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November 14, 1996

Karen D. Schwartzrock
343 Hunington
Eugene, OR 97405

Re: ***Petition for Public Records Disclosure***
University of Oregon Records

Dear Ms. Schwartzrock:

This is the Attorney General's order on your renewed petition for disclosure of records under the Oregon Public Records Law, ORS 192.505. Your petition, which we received on November 7, 1996, asks the Attorney General to direct the University of Oregon (UO) to provide Mr. Ken Lehrman's report outlining the findings of his investigation into funds missing from the administrator licensure program. For the reasons that follow, we respectfully deny your petition.

We have been informed by Mr. Lehrman, and it is confirmed by your letter to us, that he has not yet responded to your letter/fax of October 15, 1996. Absent a denial of a records request by a state agency, the Attorney General has no authority to order disclosure. *See* ORS 192.450. Because the UO has not denied your request, your petition seeking to have this office order disclosure is premature. *See Morse Bros. v. ODED*, 103 Or App 619, 798 P2d 719 (1990).

Moreover, we have been informed by Mr. Lehrman that neither he nor anyone else on his staff has developed the document that you request. In other words, no such document exists in any form. The Public Records Law does not impose on public bodies the duty to create or provide records that do not exist. *See* ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (1995) at 5 ("Public bodies

are not required to create a record to disclose the 'reasoning' behind their actions, or other 'knowledge' their staff might have.")

Accordingly, we deny your petition.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

MDP:AV:JGG0EE09
c: Ken Lehrman, Director, Office of Affirmative Action and Equal Opportunity, University of Oregon

Pete Swan, Assistant to the President for Legal Affairs, University of Oregon