

January 11, 2001

Honorable Todd Kellstrom
Mayor, City of Klamath Falls
P.O. Box 237
Klamath Falls, Oregon 97601

Dear Mayor Kellstrom:

This is in response to your correspondence dated December 22, 2000 regarding your official title being used in conjunction with a Klamath Falls restaurant promotional event.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF
OPINION NO. 01S-001**

STATED FACTS: The mayor of a city was invited to dine at a local restaurant, during a promotional event for the restaurant, which was being covered by the local news media. Prior to the event the mayor instructed both the restaurant owner and the reporter covering the event that his attendance was to be unofficial and any references to the mayor's patronage were not to contain the mayor's official title. However, in the story published by the local newspaper reference was made to the mayor by name and title.

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

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

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

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

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QUESTION #1: Did the use of the title Mayor in the published newspaper article promoting a restaurant violate Oregon Government Standards and Practices laws?

OPINION: Government Standards and Practices laws address public officials who use their positions for personal financial gain. ORS 244.040(1)(a) prohibits a public official from using official position or office to obtain financial gain or the avoidance of financial detriment that would not otherwise be available but for the public official's holding of official position or office, other than official salary, honoraria, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or relative of the public official is associated.

If the mayor had allowed the restaurant owner to use the mayor's official title in the promotion of the restaurant, in return for some type of financial benefit, the mayor would possibly have violated ORS 244.040(1)(a). However, the stated facts indicate that the mayor specifically advised the restaurant owner and news reporter **not** to use the mayor's official title. In subsequent news coverage of the event a reference was made to the mayor by title contrary to the mayor's instructions.

The mayor apparently did not seek nor advocate the use of the mayor's official title by the media. Accordingly the GSPC staff believes that the stated facts indicate the mayor did not violate Oregon Government Standards and Practices laws.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

Do not hesitate to call or write if you have questions or would like additional clarification.

Sincerely,

L. Patrick Hearn
Executive Director

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