

June 17, 1997

Abby Kershaw  
Oregon State Police  
Emergency Management Division  
595 Cottage Street NE  
Salem, Oregon 97310

Dear Ms. Kershaw:

This letter is in response to your memorandum dated June 9, 1997, concerning an emergency management division employee attending a meeting on the employee's personal time with the expenses paid for by a company which sold software to the emergency management division.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF OPINION  
97S-019**

STATED FACTS: An emergency management division employee purchased a computer software program, ECCO Professional, from a company, Arabesque, Inc., who later asked the employee to serve as a volunteer Assistant Sysop on the CompuServe information service to assist forum members who had questions about the use of the ECCO Professional software. The employee currently serves in that volunteer position. ECCO Professional was purchased from Arabesque, Inc. by NetManage, Inc. The emergency management division has purchased the ECCO Professional software program for use within the division from NetManage, Inc. The employee in question has no purchasing authority for the emergency management division.

The emergency management employee writes articles about ECCO Professional software for the newsletter Easy ECCO, which is produced by Learning Associates, Inc., a company that has no connection with NetManage, Inc. The emergency management employee is compensated for the articles only if they are published. The emergency management division does not subscribe to the newsletter.

The emergency management employee has been invited to attend a three day staff meeting of volunteer sysops in Cupertino, California with the employee's expenses paid for by NetManage, Inc. The meeting concerns only the involvement of the employee with the ECCO Professional software program on the CompuServe information service and

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nothing to do with any kind of sales promotion of the program to the emergency management division or any other government agency.

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

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

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

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

ORS 244.040(2): No public official or candidate for office or a relative of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.

QUESTION: Would it violate Government Standards and Practices law for the emergency management division employee to accept travel and lodging expenses from NetManage, Inc. for a trip to Cupertino, California to attend a meeting at NetManage, Inc. headquarters to meet with NetManage, Inc. staff and other sysop volunteers with regard to the employee's involvement with the ECCO Professional software on the CompuServe information service?

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OPINION: No. The Government Standards and Practices Commission (GSPC) has jurisdiction over public officials who use their official position for personal financial gain of the public official, a relative of the public official or a business with which the public official or a relative is associated. The jurisdiction includes conflicts of interest where the conflict involves personal financial gain to the public official, a relative of the public official or a business with which the public official or a relative is associated. Given the stated facts, it is the opinion of the GSPC staff that the emergency management employee would not be using official position for personal gain by accepting the expenses of travel and lodging from NetManage, Inc.

ORS 244.040(2) regulates receipt of gifts by public officials ...in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest... in the governmental agency over which the public official exercises authority. The stated facts indicate that the emergency management employee does not exercise any purchasing authority for the emergency management division. Accordingly, it is the belief of the GSPC staff that NetManage, Inc., does not have an administrative interest in the emergency management division; therefore, the payment of travel and lodging expenses by NetManage, Inc. would not constitute a gift.

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

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

Sincerely,

L. Patrick Hearn  
Executive Director

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