

March 28, 1997

Richard M. Nockleby
Deputy Administrator
Division of Finance & Corporate Securities
Labor and Industries Building
350 Winter Street NE, Room 410
Salem, Oregon 97310

Dear Mr. Nockleby

This is in response to your memorandum dated March 18, 1997, concerning ORS 244.045, the Revolving Door Law.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF OPINION
97-010**

STATED FACTS: You are the deputy administrator of the Division of Finance and Corporate Securities (DFCS) of the Department of Consumer and Business Services (DCBS). The administrator of the division is retiring effective July 1, 1997. You have applied to fill the administrator position. You would like to be clear on the provisions of ORS 244.045(1)(a) and ORS 244.045(1)(b), post employment restrictions, prior to making a decision in the event the position is offered to you.

You understand that the law would prevent you from working for any private employer engaged in the business activities that DFCS regulates for one year after leaving the agency. You also understand that the law would prohibit you from consulting or lobbying for private employers regulated by DFCS for two years after leaving the position. You understand that if you leave DFCS the above statute would apply to companies that DFCS regulates in Oregon.

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

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

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ORS 244.045: Regulation of subsequent employment of public officials.

(1): A person who has been a Public Utility Commissioner, the Director of the Department of Consumer and Business Services, the Administrator of the Division of Finance and Corporate Securities, the Administrator of the Insurance Division, the Administrator of the Oregon Liquor Control Commission or the Director of the Oregon State Lottery shall not:

(a): Within one year after the public official ceases to hold the position become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer engaged in the activity, occupation or industry over which the former public official had authority; or

(b): Within two years after the public official ceases to hold the position:

(A): Be a lobbyist for or appear as a representative before the agency over which the person exercised authority as a public official;

(B): Influence or try to influence the actions of the agency; or

(C): Disclose any confidential information gained as a public official.

QUESTION: Would ORS 244.045 apply to a person holding the position of administrator, DFCS, if the person were to leave the position and accept employment outside the state of Oregon by a bank, credit union or mortgage company? For example, could the person work for a bank, credit union or mortgage company in Washington, Idaho or California if the company is not regulated by DFCS?

OPINION: Yes. It appears from the stated facts that your interpretation of the statute is correct. This statute addresses only those entities such as banks, mortgage companies and credit unions that are regulated by DFCS.

If you were successful in being appointed to the position of DFCS administrator and eventually left the position, you would not be prohibited from being employed by banks, credit unions or mortgage companies outside the State of Oregon.

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For the purposes of this opinion, it is assumed that DFCS does not have any regulatory authority over financial institutions which operate outside of Oregon.

THIS RESPONSE IS BASED SOLELY ON THE INFORMATION PROVIDED IN YOUR WRITTEN INQUIRY AND IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

Please don't hesitate to call or write again if you have questions or desire additional clarification.

Sincerely,

L. Patrick Hearn
Executive Director

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