Ms. Hayes responded to Mr. Robinhold, also leaving off the previous recipients, saying,

29

30 "Good point. In a statement that I off utter lately, it's complicated. On many of these
31 events I am doing events both as part of my fellowship work (clean economy,

1 oceans) and as First Lady (Prosperity Init. and fill in for Gov). I will have a media
2 team on board for the fellowship very shortly. I would also like to get coverage on
3 the poverty/ prosperity issues.

4
5 Perhaps we could develop a sort of hybrid approach, in which the fellowship media
6 team is in communication with our comms team when I am out and about doing
7 events realted [sic] to both." #INV6, GOV225857-225858.

8
9 Mr. Robinhold did not recall this email specifically, or whether he brought its specific
10 contents to Governor Kitzhaber, but he said that they were engaged in an ongoing
11 conversation about these matters. #INV70.

12
13 September 2013 Report on Fellowship:

14
15 The Clean Economy Development Center submitted a final narrative report to the Energy
16 Foundation on 9/1/13. The report said,

17
18 "CEDC Fellows contributed articles and opinion pieces to strategic media outlets,
19 delivered speeches to targeted audiences, and participated in strategy discussions
20 to identify and develop clean economy opportunities. The Fellowship provided
21 ongoing support for the reinvigorated intergovernmental Pacific Coast
22 Collaborative and the advocacy organizations that participated in the West Coast
23 Clean Economy Alignment initiative.

24
25 All of these services succeeded in moving the public, political leadership and
26 media toward a greater support of clean economy policies and programs."

27
28 Payment:

29
30 It appears that Ms. Hayes was not paid personally for her Clean Economy Acceleration
31 fellowship. In 2012, at least, the money was paid to Ms. Hayes's company, 3EStrategies.

1 Jeffrey King, the Executive Director of the CEDC, sent Ms. Hayes an email in February
2 2013 asking her to complete a W9 form, saying,

3
4 "As CEDC's accounting firm is preparing to close 2012 fiscal year, they are being
5 very thorough and tell me there is a relatively new requirement that even
6 businesses that are LLCs or sole proprietorships should receive a 1099.

7
8 Enclosed is the W9 form template that should be completed by anyone who was
9 paid as businesses that are LLCs, partnerships, sole proprietorships etc. Please
10 complete for 3EStrategies and return to me and they will send you a 1099 right
11 away." #INV6, GOV13416-13417, 2/27/13.

12
13 Ms. Hayes wrote in a draft response to questions from Hillary Borrud of the EO Media
14 Group that she was paid \$30,000 for the fellowship in 2011 and \$80,000 in 2012. #INV8,
15 *East Oregonian responses*, email from C. Hayes to J. Kitzhaber, 12/23/14.

16
17 Kitzhaber Ethics Opinion:

18
19 On 12/10/13, Liani Reeves, the Office of the Governor's Legal Counsel, submitted a
20 request for Commission Advisory Opinion to the Government Ethics Commission, asking
21 whether Governor Kitzhaber could make speeches for a fee on topics of health care policy
22 and reform, drawing on his years of experience as a medical professional and a policy
23 maker. Advisory Opinion 13A-1001 was issued by the Commission on 1/17/13.³ #INV69.

24
25 The Advisory Opinion cautioned that:

26
27 "The primary principle underscored in the guidelines [for outside employment of
28 public officials] is that a public official, who also engages in private income
29 producing activities, must maintain a clear distinction between the use of official

3 Commission Advisory Opinion 13A-1001 has since been withdrawn by the Commission due to a change in the law in 2015.

1 time and resources of the government body and personal time and resources of
2 the official. The Governor of Oregon must take particular care to insure that the
3 official position is not used in any manner related to private income producing
4 activities...

5
6 The Governor needs to evaluate, on each occasion, whether speaking
7 opportunities are available to him because he is the Governor of Oregon, or if an
8 opportunity is available to him separate and apart from his official position. Further,
9 the Governor would need to consider whether he used or attempted to use his
10 public position, including his access and authority, to create or advance an
11 opportunity.

12
13 If the Governor were to accept or pursue speaking opportunities in circumstances
14 where it is not clear that the opportunity would be available to him apart from his
15 official position, he might potentially violate ORS 244.040(1). This risk also arises
16 in circumstances where it might appear that the Governor used his official position
17 to create or advance a speaking opportunity. Although ORS 244.040(1) does not
18 prohibit the Governor from pursuing or engaging in all private income producing
19 activities, it does require the Governor to pursue or engage in such opportunities
20 separate and distinct from his public position.

21
22 The stated facts indicate should Governor Kitzhaber resume his private speaking
23 profession while in public office, he proposes to operate within specific parameters
24 that generally appear to comport with or exceed the aforementioned guidelines;
25 however, it should be noted, the Commission would caution the Governor, or any
26 speakers' bureau representing the Governor, against advertising the Governor's
27 current public position while obtaining or attempting to obtain paid speaking
28 engagements. While the Governor's current public position is an element of his
29 professional resume and public officials may seek opportunities and accept offers
30 related to private income producing activities based on skills and abilities gained
31 or demonstrated in their public positions, such opportunities may only be pursued

1 separate and distinct from the public position. The Governor, or his
2 representatives, must be rigorous in the complete separation of these activities
3 because he may not use, or attempt to use, the resources or authority of his public
4 position to pursue or advance his private business interests.” #INV69.

5
6 Ms. Reeves later quoted from this Advisory Opinion in her email to Ms. Hayes regarding
7 use of her First Lady title in August 2013. #INV60.

8
9 **Ms. Hayes/3EStrategies Contracts**

10
11 In late 2012 and early 2013, Ms. Hayes began to diversify the sources of her business's
12 income. Rather than working under the umbrella of her fellowship, she began to form
13 contracts directly with non-profits and foundations to continue working on the same issues
14 that had formed the basis for her fellowship with CEDC.

15
16 **Resource Media (February – December 2013) –**

17
18 Resource Media, according to its website, is a nonprofit communications firm with nine
19 offices around the US and works exclusively in support of social change. It provides
20 services such as strategic planning, message development and media relations for
21 partner organizations who work in areas that include energy, justice, water, and climate.
22 #INV56.

23
24 As noted above, Ms. Hayes and Resource Media had been submitting proposals to
25 secure funding for the Healthy Oceans Healthy Economy communications plan as a part
26 of Ms. Hayes's CEDC fellowship. Before a contract was signed, Julie Roberson at the
27 Ocean Conservancy emailed Ms. Hayes asking if she wanted to appear on camera talking
28 about ocean acidification for a video to highlight the importance of local voices and “how
29 stories can play a role in painting a picture of OA for audiences such as policymakers,
30 funders, Ocean Conservancy's members, etc... We could pay you for your time on this
31 project and ideally, we could use this as a way to showcase other opportunities to work

1 together." This was a project in conjunction with Resource Media, and Resource Media
2 coordinated the video shoot with Mary Rowinski. At one point, Liz Banse of Resource
3 Media said, "My initial thinking would be to have the Capitol building as a backdrop in
4 keeping with the theme of state-based solutions for OA." #INV8, RE: Opportunity to work
5 together, email from L. Banse to C. Hayes, 1/29/13.

6
7 In the resulting video, *Ocean Acidification and the People of Washington State*, which
8 was produced by the Ocean Conservancy, Ms. Hayes appeared on the steps of the
9 Oregon State Capitol, with her name and the title First Lady of Oregon on the screen as
10 she spoke. #INV21. Ms. Hayes included this as one of the services on her first invoice to
11 Resource Media, see below.

12
13 Contract with Resource Media:

14
15 According to the documents provided to the Commission by Governor Kitzhaber's office
16 with Ms. Reeves's request for a Commission Advisory Opinion in October 2014, Ms.
17 Hayes, through 3EStrategies, entered into a contract with Resource Media that was
18 effective from 2/19/13 to 4/30/13. The contract called for Ms. Hayes to "build stronger
19 commitment among key West Coast audiences to develop and support policies that
20 conserve our marine resources and boost our West Coast economy." Ms. Hayes was to
21 be paid a total of \$20,611 upon receipt of funding from two sources: Lazar and Packard.
22 #PR8.

23
24 It appears that the 2/19/13-4/30/13 contract submitted to the Commission by the Office of
25 the Governor was not the final contract between Ms. Hayes and Resource Media. The
26 final, signed version of the contract, which was provided to the OGEC by an attorney for
27 Resource Media, contained a term of 2/19/13-12/31/13, and is dated 3/1/13. All other
28 terms were the same. #INV19. Ms. Hayes's first invoice to Resource Media, dated 3/1/13,
29 was in the amount of \$8500, for services described as "development of media and
30 outreach campaign plan," "development of speeches on ocean acidification," and "filming
31 video on ocean acidification." #INV19. That invoice asked that payment be sent to

1 3EStrategies' address in Bend; all other invoices through December 2013 requested
2 payment to 533 S Lincoln St, Salem OR 97302, the address of the Oregon Governor's
3 official residence, Mahonia Hall. #INV19.

4
5 Although the terms of the contract were not amended in writing, Ms. Hayes was paid more
6 than the contract amount of \$20,611. Resource Media provided 3EStrategies with a 1099-
7 MISC for Miscellaneous Income for 2013 in the amount of \$34,611. An additional invoice,
8 which Ms. Hayes submitted in December 2013 but Resource Media paid in January, was
9 for an additional \$10,500, bringing the total paid under the contract to \$45,111. #INV19.
10 The documents provided to the OGEC had Resource Media's clients, who provided the
11 money for the contract, redacted. Two organizations other than the Lazar Foundation and
12 the Packard Foundation provided funding for Ms. Hayes's contract with Resource Media.
13 #INV19. One of these was presumably the Marisla Foundation, draft proposals to which
14 will be described in this section, and whose 2013 IRS Form 990 lists Resource Media as
15 having received a \$25,000 grant for the purpose of "3EStrategies/Healthy Oceans
16 Healthy Economy Project." #INV25.

17
18 Ms. Hayes had been meeting with the Lazar Foundation, which provided \$15,000 for the
19 Resource Media Healthy Oceans Healthy Economy project, and the Packard Foundation,
20 which provided \$30,000 for the project, for some time.

21
22 Packard: In January 2012, before she and the Governor went to California on a vacation,
23 Ms. Hayes appears to have had a telephone conversation with Michael Sutton at the
24 Monterey Bay Aquarium. He emailed her afterward, saying, "I'm delighted that you plan
25 to use your position and clout as First Lady of Oregon to highlight ocean conservation
26 issues... I'd like to offer you a behind-the-scenes tour of the Aquarium and lunch with me
27 and our Executive Director, Julie Packard. As you may know, Julie is also Vice Chair of
28 the Packard Foundation Board, her family philanthropy that is one of the largest private
29 funders of marine conservation in the United States... I look forward to spending some
30 time with you and the Governor while you're in town, and discussing how you can use
31 your status to help advance ocean conservation in Oregon and beyond." #INV7, Vol.20,

1 RE: *Dates in Monterey*, email from C. Hayes to J. Kitzhaber, 1/17/12.

2
3 According to former Governor Kitzhaber's attorneys, there was no discussion of funding
4 for Ms. Hayes at this meeting. #INV64, p. 17.

5
6 Lazar: The first record of Ms. Hayes meeting with the Lazar Foundation is in June 2012,
7 when Ms. Hayes emailed Ms. Rowinski in the Office of the Governor to say that she was
8 staying in Portland that night and would need the Dignitary Protection unit to provide her
9 with a ride in the morning from former Governor Kitzhaber's house to a 9 am meeting at
10 the Lazar Foundation. #INV8, RE: *DPU pickup*, email from M. Rowinski to C. Hayes,
11 6/27/12.

12
13 On 12/14/12, after Ms. Hayes and Resource Media had applied for funding from the Lazar
14 Foundation, Sybil Ackerman of the Lazar Foundation sent an email invitation to Richard
15 Whitman and Curtis Robinhold in the Office of the Governor, inviting Governor Kitzhaber
16 and Ms. Hayes to give the keynote speech on 4/3/13 for the Marine Conservation
17 Program at the annual meeting of the Consultative Group on Biological Diversity (CGBD).
18 "I feel that it would be very helpful for the group to hear from both the Governor and First
19 Lady Cylvia Hayes about all of the good innovative work Oregon is doing to further
20 stewardship of the ocean," Ms. Ackerman said. Ms. Ackerman then forwarded the
21 invitation to Ms. Hayes, saying, "I wanted to forward you the formal invitation I just sent
22 to Richard asking that you and the Governor speak to a group of important philanthropic
23 institutions as a joint keynote presentation in April. I think it will be very powerful for both
24 you and the Governor together to tell these funders how Oregon takes ocean stewardship
25 seriously." #INV8, *Fwd: Invitation for the Governor to speak at philanthropic conference*
26 *about ocean issues*, email from S. Ackerman to C. Hayes, 12/14/12.

27
28 According to the invitation, "[t]he CGBD is a grantmakers forum that seeks to focus
29 attention on issues and program opportunities related to the conservation and restoration
30 of biological resources." The attached list of CGBD members included: the Lazar
31 Foundation and the David and Lucile Packard Foundation, which were funding Ms.

1 Hayes's work through the Healthy Oceans Healthy Economy communications campaign;
2 the Gordon and Betty Moore Foundation and the Oak Foundation, which Guido Rahr had
3 contacted on behalf of Ms. Hayes (see above); the Rockefeller Brothers Fund, which
4 funded Ms. Hayes's Clean Economy Acceleration Fellowship; the Marisla Foundation,
5 which Ms. Hayes and Resource Media contacted in March 2013 about funding for Ms.
6 Hayes's work, and the Surdna Foundation, from which Demos received funding in April
7 2013 for work that included Ms. Hayes. #INV8, *Fwd: Invitation for the Governor to speak*
8 *at philanthropic conference about ocean issues*, email from S. Ackerman to C. Hayes,
9 12/14/12; #INV8, *RE: Marisla proposal Cyl pieces*, email from C. Hayes to L. Banse,
10 3/29/13; #INV8, *materials and news*, email from L. Daly to C. Hayes, 4/12/13.

11
12 A few weeks before the speech, on an email string in which the Governor's staff
13 communicated about the details and topic of the speech the Governor was to give at the
14 event, Ms. Hayes sent an email to Gabriela Goldfarb, the Governor's Natural Resources
15 Policy Advisor, who would be writing the Governor's speech, listing what she intended to
16 speak about, which included, "[m]y commitment to ocean issues," "[o]cean acidification
17 what we're doing," "[i]nterface to climate change (ten year energy plan, Clean Fuels),"
18 and "[r]eal solution is shifting economic models (triple bottom line, internalize costs/
19 benefits. Oregon GPI." #INV6, GOV203516-203521.

20
21 CGBD Marine Conservation Program Event: Ms. Hayes and Governor Kitzhaber did give
22 the keynote speech at the CGBD Marine Conservation Program event. They were billed
23 as "Governor John Kitzhaber and First Lady Cylvia Hayes" in the program. No further
24 biography was provided. Ms. Goldfarb prepared the event memo and (see above) wrote
25 the Governor's speech. In the same email confirming that, she said, "Cylvia, I know I owe
26 you info on ocean acidification, will send you a separate email to set a time." #INV6,
27 GOV197299-197323

28
29 A few days before the speech, Ms. Hayes sent her draft speech to Governor Kitzhaber,
30 saying, "Hey Dear, My draft speech is attached. I thought this might help you in developing
31 your own pieces and I'd love to hear your thoughts." #INV8, *Cyls ocean speech*, email

1 from C. Hayes to J. Kitzhaber, 3/30/13.

2
3 In the final version that Ms. Hayes sent to Governor Kitzhaber the day before the speech,
4 asking him to print it, Ms. Hayes says, having added some language about the West
5 Coast Governor's Alliance and developments in collaboration between Oregon and
6 California,

7
8 "...I am contracting with Resource Media to raise awareness about ocean
9 acidification, in the short-term particularly with law-makers. And I am working to
10 help develop a more unified, collaborative, multi-state approach to this issue.

11
12 And, in fact, the West Coast Governor's Alliance very recently adopted ocean
13 acidification as a new priority for coordination and action...

14
15 Another piece of policy work that has direct implications for ocean acidification is
16 the Oregon Ten Year Energy Plan. We have developed a plan and are in the
17 process of enacting policies that will bend the curve so that within ten years we are
18 on a path toward low-carbon energy and transportation systems.

19
20 So this provides a bit of an overview of some of the specific policy pieces we are
21 working on but I want to go a bit broader because the umbrella over all of the work
22 that John and I are engaged in is the need to transition to a truly sustainable
23 economic system...

24
25 In my professional work I am working with the organization Demos on a project
26 called Beyond GDP, which is working with states across the nation to develop
27 Triple Bottom Line metrics for measuring progress and making policy decisions.
28 What do those decisions mean not just for our fiscal capital but also for our social
29 and natural capital.

30
31 We are moving forward with the development, and application of, a Genuine

1 Progress Indicator here in Oregon and working with other states to do something
2 similar. So far five states are actively doing so.

3
4 And in fact, John and I leave in just two weeks for Bhutan to work with a team from
5 all over the world, funded by the government of Germany, on this very topic."
6 #INV8, *please print*, email from C. Hayes to J. Kitzhaber, 4/2/13.

7
8 Governor Kitzhaber's speech for the CGBD event, according to his outline, focused on
9 marine reserves and the value of the conservation community. He specifically thanked
10 several foundations that supported that process, including the Pew Charitable Trusts, the
11 Packard Foundation, the Lazar Foundation, and the Meyer Memorial Trust. He also
12 mentioned marine renewable energy and a proposal for Community Fishing Associations.
13 #INV6, GOV2224310-224319.

14
15 Former Governor Kitzhaber's attorneys note in their submission to the Commission in this
16 investigation that he also spoke at the CGBD event in 2005, during his previous term as
17 governor, and state that he accepted the invitation because "biodiversity and the
18 protection of natural resources are matters in his wheelhouse." His attorneys' letter states
19 that he believed that Ms. Hayes delivered her speech on behalf of the administration, not
20 Resource Media. #INV64, pp. 17-18.

21
22 Marisla Proposal:

23
24 In March 2013, Liz Banse of Resource Media emailed Ms. Hayes to say that she had
25 spoken to the Marisla Foundation, and the Marisla Foundation would like to invite Ms.
26 Hayes to apply for a \$25,000 grant. Resource Media and Ms. Hayes would then apply
27 together to the Silicon Valley Community Foundation for funding for the Resource Media
28 portion of the remaining funds needed. #INV8, *Marisla report!*, email from L. Banse to C.
29 Hayes, 3/21/13.

30
31 Beginning on 3/26/13, Ms. Hayes and the Resource Media staff traded drafts of a

1 proposal to the Marisla foundation. In a draft attached to an email from Ms. Hayes to Ms.
2 Banse and Ms. Dixon on 3/29/13, Ms. Hayes said that she accepted all of Ms. Banse's
3 suggested edits. She also included in her email a budget that included \$14,500 for her
4 own salary. According to the email, "this would raise the total Cyl salary project line item
5 by \$5000." #INV8, RE: Marisla proposal Cyl pieces, email from C. Hayes to L. Banse,
6 3/29/13.

7
8 According to the attached draft proposal to the Marisla Foundation, "[t]he goal of the
9 Healthy Oceans Healthy Economy (HOHE) project is to encourage elected officials,
10 business and community leaders and other key decision makers to undertake new
11 initiatives to address ocean acidification, with the long-term goal of creating momentum
12 for the development of clean energy and other solutions that can help slow down ocean
13 acidification." The first strategy of the project was to target decision makers. According to
14 the draft,

15
16 "Hayes has been instrumental in raising awareness among policy makers about
17 the seriousness of ocean acidification. In November 2012 Hayes convened
18 strategic policy advisors for the governors of Washington, Oregon and California
19 to share each state's current approach to ocean acidification and explore the
20 opportunities for a more robust regional approach. Since that meeting, and as a
21 result of Hayes' continued shepherding, the West Coast Governor's Alliance on
22 Ocean Health (WCGA) has added acidification as a priority action area... The
23 Healthy Oceans Healthy Economy campaign will build on these efforts and focus
24 primarily on mobilizing decision makers to move OA solutions forward.

25
26 The WCGA will be a key asset in helping advance policy goals that address ocean
27 acidification, along with the Pacific Coast Collaborative, the California Ocean
28 Protection Council, Southern California Coastal Water Research Project
29 (SCCWRP) and state agencies. HOHE will specifically work to:

- 30 • Encourage establishment of a collaborative Oregon / California working
31 group within the West Coast Governors Alliance on Ocean Health

(WCGA) to share technical understanding, data and information.

- Advocate for a single West coast-wide OA monitoring network to assess the level of OA in all three states and put baseline data in place.

In addition to supporting the work of these policy development agencies, HOHE will raise awareness about the seriousness of ocean acidification among state and federal lawmakers." #INV8, RE: *Marisla proposal Cyl pieces*, email from C. Hayes to L. Banse, 3/29/13.

The second strategy, convening strategic stakeholders, specified that the targeted interest groups included "elected officials, tribes, shellfish and fishing industries, clean energy businesses, energy and climate change advocates, and ocean conservation advocates." Other strategies were speaking engagements and public and media outreach. The campaign would "endeavor to make Cylvia Hayes' name synonymous with the OA effort, and give the issue some much-needed "star power", branding Hayes as one of the go-to voices for reporters on the West Coast." #INV8, RE: *Marisla proposal Cyl pieces*, email from C. Hayes to L. Banse, 3/29/13.

The draft proposal includes a biography of Ms. Hayes that includes her business and her title as First Lady of Oregon. The biography then lists examples of the effectiveness of her approach to "catalyzing important policy development, convening strategic and effective group processes and guiding concept into concrete action on large and complex issues." The examples are:

- The West Coast Clean Economy Alignment, concerning which Ms. Hayes says, "Beginning in 2009, recognizing an opportunity to accelerate clean economy development through a multi-state regional approach on the West Coast, Hayes worked with West Coast leaders to reinvigorate the intra-governmental Pacific Coast Collaborative (PCC). Simultaneously, in a parallel effort, Hayes convened leading energy and climate NGOs in the West Coast region to develop a more unified set of clean economy policy strategies. For the first time, the NGOs were integrated into the PCC

1 process. In March 2012, the Governors of California, Oregon and
2 Washington and Premier of British Columbia issued a joint resolution in
3 support of clean economy acceleration." #INV8, RE: Marisla proposal Cyl
4 pieces, email from C. Hayes to L. Banse, 3/29/13.

- 5 • Multi-State Ocean Acidification Approach. Ms. Hayes says in this example
6 that in November 2012 she "convened strategic policy advisors for the
7 governors of Washington, Oregon and California to share each state's
8 current approach to ocean acidification and explore the opportunities for a
9 more robust regional approach. Since that meeting, as a result of continued
10 shepherding the West Coast Governor's Alliance on Ocean Health has
11 added acidification as a priority action area." #INV8, RE: Marisla proposal
12 Cyl pieces, email from C. Hayes to L. Banse, 3/29/13.
- 13 • Oregon Ten Year Energy Plan. According to the proposal, "Hayes advised
14 the Oregon Governor of the need for a comprehensive, practical plan to put
15 Oregon on a path toward low carbon energy and transportation systems.
16 Hayes then served as a volunteer policy advisor, convening and supporting
17 dozens of staff and citizen advisors in the development of that plan. Several
18 important pieces of energy and climate legislation resulting from this plan
19 are now moving through the legislative process." #INV8, RE: Marisla
20 proposal Cyl pieces, email from C. Hayes to L. Banse, 3/29/13.

21
22 HOHE Events:

23
24 In March 2013, Julie Dixon at Resource Media emailed Ms. Hayes twice, cc.ed to Ms.
25 Banse, asking her to hold dates in her calendar for two speaking opportunities: an ocean
26 acidification conference in Irvine, CA on 5/3/13, and Capitol Hill Oceans Week (CHOW)
27 in Washington D.C. 6/4/13-6/6/13. They later informed Ms. Hayes that she would be
28 giving the opening remarks at the Ocean Acidification session at CHOW, a slot "usually
29 reserved for a Senator or Congressman." #INV8, FW: May 3rd Conference -Cylvia Hayes,
30 email from J. Dixon to C. Hayes, 3/28/13; #INV8, Capitol Hill Oceans Week Update, email
31 from J. Dixon to C. Hayes, 3/28/13; #INV8, RE: CHOW date and time, email from C.

1 Hayes to J. Dixon, 4/11/13.

2

3 HOHE Plan:

4

5 On 4/1/13, Ms. Dixon sent an updated version of the HOHE plan to Ms. Hayes, "with the
6 First Lady language scrubbed." The new version also included a calendar of scheduled
7 events. #INV8, *Revised Comms Plan*, email from J. Dixon to C. Hayes, 4/1/13.

8

9 Although the accompanying email described the attachment as having had the First Lady
10 language scrubbed, the communications plan referred to Ms. Hayes as "environmental
11 entrepreneur (and Oregon First Lady)." In addition to communications, one of the
12 objectives of the plan was to build the relationship with the West Coast Governors Alliance
13 and other decision-making entities. Regarding convening stakeholders, the plan says,
14 "There is an excellent opportunity to put Ms. Hayes' convening capabilities to work in
15 bringing together governor's offices, agency representatives, tribes, coastal community
16 leaders, NGO's and others around a shared agenda." #INV8, *Revised Comms Plan*, email
17 from J. Dixon to C. Hayes, 4/1/13.

18

19 "Campaign communications," according to the plan, "should be aimed at those decision
20 makers who can propel the issue of ocean acidification to a policy resolution, as well as
21 new and potential supporters who can push on elected officials, such as the West Coast
22 tribes and state and regional water agencies. Some key targets include: West Coast
23 Governors: Kitzhaber, Brown and Inslee..." The plan goes on to say, "Ms. Hayes has the
24 ability to reach high-level decision makers with the OA message, and there are a number
25 of opportunities already identified at the regional, state, and national levels... Resource
26 Media will provide communications support for Ms. Hayes' outreach to decision makers.
27 In many cases, this will involve developing materials – from PowerPoint decks to leave-
28 behinds – to further influence decision makers to throw their support behind the ideas that
29 Ms. Hayes promotes." #INV8, *Revised Comms Plan*, email from J. Dixon to C. Hayes,
30 4/1/13.

31

1 The communications plan discusses generating media coverage and gathering success
2 stories before saying, "In all outreach, it will be essential to keep a line drawn between
3 state policy-making and Ms. Hayes' role in educating and building awareness. The
4 campaign will need to advance her brand as an innovator and successful business owner
5 independent of her role as First Lady – even though that title will be key in opening doors
6 to decision makers." #INV8, *Revised Comms Plan*, email from J. Dixon to C. Hayes,
7 4/1/13.

8
9 The list of events in the HOHE plan for 2013 included the CGBD Marine Conservation
10 Program Annual Meeting in Portland in April 2013, at which Ms. Hayes and Governor
11 Kitzhaber gave the keynote speech, the Good Jobs Green Jobs conference in
12 Washington D.C. in April 2013, an Ocean Acidification Conference in Irvine, CA in May
13 2013, and Capitol Hill Oceans Week in Washington D.C. in June 2013. #INV8, *Revised*
14 *Comms Plan*, email from J. Dixon to C. Hayes, 4/1/13.

15
16 Governor Kitzhaber had also been invited to speak at the Good Jobs Green Jobs
17 conference in Washington D.C. in April 2013. Dave Foster of the BlueGreen Alliance sent
18 an invitation to Jan Murdock in January 2013, copying Ms. Hayes at her gmail address,
19 which contained a signature line identifying her as First Lady of Oregon. Ms. Murdock
20 responded that she believed it was unlikely that Governor Kitzhaber would be able to
21 attend, due to his extremely busy travel schedule. Ms. Hayes then emailed Ms. Murdock
22 from the gmail address, saying, "For what it's worth I am supposed to be speaking or
23 doing a panel at this event. It would be great if John and I could do a joint speech. I know
24 it's highly unlikely but" Ms. Murdock said that she would be sure the scheduling team
25 knew that, but that it was very close to the Bhutan trip that Governor Kitzhaber and Ms.
26 Hayes were scheduled to make that weekend. #INV6, GOV152432-152435, 1/3/13.

27
28 In advance of the Good Jobs Green Jobs conference, Ms. Hayes sent a panel outline and
29 content to the other panelists. Ms. Hayes intended to introduce the panel, give an
30 overview of the West Coast Clean Economy Alignment, and speak about Oregon clean
31 economy and green jobs developments, including the Ten Year Energy Action Plan, clean

1 fuels, and the voluntary carbon emissions reduction program. #INV8, *Good Jobs Green*
2 *Jobs Panel*, email from C. Hayes to "Becky" and C. Zabin, 4/6/13.

3

4 Governor's Office Assistance in Making Arrangements for Events:

5

6 As part of her contract with Resource Media, Ms. Hayes attended the Good Jobs Green
7 Jobs conference in Washington D.C. from 4/15-4/17/13. Ms. Hayes's registration for the
8 conference lists her company name as 3EStrategies and her Occupation/Title as Clean
9 Economy Strategist. Ms. Hayes was also scheduled to speak at the conference. Mary
10 Rowinski made the flight reservations for Ms. Hayes for the GJGJ conference through
11 Azumano Travel, the state's travel agent. "Let me know what card to use," she emailed
12 Ms. Hayes. #INV6, GOV211148-211151. Ms. Hayes requested that Ms. Rowinski pay for
13 the booking with a different credit card, saying, "Also, I want to start using a different visa
14 card to reserve these because my new one gets flier miles." Ms. Rowinski also made the
15 hotel reservation, at the discounted rate for the conference. #INV54.

16

17 After the GJGJ conference, Mary Rowinski emailed Ms. Hayes to ask, "Refresh my
18 memory – are you supposed to get reimbursed for this trip? If so, do you have any
19 receipts? I have the hotel and airfare info." Ms. Hayes responded, "Actually I pay for this
20 as part of my contract but it would be helpful to get the hotel and airfare info from you."
21 #INV6, GOV141010-141011; #INV54

22

23 Ms. Hayes spoke at an Ocean Acidification conference at the University of California
24 Irvine (UCI) on May 3, 2013. Her invitation to this conference was also coordinated by
25 Resource Media. UCI paid the bill for travel and lodging. #INV55.

26

27 Ms. Hayes forwarded emails from Resource Media staff about travel arrangements to Ms.
28 Rowinski, asking her to check on options given the information in the emails and also to
29 "find out if we need to get reimbursement or have them book flights?" Blue 1bB8. Ms.
30 Rowinski contacted UCI regarding travel arrangements. She also contacted Azumano
31 Travel to find out if there were less expensive flights available. #INV55.

1
2 Included with the emails were conversations between Ms. Hayes and Resource Media
3 about how Ms. Hayes would be identified in the program for the event. Julie Dixon, a
4 Senior Program Director at Resource Media, suggested "environmental entrepreneur,"
5 and said that she had told the organizer to leave off the First Lady title. Ms. Hayes said
6 that it was fine to use First Lady as long as they did not lead with it, and that she preferred,
7 "Clean Economy expert." Ms. Dixon replied with "Clean economy expert and First Lady
8 of Oregon," to which Ms. Hayes said, "Fine." #INV55.

9

10 Final Report for Resource Media Contract:

11
12 In February 2014, Resource Media submitted a final report to the Packard Foundation on
13 the grant to partner with 3EStrategies. The report stated that because of Ms. Hayes's
14 efforts to convene policy advisors from the three West Coast states, Oregon and
15 California were moving forward to establish a joint bi-state scientific panel. It identified
16 several speeches that Ms. Hayes had given as part of her contract with Resource Media.
17 These included the Ocean Acidification conference at the University of California Irvine
18 and the Capitol Hill Oceans Week in Washington D.C., both of which were secured by
19 Resource Media. It also included other speeches Ms. Hayes had given, including the
20 CGBD keynote speech with Governor Kitzhaber, a panel on ocean acidification at the
21 University of Oregon at the Land Air and Water conference in March 2013, and a keynote
22 speech at an event for supporters of the Oregon Coast Aquarium. #INV24.

23

24 **Energy Foundation (originally May 2013-April 2014) –**

25
26 The Energy Foundation is a nonprofit organization based in San Francisco, CA.
27 According to its website, the Energy Foundation's primary role is as a grantmaker. It
28 focuses on "making the buildings, power and transportation sectors more efficient, and
29 on advancing effective policies that open big markets for clean energy technology."
30 #INV57.

31

1 On 3/25/13, Ms. Hayes emailed Michael Northrop at the Rockefeller Brothers Fund,
2 inviting him to send some blocks of time that might work for him to "visit Oregon and meet
3 with key policy advisors and makers on how what we're doing on energy and climate in
4 the northwest could be used to catalyze momentum elsewhere?" After some back and
5 forth, they settled on May 9 and 10. *RE: Happy Trails and a follow up*, email from C.
6 Hayes to M. Northrop, 4/15/13.

7
8 On 3/30/13, Ms. Hayes emailed Mr. Northrop again, asking him to comment on an
9 attached draft of a Request for Clean Economy Acceleration Project Support. "Please
10 bear in mind," she said, "that I do not have things formalized with the Energy Foundation
11 yet so I don't want to circulate this yet." The attached draft was a memorandum from Ms.
12 Hayes, in the name of the Energy Foundation, to Mr. Northrop, requesting support from
13 RBF in the amount of \$25,000 "to support the continued work of a Clean Economy
14 Acceleration consultant... The funds being requested in this proposal will support hiring
15 a strategic consultant to join the Public Engagement team to develop and fund strategies
16 that creates [sic] a winning coalition to achieve ambitious policy goals in the power,
17 buildings, transportation, and climate sectors." The total budget for 2013 in the draft
18 proposal was \$50,000. #INV8, *Proposal Draft*, email from C. Hayes to M. Northrop,
19 3/30/13.

20
21 The services proposed in the draft included supporting the West Coast Clean Economy
22 Alignment by working on strategy and momentum for the Pacific Coast Collaborative,
23 consulting with the Energy Foundation's Public Engagement program, supporting policy
24 development at state and multi-state regional scales, raising awareness and support for
25 clean economy developments among strategic audiences, and convening strategic
26 partners around "issues that have potential to drive policy and market development." The
27 intended outcomes were: policies that drive clean energy and low-carbon infrastructure
28 development and [greenhouse gas] emission reductions, targeted steps toward specific,
29 concrete policy and actions, and shifting people's thinking and the narrative on clean
30 economy and climate efforts. #INV8, *Proposal Draft*, email from C. Hayes to M. Northrop,
31 3/30/13.

1
2 As in other funding proposals, Ms. Hayes listed recent accomplishments of the Clean
3 Economy Acceleration Project that included the clean economy collaboration between
4 the governors' offices on the West Coast, aiding in the development of clean energy
5 policies at the state level, clean economy success stories and speeches, and the multi-
6 state collaboration on ocean acidification. Her biography was also similar to those in other
7 funding proposals, adding, "Hayes has a proven track record catalyzing action on big and
8 complex issues and then convening the right teams to develop concrete policies and
9 project: For example, Hayes identified the need for, and lent policy advice, on a Ten Year
10 Energy Action Plan in Oregon that would put the state on a path toward low carbon energy
11 and transportation systems. In another example, Hayes convened leading ecological
12 economists from Portland State University and spearheaded the development of Genuine
13 Progress Indicator (GPI) for the State of Oregon. Hayes has since been working with the
14 organization Demos to assist other states in moving in this direction. In addition, she has
15 convened two projects directed at applying the GPI tool to education reform policies and
16 in counties struggling with reduced revenue from timber sales." #INV8, *Proposal Draft*,
17 email from C. Hayes to M. Northrop, 3/30/13.

18
19 Contract with Energy Foundation:

20
21 Ms. Hayes, through 3EStrategies, entered into a contract with the Energy Foundation.
22 The contract provided to the Commission by the Governor's office in 2014 called for her
23 to perform the following work for the Energy Foundation's Clean Economy Acceleration
24 Initiative:

- 25
26
- Design and execute communications strategy, including speeches, blogs and targeted publications and social media outlets.
 - Develop success story case studies.
 - Provide catalyst and support services to the West Coast Clean Economy Alignment Initiative.
- 27
28
29
30
31

1 This contract, which was entered into on 5/20/13, ran from 5/1/13 to 4/30/14, and called
2 for 3EStrategies to be paid a maximum of \$40,000 inclusive of expenses. #PR8.

3
4 The Energy Foundation, through its attorney, provided the OGEC with a copy of the
5 statement of work dated 7/15/13 that included one additional piece of work, which was to
6 advise on communications for public engagement. It contained the same contract start
7 and end dates, but called for a maximum of \$50,000 to be paid to Ms. Hayes. According
8 to the accompanying summary from the attorney, the Energy Foundation paid
9 3EStrategies a total of \$50,000 between 8/13/13 and 12/10/13. #INV26.

10
11 In the final report from 3EStrategies to the Energy Foundation, dated 2/11/14, Ms. Hayes
12 lists deliverables that include speeches to: Oregon Coast Aquarium major donors (also
13 listed as a deliverable in the Resource Media report, above), American Association of
14 University Women Southern Oregon, World Environment Day Portland OR, Gund
15 Institute VT, Oregon State University Cascades 2013 Commencement, IBM Global
16 Collaborative team, Women Sustainability Leaders network, Pacific Northwest Shellfish
17 Conference, Willamette Women's Group, Oregon Business Council, One Pacific Coast
18 Bank, Central Oregon City Club, and Portland City Club. She also lists "participated at
19 TED 2014," despite the fact that the TED 2014 conference she attended took place after
20 the date on the final report. #INV26.

21
22 Ms. Hayes also listed as accomplishments several items related to the PCC: participation
23 in the Skamania 3 working session, assistance with planning and implementing the PCC
24 Leaders Forum in San Francisco, and messaging and strategic communications in
25 support of the PCC. She also said that she "helped create a path forward for implementing
26 the multi-state action plan on energy and climate," that she "convened meetings with
27 United Nations Environment Program [sic] representatives interested in multi-state clean
28 economy approach, Clinton Global Initiative, creative financial experts (Intergenerational
29 Finance Group), key northwest clean energy advocates, northwest lawmakers,
30 prospective major funders and supporters of a West Coast approach to climate issues,
31 including with ocean conservation funders interested in collaborating on approach to

1 carbon." In addition to these accomplishments, Ms. Hayes listed 3EStrategies Clean
2 Economy Bulletins, posts in Grist and Huffington Post, a redesigned 3EStrategies
3 website, and participation in TED 2014. #INV26.

4
5 Both Ms. Hayes and Governor Kitzhaber attended the PCC Leaders Forum in San
6 Francisco, assistance and planning for which Ms. Hayes listed as one of her
7 accomplishments. Governor Kitzhaber signed a Pacific Coast Action Plan on Climate and
8 Energy dated 10/28/13. #INV39. Governor's office staff organized travel to the forum for
9 both Ms. Hayes and Governor Kitzhaber. #INV38.

10

11 Speeches:

12

13 Not all of the speeches mentioned in the 3EStrategies final report to the Energy
14 Foundation could be verified due to the time constraints of the investigation. Regarding
15 the OSU Cascades Commencement speech in 2013, however, Ms. Hayes was invited to
16 speak by Rebecca Johnson, Vice President for OSU-Cascades, whose email invitation
17 said, "In recognition of your leadership in Central Oregon and around the state as a
18 visionary for a sustainable future, and your role as First Lady, I am honored to invite you
19 to deliver the keynote address at the 2013 Oregon State University - Cascades
20 commencement ceremony." #INV6, GOV13755-13759. The OSU press release for the
21 event began, "Oregon's First Lady Cylvia Hayes to deliver commencement address at
22 OSU-Cascades." It identified her as First Lady of Oregon and a champion of
23 sustainability. Mary Rowinski coordinated the details of the event, and the Governor's
24 office prepared an event briefing memo for Ms. Hayes. #INV6, GOV185487-185494. Ms.
25 Hayes's speech, available on the OSU-Cascades website, begins with words about
26 Governor Kitzhaber's support of public education. Ms. Hayes spoke about her personal
27 history, talked about alternative economic metrics to GDP, and urged the graduates to
28 think about whether their work would be part of the problem or part of the solution.
29 #INV28.

30 //

31 //

1 Ms. Hayes was invited to keynote the Ocean Steward Luncheon of the Oregon Coast
2 Aquarium by the Aquarium's Vice President of Development. #INV6, GOV13994-13996.
3 The Governor's office prepared an event memo for the event, which stated that her
4 speech should include a funding request to support the Aquarium. The Aquarium
5 requested that she develop her own remarks, given her significant background in the area
6 of healthy oceans. #INV6, GOV 148824-148827.

7
8 Ms. Hayes's expenses for the Vermont event were covered by the organizers of the
9 conference she attended, sponsored by the Donella Meadows Institute and the University
10 of Vermont's Gund School (on ecological economics). Mary Rowinski booked Ms.
11 Hayes's flights through Azumano Travel, on Ms. Hayes's visa card. #INV29.

12
13 Ms. Hayes attended the TED 2014 conference in Vancouver in March 2014. She asked
14 Governor's office staff to make the reservations for her flight to Vancouver, which Jan
15 Murdock did through Azumano Travel. #INV30, #INV42. Ms. Hayes also wrote a
16 Huffington Post post about TED 2014. #INV43.

17
18 **Demos (June-November 2013)–**

19
20 Demos is a public policy organization working on issues that include reducing the role of
21 money in politics, guaranteeing the freedom to vote, expanding and diversifying the
22 middle class in a sustainable economy, and elevating the values of community and racial
23 equity. Demos has offices in New York, Washington D.C., and Boston. #INV44.

24
25 Contact with Demos:

26
27 Ms. Hayes was in contact with Demos as early as July 2011, when she was introduced
28 to one of their Associate Program Directors, Patrick Bresette. Ms. Hayes forwarded the
29 introduction email to Governor Kitzhaber and two other governor's office staff, stating that
30 "Patrick would be happy to come and talk with us about the Demos' [sic] findings related
31 to people's opinion and relationship to government." Governor Kitzhaber forwarded the

1 email chain to Greg Wolf in his office with an FYI that, after an exchange of emails,
2 culminated in Governor Kitzhaber saying that they should get Mr. Bresette out here to talk
3 about his work. #INV7, Vol. 6, RE: *Connecting Cylvia and Patrick*, email from J. Kitzhaber
4 to G. Wolf, 7/15/11.

5

6 Introduction to GPI:

7
8 In December 2011, Ms. Hayes sent an email to Robert Costanza, a professor at Portland
9 State University (PSU), telling him:

10
11 "I have been granted a fellowship with the Clean Economy Development Center. I
12 am charged with speaking, writing and helping to shift the national narrative around
13 clean economy success stories...

14
15 I need some help identifying strategic speaking engagements and publications. My
16 work is national in scope and I especially need help engaging beyond the
17 Northwest.

18
19 On another note, in my First Lady role, I will be working on Ocean Health issues,
20 mostly awareness-raising work. Ecosystem services will certainly be part of my
21 message.

22
23 Any thoughts/suggestions?" #INV8, RE: *checking in*, email from L. Daly to R.
24 Costanza and C. Hayes, 1/3/12.

25
26 Dr. Costanza responded, copying Lew Daly, director of the Demos Sustainable Progress
27 Initiative. He suggested *Solutions* as a venue for her publications and said:

28
29 "We should talk about other things. In particular, I'd like to talk to you about
30 convening a group around estimating the Genuine Progress Indicator (GPI) for
31 Oregon. You may know that Maryland has officially adopted the GPI and Vermont

1 is considering it. Can you help convene the right group in Oregon to consider this?
2 We could get some of the people involved in the Maryland and Vermont efforts to
3 come. I'm copying Lew Daly from Demos in NY on this – Lew has been
4 coordinating some of this activity and would be happy to help us." #INV8, RE:
5 *checking in*, email from L. Daly to R. Costanza and C. Hayes, 1/3/12.

6
7 Ms. Hayes said:

8
9 "I would be most interested in submitting a piece to the Solutions journal. And also
10 most interested in talking with you about the GPI. I have been talking with the
11 Governor about the need for Triple Bottom Line accounting in our decisions around
12 energy, infrastructure and consumption investments/ expenditures. In fact we
13 talked about it during the holiday break. I would be more than happy to convene
14 the group." #INV8, RE: *checking in*, email from L. Daly to R. Costanza and C.
15 Hayes, 1/3/12.

16
17 The group began planning a conference call to discuss GPI in Oregon. Mr. Daly sent Ms.
18 Hayes an email describing what Demos was doing on a federal and state level regarding
19 GPI. He explained that they were starting the conversation in Washington State and, "It
20 would be great to get a similar discussion going in Oregon, giving us something of a
21 northwest approach." #INV8, RE: *checking in*, email from L. Daly to R. Costanza and C.
22 Hayes, 1/3/12.

23
24 Measuring Oregon's GPI:

25
26 In April 2012, the Oregonian reported that Governor Kitzhaber and Ms. Hayes attended
27 the first, three-hour long meeting of a class taught by Dr. Costanza on measuring
28 Oregon's GPI. According to the article, the Governor asked if there were ways to tie GPI
29 to budget and policy decisions in order to measure progress. #INV14.

30
31 In May of 2012, Ms. Hayes, Dr. Costanza, and Mr. Daly exchanged emails about the

1 Oregon GPI. Mr. Daly said, "Hi Cylvia: I've heard from Bob about all the progress on an
2 Oregon GPI. This is good news and I really want to commend you for engaging on this
3 and introducing these ideas within governor's office." He suggested that he might try to
4 start a parallel conversation with legislators. #INV8, RE: legislation for new indicators,
5 email from L. Daly to C. Hayes, 5/14/12.

6

7 Dr. Costanza replied, saying:

8

9 "The class is doing great assembling the Oregon GPI. We should have a beta
10 version by next Wed...

11 We are planning a presentation of the results on Saturday, June 2nd. Is that a day
12 when you, the Gov., and relevant state agency reps might be able to attend? We
13 could possibly arrange to do it in Salem if necessary. Lew and Sean McGuire from
14 Maryland will probably also attend, either live or over skype." #INV8, RE: legislation
15 for new indicators, email from L. Daly to C. Hayes, 5/14/12.

16

17 Ms. Hayes's response was:

18

19 "Greetings Robert,

20

21 It would be most helpful if you would be a bit more considerate of the possible
22 political ramifications of this. I do not think June 2nd will work for me, but more
23 importantly, we should be strategic in how/ where/ to whom this is rolled out. As I
24 have warned MANY times this could get derailed if it comes out of the gates
25 ineffectively.

26

27 We need to think this through rather than just doing a pre-set public presentation."
28 #INV8, RE: legislation for new indicators, email from L. Daly to C. Hayes, 5/14/12.

29

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1 Mr. Daly also advised caution, and then Ms. Hayes said:

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"Greetings Lew,

Thanks for sending this. If we blunder on the front end of this work it will be DOA. Until the email about June 2nd, I did know [sic] that Bob planned to publically present the initial work of the class. I think it would be better not to.

We need to be aware of a few things:

1. We have a unique opportunity to imbed more effective metrics into the Oregon Ten Year Budget Plan, now being developed.
2. We are not at all sure that we need Legislation to move this forward.
3. The Governor is already doing some HEAVY lifting with the education and health care transformation pieces and will need to stay on message and focused.
4. The best approach may be to stay fairly quiet about this until things are more developed. For pete's sake do not talk to the media about this.

Bob, can you please tell me your plans for any publicity/public presentations?"
#INV8, RE: *legislation for new indicators*, email from L. Daly to C. Hayes, 5/14/12.

Mr. Daly responded to Ms. Hayes, saying that the Governor's health and education focus "is actually a very rich area for new accounting approaches and the one with the most interest from economists... I'd be happy to help you think about at least these two "core" measurement needs for Oregon as well. I think this is eminently doable at the state level, and it could be a powerful new driver for state decision-making in these critical areas." He agreed that they needed to be very careful about the GPI rollout politically. #INV8, RE: *legislation for new indicators*, email from L. Daly to C. Hayes, 5/14/12.

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1 1st Practitioners Meeting:

2
3 In August 2012, Mr. Daly at Demos invited Ms. Hayes to a "GPI practitioners convening"
4 in Maryland in October, hosted by Governor O'Malley's office. "The main focus of the
5 discussion is state-level policy applications with alternative metrics, as well as
6 political/institutional issues surround alternative metrics, and communication issues," he
7 said. "I hope you would see this as an important discussion for your efforts in Oregon,
8 and we would love to have you participate." #INV8, RE: invite GPI practitioners
9 convening, email from L. Daly to C. Hayes, 8/31/12. Ms. Hayes responded that she was
10 interested in attending. She asked for more agenda information and whether it was
11 possible to get travel costs covered. Mr. Daly responded that they could cover travel and
12 lodging. #INV8, RE: invite GPI practitioners convening, email from L. Daly to C. Hayes,
13 8/31/12. Ms. Rowinski in the Office of the Governor worked on travel arrangements for
14 the trip, finding flights and conferring with Demos staff. Demos staff booked the flight.
15 #INV8, RE: Oct 8/9 convening [sic] for GPI practitioners, email from J. Hochman to C.
16 Hayes, 9/27/12.

17

18 Introducing GPI to Oregon State Government:

19

20 Also in August 2012, Nicole Gorko from PSU send out a review draft of the Oregon GPI
21 report. After a response from Sean McGuire from the Maryland Office for a Sustainable
22 Future, Dr. Costanza said, "On the "process", that is what we are counting on Cylvia to
23 spearhead, now that we have gotten to first base. Cylvia, what are the next steps?" #INV8,
24 Re: Oregon GPI Draft for Internal Review, email from N. Gorko to C. Hayes, 8/30/12. Ms.
25 Hayes replied that, "The next step for our Oregon GPI is for me to hear back from the
26 people in the Administration that I have put it forward to. I will let you know." Dr. Costanza
27 asked if they could send the draft around within the GPI research community while that
28 was happening. "Is it time to make it a final report that the Oregon gov people can then
29 discuss and react to? Or better to have their "buy in" before we finalize? We defer to your
30 advice on this." Ms. Hayes said, "I think it is fine to vet it with the research community.
31 Please try not to have any media or general public visibility. The Governor is looking at it

1 now. We will then meet with several key staff to look at how we would begin implementing
2 new metrics going forward. It has moved a little slowly on our end because of staff
3 vacations during summer." #INV8, *Re: Oregon GPI Draft for Internal Review*, email from
4 N. Gorko to C. Hayes, 8/30/12.

5
6 Ms. Hayes apparently sent the Oregon GPI draft to Governor Kitzhaber, Curtis Robinhold,
7 and Tim Raphael, one of the Governor's staff, in the summer of 2012. She followed up
8 with all three on 8/21/13, saying, "I sent this to you three some time back and haven't
9 heard anything. I am wondering if it got lost in cyberspace. I'd like to discuss next steps
10 on the GPI/ economic metrics/ economic approach." Mr. Robinhold responded to all
11 recipients in September, saying that it appeared to be a piece of academic work, and he
12 was struggling to find a way to engage on it proactively. Ms. Hayes said that she would
13 be meeting with Demos in October and would see if it offered any concrete applications.
14 #INV7, *RE: Oregon GPI Draft for Internal Review*, email from C. Hayes to C. Robinhold,
15 9/11/12.

16
17 On September 2, 2012, Ms. Hayes forwarded the Oregon GPI draft to Mary Rowinski in
18 the Office of the Governor and Jan Murdock, the Governor's assistant, asking them to,
19 "[p]lease convene a meeting as soon as possible for me, JK [Governor Kitzhaber], Mike
20 Jordan and Steve Marks to discuss the draft Oregon Genuine Progress Indicator (GPI)
21 report attached here. Also, please let Curtis [Robinhold] know in case he'd like to attend.
22 I may be going to DC Oct 8 and 9 related to this work." Ms. Murdock scheduled a lunch
23 meeting for 9/25/12. #INV8, *Re: Oregon GPI Draft for Internal Review*, email from J.
24 Murdock to C. Hayes, 9/5/12. Both the Governor's calendar and the First Lady's calendar
25 for 9/25/12 show a lunch meeting with Michael Jordan and Steve Marks from the
26 Department of Administrative Services, as well as Curtis Robinhold. #INV67, #INV68.
27 None of the three – Mr. Jordan, Mr. Marks, or Mr. Robinhold – remember the substance
28 of the meeting. #INV70.

29
30 Ms. Hayes sent Governor Kitzhaber an email on 11/14/12 that said, "Here is a reminder
31 to discuss having Demos put some resources into developing GPI metrics for our

1 education reform work. Please check with the appropriate ed advisors and staff and let
2 me know." #INV7, Vol.30, *GPI and education*, email from C. Hayes to J. Kitzhaber,
3 11/14/12. There is no record of Governor Kitzhaber's response.

4

5 Further Work with Demos; Possible Contract:

6
7 In January 2013, Lew Daly sent an email to Ms. Hayes at her 3EStrategies email address.
8 In that email, which had a subject of "washington state etc.," he said,

9
10 "Hi Cylvia: I just wanted to follow up on inviting someone from Gov. Inslee's office
11 to join us on February 8 for the consultation on the education metrics. Getting that
12 kind of synergy going is really important for the momentum of this work, and John
13 seemed to think it would be a very good idea. You have the memo I did for the
14 earlier conference call if needed, and of course please pull me in by email or phone
15 if needed for the outreach to Inslee's office.

16
17 Also, fyi, I'd like to talk to you about possibly playing a role as a state advocacy
18 fellow with us. It would be part time, Western-focused; I don't have the money for
19 it yet and I don't know if I'll get the money, but let me know if you are interested.

20
21 Finally, I attach the draft of a fact sheet about Oregon education cuts. This is part
22 of a larger Demos research project called The Great Cost Shift. Your education
23 guys know all about this I'm sure, but this may be a handy version. It's still
24 unformatted and in draft, so please let me know if you may want to use in in some
25 public way.

26
27 In the meantime, let's get ready for Brazill Lew" #PR9.

28
29 Governor Kitzhaber, Ms. Hayes, and other state agency staff met with Mr. Daly on 2/8/13
30 in Portland. #INV67, #INV68. Michael Jordan from the Department of Administrative
31 Services, recalled that he had no knowledge from this meeting that Ms. Hayes had a

1 relationship with Demos other than that she knew the people from Demos at the meeting.
2 Mr. Jordan was, at the time, involved in discussions about metrics to be used in the 10
3 year strategic plan for the state. He noted that former Governor Kitzhaber was interested
4 in GPI as a model for those metrics. #INV70.

5
6 In March 2013, Mr. Daly emailed Ms. Hayes to ask, "Do you guys have a good connection
7 with MA governor Deval Patrick? I was recently in Boston to meet with Patrick's metrics
8 guru in the Executive Office, to talk about a GPI initiative for Massachusetts... Very
9 positive conversation overall, and there was definitely a higher comfort level from the fact
10 that Maryland and Oregon governors are getting behind this. Do you know if John or
11 Deval know each other well or at all? At some strategic point, it might be good to arrange
12 a phone call." Ms. Hayes responded, "They know each other but not all that well. Glad to
13 hear he's receptive," and the conversation moved to Ms. Hayes contacting Governor
14 Inslee's administration in Washington State to encourage them to delegate someone to
15 attend a GPI in the States meeting. #INV8, RE: gov patrick?, email from L. Daly to C.
16 Hayes, 3/29/13. Ms. Hayes did contact Trudi Inslee, the First Lady of Washington, to invite
17 her and Mary Alice Heuschel, Governor Inslee's Chief of Staff, to the GPI in the States
18 meeting. It is not clear whether a representative from Washington did attend the meeting,
19 although a phone call was scheduled between Ms. Hayes and Ms. Heuschel to discuss
20 details. #INV8, RE: GPI in the States Summit SAVE THE DATE, email from C. Hayes to
21 R. Kim.

22

23 On 3/25/13, Governor Kitzhaber gave a tape to a scheduling assistant in the Office of the
24 Governor, Stormy Boyles. She transcribed the tape for him and sent him the transcript.
25 Among numerous other topics, Governor Kitzhaber said, "Plan: Move forward on the
26 Oregon GPI Metric. Engage PSU and build a website. This is a value proposition around
27 the narrative. So the GPI website is one end of the spectrum. The other end is the micro-
28 decisions we make every day. In between we need to bore down on specific areas, three
29 in particular; 1) education, 2) healthcare, 3) natural resources." #INV7, Vol. UNK,
30 *Dictation*, email from S. Boyles to J. Kitzhaber, 3/25/13.

31

1 Around the same time, a series of emails circulated regarding a "roadmap" that included
2 budgets. According to the first email, "Cylvia's budget has been folded into Demos, as
3 they requested." Lew Daly suggested a need for a planning meeting and emailed Ms.
4 Hayes to say, "As our political point person (behind the scenes), I think it would be
5 appropriate for you to call together a planning meeting. We've got to go deeper into
6 substance, strategy, work-planning, and fundraising, or the effort will drift apart in small
7 pieces... PS: Surdna [Foundation] news very soon!" #INV8, RE: Roadmap v2, email from
8 L. Daly to C. Hayes, 3/29/13.

9

10 2nd Practitioners Meeting:

11

12 In March 2013, Ms. Hayes asked Mary Rowinski in the Office of the Governor to check
13 on flights to Baltimore for the GPI in the States summit in Baltimore in June, with a side
14 trip to Vermont. Ms. Rowinski checked with Azumano Travel, the state's travel agent, and
15 offered flight options to Ms. Hayes, who sent it to Ms. Hayes. #INV8, RE: Baltimore in
16 June, email from C. Hayes to M. Rowinski, 4/2/13. Demos was covering travel and
17 lodging. "They are covering it," Ms. Hayes said in another email, "but I'm not sure if we
18 need to arrange it and then get reimbursed. I will send you an email with the person to
19 work with." #INV8, RE: TRAVEL ARRANGEMENTS Second GPI in the States summit,
20 email from C. Hayes to M. Rowinski, 4/3/13.

21

22 Demos Contract:

23

24 On 4/12/13, Mr. Daly sent Ms. Hayes an email saying, "I received the Surdna [Foundation]
25 grant letter today, and we were approved for the full amount. So, here we go! I'll be in
26 touch next week about a letter of agreement. We should try to have that in place before
27 we head to Bhutan."⁴ He also provided a link to a Beyond GDP anchor paper with
28 background on ideas and substance and attached a strategic outline of the Beyond GDP
29 project, including Oregon, other state, and federal work. "This write-up provides a

⁴ Governor Kitzhaber and Ms. Hayes left for Bhutan on 4/19/13.

1 snapshot," he said, "but of course I am always available to have more detailed
2 conversation about the strategic vision or the day-to-day work with potential donors. Let
3 me know if these materials are sufficient and on target for what you need. Don't hesitate
4 to ask for something different, if that's what you think you need for a given conversation."
5 #INV8, *materials and good news*, email from L. Daly to C. Hayes, 4/12/13.

6
7 Governor Kitzhaber and Ms. Hayes went to Bhutan on a "Learning Journey" with the
8 Global Wellbing and GNH Lab, apparently together with Mr. Daly, from 4/19/13-4/29/13.
9 #INV73.

10
11 The contract between Demos and 3EStrategies that was provided to the OGEC by
12 Governor Kitzhaber's office in 2014 was signed on 7/13/13, but specified a term of 6/1/13-
13 11/30/13. The contract called for Ms. Hayes to be paid a total fee of \$25,000. According
14 to the contract, Ms. Hayes would be advising Demos on Gross Prosperity Initiatives in the
15 US states and advising stakeholders in US states, including such tasks as: gathering
16 information about GPI-related activities in US states, developing opportunities for
17 information sharing about best practices, assisting with planning for a national meeting of
18 GPI practitioners, developing content for a cyber-hub, assisting in developing state-
19 specific GPI models, and advising state and county leaders on implementation of GPI
20 and related systems. #PR8.

21
22 This contract with Demos was the second version of the contract. The first contract,
23 provided to the OGEC by Ms. Hayes in the packet of material that her Federal Public
24 Defender sent to the US Attorney's office, was signed by Ms. Hayes on 5/10/13. It called
25 for her to cultivate business support through business associations and individual
26 business leaders, educate and cultivate support from in-state advocacy and community
27 groups, locate and cultivate potential donors to support Demos' contributions in Oregon
28 and other needs within the Oregon GPI partnership, help organize public events and
29 strategic communications around the Oregon GPI, and targeted public speaking and
30 writing on the Oregon effort. It also called for work related to GPI in Washington and
31 California. #INV58. According to the cover letter from Ms. Hay to the US Attorney's office

1 and the attached Conflict of Interest form, Liani Reeves did not see a specific conflict
2 related to this work, although she did provide Ms. Hayes with the OGE's Guidelines for
3 Outside Public Employment for Public Officials. #INV58.

4
5 Ms. Hayes sent an invoice to Demos on 5/10/13 in the amount of \$8,333.00 for
6 "[c]onsulting services delivered through the Beyond GDP / GPI in the States project as
7 described in the Surdna Foundation grant agreement." The invoice requested that
8 payment be sent to 3EStrategies at 533 S Lincoln St, Salem OR 97302. #PR10. The
9 address for Mahonia Hall, the Oregon Governor's Residence, is 533 Lincoln St S, Salem
10 OR 97302. According to Demos, they listed Cylvia Hayes on the checks, not
11 3EStrategies, although Ms. Hayes's address at the top of each version of the contract is
12 listed as "Cylvia Hayes, 3EStrategies," with an address in Bend, OR. #INV61. A W9
13 Request for Taxpayer Identification form provided to the Commission with the Demos
14 documents lists 3EStrategies under "Name (as shown on your income tax return)" and an
15 employer identification number rather than a social security number, meaning that Ms.
16 Hayes requested tax forms regarding the amount paid to her be provided to her business
17 rather than to her individually. #INV60.

18
19 Even before the contract was signed in May 2013, Ms. Hayes began to plan meetings
20 with State of Oregon personnel, including Governor Kitzhaber, regarding GPI. The first
21 meeting, for which she sent out notice on 4/26/13, was scheduled for 5/13/13. Invitees
22 included Michael Jordan and Sarah Miller from the Department of Administrative
23 Services, as well as Governor's office staff, Lew Daly from Demos, and members of
24 community and business groups. Ms. Hayes said, "The purpose of this session is to hear
25 about the status of the Oregon GPI and the roles of PSU, the Governors [sic] office,
26 Demos and other partners and get your feedback on where to take it from there." The
27 event was held at Mahonia Hall. #INV63. Mary Rowinski ordered food for the group.
28 #INV6, GOV9223.

29
30 Michael Jordan recalled that the Governor opened this meeting at Mahonia Hall and then
31 left. It was only after this meeting that he learned that Ms. Hayes was being paid by

1 Demos. #INV70. Curtis Robinhold did not attend the meeting, but recalled that this was
2 the meeting that started the conversation about how Ms. Hayes could use Mahonia Hall
3 for her private work. #INV70. It was a week later that Ms. Reeves emailed Ms. Hayes,
4 saying that Mr. Robinhold had asked her to touch base with Ms. Hayes regarding her
5 Demos contract. #INV62.

6
7 Ms. Hayes and Ms. Reeves had a telephone conversation about Ms. Hayes's contracts
8 on 5/22/13. After this meeting, Ms. Reeves asked Ms. Hayes to send her copies of all
9 three contracts. Ms. Hayes then filed "Disclosure of Potential or Actual Conflict of Interest"
10 memoranda addressed to Curtis Robinhold, the Governor's Chief of Staff, asking him to
11 dispose of the conflict. The dated versions of these forms are dated between July and
12 August 2013, after Ms. Hayes had agreed to perform all of the paid work in this matter. In
13 the final version of the forms, the response from Mr. Robinhold and Ms. Reeve is that Ms.
14 Hayes does not have a conflict of interest because she does not make decisions on behalf
15 of the State of Oregon that would be to the financial benefit or detriment of the
16 organizations with which she has contracts. They do, however, caution her about the
17 Commission's Guidelines for Outside Employment of Public Officials, and offer guidelines
18 on use of her First Lady title and Mahonia Hall. #PR8, #PR9.

19
20 Soon after Ms. Hayes sent the first invoice to Demos, she emailed Steve Marks, then
21 working for the Chief Operations Officer's Office at the Department of Administrative
22 Services, from her 3EStrategies email address, asking him to come to dinner with her
23 and the Governor at Mahonia Hall to discuss GPI and the Ten Year Budget Plan. #INV7,
24 Vol.34, *Re: dinner with me and JK*, email from J. Murdock to C. Hayes, 5/20/13. Jan
25 Murdock scheduled the meeting for the group, sending an email specifically to Governor
26 Kitzhaber that said, "Cylvia asked me to find a time when the two of you could have dinner
27 with Steve Marks (and Kathy) at Mahonia to talk about GPI and the 10 year budget plan
28 as soon as possible." She asked the Governor if he wanted to fix dinner or have her order
29 something. #INV7, Vol.34, *Dinner on May 31st*, email from J. Murdock to J. Kitzhaber,
30 5/20/13. Mr. Marks did not recall a dinner at which they discussed policy issues at any
31 length. #INV70.

1
2 Governor Kitzhaber and Ms. Hayes gave a presentation entitled, "Global Well-Being:
3 Innovating Beyond GDP" to the Oregon Humanities Idea Lab on 7/26/13, where they
4 spoke about their trip to Bhutan and "their vision for the economic future of Oregon."
5 #INV27.

6
7 That fall, Ms. Hayes sent emails to State of Oregon officials, including Michael Jordan,
8 the Executive Director of the Department of Administrative Services, concerning
9 integrating GPI into the Oregon 10 Year Budget, including a copy of her Oregon GPI plan,
10 which listed her as a member of the Oregon GPI team. The draft did not appear to include
11 funding for her. #INV63.

12
13 On 11/23/13, a week before the end of Ms. Hayes's contract with Demos, Ms. Hayes sent
14 Governor Kitzhaber an email asking him to take a look at the attached Oregon GPI
15 Implementation Outline. The outline read:

16
17 "November 2103 [sic] – April 2014

- 18 • Write up description
- 19 • Get comments on proposal back from Michael Jordan
- 20 • Secure funds to hire Sean (state??)
- 21 • Determine how to move forward with natural capital accounts
- 22 • Complete funding proposal
- 23 • Raise funds to complete sub-accounts, natural capital assessments,
24 website
- 25 • Develop accounts
- 26 • Integrate GPI with Ten Year Budget Plan and if possible Oregon
27 Business Plan
- 28 • Develop website
- 29 • Work with targeted stakeholders (key lawmakers, Kate Brown, OBC,
30 OCF, OSU, PSU, etc)

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April / May 2014

- Convene working session on applying comprehensive metrics to state budget developments
- Apply GPI tool to development of state biennial budget
- Develop a GPI awareness raising campaign plan

June – December 2014

- Implement campaign plan: Build broader support for GPI." #INV35.

Governor Kitzhaber and Ms. Hayes scheduled a 1/8/14 meeting with Michael Jordan and Mike Bonetto, the Governor's new Chief of Staff, to discuss developing the GPI website and selecting a few key metrics to relate GPI to the 10 year budget. #INV63. Ms. Hayes continued to contact Mr. Jordan and other state agency staff, occasionally copying the Governor, regarding GPI through the spring of 2014. #INV63.

After Ms. Hayes's Contracts –

According to statement drafts exchanged between Ms. Hayes and former Governor Kitzhaber, she did not take any paid work in 2014. #INV8, *statement draft*, email from C. Hayes to J. Kitzhaber, 12/4/14; re: *statement draft*, email from J. Kitzhaber to C. Hayes, 12/14/14.

Ms. Hayes and Governor Kitzhaber continued to work on some of the issues that Ms. Hayes had been paid to work on during her Clean Economy Acceleration Fellowship and the contracts with Resource Media, the Energy Foundation, and Demos. For example, Ms. Hayes and Governor Kitzhaber were both scheduled to be briefed on public opinion about different carbon mitigation measures by organizations in the field. The meeting was set up by Margi Hoffman in the Office of the Governor, with Andrea Durbin from the Oregon Environmental Council. #INV6, GOV1273-1276. Ms. Hayes sent emails to Governor Kitzhaber and his staff about GPI in early 2014, and asked the Governor to be

1 interviewed for an article that Lew Daly from Demos was writing about GPI for New
2 Republic magazine. #INV46. Governor Kitzhaber was quoted in the article, published
3 2/3/14, saying that Oregon was integrating GPI into a ten-year state budget plan. #INV37.

4
5 Ms. Hayes remained involved in the Kitzhaber administration. In June 2014, Ms. Hayes
6 received a copy of a strategic planning document that appears to include deliverables for
7 senior policy staff of the governor's office. #INV6, pp. 826+. She toured the Department
8 of Corrections (DOC) recycling center with DOC Director Colette Peters, resulting in a
9 follow-up letter from Ms. Peters concerning DOC sustainability efforts. At the end of the
10 letter, Ms. Peters addressed Ms. Hayes's desire for her nephew to be transferred from
11 his incarceration in Oklahoma to Oregon, and explained that the process of requesting
12 an interstate compact transfer would begin with Ms. Hayes's nephew making the request
13 in OK. #INV6, pp. 811-815.

14
15 Ms. Hayes made speeches and attended conferences, at times being reimbursed for
16 expenses by the Governor's Office. For example, she spoke at a CommonBound
17 conference on a panel about leveraging business, civil society and government for system
18 change in June 2014, and she gave a speech in Portland to the Geothermal Resources
19 Council in September 2014. #INV6, pp. 779-788, 1439-1447. She gave the keynote
20 speech on "Creating an Economy that Works for Everyone" at the SolWest Fair in
21 LaGrande in June 2014. #INV6, GOV1577-1582; #INV33. She continued to talk with
22 people about clean economy issues and alternative economic metrics such as GPI. See,
23 e.g. #INV6, GOV1089-1090, 1104. At one point, Ms. Hayes emailed the Governor's
24 Communications Director, Nkenge Harmon Johnson, asking that the Governor's
25 communications staff handle getting her biography sent out for speeches, and that her
26 professional expertise be included in her biography "(when relevant to the meeting at
27 hand)." #INV6, p. 1488-1489.

28
29 During 2014, there were more events related to the First Lady's Prosperity Initiative.
30 Stakeholder Forums were scheduled for October 2014 in Forest Grove, Portland,
31 Gresham, Albany, Baker City, North Bend, and Roseburg. #INV6, GOV485-490. Ms.

1 Hayes emailed with a representative of ISITE Design about setting up a meeting to
2 discuss communications for the Prosperity agenda. #INV6, GOV741-742.

3

4 It also appears that Governor Kitzhaber appointed Ms. Hayes to the Board of Trustees
5 for the Oregon Institute of Technology during this time. Although an email inquiry to Lita
6 Colligan at Oregon Tech during this investigation went unanswered (#INV34), Ms. Hayes
7 received emails from Ms. Colligan in late 2014 regarding the Board Orientation and first
8 meeting, concerning which she responded that she might be in Peru for climate talks for
9 at least one of the meetings. #INV6, GOV529-530. Trustees for Oregon Tech are
10 appointed by the Governor. This is an uncompensated position, according to the bylaws
11 dated January 2015. #INV32. It is not clear for how long Ms. Hayes actually held the
12 position.

13

14 Ms. Hayes also continued her engagement with the Pacific Coast Collaborative in 2014.
15 For example, Ms. Hayes exchanged emails with Ms. Rowinski about her attendance at a
16 PCC meeting at the PDX Conference Center at the Portland Airport in June of
17 2014. #INV6, GOV397-400. Funding for PCC work was provided by the States of
18 Washington and California, the Bullit Foundation, the Ocean Conservancy, and RBF.
19 #INV6, GOV474. Ms. Hayes was also involved in scheduling discussions for a PCC ocean
20 acidification phone call set for July 2014. #INV6, pp. 376-377, 397-400, 603. She was
21 included on invitations and follow-up emails for PCC monthly meetings and strategy
22 sessions. See, e.g. #INV6, pp. 71, 376-377, 545, 748-750, 753-755, 944-946, 1278-1298,
23 1473-1486. When she inquired, "Are we set to have a PCC presence at the Kerry ocean
24 summit?" in an email to Gabriela Goldfarb and Jay Manning at Cascadia Law Group in
25 Washington, Ms. Goldfarb said no, but copied Dan Carol and asked if Ms. Hayes thought
26 she could attend. Ms. Hayes could not. #INV6, GOV1086. According to a summary from
27 the September 2014 PCC call, Ms. Hayes was scheduled to participate in panel
28 introductions or presentations on behalf of the PCC at the UN Climate event (see below
29 for more information on her participation at that event). #INV6, GOV1279-1280.

30 //

31 //

1 In addition to her involvement with the Kitzhaber administration, Ms. Hayes also
2 maintained 3EStrategies and continued to network, including both her private and public
3 work in her networking emails. For example, Ms. Hayes sent an email to Georgia Kelly,
4 the Director of the Praxis Peace Institute on 9/13/14, saying that she was not able to
5 attend an upcoming conference due to her schedule, but that she "wanted to introduce
6 myself so that I might be considered as a speaker for future such conferences. I am a
7 long-time clean economy practitioner and current First Lady of Oregon. The website
8 www.3estrategies.org shows some of my work and a bio is attached." Ms. Kelly
9 responded, saying, "You are in a unique position to manifest real change, so I am very
10 interested in learning more about what your are [sic] involved in." Ms. Hayes forwarded
11 the conversation to Mary Rowinski to set up a phone meeting. #INV6, pp. 1567-1569. A
12 few weeks later, Ms. Kelly appears to have invited Ms. Hayes to the conference. Ms.
13 Hayes had flights scheduled to attend the conference until she canceled the night before
14 because "a very frustrating emergency has cropped up here and I cannot leave Oregon
15 tomorrow" on 10/7/14, the day that an article entitled "First Lady, Inc." appeared in the
16 *Willamette Week*. #INV6, GOV379-382; #INV15.

17
18 She was also invited to speak in Russia, but canceled in May 2014 in an email from her
19 3EStrategies account, saying, "President Obama recently asked U.S. CEO's not to attend
20 an economic summit in Russia scheduled for later this year. I feel I need to honor that
21 request. Moreover, since John (my partner) is campaigning for re-election this November
22 there is no question that news of my visit to Russia will be taken out of context and used
23 to create nasty stories. None of the positive aspects of the work we would be doing will
24 get mentioned it will all be about trying to turn this into a scandal." #INV6, GOV1436-
25 1438. She offered to appear by Skype or video-conference. Ms. Hayes also sent an email
26 with similar language to Governor Kitzhaber, Patricia McCaig, and several others, telling
27 them that she would not be going to Russia. She also forwarded her email to Governor
28 Kitzhaber on to Nkenge Harmon Johnson, saying, "FYI. Thanks for your wise council."
29 Ms. Harmon Johnson responded that the office could help arrange technology if she
30 wanted to participate by Skype. #INV6, GOV4203-4204. It is unclear whether Ms. Hayes
31 had been invited to participate in the Russia event as First Lady or as CEO of

1 3EStrategies.

2

3 On 9/15/14, she sent out a "Clean Economy Bulletin" from her 3EStrategies email address
4 with the headline, "Join Me and our Pacific Coast Collaborative at New York Climate
5 Week." In the text, Ms. Hayes said:

6

7 "In one week world leaders are coming to New York City for a UN summit on
8 climate crisis. UN Secretary Ban Ki-moon is urging governments to support an
9 ambitious global agreement to dramatically reduce global warming pollution.

10

11 I and several other representatives of the Pacific Coast Collaborative will be there
12 to share our West Coast effort to grow the clean economy and reduce climate
13 pollution.

14

15 Through the PCC the governors of California, Oregon, Washington and the
16 premier of British Columbia have agreed to collaborative action to promote market
17 based mechanisms for reducing [greenhouse gas] emissions and innovative
18 mechanisms for building more resilient, sustainable and efficiently financed
19 infrastructure.

20

21 Once the UN talks are over it really falls on jurisdictions to go beyond talking and
22 take concrete action to achieve climate pollution reduction goals.

23

24 At the PCC session on Nov. 24th you will hear directly from staff leads from OR
25 and WA who are at the front lines of delivering these results." #INV6, GOV356-
26 361.

27

28 The bulletin contained two additional articles noting that atmospheric levels of
29 greenhouse gas hit a new record high and that plastics hold value as recyclables. At the
30 end of the email was Ms. Hayes's 3EStrategies email address, a preferences/unsubscribe
31 box, and the name 3EStrategies with an address in Bend. #INV6, pp. 356-361.

1
2 Ms. Hayes attended the UN Climate event mentioned in the 3EStrategies Clean Economy
3 Bulletin in New York from 9/21-9/25/14 at the State of Oregon's expense, requesting and
4 receiving reimbursement upon return for \$3077.78 in expenses. Ms. Rowinski worked on
5 her accommodations and reimbursement. #INV6, pp. 801-802, 1106-1107, 1244.
6 #INV51, VP019902n

7
8 In March 2014, Ms. Hayes spoke at a conference in San Francisco, the Climate Action
9 Reserve's Navigating the American Carbon World. It appears that her travel to this
10 conference was paid by the State of Oregon, and she was reimbursed for expenses by
11 the State. #INV51, VP079117. Ms. Hayes was one of three people on a panel about the
12 Pacific Coast Collaborative. The description of the panel said, "Representatives from the
13 PCC will have a roundtable discussion on initiatives within their states, future actions, and
14 new potential partners to the agreement." Ms. Hayes was identified as the First Lady of
15 Oregon, and her detailed bio described her as founder and CEO of 3EStrategies as well
16 as First Lady of Oregon and a policy advisor to the Governor on issues of clean energy
17 and economic development. It also listed some publications. #INV47.

18
19 Ms. Hayes was also invited to speak at the Conference on Sustainable, Responsible,
20 Impact Investing (SRI Conference) in November 2014. She sent an email to Patricia
21 McCaig, one of Governor Kitzhaber's private advisors, and to Nkenge Harmon Johnson,
22 the Governor's Communications Director, asking them to take a look at the invitation for
23 the SRI Conference. "I am 90% certain I want to accept this speaking invite," she said.
24 "Also, I have asked John to think about joining me. I think we could make a powerful joint
25 presentation about making the transition to a sustainable, clean economy to people in
26 control of a LOT of money. Whether or not John can attend, I would like to do so." #INV6,
27 pp. 1076-1084. It is not clear from the email why Ms. Hayes was concerned about the
28 finances of the persons at the conference. She did not ultimately attend the conference;
29 her invitation was revoked by the host on 10/10/14, saying that he assumed she would
30 be expecting this "given the revelations that have hit the airwaves and cyberspace in the
31 past 24 hours." #INV6, pp. 331-332. The media had reported that week on Ms. Hayes's

1 role in the Governor's office, her private consulting contracts, and her marriage for money
2 to an immigrant seeking legal status in the United States. See #INV15, #INV16.
3

4 Miscellaneous Use of Staff Time and Receipt of Frequent Flyer Miles

5 Travel and Frequent Flyer Miles:

7
8 This investigation also looked at whether former Governor Kitzhaber received frequent
9 flyer miles for flights made in his official capacity as Governor. ORS 292.230 states that
10 the use of travel awards obtained while conducting state business for personal travel
11 constitutes personal gain from state employment and violates ORS 244.040. The
12 Commission will have to determine whether, as an elected official rather than a state
13 employee, former Governor Kitzhaber's acceptance of frequent flyer mileage or credit
14 card rewards violated ORS 244.040(1).
15

16 On some occasions when staff at the Office of the Governor made travel arrangements
17 for former Governor Kitzhaber, it appears that he was not traveling on state business.
18 Although having Governor's office staff make the reservations appears to be a violation
19 of the use of office provision of ORS 244.040(1), former Governor Kitzhaber was likely
20 permitted to accept frequent flyer miles for the personal or business travel that was
21 booked through the Governor's office.
22

23 Governor's office staff purchased tickets for former Governor Kitzhaber and Ms. Hayes
24 to travel to Ft. Myers in 2013 through Azumano Travel. Both former Governor Kitzhaber
25 and Ms. Hayes received frequent flyer miles for this travel, which is prohibited by ORS
26 292.230. If the travel was personal, former Governor Kitzhaber received the discounted
27 fares available through the state's contract with Azumano, which was a personal financial
28 benefit to him. #INV72; *see also* #INV45.
29

30 Both former Governor Kitzhaber and Ms. Hayes also accepted frequent flyer miles for
31 travel to Bhutan in 2013. If this travel was a personal trip, it may have constituted an

1 impermissible gift under ORS 244.020(6) and ORS 244.025 (2013). If former Governor
2 Kitzhaber and Ms. Hayes were representing state government on the trip, it may have
3 fallen under an exception to the definition of gift in ORS 244.020(6) (2013), likely the (H)
4 exception, which permits a public official to accept reasonable food, travel or lodging
5 expenses when the public official is representing state government on an official
6 sanctioned trade-promotion or fact-finding mission. If former Governor Kitzhaber was
7 representing state government, however, acceptance of frequent flyer miles for the travel
8 appears to be a violation of the prohibition on use of official position or office for personal
9 financial gain. #INV71.

10
11 While there may be other occasions when former Governor Kitzhaber earned rewards for
12 flying while on official state business or allowed staff to make reservations for his personal
13 travel, they could not be analyzed within the time and staffing constraints of this
14 investigation.

15

16 Pets:

17

18 It also appears that state employees were involved in transporting and caring for Ms.
19 Hayes's pets, and that Governor Kitzhaber was aware of this. For example, in April 2013,
20 Governor Kitzhaber said that he could bring Ms. Hayes's dog, Tessa, with him to Portland
21 on May 2, when Ms. Hayes would be in California. In an email copied to Governor
22 Kitzhaber, Jan Murdock, the Governor's assistant, offered herself and "Joe" to help as
23 well. Ms. Hayes responded, leaving the Governor off the email, and asked if Ms. Murdock
24 could stay at Mahonia Hall that night. Ms. Murdock demurred, asking if Ms. Hayes would
25 prefer to stay at Governor Kitzhaber's house in Portland and have Tessa greet her there,
26 but saying, "whatever you think works best for Tessa works for me." #INV8, RE: May 2nd,
27 email from J. Murdock to C. Hayes, 4/16/13.

28

29 On 6/5/13, Jan Murdock sent Governor Kitzhaber an email saying that she "promised
30 Cylvia that I would stay at Mahonia with Tessa this evening," and apologizing that she
31 would not be heading back to Portland that night with documents for him. #INV7, Vol.35,

1 *Thursday Schedule*, email from J. Murdock to J. Kitzhaber, 6/5/13. On 6/13/13, 10/14/13,
2 1/23/14, and 4/7/14, the DPU log for Mahonia Hall indicates that Jan Murdock, the
3 Governor's assistant, stayed overnight at Mahonia Hall with Tessa, Ms. Hayes's dog. On
4 6/14/13, Jan fed the cats and picked up Tessa to take her to Portland. On 6/24/13 and
5 10/19/13, DPU staff delivered Tessa to Mahonia Hall. #INV53.

6
7 Gifts –

8
9 **Spokesperson:** During the preliminary review, gifts were identified as an area for
10 investigation, based on an allegation that the Oregon Business Council provided Ms.
11 Hayes with communications services valued at \$35,000 to advance the Prosperity
12 Initiative.

13
14 The original language of the contract between the Oregon Business Council (OBC) and
15 Therese Lang, the consultant who was hired to perform these communications services
16 stated that Ms. Lang would provide "Focused, Proactive Support and Coverage of First
17 Lady Activities: This may include help with speech-writing, photography and videography,
18 generating media coverage." Liani Reeves, the Office of the Governor's Legal Counsel,
19 reviewed the proposed contract and suggested language that would clarify that Ms. Lang
20 was working for OBC on the Prosperity Initiative that Ms. Hayes led, not working for Ms.
21 Hayes directly. The proposed language, to which an OBC representative agreed, stated
22 that OBC was hiring a Prosperity Communications Director "to maximize the media and
23 public awareness and engagement opportunities for the Prosperity Initiative, led by First
24 Lady Cylvia Hayes." As Communications Director, she would provide "Focused, Proactive
25 Support and Coverage of the Prosperity Initiative. This may include with assisting [sic] the
26 First Lady and strategic communications surrogates with speech preparation,
27 photography and videography, generating media coverage." #INV6, GOV128772-
28 128774, GOV149026-149030.

29
30 Based on this change, it does not appear that the Communications Director funding
31 constituted a gift to Ms. Hayes. Instead, it was provided to support a service of

1 government.

2
3 **United Airlines Platinum Status:** On 9/16/13, United Airlines staff provided Governor
4 Kitzhaber and First Lady Hayes Premier Platinum status in the United Airlines Mileage
5 Plus program, specifically noting that they were providing it to "the Governor and First
6 Lady." As part of that premier status, the Governor and First Lady were eligible to have
7 the fee for TSA Pre-check or Global Entry reimbursed by United Airlines. #INV7, Vol.37,
8 *FW: MP Status Nomination - Approved*, email from J. Murdock to J. Kitzhaber and C.
9 Hayes, 9/17/13. Although United Airlines did not provide requested information about the
10 value of Premier Platinum status by the date of this report, its value was estimated at
11 \$4335 in 2016 by the Points Guy. Premier Platinum is the second highest mileage status
12 for United Airlines. According to the 2016 article, it included perks such as unlimited
13 complimentary upgrades as early as 72 hours before a flight. #INV41. The actual value
14 to former Governor Kitzhaber and Ms. Hayes would have depended on how they used
15 the status; it is not clear how they did use the status.

16
17 The upgrades and lounge access available through Premier Platinum status were a
18 personal benefit to Governor Kitzhaber and Ms. Hayes; they were not permitted to use
19 frequent flyer numbers when flying on state business. When Governor Kitzhaber and Ms.
20 Hayes flew to San Francisco for the PCC Leaders forum in October 2013, Ms. Murdock
21 told Ms. Hayes that Azumano was working on getting seats for her and Governor
22 Kitzhaber together. Although Ms. Hayes was eligible for better seats through her premier
23 status for the flights Ms. Murdock mentioned, the Governor could not have his frequent
24 flyer number associated with the flights because he was traveling as a state employee.
25 #INV38. Assisting in planning this PCC meeting was listed as a deliverable for Ms.
26 Hayes's contract with the Energy Foundation. #INV26.

27
28 Former Governor Kitzhaber's Responses:

29
30 Former Governor Kitzhaber submitted a 23 page letter during this investigation, with five
31 attachments. #INV64. The relevant portions of the letter cannot be easily summarized,

1 and any attempt at excerpting the letter here would be inadequate. For this reason, the
2 entire letter is attached to this report and incorporated by this reference. The letter is also
3 referenced in several places throughout the report, where relevant.

4
5 **CONCLUSIONS:** Former Governor John Kitzhaber was Governor of the State of Oregon
6 during the time period relevant to this investigation. He was a public official pursuant to
7 ORS 244.020(14) (2013).

8
9 Member of the Household of a Public Official –

10
11 A person is a member of the household of a public official if the person resides with the
12 public official. ORS 244.020(10) (2013). In this case, it appears that former Governor
13 Kitzhaber and Ms. Hayes each had a residence. His was in Portland; hers in Bend. Ms.
14 Hayes, however, lived part-time at the Governor's official residence, Mahonia Hall, which
15 was only available to her through her relationship with the Governor. Ms. Hayes treated
16 Mahonia Hall as her residence, having mail sent there, setting up meetings, and
17 entertaining there with the Governor.

18
19 According to his attorneys, former Governor Kitzhaber also lived part-time at Mahonia
20 Hall. #INV64. Former Governor Kitzhaber appeared to consider and treat Ms. Hayes as
21 a member of his household. He listed Ms. Hayes as a member of his household on his
22 SEI form covering calendar years 2011, 2012, and 2013, and included her business as a
23 source of his household's income for those years. He also designated Ms. Hayes as First
24 Lady and asked that she be provided DPU protection. DPU provides protection for the
25 "Governor and members of the Governor's immediate family". #INV31. The DPU policy
26 states that "the Trooper assigned to the First Lady...will drive and provide protection for
27 the First Lady during her daily appointments." The DPU policy does not limit its
28 transportation and protection services for the first family to only official appointments.
29 #INV17.

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31 //

Business with which a Public Official is Associated –

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Under ORS 244.020(2) (2013), “business” includes, among others, a corporation, proprietorship, firm, enterprise, organization, self-employed individual or any other legal entity operated for economic gain. An income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code is not a business if the public official or a relative of the public official is associated with the not-for-profit only as a member or board director or in a nonremunerative capacity.

For public officials requires to file a statement of economic interest under ORS 244.050, such as the Governor, any business listed as a source of income as required under ORS 244.060(3) is a business with which a public official is associated. ORS 244.020(3)(d). ORS 244.060(3) requires a public official to list on their verified annual Statement of Economic Interest (SEI) the names, principal addresses and brief descriptions of the sources of income received during the preceding calendar year by the public official or a member of the household of the public official that produce 10 percent or more of the total annual household income. Governor Kitzhaber listed 3EStrategies in response to this question on the SEI covering calendar years 2011, 2012, and 2013, making 3EStrategies a business with which he was associated.

It appears that, unless Ms. Hayes's income from RDI did not constitute 10% of the household income in 2011, former Governor Kitzhaber should have listed RDI on his 2012 SEI, which covered calendar year 2011, and RDI was also a business with which Governor Kitzhaber was associated.

3EStrategies was also a business with which Ms. Hayes, a member of former Governor Kitzhaber's household, was associated, because it was a private business or closely held corporation of which she was the owner. ORS 244.020(3)(a).

Conflicts of Interest –

1 Actual and potential conflicts of interest are defined in ORS 244.020(1) and (12) in the
2 2013 statutes. A public official has an actual or potential conflict of interest when
3 participating, in his or her capacity as a public official, in any action, decision, or
4 recommendation the effect of which would or could be to the private pecuniary benefit or
5 detriment of the public official, a relative, or any business with which the public official or
6 a relative are associated.

7
8 An elected public official, including the Governor, when met with a conflict of interest,
9 must announce publicly the nature of the conflict of interest. If the conflict of interest is a
10 potential conflict of interest, the public official must make the public announcement of the
11 nature of the potential conflict of interest prior to taking any action on the matter in the
12 capacity of a public official. ORS 244.120(2)(a) (2013). If the conflict of interest is an actual
13 conflict of interest, the public official must make the public announcement of the nature of
14 the actual conflict of interest and refrain from participating as a public official in any
15 discussion or debate on the issue out of which the actual conflict arises. The public official
16 must also refrain from voting on the issue, unless the public official's vote is necessary to
17 meet a requirement of a minimum number of votes to take official action. ORS
18 244.120((2)(b) (2013).

19
20 Each public official in the State of Oregon is personally responsible to comply with Oregon
21 Government Ethics law. In this case, former Governor Kitzhaber was personally
22 responsible to ensure that he followed the conflict of interest procedures laid out in ORS
23 244.120(2) when the actions, decisions, and recommendations that he made as Governor
24 could or would have a financial impact on 3EStrategies, a business with which he was
25 associated.

26
27 Examples of instances where former Governor Kitzhaber was met with a potential conflict
28 of interest when taking action as a public official that could or did affect the financial
29 interest of 3EStrategies include:

- 30
31
- Attending meetings that Ms. Hayes was facilitating as part of her paid work,

1 including:

- 2 ○ A May 2011 event that was sponsored by Ms. Hayes as part of
3 her work with RDI to raise money for the WCCEC (note that
4 former Governor Kitzhaber did not list RDI as a source of income
5 on his SEI that covered calendar year 2011, despite Ms. Hayes
6 having worked for RDI for 5 months in that year);
- 7 ○ A lunch meeting Ms. Hayes called on 9/25/12 to talk about GPI,
8 which was one of the projects that 3EStrategies was paid to
9 promote through her CEDC fellowship; and
- 10 ○ Lunch at a planning retreat Ms. Hayes held at Mahonia Hall on
11 5/13/13 to work on Oregon GPI issues with Demos and State of
12 Oregon staff, a project for which 3EStrategies was paid under a
13 contract with Demos.
- 14 • Asking a funding organization, RBF, to include Ms. Hayes in their
15 correspondence with his office on issues for which she was currently seeking
16 RBF funding that would be paid through 3EStrategies;
- 17 • Telling staff that Ms. Hayes needed to have a role in formulating Governor's
18 office policy on clean economy issues when 3EStrategies was also being paid,
19 through the CEDC fellowship, to work on clean economy issues;
- 20 • Involving Ms. Hayes in the Oregon Ten Year Energy Plan, a task for which she
21 was paid as part of her fellowship with CEDC, paid through 3EStrategies;
- 22 • Providing Ms. Hayes with access to the closed-door Pacific Coast Collaborative
23 Leaders Forum in Vancouver, B.C. in March 2012 with other governors and the
24 Premiere of British Columbia, at an event that Ms. Hayes received payment,
25 through 3EStrategies as part of her CEDC fellowship, to attend.
- 26 • Providing Ms. Hayes with access to Governor's office and Oregon state agency
27 staff from whom she requested information, documents, and assistance on
28 clean economy success stories and ocean health issues. Ms. Hayes received
29 payment through 3EStrategies as part of her fellowship for her use of the
30 information, documents, and assistance that she procured via this access.
- 31 • Making one or more joint speech(es) with Ms. Hayes for which she was

1 receiving payment under a 3EStrategies contract, such as the CGBD Marine
2 Conservation Program speech in Portland in April 2013.

- 3 • Attending a meeting with Demos staff on GPI issues with Ms. Hayes on 2/8/13,
4 while Ms. Hayes was pursuing a paid contract with Demos, paid through
5 3EStrategies, to work on GPI issues.

6
7 On these and other occasions when former Governor Kitzhaber was met with a potential
8 conflict of interest, he was required, as an elected public official, to follow the procedure
9 laid out in ORS 244.120(2)(a) (2013). That is, he was required to make a public
10 announcement of the nature of the potential conflict of interest prior to taking any action
11 thereon in his capacity as Governor. There is no record of former Governor Kitzhaber
12 making any public announcement of the nature of any potential conflicts of interest related
13 to 3EStrategies prior to taking action on those matters as a public official.

14
15 There appears to be a preponderance of the evidence that former Governor Kitzhaber
16 failed to properly handle conflicts of interest that arose in regard to:

- 17
18 1. His official actions and decisions related to Ms. Hayes's (through 3EStrategies)
19 performance of her employment with RDI;
- 20 2. His official actions and decisions related to Ms. Hayes through 3EStrategies
21 seeking a paid fellowship through CEDC, funded by RBF, and the Energy
22 Foundation;
- 23 3. His official actions and decisions related to Ms. Hayes through 3EStrategies
24 performing the actions and activities of her paid fellowship with CEDC;
- 25 4. His official actions and decisions related to Ms. Hayes through 3EStrategies
26 performing the actions and activities of her paid contract with Resource Media;
- 27 5. His official actions and decisions related to Ms. Hayes through 3EStrategies
28 performing the actions and activities of her paid contract with the Energy
29 Foundation;
- 30 6. His official actions and decisions related to Ms. Hayes through 3EStrategies
31 seeking a paid contract with Demos;

1 7. His official actions and decisions related to Ms. Hayes through 3EStrategies
2 performing the actions and activities of her paid contract with Demos.
3

4 Prohibited Use of Office for Personal Financial Gain –

5
6 Public officials are prohibited by ORS 244.040(1) (2013) from using or attempting to use
7 their official position or office to obtain financial gain or avoidance of financial detriment
8 for the public official, a relative or member of household, or any business with which the
9 public official or a relative or member of the household of the public official is associated,
10 if the financial gain or avoidance of financial detriment would not otherwise be available
11 but for the public official's holding of the official position or office. ORS 244.040(4) (2013)
12 further prohibits a public official from using confidential information gained in the course
13 of or by reason of holding position as a public official or activities of the public official.
14 These provisions apply regardless of whether actual or potential conflicts of interest are
15 announced or disclosed. ORS 244.040(7) (2013).
16

17 Application to Former Governor Kitzhaber's Circumstances:

18
19 Former Governor Kitzhaber was prohibited by ORS 244.040(1) from using or attempting
20 to use his official position as Governor to obtain a financial benefit or avoid a financial
21 detriment for himself, for Ms. Hayes, a member of his household, or for 3EStrategies, a
22 business with which both he and a member of his household were associated. As with
23 conflicts of interest, an individual public official is personally responsible to comply with
24 the prohibition on use of official position or office for personal financial gain.
25

26 Former Governor Kitzhaber was personally responsible to ensure that he did not engage
27 in any policy decisions, discussions, speeches, meetings, directives to staff, or official
28 actions that would further the financial interest of 3EStrategies, a business with which he
29 was associated. Even if some of his actions aligned with his goals and objectives for the
30 work of the Governor's office, former Governor Kitzhaber was required to clearly separate
31 the actions that he took that promoted, advanced, or contributed to the work Ms. Hayes

1 was doing through 3EStrategies from his work as Governor and not engage in any actions
2 in his official capacity that would financially benefit 3EStrategies.
3

4 There appears to be a preponderance of the evidence to show that former Governor
5 Kitzhaber violated ORS 244.040(1) in the following ways:
6

- 7 1. Policy and provision of Office of the Governor resources: by providing Ms. Hayes
8 with the opportunity to form and shape the policies of his administration in the
9 policy areas, namely clean economy, ocean health, and GPI, for which she was
10 paid to advocate by outside sources, and by instructing Governor's office staff that
11 she needed to have a role in shaping those policies, and by giving her access to
12 staffing resources of the Office of the Governor that she used for her paid work;
- 13 2. Travel: by receiving discounted state travel rates for personal trips and frequent
14 flyer miles for trips taken as a representative of state government;
- 15 3. Pets: by permitting his staff to care for Ms. Hayes's pets rather than incur the cost
16 of paying a pet sitter.

17
18 Gifts –

19
20 Oregon Government Ethics law limits gifts that a public official may accept. A gift is
21 defined as something of economic value given to a public official without valuable
22 consideration of equivalent value, which is not extended to others who are not public
23 officials on the same terms and conditions. ORS 244.020(7)(a). A public official may not
24 solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess
25 of \$50 from any single source that could reasonably be known to have a legislative or
26 administrative interest; that is, an economic interest, distinct from that of the general
27 public, in any matter subject to the decision or vote of the public official acting in their
28 capacity as a public official. ORS 244.025, 244.020(9).
29

30 In this case, it appears that former Governor Kitzhaber received a gift that violated ORS
31 244.025 in 2013 when he was given Premier Platinum status by United Airlines, which

1 had a value of more than \$50. United Airlines had an economic interest in former
2 Governor Kitzhaber's decision-making as a public official because the former Governor
3 could choose whether or not to spend state funds to fly on United Airlines when flying on
4 official State of Oregon business.

5
6 The spokesperson hired by the Oregon Business Council does not, however, appear to
7 be a gift to Ms. Hayes for which former Governor Kitzhaber would be liable, because,
8 under the terms of the final contract, the benefit was not provided to her personally but to
9 the state initiative she led as First Lady.

10
11 **RECOMMENDATIONS:** The Oregon Government Ethics Commission should make one
12 (1) preliminary finding of violation of ORS 244.025, three (3) preliminary findings of
13 violation of ORS 244.040(1), and seven (7) preliminary findings of violation of ORS
14 244.120(2) by John Kitzhaber.

- 15
16 **ASSOCIATED DOCUMENTS:**
- 17 #PR1 Complaint and attachments from Margie Hughes, received 10/16/14.
 - 18 #PR2 Supplemental complaint and attachments from Margie Hughes, received
19 10/23/14.
 - 20 #PR3 Response from John Kitzhaber through attorney Janet Hoffman, received
21 by OGEC 7/5/17.
 - 22 #PR4 Emails show that unlike Gov. John Kitzhaber, Cylvia Hayes no had doubts
23 about holding on to power, www.wweek.com, 3/20/15.
 - 24 #PR5 Kitzhaber told staff state policies should match Cylvia Hayes' paid agenda,
25 article and attachments, www.oregonlive.com, 7/16/15.
 - 26 #PR6 Invoice from Cylvia Hayes to Demos, dated 5/10/13.
 - 27 #PR7 Business Entity Data for 3E Strategies, LLC from Oregon Secretary of
28 State website.
 - 29 #PR8 Request for Commission Advisory Opinion, Supplemental Letter, and
30 attachments from Liani Reeves to OGEC, dated and received 10/13/14.
 - 31 #PR9 New emails show First Lady Cylvia Hayes regularly used State employee

- 1 to book personal business travel, www.wweek.com, 12/12/14.
- 2 #PR10 Statements of Economic Interest for 2011, 2012, 2013, 2104, filed by John
3 Kitzhaber with the OGEC.
- 4 #INV1 Cylvia Hayes résumé, printed August 2017 from
5 www.3estrategies.com/cvcylviahayesshort.pdf
- 6 #INV2 Business Entity Data for the Green Economy Institute, printed from
7 Oregon Secretary of State Corporation Division.
- 8 #INV3 Business Entity Data for 3EStrategies, LLC, printed from the Oregon
9 Secretary of State Corporation Division.
- 10 #INV4 Portions of 3EStrategies website, printed September 2017.
- 11 #INV5 Notes on Phone Calls in Kitzhaber/Hayes cases, as of 12/20/12.
- 12 #INV6 Select emails from Governor Kate Brown's public records release of
13 Cylvia Hayes emails to/from Governor's office staff, released on
14 <http://www.oregon.gov/gov/media/Pages/Public-Records-Log.aspx>
15 beginning 4/3/15.
- 16 #INV7 Select emails from Governor Kate Brown's public records release of John
17 Kitzhaber emails to/from Governor's office staff, released on
18 <http://www.oregon.gov/gov/media/Pages/Public-Records-Log.aspx>,
19 beginning 9/8/15.
- 20 #INV8 Select emails from Cylvia Hayes's email accounts, held by Oregon State
21 Archives.
- 22 #INV9 Information printed from Rural Development Initiatives website, including
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- 24 #INV10 Nigel Jaquiss, "Serving Two Masters," Willamette Week, 3/2/11, available
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- 26 #INV11 Biography of Sally Ann Ranney, available at
27 <http://www.sallyranney.com/meetsally.html>.
- 28 #INV12 Biography of Dr. Sylvia Earle, available at
29 <https://www.marinesanctuary.org/member/dr-sylvia-earle/>.
- 30 #INV13 John A. Kitzhaber, M.D., Governor, Oregon Ten Year Energy Action Plan,
31 12/14/12, available at

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- 3 #INV14 "How happy is Oregon? Governor Kitzhaber joins Portland State
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6 http://www.oregonlive.com/education/index.ssf/2012/04/how_happy_is_oregon_governor_k.html.
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- 15 #INV17 *RE: DPU policy*, email and attachment from B. Fugate, Oregon State
16 Police, to M. Scheffers, OGEC, 8/28/17.
- 17 #INV18 *Hayes Matter*, email and attachments from J. Ewing to M. Scheffers,
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- 19 #INV19 *Cylvia Hayes/3-E Strategies – OGEC – Resource Media*, email and
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- 21 #INV20 Nick Budnick, "Kitzhaber's partner resents scrutiny," *Bend Bulletin*,
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- 27 #INV22 *Beyond the Spill* trailer, Uncage the Soul Productions, published 4/20/11,
28 available at <http://vimeo.com/20500772>.
- 29 #INV23a&b *Re: Oregon Government Ethics Commission investigation*, emails from M.
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- 31 #INV24 *RE: Oregon Government Ethics Commission Inquiry re. Cylvia Hayes*.

- 1 (Packard Foundation), email from S. Neel to M. Scheffers, 12/19/17.
- 2 #INV25 2013 IRS 990 Form of Marisla Foundation, available at:
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- 7 #INV27 Oregon Humanities Idea Lab Summer Institute document, available at
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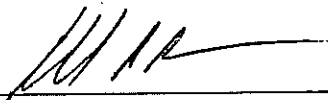
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30 email from C. Hayes to R. Whitman, cc. J. Kitzhaber, 1/16/14, from
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- 2 #INV48 *Just Below the Surface: Perspectives on the Gulf Coast Oil Spill*, available
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25 Oregon, to Assistant US Attorney Scott Bradford, dated 4/18/17, submitted
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- 27 #INV59 Copy of list of First Lady appointments, included in submission to OGEC by
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30 OGEC by Ball Janik in January 2015 during preliminary review, in blue flash

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2 #INV61 Submission from Demos through attorney David Angeli, received by OGEC
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10 to Ron Bersin, OGEC, dated 2/6/18.
11 #INV65 Email from Heidi Khokhar, Rural Development Initiatives, to M. Scheffers,
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Date

Appendix A

Rural Development Initiatives (RDI)

Feb.-June 2011

1. Fundraising
2. Director, West Coast Clean Economy Collaborative

Clean Economy Acceleration Fellowship

~August 2011-September 2013

1. Re-convened Pacific Coast Collaborative
2. Advice and support West Coast Clean Economy Alignment Initiative
 3. Media/communications/stories
 4. 33 speeches on clean economy issues
5. Convened policy advisors from West Coast Gov. offices re. ocean acidification
6. Oversaw baseline Oregon Gross Prosperity Index (GPI)

Resource Media

Feb. 2013-Dec. 2013

1. Mobilize decision makers, including West Coast governors, to address ocean acidification
2. Convene stakeholders, including governors' offices
 3. Speaking engagements
 4. Public and media outreach

Energy Foundation

May 2013-Apr. 2014

1. Communications strategy (speeches/blogs/publications/social media)
2. Success story case studies
3. Support and catalyst for the West Coast Clean Economy Alignment Initiative

Demos

June 2013-November 2013

1. Gather info on GPI in US states
2. Develop opportunities to share info on best practices
3. Planning for national GPI meeting
4. Content for GPI cyber-hub
5. Advise on state-specific GPI models
6. Advise on implementation of GPI

Appendix B

ALF – American Leadership Forum

CEDC – Clean Economy Development Center

CGBD – Consultative Group on Biological Diversity

DPU – Dignitary Protection Unit of the Oregon State Police

GDP – Gross Domestic Product

GJGJ – Good Jobs Green Jobs conference

GPI – Genuine Progress Indicator

HOHE – Healthy Oceans Healthy Economy (communications plan with Resource Media)

JK – John Kitzhaber

NOP – National Ocean Policy

OBC – Oregon Business Council

ODFW – Oregon Department of Fish and Wildlife

PCC – Pacific Coast Collaborative

PSU – Portland State University

RBF – Rockefeller Brothers Fund

RDI – Rural Development Initiatives

WCCEC – West Coast Clean Economy Collaborative

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February 6, 2018

By Email

Ronald A. Bersin
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Re: *John A. Kitzhaber, Case No. 14-190EDT*

Mr. Bersin:

We are submitting this letter, on behalf of our client, former Governor John Kitzhaber, to address the narrative and analysis put forward in the investigation report prepared by OGE staff in Cylvia Hayes's case (No. 14-191EDT). Although former Governor Kitzhaber stipulated in a proposed settlement agreement that he unintentionally violated the *potential conflict* statute, he unequivocally rejects the suggestion that he used his public office to obtain a financial benefit for himself or Ms. Hayes. While the Commission at its last meeting made preliminary findings that Ms. Hayes violated ORS 244.040 (the "use of office" statute), former Governor Kitzhaber's case must be considered on its own merits.

On that principle, the Commission should not ascribe Ms. Hayes's actions and knowledge to former Governor Kitzhaber based merely on their relationship. For instance, former Governor Kitzhaber—unlike Ms. Hayes—was not aware of the contents of her professional contracts or reports. Nor was he aware of the many emails that were cited in the investigation report but on which he was not even copied. It would be unjustified to find former Governor Kitzhaber in violation of ethics laws based solely on the inadequate inference that, because he had a personal relationship with Ms. Hayes, he was aware of her communications with others.

Moreover, the investigation report in Ms. Hayes's case is supported by no evidence that former Governor Kitzhaber personally used his office for the purpose of obtaining a financial benefit for himself or Ms. Hayes. In fact, Dr. Kitzhaber never asked anyone to procure work for Ms. Hayes. He never requested that foundations provide funding for Ms. Hayes's work. He never suggested to non-profit organizations that they should hire Ms. Hayes. And he did not involve Ms. Hayes in his administration to promote her professional work with non-profit organizations. Rather, he involved Ms. Hayes in the administration only to the extent that he believed she could provide valuable input based on her experience and expertise.

Further, former Governor Kitzhaber understood that, when Ms. Hayes officially participated in his administration's efforts, she did so solely in her volunteer capacity as First Lady. Never did he believe that Ms. Hayes would claim—as a *professional* achievement—her efforts performed on behalf of the administration.

For those reasons and the reasons discussed below, the Commission should reject any suggestion that former Governor Kitzhaber used his office to obtain a financial gain for himself or Ms. Hayes.

ORS 244.040 (“Use of Office”) Requires Intent to Obtain Financial Gain or Avoidance of Financial Detriment

ORS 244.040 provides, in relevant part, that public officials:

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

The syntax of the statute—that a public official “may not use [his] official position or office . . . to obtain financial gain”—contains an inherent element of specific intent. When one is described as using something (here, one's public office) to do something (here, obtaining financial gain), that description carries the unambiguous meaning that the subject has used the object for the purpose of or with the intent of accomplishing the stated objective.

The legislature did not structure the statute to prohibit a use of office that merely *happens* to result in financial gain to the public official or members of his household. Nor did the legislature draft the statute to prohibit a use of office “that the public official *should have reasonably expected* would result in a financial gain” (negligence); or “use of office with the *awareness that there is a substantial risk* of financial gain” (recklessness) or “use of office *with knowledge* that a financial gain will result” (a knowledge standard—which, absent exceptional circumstances [e.g., duress] would entirely overlap with intent). Instead, the legislature crafted a statute that requires using public office “to obtain financial gain.” The word “to,” as used in this sentence structure, is merely a shortened version of the phrase “in order to,” which is an unambiguous expression of purpose.

Notably, the cases cited in the investigation report all involve a public official using his or her office with the specific intent of obtaining a financial gain. In *Davidson v. Oregon Government Ethics Commission*, the petitioner worked for the State Accident Insurance Fund (“SAIF”) and ordered a car for his personal use as an add-on through SAIF's fleet purchase, which saved him approximately \$1300. 300 Or. 415 (1985). Thus, the petitioner in that case unquestionably used his office with the intent of obtaining financial gain or avoiding financial detriment.

Similarly, in *Groener v. Oregon Government Ethics Commission*, the petitioner was a state senator who received payments from a private vendor for requesting state business for the vendor, promoting the use of the vendor's services by the state, and accompanying the vendor to meetings with staff of the Workers' Compensation Board where the vendor sold his services. 59 Or App 459 (1982). The petitioner in that case clearly used his office to procure or facilitate work for the vendor; sometimes he used his office directly and sometimes indirectly—but, in every instance, he did so *with the intent of being paid* for it.

In *Buntyn v. Government Standards and Practices Commission*, the petitioner was a custodial supervisor of a school district who initiated 44 orders for purchases from his son's company. The case turned on whether the school district would have used the company's services regardless of the petitioner's position. But the petitioner unquestionably intended to obtain financial gain for his relative.

Moreover, we could locate no case in which the court explicitly held, or in which the facts suggest, that a public official may violate ORS 244.040 by using his or her office without the intent of obtaining financial gain. The plain language of the statute simply does not permit such an interpretation.

The Commission Should Not Ascribe Ms. Hayes's Actions and Knowledge to Former Governor Kitzhaber Based Solely on Their Personal Relationship

The Commission should not assume, based merely on their personal relationship, that former Governor Kitzhaber and Ms. Hayes discussed the details of her professional contracts or the promises and claims that she made to potential funders. Such an assumption would reflect a clear misunderstanding of Dr. Kitzhaber and Ms. Hayes's relationship. Dr. Kitzhaber and Ms. Hayes were not daily in one another's company, as might be assumed given their engagement. Although they had been together for about seven years when Dr. Kitzhaber was elected in 2010 to a third term, they did not live as the public may have visualized or as might have been suggested by the title "First Lady." They typically were not together on a daily basis and often did not see each other for stretches of two or three weeks.

Indeed, former Governor Kitzhaber was at times so busy that his executive assistant had to schedule appointments so that he and Ms. Hayes could meet. *See Ex. A, Re: regular meeting, emails exchanged between Sylvia Hayes and Jan Murdock.* Former Governor Kitzhaber had been elected at a challenging time for the state—Oregon was still grappling with a deep recession and facing a more than \$3 billion revenue shortfall. Out of necessity, former Governor Kitzhaber hit the ground running and was consumed by the demands of the job. Early in his administration, he was preoccupied with passing major legislation on healthcare, education, and public safety; and passing a balanced budget—all with bipartisan support. In 2012, he was focused on setting up the Oregon Education Investment Board, obtaining a Medicaid waiver from the Obama administration, building out Oregon's new Coordinated Care Organizations, grappling with historic wildfires, developing a budget for the 2013-15 cycle, and dealing with

Nike's tax issues and the expansion of its campus—among many other duties and initiatives. In 2013, the Justice Reinvestment Act, PERS reform, and another terrible wildfire season drew his focus. In short, he simply did not have much time for Ms. Hayes in those first few years, which was admittedly painful and a source of tension between them.

Importantly, Dr. Kitzhaber and Ms. Hayes have never resided together. While Governor Kitzhaber (in an abundance of caution) reported Ms. Hayes as a member of his household on his Statements of Economic Interest, one should not infer from those documents that he and Ms. Hayes lived together—or even daily spent time with one another.¹ In fact, Dr. Kitzhaber only lived part-time at Mahonia Hall, spending most of his time at his home in Portland where he was raising his son. He stayed in Salem when he was not parenting and when he had late-night or early-morning meetings. Similarly, Ms. Hayes, when in Salem, stayed at Mahonia Hall for convenience's sake, but she did not live there. She resided at her home in Bend. Consequently, and perhaps unlike most romantic partners, Dr. Kitzhaber and Ms. Hayes did not daily share news with one another over morning coffee or at the dinner table.

Until 2014, his final year in office, former Governor Kitzhaber and Ms. Hayes maintained entirely separate finances. Ms. Hayes paid her mortgage, utilities, health care and expenses; and former Governor Kitzhaber paid his. Ms. Hayes received no benefits arising from former Governor Kitzhaber's employment (e.g., health insurance, life insurance, or retirement benefits); and he received no such benefits from Ms. Hayes. They reimbursed one another for even minor expenses paid on the other's behalf, and they have always had separate checking accounts. Thus, Ms. Hayes's and former Governor Kitzhaber's finances were not even minimally intertwined while she was working for non-profit organizations from 2011 to 2013.²

Ms. Hayes Did Not Influence Former Governor Kitzhaber's Long-Held Positions on the Sustainable Economy, the Protection of Natural Resources, or the Use of Alternative Metrics

Former Governor Kitzhaber did not believe that Ms. Hayes was being paid by non-profits to influence his administration because, among other reasons, he had long championed the same policies that those non-profits supported: fostering a sustainable economy, protecting natural resources, and employing metrics to support data-based, outcome-driven expenditures.

¹ We are not contesting former Governor Kitzhaber's having reported Ms. Hayes as a member of his household on his Statements of Economic Interest. But arguably, Ms. Hayes did not meet the relevant legal definition of a member of former Governor Kitzhaber's household. See ORS 244.020(10) (defining "Member of Household" to mean "any person who resides with the public official or candidate"). As noted above, former Governor Kitzhaber and Ms. Hayes maintained separate permanent residences.

² Although former Governor Kitzhaber suggested early in his third term that, if necessary, he would personally contribute "bridge funding" to support Ms. Hayes's work, see OGEIC Investigation Report ("Report") p. 34-35, he never did so.

He needed no persuading.

By the time former Governor Kitzhaber met Ms. Hayes, he had served fourteen years in the Oregon legislature—eight of those as Senate President—and two terms as governor. His policy positions and political views were firmly established.

Ms. Hayes shared former Governor Kitzhaber's commitment to environmental stewardship and protecting natural resources—which is largely what drew them to one another. This common commitment underlies former Governor Kitzhaber's statement to Ms. Hayes that he hoped her work and his work could come together to be "our" work. See OGEC Investigation Report ("Report") p. 20, citing #INV8, *FW: A few words from your mate*.

During his third term, former Governor Kitzhaber and Ms. Hayes shared an interest in three primary policy areas: promoting renewable energy; transitioning to a clean, low-carbon economy; and changing the way that economic success is measured. But again, former Governor Kitzhaber had long promoted such policies—well before he met Ms. Hayes. For instance, Former Governor Kitzhaber had been a proponent of renewable energy and worked to help site the State Line wind farm across the Oregon-Washington border, which began operation in 2001, during his second term as governor. He had a long record of opposition to coal dating back to the 1980s and was one of Oregon's earliest proponents of sustainable practices. He issued Executive Order (EO-00-07) in May 2000, which created the "sustainability workgroup," and, in the 2001 session, he advanced legislation that codified his executive order in the Oregon Sustainability Act (ORS 184.421).

Also, as is more fully addressed below, former Governor Kitzhaber's interest in using metrics that more meaningfully measure economic health and society's well-being dates to the 1960's. Consequently, he was a strong supporter of the Oregon Progress Board, which created a set of "benchmarks" for measuring outcomes and connecting them to state policy and budget decisions. See Ex. D, Letter to Ron Bersin from Michael Jordan, former Director of the Department of Administrative Services.

Indeed, former Governor Kitzhaber decided to run in 2010 for a third term because he believed that the systems on which we had been relying for the past 75 years had not evolved to effectively address the challenges of the 21st century. He saw an opportunity for transformational system change—including, among other components, the development of a clean energy economy, protection of natural resources, and the use of alternative metrics.

In 2008, he began developing a paper titled "The Unified Theory of Everything" ("UTE"), see Ex. B, to show the connections between our public institutions and our economy as they relate to the principles of equity and opportunity. His hope was to move the focus of our public debate beyond ideology and partisanship, toward the recognition that, in the final analysis, we all aspire to the same things: to have an equal opportunity to achieve our full potential; to have a job and job security with the opportunity for upward mobility; to have hard work rewarded by a better life; to enjoy a healthy, functioning natural environment; to live in

safe, secure communities where people have a sense of common purpose and belonging and a commitment to one another; and to leave our children better off than we are, both economically and environmentally. The UTE, which was continually refined and updated, vividly demonstrates the amount of thought and commitment that former Governor Kitzhaber invested in promoting the clean economy, protecting our natural resources, and measuring what really matters—because those were all necessary components of his overarching plan to transform the economic system.

Former Governor Kitzhaber Delegated to Counsel the Ethical Issues Arising from Ms. Hayes's Professional Activities.

From the beginning of his third term, former Governor Kitzhaber sought the advice of counsel regarding the ethical implications of Ms. Hayes's professional activities with non-profit organizations.³ After discussion with legal counsel and his Chief of Staff, it was agreed that the space in which Ms. Hayes could earn a living, while still contributing to the administration, was in the world of non-profit organizations and foundations.

Former Governor Kitzhaber understood that Ms. Hayes's work for non-profits would not run afoul of the ethics statutes because her employment would not involve shaping or influencing state policy. Rather, her employment would entail acting as an educator and advocate in areas to which she had committed her professional career and which were consistent with the administration's policies. Moreover, he understood—albeit erroneously—that Ms. Hayes's taking employment with non-profit organizations (as opposed to private employers) would not implicate the ethics laws because those organizations did not have an economic interest in the state.

To ensure clarity on what Ms. Hayes could and could not do regarding her paid work and its interface with the administration, Chief of Staff Curtis Robinhold drafted the "First Lady Protocol" in September 2011. See Report p. 27-30, citing #PR9. The document is a draft—a point of departure for a discussion that was meant to follow, with input from General Counsel Liani Reeves. One of the stated goals of the protocol was "to obey in all cases the letter and intent of the law, and to avoid any cases in which Cylvia's work with the Governor's Office is anything but positive." Report p. 29, citing #PR9.

The recurrent theme of the protocol is that Ms. Hayes must be promoting the policies of the Governor's office and coordinating with the administration. For instance:

- The *very first* paragraph of the memo calls for "maintain[ing] Cylvia's role as an effective channel for moving *the Governor's agenda* in the focus areas and to support the broader advocacy of *the Governor's office*." *Id.* at 27.

³ We are unable to disclose documents containing the General Counsel's advice because the Office of the Governor has asserted attorney-client privilege over such documents. We may, however, address former Governor Kitzhaber's understanding of the legal issues at the time.

- The next paragraph states that “the First Lady will coordinate her schedule and talking points with the communications staff and the relevant policy advisor, . . . running talking points by staff as appropriate.” *Id.*
- The memo then establishes that “Cylvia will speak to the media/press only after notifying Governor’s Office communications staff and the relevant policy advisor.” *See* #PR9.

Concerning those points, former Governor Kitzhaber responded, “I agree with all of this.” *Id.*

The protocol also stated that, “if Cylvia was being paid by any private sector clients in Oregon working on energy issues, she w[ould] not participate in policy discussions on energy issues for the duration of that contract,” and that she would file potential conflict of interest forms for her fellowship (presumably with the CEDC). *See* Report p. 29, citing #PR9.

While Dr. Kitzhaber now understands that, under the ethics laws, there is no distinction between private companies and non-profit organizations, his comments on the protocol reflect his misunderstanding at the time that Ms. Hayes’s working for non-profits would not raise potential conflicts. Specifically, former Governor Kitzhaber noted “I think there may be a qualitative difference between the ethics/conflict of interest issues in Cylvia’s role as a private sector contractor; her role as a spokesperson/advocate for the administration; and her role as a Clean Energy Fellow.”

Though he raised questions regarding the ethics issues, he closed his comments by stating: “We should discuss this further with Liani [Reeves, General Counsel to the Office of the Governor].” *See* Report p. 30, citing #PR9.

Further, former Governor Kitzhaber’s comments on the protocol demonstrate that he was engaged in an ongoing discussion as to whether and to what extent Ms. Hayes might be permitted to bring her own experience to bear in shaping environmental policy. Former Governor Kitzhaber did not suggest that the administration’s policy should be altered to match the policies championed by the organizations for which Ms. Hayes worked. Quite the contrary, the clear import of former Governor Kitzhaber’s statement that there could be no daylight between the policies at issue was that Ms. Hayes could not, even in her private work, promote policy positions that were not in keeping with those of the administration. In other words, the former Governor’s policies were paramount, and everyone associated with the administration, including Ms. Hayes, was required to speak with one voice: the administration’s.

Importantly, former Governor Kitzhaber believed that he had delegated to counsel and his Chief of Staff the ethical and operational review of Ms. Hayes’s professional contracts. With that belief, former Governor Kitzhaber turned his attention to the pressing needs of the State (for instance, addressing the \$3 Billion revenue shortfall that he had inherited upon taking office). Former Governor Kitzhaber expected that counsel would discuss with him any concerns she might have regarding the ethical implications of Ms. Hayes’s contracts. Counsel never advised him that he was faced with a conflict of interest (potential or actual) or was engaging in a prohibited use of his office.

For these reasons, former Governor Kitzhaber did not appreciate that he had a potential conflict of interest based on Ms. Hayes's professional activities. He offers that information not as an excuse but as an explanation for why he did not perceive a potential conflict of interest under the statute. As he stipulated in the previously proposed settlement, he now understands that he should have publicly disclosed Ms. Hayes's contracts because her professional activities raised for him a *potential* conflict of interest as defined by the statute. But again, he categorically denies that he ever used his office to obtain a financial benefit for himself or Ms. Hayes.

The Investigation Report Creates an Erroneous Impression of Ms. Hayes's Role in the Administration

The section of the Investigation Report titled "Ms. Hayes's Role in the Office of the Governor" contains a collection of emails that, in the aggregate, seem to imply—incorrectly—that Ms. Hayes had a significant, wide-ranging role in the Office of the Governor. *See* Report, p. 19-27. For instance, the Report cites *one* email on which Ms. Hayes was copied regarding gangs and *one* email on which she was copied concerning state forests. These emails are irrelevant to the ethical issues under investigation.

The report also cites irrelevant emails showing that Ms. Hayes interacted with various groups or individuals advocating for environmental or clean energy policies—none of which employed Ms. Hayes or offered her gifts. (*See* Report p. 19-20, citing email from John Miller of Wildwood/Mahonia to Hayes; p. 20, citing email from Pat Egan to Hayes; p. 21, citing email from John Audley of Renewable Northwest to Hayes, and email from Bruce Sullivan, a green building consultant, to Hayes.) Those emails present no ethical issues, and further, former Governor Kitzhaber was not copied on any of them.

Also cited in the report is an email Ms. Hayes forwarded to former Governor Kitzhaber regarding the conservation community's concerns about an administration policy. *See* Report p. 23, citing #INV8, *Re: Forest Roads Clean Water Case*. Again, she was not employed by these conservationists, so this communication carries no ethical implications whatsoever.

The Report further confuses the issues by perhaps suggesting that there was something wrong with former Governor Kitzhaber emailing several advocates for at-risk youth to help Ms. Hayes become involved in these issues as First Lady. *See* Report p. 26, citing #INV6, GOV327575. It is wholly unclear why this email appears in the report at all. Moreover, Ms. Hayes had a compelling personal story that could inform her work advocating for at-risk youth because she had grown up in poverty and knew first-hand the tragedy of losing family to a drug overdose or incarceration. It made perfect sense that former Governor Kitzhaber would facilitate her involvement in advocating for at-risk youth.

There is similarly nothing untoward about Ms. Hayes writing to Dr. Kitzhaber about a list of ocean advisers in 2011. *See* Report at p.29, citing #INV7, Vol. 14, email from C. Hayes to J.

Kitzhaber, 10/15/11. Ocean health was a topic that she was interested in as First Lady, and the communication presents no ethical issues whatsoever.

It is also unclear what ethical implications are raised by former Governor Kitzhaber's having delivered closing remarks at the launch of the "Just Below the Surface" curriculum in April 2011. This event was a presentation to educators of a high school curriculum about a Portland group of volunteers that travelled to the Gulf Coast after the BP oil spill. Former Governor Kitzhaber participated in the event because he believed it was a worthy cause that sought to educate youth about activism and working toward a sustainable future. For similar reasons, he participated in the documentary "Beyond the Spill"—also about the Gulf Coast oil spill. See Report p. 22.

Additionally, the fact that former Governor Kitzhaber wrote a position paper titled "Moving Toward a Clean Economy" for the benefit of his staff and as a starting point for discussions with West Coast governors merely demonstrates his genuine commitment to developing clean economy policies. See Report p. 22. Former Governor Kitzhaber wrote many position papers—for instance, his "Unified Theory of Everything," discussed at length above. His drafts of "Narrative for a Sustainable Clean Economy" and "Sustainable Clean Economy—Policy Development" similarly demonstrate his seriousness about taking an integrated approach to the sustainable economy. See Report p. 25. And Ms. Hayes was but one of *many* people from whom he sought comments about his ideas. Former Governor Kitzhaber routinely worked through policy issues by writing down his plans and then fanning out his ideas to a larger group for feedback. Any suggestion that he drafted position papers to promote Ms. Hayes's employment prospects, or sought her feedback for similar purposes, is simply untrue.

Also, because Ms. Hayes, given her experience, added value in terms of the administration's messaging, former Governor Kitzhaber sometimes kept her informed about what he learned from his staff on matters that fell within her interests. For instance, as cited in the Report, he forwarded to Ms. Hayes an email discussing natural resources, energy, and environmental policy, as well as Richard Whitman's suggestion of requesting that a DOJ attorney work on coal export issues. See Report p. 24. Former Governor Kitzhaber did not, however, provide such information to Ms. Hayes to promote her professional activities.

Issues Related to Clean Energy and Natural Resources

Former Governor Kitzhaber Did Not Seek Ms. Hayes' Input on Clean Energy Issues for the Purpose of Obtaining a Financial Gain

In keeping with his usual approach to developing policy, former Governor Kitzhaber sought input from a wide range of experts and stakeholders on clean energy and the sustainable economy. Primarily, he relied on his paid, full-time, professional Policy Advisors to recommend and implement policy—for instance, Margi Hoffman (Energy), Scott Nelson (Economic Development), and Richard Whitman (Natural Resources). The professional Policy Advisors were the "keepers" of the policy, they owned it, and they got down in the weeds and

understood the details of the policy, as well as the politics involved.

Ms. Hayes, by contrast, did not wish to engage in the detailed work of policy development. She wanted to be a messenger, an educator, and a motivator rather than immersing herself in the details of policy development.

In those roles, former Governor Kitzhaber valued Ms. Hayes's involvement and, for instance, appointed her to participate in the Task Force on the Ten-Year Energy Plan. Report p.25, citing #INV13. He also at times included Ms. Hayes in discussions within his administration regarding the sustainable economy. See Report, p. 23, 25-26. Former Governor Kitzhaber considered Ms. Hayes's perspective to be a "value add" because she had real world experience in clean energy through her prior consulting for 3E Strategies and co-chairing Governor Kulongoski's Renewable Energy Working Group, which developed recommendations that led to Oregon's Renewable Portfolio and Renewable Energy Standards.

That said, former Governor Kitzhaber acknowledges that, under the law, he should have disclosed Ms. Hayes's contracts because of the potential conflicts that arose from his appointing her to the Ten-Year Energy task force or from his otherwise including her in the administration's efforts to promote clean energy. The following information regarding the *level* of Ms. Hayes's involvement in those efforts is offered only to dispel the potential misconception that she exercised a strong influence over the administration's clean energy policies.

The development of the Ten-Year Energy Plan was a commitment that former Governor Kitzhaber had made during his 2010 campaign. It was a complex undertaking and involved literally hundreds of people. The hard work of policy development was done by a series of working groups or "design teams." There were five separate teams (governance; energy efficiency and demand management; resource mix; siting; and transportation), and each of these design teams had a chairperson and a membership of experts. Their work product was vetted by the professional Policy Advisors who, in turn, made recommendations to former Governor Kitzhaber.

Ms. Hayes, identified as the First Lady, appeared on the organizational chart for the Ten-Year Energy Plan under "Task Force Leadership" along with the professional Policy Advisors because she was not on any of the expert design teams that did the detailed work of policy development. Thus, it should not be inferred from the organization chart that Ms. Hayes had a role in the administration equivalent to that of a professional Policy Advisor.

Ms. Hayes's role in the administration's policy efforts was limited. Essentially, her involvement in the administration encompassed acting as a spokesperson and performing outreach to promote the policies developed by the administration's professional Policy Advisors and the Governor. Ms. Hayes attended some senior staff meetings to keep her abreast of policy developments. See Report p. 26. It also appears that, on one occasion, she received the weekly report summarizing the Governor's office staff activities. See *id.* But, to the extent that she was consulted on policy, her input was very high-level and non-specific. That said, former Governor

Kitzhaber valued her ability to deliver a narrative and to connect with specific constituents as a spokesperson for the administration's policies.

Importantly, former Governor Kitzhaber always believed that Ms. Hayes was participating in the administration's efforts in her volunteer capacity as First Lady, and never imagined that she would list as a deliverable or professional achievement any aspect of her participation in the administration. To be clear, Former Governor Kitzhaber did not appoint Ms. Hayes to the Ten-Year Energy Task Force or otherwise seek her input on clean energy initiatives (or any other initiatives) for the purpose of enhancing her résumé or with the belief that she would list this work as one of her professional accomplishments. Any suggestion that former Governor Kitzhaber allowed Ms. Hayes to be involved in the administration to obtain a financial benefit is baseless, and there is not one piece of evidence in the investigation report that fairly supports such an inference.

Ms. Hayes Did Not Reinvigorate the Pacific Coast Collaborative or Convene Governors' Offices

Ms. Hayes repeatedly made the inaccurate claim to non-profit organizations and funders that she had "reinvigorated" the Pacific Coast Collaborative ("PCC"). Report p. 65, 74; see 49-50, 53, 61. Former Governor Kitzhaber was unaware that Ms. Hayes was making such claims. Moreover, former Governor Kitzhaber believed that Ms. Hayes attended the PCC meetings in her capacity as First Lady, not as a paid representative of her non-profit employers. Former Governor Kitzhaber thought that the PCC was one of the areas where Ms. Hayes, given her experience and expertise, could add capacity to the work that the administration was already doing.

The PCC Agreement was signed by Governor Kulongoski on June 30, 2008 – well before former Governor Kitzhaber was elected to his third term. The PCC was created to provide "a formal basis for cooperative action, a forum for leadership and information sharing, and a common voice on issues facing Pacific North America." Member jurisdictions included Alaska, British Columbia, California, Oregon and Washington.

The PCC was already engaged in work around a "clean economy" before former Governor Kitzhaber began his third term. Indeed, in February 2010, even before the Oregon primary election, the PCC concluded action plans on innovation, the environment, and the economy as well as on ocean conservation and coastal climate change adaptation. And three weeks after former Governor Kitzhaber was elected to his third term, but before he was sworn in, California and British Columbia signed a Memorandum of Understanding on Development of Greenhouse Gas Vehicle Emission Standards. The PCC's collaborative projects included:

- February 12, 2010—Action Plan on Innovation, the Environment and the Economy
- February 12, 2010—Action Plan on Ocean Conservation and Coastal Climate Change Adaptation

- December 17, 2010—MOU between California and B.C. on Development of Greenhouse Gas Vehicle Emission Standards
- March 12, 2012—Work Plan on Japan Tsunami Debris,
- March 13, 2012—West Coast Action Plan for Jobs
- November 14, 2012—Framework to Establish West Coast Infrastructure Exchange
- October 28, 2013—Climate and Energy Action Plan,
- June 1, 2016—Pacific Coast Climate Leadership Action Plan

Thus, the PCC was quite active; it did not need to be “reinvigorated.”

In her communications with non-profits and foundations, Ms. Hayes overstated her involvement in the PCC. Margi Hoffman and Dan Carol were the Policy Advisors who spearheaded efforts with the PCC. The relevant professional Policy Advisors from each jurisdiction worked with one another on PCC initiatives and the governors could convene themselves. Ms. Hayes did not have the ability to convene governors or their offices.

Further, the West Coast Action Plan for Jobs which was signed in Vancouver, B.C. on March 13, 2012, was not the result of Ms. Hayes’s work with her organization the West Coast Clean Economy Collaborative. See Report 47-48. Rather, it was the product of a lot of hard work by people from three states and one province. In fact, some of the work that laid the foundation for the action plan was completed by Governors Kulongoski, Gregoire, and Schwarzenegger.

Ms. Hayes’s Employment with RDI

Ms. Hayes worked for Rural Development Initiatives (“RDI”) from February to June 2011. See Report p. 32. As noted above, former Governor Kitzhaber did not request that anyone procure a job for Ms. Hayes at RDI—or anywhere else, for that matter. Former Governor Kitzhaber understood that Ms. Hayes, in her work for RDI, would be the director of an organization she had created called the West Coast Clean Economy Collaborative (“WCCEC”). He further understood that, through the WCCEC, Ms. Hayes hoped to align the efforts of the various environmental and clean energy NGO’s—an idea which former Governor Kitzhaber supported.

However, it appears that Ms. Hayes also mistakenly aspired to “convene” the West Coast governors’ offices through the WCCEC. First, Ms. Hayes did not have the power to convene governors’ offices—any such effort would have been accomplished by official policy advisors. Second, there was already an established vehicle for convening the various West Coast jurisdictions to discuss and implement regional solutions to environmental problems. That vehicle was the Pacific Coast Collaborative (“PCC”), which had been active since 2008, when Governor Kulongoski signed the PCC agreement on Oregon’s behalf.

The investigation report correctly notes that Former Governor Kitzhaber attended a dinner which was sponsored by the Oregon Environmental Council and Ms. Hayes’s WCCEC in

May 2011. *See* Report p. 40. The event presented an opportunity to address the frequently tribal NGOs and foundations as a group, and former Governor Kitzhaber considered it good policy to promote their alignment behind the substantive policies coming out of the West Coast governors' offices. He did not attend the dinner, however, to advance Ms. Hayes's employment or funding prospects.

Nor did Governor Kitzhaber review Ms. Hayes's funding requests for the WCCEC that were sent to various foundations. For instance, he was not aware that Ms. Hayes stated in her funding request to Michael Northrup of the Rockefeller Brothers Fund that the WCCEC would "coalesce the Governors, key not-for-profits, rural leaders and businesses" to develop a common agenda between the states of Oregon, Washington, and California. *See* Report p. 41. If he had known that Ms. Hayes was pitching her ability to "coalesce" the West Coast governors—including perhaps his administration—he would have made it clear that the assertion was neither true nor appropriate.

As noted in the investigation report, former Governor Kitzhaber at one time floated the idea of writing letters to foundations in support of Ms. Hayes's work with the WCCEC. *See* Report p. 34, citing #INV8, *FW: A few words from your mate*, email from J. Kitzhaber to C. Hayes, 2/21/11. Former Governor Kitzhaber, however, vetted the idea with counsel, who advised him that he could not write such letters under the ethics statutes, and consequently, he did not do so. And had he received any other legal advice regarding his ethical duties, he unquestionably would have complied such advice.

Also cited in the investigation report is an email from former Governor Kitzhaber to Ms. Hayes in which he tells her that he has gathered questions to pose to the OGEC. *See* Report p. 38, citing #INV8, *FW: last evening*, email from J. Kitzhaber to C. Hayes, 6/2/11. The questions, however, all concerned Ms. Hayes's WCCEC work. An opinion from the OGEC ultimately was not pursued for the simple reason that Ms. Hayes left her employment at RDI, and consequently abandoned the WCCEC project, only weeks after the request for an opinion had been written. Thus, the questions that might have been posed to the OGEC, and to which former Governor Kitzhaber's email referred, were rendered moot.

Nonetheless, former Governor Kitzhaber regrets that he did not request an opinion from the OGEC regarding Ms. Hayes's work for non-profits. He also regrets that he did not personally remain informed about Ms. Hayes's professional activities and the claims that she was making to her non-profit employers and funders. He can only offer, by way of explanation, that his attention was consumed by other issues facing the state. He did not prioritize, as perhaps he should have, issues arising from Ms. Hayes's professional work. Instead, he delegated these issues—which were ultimately his responsibility—and turned his attention elsewhere.

Additionally, former Governor Kitzhaber does not remember taping comments for the RDI conference in June 2011, an event noted in the investigation report. *See* Report p. 38. But he has no doubt that he would have readily agreed to do so because he was a longtime supporter

of that organization and its mission. RDI was formed 1991 in response to the timber industry crisis facing the Pacific Northwest. Its work was based on a commitment to help rural people and communities build capacity and to strengthen rural economic vitality. At that time, former Governor Kitzhaber was in his last term as Senate President. He had been representing a timber-dependent district (Roseburg, Douglas County) since 1979 and went through the recession of the early 1980's when the housing market collapsed and the bottom dropped out of the timber industry. Unemployment in former Governor Kitzhaber's district approached 19%. He was still practicing in the ER, and he saw first-hand the human consequences of economically stressed communities: proud, hard-working people, who through no fault of their own, could no longer put food on the table—the depression, substance abuse, domestic violence, and disintegration of families. Like every other rural legislator in Oregon, former Governor Kitzhaber made it a top priority to figure out how to revitalize rural, timber-dependent economies and communities. Consequently, former Governor Kitzhaber was a big fan of RDI and other similar efforts, and he certainly would have wanted to support their work by taping a few remarks.

The investigation report correctly states that Ms. Hayes left RDI in June 2011 and effectively ended the WCCEC. *See* Report 41-42. The report erroneously suggests, however, that the WCCEC continued after that time based on a single email that Ms. Hayes sent to Curtis Robinhold in July 2011 regarding some information she had learned from NGO's in Oregon, Washington, and California that would have relevance to "our west coast collaborative." *See* Report p. 42. The collaborative to which she refers, however, is likely not the WCCEC. Rather, the reference is to the West Coast's general collaborative efforts among the states—for instance, through the PCC.

In any case, former Governor Kitzhaber at no time solicited or urged foundations to support the WCCEC. And his promotion of the PCC agenda among the NGOs was not intended to advance Ms. Hayes's career, but rather to support the common policies of the West Coast governors.

Ms. Hayes's Fellowship through the Clean Economy Development Center and her Contract with the Energy Foundation

Former Governor Kitzhaber understood that Ms. Hayes had obtained a fellowship with the Clean Economy Development Center ("CEDC"), which entailed collecting clean energy success stories, presenting "Clean Energy Road Shows," delivering speeches, and publishing articles—all of which was meant to communicate the economic benefits of clean energy policies. He did not know that Ms. Hayes had listed among her fellowship accomplishments speeches that had ostensibly been performed on behalf of the administration. *See* Report p. 50.

Former Governor Kitzhaber did not review Ms. Hayes's CEDC draft fellowship description and work plan, which was sent to Michael Northrup at the Rockefeller Brothers Fund. *See* Report p. 42-43. Governor Kitzhaber was not copied on those emails. He therefore was not aware that Ms. Hayes had included in her draft work plan deliverables that involved

state government, Oregon policy, the Ten-Year Energy Plan, or governors, their spouses, and staff.

Similarly, former Governor Kitzhaber never reviewed letters describing the Clean Economy Acceleration Fellowship that were sent to the Rockefeller Brothers Fund and the Energy Foundation. *See* Report p. 45. He also did not know that Ms. Hayes sent periodic updates to Michael Northrup in 2012. *See* Report p. 46. In short, the investigation report contains no evidence that former Governor Kitzhaber knew what Ms. Hayes was communicating to Mr. Northrup, how she pitched her fellowship to funders, or how she reported her deliverables.

It is true that former Governor Kitzhaber communicated with Michael Northrup about clean economy initiatives, *see* Report pp. 43-45, but those communications never concerned funding for Ms. Hayes's fellowship. Rather, former Governor Kitzhaber's communications were to follow up on his position paper titled "Moving to a New Clean Energy Economy," which former Governor Kitzhaber had shared with Mr. Northrup.

As discussed above, Former Governor Kitzhaber was genuinely committed, like many in state and federal government, to initiatives that promoted the clean economy. Former Governor Kitzhaber hoped to take the lead in promoting such initiatives on the West Coast. Moreover, he had communicated this commitment to Mr. Northrup, who leads the sustainable development and climate-change programs at the Rockefeller Brothers Fund.

Thus, in July 2011, Mr. Northrup sent former Governor Kitzhaber a draft agenda for a meeting on clean economy initiatives to which Rockefeller Brothers Fund would be inviting representatives from Oregon, Washington, and California. (Dan Carol, Scott Nelson, and Curtis Robinhold attended on behalf of Oregon.) Governor Kitzhaber requested that Mr. Northrup copy Ms. Hayes on emails regarding the meeting and noted that he and Ms. Hayes were "pretty much joined at the hip in this policy space." Report p. 45. Former Governor Kitzhaber made that request because he and Ms. Hayes shared a common belief in the need to move toward a sustainable economy and because he valued Ms. Hayes's experience in, and perspective on, the NGO/foundation world. He did not request that she be copied to promote her funding requests; and again, he never once discussed funding for Ms. Hayes's fellowship with Mr. Northrup.

The investigation report accurately states that former Governor Kitzhaber attended the Pacific Coast Collaborative meeting in March 2012. *See* Report pp. 47-48. Former Governor Kitzhaber travelled to the meeting in Vancouver, B.C. to attend the formal signing ceremony of the West Coast Action Plan for Jobs, which was also signed in person by the Governor of Washington and the Premier of British Columbia. Ms. Hayes and Dan Carol also attended. As noted above, former Governor Kitzhaber believed in a regional approach to environmental issues—as did the governors of Washington, California, and the premiere of British Columbia. Former Governor Kitzhaber understood that Ms. Hayes was attending the PCC meeting as First Lady, not as part of her fellowship. And again, former Governor Kitzhaber did not know that

Ms. Hayes reported as one of her professional accomplishments the "reinvigoration of the PCC," which was untrue.

Further, former Governor Kitzhaber did not review the report Ms. Hayes submitted to the Energy Foundation listing her fellowship's claimed accomplishments between August 2011 and May 2012. *See* Report pp. 49-50. Had he known what was stated in the report, he would have called out as false her claim that she "[c]atalyzed the development of a clean economy collaborative between the West Coast states, including the governor's offices and between government and NGOs." *Id.* She did not. The collaborative between the West Coast states was already established through the PCC, and if it at all needed "catalyzing," that would have been accomplished by the administration's professional Policy Advisors.

Former Governor Kitzhaber understood that, when Ms. Hayes's fellowship with the CEDC ended, she continued her messaging work and the development of clean energy success stories through a contract with the Energy Foundation. Again, he did not contemplate that any aspect of Ms. Hayes's participation in the administration was on the Energy Foundation's behalf. Moreover, former Governor Kitzhaber was unaware of:

- Ms. Hayes's communications with Michael Northrup in 2013. *See* Report p. 80. Consequently, former Governor Kitzhaber was not aware that Ms. Hayes listed among her professional accomplishments a clean economy collaboration among West Coast governors, a multi-state effort on ocean acidification, the Ten-Year Energy Action Plan, and the development of a GPI for the State of Oregon. *See* Report p. 81.
- The CEDC report to the Energy Foundation. *See* Report p. 65.
- Ms. Hayes's final report to the Energy Foundation, in which she inaccurately listed among her accomplishments items related to the PCC, including former Governor Kitzhaber's signing the Pacific Coast Action Plan on Climate and Energy. *See* Report pp. 82-83. True, former Governor Kitzhaber and Ms. Hayes attended the PCC Leaders Forum in San Francisco, where former Governor Kitzhaber signed the Action Plan on October 28, 2013. *See* Report p. 83. Like the meeting in Vancouver, this was a formal signing ceremony, attended by the governors of Washington and California and the Premier of British Columbia. Again, former Governor Kitzhaber understood that Ms. Hayes attended in her capacity as First Lady, and he had no expectation that Ms. Hayes would claim that she "helped create a path forward for implementing the multi-state action plan on energy and climate" as one of her accomplishments for the Energy Foundation. *See* Report p. 82-83.

Ms. Hayes's Contract with Resource Media:

Former Governor Kitzhaber understood that Ms. Hayes's work for Resource Media entailed messaging and developing stories for a campaign to raise public awareness about climate change, green jobs, and specifically ocean acidification. Once again, former Governor Kitzhaber did not believe that Ms. Hayes sought to influence his administration on behalf of Resource Media. And, as with Ms. Hayes's other communications with funders and non-profit employers, former Governor Kitzhaber was unaware of the emails related to Resource Media on which he was not copied. *See Report pp. 51-77.*

The investigation report accurately notes that, almost a year before Ms. Hayes had a contract with Resource Media, former Governor Kitzhaber and Ms. Hayes, while on vacation, toured the Monterey Bay Aquarium at the invitation of Michael Sutton. *See Report p. 68.* During their tour, they had lunch with Mr. Sutton and Julia Packard (Executive Director of the aquarium and Vice-Chair of the Packard Foundation Board). There was no discussion of funding for Ms. Hayes. Governor Kitzhaber had no reason to believe that the tour or the lunch were an effort to promote Ms. Hayes's professional activities; ocean health was one of Ms. Hayes's initiatives as First Lady. Former Governor Kitzhaber visited the aquarium because it was an opportunity to learn about a state-of-the-art facility that was dedicated to studying and promoting ocean health.

The investigation report also points out that former Governor Kitzhaber and Ms. Hayes delivered speeches at an April 2013 meeting of the Consultative Group on Biological Diversity ("CGBD"), an organization of grant-makers that support efforts to encourage and protect biodiversity.⁴ *See Report pp. 69-72.* The suggestion that former Governor Kitzhaber attended the CGBD forum to promote Ms. Hayes's professional activities is premised on a misunderstanding of his history with the group. Importantly, former Governor Kitzhaber had also given a speech to CGBD in 2005. *See Ex. C.* He accepted the invitation to speak to the group in 2013, just as he did in 2005, because biodiversity and the protection of natural resources are matters in his wheelhouse.

Former Governor Kitzhaber had long appreciated CGBD because the organization not only supported environmental stewardship, but preached a balanced approach that tried to connect habitat protection and energy policy with social health and wellbeing. That connection is right in line with former Governor Kitzhaber's philosophy (as laid out, for instance, in his Unified Theory of Everything). *See Ex. B.* Moreover, former Governor Kitzhaber generally believed that speaking to groups of grant makers presented an opportunity for a speaker's message to have a much larger ripple effect. He did not, therefore, accept the invitation to speak

⁴ Although Ms. Hayes sent her speech to former Governor Kitzhaber to perhaps "help [him] develop [his] own piece," his speech was prepared by Gabriella Goldfarb who was his Natural Resources Policy Advisor on ocean issues. *See Report p. 70.*

at the CGBD meeting in April 2013 to promote Ms. Hayes's professional work. And as usual, former Governor Kitzhaber believed that Ms. Hayes delivered her speech on behalf of the administration—not Resource Media.

The contents of Ms. Hayes's speech do not evidence that former Governor Kitzhaber knew Ms. Hayes was contacting anyone *in his administration* to raise awareness on ocean acidification as part of her Resource Media campaign. Ms. Hayes's reference to "lawmakers" was generic and did not suggest that she was reaching out to *Oregon* lawmakers.⁵ See Report p. 71.

Additionally, Ms. Hayes's passing comments on her involvement with Demos must have referred to her volunteer activities for that organization because, importantly, she did not have a contract with Demos in April 2013. See Report pp. 71-72. At that time, Ms. Hayes had attended several Demos events in other states for which she was not paid. For instance, in August 2012, she attended a practitioner's meeting in Maryland, see Report p. 89, and, in March 2013, she attended the "GPI in the States" summit in Baltimore, see Report p. 92. Also, Ms. Hayes's statement that Oregon was developing a Genuine Progress Indicator ("GPI") was inaccurate. See Report pp. 71-72. As is discussed at length below, Oregon merely developed metrics to support the Ten-Year Budget, it was not adopting a "GPI."⁶

⁵ Ms. Hayes also mentioned that the West Coast Governors' Alliance ("WCGA") had adopted ocean acidification as a priority, see Report p. 71, but it is unclear whether she meant to communicate that she somehow participated in the WCGA's efforts. Certainly, former Governor Kitzhaber did not know that Ms. Hayes was involved in the WCGA, if in fact she was. The WCGA is a large, regional collaboration that was created in 2006, to protect and manage ocean and coastal resources along the entire West Coast. It involves not only West Coast governors, but also three federal agencies (the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the Department of the Interior). It is managed by an executive committee that has leads from each West Coast governors' office and the federal agencies. Ms. Hayes was not the lead for Oregon, and it is highly unlikely that she was substantively involved with that group.

⁶ The investigation report makes the misstatement that former Governor Kitzhaber was *quoted* in the *New Republic* as saying that Oregon was "integrating GPI into a ten-year state budget plan." See Report p. 96, citing #INV37. It should be noted that there is no such quote; those are the article author's words. Further, the statement is factually inaccurate because Oregon was not implementing GPI. It was merely linking specific metrics to the Ten-Year Budget.

Issues Related to Alternative Metrics

Ms. Hayes Did Not Lead Oregon's Efforts to Adopt Alternative Metrics

Contrary to claims appearing in her communications with various funders and non-profit employers, Ms. Hayes did not spearhead the implementation of the "Oregon GPI." First, the administration was not implementing an "Oregon GPI." Rather, former Governor Kitzhaber had requested that metrics be developed and linked to what he referred to as "the Ten-Year Budget," which was an outcome-based ten-year strategic plan that would be used to inform the biennial budget process. See Ex. D, Letter from Michael Jordan to Ron Bersin ("Jordan Letter"). Second, former Governor Kitzhaber tasked Michael Jordan (then-Director of the Department of Administrative Services)—not Ms. Hayes—with spearheading the development of the Ten-Year Budget and associated metrics. *Id.* And most importantly, former Governor Kitzhaber never involved Ms. Hayes in any administration effort—including the exploration of alternative metrics—to obtain a financial gain.

The claim appearing in Ms. Hayes's résumé that she "Developed/promoted adoption of effective, sustainable economic progress metrics" as part of her work for the CEDC, for example, is simply not accurate if meant to convey that she did so in Oregon. As is discussed more fully below, former Governor Kitzhaber launched the administration's effort to develop and link alternative metrics to a Ten-Year Budget soon after taking office in 2011, see Ex. D, Jordan Letter, at 1—that is, before Ms. Hayes began working with either the CEDC or Demos.

Former Governor Kitzhaber's Long-Standing Interest in Promoting Alternative Metrics

Former Governor Kitzhaber had long been interested in using alternative metrics to measure economic success and to link legislative budget decisions to long-term policy outcomes. See Ex. D, Jordan Letter, at 2. Indeed, his Unified Theory of Everything called for "Measurement" including "Life-Cycle Cost/Benefit Analysis; and New Accounting Tools for Human Capital and Natural Capital." See Ex. B at 1.

Former Governor Kitzhaber disagreed with the use of the Gross Domestic Product (GDP) as the primary measure of our economic health as a nation. The GDP simply measures the total amount of money flowing through the economy each year, but it is value-neutral on the social and environmental impacts that result. Former Governor Kitzhaber believed that basing public policy and economic models on the GDP falsely equates "more spending" with "more good." Under that paradigm, money spent fighting wars, building prisons, or cleaning up after the Deep Horizon oil spill—is no more or less valuable than money spent on immunizations, educating children, caring for elderly citizens, or building roads and day care centers.

Former Governor Kitzhaber first became aware of the shortcomings of the GDP in a speech called "The Measure of a Nation," delivered by Robert Kennedy in 1968. See Ex. E. Later, when he was Senate President in 1989, the legislature passed SB 170, establishing the

Oregon Progress Board and creating "Oregon Benchmarks," a platform for measuring the outcomes of state policy. Between 1989 and 1993, the Progress Board performed ground-breaking work by identifying and monitoring a set of economic, social, and environmental indicators. Initially 103 benchmarks were established to aid state agencies in charting their progress. In 1993, 272 benchmarks were measuring state agency progress.

During his first term as governor in 1995, former Governor Kitzhaber extended the Progress Board through Executive Order after the legislature allowed the Board to sunset. He also created a task force to review the Board, which ultimately recommended limiting the benchmarks to 100. The 1997 Legislature voted overwhelmingly to re-authorize the Progress Board. In 2001, former Governor Kitzhaber moved the Progress Board from the Economic Development agency to the Department of Administrative Services and required the linkage of benchmarks to state agency performance measures. This work was the foundation of former Governor Kitzhaber's interest in the Genuine Progress Indicator during his third term. Neither Ms. Hayes nor Demos had any part in influencing former Governor Kitzhaber's interest in adopting alternative metrics.

The Development of Metrics to Support the Ten-Year Budget

In his third term, former Governor Kitzhaber wished to move from a two-year budget to a ten-year budget, which would allow true outcome-based budgeting—a point that he explicitly raised in his inauguration address. But, based on his experience with the Oregon Progress Board's benchmarks and having built four budgets as Governor between 1995 and 2003, he considered the benchmarks insufficient tools for connecting budgetary decisions to the outcomes (values) he desired.

So, immediately after being sworn in for his third term, former Governor Kitzhaber asked DAS Director Michael Jordan to begin the design of a ten-year strategic plan. At an all-agency directors' meeting in October 2011, Mr. Jordan discussed the implementation of a ten-year outcomes-based investment framework and budget process for the state of Oregon. See Ex. F. Desired outcomes included, for instance, a 100% high school graduation rate by 2025, with at least 40% of graduates going on get a baccalaureate degree or higher and at least 40% gaining a technical certificate or associate's degree. Other desired outcomes included reducing the percentage of Oregonians who got primary care through the emergency department and reducing the hospitalization for congestive heart failure and adult asthma.

Again, achieving these long-term goals would require investments in the budget, and former Governor Kitzhaber needed a way to link policy and budget decisions to desired long-term outcomes—which would require new measurements. Former Governor Kitzhaber was immediately attracted to the work the state of Maryland had undertaken around the General Progress Indicator ("GPI"), which he discussed with Maryland Governor Martin O'Malley in November 2011.

Importantly, the GPI should not be thought of as an "off-the-shelf" concept, that can simply be implemented. For instance, the Maryland GPI was an interesting *academic exercise* that used a different set of measurements from those that were eventually attached to Oregon's Ten-Year Budget. Maryland's GPI was not connected to the budget and therefore had no real utility in achieving long-term value-based objectives.

Contrary to the short-hand references to the "Oregon GPI" that sometimes appear in administration emails and elsewhere, former Governor Kitzhaber was not interested in adopting a stand-alone, academic "Oregon GPI." Rather, he merely wished to link meaningful metrics (some of which may have overlapped with Maryland's GPI, for instance) to the Ten-Year Budget. See Ex. D, Jordan Letter.

After launching the process of developing a Ten-Year budget framework—former Governor Kitzhaber set out to learn all that he could about different metrics (which is generally how he approaches public policy). Naturally, he was interested in Bob Costanza's work at PSU during the winter term of 2012. Professor Costanza's class on "Measuring Well-Being" was using an "Oregon GPI," and former Governor Kitzhaber (with Ms. Hayes, who shares his interest in alternative metrics) attended an early meeting of Costanza's planning group in April 2012. Governor Kitzhaber understood that Ms. Hayes—in her role as *First Lady*—was interested in PSU's development of an Oregon GPI. However, he did not believe—and still does not believe—that Ms. Hayes's taking an interest in PSU's development of an Oregon GPI was part of her work for the CEDC or any other organization.

In February 2013, as DAS continued to make progress setting up the Ten-Year Budget, former Governor Kitzhaber invited Lew Daly from Demos to Oregon for a meeting with some of the administration's Senior Policy Staff and Michael Jordan. See Ex. D, Jordan Letter, at 2. The meeting was convened to discuss the work that Daley's organization had completed on measuring "puts" and "takes" in the area of education. Because the administration was building an outcome-based education budget, that policy area was ripe for testing alternative metrics to inform budgetary decisions. Importantly, former Governor Kitzhaber at no point discussed with Mr. Daley the idea of Demos's employing Ms. Hayes.

Finally, in 2014, as the administration was building the budget for 2015-17, Michael Jordan hired Sean McGuire to work with his staff to figure out how to begin to link new metrics to the budget. Mr. McGuire had worked for Governor O'Malley on the Maryland GPI and knew perhaps more than anyone else in the country about this topic. See Ex. D, Jordan Letter, at 1-2.

Thus, former Governor Kitzhaber and Michael Jordan, with the implementation team of Steve Marks, George Naughton, and Sean McGuire, led the efforts to link alternative metrics to the Ten-Year Budget. Ms. Hayes did not "spearhead" that effort. See Ex. D, Jordan Letter. While Ms. Hayes had also taken an interest in the concept of a GPI as an alternative to the GDP, her activities concerning alternative metrics were parallel to the administration's, rather than integrated. And although Ms. Hayes may have written up a plan for the implementation of the

"Oregon GPI," no one had requested it. *See* Report p. 94-95. The plan was wholly unnecessary, given Mr. Jordan's ongoing efforts. Also, as noted above, Oregon was not adopting a stand-alone GPI, merely developing Oregon-specific metrics to support the ten-year strategic plan (also known as the "Ten-Year Budget").

Similarly, Ms. Hayes's arranging a dinner so that she, former Governor Kitzhaber, and Steve Marks (of DAS) could discuss GPI was also unnecessary. *See* Report p. 94. And in any case, former Governor Kitzhaber never imagined that such a dinner would be arranged as part of Ms. Hayes's *professional* efforts, just as he never contemplated the possibility that Ms. Hayes would claim—as a professional achievement—the administration's efforts to integrate alternative metrics into the Ten-Year Budget.

Ms. Hayes's Contract with Demos

Former Governor Kitzhaber understood that the work Ms. Hayes would perform for Demos entailed working on the "Beyond GDP" project in other states and delivering speeches or facilitating meetings, as she had previously, in other states.

He also never saw either version of Ms. Hayes's contract with Demos until after he left office and so was wholly unaware of the contents of those documents in 2013. Additionally, former Governor Kitzhaber never believed that Ms. Hayes was seeking to influence his administration on behalf of Demos. Again, his efforts to link metrics to the Ten-Year Budget had been underway for about two years by the time she had a contract with Demos in May 2013 (although he was not aware of that fact until later).

Notably, Former Governor Kitzhaber is not copied on, and did not know the contents of, the many emails cited in the report between Ms. Hayes and Lew Daley or Bob Costanza or other "GPI practitioners."

In short, former Governor Kitzhaber had been interested in alternative metrics for over four decades by the time he began his third term as Governor. He launched the effort to link metrics to the Ten-Year Budget soon after taking office. Michael Jordan led that effort through DAS, not Ms. Hayes. And former Governor Kitzhaber believed that Ms. Hayes's paid work for Demos, consistent with her volunteer efforts for Demos, concerned outreach in other states. He never involved Ms. Hayes in any effort to implement alternative metrics in Oregon for the purpose of advancing her professional career or to obtain a financial gain.

Conclusion

The investigation report cites no evidence supporting an inference that former Governor Kitzhaber used his office in order to obtain financial gain for himself or Ms. Hayes. The report includes no evidence that he was aware of the contents of Ms. Hayes's communications with non-profit employers or funders. He did not know the contents of her contracts. He was not aware that Ms. Hayes reported to non-profit organizations, for instance, that she convened governors' offices or reinvigorated the Pacific Coast Collaborative or spearheaded Oregon's

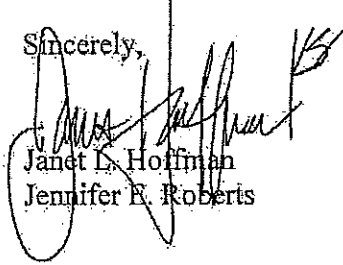
adoption of the GPI—all of which is inaccurate. Moreover, former Governor Kitzhaber did not believe that Ms. Hayes participated in any administration efforts on behalf of her employers.

Further, former Governor Kitzhaber never asked anyone to employ Ms. Hayes or to fund her work. He did not undertake any policy initiative or give any speech for the purpose of advancing her career.

Former Governor Kitzhaber regrets not seeking an opinion from the OGEC regarding Ms. Hayes's work for non-profits, and he has already accepted responsibility for the potential conflicts he faced arising from Ms. Hayes's professional activities. Furthermore, he regrets that he did not personally remain informed about Ms. Hayes's professional activities and the claims that she was making to her non-profit employers and funders, and that he did not prioritize these issues which were ultimately his responsibility.

But he unequivocally rejects the suggestion that he used his office for the purpose of obtaining financial gain. The Commission must consider former Governor Kitzhaber's case on its own merits. And given the lack of evidence noted above, a preliminary finding of violation of ORS 244.040 would be baseless.

Sincerely,



Janet L. Hoffman
Jennifer E. Roberts



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

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E-mail: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

January 4, 2018

Ted Ferrioli
111 Skyline Drive
John Day, Oregon 97845

Dear Mr. Ferrioli:

This letter of advice is provided in response to your request received on January 2, 2018, which presented a question regarding whether Oregon Government Ethics law permits you to accept a blanket as a gift from the nine-member Board of Directors for the Confederated Tribes of Umatilla Indian Reservation (CTUIR). The analysis and advice that follows is offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented.

According to the information provided, on December 31, 2017, you received a package from the CTUIR Board of Directors containing a Pendleton blanket along with a card signed by all nine board members. The total value of the blanket is \$249.00, as evidenced by the tag attached to it. However, divided among each of the nine CTUIR board members, the value of the blanket breaks down to \$27.67 per person. You were gifted the blanket as a result of your position with the Northwest Power & Conservation Council (NWPPCC).

Your request for guidance further indicated that the bestowing of gifts is a deeply rooted tradition in Native American cultures, conveying meaning far greater than the material value of the item given, particularly if the gift is smoked or fresh salmon, a handmade article, a "first foods" item like dried camas, huckleberry or medicinal plants, or a blanket. As a result, you wish for guidance on how to proceed, as acceptance of this item may violate State Government Ethics regulations. However, you are also concerned that rejecting and returning the item to the CTUIR Board may be interpreted as an insult, or may be construed as the application of "public official" status/standards to members of a sovereign nation.

As you know, public officials (defined at ORS 244.020(15)) are generally prohibited from accepting, within a single calendar year, any gift(s) (defined at ORS 244.020(7)(a)) worth over \$50 from any single source that might reasonably have an economic interest in the public official's official decision-making (ORS 244.025;



see ORS 244.020(10)). Please note that the law does not place any burden on the offeror/giver of a gift, only on the Oregon public official to whom it is intended, and a public official can only accept gift(s) exceeding \$50 in value if the offeror does not have an economic interest in his/her official decision-making. Thus, although we know the overall cost of the blanket, two other questions must also be answered in order to determine whether you can accept it as a personal gift: (1) who the source is; and (2) whether that source is reasonably likely to have an economic interest in your official decision-making.

In other words, if Tribal funds were used to purchase the blanket, then CTUIR is the source (or giver), and you are prohibited from personally accepting the blanket as a gift *if* CTUIR might reasonably have an economic interest in your decision-making as a public official (because the value of the blanket exceeds the \$50 limit).

On the other hand, if each of the nine CTUIR board members used their own personal funds to purchase the blanket, then those nine individuals appear to be the sources, and you are not prohibited from personally accepting the blanket as a gift *regardless* of whether any (or all) of them have an economic interest in your official decision-making (as long as you didn't accept other gifts from these individuals over the course of 2017 that collectively exceed \$50 per source).

Beyond legal application, Government Ethics Commission staff also recognize that in reality, sometimes returning or rejecting a gift that cannot be accepted may be problematic or even impossible. In such circumstances, we recommend two alternatives for the recipient: (1) treat it as a gift to the public office or body the public official represents (Oregon Government Ethics law does not regulate gifts to public entities); or (2) donate the item to charity without accepting a tax write off.

If you have any additional questions regarding the application of Oregon Government Ethics law please feel free to contact me directly.

Sincerely,



Ronald A. Bersin
Executive Director

RAB/hw

*****DISCLAIMER*****

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

From: [BERSIN Ron A * OGEC](#)
To: [WEEDN Hayley * OGEC](#)
Subject: FW: Gift/Honorarium
Date: Wednesday, January 03, 2018 9:14:10 AM

Please respond. Thanks

Ronald A. Bersin

Executive Director
Oregon Government Ethics Commission
(503) 378-5105

***The Oregon Government Ethics Commission believes your comments are important to our success. We would appreciate you taking a few minutes to participate in a brief survey. [Click here to access customer survey.](#)

From: tfer2@aol.com [mailto:tfer2@aol.com]
Sent: Tuesday, January 02, 2018 3:22 PM
To: ISAAK Misha * GOV <Misha.ISAAK@oregon.gov>; dexter.johnson@oregonlegislature.gov; BERSIN Ron A * OGEC <Ron.A.Bersin@oregon.gov>; jshurts@nwcouncil.org; scrow@nwcouncil.org
Cc: HUTCHINGS Laura * GOV <Laura.HUTCHINGS@oregon.gov>
Subject: Gift/Honorarium

January 2, 2018

Mischa Isaak - Governor's Tribal Affairs Policy Advisor
Dexter Johnson - Legislative Chief Counsel
Steve Crow - Executive Director, NWPC
John Shurts - NWPC General Counsel
Ron Bersin - Executive Director, Oregon Ethics Commission

Colleagues,

I am writing to inform you of an issue that needs to be addressed, and to seek your advice on how to proceed.

On December 31 I received a package from the Board of Directors of Confederated Tribes of Umatilla containing a Pendleton blanket along with a card signed by all nine members of the CTUIR Board.

As you all know, the bestowing of gifts is a deeply rooted part of Native American Culture, in meaning, far greater than the material value of the item given, particularly if the gift is smoked or fresh salmon, a handmade article, a "first foods" item like dried camas, huckleberry or medicinal plants, or a blanket.

Receipt of this item puts me in a potentially awkward position since acceptance of the item may be considered a violation of ethics regulations for both the Legislative and Executive Branch and may also constitute a violation of ethics rules of NWPC.

Return of the item to the Board of CTUIR may be considered an insult, or may be construed as the application of "public official" status/standards to members of a sovereign nation.

The value of the item is \$249.00, as evidenced by a tag attached to the article. It was given by all nine CTUIR Board members. The value of the gift (per giver) is \$27.67.

Do I

1. Return the gift and accept the consequences of its return?
2. Accept the gift and retain documentation of the value per giver (\$27.67)?
3. Accept the gift on behalf of a third party such as Oregon Capitol Foundation, Oregon Historical Society or other non-profit entity?
4. Other options?

Please advise me as soon as possible.

Ted Ferrioli
541-490-6528
Tfer2@aol.com

Trainers' Report February 16th, 2018

This report covers the time period of January 8th, 2018, through February 16th, 2018.

Completion of training:

- Department of Education Child Nutrition Program– ORS 244 (Salem)
- Board of Examiners for Engineering and Land Surveying– ORS 244 (Salem)
- Board of Psychology– ORS 244 (Salem)
- Department of Fish & Wildlife– ORS 244 (Salem)
- Oregon Health Authority– ORS 244 (Salem)
- Oregon Health Authority Office of Equity and Inclusion– ORS 244 (Portland)
- Western Liberty Network Conference– ORS 244 & ORS 171.725 (Portland)
- Logos Public Charter School– ORS 244 (Medford)
- Department of Forestry– ORS 244 (Salem)
- Board of Licensed Counselors and Therapist– ORS 244 (Salem)
- Oregon Association County Clerks– ORS 244 & EFS (Salem)
- Public Utility Commission– ORS 244 (Salem)
- City of Jefferson– ORS 244 & 192.660 (Jefferson)
- Jurisdictional Contact EFS/SEI Webinars– ORS 244 (Online)

Upcoming Trainings:

<u>Date</u>	<u>Time</u>	<u>Public Body (Topic)</u>	<u>Address</u>
2/21 & 22/2018	Multiple sessions	City of Newport (ORS 244)	169 SW Coast Highway Newport, OR 97365
2/21/2018	10:00 – 11:30 AM	Lane Transit District (ORS 244)	Boy Scouts Center 2525 Martin Luther King Jr. Blvd Eugene, OR 97401
2/27/2018	6:00 – 7:30 PM	City of Redmond	Redmond City Hall 411 SW 9 th Street, Room 208 Redmond, OR 97756

3/12/2018	10:00 – 12:00 PM	Salem & Portland Institute of Internal Auditors	Clackamas Community College 29353 Town Center Loop E, Room 108b Wilsonville, OR 97070
Month of March	Multiple Sessions	SEI Filer Webinars	Online
3/14/2018	2:30 – 3:45 PM	DAS New to Public Management (ORS 244)	DAS Executive Building 155 Cottage Street NE Salem, OR 97301
3/19/2018	6:00 – 7:30 PM	Sisters Camp Sherman Fire District- Host	Sisters Camp Sherman Fire District 301 S. Elm Street, Community Rm Sisters, OR 97759
3/27/2018	3:00 – 4:00 PM	Oregon Health Authority- New Employee Orientation	DHS Training Center 3414 Cherry Ave NE, Mt. Mazama Salem, OR 97303
3/28/2018	2:00 – 3:00	Designated Procurement Officers Council (DPO) (ORS 244)	TBD
4/12/2018	TBD	Higher Education Coordinating Commission (HECC) (ORS 244)	Public Service Building 255 Capitol Street NE, Third Floor Salem, OR 97310
4/24/2018	3:00 – 4:00 PM	Oregon Health Authority- New Employee Orientation	DHS Training Center 3414 Cherry Ave NE, Mt. Mazama Salem, OR 97303
4/25/2018	9:00 – 11:00 AM 2:00 – 4:00 PM	Jackson County (ORS 244)	Jackson County Roads Auditorium 7520 Table Rock Rd White City, OR 97502

Training Staff:

Tammy Hedrick
Hayley Weedn

503-378-6802
503-378-8066

tammy.r.hedrick@oregon.gov
hayley.weedn@oregon.gov

February 2018

Oregon Government Ethics Commission Training Calendar

Monday	Tuesday	Wednesday	Thursday	Friday
<p>System Generated Notices to Jurisdictional Contacts February: 1st-1st notice to finalize SEI List 10th - 2nd notice to finalize SEI List 22nd - 3rd notice to finalize SEI List March 1st - Last notice to finalize SEI list</p>	<p>***Disclaimer: Trainings/Trainers are subject to change*** To register for a webinar email ogec.training@oregon.gov</p>		<p>1 New Employees: you're a public official, now what! 10:00 - 11:00 AM</p>	<p>2</p>
<p>5 SEI-JC Webinar 10:30 - 11:30 AM 2:30- 3:30 PM</p>	<p>6</p>	<p>7 Executive Session 10:00 -11:00 AM</p>	<p>8</p>	<p>9 Use of Position/Office 8:30 - 9:30 AM SEI-JC Webinar 10:30 - 11:30 AM</p>
<p>12 SEI-JC Webinar 10:30 - 11:30 AM 2:30- 3:30 PM</p>	<p>13</p>	<p>14 Conflicts of Interest 2:00 - 3:00 PM</p>	<p>15 SEI-JC Webinar 10:30 - 11:30 AM 2:30- 3:30 PM</p>	<p>16 OGEC PUBLIC MEETING</p>
<p>19 PRESIDENTS' DAY OFFICES CLOSED</p>	<p>20</p>	<p>21 SEI-JC Webinar 10:30 - 11:30 AM 2:30- 3:30 PM</p>	<p>22</p>	<p>23 Lobby law 10:00 - 11:00 AM</p>
<p>26 Gifts 10:30 -11:30 AM</p>	<p>27</p>	<p>28 SEI-JC Webinar 10:30 - 11:30 AM 2:30- 3:30 PM</p>		

Marc 2018

Oregon Government Ethics Commission Training Calendar

Monday	Tuesday	Wednesday	Thursday	Friday
<p>System Generated Notices to SEI Filers: March 15th- Notice to inform SEI filers that they can now file a SEI report. April 10th- Reminder to file. April 21st-Final reminder to file. May 7th- Daily notice, accruing penalties.</p>	<p>***Disclaimer: Trainings/Trainers are subject to change*** To register for a webinar email ogec.trainings@oregon.gov</p>		<p>1 New Employees: you're a public official, now what! 10:00 – 11:00 AM</p>	<p>2</p>
5	<p>6 SEI Filer Webinar 10:00 – 11:00 AM 2:30 – 3:30 PM</p>	7	<p>8 SEI Filer Webinar 2:30 – 3:30 PM</p>	<p>9 Use of Position/Office 10:00 – 11:00 AM</p>
12	<p>13 SEI Filer Webinar 10:00 – 11:00 AM 2:30 – 3:30 PM</p>	<p>14 SEI Filer Webinar 9:00 – 10:00 AM</p>	<p>15 Conflicts of Interest 2:00 – 3:00 PM</p>	<p>16</p>
19	<p>20 Gifts 2:00 – 3:00 PM</p>	<p>21 SEI Filer Webinar 10:00 – 11:00 AM 2:30 – 3:30 PM</p>	<p>22 Executive Session 2:30 – 3:00 PM</p>	<p>23</p>
26	27	<p>28 Lobby law 10:00 – 11:00 AM</p>	<p>29 SEI Filer Webinar 10:00 – 11:00 AM 2:30 – 3:30 PM</p>	<p>30 OGEC PUBLIC MEETING</p>

Executive Director's Report

February 16, 2018

- Budget
 - 2017-19 biennial budget
 - Biennial financial plan incorporated in monthly BRIO reports.
 - Currently projected with a \$53,524.36 surplus.
 - Expenditures through December, \$118,044.50 spent per month, 110,943.34 average to spend per month.
 - The overspending is tied to paying all annual assessments at the beginning of the year. See Projections for surplus.

- Price-List
 - Price List is due March 1, 2018
 - Need to include all policy packages that create budget need.

- SEI
 - Working with Jurisdictional Contacts on filer lists
 - SEI filing period to open March 15, 2018

- Legislation
 - Very few bills that affect agency in short session
 - Watch HB 4077, adds additional category to SEI to include information on income from a business. Listing sources of business's income from sources that are more than 10 % of the business's income.
 - Public Hearing and possible work session happened 2/8/18 in House Rules.

- Other
 - Continue working with CIO office on Agency IT Strategic Plan.
 - Lobbyists and Clients are registering successfully for renewal period that opened 12/15/17.
 - Website redesign project continues into its final phase.
 - Early discussions with DAS Chief Financial Office on 2019-21 budget rules. Meeting with new CFO analyst.
 - Began project cleaning up all SEI filers who have not filed their required SEI. Moving non-filers towards collections.

