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June 3, 2022

VIA E-MAIL ONLY: rhunt@barran.com

Richard Hunt
601 SW 2nd Ave, Ste 2300
Portland, OR 97204

Re: Petition for Public Records Disclosure Order
Bureau of Labor and Industries
DOJ File No.: 839407-GA0042-22

Dear Mr. Hunt:

This letter is the Attorney General's response to two petitions submitted by you for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petitions relate to several public records requests you submitted to the Bureau of Labor and Industries (BOLI) in March and April 2019 seeking information about whether BOLI had properly disbursed funds it collected as civil penalties from two of your clients. Your petitions indicate that BOLI responded to those requests in May 2019 by disclosing records that demonstrated that BOLI had not yet disbursed all of the funds at issue. Your petitions state that BOLI has not supplemented its responses to you since 2019. You therefore request the Attorney General order BOLI to produce records demonstrating how the funds were ultimately disbursed.

We contacted Ms. Kelsey Dietrick, BOLI'S Public Records Manager, regarding your petitions. She indicated that BOLI has not received any supplemental requests from you for this information since it completed its responses to your initial requests in May 2019. However, she explained, BOLI has agreed to treat your petitions as new requests and will contact you shortly.

A public body is only required to make available nonexempt records that are in its custody at the time a written request is received. *See Attorney General's Public Records and Meetings Manual* at A-1 (2019). After completing a response to a record request, and absent a new request, a public body is not obligated to supplement its prior response by disclosing records that subsequently come into its custody. *See id.*; ORS 192.324(1) (public body's obligation to respond is triggered by receipt of a written request); and ORS 192.329(2) (detailing when a public body's response to a records request is complete). It follows that BOLI was not required to supplement its responses to your 2019 requests, and we lack the authority to order BOLI to supplement those responses.

Moreover, it does not appear you ever requested this supplemental information directly from BOLI or that BOLI denied any requests from you for this information. Under the circumstances, we must respectfully dismiss both petitions as premature. ORS 192.411(1) (in general, the Attorney General may order disclosure only when a records request has been denied).

Sincerely,

Lisa M. Udland

LISA M. UDLAND
Deputy Attorney General

ACF:pjn
c via e-mail only: Kelsey Dietrick (BOLI)