

**OREGON GOVERNMENT ETHICS COMMISSION**  
**MEETING MINUTES**  
**November 4, 2022**  
9:00 a.m.

(File 1)

Chair Dave Fiskum called the meeting to order at 9:00 a.m. The meeting was held in-person and by video conference in the 2<sup>nd</sup> Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE Salem, Oregon. Chair Dave Fiskum, Commissioner Shenoa Payne, and Commissioner Jonathan Thompson were present. Vice Chair Amber Hollister, Commissioners Karly Edwards, Dan Mason, Alicia McAuley, and Richard Burke were present via Teams. Commissioner Shawn Lindsay was excused from attendance. OGEC Counsel Josh Nasbe was present. Staff present were Executive Director Ron Bersin, Compliance and Education Coordinator Susan Myers, Investigator Hillary Murrieta, Investigator Monica Walker, Program Administrator Becky Maison, Trainer Charlie Esparza and Administrative Specialist Kathy Baier.

AGENDA ITEM 1, Comments from the Chair. Chair Fiskum commented that OGEC now has a full commission of nine. He announced that this is Commissioner Edwards' last meeting. Edwards was thanked and presented a plaque for her years of service. She expressed appreciation for her time with OGEC. New Commissioners Richard Burke and Shenoa Payne were introduced, and they each shared about themselves.

AGENDA ITEM 2, Approval of minutes of the September 23, 2022 Commission meeting. The minutes were approved without correction.

**CONSENT CALENDAR**

Fiskum declared a past working relationship with Vandehey and Rakowitz which would not conflict with his voting. Hollister moved for the approval of Consent Calendar agenda items 3 – 14 and the recommendations as follows:

Lobbyist Penalty Correspondence

AGENDA ITEM 3, Jeremy Vandehey, 2022 Q3, Letter of Education.

AGENDA ITEM 4, Kelsey McCauley, 2022 Q3, Letter of Education.

AGENDA ITEM 5, John Rakowitz, 2022 Q3, Letter of Education.

AGENDA ITEM 6, Michael Burdick, 2022 Q3, Letter of Education.

AGENDA ITEM 7, Evelyn Kocher, 2022 Q3, Letter of Education.

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AGENDA ITEM 8, Sristi Kamal, 2022 Q3, Letter of Education.

AGENDA ITEM 9, Charlie Fisher, 2022 Q3, Letter of Education.

AGENDA ITEM 10, Lucas Gutterman, 2022 Q3, Letter of Education.

Lobbyist Client Penalty Correspondence

AGENDA ITEM 11, SMART, 2022 Q3, Letter of Education.

AGENDA ITEM 12, Carvana, 2022 Q3, Letter of Education.

AGENDA ITEM 13, OR State Public Interest Research Group, 2022 Q3, Letter of Education.

AGENDA ITEM 14, OSPIRG Foundation, 2022 Q3, Letter of Education.

Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

End of Consent Calendar

**The Commission convened into executive session at 9:12 a.m. to consider Preliminary Reviews pursuant to ORS 244.260(4)(d).**

**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 Reviews  
(removed from consent calendar)

(File 2)

AGENDA ITEM 40, 22-183EMW, Tammy Stempel, Mayor, City of Gladstone. Walker summarized the case. Stempel addressed the Commission. There were no questions from the Commission. Burke moved that the Commission find that the complaint and information available during preliminary review appears to be insufficient to constitute a

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substantial, objective basis for believing that a violation of Oregon Government Ethics Law has been committed by Tammy Stempel or warrant further review, and that this complaint be dismissed. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

AGENDA ITEM 41, 22-189EHM, Kristine Hayes, City Councilor, City of Rockaway Beach. Murrieta summarized the case. Hayes addressed the Commission. The Commission's discussion included Bersin's and Nasbe's comments on the Class Exception. Mason moved that the Commission find that the complaint and information available during preliminary review appears to be insufficient to constitute a substantial, objective basis for believing that a violation of Oregon Government Ethics Law has been committed by Kristine Hayes or warrant further review, and that this complaint be dismissed. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, nay; Fiskum, aye. Motion passed 7 – 1.

AGENDA ITEM 42, 22-197EHM, Clem Pope, Board Member, Lane County School District 76. Murrieta summarized the case. Pope did not address the Commission. There was no discussion from the Commission. Hollister moved that the Commission find that the complaint and information available during preliminary review appears to be insufficient to constitute a substantial, objective basis for believing that a violation of Oregon Government Ethics Law has been committed by Clem Pope or warrant further review, and that this complaint be dismissed. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

**The Commission reconvened into regular session at 9:50 a.m.**

Lobbyist Penalty Correspondence

(File 3)

AGENDA ITEM 15, Jay Kenton, 2022 Q2, \$10, 2022 Q3 \$50.

Recommendation: Letter of Education Q2, No reduction Q3. Bersin summarized the recommendation. Mason moved approval of staff recommendation of Letter of Education and \$50 for second violation. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

Lobbyist/Client Penalty Correspondence

AGENDA ITEM 16, Oregon 21, LLC dba Oregon 22, LLC, 2022 Q2, \$600.

Recommendation: 20% for third violation, \$120. Bersin summarized the recommendation. Hollister moved approval of staff recommendation of \$120 for third violation. Roll call was

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taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

AGENDA ITEM 17, Washington County Chamber of Commerce, 2022 Q1, \$30, Q2 \$70. Recommendation: Letter of Education for Q1; reduce to \$50 for Q2. Bersin summarized the recommendation. Hollister moved approval of staff recommendation of Letter of Education and \$50 for Q2. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

#### SEI Correspondence

AGENDA ITEM 18, Glen Tipton, 2021, \$310.

Recommendation: Reduce penalty to \$50 for second violation. Bersin summarized the recommendation. Hollister moved approval of staff recommendation of \$50 for second violation. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

#### STIPULATED FINAL ORDERS

AGENDA ITEM 19, 22-054XSM, Ron Stephens, Board of Directors, Sunriver Service District. Murrieta summarized the stipulated final order. Stephens did not address the Commission. No discussion. Mason moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

AGENDA ITEM 20, 22-056XTS, Paul Keefer, City Councilor

AGENDA ITEM 21, 22-059XTS, Paul Beagle, City Councilor

AGENDA ITEM 22, 22-060XTS, Leslie Pierson, City Councilor

AGENDA ITEM 23, 22-061XTS, Brenda Profitt, City Councilor

AGENDA ITEM 24, 22-062XTS, Roy Drago, City Councilor

AGENDA ITEM 25, 22-063XTS, Katy Norton, City Councilor

City of Boardman. Walker summarized the cases together. Respondents Keefer, Beagle, and Pierson addressed the Commission virtually. Respondents Profitt, Drago, and Norton did not address the Commission. The Commission discussed the cases.

Item 20, Mason moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

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Item 21, Hollister moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

Item 22, Hollister moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

Item 23, Hollister moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

Item 24, Hollister moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

Item 25, Hollister moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

AGENDA ITEM 26, 22-065ESM, Janine Casey, General Manager, Rivergrove Water District. Walker summarized the case. Casey addressed the Commission telephonically. Edwards commented. Hollister moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

AGENDA ITEM 27, 22-198FSM, Donald Boyd, Former Commissioner, Klamath County Board of Commissioners. Myers summarized the case. Boyd did not address the Commission. Hollister moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

AGENDA ITEM 28, 22-199FSM, Dorothy Jewell, Planning Commissioner, City of Sumpter. Myers summarized the case. Jewell did not address the Commission. Hollister moved that the Commission approve the proposed stipulated final order as the final order

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in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

AGENDA ITEM 29, 22-239FSM, Lucas Palmer, Planning Commissioner, Grant County. Myers summarized the case. Palmer did not address the Commission. Hollister moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

AGENDA ITEM 30, 22-240FSM, Randy Scott Ripley, City Councilor, City of Sumpter. Myers summarized the case. Ripley did not address the Commission. Hollister moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

**The Commission recessed for a break from 10:28 a.m. to 10:34 a.m.**

Default Final Orders

None.

Reports of Investigations

(File 4)

AGENDA ITEM 30-A, 22-024XSM, Rick Scholl, Mayor  
AGENDA ITEM 30-B, 22-025XSM, Doug Morten, City Councilor  
AGENDA ITEM 30-C, 22-026XSM, Patrick Birkle, City Councilor  
AGENDA ITEM 30-D, 22-027XSM, Stephen Topaz, City Councilor  
AGENDA ITEM 30-E, 22-028XSM, Jessica Chilton, City Councilor  
City of St. Helens. Myers summarized the cases together. Topaz's Attorney Nick Herman addressed the Commission virtually. The respondents did not address the Commission. Hollister commented on the complex issues presented in these cases. The Commission discussed the matters. Nasbe and Bersin commented on the issue of entering executive session under the wrong citation as a technical violation. Commission continued the discussion.

Item 30-A, Hollister moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 192.660(2) by Rick Scholl, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding.

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Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

Item 30-B, Hollister moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 192.660(2) by Doug Morten, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

Item 30-C, Hollister moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 192.660(2) by Patrick Birkle, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

Item 30-D, Hollister moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 192.660(2) by Stephen Topaz, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

Item 30-E, Hollister moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 192.660(2) by Jessica Chilton, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

### Advisory Opinions

(File 5)

AGENDA ITEM 31, 22-222A, Morgan Smith, County Counsel, Polk County, re application of the class exception in ORS 244.020(13)(b) to a Polk County Commissioner with regard to funding for the Falls City wastewater treatment project. Myers summarized the opinion. Bersin commented that the Commissioners decide the Class and this vote will affirm. The Commission discussed the opinion. Hollister moved approval of the Advisory Opinion as presented. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

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AGENDA ITEM 36, Retirement and Reappointment of Executive Director. Bersin addressed the Commission. After 30+ years of Government service with the State, he requested a retirement date of November 30, 2022, and a reappointment to his same position as Executive Director of the Oregon Government Ethics Commission to continue working until December 31, 2023. Fiskum presented a proposal for reappointment on December 1, 2022, and recruitment for the replacement Executive Director to begin after the 2023 legislative session. Fiskum stated Bersin's request is within the statute. Fiskum read his prepared proposal for retirement and reappointment. Commissioners discussed and commented, including expressing appreciation for Bersin's stellar leadership. Hollister moved that the Commission approve the proposed request to retire from PERS-vested service on November 30, 2022 and resume his role as Executive Director in non-PERS vested service on December 1, 2022. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

CORRESPONDENCE RECEIVED/RESPONSES

The Commission reviewed the following without comment unless otherwise noted:

Staff Opinions

(non-action, informational only items)

None.

Staff Advice

(non-action, information only items)

(File 6)

AGENDA ITEM 32, 22-225I, Ruben Cleaveland, attorney for the City of Dufur, re application of the laws in ORS Chapter 244 to negotiations between the City and a City Councilor/Seller for the City's proposed purchase of real property from the Councilor/Seller.

AGENDA ITEM 33, 22-236I, Lynn Peterson, President, Oregon Metro Council, re the application of Oregon Government Ethics law to a public official's private employment and income producing activities.

AGENDA ITEM 34, 22-255I, Dexter Johnson, Legislative Counsel, re guidance on the meaning of "member of the household" as it applies to Oregon Government Ethics law.

Bersin encouraged reading these advice items, especially item 34, which can be found on the OGEC website.

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Other Correspondence  
(non-action, informational only items)

None.

**Commissioner Edwards was excused from the remainder of the meeting.**

MISCELLANEOUS ITEMS

AGENDA ITEM 35, 22-248A, Dexter Johnson, Oregon Legislative Counsel. Request for extension of time for Commission Advisory Opinion. Bersin summarized the request. Hollister moved that the Commission extend the time to provide this Advisory Opinion. Roll call was taken as follows: Hollister, aye; Edwards, aye; Burke, aye; McAuley, aye; Mason, aye; Thompson, aye; Payne, aye; Fiskum, aye. Motion passed 8 – 0.

AGENDA ITEM 37, Results of Best Practices Survey. Maison summarized the survey results and mentioned more will be covered in the Executive Director's report. Results showed that the Ethics Commission has served its customers well.

AGENDA ITEM 38, Trainers' Report. Myers introduced OGE's newest trainer, Charlie Esparza, and summarized the trainings and newsletter. Esparza reviewed recent training activities. Today, Heffner is presenting two in-person trainings in Hood River. New training is being developed around on-boarding numerous Jurisdictional Contacts for the addition of School Board members' requirement to file SEIs in 2023. OGE administrative staff is assisting with this process.

AGENDA ITEM 15, Executive Director's Report.

Bersin reviewed the following:

- With the addition of school board members, who have not previously filed SEIs, there may be an increase in OGE complaints. School Board members manage millions of dollars in school budgets, necessitating the need to file SEIs.
- 2021 – 2023 Biennial budget has a surplus, with some used to upgrade the EFS to add school board members for the 2023 SEI filing.
- 2023-2025 Analyst's Recommended Budget was appealed; we are waiting on the Governor's Recommended Budget. \$12,000 is being used for telecommunications fees for teleworking. Attention to security issues is up.
- 2022 SEI filing at 100%, including general candidates, except for 3 primary candidates who have not filed.
- Legislative Concepts: all three concepts have been approved and drafted for the 2023 legislative session. Waiting on the new Governor's approval.
- Maison summarized the purchase and purpose of Gov.Delivery which will aid and assist in the creation and delivery of OGE's newsletter and agency information.

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- OGEC's new trainer, Charlie Esparza, started October 10, 2022.
- Agency continues to be cognizant of COVID-19 precautions. Staff alternates telework days.
- Myers is scheduled to attend the annual COGEL conference in December.
- Q3 2022 expenditure filing to date: Lobbyists, 5 fail to file; Clients, 1 fail to file.
- Annual Executive Director's review at the December 16<sup>th</sup> Commission meeting.

Chair Fiskum adjourned the meeting at 12:04 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for Friday, December 16, 2022, at 9:00 a.m. The meeting will be held in the 2<sup>nd</sup> Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, in Salem, Oregon.

DRAFT

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# Oregon

Kate Brown, Governor

## Government Ethics Commission

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Salem, OR 97302-1680

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October 31, 2022

Paul Philpott  
1636 E. Burnside St.  
Portland OR 97214

Re: Late filing penalty for Q3 2022

Dear Mr. Philpott:

The written explanation of why your 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, December 16, 2022, 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. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$200 penalty will be extended to coincide with the November 4<sup>th</sup> 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

## Q3 2022

Lobbyist Code: 2037  
User Name: Paulp47  
Email: pphilpott@nwcarpenters.org

Paul Philpott  
1636 E. Burnside St.  
Portland, OR 97214

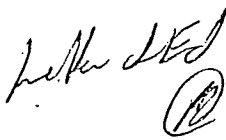
Q3 2022 Filing: 10/31/2022  
Q3 2022 Expended: \$0.00  
Q3 2022 Penalty: \$200.00

### Activity Log - Q3 2022 to Date

07/01/22 10:42:26.860 - User Successfully Authenticated -  
07/01/22 10:43:06.067 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q2 2022  
10/16/22 03:30:17.163 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/17/22 03:30:17.057 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/18/22 03:30:11.833 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/19/22 03:30:08.653 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/20/22 03:30:07.470 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/21/22 03:30:08.527 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/22/22 03:30:08.600 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/23/22 03:30:08.467 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/24/22 03:30:08.427 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/25/22 03:30:06.900 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/26/22 03:30:08.183 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/27/22 03:30:07.127 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/28/22 03:30:06.890 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/29/22 03:30:08.363 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/30/22 03:30:07.227 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/31/22 03:30:07.467 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2022 Q3  
10/31/22 09:58:00.403 - User Successfully Authenticated -  
10/31/22 09:59:02.037 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2022

PAST VIOLATIONS: NONE

RECOMMENDATION:



**BAIER Kathy \* OGEC**

---

**From:** Paul Philpott <pphilpott@nwcarpenters.org>  
**Sent:** Monday, October 31, 2022 3:26 PM  
**To:** BAIER Kathy \* OGEC  
**Subject:** Late filing waiver

Dear Commissioners,

I am writing to request waiving the fines/fees for late filing. I have been out on FMLA leave for the past 6 weeks caring for my wife. This is my first late filing and I plan to stay current from here on out.

Thank you,



**Paul Philpott**  
**Representative**

1636 E Burnside St • Portland, OR 97214  
c (971) 806-7340  
[pphilpott@nwcarpenters.org](mailto:pphilpott@nwcarpenters.org)

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# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1680

Telephone: 503-378-5105

Fax: 503-373-1456

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

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

November 23, 2022

Nathan Jimenez  
2438 SE 41<sup>st</sup> Ave. Apt 209  
Portland OR 97214

Re: Late filing penalty for Q3 2022

Dear Mr. Jimenez:

The written explanation of why your 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, December 16, 2022, 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. 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 December 16<sup>th</sup> 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

## Q3 2022

---

Lobbyist Code: 1428  
User Name: nathjimenez  
Email: congressional scholar@consultant.com

Nathan Jimenez  
2438 SE 41st Ave. Apt. 209  
Portland, OR 97214

Q3 2022 Filing: 10/18/2022  
Q3 2022 Expended: \$0.00  
Q3 2022 Penalty: \$20.00


---

### Activity Log - Q3 2022 to Date

07/11/22 03:21:09.527 - User Successfully Authenticated -  
07/11/22 03:22:25.833 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q2 2022  
10/16/22 03:30:13.180 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/17/22 03:30:12.487 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/17/22 04:17:46.853 - User Profile Updated - User profile updated for Nathan Jimenez  
10/17/22 04:17:46.923 - User Profile Updated - The user's main profile was updated.  
10/18/22 12:30:54.500 - User Successfully Authenticated -  
10/18/22 12:32:52.557 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2022  
10/18/22 12:43:17.887 - User Successfully Authenticated -

**PAST VIOLATIONS:** NONE

**RECOMMENDATION:**

*Letter AEd*  




## HUNTER David \* OGEC

---

**From:** Nathan Jimenez <nathjimenez@journalist.com>  
**Sent:** Wednesday, November 23, 2022 2:41 AM  
**To:** OGEC Mail \* OGEC; OGEC Mail \* OGEC; OGEC Mail \* OGEC;  
congressional scholar@consultant.com; pastornathanjimenez@minister.com;  
nathjimenez@journalist.com  
**Subject:** Requesting variance and dispensation

To whom it may concern;

I am aware that yes indeed I did file late for the reporting requirements for a Organization, and as a Oregon Registered Lobbyist. I did do a late filing, I am sorry for this and I take full responsibility for that, however with that stated as you can see from the document from the Federal Elections Commission about our SUPER PAC that was uploaded with the late report that the SUPER PAC was closed down, before the late report, but the SUPER PAC is able to be restarted, so we closed in good standing. However there is no intention to restart at this time or the foreseeable future. With that said we were unable to continue with the SUPER PAC because of the fact that we had computer technical issues with our computers so we were unable to also report to the Federal Elections Commission and the IRS because of our technical problems. We also had computer problems that also made it difficult to report to your organization on time, we also had a bank hack with my personal account, and as a result our account for the SUPER PAC our bank account for the SUPER PAC was also effected for the SUPER PAC, and as a result we had to deal with the FBI and Police the Police report number is 2022-917380 and FBI report numbers is 12206100508188543 we had to report these incidents to the FBI and the Local police. We are requesting upon your mercy to give us a variance and as well a dispensation and to allow us to dissolve the organization the SUPER PAC and to not require us to pay the fine other than me paying the fine for not doing the diversity training as a Lobbyist, but since I represented the SUPER PAC as a Lobbyist, Chairman, and Treasurer of the SUPER PAC we would like to dissolve the organization we have dissolved with the IRS and the Federal Elections Commission. I would like to re-register in the future as a Lobbyist for my podcast eventsofourtimes.com. I am aware that I did not file in a timely manner and I am sorry for this. I take full responsibility for this I was unable at the time of when Citizens Awareness of Government Activities was dissolved with the Federal Elections Commission and IRS to also dissolve with your organization. I will not give you any excuses, and reason why this was the case, there are valid reasons for it, however I will say at the time I was also unable to dissolve the Organization with your organization and I am sorry for this and I take full responsibility for this and I would like to dissolve our Citizens Aware of Government Activities with our organization. At this current time I was still unable to dissolve our organization with your organization and to also figure out how to dissolve our organization with your organization I would like to do so hence part of the reason why I am emailing now. I am asking that you reverse the fines and also allow to dissolve Citizens Aware of Government Activities with your Organization. Thank you for your time in regards to this matter I am sorry for not reporting at this time.

Sincerely;

Reverend Nathan Jimenez National Congressional Scholar, News Anchor of Events of Our Times Podcast, Reverend for Christian National Churches, Liturgical Minister For His Grace the Archbishop of Portland for the Holy Roman Catholic Church, Lector for Saint Francis Catholic Church, The Council Advocate for the Portland Holy Roman Catholic Cathedral Council of the Knights of Columbus





# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1680

Telephone: 503-378-5105

Fax: 503-373-1456

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

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

December 5, 2022

Kimberly Holmes Kantrowitz  
32960 SW Keys Landing  
Scappoose OR 97056

Re: Late filing penalty for Q3 2022

Dear Ms. Kantrowitz:

The written explanation of why your 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, December 16, 2022, 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. 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 December 16<sup>th</sup> 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

## Q3 2022

---

Lobbyist Code: 2141  
User Name: 4RSustainability  
Email: kholmes@4rsustainability.com

Kimberly Holmes Kantrowitz  
32960 SW Keys Lndg  
Scappoose, OR 97056

Q3 2022 Filing: 10/17/2022  
Q3 2022 Expended: \$0.00  
Q3 2022 Penalty: \$20.00


---

### Activity Log - Q3 2022 to Date

- 07/10/22 08:53:20.040 - User Successfully Authenticated -
- 07/10/22 08:54:50.283 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q2 2022
- 10/10/22 08:29:29.230 - User Successfully Authenticated -
- 10/16/22 03:30:18.897 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3
- 10/17/22 03:30:19.107 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3
- 10/17/22 10:16:29.433 - User Successfully Authenticated -
- 10/17/22 10:17:37.203 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2022
- 11/30/22 08:31:24.697 - User Successfully Authenticated -
- 11/30/22 08:33:19.040 - User Successfully Authenticated -
- 11/30/22 12:26:33.110 - User Successfully Authenticated -

PAST VIOLATIONS: NONE

RECOMMENDATION:

*Letter d/e*  




RECEIVED  
DEC 02 2022  
OREGON GOVERNMENT  
ETHICS COMMISSION

11/30/2022

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

Hello Members of the Commission –

I am writing to ask for a waiver of the \$20 fee incurred for the late filing on October 17, 2022. I did attempt to submit the quarterly report in the first week of October and the submission must have timed out without me realizing it did not get officially filed. The first reminder communication came on Sunday, 10/16 when I was not checking email. The second reminder was sent Monday, 10/17 at 1:30 am. As soon as I checked my email at 8 am on Monday morning, and realized the error, I filed my report as soon as possible at 8:17 am. It was not my intention to be delinquent on the filing.

Please let me know if this might be waived for this first time, late filing error.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kimberly Holmes Kantrowitz'.

Kimberly Holmes Kantrowitz  
4R Sustainability, Inc.  
202-270-0058  
[kholmes@4rsustainability.com](mailto:kholmes@4rsustainability.com)

Enclosed: Receipt of Late Quarterly Report correspondence





# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1680

Telephone: 503-378-5105

Fax: 503-373-1456

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

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

October 28, 2022

Federal Home Loan Bank of Des Moines  
Attn: Robert Dixon  
909 Locust Street  
Des Moines IA 50309

Dear Mr. Dixon:

The written explanation of why the Client Q3 2022 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, December 16, 2022, 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. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for \$120 penalty will be extended to coincide with the December 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

## Q3 2022

Client Code: 3775  
 User Name: Ablee  
 Email: rdixon@fhlbdm.com

Q3 2022 Filing: 10/27/2022  
 Q3 2022 Expended: \$0.00  
 Q3 2022 Penalty: \$120.00

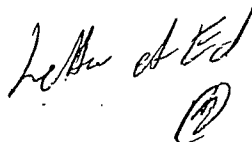
Federal Home Loan Bank of Des Moines  
 Attn: Robert Dixon  
 909 Locust Street  
 Des Moines, IA 50309

### Activity Log - Q3 2022 to Date

07/01/22 06:49:32.250 - User Successfully Authenticated -  
 07/01/22 06:50:56.980 - Client Report Submitted - Client Report Submitted for Q2 2022  
 10/16/22 03:30:43.270 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/17/22 03:30:40.683 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/18/22 03:30:18.513 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/19/22 03:30:15.813 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/20/22 03:30:12.140 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/21/22 03:30:11.957 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/21/22 12:17:53.043 - User Profile Updated - User profile updated for Robert Dixon  
 10/21/22 12:17:53.177 - User Profile Updated - The user's main profile was updated.  
 10/21/22 12:18:39.077 - Admin User Reset Initiated - An admin user reset was initiated.  
 10/21/22 12:19:22.407 - Admin User Password Reset Completed - A user reset their password using an admin reset.  
 10/21/22 12:19:59.213 - User Successfully Authenticated -  
 10/21/22 12:20:30.590 - User Profile Updated - User profile updated for Robert Dixon  
 10/21/22 12:20:30.653 - User Profile Updated - The user's main profile was updated.  
 10/21/22 12:45:39.680 - Admin User Reset Initiated - An admin user reset was initiated.  
 10/22/22 03:30:13.233 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/23/22 03:30:11.980 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/24/22 03:30:12.553 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/24/22 10:57:52.840 - Admin User Reset Initiated - An admin user reset was initiated.  
 10/24/22 12:29:04.860 - Admin User Password Reset Completed - A user reset their password using an admin reset.  
 10/24/22 12:29:30.477 - User Successfully Authenticated -  
 10/24/22 12:30:09.770 - User Profile Updated - User profile updated for Robert Dixon  
 10/24/22 12:30:10.087 - User Profile Updated - The user's main profile was updated.  
 10/24/22 12:31:34.500 - Admin User Reset Initiated - An admin user reset was initiated.  
 10/25/22 03:30:10.187 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/26/22 03:30:12.993 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/27/22 03:30:10.223 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/27/22 11:19:34.547 - Admin User Reset Initiated - An admin user reset was initiated.  
 10/27/22 12:30:26.157 - Admin User Password Reset Completed - A user reset their password using an admin reset.  
 10/27/22 12:30:45.967 - User Successfully Authenticated -  
 10/27/22 03:56:27.677 - User Successfully Authenticated -  
 10/27/22 03:57:41.880 - Client Report Submitted - Client Report Submitted for Q3 2022

PAST VIOLATIONS: NONE

RECOMMENDATION:

*Letter of Ed*  




## HUNTER David \* OGEC

---

**From:** Dixon, Rob <RDixon@fhlbdm.com>  
**Sent:** Thursday, October 27, 2022 2:16 PM  
**To:** HUNTER David \* OGEC  
**Subject:** Late Quarterly Filing - Federal Home Loan Bank of Des Moines

Classification | Internal

To the State of Oregon Government Ethics Commission:

I am writing on behalf of Federal Home Loan Bank of Des Moines (the "Bank"). The Bank was late in filing its Q3 2022 Lobbyist Client/Employer Report, which the Bank filed today. Our delay was due to a staff turnover issue and IT difficulties associated with obtaining credentials to file the report. Aaron Lee, the Bank employee who previously filed the reports, left the Bank on September 15 and I became the General Counsel on that date. I did not learn of the requirement to file the Report until October 19, at which point the report was already late.

As of today, the Bank has incurred \$120.00 in penalties as a result of this transition. Due to the circumstances that led to the delay, the Bank respectfully requests that our late filing penalties be waived. .

If you have any questions or would like more information, please feel free to contact me. I will be handling the report filing going forward.

Thank you,  
Rob Dixon

**Robert W. Dixon**  
**Interim General Counsel & Corporate Secretary**  
Federal Home Loan Bank of Des Moines  
515.412.2184 | Mobile: 515.745.0483

[rdixon@fhlbdm.com](mailto:rdixon@fhlbdm.com)  
[www.fhlbdm.com](http://www.fhlbdm.com)



VALUING  
DIVERSITY

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# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1680

Telephone: 503-378-5105

Fax: 503-373-1456

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

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

November 23, 2022

Citizens Aware of Government Activities

Attn: Nathan Jimenez

2438 SE 41<sup>st</sup> Apt. 209

Portland OR 97214

Dear Mr. Jimenez:

The written explanation of why the Client Q3 2022 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, December 16, 2022, 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. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for \$20 penalty will be extended to coincide with the December 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

## Q3 2022

---

Client Code: 1857  
User Name: nathanjimenez  
Email: nathjimenez@journalist.com

Q3 2022 Filing: 10/18/2022  
Q3 2022 Expended: \$0.00  
Q3 2022 Penalty: \$20.00

Citizens Aware of Government Activities  
Attn: Nathan Jimenez  
2438 SE 41st Apt. 209 Portland  
Portland, OR 97214


---

### Activity Log - Q3 2022 to Date

07/11/22 03:14:23.857 - User Successfully Authenticated -  
07/11/22 03:17:36.767 - Client Report Submitted - Client Report Submitted for Q2 2022  
07/11/22 03:23:02.790 - User Failed to Authenticate -  
07/11/22 03:23:22.510 - User Failed to Authenticate -  
07/11/22 03:23:39.170 - User Successfully Authenticated -  
10/16/22 03:30:37.627 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/17/22 03:30:36.530 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
10/18/22 12:34:41.663 - User Successfully Authenticated -  
10/18/22 12:35:24.570 - Client Report Submitted - Client Report Submitted for Q3 2022  
10/18/22 12:44:36.640 - User Successfully Authenticated -  
10/18/22 12:48:15.067 - Client Report Submitted - Client Report Submitted for Q3 2022  
10/18/22 12:48:52.617 - User Failed to Authenticate -  
10/18/22 12:49:31.617 - User Successfully Authenticated -  
10/18/22 12:52:48.103 - User Successfully Authenticated -

**PAST VIOLATIONS: NONE**

**RECOMMENDATION:**

*Lester J Ed*  


## HUNTER David \* OGEC

---

**From:** Nathan Jimenez <nathjimenez@journalist.com>  
**Sent:** Wednesday, November 23, 2022 2:41 AM  
**To:** OGEC Mail \* OGEC; OGEC Mail \* OGEC; OGEC Mail \* OGEC;  
congressional scholar@consultant.com; pastornathanjimenez@minister.com;  
nathjimenez@journalist.com  
**Subject:** Requesting variance and dispensation

To whom it may concern;

I am aware that yes indeed I did file late for the reporting requirements for a Organization, and as a Oregon Registered Lobbyist. I did do a late filing, I am sorry for this and I take full responsibility for that, however with that stated as you can see from the document from the Federal Elections Commission about our SUPER PAC that was uploaded with the late report that the SUPER PAC was closed down, before the late report, but the SUPER PAC is able to be restarted, so we closed in good standing. However there is no intention to restart at this time or the foreseeable future. With that said we were unable to continue with the SUPER PAC because of the fact that we had computer technical issues with our computers so we were unable to also report to the Federal Elections Commission and the IRS because of our technical problems. We also had computer problems that also made it difficult to report to your organization on time, we also had a bank hack with my personal account, and as a result our account for the SUPER PAC our bank account for the SUPER PAC was also effected for the SUPER PAC, and as a result we had to deal with the FBI and Police the Police report number is 2022-917380 and FBI report numbers is 12206100508188543 we had to report these incidents to the FBI and the Local police. We are requesting upon your mercy to give us a variance and as well a dispensation and to allow us to dissolve the organization the SUPER PAC and to not require us to pay the fine other than me paying the fine for not doing the diversity training as a Lobbyist, but since I represented the SUPER PAC as a Lobbyist, Chairman, and Treasurer of the SUPER PAC we would like to dissolve the organization we have dissolved with the IRS and the Federal Elections Commission. I would like to re-register in the future as a Lobbyist for my podcast eventsofourtimes.com. I am aware that I did not file in a timely manner and I am sorry for this. I take full responsibility for this I was unable at the time of when Citizens Awareness of Government Activities was dissolved with the Federal Elections Commission and IRS to also dissolve with your organization. I will not give you any excuses, and reason why this was the case, there are valid reasons for it, however I will say at the time I was also unable to dissolve the Organization with your organization and I am sorry for this and I take full responsibility for this and I would like to dissolve our Citizens Aware of Government Activities with our organization. At this current time I was still unable to dissolve our organization with your organization and to also figure out how to dissolve our organization with your organization I would like to do so hence part of the reason why I am emailing now. I am asking that you reverse the fines and also allow to dissolve Citizens Aware of Government Activities with your Organization. Thank you for your time in regards to this matter I am sorry for not reporting at this time.

Sincerely;

Reverend Nathan Jimenez National Congressional Scholar, News Anchor of Events of Our Times Podcast, Reverend for Christian National Churches, Liturgical Minister For His Grace the Archbishop of Portland for the Holy Roman Catholic Church, Lector for Saint Francis Catholic Church, The Council Advocate for the Portland Holy Roman Catholic Cathedral Council of the Knights of Columbus





# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1680

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Fax: 503-373-1456

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

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

October 27, 2022

Nurse-Family Partnership  
Attn: Matthew Richardson  
1900 Grant Street 4<sup>th</sup> Floor  
Denver CO 80203

Dear Mr. Richardson:

The written explanation of why the Client Q3 2022 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, December 16, 2022, 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. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for \$120 penalty will be extended to coincide with the December 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

## Q3 2022

Client Code:	2265	Q3 2022 Filing:	10/27/2022
User Name:	NSOPGA	Q3 2022 Expended:	\$0.00
Email:	nfplobbying@nursefamilypartnership.org	Q3 2022 Penalty:	\$120.00

Nurse-Family Partnership  
 Attn: Matthew Richardson  
 1900 Grant Street 4th floor  
 Denver, CO 80203

### Activity Log - Q3 2022 to Date

07/06/22 03:12:27.663 - User Successfully Authenticated -  
 07/06/22 03:13:12.197 - Client Report Submitted - Client Report Submitted for Q2 2022  
 10/05/22 04:21:00.650 - User Successfully Authenticated -  
 10/05/22 04:25:57.613 - Name Change Requested - User with ID 11378 requested a name change to Richardson, Matthew .  
 10/05/22 04:26:12.000 - User Password Reset - The user's password was reset from the "My Profile" page.  
 10/05/22 04:26:12.167 - User Profile Updated - User profile updated for Andrea Aralza  
 10/05/22 04:26:12.250 - User Profile Updated - The user's main profile was updated.  
 10/05/22 05:11:14.337 - User Profile Updated - User profile updated for Matthew Richardson  
 10/05/22 05:11:14.420 - User Profile Updated - The user's main profile was updated.  
 10/05/22 05:11:38.227 - Admin User Reset Initiated - An admin user reset was initiated.  
 10/05/22 05:27:42.617 - User Failed to Authenticate -  
 10/05/22 05:27:51.300 - User Failed to Authenticate -  
 10/05/22 05:28:19.763 - User Failed to Authenticate -  
 10/05/22 05:30:08.260 - User Failed to Authenticate -  
 10/06/22 03:54:36.387 - Admin User Password Reset Completed - A user reset their password using an admin reset.  
 10/06/22 03:54:51.320 - User Successfully Authenticated -  
 10/16/22 03:30:41.057 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/17/22 03:30:39.100 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/18/22 03:30:18.217 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/19/22 03:30:14.487 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/20/22 03:30:11.473 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/21/22 03:30:11.330 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/22/22 03:30:12.457 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/23/22 03:30:11.340 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/24/22 03:30:12.400 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/25/22 03:30:10.030 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/26/22 03:30:12.837 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/27/22 03:30:10.077 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2022 Q3  
 10/27/22 11:11:18.940 - User Successfully Authenticated -  
 10/27/22 11:12:20.927 - User Profile Updated - User profile updated for Matthew Richardson  
 10/27/22 11:12:21.200 - User Profile Updated - The user's main profile was updated.  
 10/27/22 11:12:31.437 - Client Report Submitted - Client Report Submitted for Q3 2022

PAST VIOLATIONS: Q1 2022 \$40 Pd by check

RECOMMENDATION:

*\$50<sup>00</sup> 2nd Violation*



## HUNTER David \* OGEC

---

**From:** Matthew Richardson <Matthew.Richardson@nursefamilypartnership.org>  
**Sent:** Thursday, October 27, 2022 9:19 AM  
**To:** HUNTER David \* OGEC  
**Subject:** Delinquent Report Penalties for Nurse-Family Partnership Lobbyist Employer Account

Good morning,

I am writing regarding the Nurse-Family Partnership Lobbyist Employer account being delinquent in reporting for Q3. I apologize that we did not file this report on time, as the staffer who was responsible for this account left our employment and I was unaware of the unfiled report and the accruing penalties since missing that deadline. We have now corrected this mistake.

I am requesting whether the penalties in place could be reduced. We will comply with whatever decision you come to on this account.

Thank you for your help,  
~Matthew

### **MATTHEW RICHARDSON**

Government Affairs Manager, North  
The National Service Office for  
Nurse-Family Partnership & Child First

pronouns: he/him  
TEL: (360) 764-0991

EMAIL: [matthew.richardson@nursefamilypartnership.org](mailto:matthew.richardson@nursefamilypartnership.org)  
[www.nursefamilypartnership.org](http://www.nursefamilypartnership.org) | [www.childfirst.org](http://www.childfirst.org)



**BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION**

In the Matter of )

Doug Morten )  
\_\_\_\_\_ )

**STIPULATED FINAL ORDER**

**CASE NO. 22-025XSM**

1. **PURPOSE:** The purpose of this stipulated final order is to release, settle and compromise any and all claims, allegations and charges that have been asserted by the Oregon Government Ethics Commission (Commission) in the above-referenced case against Doug Morten.
  
2. **JURISDICTION:** At all material times, Doug Morten was an elected City Councilor for the City of St. Helens. The City Council is the governing body of a public body. [ORS 192.610(3) and (4)]. As a member of the governing body of a public body, Doug Morten is required to comply with the executive session provisions of Oregon Public Meetings law found in ORS 192.660 and ORS 192.685.
  
3. **STIPULATED FACTS:**
  - A. Doug Morten participated in an executive session held by the St. Helens' City Council on January 19, 2022. The statutory provision cited as authority for this executive session was ORS 192.660(2)(h).
  
  - B. ORS 192.660(2)(h) provides that a governing body may convene an executive session to "consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed." "Litigation likely to be filed" requires the public body to reasonably believe it will be sued. A governing body may hold an executive session under ORS 192.660(2)(h) to seek legal advice relating to current litigation or litigation likely to be filed, but not to seek general legal advice or to deliberate on other matters relating to the issue giving rise to the litigation.

- C. OAR 199-040-0050(2) directs that to “meet the requirements for an executive session permitted by ORS 192.660(2)(h), the attorney with whom the governing body is consulting must be present at the executive session, either in person or by telephone or by other concurrent means of oral or video electronic communication.”
- D. In the January 19, 2022 executive session, the City Council met with and heard a presentation made by two engineering firms, US Ecology and Geosyntec Consultants, relating to a proposed cleanup of the City’s wastewater lagoons. At the beginning of the executive session, attorney William Monahan, who was present, advised the City Council members that the executive session was authorized under ORS 192.660(2)(h) because the City Council would be meeting with experts to better understand the liability risks related to the City’s wastewater lagoon and the steps the City could take to reduce its liability that could lead to litigation.
- E. The City Council’s January 19<sup>th</sup> executive session was not authorized under ORS 192.660(2)(h). The experts’ presentation and discussion of the liability risks relating to the wastewater lagoon and the procedures required to clean up the wastewater lagoon and thereby mitigate those risks were not a consultation by the City Council with its legal counsel regarding the City’s legal rights and duties with regard to current litigation or litigation likely to be filed.
- F. By participating in an executive session where the City Council discussed matters that were not authorized by the statutory provision cited, Doug Morten violated ORS 192.660(2).
- G. The actions described in paragraphs 3(D), 3(E), and 3(F) constitute one violation of ORS 192.660(2).
- H. ORS 244.350(2)(a) authorizes the Commission to assess civil penalties of up to \$1,000 for each violation of ORS 192.660. ORS 244.350(2)(b) directs that

a civil penalty may not be imposed if the violation occurred as a result of the governing body acting upon advice of legal counsel. ORS 244.350(5) authorizes the Commission to issue a letter of education in lieu of imposing a civil penalty.

- I. The violation at the January 19<sup>th</sup> executive session occurred as a result of the City Council acting upon the advice of legal counsel.
- J. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find one violation of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On May 20, 2022, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter.
- B. Doug Morten has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- C. Doug Morten will receive a letter of education, as authorized by ORS 244.350(5), in order to settle and compromise this matter.
- D. The Commission releases, settles and compromises any and all claims, allegations and charges that have been asserted by the Commission in the above-referenced case against Doug Morten.
- E. Doug Morten will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

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

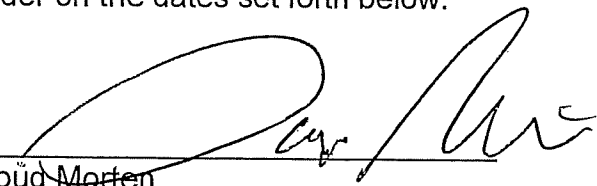
6. EFFECT:

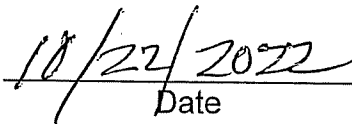
This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

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

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

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

  
\_\_\_\_\_  
Doug Morten

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
David M. Fiskum, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date

**BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION**

In the Matter of )

**STIPULATED FINAL ORDER**

Patrick Birkle )  
\_\_\_\_\_ )

**CASE NO. 22-026XSM**

1. PURPOSE: The purpose of this stipulated final order is to release, settle and compromise any and all claims, allegations and charges that have been asserted by the Oregon Government Ethics Commission (Commission) in the above-referenced case against Patrick Birkle.
  
2. JURISDICTION: At all material times, Patrick Birkle was an elected City Councilor for the City of St. Helens. The City Council is the governing body of a public body. [ORS 192.610(3) and (4)]. As a member of the governing body of a public body, Patrick Birkle is required to comply with the executive session provisions of Oregon Public Meetings law found in ORS 192.660 and ORS 192.685.
  
3. STIPULATED FACTS:
  - A. Patrick Birkle participated in an executive session held by the St. Helens' City Council on January 19, 2022. The statutory provision cited as authority for this executive session was ORS 192.660(2)(h).
  
  - B. ORS 192.660(2)(h) provides that a governing body may convene an executive session to "consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed." "Litigation likely to be filed" requires the public body to reasonably believe it will be sued. A governing body may hold an executive session under ORS 192.660(2)(h) to seek legal advice relating to current litigation or litigation likely to be filed, but not to seek general legal advice or to deliberate on other matters relating to the issue giving rise to the litigation.

- C. OAR 199-040-0050(2) directs that to “meet the requirements for an executive session permitted by ORS 192.660(2)(h), the attorney with whom the governing body is consulting must be present at the executive session, either in person or by telephone or by other concurrent means of oral or video electronic communication.”
- D. In the January 19, 2022 executive session, the City Council met with and heard a presentation made by two engineering firms, US Ecology and Geosyntec Consultants, relating to a proposed cleanup of the City’s wastewater lagoons. At the beginning of the executive session, attorney William Monahan, who was present, advised the City Council members that the executive session was authorized under ORS 192.660(2)(h) because the City Council would be meeting with experts to better understand the liability risks related to the City’s wastewater lagoon and the steps the City could take to reduce its liability that could lead to litigation.
- E. The City Council’s January 19<sup>th</sup> executive session was not authorized under ORS 192.660(2)(h). The experts’ presentation and discussion of the liability risks relating to the wastewater lagoon and the procedures required to clean up the wastewater lagoon and thereby mitigate those risks were not a consultation by the City Council with its legal counsel regarding the City’s legal rights and duties with regard to current litigation or litigation likely to be filed.
- F. By participating in an executive session where the City Council discussed matters that were not authorized by the statutory provision cited, Patrick Birkle violated ORS 192.660(2).
- G. The actions described in paragraphs 3(D), 3(E), and 3(F) constitute one violation of ORS 192.660(2).
- H. ORS 244.350(2)(a) authorizes the Commission to assess civil penalties of up to \$1,000 for each violation of ORS 192.660. ORS 244.350(2)(b) directs that



a civil penalty may not be imposed if the violation occurred as a result of the governing body acting upon advice of legal counsel. ORS 244.350(5) authorizes the Commission to issue a letter of education in lieu of imposing a civil penalty.

- I. The violation at the January 19<sup>th</sup> executive session occurred as a result of the City Council acting upon the advice of legal counsel.
- J. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find one violation of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On May 20, 2022, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter.
- B. Patrick Birkle has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- C. Patrick Birkle will receive a letter of education, as authorized by ORS 244.350(5), in order to settle and compromise this matter.
- D. The Commission releases, settles and compromises any and all claims, allegations and charges that have been asserted by the Commission in the above-referenced case against Patrick Birkle.
- E. Patrick Birkle will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

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

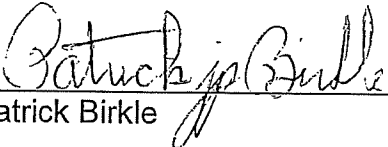
6. EFFECT:

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

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

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

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

  
\_\_\_\_\_  
Patrick Birkle

October 14, 2022  
\_\_\_\_\_  
Date

\_\_\_\_\_  
David M. Fiskum, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date

**BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION**

In the Matter of )  
 )  
 )  
Terry Hsu )  
 )  
 )  
\_\_\_\_\_ )

**STIPULATED FINAL ORDER**

**CASE NO. 22-105EHM**

1. PURPOSE: The purpose of this stipulated final order is to release, settle and compromise any and all claims, allegations, and charges that have been asserted by the Oregon Government Ethics Commission (Commission) in the above-referenced case against Terry Hsu.
  
2. JURISDICTION: At all material times, Terry Hsu was a member and Chair of the Board of Directors (Board) for the Marion Soil and Water Conservation District (Marion SWCD). As such, Terry Hsu is a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.
  
3. STIPULATED FACTS:
  - A. In early 2021, Board Chair Terry Hsu volunteered and acted as interim District Manager while Marion SWCD worked to find a District Manager. At the April 7, 2021 Marion SWCD Board meeting, the Board considered matters relating to compensation for Terry Hsu. At the July 7, 2021 Marion SWCD Board meeting, the Board considered and voted on matters relating to compensation for Terry Hsu.
  
  - B. An actual conflict of interest is defined in ORS 244.020(1) as arising when a public official, acting in their official capacity, participates in any action, decision, or recommendation, the effect of which would be to the private

financial benefit or avoidance of detriment for the public official. A potential conflict of interest is defined in ORS 244.020(13) as arising when a public official, acting in their official capacity, participates in any action, decision, or recommendation, the effect of which could be to the private financial benefit or avoidance of detriment for the public official.

- C. ORS 244.120(2) requires an elected public official or one serving on a board or commission, when met with an actual or potential conflict of interest, to publicly announce the nature of their conflict of interest. If the conflict of interest is potential, after making the public announcement, the official may continue to participate and vote on the matter giving rise to the conflict. If the conflict of interest is actual, after making the public announcement, the public official must refrain from participating in any discussion, debate, or vote on the issue out of which their conflict of interest arises.
- D. ORS 244.040(1) prohibits a public official from using or attempting to use their official position or office to obtain a financial benefit or avoid a financial detriment for the public official if the financial benefit or avoidance of detriment would not otherwise be available but for the public official's holding the official position.
- E. On April 7, 2021, Terry Hsu participated in the Marion SWCD Board's discussion on compensation for his volunteer time for Marion SWCD. Mr. Hsu advised the Board to consider what would be fair to him, "as well as what would be fair to employees and to the public and for perception." To compensate Mr. Hsu for his volunteer time would have a direct and certain financial impact on him; therefore, he was met with an actual conflict of interest. Because it was an actual conflict of interest, Mr. Hsu was required to make a public announcement of his actual conflict of interest and then refrain from participating in any discussion on the matter.

- F. At the April 7, 2021 Board meeting, Mr. Hsu announced a conflict of interest and recused himself from voting on his proposed compensation, but he did not refrain from participation in the discussion relating to his proposed compensation. Rather, he initiated the discussion of compensation for his volunteer time and commented on an amount that would be fair to him. By so doing, Terry Hsu violated ORS 244.120(2)(b).
- G. At the April 7, 2021 Board meeting, Terry Hsu attempted to use his official position to obtain a financial gain. He initiated the discussion of him receiving compensation for his volunteer time. The opportunity to seek such compensation would not otherwise be available to him but for the fact that he was a Board member. By using his position in this manner, Terry Hsu violated ORS 244.040(1).
- H. During the July 7, 2021 Marion SWCD Board meeting, Mr. Hsu participated in discussion and recommendations, and then voted on adoption of the interim Marion SWCD District Manager policy. This policy could financially impact him because the creation of this policy resulted in the District being able to hire Terry Hsu for the interim District Manager position. When the Board considered the policy at its July 7<sup>th</sup> meeting, Mr. Hsu failed to announce his potential conflict of interest prior to participating in the discussion and vote on the policy. By failing to announce his potential conflict of interest, Terry Hsu violated ORS 244.120(2)(a).
- I. At that July 7, 2021 meeting, after the policy was adopted, the Board then considered whether to hire Terry Hsu as the interim District Manager. Because the effect of the Board discussion and action would have a certain financial impact on Terry Hsu, he had an actual conflict of interest and was required to publicly announce his conflict of interest and then refrain from any participation in the discussion, debate or vote.

- J. While Mr. Hsu did announce a conflict of interest and recuse himself from the vote on his hiring and compensation, he did participate in the discussion and recommendations as to his salary and hours as interim District Manager. Mr. Hsu contends that in accordance with the newly adopted policy, Terry Hsu was no longer a voting member of the board at that time. Rochelle Koch was the newly appointed chair. The discussion and subsequent vote resulted in him being hired for seven weeks at a salary of \$11,900. By participating in the discussion and recommendations when he had an actual conflict of interest, Terry Hsu violated ORS 244.120(2)(b).
- K. At the July 7<sup>th</sup> Board meeting, Terry Hsu used or attempted to use his official to obtain a financial gain, by getting himself hired as the interim District Manager. The opportunity to be hired for this position, and the financial benefits that came with it, would not otherwise have been available to him but for the fact that Terry Hsu served on the Board and participated in adopting the District Manager policy and then recommending his own compensation. By taking these actions, Terry Hsu violated ORS 244.040(1).
- L. The actions described in paragraphs 3(E), (F), (H), (I) and (J) constitute one violation of ORS 244.120(2), with two equivalent actions. The actions described in paragraphs 3(G) and (K) constitute one violation of ORS 244.040(1), with two equivalent actions.
- M. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$5,000 for each violation of ORS 244.040 and each violation of ORS 244.120 set forth in paragraph 3(L).
- N. ORS 244.360 authorizes the Commission to order, in addition to the civil penalty imposed under ORS 244.350, a civil penalty equal to twice the amount Mr. Hsu realized as a result of these violations.

- O. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find one violation of ORS 244.040(1) and one violation of ORS 244.120(2).
- P. Terry Hsu contends that his violations of ORS 244.120(2) and ORS 244.040(1) were not willful or intentional. In order to conclude this matter, however, Terry Hsu agrees to the terms and conditions in this Stipulated Final Order.

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On July 8, 2022, the Commission considered information in the preliminary review phase of Case No. 22-105EHM and acted to find cause to initiate an investigation of this matter. Terry Hsu has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. In lieu of a civil penalty, Terry Hsu will receive a letter of education, as authorized by ORS 244.350(5), in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, allegations and charges that have been asserted by the Commission in the above-referenced case against Terry Hsu.
- D. Terry Hsu will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

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

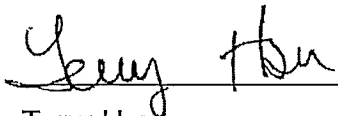
6. EFFECT:

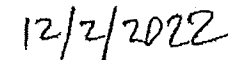
This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of these matters and shall be binding upon all parties.

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

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

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

  
\_\_\_\_\_  
Terry Hsu

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
David M. Fiskum, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date



**BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION**

In the Matter of )  
Don Treanor )  
\_\_\_\_\_ )  
 )  
 )  
 )  
 )

**STIPULATED FINAL ORDER**  
**CASE NO. 22-110XHM**

1. PURPOSE: The purpose of this stipulated final order is to release, settle and compromise any and all claims, allegations and charges that have been asserted by the Oregon Government Ethics Commission (Commission) in the above referenced case against Don Treanor.
  
2. JURISDICTION: At all material times, Don Treanor was an elected Board Member of the Shaniko City Council. The City Council is a governing body of a public body. [ORS 192.610(3) and (4)]. As a member of the governing body of a public body, Don Treanor is required to comply with the executive session provisions of Oregon Public Meetings law found in ORS 192.660 and ORS 192.685.
  
3. STIPULATED FACTS:
  - A. The Shaniko City Council held an executive session on May 3, 2022. Don Treanor attended the executive session.
  
  - B. ORS 192.660(1) provides that a governing body may convene an executive session to discuss those matters authorized by ORS 192.660(2). Before going into executive session, the presiding officer must identify the statutory authorization for holding the executive session.
  
  - C. OAR 199-040-0015 clarifies that the public announcement of the statutory authorization or other lawful basis for the executive session must be made prior to entering the executive session. If an executive session only will be

held, or if the executive session precedes a meeting open to the public, an announcement must be made in a properly issued meeting notice. If an executive session is held in conjunction with a regular, special, or emergency meeting of the governing body, the announcement must be made during the portion of the meeting that is open to the public.

- D. A governing body may only discuss matters authorized by the cited statutory provisions in ORS 192.660(2). OAR 199-040-0020(1) explains that an executive session may only be held when permitted by a specific provision of ORS 192.660 or other state law authorizing an executive session. The topic(s) discussed in an executive session must be limited to those topics expressly permitted by the specific provision(s) under which the executive session was convened. Members of governing bodies may not discuss topics in executive session other than those delineated in ORS 192.660 or other state law permitting an executive session, even if the additional topics are related to the issue concerning which the governing body convened the executive session.
- E. During the May 3<sup>rd</sup> executive session, the City Council discussed several pending small claims cases.
- F. The agenda for the May 3<sup>rd</sup> executive session did not cite the statute, ORS 192.660, or the specific provision under which the executive session was held. No statutory provision was cited in either the agenda or minutes for the executive session. Because no statutory provision was cited, the discussion during the May 3<sup>rd</sup> executive session was unauthorized.
- G. The actions described in paragraph 3(E) and (F) constitute one violation of ORS 192.660(2).
- H. ORS 244.350(2)(a) authorizes the Commission to impose civil penalties of up to \$1,000 for each violation of ORS 192.660(2) set forth in paragraph 3(G).

- I. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find one violation of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On July 8, 2022, the Commission considered information in the preliminary review phase of Case No. 22-110XHM and acted to find cause to initiate an investigation of this matter. Don Treanor has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. As authorized by ORS 244.350(5), Don Treanor will receive a letter of education in lieu of a civil penalty in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, allegations and charges that have been asserted by the Commission in the above-referenced case against Don Treanor.
- D. Don Treanor will initiate no claims, litigation, or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of

the parties further acknowledges that each has had the opportunity to seek the advice of counsel in reviewing and entering this agreement.

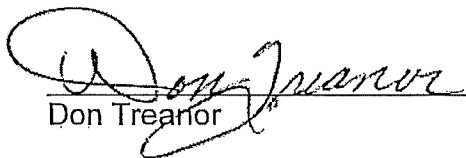
6. EFFECT:

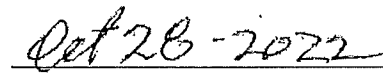
This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

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

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

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

  
\_\_\_\_\_  
Don Treanor

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
David M. Fiskum, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date



prior to entering the executive session. If an executive session only will be held, or if the executive session precedes a meeting open to the public, an announcement must be made in a properly issued meeting notice. If an executive session is held in conjunction with a regular, special, or emergency meeting of the governing body, the announcement must be made during the portion of the meeting that is open to the public.

- D. A governing body may only discuss matters authorized by the cited statutory provisions in ORS 192.660(2). OAR 199-040-0020(1) explains that an executive session may only be held when permitted by a specific provision of ORS 192.660 or other state law authorizing an executive session. The topic(s) discussed in an executive session must be limited to those topics expressly permitted by the specific provision(s) under which the executive session was convened. Members of governing bodies may not discuss topics in executive session other than those delineated in ORS 192.660 or other state law permitting an executive session, even if the additional topics are related to the issue concerning which the governing body convened the executive session.
- E. During the January 13<sup>th</sup> executive session, the City Council looked to appoint a volunteer to clean bathrooms, and during the May 3<sup>rd</sup> executive session, the City Council discussed several pending small claims cases.
- F. The agendas for the January 13<sup>th</sup> and May 3<sup>rd</sup> executive sessions did not cite the statute, ORS 192.660, or the specific provisions under which the executive sessions were held. No statutory provision was cited in either the agendas or minutes for these executive sessions. Because no statutory provisions were cited, the discussions during the January 13<sup>th</sup> and May 3<sup>rd</sup> executive sessions were unauthorized.
- G. The actions described in paragraph 3(E) and (F) constitute two violations of ORS 192.660(2).

- H. ORS 244.350(2)(a) authorizes the Commission to impose civil penalties of up to \$1,000 for each violation of ORS 192.660(2) set forth in paragraph 3(G).
- I. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find two violations of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On July 8, 2022, the Commission considered information in the preliminary review phase of Case No. 22-111XHM and acted to find cause to initiate an investigation of this matter. Mary Jane Wright has indicated that she wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. As authorized by ORS 244.350(5), Mary Jane Wright will receive a letter of education in lieu of a civil penalty in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, allegations and charges that have been asserted by the Commission in the above-referenced case against Mary Jane Wright.
- D. Mary Jane Wright will initiate no claims, litigation, or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

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

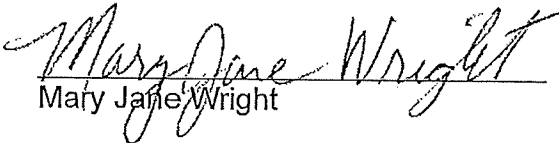
6. EFFECT:

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

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

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

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

  
\_\_\_\_\_  
Mary Jane Wright

10-31-22  
Date

\_\_\_\_\_  
David M. Fiskum, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date



**BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION**

In the Matter of )  
Louis McKenzie ) **STIPULATED FINAL ORDER**  
 ) **CASE NO. 22-112XHM**  
 )  
\_\_\_\_\_ )

1. **PURPOSE:** The purpose of this stipulated final order is to release, settle and compromise any and all claims, allegations and charges that have been asserted by the Oregon Government Ethics Commission (Commission) in the above referenced case against Louis McKenzie.
  
2. **JURISDICTION:** At all material times, Louis McKenzie was an elected Board Member of the Shaniko City Council. The City Council is a governing body of a public body. [ORS 192.610(3) and (4)]. As a member of the governing body of a public body, Louis McKenzie is required to comply with the executive session provisions of Oregon Public Meetings law found in ORS 192.660 and ORS 192.685.
  
3. **STIPULATED FACTS:**
  - A. The Shaniko City Council held an executive session on January 13, 2022. Louis McKenzie attended the executive session.
  
  - B. ORS 192.660(1) provides that a governing body may convene an executive session to discuss those matters authorized by ORS 192.660(2). Before going into executive session, the presiding officer must identify the statutory authorization for holding the executive session.
  
  - C. OAR 199-040-0015 clarifies that the public announcement of the statutory authorization or other lawful basis for the executive session must be made

prior to entering the executive session. If an executive session only will be held, or if the executive session precedes a meeting open to the public, an announcement must be made in a properly issued meeting notice. If an executive session is held in conjunction with a regular, special, or emergency meeting of the governing body, the announcement must be made during the portion of the meeting that is open to the public.

- D. A governing body may only discuss matters authorized by the cited statutory provisions in ORS 192.660(2). OAR 199-040-0020(1) explains that an executive session may only be held when permitted by a specific provision of ORS 192.660 or other state law authorizing an executive session. The topic(s) discussed in an executive session must be limited to those topics expressly permitted by the specific provision(s) under which the executive session was convened. Members of governing bodies may not discuss topics in executive session other than those delineated in ORS 192.660 or other state law permitting an executive session, even if the additional topics are related to the issue concerning which the governing body convened the executive session.
- E. During the January 13<sup>th</sup> executive session, the City Council looked to appoint a volunteer to clean bathrooms.
- F. The agenda for the January 13<sup>th</sup> executive session did not cite the statute, ORS 192.660, or the specific provisions under which the executive session was held. No statutory provision was cited in either the agenda or minutes for the executive session. Because no statutory provision was cited, the discussions during the January 13<sup>th</sup> executive session was unauthorized.
- G. The actions described in paragraph 3(E) and (F) constitute one violation of ORS 192.660(2).
- H. ORS 244.350(2)(a) authorizes the Commission to impose civil penalties of up to \$1,000 for each violation of ORS 192.660(2) set forth in paragraph

3(G).

- I. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find one violation of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On July 8, 2022, the Commission considered information in the preliminary review phase of Case No. 22-112XHM and acted to find cause to initiate an investigation of this matter. Louis McKenzie has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. As authorized by ORS 244.350(5), Louis McKenzie will receive a letter of education in lieu of a civil penalty in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, allegations and charges that have been asserted by the Commission in the above-referenced case against Louis McKenzie.
- D. Louis McKenzie will initiate no claims, litigation, or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into

by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in reviewing and entering this agreement.

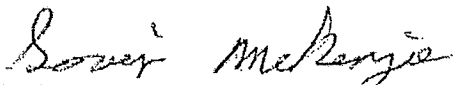
6. EFFECT:

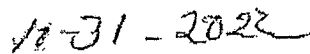
This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

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

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

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

  
\_\_\_\_\_  
Louis McKenzie

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
David M. Fiskum, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date



prior to entering the executive session. If an executive session only will be held, or if the executive session precedes a meeting open to the public, an announcement must be made in a properly issued meeting notice. If an executive session is held in conjunction with a regular, special, or emergency meeting of the governing body, the announcement must be made during the portion of the meeting that is open to the public.

- D. A governing body may only discuss matters authorized by the cited statutory provisions in ORS 192.660(2). OAR 199-040-0020(1) explains that an executive session may only be held when permitted by a specific provision of ORS 192.660 or other state law authorizing an executive session. The topic(s) discussed in an executive session must be limited to those topics expressly permitted by the specific provision(s) under which the executive session was convened. Members of governing bodies may not discuss topics in executive session other than those delineated in ORS 192.660 or other state law permitting an executive session, even if the additional topics are related to the issue concerning which the governing body convened the executive session.
- E. During the January 13<sup>th</sup> executive session, the City Council looked to appoint a volunteer to clean bathrooms, and during the May 3<sup>rd</sup> executive session, the City Council discussed several pending small claims cases.;
- F. The agendas for the January 13<sup>th</sup> and May 3<sup>rd</sup> executive sessions did not cite the statute, ORS 192.660, or the specific provisions under which the executive sessions were held. No statutory provision was cited in either the agendas or minutes for these executive sessions. Because no statutory provisions were cited, the discussions during the January 13<sup>th</sup> and May 3<sup>rd</sup> executive sessions were unauthorized.
- G. The actions described in paragraph 3(E) and (F) constitute two violations of ORS 192.660(2).

- H. ORS 244.350(2)(a) authorizes the Commission to impose civil penalties of up to \$1,000 for each violation of ORS 192.660(2) set forth in paragraph 3(G).
- I. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find two violations of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On July 8, 2022, the Commission considered information in the preliminary review phase of Case No. 22-113XHM and acted to find cause to initiate an investigation of this matter. Sandra Thomas has indicated that she wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. As authorized by ORS 244.350(5), Sandra Thomas will receive a letter of education in lieu of a civil penalty in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, allegations and charges that have been asserted by the Commission in the above-referenced case against Sandra Thomas.
- D. Sandra Thomas will initiate no claims, litigation, or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

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

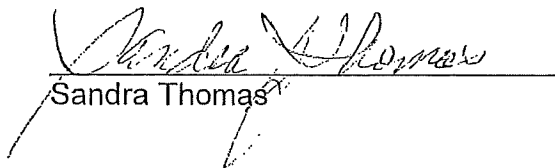
6. EFFECT:

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

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

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

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

  
Sandra Thomas

10/27/22  
Date

\_\_\_\_\_  
David M. Fiskum, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date





held, or if the executive session precedes a meeting open to the public, an announcement must be made in a properly issued meeting notice. If an executive session is held in conjunction with a regular, special, or emergency meeting of the governing body, the announcement must be made during the portion of the meeting that is open to the public.

- D. A governing body may only discuss matters authorized by the cited statutory provisions in ORS 192.660(2). OAR 199-040-0020(1) explains that an executive session may only be held when permitted by a specific provision of ORS 192.660 or other state law authorizing an executive session. The topic(s) discussed in an executive session must be limited to those topics expressly permitted by the specific provision(s) under which the executive session was convened. Members of governing bodies may not discuss topics in executive session other than those delineated in ORS 192.660 or other state law permitting an executive session, even if the additional topics are related to the issue concerning which the governing body convened the executive session.
- E. During the January 13<sup>th</sup> executive session, the City Council looked to appoint a volunteer to clean bathrooms, and during the May 3<sup>rd</sup> executive session, the City Council discussed several pending small claims cases.;
- F. The agendas for the January 13<sup>th</sup> and May 3<sup>rd</sup> executive sessions did not cite the statute, ORS 192.660, or the specific provisions under which the executive sessions were held. No statutory provision was cited in either the agendas or minutes for these executive sessions. Because no statutory provisions were cited, the discussions during the January 13<sup>th</sup> and May 3<sup>rd</sup> executive sessions were unauthorized.
- G. The actions described in paragraph 3(E) and (F) constitute two violations of ORS 192.660(2).
- H. ORS 244.350(2)(a) authorizes the Commission to impose civil penalties of

up to \$1,000 for each violation of ORS 192.660(2) set forth in paragraph 3(G).

- I. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find two violations of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On July 8, 2022, the Commission considered information in the preliminary review phase of Case No. 22-114XHM and acted to find cause to initiate an investigation of this matter. David Long has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. As authorized by ORS 244.350(5), David Long will receive a letter of education in lieu of a civil penalty in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, allegations and charges that have been asserted by the Commission in the above-referenced case against David Long.
- D. David Long will initiate no claims, litigation, or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

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


6. EFFECT:

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

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

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

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

  
\_\_\_\_\_  
David Long

10/27/2022  
\_\_\_\_\_  
Date

\_\_\_\_\_  
David M. Fiskum, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date



- C. As the General Manager, Allan Pollock occasionally travels on behalf of the District. When making his airline and hotel reservations for this District-related and District-funded travel, Allan Pollock occasionally added his personal airline and hotel membership rewards account numbers to the reservations. By so doing, Allan Pollock earned airline miles and hotel reward points. These rewards accrued to his personal membership rewards accounts. Allan Pollock did not submit a written conflict of interest disclosure to his appointing authority with respect to that practice.
- D. Between November 2018 and June 2022, Allan Pollock travelled at least 15 times on District business, earning personal airline and hotel membership rewards as follows:
- a. 25,586 Alaska Airlines miles
  - b. 9,969 Southwest Airlines miles
  - c. 3,730 United Airlines miles
  - d. 4,105 Delta Airlines miles
  - e. 250 Best Western rewards points
  - f. 6,775 Hyatt rewards points
  - g. 160,252 Marriott rewards points
- E. The accrued airline and hotel membership rewards identified in paragraph 3(D) have an estimated conversion value of \$760.20. Allan Pollock contends he has not converted any of the airline miles or the Hyatt and Best Western rewards points in the last four years. Allan Pollock further contends that while he has used Marriott rewards points in the last four years, because the points accrued in connection with his public official travel were combined with his personal rewards points, he is unable to determine if the points he accrued in connection with his public official travel were among those redeemed. Allan Pollock has offered to take actions, as set forth in paragraph 4(E), to ensure that he does not redeem any of the remaining points accrued in connection with his public official travel.

- F. The Commission contends that Allan Pollock used his position as the District's General Manager, and the travelling he did in that position, to obtain a personal financial gain by adding his personal membership rewards account numbers to his District-related airline and hotel reservations, and that but for the fact that he was a public official, he would not have had the opportunity to earn these airline miles and hotel rewards points for his personal membership rewards accounts. The Commission further contends that when Allan Pollock added his personal membership rewards account numbers to his District-related travel reservations, he was required to submit a written conflict of interest disclosure to his appointing authority, and that he did not do so.
- G. The Commission contends that the actions described in paragraph 3(F) and the results of the investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find one violation of ORS 244.040(1) and one violation of ORS 244.120(2), with fourteen equivalent actions.
- H. Allan Pollock contends that results of the investigation, if submitted through exhibits and testimony at a contested case hearing, would not establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 244.040(1) and ORS 244.120(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On September 23, 2022, the Commission considered information in the preliminary review phase of Case No. 22-180ESM and acted to find cause to initiate an investigation of this matter. Allan Pollock has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.

- B. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$5,000 for each violation of ORS 244.040 and each violation of ORS 244.120.
- C. ORS 244.360 authorizes the Commission to order, in addition to the civil penalty imposed under ORS 244.350, a civil penalty equal to twice the amount realized as a result of violations.
- D. Allan Pollock will pay a civil penalty, as authorized by ORS 244.350, in the amount of \$100 in order to settle and compromise this matter.
- E. By January 31, 2023, Allan Pollock will provide the Commission with documentation that he donated the accrued airline miles and hotel rewards points to a charity, and did not receive any financial benefit or tax deduction for doing so. For any rewards program that does not have a donation option, Allan Pollock will donate the equivalent value of points from another rewards program. By agreeing to make this donation, Allan Pollock will not be required to pay a civil penalty as authorized by ORS 244.360.
- F. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Allan Pollock within the scope of the above-referenced proceedings.
- G. Allan Pollock will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

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




6. EFFECT:

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

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

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

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

  
\_\_\_\_\_  
Allan Pollock

12/1/22  
\_\_\_\_\_  
Date

\_\_\_\_\_  
David M. Fiskum, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date



# OREGON GOVERNMENT ETHICS COMMISSION

## INVESTIGATION

**CASE NO:** 19-190ESM

**DATE:** December 6, 2022

**RESPONDENT:** APPLEGATE, Valarie, former Transportation Services Representative for Oregon Driver and Motor Vehicle Services, Oregon Department of Transportation

**COMPLAINANT:** Oregon Government Ethics Commission

**RECOMMENDED ACTION:** Make a Preliminary Finding of 11 Violations of ORS 244.040(1)

1 **SYNOPSIS:** Valarie Applegate was employed as a Transportation Services  
2 Representative for the Oregon Driver and Motor Vehicle Services (DMV) division of the  
3 Oregon Department of Transportation (ODOT). In her official position as a representative  
4 for the DMV, Ms. Applegate had access to confidential vehicle information. Following an  
5 investigation by the Oregon Department of Transportation, Portland Police Bureau, and  
6 Clackamas County Sheriff's Office, Ms. Applegate was arrested on a 52-count indictment  
7 for bribe receiving, identity theft, official misconduct in the first degree, attempted identity  
8 theft, unauthorized use of a vehicle, and felony computer crime, out of Multnomah County  
9 Circuit Court, in court case number 19CR46580. According to the indictment, Ms.  
10 Applegate's actions date back to 2017.

11  
12 Information is sufficient to find Ms. Applegate violated ORS 244.040(1) by using her  
13 official position as a DMV representative to obtain vehicle information, then provide the  
14 vehicle information to a member of her household, her boyfriend Israel Fonseca, who  
15 would then use the information to follow the vehicles, steal the vehicles and strip them of

1 parts and valuables left inside. Mr. Fonseca and Ms. Applegate would then sell the parts  
2 for money, opportunities for financial gain that would not otherwise be available but for  
3 Ms. Applegate's holding of her official position. Additionally, Ms. Applegate would take  
4 bribes, in exchange for assisting Mr. Fonseca's friends in getting permits and licenses.  
5

6 **RELEVANT STATUTES:** The following Oregon Revised Statutes are applicable to the  
7 issues addressed herein:  
8

9 **ORS 244.020 Definitions**

10 (11) "Member of the household" means any person who resides with the public  
11 official or candidate.  
12

13 (15) "Public official" means the First Partner and any person who, when an alleged  
14 violation of this chapter occurs, is serving the State of Oregon or any of its political  
15 subdivisions or any other public body as defined in ORS 174.109 as an elected  
16 official, appointed official, employee or agent, irrespective of whether the person is  
17 compensated for the services.  
18

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

28 ///

29 ///

30 ///

31 ///

1           **ORS 244.350 Civil penalties; letter of reprimand or explanation.** (1) The  
2 Oregon Government Ethics Commission may impose civil penalties not to exceed:  
3 (a) Except as provided in paragraphs (b) and (c) of this subsection, \$5,000 for  
4 violation of any provision of this chapter or any resolution adopted under ORS  
5 244.160. \* \* \* \* \*

6  
7           **ORS 244.360 Additional civil penalty equal to twice amount of financial**  
8 **benefit.** In addition to civil penalties imposed under ORS 244.350, if a public  
9 official has financially benefited the public official or any other person by violating  
10 any provision of this chapter, the Oregon Government Ethics Commission may  
11 impose upon the public official a civil penalty in an amount equal to twice the  
12 amount the public official or other person realized as a result of the violation.

13  
14           **ORS 244.390 Status of penalties and sanctions; consideration of other**  
15 **penalties imposed.** (1) A penalty or sanction imposed by the Oregon  
16 Government Ethics Commission under this chapter is in addition to and not in lieu  
17 of any other penalty or sanction that may be imposed according to law.

18  
19           (2) Before making a finding that there is cause to undertake an investigation under  
20 ORS 244.260 and before imposing a civil penalty under ORS 244.350 or 244.360,  
21 the commission shall consider the public interest and any other penalty or sanction  
22 that has been or may be imposed on the public official as a result of the same  
23 conduct that is the subject of action by the commission under ORS 244.260. \* \* \*

24  
25           **INVESTIGATION:** The Oregon Government Ethics Commission (Commission) initiated  
26 a preliminary review with its own motion, based on information in a news report published  
27 in the Oregonian/OregonLive website on July 19, 2019, titled "Oregon DMV worker,  
28 boyfriend accused of using drive information to steal from cars in Portland metro area."  
29 (#PR1). The Commission found cause to investigate on October 3, 2019, after  
30 considering the information developed in the preliminary review report. Due to the  
31 pending criminal case, the investigation was suspended until the conclusion of Ms.

1 Applegate's criminal case. The Commission reopened the case on June 21, 2022. The  
2 focus of the investigation was to determine whether there is sufficient evidence to indicate  
3 that Valarie Applegate violated ORS 244.040 by using her official position to obtain a  
4 prohibited financial benefit for herself and a member of her household that would not  
5 otherwise have been available but for holding her official position. Valarie Applegate has  
6 been notified of the Commission's actions in this matter and invited to provide any  
7 information that would assist the Commission in conducting this investigation. To date,  
8 Ms. Applegate has not provided the Commission with a response.

9

10 Valarie Applegate was employed as a representative for the Oregon DMV located at Mall  
11 205 in Portland, beginning in 2010. According to Ms. Applegate's and Mr. Fonseca's  
12 release agreements out of Multnomah County, they share the same address in  
13 Clackamas. (#INV1; #INV2).

14

15 On May 23, 2022, Ms. Applegate accepted a plea offer and pled guilty to 11 of the 55  
16 charges. (#INV3).

17

18 *Count 1: Bribe Receiving*

19 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to "Bribe Receiving." The count reads:

20

21 Val[a]rie Cai Applegate, on or about July 6, 2018\* \* \* being a public servant,  
22 did unlawfully and knowingly agree to accept a pecuniary benefit from  
23 another person or company upon an agreement and understanding that  
24 defendant's action, decision, and exercise of discretion as a public servant  
25 would thereby be influenced, contrary to the statutes... (#INV4).

26 ///

27 ///

28 ///

29 ///

30 ///

31 ///

1 *Count 5: Official Misconduct in the First Degree*

2 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to "Official Misconduct in the First Degree." The  
3 count reads:

4  
5 Val[a]rie Cai Applegate on or about October 3, 2017 \* \* \* being a public  
6 servant \* \* \* employee, did unlawfully and knowingly perform an act, which  
7 act constituted an unauthorized exercise of her official duties, with intent to  
8 obtain a benefit and harm another... (#INV4).

9  
10 *Count 12: Unauthorized Use of a Vehicle*

11 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to "Unauthorized Use of a Vehicle." The count  
12 reads:

13  
14 Val[a]rie Cai Applegate, on or about November 21, 2017 \* \* \* did unlawfully  
15 and knowingly take, operate, exercise control over, ride in and otherwise use  
16 a vehicle, without the consent of the owner. (#INV4).

17  
18 *Count 16: Unauthorized Use of a Vehicle*

19 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to another charge of "Unauthorized Use of a  
20 Vehicle." The count reads:

21  
22 Val[a]rie Cai Applegate, on or about December 1, 2017 \* \* \* did unlawfully  
23 and knowingly take, operate, exercise control over, ride in and otherwise use  
24 a vehicle without the consent of the owner. (#INV4).

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1 *Count 18: Identity Theft*

2 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to "Identity theft." The count reads:

3  
4 Val[a]rie Cai Applegate, on or about February 15, 2018 \* \* \* did unlawfully,  
5 with intent to deceive and defraud, obtain, possess, transfer, create, utter and  
6 convert to defendant's own use personal identification of another person.  
7 (#INV4).

8  
9 *Count 20: Computer Crime*

10 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to "Computer Crime." The count reads:

11  
12 Val[a]rie Cai Applegate, on or about May 24, 2018 \* \* \* did unlawfully and  
13 knowingly access and use a computer system and computer network for the  
14 purpose of committing Theft. (#INV4).

15  
16 *Count 25: Computer Crime*

17 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to "Computer Crime." The count reads:

18  
19 Val[a]rie Cai Applegate, on or about July 10, 2018 \* \* \* did unlawfully and  
20 knowingly access and use a computer system and computer network for the  
21 purpose of committing Theft. (#INV4).

22  
23 *Count 33: Computer Crime*

24 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to "Computer Crime." The count reads:

25  
26 Val[a]rie Cai Applegate, on or about September 11, 2018 \* \* \* did unlawfully  
27 and knowingly access and use a computer system and computer network for  
28 the purpose of committing Theft. (#INV4).

29 ///

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31 ///



1 *Count 38: Identity Theft*

2 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to "Identity Theft." The count reads:

3  
4 Val[a]rie Cai Applegate, on or about October 18, 2018 \* \* \* did unlawfully,  
5 with intent to deceive and defraud, obtain, possess, transfer, create, utter,  
6 and convert to defendant's own use personal identification of another person.  
7 (#INV4).

8  
9 *Count 44: Computer Crime*

10 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to "Computer Crime." The count reads:

11  
12 Val[a]rie Cai Applegate, on or about December 21, 2018 \* \* \* did unlawfully  
13 and knowingly access and use a computer system and computer network for  
14 the purpose of committing Theft. (#INV4).

15  
16 *Count 51: Unauthorized Use of a Vehicle*

17 On May 23<sup>rd</sup>, Ms. Applegate pled guilty to "Unauthorized Use of a Vehicle." The count  
18 reads:

19  
20 Val[a]rie Cai Applegate, on or about February 7, 2019, did unlawfully and  
21 knowingly take, operate, exercise control over, ride in and otherwise use a  
22 vehicle, without the consent of the owner Christopher Allan Jette. (#INV4).

23  
24 *Clackamas County Sheriff's Police Report*

25 Clackamas County Sheriff's Office (CCSO) provided Commission staff with a copy of the  
26 report for CCSO case number 18-952401, the police report involving Valarie Applegate  
27 and Israel Fonseca. The police report primarily details Mr. Fonseca's criminal activities  
28 and how law enforcement apprehended him. According to the police report, Mr. Fonseca  
29 would identify a vehicle to steal or break into. In pertinent part, the police report states:

30 ///

31 ///

1 Israel Fonseca has been identified as a suspect in many thefts of and from  
2 vehicles throughout the Clackamas County area believed to have been  
3 occurring from 2017 until now. \* \* \*

4  
5 During the course of this investigation, Mr. Fonseca has been found to have  
6 a unique and specific M.O. as to the types of vehicles he would steal and the  
7 items he would steal from those vehicles. He would specifically target newer  
8 model Chevrolet, GMC and Cadillac Trucks and SUV's with custom or  
9 aftermarket wheels.

10  
11 Mr. Fonseca would rent newer vehicles and commonly cover the license  
12 plates with Car Max dealership plates. Mr. Fonseca would commonly steal  
13 the vehicles by "punching" the locks to gain access or break a vehicle  
14 window, damage the steering column, remove the stereo and navigation  
15 system and remove the wheels. Many of these stolen vehicles would be  
16 found with stock wheels left in place of the aftermarket wheels, or the drums  
17 left on cinder blocks. \* \* \*

18  
19 Further, he was in possession of tools capable of removing wheels, a floor  
20 jack and a North Face jacket he had been seen wearing in the surveillance  
21 video of prior stolen vehicle incidents. During the subsequent consensual  
22 search of his residence, several navigation systems and wheels were found  
23 in his garage that appeared of similar make and models to those stolen in  
24 these vehicle theft incidents. \* \* \*

25  
26 There are still several more incidents being investigated in which he is  
27 believed to be the suspect. This investigation has shown Mr. Fonseca has  
28 essentially engaged in an ongoing criminal spree dating back as far as 2017.  
29 (#INV5).

30 ///

31 ///

1 Additionally, the police report features information on Ms. Applegate's involvement with  
2 Mr. Fonseca. The police report indicates:

3  
4 Detective Fields also provided information that Mr. Fonseca's girlfriend,  
5 Valerie Cai Applegate was involved in criminal activity as well. He explained  
6 Ms. Applegate was employed by the Oregon Department of Transportation,  
7 and worked for the DMV at the Mall 205 Branch in Portland, Oregon. During  
8 the course of Detective Fields' investigation, he found Ms. Applegate had  
9 been unlawfully querying vehicle registrations and provided that information  
10 to Mr. Fonseca. He also found she was assisting Mr. Fonseca in selling  
11 merchandise believed to be the proceeds of theft. (#INV5).

12  
13 Further, law enforcement did a phone extraction of Mr. Fonseca's cellphone and  
14 determined that "queries and transactions" were conducted by Ms. Applegate at Mr.  
15 Fonseca's request. At least two of the vehicle queries were found to belong to victims'  
16 license plates.

17  
18 *Portland Police Bureau Report*

19 Portland Police Bureau (PPB) provided Commission staff with a copy of the police report  
20 for PPB case number 19-43319, the report involving Valarie Applegate and Israel  
21 Fonseca. The police report indicates that Ms. Applegate was providing Mr. Fonseca with  
22 information from the DMV, in order for him to locate and steal a car. The police report  
23 states:

24  
25 While going through data from the search warrant on FONSECA'S phone I  
26 located a text thread dated 01/17/19 at 4:06 pm in which FONSECA  
27 request[s] his girlfriend APPLGATE who works at Oregon DMV Mall 205  
28 branch to run the El Camino license plate \* \* \* as there is some confusion on  
29 crater lake plates.

30 ///

31 ///

1           \* \* \* Throughout the large text thread [h]is girlfriend APPLGATE he has her  
2 run numerous license plates at his request, send in people to take test at  
3 DMV for her to administer for money, she admits to taking bribes, taking gifts  
4 at DMV, and several instances to help him orchestrate OfferUp deals for rims  
5 and stereos. There are also video of them counting stacks of cash together.  
6

7           \* \* \* Ten minutes later he sends her another video of the vehicles license  
8 plate \* \* \* and says "I know where he lives now" at 11:56 am. A check by  
9 DMV showed that APPLGATE ran that license plate on 01/9/18. (#INV6).  
10

11 Based on information obtained from Mr. Fonseca's phone, Ms. Applegate, in her position  
12 as a DMV representative, ran several license plates at Mr. Fonseca's request. Ms.  
13 Applegate also assisted Mr. Fonseca in selling vehicle property on OfferUp. Additionally,  
14 she admitted to taking bribes and gifts as a DMV representative, to assist Mr. Fonseca's  
15 friends in getting permits and licenses.  
16

17 **CONCLUSIONS:** Valarie Applegate was a Transportation Services Representative for  
18 Oregon Driver and Motor Vehicle Services, Oregon Department of Transportation when  
19 the events relevant to this case occurred. She was a public official as defined in ORS  
20 244.020(15) and therefore required to comply with the Oregon Government Ethics law.  
21

22 ORS 244.040(1) prohibits a public official from using or attempting to use the official's  
23 position to obtain a financial benefit or avoid a financial detriment for the official, a relative  
24 or household member, or a business with which any of them are associated, if the  
25 financial benefit or avoidance of detriment would not otherwise be available but for the  
26 public official's holding the official position.  
27

28 In this case, Ms. Applegate used her official position to supply Mr. Fonseca, a member of  
29 her household, with information on vehicles. Mr. Fonseca would see a vehicle, then ask  
30 Ms. Applegate to run information on the vehicle so he could locate the address of the  
31 owner, follow the owner, then steal the car or the car's parts. Ms. Applegate was only able

1 to obtain information on the vehicles based on her official position as a DMV  
2 representative, and through this information, she and Mr. Fonseca would then resell the  
3 car parts for money. Ms. Applegate also accepted bribes to assist Mr. Fonseca's friends  
4 in acquiring licenses and permits. Again, a financial benefit only available because of Ms.  
5 Applegate's official position. There was an investigation conducted by PPB and CCSO  
6 that resulted in Ms. Applegate's arrest and conviction.

7  
8 There is a preponderance of evidence to establish that Valarie Applegate used her official  
9 position as a representative for the Oregon DMV for ODOT to obtain a prohibited financial  
10 benefit for herself and a member of her household that would not have otherwise been  
11 available but for her official position.

12  
13 **RECOMMENDATIONS:** The Oregon Government Ethics Commission should make  
14 preliminary findings that Valarie Applegate violated the prohibited use of office provision,  
15 resulting in 11 violations of ORS 244.040(1). [Motion 10]

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2 **ASSOCIATED DOCUMENTS:**

- 3 #PR1 Newspaper article, from the Oregonian/Oregon Live website, dated July 19, 2019  
4 #INV1 Valarie Applegate's release agreement with Multnomah County  
5 #INV2 Israel Fonseca's release agreement with Multnomah County  
6 #INV3 Valarie Applegate judgment, 9/28/22  
7 #INV4 Valarie Applegate's indictment with Multnomah County Circuit Court, 7/16/19  
8 #INV5 CCSO police report case number 18-952401  
9 #INV6 PPB police report case number 19-43319

PREPARED BY

  
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Hillary Murrieta  
Investigator

12/6/22

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Date

APPROVED BY

  
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Ronald A. Bersin  
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12/6/2022

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Date

REVIEWED BY

/s/ Joshua Nasbe  
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\_\_\_\_\_  
Date



# Oregon

Kate Brown, Governor

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December 16, 2022

Dexter A. Johnson  
Legislative Counsel  
900 Court St. NE S101  
Salem, Oregon 97301

Re: Commission Advisory Opinion 22-248A

Dear Mr. Johnson:

At its December 16, 2022 meeting, the Oregon Government Ethics Commission (Commission) adopted the following advisory opinion in response to the request set forth in your letter to the Commission dated October 7, 2022. The Commission extended the 60-day period for this commission advisory opinion, as authorized by ORS 244.280(2).

### **OREGON GOVERNMENT ETHICS COMMISSION ADVISORY OPINION NO. 22-248A**

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

The following factual information is derived from your request letter and additional background information provided by you.

The Legislative Assembly employs hundreds of individuals to support the 90 elected officials (members) of the Legislative Assembly. While the Legislative Assembly employs mostly nonpartisan staff, the members of the Legislative Assembly also employ partisan staff to serve as legislative staff for an individual member (Member Office Staff). Employees in these offices are hired, supervised, and fired by the legislator who appointed them, and these employees are paid with public moneys allocated to each legislator by the Legislative Assembly.

Within each chamber of the Legislative Assembly, the legislators of each major political party elect a legislator to serve as the head of the party's caucus. Each elected caucus leader also serves as the appointing authority responsible for hiring, supervising, and firing the partisan staff of the caucus office (Caucus Office Staff).



Each chamber of the Legislative Assembly also elects a legislator as leader for that chamber, i.e., the Speaker of the House of Representatives and the President of the Senate. In addition to serving as the appointing authority for Member Office Staff, the Speaker and the President each also serve as the appointing authority responsible for hiring, supervising, and firing employees in their respective leadership offices (Leadership Office Staff). Thus, under current legislative rules, each member of the Legislative Assembly is the appointing authority for Member Office Staff, while a legislator who is serving as a Caucus Leader or Presiding Officer has the additional responsibility of supervising Caucus Office Staff or Leadership Office Staff.

Prior to 2007, there were no express nepotism restrictions in ORS Chapter 244. In 2007, the Legislative Assembly enacted House Bill 2595 (2007), which included new provisions of law that are now codified as ORS 244.177 and ORS 244.179. These laws generally prohibit all public officials from being involved in the hiring or supervision of a relative or member of the household. Both statutes provide exceptions for members of the Legislative Assembly. These exceptions provide that a member of the Legislative Assembly may be involved in the hiring or direct supervision of a relative or member of the household who serves on the member's personal legislative staff. [ORS 244.177(2) and ORS 244.179(2)].

The phrase "personal legislative staff" is not defined in statute or in any Administrative Rules adopted by the Commission. The request for an opinion explains that, ever since the passage of House Bill 2595 (2007), the Legislative Assembly has interpreted the phrase "personal legislative staff" to include all partisan legislative staff for whom the legislator serves as the sole appointing authority pursuant to legislative rule. For most members of the Legislative Assembly, this would be limited to their Member Office Staff. For the caucus leaders and presiding officers, it would also include Caucus Office Staff and Leadership Office Staff. As the request for an opinion explains, the Legislative Assembly's interpretation of the exceptions set forth in ORS 244.177 and ORS 244.179, including the term "personal legislative staff of the member of the Legislative Assembly", is reflected in the Legislative Branch Personnel Rule (LBPR) 24, which states that the legislatively created, nepotism-related limitations in the rule "[do] not apply to members of the Legislative Assembly, personal staff, leadership office staff or caucus office staff."

Thus, according to the request for an opinion, after the nepotism provisions were passed in 2007, caucus leaders and presiding officers continued to hire and supervise family members who were employed as Caucus Office Staff or Leadership Office



Staff. More recently, questions have arisen regarding the scope of the nepotism exceptions for legislators -- specifically, whether "personal legislative staff of the member of the Legislative Assembly," as that phrase is used in ORS 244.177 and ORS 244.179, extends to Caucus Office Staff or Leadership Office Staff.

## LEGAL BACKGROUND

Members of the Legislative Assembly are public officials, as defined in ORS 244.020(15), and are subject to the Government Ethics law in ORS Chapter 244.

ORS 244.020(11) defines "member of the household" to mean any person who resides with the public official or candidate.

ORS 244.020(16) defines "relative" to mean the spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of a public official or candidate; the parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse of the public official or candidate; any individual for whom the public official or candidate has a legal support obligation; any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment; or any individual from whom the candidate receives benefits arising from that individual's employment. [ORS 244.020(16)(a) to (e)]

ORS 244.177(1)(a) provides that a public official may not appoint, employ or promote a relative or member of the household to, or discharge, fire or demote a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control, unless the public official complies with the conflict of interest requirements of this chapter.

ORS 244.120(1)(a) provides that, when met with a conflict of interest, a member of the Legislative Assembly must publicly announce, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official.

ORS 244.177(1)(b) provides that a public official may not participate as a public official in any interview, discussion or debate regarding the appointment, employment or promotion of a relative or member of the household to, or the discharge, firing or demotion of a relative or member of the household from, a position with the public

body that the public official serves or over which the public official exercises jurisdiction or control.

ORS 244.177(2) states that a member of the Legislative Assembly may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position on the personal legislative staff of the member of the Legislative Assembly.

ORS 244.179(1) states except as provided in subsections (2) to (4) of this section, a public official acting in an official capacity may not directly supervise a person who is a relative or member of the household.

ORS 244.179(2) states that a member of the Legislative Assembly may directly supervise a person who is a relative or member of the household, and who serves as a public official in a position on the personal legislative staff of the member of the Legislative Assembly.

### **QUESTION PRESENTED**

Question: If a member of the Legislative Assembly serves as a Caucus Leader or Presiding Officer, do the nepotism exceptions for “the personal staff of the member of the Legislative Assembly” set forth in ORS 244.177(2) and 244.179(2) permit the legislator to hire and supervise a family member or member of the legislator’s household on the relevant Caucus Office Staff or Leadership Office Staff?

Short Answer: No, the exception for “the personal staff of the member of the Legislative Assembly” does not apply to Caucus Office Staff or Leadership Office Staff.

### **ANSWER AND ANALYSIS**

Initially, we wish to clarify that the Oregon Government Ethics Commission cannot opine on events or actions that have already occurred; thus, this Opinion will not address any prior actions, but will instead focus on how ORS 244.177 and 244.179 would apply prospectively to the circumstances presented.

Ordinarily, public officials are prohibited from participating in the hiring or direct supervision of their relatives or household members as paid employees of their public body. [ORS 244.177(1) and ORS 244.179(1)]. As you noted, these statutes include express exceptions for members of the Legislative Assembly. ORS 244.177(2) and ORS 244.179(2) allow a member of the Legislative Assembly to hire and supervise a member of the household or relative on that legislator's personal legislative staff.

The question raised here is whether the term "personal legislative staff" means only the legislators' Member Office Staff, or whether it also includes Caucus Office Staff and Leadership Office Staff. That determination is necessary to know whether the nepotism exceptions in ORS 244.177(2) and ORS 244.179(2) would also apply to members of the Legislative Assembly hiring or supervising relatives or household members for the Caucus Office Staff and Leadership Office Staff. As the Oregon Supreme Court has explained, the primary goal in interpreting statutes is to determine the intent of the legislature at the time it enacted the statute. *Matter of Compensation of Ward*, 369 Or 384 (2022), citing *State v. Gaines*, 346 Or 160, 171 (2009). To determine that intent, a court will look to the text, context and any helpful legislative history, while recognizing that there is no more persuasive evidence of legislative intent than the statutory language employed. *Id.*

When the Legislative Assembly does not specifically define a term of common usage, a court will "generally assume that the legislature intended to use the term in a manner consistent with its 'plain, natural, and ordinary meaning,' and [will] often consult dictionaries for guidance in determining what the legislature would have understood a term to mean." *Kinzuna Resources, LLC v. DEQ*, 366 Or 674, 681(2020), citing *Coos Waterkeeper v. Port of Coos Bay Oregon*, 363 Or 354, 363 (2018). Here the use of the term "personal" preceding "legislative staff" has a plain, unambiguous meaning that connotes belonging to a particular legislator. Webster's Third New International Dictionary defines the term "personal," in part, as "1 : of or relating to a particular person : affecting one individual or each of many individuals \* \* \* 6 : exclusively for a given individual...." This suggests that the term "personal legislative staff" refers to the legislative staff relating to, or working exclusively for, each of the 90 individual legislators, i.e., Member Office Staff.

Your request indicates that the Legislative Assembly has interpreted the term "personal legislative staff" to apply to all partisan legislative staff for whom the legislator serves as the sole appointing authority, responsible for the employees' hiring, supervising, and firing. This reasoning suggests that because the Caucus

leaders, the Speaker of the House, and the President of the Senate all serve as the appointing authority responsible for hiring, supervising, and firing employees in their respective Caucus and Leadership Offices, the Caucus Office Staff and Leadership Office Staff would qualify as “personal legislative staff” of those legislators serving as their respective appointing authority.

The challenge with that argument is that it appears to stretch the meaning of “personal” beyond its plain, natural, and ordinary meaning. Caucus Leaders and Presiding Officers can change and when they do, the authority over staff changes along with the holder of the leadership office. As a consequence, the argument would have to be that the staff of those offices is “personal” to whichever member of the Legislative Assembly holds the office of Caucus Leader or Presiding Officer. The statute, however, describes the “personal legislative staff of the member of the Legislative Assembly,” suggesting that the staff must be “personal” to the legislator *in their capacity* as a member of the Legislative Assembly and not, for example, in their capacity as a holder of a leadership position. Put differently, Caucus Office Staff and Leadership Office Staff do not appear to be personal staff to the member of the Legislative Assembly, as a “member of the Legislative Assembly.”

Although the current interpretation of Legislative Branch Personnel Rules (LBPR) may not be directly relevant to understanding the intent of the 2007 Legislative Assembly that adopted ORS 244.177 and ORS 244.179, we note the rules would appear to support the conclusion that “personal legislative staff” is limited to Member Officer Staff. That is, while LBPR 24 “does not apply to members of the Legislative Assembly, personal staff, leadership office staff or caucus office staff” – in creating this exception, the rule expressly describes “personal staff” as a class of staff that is different than “leadership office staff or caucus office staff.” See *also* LBPR 5 (same); LBPR 32 (same). This differentiation is consistent with the applicable definition of “personal staff” in LBPR 2: “‘Personal staff’ means an employee working directly for a legislative member and paid from the member’s services and supply budget.” While legislative rules do exclude Caucus Office Staff and Leadership Office Staff from the scope of the legislatively created nepotism-related provisions of LBPR 24, the rules also very clearly distinguish Caucus Office Staff and Leadership Office Staff from “personal staff.” Thus, the current rules indicate that Member Office Staff are different from Caucus Office Staff and Leadership Office Staff, and that only Member Office Staff are paid from the individual member’s budget. Thus, on balance, the current rules support the conclusion that only Member Office Staff constitute the “personal legislative staff” of the legislator.

Were the intent to apply the term “personal legislative staff” beyond Member Office Staff, the legislature could have chosen different language to effectuate that intent. The Legislative Assembly has, on several occasions, adopted statutes that apply broadly to “legislative staff” or to “partisan legislative staff.” See, e.g., ORS 40.274(1)(b); ORS 173.915; ORS 173.921; ORS 173.927(1). Thus, although the Legislative Assembly knows how to adopt statutes applicable to “legislative staff” and “partisan legislative staff,” it chose the phrase “personal legislative staff of the member of the Legislative Assembly” in ORS 244.177(2) and ORS 244.179(2). Similarly, although the Legislative Assembly knows how to specifically describe Caucus and Leadership Office Staff – and exempt them nepotism-related rules of law based on that status – it did not do so in ORS 244.177 or ORS 244.179. See also ORS 243.696(3)(statutory provision applicable to “presiding officers” and “the majority and minority party caucus leaders of the Senate and House of Representatives.”) Ultimately, then, the text and context of ORS 244.177 and ORS 244.179 suggest that the “personal legislative staff of the member of the Legislative Assembly” does not include Caucus Office Staff or Leadership Office Staff.

ORS 174.010 explains that the goal of statutory construction is to “ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted.” Here, the exceptions in ORS 244.177(2) and ORS 244.179(2) expressly permit legislators to hire or directly supervise their relatives or household members in positions on their “personal legislative staff.” The statutes say nothing about hiring or supervising relatives or household members in positions outside their personal legislative staff, such as Caucus Office Staff or Leadership Office Staff.

Your request addresses the legislative history of the term “personal legislative staff” in Footnote 2. You point out that the contents of House Bill 2595 (2007) were based on draft legislation and a report provided by the Oregon Law Commission (OLC). The OLC report noted “the high level of personal trust, confidence, and confidentiality expected of personal legislative staff” as “persuasive as to the practical necessity, if not the desirability, of continuing to allow members of the Legislative Assembly to hire relatives to serve on their personal staffs.”

You assert that the OLC report “does not appear to suggest that the OLC’s recommendations were intended to limit or in any way alter the historic practice of allowing members of the Legislative Assembly who serve in leadership roles to employ relatives in caucus offices or in the offices of presiding officers.”

Although the OLC report describes the rationale for the adoption of the exception for legislators, it does not appear to illuminate its scope. Instead, the statements and recommendations in the OLC report are consistent with the conclusion the Commission draws from the text and context of ORS 244.177 and ORS 244.179: that the “personal legislative staff of the member of the Legislative Assembly” is limited to Member Office Staff.

Accordingly, the Commission construes the term “personal legislative staff of the member of the Legislative Assembly” to apply exclusively to the legislators’ Member Office Staff, and not to Caucus Office Staff or Leadership Office Staff.

That does not, however, fully resolve the matter. The Commission recognizes that the state and federal constitutions may have a role to play in this matter. See also ORS 244.260(3) (“...If the person who is the subject of the [complaint or own motion] is a member of the Legislative Assembly, the executive director [of the Commission] shall determine whether the alleged violation involves conduct protected by Article IV, section 9, of the Oregon Constitution”). The doctrine of legislative immunity, codified in the respective Speech and Debate clauses, provides jurisdictional and testimonial privileges that relate to those legislative acts that are “clearly a part of the legislative process – the due functioning of that process.” See *State v. Babson*, 355 Or 383, 423 (2014), quoting *U.S. v. Brewster*, 408 US 501, 515-516 (1972) (emphasis deleted). In the employment context, federal courts have been reluctant to interpret legislative immunity to bar discrimination lawsuits, unless the suit implicates or relies on a protected legislative act or the motivation for a protected legislative act. See, e.g., *Bastien v. Office of Senator Ben Nighthorse Campbell*, 390 F. 3d 1301, 1315 (10<sup>th</sup> Cir. 2004)(citation omitted)(allowing age discrimination complaint to proceed where “the alleged discriminatory acts by the Senator were not legislative acts. No official Senate action, such as a vote or subpoena, was involved. None of the Senator’s alleged misconduct took place ‘in either House’ of Congress.”) See also *Id.* at 1318 (“A personnel decision is not a ‘legislative act,’ as defined by the Supreme Court, and is therefore not entitled to immunity. The Speech or Debate Clause therefore provides protections only if legislative acts must be proved to establish the claim challenging the personnel action.”). *Fields v. Office of Eddie Bernice Johnson*, 459 F. 3d 1 (D.C. Cir. 2006) (allowing complaints to proceed based on allegations of racial, gender and disability-related discrimination, because it wasn’t “necessary to inquire into how the Member spoke, how he debated, how he voted, or anything he did in the chamber or committee in order to make out a violation.”).

Here, a similar result likely obtains; neither proof that the person is a “relative” or “member of the household,” nor of the employment actions described in the statute, necessarily requires an inquiry into or examination of a protected legislative act or the rational for a protected legislative act. As a consequence, the Commission does not perceive a constitutional bar to enforcing ORS 244.177 or ORS 244.179, consistent with the intent of the Legislative Assembly that enacted those statutes.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT ETHICS COMMISSION PURSUANT TO ORS 244.280. EXCEPT AS OTHERWISE PROVIDED IN CHAPTER 244, THE COMMISSION MAY NOT IMPOSE A PENALTY UNDER ORS 244.350 OR 244.360 FOR ANY GOOD FAITH ACTION OR TRANSACTION TAKEN IN RELIANCE ON THIS ADVISORY 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 \_\_ day of December 2022

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David M. Fiskum, Chairperson  
Oregon Government Ethics Commission

REVIEWED BY:

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Joshua Nasbe, Assistant Attorney General







# Oregon

Kate Brown, Governor

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November 30, 2022

Sent via email and USPS

Dexter A. Johnson, Legislative Counsel  
State of Oregon Legislative Counsel Committee  
900 Court St. NE S101  
Salem, Oregon 97301-4065

Re: Staff Advisory Opinion 22-296S

Dear Mr. Johnson:

This staff advisory opinion is provided in response to your request received on November 7, 2022 which presented a question regarding the application of the laws in ORS Chapter 244. This staff advisory opinion is issued pursuant to ORS 244.282.

### **OREGON GOVERNMENT ETHICS COMMISSION STAFF ADVISORY OPINION NO. 22-296S**

**STATED FACTS:** The Senate President for the Oregon Legislative Assembly is retiring. Members of the Legislative Assembly, as well as multiple individuals who qualify as lobbyists, as defined in ORS 171.725(9), would like to host a retirement party for the Senate President to celebrate his career in public service. The retirement party will be held on or about December 13, 2022, while the Senate President is still a public official. It will be held at the Salem YMCA, which is allowing the use of the venue free of charge. The retirement party will be open to the general public, and it is anticipated that several hundred individuals will attend the retirement party, some of whom will be legislators or other public officials, but many of whom will not be public officials.

The costs of hosting the retirement party will be paid by members of the Legislative Assembly and multiple registered lobbyists. Members the Legislative Assembly will be asked to donate \$100 each toward the costs of hosting the retirement party. The costs of hosting the retirement party will initially be paid by a single registered lobbyist, who will then be reimbursed on a pro-rata basis from donations to the retirement party made by other registered lobbyists. It is possible that each participating registered lobbyist could donate several hundred dollars toward the costs of the retirement party. The moneys collected from the lobbyists and legislators would be used exclusively to host the retirement party – decorating the venue and purchasing food and drink. Thus, all of the moneys collected will be utilized to host, decorate and provide refreshments for a retirement party that is open to the general public.



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

**ORS 244.020(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.

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

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

**ORS 171.725(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.

**ORS 171.745(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.

**QUESTIONS:** You have asked whether Oregon's Government Ethics laws would permit hosting a retirement party in the manner described, or whether either the gift limit set forth in ORS 244.025 or any other provision in ORS Chapter 244 would prohibit hosting the retirement party in this manner.

**ANSWERS AND ANALYSIS:** The laws in ORS Chapter 244 do not prohibit hosting a retirement party in the manner described. Neither the Senate President nor the other public officials attending the retirement party would be in violation of any of the Oregon

Government Ethics laws in attending the party or accepting the food and beverages at the retirement party. The lobbyists and client who contribute to the costs of the retirement party will, however, be required to include their contributions in their quarterly expenditure reports.

ORS 244.025(1) provides that a public official may not solicit or receive a gift or gifts valued in excess of \$50 per calendar year from a source that could have a legislative or administrative interest in the public official's decisions or votes. The prohibition in ORS 244.025(1) only applies if what is solicited or received qualifies as a gift.

A "gift" is something of economic value given to a public official or candidate, or to their relatives or members of their households, without valuable consideration of equivalent value or for valuable consideration less than is required from others who are not public officials or candidates, and which is not extended to others who are not public officials or candidates, or their relatives or members of their households, on the same terms and conditions. [ORS 244.020(7)(a)].

In the circumstances described, the retirement party and the food and beverages provided at the party do not qualify as gifts, either to the Senate President or any of the other public officials in attendance. The retirement party is open to the public and it is expected that in addition to members of the Legislative Assembly, the attendees will include hundreds of individuals who may not be public officials. Because the party, food and beverages will be extended to others who are not public officials on the same terms and conditions, these items do not qualify as gifts under the definition in ORS 244.020(7)(a).

The other provision in ORS Chapter 244 which could apply in these circumstances is ORS 244.040(1) which provides that a public official may not use or attempt to use their position or office to obtain a financial gain or avoid a financial detriment, for themselves, their relatives or household members, or any of their businesses, if the opportunity for that financial gain or avoidance of detriment would not otherwise be available to them but for the fact that they hold their public official position or office.

As noted above, the retirement party, food and beverages are excluded from the definition of gift because they are offered to persons who are not public officials on the same terms and conditions. Because these items are made available to the public, the public officials attending the party would not be gaining a financial benefit or avoiding a financial detriment that would not otherwise be available to them but for their holding their public offices or positions.

Accordingly, the retirement party that you have described would not violate any of the provisions in ORS Chapter 244. The Commission does advise, however, that the lobbyists who contribute to the event, along with the client (the Salem YMCA) that is

Dexter Johnson  
Staff Advisory Opinion No. 22-296S  
November 30, 2022  
Page 4

providing the venue, will need to report the contributions on their lobbyist quarterly expenditure reports and client quarterly expenditure report.

The definition of "lobbying" in ORS 171.725(8) includes "attempting to obtain the goodwill of legislative officials." By contributing to and hosting the retirement party for the Senate President, the registered lobbyists and the Salem YMCA would likely be attempting to obtain the goodwill of legislative officials. Therefore, their contributions would qualify as expenditures for the purpose of lobbying.

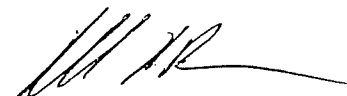
In accordance with ORS 171.745(1), registered lobbyists are required to include on their quarterly expenditure reports the total amount of money spent during the reporting period for food, refreshments, and entertainment for the purpose of lobbying. [ORS 171.745(1)(a)]. Thus, each contributing lobbyist will need to include their contribution toward the cost of the retirement party in the calculation of their total expenditures.

Finally, you indicate that the Salem YMCA is providing the venue for the retirement party free of charge. The Salem YMCA is a registered lobbyist client. Per ORS 171.750(1), the Salem YMCA would need to include its costs of hosting this event in its quarterly lobbyist client expenditure report. It would include the cost in its calculation of total expenditures spent for the purpose of lobbying, per ORS 171.750(1)(a).

**THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS Chapter 244 and ORS 171.725 to ORS 171.785 TO THE FACTS STATED HEREIN. ANY RELEVANT INFORMATION, WHICH WAS NOT INCLUDED BY THE REQUESTER OF THIS OPINION IN THE STATED FACTS, COULD COMPLETELY CHANGE THE OUTCOME OF THIS OPINION. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. THIS OPINION DOES NOT EXEMPT A PUBLIC OFFICIAL FROM LIABILITY UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS ISSUED PURSUANT TO ORS 244.282 AND IS ONLY MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT ETHICS COMMISSION.**

Please contact this office again if you would like this opinion submitted to the Oregon Government Ethics Commission for adoption as a formal advisory opinion pursuant to ORS 244.280.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/sm



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1680

Telephone: 503-378-5105

Fax: 503-373-1456

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

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

November 16, 2022

Sent via e-mail and USPS

Forest Service – Pacific Northwest Region  
ATTN: Dan Shively, Director, Natural Resources  
1220 SW 3<sup>rd</sup> Avenue  
Portland, Oregon 97204

Re: Advice Number 22-274I

Dear Mr. Shively:

This letter of advice is provided in response to your request, received on November 8, 2022, for guidance on how the provisions of Oregon Government Ethics law may apply to your situation as a non-voting member of the Oregon Watershed Enhancement Board (OWEB) in light of your brother's position as the Executive Director of the Nestucca, Neskowin, and Sand Lake Watershed Council (NNSWC). 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.

Per the information supplied, you indicate that you are a non-voting board member of the OWEB, and your brother was recently hired as the Executive Director of the NNSWC. In your inquiry, you ask if your service as an advisory/non-voting member of the OWEB, while your brother serves as the Executive Director of the NNSWC, would violate any of the provisions in ORS Chapter 244.

You are a public official due to holding your public position as an OWEB board member and thus subject to compliance with Oregon Government Ethics Law in ORS Chapter 244, including the two provisions discussed below – conflicts of interest and prohibited use of position.

First, we recognize that your brother is your relative, as that term is defined in ORS 244.020(16)(a).

Second, we examine whether either the OWEB or the NNSWC are businesses with which you or your relative are associated. To determine if an entity is a business with which you or your relative are associated, you must first determine if it is a business as defined in ORS 244.020(2). "Business" means any corporation, partnership, proprietorship, firm,



Dan Shively, Director, Natural Resources  
Advice No. 22-2741  
November 16, 2022  
Page 2

enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity. [ORS 244.020(2)]. Notably, "business" does not include governmental entities, as they are not operated for economic gain.

Based on the information received, neither OWEB nor NNSWC meets the definition of a "business" in ORS 244.020(2). As governmental entities, neither OWEB or NNSWC is operated for economic gain and therefore they are not considered businesses. Because NNSWC is not a business, it cannot be a "business with which your relative is associated" for purposes of application of Oregon Government Ethics law.

#### Conflicts of Interest

ORS 244.020(1) defines an actual conflict of interest and ORS 244.020(13) defines a potential conflict of interest. A public official is met with either an actual or potential conflict of interest when participating in an official capacity in any action, decision, or recommendation, if the effect would be (actual conflict of interest) or could be (potential conflict of interest) to the private financial benefit or detriment of the public official, their relatives, or any business with which either are associated.

ORS 244.120 directs public officials how to resolve a conflict of interest, depending on the type of public position they hold. A public official who is appointed to a board or commission, such as yourself, is required to announce publicly the nature of the conflict of interest. If it is a potential conflict of interest, the public official may continue to participate and vote after making the public announcement. If it is an actual conflict of interest, after making the public announcement, the public official must refrain from participating in any discussion or debate and from voting on the issue/matter giving rise to their conflict of interest. [ORS 244.120(2)]

#### Prohibited Use of Official Position

ORS 244.040(1) prohibits a public official from using or attempting to use their official position to obtain a financial gain for themselves, a relative or household member, or a business with which they or their relative or household member are associated if the financial gain would not otherwise be available but for holding their official position. This prohibition applies regardless of whether a conflict of interest is disclosed. [ORS 244.040(8)]

To summarize, the mere fact that you are a non-voting member of the OWEB, and your brother is the Executive Director of the NNSWC does not constitute a statutory conflict of interest for you nor does it create a prohibited use of position violation. Because the NNSWC is not a business with which you or your relative are associated, any actions you

Dan Shively, Director, Natural Resources  
Advice No. 22-2741  
November 16, 2022  
Page 3

take in your role as a non-voting member of the OWEB that would or could financially impact the NNSWC would not violate either the conflict of interest or prohibited use of office statutes.

That said, we would caution that any action, on your part, as an OWEB advisory member that would or could result in a personal financial impact to you or your brother could result in a different conclusion.

If you have any additional questions regarding this guidance or the application of Oregon Government Ethics law, please feel free to contact me directly.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/mjw

**\*\*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.





## WALKER Monica \* OGEC

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**From:** WALKER Monica \* OGEC  
**Sent:** Wednesday, November 16, 2022 11:27 AM  
**To:** WALKER Monica \* OGEC  
**Subject:** Link to the Ethics Commission

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**From:** Shively, Daniel - FS <daniel.shively@usda.gov>  
**Sent:** Tuesday, November 08, 2022 8:42 AM  
**To:** OGEC Mail \* OGEC <OGEC.Mail@ogec.oregon.gov>  
**Cc:** CHARPILLOZ-HANSON Lisa \* OWEB <Lisa.CHARPILLOZ-HANSON@oweb.oregon.gov>  
**Subject:** FW: Link to the Ethics Commission

Good Morning,

I phoned OGEC and left a vm since no one picked up; however, will follow-up here by way of email as well.

I have been serving as the USDA Forest Service non-voting board member to the Oregon Watershed Enhancement Board. I learned recently that my brother (David Shively) who had been living in Montana moved to Oregon and took up a position as the Executive Director of the Nestucca, Neskowin, and Sand Lake Watersheds Council. While I am a non-voting member to the board given I'm a federal government representative, both Lisa Charpilloz-Hanson (OWEB Director) and I felt it would be good measure to run this by the OGEC for an ethics review.

Please let me know what the process is to complete an ethics review regarding my situation.

Thanks much,

Dan



Dan Shively (*he/him*)  
Director, Natural Resources  
Forest Service  
Pacific Northwest Region  
p: 503-808-2955  
c: 202-680-8842  
[daniel.shively@usda.gov](mailto:daniel.shively@usda.gov)

1220 SW 3rd Ave  
Portland, OR 97204  
[www.fs.fed.us](http://www.fs.fed.us)



Caring for the land and serving people

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**From:** CHARPILLOZ-HANSON Lisa \* OWEB <Lisa.CHARPILLOZ-HANSON@oweb.oregon.gov>  
**Sent:** Friday, October 21, 2022 12:03 PM  
**To:** Shively, Daniel - FS <daniel.shively@usda.gov>  
**Subject:** Link to the Ethics Commission

Dan,

Happy Friday!

Here is the link to the Oregon Ethics Commission. [Oregon Government Ethics Commission : Welcome Page : State of Oregon](#)

Please keep me posted on your conversations.

Lisa

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1680

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Fax: 503-373-1456

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

December 5, 2022

Sent via e-mail and USPS

Evan P. Boone, City Attorney Pro Tem  
City of Lake Oswego  
380 A Avenue, P.O. Box 369  
Lake Oswego, Oregon 97034

Re: Advice Number 22-2971

Dear Mr. Boone:

This letter of advice is provided in response to your request, received on November 17, 2022, for guidance on how members of the City Council can amend the City Code relating to the basis of calculation for their own expense stipends within the parameters of Oregon Government Ethics law. The 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.

By city code, the members of the Lake Oswego City Council receive a monthly expense stipend. The stipend is currently indexed to the Portland Area Consumer Price Index (CPI). The City Code (12.02.060) provides as follows:

Pursuant to Lake Oswego Charter Chapter III Section 13, each member of the City Council shall receive the following allowance for expenses incidental to service on the Council: The Mayor shall receive \$447.74 [updated 2021] per month and each Councilor shall receive \$198.95 [updated 2021] per month. Once per calendar year following April 16, 1985, this amount shall be adjusted pursuant to and at the beginning of the first city payroll period following the publication of the annual increase or decrease in the Consumer Price Index for the Portland Area – All Consumers (1983-84 = 100) (CPI). The adjustment shall become effective as of the first of the month following publication of the annual CPI adjustment. Following any adjustment, the City Recorder shall update the Lake Oswego Code by adjusting the allowance amounts set forth in this subsection to reflect any CPI adjustment.

You have explained that the Portland Area CPI is no longer published by the US Bureau of Labor Statistics. City staff have, therefore, proposed amending the code provision to use the amounts published in the CPI Western Region Size B/C as of the prior year end. Staff have identified this CPI as the closest analogy to the Portland Area CPI. The CPI Western Region is published monthly, so it would be possible to establish a fixed date of July 1 for the effective date of annual expense adjustments.



You have asked whether the City Council members would be met with an actual conflict of interest if they vote to change in the CPI reference in the Code from the Portland Area CPI to the Western Region CPI. The Code provision already provides for the expense stipends to be adjusted according to the index. You also acknowledge that it is impossible to know whether the adjustment would be greater or lesser under the Western Region CPI as compared to the Portland Area CPI, but that it is reasonable to assume there would be some difference.

You also ask whether the councilors' vote would be permitted as a class exception under ORS 244.020(13)(b) because all councilors (but not the mayor) would be affected to the same degree as the other councilors. Finally, you ask whether the rule of necessity would apply because it is only the Council that can vote for adoption of the Code amendment.

#### Conflict of Interest and Prohibited Use of Office

A conflict of interest arises when a public official takes any action, or makes any decision or recommendation, the effect of which could be (potential conflict of interest) or would be (actual conflict of interest) to the private financial benefit or detriment of the public official, a relative, or a business with which the public official or relative is associated. [ORS 244.020(1) and (13)].

The class exception in ORS 244.020(13)(b) provides that if the public official's conflict of interest arises out of an action taken in their official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group, including one of which they are a member, then the official may not have a conflict of interest or need to make any conflict disclosure.

When met with a conflict of interest, an elected public official, such as the Mayor and City Councilors, must publicly announce the nature of their conflict of interest. Then, if it is a potential conflict of interest, after making the public announcement, they may continue to participate and vote. If it is an actual conflict of interest, after making the public announcement, they must refrain from any participating in the matter giving rise to their conflict. If the public official has an actual conflict of interest, but their vote is necessary to meet a minimum number of votes required for official action, after making the public announcement, the public official may be eligible to vote, but may not participate in any discussion or debate on the matter. [ORS 244.120(2)].

Finally, ORS 244.040(1) prohibits public officials from using or attempting to use their positions to obtain financial gains for themselves, their relatives or their businesses if the opportunity for those financial gains/avoidance of detriment would not otherwise be available but for their holding their official positions. ORS 244.040(2)(a) provides an exception, allowing a public official to accept any part of an official compensation package, as defined in OAR 199-008-0005(3).

Analysis

To begin with, I have attached several opinions and advice letters that the Commission has previously issued on similar matters. The first is a 2014 Staff Advisory Opinion, No. 14-S002, addressing Board members of a People's Utility District wanting to adopt a monthly stipend for Board members (the Stokes opinion). The second is a 2020 Letter of Advice, No. 20-1671, addressing City Councilors wanting to extend workers' compensation coverage to themselves. The third is informal e-mail advice in 2021 regarding how members of the Bend City Council could amend their official compensation packages. The last is a 2019 Letter of Advice, No. 19-2301, addressing the minimum votes exception in ORS 244.120(2)(b)(B).

As you noted in your request, the existing Code provision already provides that the expense stipends will be adjusted. It appears, however, that changing the CPI index used for those adjustments would have a certain financial impact on the expense stipends for the Mayor and Councilors. Thus, they would be met with an actual conflict of interest when adopting the Code amendment.

You have asked whether the class exception in ORS 244.020(13)(b) could apply in this situation. The class exception applies when a public official's conflict of interest arises out of an official action that would affect to the same degree all members of a class to which they belong. If the class exception applies, then the public official member of the class may not have a conflict of interest or need to make a conflict disclosure.

As explained in the Stokes opinion, No. 14-S002, the Commission has previously issued opinions identifying classes whose members would all be affected to the same degree by the actions or votes of the public officials who were members of the classes. In each of these prior opinions, the public official was determined to be a member of a class *distinct from* their official position. The Commission has never identified the governing body of a public body *itself* to constitute a class. Thus, the class exception would not apply in this situation.

You have also asked whether the rule of necessity would apply to permit the Mayor and Councilors to vote on, but not discuss or debate, the Code amendments. The term "rule of necessity" does not appear anywhere in ORS Chapter 244. It appears you may be asking about the minimum votes exception in ORS 244.120(2)(b)(B), which provides that if a public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, after making the required public announcement of their conflict of interest, the public official may be eligible to vote, but may not participate in any discussion or debate on the issue out of which their actual conflict of interest arises. As noted above, the Swanson Letter of Advice, No. 19-2301, provides guidance on applying the minimum votes exception in ORS 244.120(2)(b)(B).

In this situation, the Mayor and Councilors would have actual conflicts of interest, requiring them each to make a public announcement of the nature of their conflict of interest and then refrain from participating in any discussion or vote on the matter. Because they all have

Evan Boone  
Advice No. 22-2971  
Page 4

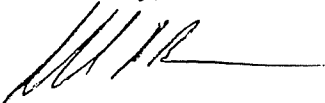
actual conflicts of interest, the minimum votes exception could permit some of them (only those needed to meet the minimum required number of votes) to vote, but none of them could discuss or debate the code amendment.

Importantly, the minimum votes exception only applies to conflicts of interest; it does not resolve the prohibited use of office issues. Per ORS 244.040(1), the Mayor and Councilors are prohibited from taking any action to grant themselves a financial benefit. The prohibited use of office statute prohibits public officials from using or attempting to use their positions to obtain a financial gain or avoid a financial detriment if they would not otherwise have the opportunity to do so but for holding their official positions. In this case, adoption of the Code amendment would provide a certain financial benefit that they would not have the opportunity to obtain but for their holding their positions on the City Council. ORS 244.040(2)(a) provides an exception, allowing the Mayor and Councilors to accept the expense stipends as part of their official compensation packages. Changes to their official compensation packages, such as through the proposed Code amendment, would require the Council to take official action, giving rise to a potential violation of ORS 244.040(1).

A possible resolution to this problem is discussed in the enclosed opinions and advice. The Mayor and Councilors are statutorily prohibited under ORS 244.040(1) from granting themselves a financial benefit, but they are not prohibited from participating in granting such a benefit to future public officials who hold their positions. Thus, they could adopt the Code amendment but require that any changes in the amounts of the expense stipends only go into effect after an intervening election for each of their positions, meaning that until the intervening election, their expense stipends would remain at the current amount.

If you have any additional questions regarding this guidance or the application of Oregon Government Ethics law, please feel free to contact me directly.

Sincerely,



Ronald A. Bersin  
Executive Director

Enclosures

RAB/sm

**\*\*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.

# Trainers' Report

December 16, 2022

## Trainings Completed

November 4, 2022 – December 16, 2022

Topic(s)	Public Body	Location
ORS 244	Oregon Metro	Online
ORS 244	Oregon Health Authority- OAC Members Measure 110	Online
ORS 244	Oregon School Board Association	Portland
ORS 244	Association of Oregon Counties New Commissioners	Eugene
ORS 244	Oregon Dept. of Education Executive Team	Online
ORS 244	Tonkon Torp	Portland
ORS 244	Travel Information Council	Online
ORS 244	Columbia River Gorge Commission	Online
ORS 244	OGEC New Commissioners	Online

Monthly Webinars		
ORS 244	New Employee – November, December	Online
ORS 244	Use of Office/Conflicts of Interest – November	Online
ORS 244	Gifts - November	Online
ORS 244	Jurisdictional Contacts - December (November Canceled)	Online
ORS 192	Executive Sessions- December (November Canceled)	Online
ORS 171	Lobby Law – November, December	Online

School District Jurisdictional Contact Training	
November 9, 2022	Online
November 18, 2022	Online
November 22, 2022	Online

November 30, 2022	Online
December 5, 2022	Online
December 15, 2022	Online

## Training Highlights

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- Ron Bersin: Tonkon Torp Training
- Charlie has started delivering some training topics on his own
- SEI Trainings
  - Created a guide for School Board JC's
  - School District Jurisdictional Contact Trainings: Offering weekly November - January (76 of 178 trained as of 12/6)
  - Regular Jurisdiction Contact Trainings: six scheduled January - February
  - SEI Filer trainings: nine scheduled in February – April
  - School district JC social media posts
- Columbia River Commission training partnered with the Washington State Executive Ethics Board
- Granicus Update: Started process to setup our account, current goal is to have it ready to send out the 2023 Q1 newsletter

## Training Staff

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Charlie Esparza	503-378-8066	<a href="mailto:charles.esparza@ogec.oregon.gov">charles.esparza@ogec.oregon.gov</a>
Stephanie Heffner	503-378-6802	<a href="mailto:stephanie.heffner@ogec.oregon.gov">stephanie.heffner@ogec.oregon.gov</a>



## Executive Director's Report

December 16, 2022

- 2021-23 Budget
  - Surplus of \$297,718.45 as of November 1, 2022.
  - Used \$22,636 of surplus for upgrades to EFS to add school board members for the 2023 SEI as a part of 2022's HB4114.
  - Used part of Surplus to payout vacation for Director's retirement.
- 2023-25 Budget
  - Appealed Analyst's Recommended Budget which had denied all policy packages.
  - Waiting on Governor's Recommended Budget which should be out before January 31, 2023.
  - Expenditure limitation in 23-25 including policy packages (\$497,551) is \$3,939,327, with assessments of \$3,830,722, using \$108,605 savings from 21-23 biennial budget.
- SEI
  - Currently calling late filers to reduce penalty accruals for 2022.
  - All SEI filers have filed their 2022 SEI.
  - All general candidates have filed their 2022 candidate SEI and three primary candidates remain unfiled.
- Legislative Concepts
  - All three concepts have been approved and drafted for the legislative session.
  - Waiting on new Governor's approval.
- Other
  - Purchasing subscription to Gov Delivery/Granicus. Project has begun to implement.
  - Implemented updates to EFS for 2022's HB 4114, school board members filing SEIs. Training team is working to train all new jurisdictional contacts and filers.
  - Agency continues to use all resources to prevent the spread of COVID-19 to its employees. State offices are open since May 1, 2022. Employees continue to telework.
  - Susan attended annual COGEL conference in December.
  - Lobbyists and clients have all filed through Q2 2022. Q3 2022 all clients have filed, and 4 Lobbyists are unfiled.
  - Attended Training at Tonkon Torp. Participated on panel discussing transparency and preventing government corruption.

OREGON GOVERNMENT ETHICS COMMISSION  
 AY23 CASH FLOW  
 AS OF OCTOBER 2022 ACTUALS

	Appn 30000 - Admin - PCA 41501				Appn 70000 - GF - PCA 00501			
	Actuals To Date	Actuals + Projected	2021-2023 LAB	Variance	Actuals To Date	Actuals + Projected	2021-2023 LAB	Variance
<b>Beginning Cash Balance</b>	849,224.75	849,224.75	715,787.00	(49,100.00)	768,977.72	768,977.72		
<b>REVENUE</b>								
0415 ADMINISTRATIVE AND SERVICES CHARGES	3,065,963.31	3,475,963.31	3,050,688.00	(425,275.31)	86,107.09	164,107.09	30,000.00	(134,107.09)
0505 FINES AND FORFEITS			30,000.00	(200.00)				
0975 OTHER REVENUE	200.00	200.00						
<b>Total Revenue</b>	<b>3,066,163.31</b>	<b>3,476,163.31</b>	<b>3,747,375.00</b>	<b>(395,475.31)</b>	<b>86,107.09</b>	<b>164,107.09</b>	<b>30,000.00</b>	<b>(134,107.09)</b>
<b>TRANSFERS</b>								
2010 TRANSFER OUT TO OTHER FUNDS				0.00				0.00
1107 TRANSFER IN FROM DEPT OF ADMIN SVCS				(30,000.00)				0.00
<b>Total Transfers</b>				<b>(30,000.00)</b>				<b>0.00</b>
<b>Total Available Revenues</b>				<b>3,717,375.00</b>				<b>0.00</b>
<b>PERSONAL SERVICES</b>								
3110 CLASS/UNCLASS SALARY & PER DIEM	821,594.08	1,308,483.14	1,386,990.00	78,506.86				0.00
3160 TEMPORARY APPOINTMENTS			505.00	505.00				0.00
3170 OVERTIME PAYMENTS				0.00				0.00
3190 ALL OTHER DIFFERENTIAL				0.00				0.00
3210 ERB ASSESSMENT	288.00	441.60	522.00	80.40				0.00
3220 PUBLIC EMPLOYEES' RETIREMENT SYSTEM	144,367.45	236,426.22	234,399.00	(2,027.22)				0.00
3221 PENSION BOND CONTRIBUTION	42,379.19	69,348.68	72,611.00	3,262.32				0.00
3230 SOCIAL SECURITY TAX	62,529.43	99,557.45	106,143.00	6,585.55				0.00
3241 PAID LEAVE OREGON-EMPLOYER		1,392.34		(1,392.34)				0.00
3250 WORKERS' COMPENSATION ASSESSMENT	226.32	347.20	414.00	66.80				0.00
3260 MASS TRANSIT	4,905.06	7,826.39	8,325.00	498.61				0.00
3270 FLEXIBLE BENEFITS	172,072.21	269,509.46	344,088.00	74,578.54				0.00
3465 RECON ADJUSTMENT			(9,997.00)	(9,997.00)				0.00
<b>Total Personal Services</b>	<b>1,248,361.74</b>	<b>1,993,332.49</b>	<b>2,144,000.00</b>	<b>150,667.51</b>				<b>0.00</b>
<b>SERVICES AND SUPPLIES</b>								
4100 INSTATE TRAVEL	932.77	5,682.77	20,297.00	14,614.23				0.00
4125 OUT-OF-STATE TRAVEL				0.00				0.00
4150 EMPLOYEE TRAINING	4,129.68	6,329.68	7,665.00	1,335.32				0.00
4175 OFFICE EXPENSES	5,798.17	10,598.17	21,560.00	10,961.83				0.00
4200 TELECOM/TECH SVC AND SUPPLIES	18,909.61	29,059.61	20,270.00	(8,789.61)				0.00
4225 STATE GOVERNMENT SERVICE CHARGES	68,875.38	69,823.13	68,792.00	(1,031.13)				0.00
4250 DATA PROCESSING	50,882.90	115,776.84	110,682.00	(5,094.84)				0.00
4275 PUBLICITY & PUBLICATIONS	1,195.11	1,195.11		(1,195.11)				0.00
4300 PROFESSIONAL SERVICES	8,773.20	11,173.20	10,429.00	(744.20)				0.00
4315 IT PROFESSIONAL SERVICES	246,250.00	305,050.00	342,040.00	36,990.00				0.00
4325 ATTORNEY GENERAL LEGAL FEES	99,563.20	179,563.20	210,621.00	31,057.80				0.00
4375 EMPLOYEE RECRUITMENT & DEVELOPMENT	83.40	83.40	2,689.00	2,605.60				0.00
4400 DUES AND SUBSCRIPTIONS	445.00	445.00	487.00	42.00				0.00
4425 FACILITIES RENT & TAXES	64,858.28	96,517.15	102,303.00	5,785.84				0.00
4575 AGENCY PROGRAM RELATED SVCS & SUPP	838.96	1,318.96		(1,318.96)				0.00
4650 OTHER SERVICES AND SUPPLIES	177,486.15	184,086.15	242,764.00	58,677.85				0.00
4700 EXPENDABLE PROPERTY \$250-\$5000	1,665.06	2,065.06	8,236.00	6,170.94				0.00
4715 IT EXPENDABLE PROPERTY	3,016.62	3,016.62		(3,016.62)				0.00
<b>Total Services and Supplies</b>	<b>753,703.49</b>	<b>1,021,784.06</b>	<b>1,168,635.00</b>	<b>147,050.94</b>				<b>0.00</b>
5900 OTHER CAPITAL OUTLAY								
<b>TOTAL EXPENDITURES</b>	<b>2,002,065.23</b>	<b>3,015,116.55</b>	<b>3,312,835.00</b>	<b>297,718.45</b>				<b>0.00</b>
<b>Ending Cash Balance*</b>	<b>1,913,322.83</b>	<b>1,310,271.51</b>			<b>855,084.81</b>	<b>933,084.81</b>		

\*Outstanding Revenue Invoices not taken into consideration, See Appn Tabs