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July 13, 2023

VIA E-MAIL ONLY: dhefflinger@hotmail.com

Donald Hefflinger
16032 SE Chelsea Morning Drive
Happy Valley, OR 97086

Re: Petition for Public Interest Fee Waiver
Department of Consumer and Business Services, Division of Financial Regulation
DOJ File No.: 440040-GA0107-23

Dear Mr. Hefflinger:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Division of Financial Regulation of the Department of Consumer and Business Services (DFR) to waive its fees for processing a public records request. For the following reasons, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. ORS 192.314(1). Agencies may establish fees reasonably calculated to recover their actual costs for making public records available, but "may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.324(4)–(5). The furnishing of public records primarily benefits the general public when its greatest utility is to the community or society as a whole. *See In Defense of Animals*, 199 Or App 160, 189 (2005). And regardless of how interested the public may be in a particular matter, if the requester fails to demonstrate the ability to meaningfully disseminate the requested information, disclosure will not primarily benefit the general public. *See Attorney General's Public Records and Meetings Manual* at 24 (2019). Any person who believes there has been an unreasonable denial fee waiver or reduction by a state agency may petition the Attorney General for review. ORS 192.324(6).

Your petition stems from a June 20, 2023, request to DFR seeking records that contain the names of two individuals. DFR provided you with a fee estimate to process your request and denied your request for a public interest fee waiver because DFR found "there was insufficient showing of a public interest" to support your waiver request. Your petition expresses your belief

that these records will show that someone made false claims against you to DFR that led to your termination from a banking position. Your petition also asserts that determining who made these claims against you is in the interest of the public.

In response to your petition, we contacted Gail Gage, a compliance specialist in DFR. She indicated that given the broad scope of your request, DFR provided you a fee estimate to recover the cost of the more than 200 hours DFR believes it will take to locate, review, and produce responsive records. She also explained DFR's belief that your request is primarily intended to serve your personal interests, rather than the public interest. As support for DFR's position, Ms. Gage indicated that you have made numerous requests over the last six years for records relating to this, and related, personal matters, and that you have never demonstrated any intent or ability to meaningfully disseminate responsive records to the general public. Accordingly, she explained, DFR denied your request for a public interest fee waiver after determining that you had not demonstrated why disclosing these records to you would primarily benefit the general public. *See* ORS 192.324(5). She also explained that on past requests, DFR has worked with you to refine them such that DFR has been able to furnish records to you at greatly reduced, or no cost. According to Ms. Gage, DFR informed you that it was willing to work with you in the same manner in this instance. For example, she explained, DFR informed you that if you narrowed your request to the e-mails of particular employees, DFR believes it can process your request at a greatly reduced cost, and possibly at no charge. Ms. Gage informs us that you have not agreed to refine your request in this instance.

Under the circumstances, we cannot conclude that disclosing these records to you will primarily benefit the general public and therefore cannot conclude that DFR unreasonably denied your request for a fee waiver. We are unaware of any general or heightened interest in this information among the general public and your petition does not explain how disclosure to you will primarily benefit the general public. Rather, the nature of your current and past requests suggests to us that your primary interest in these records is personal to you. Such personal interests are generally not sufficient to satisfy the standard for a public interest fee waiver. Moreover, your petition does not demonstrate any ability to meaningfully disseminate this information to the general public, which is a necessary condition to be eligible for a public interest fee waiver. We therefore respectfully deny your petition.

Sincerely,

Lisa M. Udland

Lisa M. Udland
Deputy Attorney General

ACF:pjn
c via e-mail only: Gail Gage (DFR)