

June 7, 1999

Joe Benetti  
260 South Broadway  
Coos Bay, Oregon 97420

Dear Mr. Benetti:

This letter is in response to your correspondence dated May 26, 1999 concerning possible Government Standards and Practices law violations with regard to your advertising.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF OPINION NO. 99S-017**

**STATED FACTS:** A Coos Bay city councilor owns a restaurant in Coos Bay. A fellow councilor is the city councilor's advertising agent. The advertising agent recently ran a series of commercials showing local individuals having various discussions as to where to have dinner. The goal was to use a young couple, a middle aged couple, an older aged couple and a family in the advertisements. One member of one of these couples is a City of Coos Bay firefighter. The firefighter and the firefighter's spouse and twin children appeared in a commercial which was filmed in front of the Coos Bay fire department. The firefighter was in uniform but was not on duty at the time of the filming. The firefighter nor the firefighter's family was paid to film the commercial.

**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 244.020(16): Relative means the spouse of the public official, any children of the public official or of the public official's spouse, and brothers, sisters or parents of the public official or of the public official's spouse.

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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.

QUESTION: Would it be a violation of Government Standards and Practices laws for an off-duty city firefighter in uniform and the firefighter's family to appear in an advertisement commercial filmed in front of the city fire department if the firefighter was not compensated for this commercial?

OPINION: No. Government Standards and Practices laws address public officials who use their official positions for personal financial gain for the public official, a relative of the public official or a business with which the public official or a relative is associated and actual and potential conflicts of interest where 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 is involved.

ORS 244.040(1)(a) prohibits a public official from using official position or office to obtain financial gain or the avoidance of financial detriment that would not otherwise be available but for the public official's holding of official position or office, other than official salary, honoraria, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

The stated facts do not appear to indicate that the firefighter appearing in the advertisement commercial used the firefighter's official position or office for the personal financial gain of the firefighter, a relative of the firefighter or a business with which the firefighter or a relative of the firefighter was associated. It appears that neither the firefighter or the firefighter's family members received compensation or any other financial gain as a result of appearing in the commercial.

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

Please do not hesitate to call or write again if you have questions or desire additional clarification.

Sincerely,

L. Patrick Hearn  
Executive Director