

**BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION**

In the Matter of )  
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James Raussen ) **FINAL ORDER BY DEFAULT**  
 ) **Case No. 16-152EMS**  
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The Oregon Government Ethics Commission (Commission) is the state agency responsible for enforcing Oregon Government Ethics Law contained in ORS Chapter 244 and the implementing rules in OAR Chapter 199.

Pursuant to ORS 244.260(6)(e), the Commission moved this case to a contested case proceeding by order on July 14, 2017. The Notice of the Commission action was sent via certified mail to Respondent's attorney on July 17, 2017. Respondent was advised that upon receipt of the Notice, which occurred on July 21, 2018, he had 21 days to submit a written request for a contested case proceeding. In the event of a default, the Commission designated all information in the Commission files on the matter shall become part of the record for purposes of establishing a prima facie case.

On August 7, 2017, Respondent, through his attorney, requested a hearing. An amended Notice of Proposed Civil Penalty was sent to Respondent's attorney on April 20, 2018. The matter was referred to the Office of Administrative Hearing on May 4, 2018 and a pre-hearing telephone conference was scheduled for June 22, 2018. On June 7, 2018, Respondent's attorney notified the Commission in writing of his withdrawal as counsel for Respondent, referenced the upcoming pre-hearing conference, and supplied Respondent's mailing and email address for future contact.

The pre-hearing telephone conference took place on June 22, 2018, with Senior Administrative Law Judge Jennifer Rackstraw presiding. The Commission was represented by Senior Assistant Attorney General Amy E. Alpaugh. Respondent failed

to attend the pre-hearing conference held on June 22, 2018, and no representative attended on his behalf. A second amended Notice of Proposed Civil Penalty was sent to Respondent on July 10, 2018 and a third amended Notice of Proposed Civil Penalty was sent to Respondent on August 27, 2018. Both notices were sent via first class certified mail to the Respondent at the mailing address supplied by Respondent's attorney at the time he withdrew as counsel.

A subsequent one-day telephone hearing was scheduled for 9:00am on September 18, 2018, to be followed by additional in-person hearing dates, as necessary. The notice to both parties issued by the Administrative Law Judge specified that if Respondent did not appear for the September 18, 2018 hearing, the Commission may issue a Final Order by Default, and Respondent would be liable for paying any civil penalty assessed therein. As scheduled, ALJ Rackstraw convened the telephone contested case hearing on September 18, 2018 at 9:00am. Respondent failed to appear. After 15 minutes elapsed, ALJ Rackstraw found that Respondent was in default. The Commission elects in this case to designate the record of proceedings to date, which consists of the Commission's file in the case as the record for purposes of proving a prima facie case pursuant to ORS 183.417(4). NOW THEREFORE, after considering the Commission's file relating to this matter, the Commission enters the following Order.

### **FINDINGS OF FACT**

Based on the evidence submitted through the Notice and the Commission's file in this matter, the Commission finds the following:

1. At all material times Respondent was Executive Director of the Oregon Educator Benefits Board (OEBB) and, as such, was a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.
- 2.1 OEBB is responsible for the design, purchase, and administration of benefit plans, including medical, dental, vision, life, disability, and long-term care insurance for Oregon educators and their dependents.

2.2 As Executive Director of OEGB, Respondent was responsible for, among other things:

- Working with leadership of contracted insurance providers to identify opportunities for program improvements;
- Negotiating and consulting as necessary on the major programmatic and fiscal elements of OEGB contracts with insurance providers;
- Working with OEGB independent consultants and staff to assess value and appropriateness of plans and programs available to OEGB members and making recommendations to the board for continuance or change of available plans;
- Implementing and coordinating the ongoing interaction with plan providers and the general health care and insurance industry where OEGB makes purchasing decisions;
- Preparing and administering OEGB budget, including fiscal controls and authorizing expenditures from OEGB accounts;
- Supervising and monitoring performance of employees; and,
- Making decisions on program recommendations and provider selection as well as work organization, use of resources, assignment of staff, priority of program issues.

2.3 The Standard sells insurance products and had a contract with OEGB in 2016 to provide life and disability coverage to OEGB members. Respondent received over \$50 in food and beverage costs from The Standard in 2016 while he was Executive Director of OEGB as follows:

2.3.1 On January 29, 2016, Respondent and four others ate at Oswego Grill. The Standard paid the total \$439 tab (including tip), for an average of \$87.80 per person.

2.3.2 On February 25, 2016, Respondent and three others ate at El Gaucho. The Standard paid the total \$785.50 tab (including tip), for an average of \$189.62 per person.

2.4 Kaiser Permanente sells health insurance and had a contract with OEGB in 2016 to offer health insurance coverage to OEGB members. Respondent received over \$50 in food and beverage costs from Kaiser Permanente in 2016 while he was Executive Director of OEGB as follows:

2.4.1 On January 22, 2016, Respondent and two others ate at the Sassy Onion. Kaiser paid the total \$59.85(including tip) tab, for an average of \$19.95 per person.

2.4.2 On February 22, 2016, Respondent and two others ate at La Provence. Kaiser paid the total \$54.80 tab (including tip), for an average of \$18.26 per person.

2.4.3 On August 18, 2016, Respondent and four others ate at Altabira. Kaiser paid the total \$99.75 tab (including tip), for an average of \$19.95 per person.

2.4.4 On August 29, 2016, Respondent ate with five others at Altabira. Kaiser paid the total \$128 tab (including tip), for an average of \$21.33 per person.

2.5 MODA sells health insurance and had a contract with OEGB in 2016 to offer health insurance to OEGB members. Respondent received over \$50 in food and beverage and entertainment costs from MODA in 2016 while he was Executive Director of OEGB as follows:

2.5.1 On April 25, 2016, Respondent attended a Portland Trail Blazers playoff game in the MODA studio suite, which seats four, with a dinner buffet and alcohol included, the value of which was approximately \$157.00 per person.

2.5.2 On January 14, 2016, Respondent and two others ate at Bentley's Restaurant. MODA paid the total \$64.50 tab (including tip), for an average of \$21.50 per person.

- 2.5.3 On June 14, 2016, Respondent and two others ate at Oswego Grill. MODA paid the total \$191.75 tab (including tip), for an average of \$63.92 per person.
- 2.5.4 On June 15, 2016, Respondent and three others ate at Tableau in Las Vegas. MODA paid the total \$142.05 tab (including tip), for an average of \$35.51 per person.
- 2.6 Providence sells health insurance and intended to bid on the Request for Proposals to offer health insurance to OEBC members released in 2016. Respondent received over \$50 in food and beverage costs in 2016 from Providence while he was Executive Director of OEBC as follows:
- 2.6.1 On April 27, 2016, Respondent and three others ate at the Multnomah Athletic Club. Providence paid the total \$423 tab, averaging \$105.75 per person.
- 2.6.2 On May 16, 2016, Respondent and five others ate at Table 508. Providence paid the total \$190.00 tab (before tip), averaging \$31.67 per person excluding tip.
- 2.7 Willis Towers Watson is a consulting firm that had a consulting contract with OEBC in 2016, which included penalties for non-performance. Respondent received over \$50 in food and beverage costs from Willis Towers Watson in 2016 while he was Executive Director of OEBC as follows:
- 2.7.1 On January 4, 2016, Respondent and four others ate at Da Vinci. Willis Towers Watson paid the total \$283.20 tab (including tip), averaging \$56.64 per person.
- 2.7.2 On June 29, 2016, Respondent and five others ate at Jefe. Willis Towers Watson paid the total \$120 tab (including tip), averaging \$20 per person.

- 2.7.3 On September 6, 2016, Respondent and one other person ate at Oswego Grill. Willis Towers Watson paid the total \$88.50 tab (including tip), averaging \$44.25 per person.
- 2.7.4 On September 7, 2016, Respondent and three ate others at Sassy Onion. Willis Towers Watson paid the total \$74 tab (including tip), averaging \$18.50 per person.
- 2.7.5 Larry Helmke, a representative of Willis Towers Watson, purchased a ticket for a wine tasting dinner for Respondent valued at approximately \$100-125. Respondent had agreed to attend, but did not attend the dinner.
- 2.8 In May of 2016, Respondent arranged for himself and a subordinate, Heidi Williams, to attend an evening meeting of school districts in Pendleton, Oregon. Respondent also arranged to stay in a hotel in Walla Walla, Washington, an area known for its wineries, rather than Pendleton, Oregon following the meeting. He also obtained a state vehicle to drive to the meeting. Before the meeting, Respondent and Williams travelled to Walla Walla, Washington where they went wine tasting. Afterwards they drove to the meeting in Pendleton. After the meeting, they drove back to Walla, Walla. They spent the following work day wine tasting and driving around Walla Walla, Washington before returning to Salem. According to Google Maps, the distance from Walla Walla to Pendleton is approximately 39.1 miles. The driving to and from Walla Walla and back and forth between Walla Walla and Pendleton for personal purposes totaled approximately 156 miles. In making these trips to Walla Walla to engage in wine tasting, Respondent used his position to obtain the financial gain of using state resources for personal use that would not have been available to him but for holding his official position. In addition, Respondent failed to inform his appointing authority in writing and ask her to dispose of the conflict of interest that would be presented by, when acting as a state official, travelling to and from Walla Walla, Washington in a state vehicle for the purpose of wine tasting, actions which would be to his private pecuniary benefit.

2.9 In April of 2016, Respondent and two of his subordinates, Heidi Williams and Glenn Baly, attended a meeting of eastern Oregon school districts in John Day, Oregon. Respondent obtained a State of Oregon vehicle to travel to the meeting. They left John Day during work hours, but rather than returning directly to Salem, Respondent insisted on detouring to Hood River, where they stopped at one or two wineries. Respondent engaged in wine tasting in Hood River before returning to Salem. The detour to Hood River to wine taste added at least 57 miles more miles to the trip than returning directly to Salem and was a use of Respondent's position to obtain a financial gain that would not have been available to him but for his official position.

2.10 In June of 2016, Respondent, and two subordinates, Heidi Williams and Linda Freeze, attended a conference in Las Vegas, Nevada that ended at noon on a Friday. Freeze returned to Oregon on Friday. Respondent arranged for himself and Williams to spend Friday night in Las Vegas without a business purpose to do so. In so doing, Respondent used his position to obtain financial gain that would not have been available to him but for holding his official position. In addition, Respondent failed to inform his appointing authority in writing and ask her to dispose of the conflict that, when acting as a state official, spending an extra night in Las Vegas with no business purpose would present as it would be to his private pecuniary benefit.

2.11 Respondent failed to account for 40 hours of vacation time that he took in March, 2016. In receiving forty hours pay without using vacation time Respondent used his position for financial gain that would not have been available to him but for holding his official position.

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## CONCLUSIONS OF LAW

- 3.1 On the three occasions set out in paragraphs 2.8, 2.10, and 2.11, Respondent used his official position or office to obtain a financial gain or avoid a financial detriment for himself which would not otherwise have been available but for his holding of the official office or position, in violation of ORS 244.040(1). The occasion in paragraph 2.9 will be treated by the Commission as an equivalent action to the action in paragraph 2.8, rather than a separate violation for purposes of computing the civil penalty. OAR 199-001-0014(1).
- 3.2 On the two occasions set out in paragraphs 2.8 and 2.10, Respondent made decisions and took actions in his capacity as Executive Director of OEBC the effect of which was to his private pecuniary benefit without notifying in writing the person who appointed him of the nature of the conflict and requesting his appointing authority to dispose of the matters giving rise to the conflict, in violation of ORS 244.120(1)(c).
- 3.3 On the five occasions set out in paragraphs 2.3 through 2.7, Respondent received gifts in 2016 exceeding \$50 in aggregate value from the following five sources: Willis Towers Watson, The Standard, Providence, Kaiser Permanente and MODA, each of which had an administrative interest in Respondent's decision-making as Executive Director of OEBC, in violation of ORS 244.025. ORS 244.025, ORS 244.020(7), ORS 244.020(10), OAR 199-005-0003, OAR 199-005-0005(3)(b).

## ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, and the Commission being fully advised in the premises,

The Commission orders that James Raussen be assessed a civil penalty of \$20,000, for 10 violations, pursuant to ORS 244.350(1)(a), 244.370, 244.390, and OAR 199-001-0015 and Tables A and B.

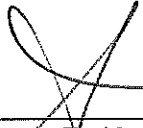


**NOTICE**

TO: James Raussen

You are entitled to judicial review of the Final Order. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days from the date of service of this Order. Date of service is the date the Commission mailed this Order. Judicial review is pursuant to the provisions of ORS 183.482.

11-2-18  
Date

  
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Alison R. Kean, Chairperson  
Oregon Government Ethics Commission

Date of Mailing: 11/5/18