



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 5, 2018

Dan R. Gilbert
Deputy Legislative Counsel
900 Court St. NE Ste. 101
Salem, Oregon 97301

Dear Mr. Gilbert:

At its January 5, 2018, meeting, the Oregon Government Ethics Commission (Commission) adopted the following advisory opinion:

OREGON GOVERNMENT ETHICS COMMISSION ADVISORY OPINION NO. 17-089A

STATED FACTS: The National Conference of State Legislatures (NCSL) is a bipartisan nongovernmental organization that serves the members and staff of state legislatures throughout the United States. NCSL has three objectives: to improve the quality and effectiveness of state legislatures; to promote policy innovation and communication among state legislatures; and to ensure state legislatures a strong, cohesive voice in the federal system. Members of the Legislative Assembly and other legislative branch employees routinely attend NCSL meetings and educational seminars.

The American Society of Legislative Clerks & Secretaries (Society) is a professional organization within NCSL that seeks to "improve legislative administration and to establish better communication between clerks and secretaries throughout the United States and its territories." The Society holds an annual five-day Professional Development Seminar that is routinely attended by the Chief Clerk of the Oregon House of Representatives, the Secretary of the Oregon Senate and several staff members from these offices.

The Society has asked the Chief Clerk if Oregon is willing to host the Professional Development Seminar that will be held in 2020. A host state is required to organize and pay for entertainment for seminar attendees, which has traditionally included experiences like city tours or sports events. Entertainment costs for the 2020 Professional Development Seminar are estimated to total approximately \$50,000 - \$75,000, and would have to be raised through monetary and in-kind donations, as neither the Office of the Chief Clerk nor the Secretary of the Senate's Office have funds budgeted for this purpose.

In your request for an Advisory Opinion, you specifically asked the Commission to base its response on four assumptions: (1) the individual or entity being solicited has a



legislative or administrative interest; (2) all monetary donations would be in the form of checks made payable to the NCSL Foundation (Foundation), which is a nonprofit, tax-exempt corporation that is organized under section 501(c)(3) of the Internal Revenue Code; (3) all in-kind donations would be used solely for the purpose of hosting the 2020 Professional Development Seminar; and (4) no public official or relative of a public official that will solicit donations for the 2020 Professional Development Seminar is associated with the NCSL Foundation in a remunerative capacity.

QUESTION: May legislative officials (including elected members of the Legislative Assembly, the Chief Clerk, Secretary of the Senate, and staff members of various legislative offices) use public time or resources to solicit monetary and in-kind donations for the 2020 Professional Development Seminar without violating the Oregon Government Ethics laws?

ANSWER: Yes. Based on the stated facts, the donations would not appear to be considered gifts for the purpose of Government Ethics law, so legislative officials are not prohibited from soliciting them. Any monies or in-kind donations would not be considered personal financial gains to the officials or any business with which they were associated, therefore, using public time and resources to solicit those donations would not be a prohibited use of office for personal financial gain.

Although ORS 244.025 generally prohibits a public official from soliciting or receiving any gift(s) with a total value exceeding \$50 in a given calendar year from any single source who might reasonably have a legislative or administrative interest in the receiving public official's decision-making, the donations solicited, in this case, are not "gifts" for the purpose of Government Ethics law. This is because the definition of "gift" is limited to items of value offered to certain individuals – people. Specifically, ORS 244.020(7)(a) defines a "gift" as "something of economic value given to a public official... or a relative or member of the household of the public official..." In other words, Government Ethics law maintains no jurisdictional authority over gifts given to entities or organizations. As in this case, the donations solicited will be for the Foundation's use and control, they are not personal gifts to public officials, their relatives or household members. Thus, soliciting or accepting donations on the Foundation's behalf would not violate Government Ethics law.

Similarly – although ORS 244.040(1) generally prohibits public officials (their relatives and household members) and businesses with which they are associated from attempting to obtain anything of financial benefit that would not be available if not for holding a public office or position – the solicitation of donations here are not personal financial benefits to the soliciting officials, nor to any business association. As is the case with regard to the gift analysis in the preceding paragraph, the solicitations and any donations given will be for use and control by the Foundation, not for the public officials who will be soliciting on the Foundation's behalf.

Moreover, although many of the public officials who will solicit donations may be in attendance at the 2020 Professional Development Seminar, the Foundation is not considered a "business with which [a participating public official] is associated." This is because having an unpaid ("non-remunerative") tie to a 501(c) nonprofit is expressly excluded from consideration as a business association for the purpose of Government Ethics law (ORS 244.020(2), (3)).

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

Issued by Order of the Oregon Government Ethics Commission at Salem, Oregon on the 5th day of January 2018.

Alison R. Kean, Chairperson
Oregon Government Ethics Commission

Amy E. Alpaugh, Assistant Attorney General

17-089A/hw

ADDENDUM

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

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

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

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

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

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

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

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

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

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

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

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

(

(

(



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

October 31, 2017

RECEIVED

NOV 03 2017

OREGON GOVERNMENT
ETHICS COMMISSION

Ronald A. Bersin
Executive Director, Oregon Government Ethics Commission
3218 Pringle Road SE
Suite 220
Salem, Oregon 97302-1544

Re: Use of Public Time and Resources to Solicit Donations

Dear Mr. Bersin:

Pursuant to ORS 244.280, we are writing to request an Oregon Government Ethics Commission advisory opinion on the two questions presented below.

Background Information

The National Conference of State Legislatures (NCSL) is a bipartisan nongovernmental organization that serves the members and staff of state legislatures throughout the United States. NCSL has three objectives: to improve the quality and effectiveness of state legislatures; to promote policy innovation and communication among state legislatures; and to ensure state legislatures a strong, cohesive voice in the federal system.¹ Members of the Legislative Assembly and other legislative branch employees routinely attend NCSL meetings and educational seminars.

The American Society of Legislative Clerks & Secretaries (Society) is a professional organization within NCSL that seeks to "improve legislative administration and to establish better communication between clerks and secretaries throughout the United States and its territories."² The Society holds an annual five-day Professional Development Seminar that is routinely attended by the Chief Clerk of the Oregon House of Representatives, the Secretary of the Oregon Senate and several staff members from these offices.

The Society has asked the Chief Clerk if Oregon is willing to host the Professional Development Seminar that will be held in 2020. A host state is required to organize and pay for entertainment for seminar attendees, which has traditionally included experiences like city tours or sports events. Entertainment costs for the 2020 Professional Development Seminar are estimated to be approximately \$50,000 through \$75,000. These moneys would have to be raised through donations, as neither the Office of the Chief Clerk nor the Secretary of the Senate's Office have moneys budgeted for the purpose of hosting the Professional Development Seminar.

¹ <http://www.ncsl.org/aboutus.aspx> (visited October 31, 2017).

² <http://www.ncsl.org/legislators-staff/legislative-staff/clerks-and-secretaries.aspx> (visited October 31, 2017).

Questions Presented

1. May the Chief Clerk of the Oregon House of Representatives, the Secretary of the Oregon Senate and other non-elected legislative branch public officials in these offices use public time or public resources to solicit monetary and in-kind donations for the purpose of hosting the 2020 Professional Development Seminar?
2. May elected members of the Legislative Assembly use public time or public resources to solicit monetary and in-kind donations for the purpose of hosting the 2020 Professional Development Seminar?

In answering the above two questions, please assume that: (1) the individual or entity being solicited has a legislative or administrative interest; (2) all monetary donations would be in the form of checks made payable to the NCSL Foundation (Foundation), which is a nonprofit, tax-exempt corporation that is organized under section 501 (c)(3) of the Internal Revenue Code; (3) all in-kind donations would be used solely for the purpose of hosting the 2020 Professional Development Seminar; and (4) no public official or relative of a public official that will solicit donations for the 2020 Professional Development Seminar is associated with the NCSL Foundation in a remunerative capacity.

Thank you for your consideration of our questions. Please let us know if you require any additional information in order to conduct your analysis.

Very truly yours,



Daniel R. Gilbert
Deputy Legislative Counsel



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

November 15, 2017

Matthew D. Lowe
Jordan Ramis PC
2 Centerpointe Dr
Suite #600
Lake Oswego, OR 97035

RE: No. 17-166I, Letter of Advice

Dear Mr. Lowe:

This letter of advice is provided in response to your request received on November 13, 2017, which presented a question regarding the application of Oregon Government Ethics laws in relation to the disclosure requirements in connection with the filing of the Annual Verified Statement of Economic Interest (SEI). 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 presented below.

According to the information you presented to the Commission, you state that your client may become a candidate for public office and you ask, "If someone is a member/partner in an entity and that person has some decision-making control over the investments made by said entity, would the member/partner be required to disclose the underlying investments held by that entity under the Oregon Government Ethics Commission rules?"

Pursuant to ORS 244.020(2), a "business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain.

SEI Section 1: "Business Office or Directorship; Business Name":

Section 1 on the SEI requires that the public official (candidate for public office) list any business with which the public official (candidate) and/or a member of the public official's (candidate's) household is associated.

If a public official (candidate) has an ownership interest in an LLC and/or a LLP that exists to invest money, the various LLCs and/or LLPs must be listed under Section 1 on the SEI. Section 1 does not require that the public official (candidate) list the other owners/investors affiliated with the LLC and/or LLP, nor does it require disclosure of the investments held by those entities.



SEI Section 7: "Income of \$1,000 or More":

Section 7 on the SEI requires that the public official (candidate) list each LLC and/or LLP that was a source of income exceeding an aggregate amount of \$1,000 or more during the preceding calendar year for the public official (candidate) or members of the public official's (candidate's) household. [ORS 244.060(8)]

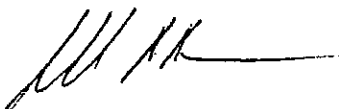
The source is listed only if the interest is derived from an individual or business that has a legislative or administrative interest or that has been doing business, does business or could reasonably be expected to do business with the governmental agency where the public official (candidate) holds, or will hold a position if elected, over which the public official exercises any authority. [ORS 244.060(8)]

"Legislative or administrative interest" means an economic interest, distinct from that of the general public in any matter subject to the decision or vote of the public official acting in the public official's capacity as a public official.

In short, your client, in relation to their SEI filing, must list the LLCs and LLPs under Section 1 in which they or a member of their household has an interest. Any LLCs and/or LLPs that provided an income of \$1,000 or more during the preceding year for the public official (candidate) or members of the public official's (candidate's) household, must be listed under Section 7 of the SEI if these entities could reasonably be expected to have a legislative or administrative interest in the decision or vote of the public official (candidate).

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/mst

*****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.

THORNICROFT Michael * OGEC

From: SCHEFFERS Marie * OGEC
Sent: Tuesday, November 14, 2017 4:04 PM
To: GOULD Diane * OGEC; WEEDN Hayley * OGEC; THORNICROFT Michael * OGEC
Cc: BERSIN Ron A * OGEC
Subject: FW: Question from Call Today

Do any of you have time to answer this question this week? They are on a time crunch because the potential candidate needs to make a decision about running.

Ron knows more of the details – it is essentially that they have to list whatever the candidate's spouse controls (in this case, the LLC and the limited partnerships that own the investments).

They are hoping for a letter with Ron's signature.

From: SCHEFFERS Marie * OGEC
Sent: Tuesday, November 14, 2017 3:56 PM
To: 'Matthew D. Lowe' <Matthew.Lowe@jordanramis.com>
Subject: RE: Question from Call Today

Hi Matt,

We do not need your client's name disclosed.

I'm out of the office at meetings the next two days, and we have a Commission meeting on Friday, so I'm going to check with a couple of my colleagues to see if they have a bit more time to get this letter written. What is your timeline?

All the best,

Marie

From: Matthew D. Lowe [<mailto:Matthew.Lowe@jordanramis.com>]
Sent: Monday, November 13, 2017 2:58 PM
To: SCHEFFERS Marie * OGEC <Marie.SCHEFFERS@oregon.gov>
Subject: Question from Call Today

Marie:

Thank you again for your and Ron's time on the phone this afternoon. The question I read you on the phone, which is tied to the matter we've been discussing, is:

"If someone is a member/partner in an entity and that person has some decision-making control over the investments made by said entity, would the member/partner be required to disclose the underlying investments held by that entity under the Oregon Government Ethics Commission rules?"

As we discussed, all securities that comprise the investments listed above are owned by the entity (limited partnerships in this case) and the various investors' funds are all paid into the limited partnership and invested as together. Would it be possible to get a letter confirming the conclusion we discussed on the phone that the limited partnerships, management companies, etc., may need to be listed, but that the individual securities the comprise the investment portfolio do not need to be listed?

Also, please let me know if you will need my client's name to be disclosed for purposes of such a letter? We would like to preserve confidentiality at this point until a final decision is made on whether or not to be a candidate.

Thanks.

Matt

Matthew D. Lowe | Shareholder
Jordan Ramis PC | Attorneys at Law
Direct: 503-598-5586 Main: 503-598-7070

Portland OR | Vancouver WA | Bend OR
www.jordanramis.com

E-MAIL CONFIDENTIALITY NOTICE: The contents of this e-mail message and any attachments are intended solely for the addressee(s) and may contain confidential and/or legally privileged information. If you are not the intended recipient or this message has been addressed to you in error, please notify the sender by reply e-mail and delete the message and any attachments. You are further notified that any use, dissemination, distribution, copying, or storage of this message or any attachment by anyone other than the intended recipient is strictly prohibited.



Oregon

John A. Kitzhaber, MD, Governor

Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1544

503-378-5105

E-mail: ogec.mail@state.or.us

Web Site: www.oregon.gov/ogec

March 14, 2013

Marla Rae
Oregon Capitol Club, Inc
900 Court St NE, 60-G
Salem, OR 97301

Dear Ms. Rae:

This is in response to your request for staff advice dated March 8, 2013 concerning the circumstances under which it is required to report lobbying expenditures. Your submission contained six hypothetical situations and asked for a determination as to whether a lobbyist would be required by statute to report his or her expenditures in each scenario.

Before responding to the specific hypothetical situations posed in your inquiry, an explanation of the analytical framework our office used to evaluate the scenarios is necessary. The hypothetical scenarios all include the fact situation of a lobbyist expending funds for meals and refreshment, either solely for the lobbyist, or for the lobbyist and additional individuals. In each scenario it is necessary to determine if the situation involves lobbying at the time the expenses are incurred.

Statutorily, "lobbying" has three components:

1. Influencing or attempting to influence legislative action through oral or written communication with legislative officials;
2. Solicitation of executive officials or other persons to influence or attempt to influence legislative action; or
3. Attempting to obtain the goodwill of legislative officials. ORS 171.725(8)

None of your hypothetical scenarios involve lobbying legislative officials directly through oral or written communication (component 1). Nor do your questions involve attempting to obtain the goodwill of legislative officials (component 3). Rather, all six of the scenarios involve aspects of the possible solicitation of "other persons" to influence or attempt to influence legislative action (component 2).

Lobbying may involve direct contact with legislative officials (component 1, above), but it also may take place indirectly, when an individual "solicits" people other than legislative and/or executive officials to influence or attempt to influence legislative action. As defined in the American Heritage College Dictionary (3rd edition), "solicit" means "to seek to obtain by persuasion, entreaty or formal application." Therefore, if an individual



approaches "other persons" with a request or plea to join him or her in influencing or attempting to influence legislative action, that individual is lobbying. If one is engaged in lobbying, the food, drink and entertainment expenses incurred while doing so are reportable under ORS 171.745(1)(a).

ORS 171.725(8) expands the definition of lobbying beyond legislative and executive officials, to include the solicitation of "other persons". We recognize that this is a very general term, potentially subject to a wide range of differing interpretations. Nevertheless, we are required to give effect to each of the words chosen by the Legislative Assembly. Stated differently, we are not permitted to ignore the legislature's decision to include solicitation of persons other than legislative or executive officials within the definition of "lobbying". In discussing what constitutes "other persons", the Attorney General's Opinion on state employee lobbying explains that state employees would be soliciting others, and therefore lobbying, when meeting with stakeholders outside their agency and asking them to help support or defeat legislation.¹ Following this reasoning, when a lobbyist goes outside his or her firm and solicits others (including another lobbyist) to aid in an effort to influence legislative action, he or she is lobbying. However, when a lobbyist discusses legislation or strategizes with members of their own firm or with a client, he or she is not lobbying because there is no solicitation of others. We approach the problem with a common sense perspective. Our focus is not on the physical location of the lobbyist and the "other" party, but on what the lobbyist is doing when she communicates with the "other" party.

With this analytical framework in mind, the hypothetical situations are answered specifically as follows:

QUESTION:

Hypothetical #1: Lobby/Lobby

Jill and Jack both are registered lobbyists. Jack and Jill go to lunch to discuss legislative measures of mutual interest. No legislators or legislative staff members are present. Jack and Jill each pay for their own lunch. Are Jack and Jill each required to report the amount each expended for food?

ANSWER:

No, unless either lobbyist solicits the other to influence or attempt to influence legislative action. In that case, the soliciting lobbyist must report his or her expenses.

¹ Lobbying occurs when state employees "request or urge members of the stakeholder group to communicate with legislative staff or interim committees about the group's work for the purpose of having the proposed measure sponsored, supported or passed (or contrary legislation defeated)... even if none of the stakeholders so solicited carried through with any attempt to influence legislative action". Attorney General's Opinion #8259, 8/7/1998, p. 12, Section E, paragraph 3.

QUESTION:

Hypothetical #2: Lobby/Client

Ted is a lobbyist for client, Myrna. Ted and Myrna meet for breakfast to review the bills being tracked for the client. They generally discuss legislative activities. The discussion between Ted and Myrna evolves into strategies about opposing and supporting certain legislative bills. Ted picks up the tab for breakfast. Is Ted required to report the amount he expended for food with his client?

ANSWER:

No, because the discussion between a lobbyist and his or her client does not involve "other persons".

QUESTION:

Hypothetical #3: Group of Lobbyists

Larry, Moe and Ralph sit down together for lunch at Capitol coffee shop. Each buys their own lunch. Quite naturally, the conversation involves legislative activities. The conversation among Larry, Moe and Ralph evolves into developing a plan to try to defeat a particular bill. As a result, are Larry, Moe and Ralph required to report the expense of their lunch?

ANSWER:

No, unless one or more of the lobbyists solicited one of the other lobbyists to influence or attempt to influence legislative action, in which case he would be responsible for reporting his expenses. This situation presents the closest case of all your hypotheticals, because you posit that the conversation "evolves into developing a plan to try to defeat a particular bill." To the extent that any of the lobbyists present is "soliciting" the other "to influence or attempt to influence legislative action" on the bill, lobbying is occurring and expenses must be reported.

QUESTION:

Hypothetical #4: State Agency Staff

Andy is a state agency administrator and is a registered lobbyist. Andy arranges a lunch meeting at a local pizza place with his co-workers to develop strategies to help pass a particular piece of legislation. Each attendee, including Andy, pays for his/her lunch-size pizza. Is Andy required to report his expense for lunch with co-workers?

ANSWER:

No, because Andy is not soliciting others.²

² Because these activities do not involve contact with persons outside of the agency, such activities are not communication "with" legislative officials, nor "solicitation of others," nor attempts to obtain the "good will" of legislative officials. Therefore, activities to develop legislative measures that are internal to the agency are not "lobbying". Attorney General's Opinion #8259, 8/7/1998, p. 12, Section E, paragraph 2.

QUESTION:

Hypothetical #5: Same Firm

Harry and Sally work for the same lobbying firm. They meet for breakfast to compare notes on bills for the multiple clients that the firm represents. Harry and Sally spend some time discussing how to kill/promote a particular piece of legislation. Sally, who wants to suck up to her boss, picks up the tab for breakfast. Is Sally required to report this expense?

ANSWER:

No. The discussion does not involve "other persons" because Harry and Sally work for the same lobbying firm.

QUESTION:

Hypothetical #6: Family

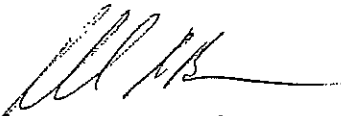
This actually is not a hypothetical. Within the lobby community, there are several family partnerships: spouse and spouse; father and son(s); father and daughter; and brother and brother. When members of these family partnerships go out for meals/drinks - with no legislative and executive official present - and the purpose of the meal/drink is to craft lobbying strategies, are these expenses that are required to be reported?

ANSWER:

No. The discussion does not involve "other persons" because the family members are partners in the same firm.

The statutes relevant to issues addressed in this letter are provided as an addendum. This advice is not issued as a formal staff opinion because only the Oregon Government Ethics Commission itself has authority to issue formal advisory opinions on lobby regulations. Please contact our office again if you wish to have this advice letter submitted to the Commission for adoption as a formal advisory opinion pursuant to ORS 171.776.

Sincerely,



Ronald A. Bersin
Executive Director

RAB/dg

ADDENDUM

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

171.725 (4) "Executive official" means any member or member-elect of an executive agency and any member of the staff or an employee of an executive agency. A member of a state board or commission, other than a member who is employed in full-time public service, is not an executive official for purposes of ORS 171.725 to 171.785.

171.725 (6) "Legislative action" means introduction, sponsorship, testimony, debate, voting or any other official action on any measure, resolution, amendment, nomination, appointment, or report, or any matter that may be the subject of action by either house of the Legislative Assembly, or any committee of the Legislative Assembly, or the approval or veto thereof by the Governor.

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

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

171.730 Legislative finding. The Legislative Assembly finds that, to preserve and maintain the integrity of the legislative process, persons who engage in efforts to influence legislative action, either by direct communication with legislative officials or by solicitation of executive officials or other persons to engage in those efforts, should regularly report their efforts to the public.

171.745 Lobbyist statements of expenditures. (1) A lobbyist registered with the Oregon Government Ethics Commission or required to register with the commission shall, according to the schedule described in ORS 171.752, file with the commission a statement showing for the applicable reporting period:

(a) The total amount of all moneys expended for food, refreshments and entertainment by the lobbyist for the purpose of lobbying.

Date: March 8, 2013
To: Ron Bersin, Director
Oregon Government Ethics Commission (OGEC)
From: Marla Rae *MR*
Oregon Capitol Club
Copy: Paul Cosgrove
Capitol Club President
Re: Staff Opinion Request

We have appreciated the accessibility of the OGEC and your staff to help with training and being accessible to answer questions. Thank you.

On behalf of the Oregon Capitol Club, we request a Staff Opinion on the hypothetical examples outlined below.

Before posing these examples, we hope that you and all OGEC staff know that the Capitol Club works mightily to promote professionalism among legislative advocates and that we have standards of conduct that are imposed on our members, including abiding by all government ethics laws and rules.

We all rely on the definition of "lobbying" as set out in ORS171.725 (8):

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

We also understand that the OGEC staff relies on Attorney General Opinion No. 8259 (1998) in interpreting the definition of "lobbying."

In OGEC training sessions and in communications with individuals, we have received conflicting information concerning reportable expenditures. Moreover, the information we are now receiving is inconsistent with many years of interpretations of ORS 171.725(8) regarding lobbyist expenditure reporting.

Here are six hypothetical situations. In each situation, the lobbyist is registered with OGEC and files quarterly expenditure reports.

Hypothetical #1: Lobby/Lobby

Jill and Jack both are registered lobbyists. Jack and Jill go to lunch to discuss legislative measures of mutual interest. No legislators or legislative staff members are present. Jack and Jill each pay for their own lunch. Are Jack and Jill each required to report the amount each expended for food?

Hypothetical #2: Lobby/Client

Ted is a lobbyist for client, Myrna. Ted and Myrna meet for breakfast to review the bills being tracked for the client. They generally discuss legislative activities. The discussion between Ted and Myrna evolves into strategies about opposing and supporting certain legislative bills. Ted picks up the tab for breakfast. Is Ted required to report the amount he expended for food with his client?

Hypothetical #3: Group of Lobbyists

Larry, Moe and Ralph sit down together for lunch at Capitol coffee shop. Each buys their own lunch. Quite naturally, the conversation involves legislative activities. The conversation among Larry, Moe and Ralph evolves into developing a plan to try to defeat a particular bill. As a result, are Larry, Moe and Ralph required to report the expense of their lunch?

Hypothetical #4: State Agency Staff

Andy is a state agency administrator and is a registered lobbyist. Andy arranges a lunch meeting at a local pizza place with his co-workers to develop strategies to help pass a particular piece of legislation. Each attendee, including Andy, pays for his/her lunch-size pizza. Is Andy required to report his expense for lunch with co-workers?

Hypothetical #5: Same Firm

Harry and Sally work for the same lobbying firm. They meet for breakfast to compare notes on bills for the multiple clients that the firm represents. Harry and Sally spend some time discussing how to kill/promote a particular piece of legislation. Sally, who wants to suck up to her boss, picks up the tab for breakfast. Is Sally required to report this expense?

Hypothetical #6: Family

This actually is not a hypothetical. Within the lobby community, there are several family partnerships: spouse and spouse; father and son(s); father and daughter; and brother and brother.

When members of these family partnerships go out for meals/drinks – with no legislative and executive official present – and the purpose of the meal/drink is to craft lobbying strategies, are these expenses that are required to be reported?

We all seek to comply fully with the OGEC reporting requirements and want to be certain about the extent of those requirements. If you need any clarification or additional information, please contact me or Paul Cosgrove.

Thank you for your prompt attention to our request.



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

DATE: December 14, 2017

TO: Ronald A. Bersin
Executive Director

FROM: Diane Gould
Investigator

RE: Randall Brown
Case No. 17-170DG

The purpose of this memorandum is to request that the investigative phase of the case against Randall Brown, Case No. 17-170DG, be suspended, as allowed by statute.

The preliminary review of this matter was opened on 11/17/17 by the Commission's own motion. On 1/5/18, the Commission is expected to vote on whether or not to initiate an investigation of the matter.

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

Materials upon which the preliminary review was initiated, indicate that there is a pending criminal matter against Randall Brown in Multnomah County Circuit Court for theft, official misconduct, and various other charges related to his official position as Field Program Services Manager for Multnomah County's Animal Services.

Attorney Zachary Winston is representing Mr. Brown in this matter. Mr. Winston requested, in a letter dated 12/4/17, that the Oregon Government Ethics case be suspended pending the resolution of the current criminal case against Mr. Brown pertaining to the same circumstances.



()

()

()

Trainers' Report January 5th, 2018

This report covers the time period of November 17th, 2017, through January 5th, 2018.

Completion of training:

- Oregon Medical Board– ORS 244 (Portland)
- Oregon Department of Education– ORS 244 (Salem)
- Oregon Capitol Club– ORS 171 (Portland)
- Oregon Department of Energy– ORS 244 (Salem)
- Oregon School Board Association– ORS 244 (Eugene)
- Oregon Health Authority– ORS 244 (Salem)

Upcoming Trainings:

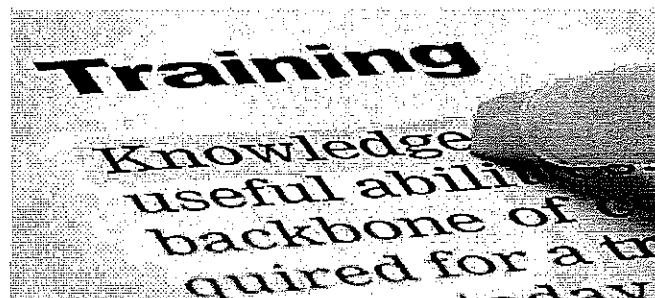
<u>Date</u>	<u>Time</u>	<u>Public Body (Topic)</u>	<u>Address</u>
1/8/2018	12:30 – 2:30 PM	Oregon Department of Education- Child Nutrition Program (ORS 244)	Public Service Building 255 Capitol St N.E. Basement Room A Salem, OR 97310
1/11/2018	9:00 – 11:00 AM	City of Newport (ORS 244)	169 SW Coast Highway Newport, OR 97365
1/12/2018	9:00 – 9:45 AM	Board of Psychologist Examiners (ORS 244)	3218 Pringle Rd SE, Ste. 130 Salem, OR 97302
1/19/2018	8:00 – 10:00 AM	Oregon Dept. Fish & Wildlife (ORS 244 & 192)	4034 Fairview Industrial Dr SE, Salem, OR 97302
1/23/2018	3:00 – 4:00 PM	Oregon Health Authority (OHA) (ORS 244)	DHS Training Center 3414 Cherry Ave, Salem, OR 97303
1/24/2018	TBD (expected to start b/w 8:00 and 10:00 AM)	Oregon Health Authority Office of Equity & Inclusion (OHA) (ORS 244)	Lincoln Building 421 SW Oak Street Suite 750 Portland, OR 97204

1/27/2018	3:40 – 4:30 PM	Western Liberty Network (ORS 244)	Embassy Suites Hotel 9000 SW Washington Square Road, Room TBD Tigard, OR 97223
1/30/2018	TBD	Logos Public Charter School (ORS 244)	TBD
2/2/2018	9:00 – 9:45 AM	Board of Licensed Counselors and Therapist (ORS 244)	Morrow Crane Building 3218 Pringle Rd SE Suite 220, 2 nd Floor Large Conference Room Salem, OR 97302
2/6/2018	1:15 – 3:15 PM	Oregon County Clerks Association (ORS 244 & Electronic Filing System (EFS))	Salem Grand Hotel 201 Liberty Street SE Salem OR 97301
2/7/2018	11:00 – 12:00 PM	Oregon Public Utility Commission (ORS 244)	201 High Street SE Salem, OR 97301

Upcoming Conferences

3/12/2018	TBD	Institute of Internal Auditors Salem and Portland (ORS 244)	TBD Wilsonville, OR
-----------	-----	---	------------------------

Training Staff: Tammy Hedrick 503-378-6802 tammy.r.hedrick@oregon.gov
Hayley Weedn 503-378-8066 hayley.weedn@oregon.gov



January 2018

Oregon Government Ethics Commission AdobeConnect Webinar Training Calendar

Monday	Tuesday	Wednesday	Thursday	Friday
1 HOLIDAY OFFICES CLOSED	2	3	4 New Employees: you're a public official, now what! 2:00 – 3:00 PM	5 OGEC PUBLIC MEETING
8	9 Executive Session 10:00 – 11:00 AM	10	11	12 Use of Position/Office 10:00 – 11:00 AM
15 HOLIDAY OFFICES CLOSED	16	17 Conflicts of Interest 2:00 – 3:00 PM	18	19
22	23 Gifts 2:00 – 3:00 PM	24	25	26
29	30	31 Lobby law 10:00 – 11:00 AM	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> Email ogec.training@oregon.gov to register for a webinar. </div>	

(

(

(

Executive Director's Report

January 5, 2018

- Budget
 - 2017-19 biennial budget
 - Biennial financial plan not incorporated in monthly BRIO reports.
 - Currently projected with a \$49,311.49 surplus.
 - Expenditures through November, \$125,018.61 spent per month, 109,481.78 average to spend per month.
 - The overspending is tied to paying all annual assessments at the beginning of the year. See Projections for surplus.
- Case Management System
 - Final Phase launched and working.
 - Complaints are filed and cases worked now within the system.
 - NIC USA is working the final tickets for the system.
- 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.
 - Fourth Quarter reports opened 1/1/18.
 - Website redesign project continues into its final phase.
 - Met with Capitol Club last month.
 - Marie graduated from Leadership Oregon in December.
 - Early discussions with DAS Chief Financial Office on 2019-21 budget rules. Meeting with new CFO analyst.

OREGON GOVERNMENT ETHICS COMMISSION
AY19 CASH FLOW

		Appn 30000 - Admin - PCA 41501					Appn 70000 - GF - PCA 00501				
	Actuals To Date	Actuals + Projected	2017-2019 LAB	Variance	Actuals To Date	Actuals + Projected	2017-2019 LAB	Variance			
REVENUE											
0415 ADMINISTRATIVE AND SERVICES CHARGES	670,716.13	2,525,191.66	2,524,954.00	(237.66)	10,045.75	10,045.75	30,000.00	19,954.25			
0505 FINES AND FORFEITS	-	52.25	2,000.00	(52.25)	-	-	-	0.00			
0975 OTHER REVENUE	-	-	-	2,000.00	-	-	-	0.00			
Total Revenue	670,716.13	2,525,243.91	2,526,954.00	1,710.09	10,045.75	10,045.75	30,000.00	19,954.25			
TRANSFERS											
2010 TRANSFER OUT TO OTHER FUNDS	-	-	-	0.00	-	-	-	0.00			
1107 TRANSFER IN FROM DEPT OF ADMIN SVCS	-	-	-	0.00	-	-	-	0.00			
Total Transfers	-	-	-	0.00	-	-	-	0.00			
PERSONAL SERVICES											
3110 CLASS/JUNCLASS SALARY & PER DIEM	181,068.96	1,119,612.92	1,081,008.00	(38,604.92)	-	-	-	0.00			
3160 TEMPORARY APPOINTMENTS	-	-	466.00	466.00	-	-	-	0.00			
3170 OVERTIME PAYMENTS	-	-	0.00	0.00	-	-	-	0.00			
3190 ALL OTHER DIFFERENTIAL	-	409.12	456.00	46.88	-	-	-	0.00			
3210 ERB ASSESSMENT	66.72	409.12	202,950.00	(27,591.40)	-	-	-	0.00			
3220 PUBLIC EMPLOYEES' RETIREMENT SYSTEM	37,190.23	230,541.40	61,151.00	(7,281.32)	-	-	-	0.00			
3221 PENSION BOND CONTRIBUTION	10,826.33	68,432.32	85,154.60	(2,413.60)	-	-	-	0.00			
3230 SOCIAL SECURITY TAX	13,741.11	85,154.60	621.00	44.37	-	-	-	0.00			
3250 WORKERS' COMPENSATION ASSESSMENT	71.13	576.63	6,490.00	(212.43)	-	-	-	0.00			
3260 MASS TRANSIT	1,086.39	6,702.43	300,024.00	93,246.72	-	-	-	0.00			
3270 FLEXIBLE BENEFITS	34,462.88	206,277.28	300,024.00	17,700.30	-	-	-	0.00			
Total Personal Services	278,513.75	1,718,206.70	1,733,907.00	17,700.30	-	-	-	0.00			
SERVICES AND SUPPLIES											
4100 INSTATE TRAVEL	2,425.14	18,593.22	19,004.00	410.78	-	-	-	0.00			
4125 OUT-OF-STATE TRAVEL	-	-	7,080.00	1,912.00	-	-	-	0.00			
4150 EMPLOYEE TRAINING	2,513.00	5,168.00	21,557.00	2,071.92	-	-	-	0.00			
4175 OFFICE EXPENSES	2,047.57	19,485.08	18,723.00	1,272.38	-	-	-	0.00			
4200 TELECOMM/TECH SVC AND SUPPLIES	1,944.38	17,450.62	52,557.00	2,069.11	-	-	-	0.00			
4225 STATE GOVERNMENT SERVICE CHARGES	23,811.86	50,487.89	98,254.00	4,508.19	-	-	-	0.00			
4250 DATA PROCESSING	381.26	93,745.81	1,023.00	3.00	-	-	-	0.00			
4275 PUBLICITY & PUBLICATIONS	50.00	1,020.00	9,469.00	1,860.38	-	-	-	0.00			
4300 PROFESSIONAL SERVICES	112.32	7,608.62	310,552.00	17,817.00	-	-	-	0.00			
4315 IT PROFESSIONAL SERVICES	85,735.00	292,735.00	161,995.00	(21,281.00)	-	-	-	0.00			
4325 ATTORNEY GENERAL LEGAL FEES	45,819.00	183,276.00	2,484.00	0.00	-	-	-	0.00			
4375 EMPLOYEE RECRUITMENT & DEVELOPMENT	-	2,484.00	450.00	0.00	-	-	-	0.00			
4400 DUES AND SUBSCRIPTIONS	-	450.00	94,494.00	19,635.84	-	-	-	0.00			
4425 FACILITIES RENT & TAXES	12,476.36	74,858.16	438.89	(438.89)	-	-	-	0.00			
4575 AGENCY PROGRAM RELATED SVCS & SUPP	237.60	438.89	164,091.00	1,763.48	-	-	-	0.00			
4650 OTHER SERVICES AND SUPPLIES	76,908.52	162,327.52	7,607.00	7.00	-	-	-	0.00			
4700 EXPENDABLE PROPERTY \$250-\$5000	-	7,600.00	-	0.00	-	-	-	0.00			
4715 IT EXPENDABLE PROPERTY	-	-	-	0.00	-	-	-	0.00			
Total Services and Supplies	254,462.01	937,728.81	969,340.00	31,611.19	-	-	-	0.00			
5900 OTHER CAPITAL OUTLAY	-	-	-	-	-	-	-	-			
TOTAL EXPENDITURES	532,975.76	2,655,935.51	2,705,247.00	49,311.49	10,045.75	10,045.75	0.00	0.00			
Ending Cash Balance	935,867.67	667,435.70									



OREGON GOVERNMENT ETHICS COMMISSION
Fund 0050 AGENCY REVENUE TO GENERAL FUND
For the Month of NOVEMBER 2017

REVENUES:

<u>Agv Obj</u>	<u>Agv Obj Title</u>	<u>Monthly Activity</u>	<u>Biennium to Date Activity</u>	<u>Financial Plan</u>	<u>Unobligated Plan</u>	<u>Monthly Avg to Date</u>	<u>Monthly Avg to spend</u>
1810	PENALTY GENERAL FUND REVENUE - GF	3,435.00	10,045.75	30,000.00	19,954.25	2,009.15	1,050.22
		3,435.00	10,045.75	30,000.00	19,954.25	2,009.15	1,050.22

SUMMARY TOTALS

<u>REVENUES</u>	<u>REVENUE</u>	<u>Month Activity</u>	<u>Biennium Activity</u>
		3,435.00	10,045.75
Total		3,435.00	10,045.75

Agv Obj	Agv Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg to Date	Monthly Avg to Spend
4250	OFFICE SERVICES	0.00	0.00	0.00	0.00	0.00	0.00
4251	POSTAGE	65.20	128.50	0.00	-128.50	25.70	-6.76
4252	MAIL SERVICES	134.53	509.37	0.00	-509.37	101.87	-26.81
4302	RENTAL OF OFFICE EQUIPMENT	171.83	539.54	0.00	-539.54	107.91	-28.40
4352	SUBSCRIPTIONS AND PUBLICATIONS	0.00	0.00	450.00	450.00	0.00	23.68
4375	COMPUTER TECHNOLOGY COMPUTER	15,580.15	15,961.41	98,254.00	82,292.59	3,192.28	4,331.19
4402	PUBLISH_PRINT & PHOTO SRVS	0.00	50.00	1,023.00	973.00	10.00	51.21
4406	PROF DEV INSTAITE TUITION/	0.00	2,513.00	7,080.00	4,567.00	502.60	240.37
4439	PROF DEV INSTAITE GROUND	0.00	0.00	0.00	0.00	0.00	0.00
4445	EMPLOYEE RECRUITMENT GROUND	0.00	0.00	2,484.00	2,484.00	0.00	130.74
4531	TELECOM/VOICE USAGE	597.31	1,434.84	18,723.00	17,288.16	286.97	909.90
4535	TELECOM/NETWORK SERVICES	368.95	1,475.80	0.00	-1,475.80	295.16	-77.67
4614	PROFESSIONAL SVS APPLICATION MODIFY	0.00	70.00	0.00	-70.00	14.00	-3.68
4615	PROFESSIONAL SERVICES APPLICATION	0.00	85,665.00	310,552.00	224,887.00	17,133.00	11,836.16
5000	PROFESSIONAL SERVICES NON-IT	0.00	0.00	9,469.00	9,469.00	0.00	498.37
5003	EMPLOYEE ASSISTANCE PROGRAM	0.00	112.32	0.00	-112.32	22.46	-5.91
5050	ATTORNEY GENERAL LEGAL FEES	0.00	45,819.00	161,995.00	116,176.00	9,163.80	6,114.53
5101	DAS-EGS-RISK ASSESSMENT	0.00	1,717.00	0.00	-1,717.00	343.40	-90.37
5105	CENTRAL GOVERNMENT SERVICE	0.00	4,560.00	52,557.00	47,997.00	912.00	2,526.16
5106	OREGON STATE LIBRARY ASSESSMENT	0.00	611.00	0.00	-611.00	122.20	-32.16
5107	STATE TREASURERS CHARGES	10.00	50.10	0.00	-50.10	10.02	-2.64
5108	SECRETARY OF STATE CHARGES	666.03	1,484.79	0.00	-1,484.79	296.96	-78.15
5112	DAS-CHRO-ASSESSMENT	0.00	3,861.00	0.00	-3,861.00	772.20	-203.21
5113	DAS-COO-ASSESSMENT	0.00	834.00	0.00	-834.00	166.80	-43.89
5114	DAS-CFO-ASSESSMENT	0.00	2,500.00	0.00	-2,500.00	500.00	-131.58
5115	DAS-OSCIO-ASSESSMENT	0.00	5,855.00	0.00	-5,855.00	1,171.00	-308.16
5116	DAS-EAM-ASSESSMENT	0.00	75.00	0.00	-75.00	15.00	-3.95
5117	DAS-EGS-PROCUREMENT ASSESSMENT	0.00	211.00	0.00	-211.00	42.20	-11.11
5118	DAS-STATE DATA CENTER-ASSESSMENT	0.00	2,222.00	0.00	-2,222.00	444.40	-116.95
5119	COBID - CERT OFC BUS INCLUSION/	0.00	223.00	0.00	-223.00	44.60	-11.74
5122	STATE OF OREGON LAW LIBRARY	0.00	284.00	0.00	-284.00	56.80	-14.95
5200	OTHER SERVICES	0.00	15.00	0.00	-15.00	3.00	-0.79
5204	PRIZES & AWARDS	0.00	83.96	0.00	-83.96	16.79	-4.42
5230	DAS-EGS-PAYROLL SERVICES AND	0.00	502.61	0.00	-502.61	100.52	-26.45
5232	DAS-EGS-FINANCIAL BUSINESS SYS	0.00	197.95	0.00	-197.95	39.59	-10.42
5234	DAS-EGS-SFS-SHARED ACCOUNTING	0.00	76,109.00	164,091.00	87,982.00	15,221.80	4,630.63
5235	DAS-EGS-SHUTTLE MAIL	0.00	0.00	0.00	0.00	0.00	0.00
5400	FACILITIES RENT	3,119.09	15,595.45	94,494.00	78,898.55	3,119.09	4,152.56
5901	OFFICE FURNITURE & NON-IT	0.00	0.00	7,607.00	7,607.00	0.00	400.37
		22,037.61	276,499.62	969,340.00	692,840.38	55,299.92	36,465.28