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June 21, 1993

Thomas Maulding
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1100 SW 6th Avenue, Suite 1400
Portland, OR 97201

Re: Petition for Public Records Disclosure
Employment Division Records

Dear Mr. Maulding:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on June 14, 1993, asks the Attorney General to direct the Employment Division (division) to make available "[t]he names and addresses of all fish processors and other maritime companies which have advertised with the Oregon Employment Division since January 1, 1990." For the reasons that follow, we respectfully deny your petition because the information is exempt from disclosure under the Public Records Law.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. See ORS 192.420. ORS 192.502(8) exempts from disclosure "[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law." This exemption incorporates into the Public Records Law the provisions of other statutes that restrict disclosure of records or make such records confidential.

ORS 657.665 severely curtails the public's right to inspect records of the division. ORS 657.665(1)(a) provides:

> Information secured from employing units, employees or other individuals pursuant to this chapter:

> (a) Shall be confidential and for the exclusive use and information of the assistant director in the discharge of duties and shall not be open to the public [subject to certain exemptions not relevant here.]

A job order received by the division's Employment Services from an employer is information secured from an employing unit pursuant to ORS 657.705 et seq. Accordingly, that information is presumptively within the confidentiality provision of ORS 657.665(1). It may be released only in the discharge of the duties of the division.

Pursuant to agency rules, disclosure of information from the files and records of the division's Employment Services is restricted to "applicants, agencies and employers to the extent necessary for the efficient performance of Employment Service functions." OAR 471-10-052(1). In performing those functions, the division publishes, or provides to the public, employment notices in generic form, including job title, job order number and other descriptive general information. The Employment Service's Job Bank provides the same types of general employment opportunity information to the public. As in the published notices, employer-identifying information is not included.

Employer-identifying information, such as the names and addresses you requested, is provided only to applicants, agencies and employers, and only to the extent necessary for the efficient performance of employment service functions. OAR 471-10-052(1). Because you are not an applicant, agency or employer, such information may not be disclosed to you under this provision.

Information from division records is also available to other individuals and organizations "if such disclosure will not impede the operation and is not inconsistent with the purposes of the [division's] Public Employment Service program." OAR 471-10-052(4). Such disclosure must be authorized by the Assistant Director of the division in each case based upon an evaluation of the purposes to which the data would be put. Id. This rule must be interpreted consistent with ORS 657.665(1)(a) to permit release of information only where such release is in the discharge of duties of the Assistant Director under ORS Chapter 657.

Disclosure of identifying employer information beyond the generic information that the division generally makes available would impede the operation of the Employment Service by jeopardizing the agency's relation with the employer community. Disclosure of job order information that identifies the employer is limited to qualified applicants. Release of this information to other persons would violate the employer's expectation of confidentiality, potentially impair the division's control and management of referrals and result in a loss of trust and confidence in the Employment Service program. If employers

lose confidence in the confidentiality and efficiency of the Employment Service program, they will use it less, thus causing an erosion in the quality and reliability of the division's job placement service. We conclude, therefore, that disclosure of the names and addresses of employers placing job orders through the division would impede the operation of the division's Employment Service program and is not authorized under OAR 471-10-052(4) and is prohibited by ORS 657.665(1)(a). See also Public Records Order, August 6, 1992 (Potter)

Further, disclosure to you of employer-identifying information is not consistent with the purposes of the Employment Service. The division's Employment Service is a job-placement service. Disclosure of information about employers using that service to persons not seeking job placement is not related to the purposes of the division's job placement service and, for this reason, is not in the discharge of duties of the Assistant Director and is prohibited by ORS 657.665(1)(a).

Because disclosure of the names and addresses of employers placing job orders is prohibited by ORS 657.665, the information is exempt from disclosure under the Public Records Law. ORS 192.502(8). Accordingly, we deny your petition.

Sincerely,

Elizabeth S. Harchenko

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Special Counsel to the Attorney General

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