

May 13, 2020

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Oregon Secretary of State
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Salem, OR 97310

Stephen Trout
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Oregon Secretary of State
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Via email to orestar-support.sos@oregon.gov

Dear Ms. Clarno and Mr. Trout,

Pursuant to ORS 260.345, I write to report violations of Oregon campaign finance law, Chapter 260 ORS, by the organization Our Oregon.

During calendar year 2020 and for many years prior, Our Oregon has operated as a political committee without filing a statement of organization with the Secretary of State as required by ORS 260.035.

As an unregistered political committee, Our Oregon has failed to comply with at least the provisions of ORS 260.042, ORS 260.054 and ORS 260.057 governing the conduct and reporting of electoral political activity. Furthermore, Our Oregon's undisclosed political activity has resulted in numerous violations of ORS 260.402 by obscuring the identity of entities attempting to influence Oregon elections with monetary contributions.

Our Oregon's propensity to violate state election laws is already known to the Secretary of State's Elections Division. In November 2018, a political committee operated by Our Oregon failed to turn in 96 valid ballots by election day, disenfranchising Oregon voters in a way the Secretary of State called "more severe than any other violation of election law." The committee, 'Defend Oregon,' was subsequently fined and remains under the terms of a penalty agreement with the Elections Division through 2020.¹

Much like this proven offense, Our Oregon's persistent and continuing violations of Chapter 260 ORS have tangibly negative implications for the ethics and transparency of Oregon elections. To

¹ See generally *Defend Oregon*, Office of the Secretary of State, Elections Division, Case No. 18-151 (2019).

further protect the integrity of Oregon elections, we respectfully urge the Secretary of State to perform an investigation into the following allegations and initiate an enforcement action as expeditiously and efficiently as possible.

Allegation 1: Violations of ORS 260.035

Our Oregon has failed to file a statement of organization as required by ORS 260.035, even though it receives contributions and makes expenditures for the particular purpose of supporting or opposing ballot measures.

Legal Background

ORS 260.005(18) defines “political committee” as:

“... a combination of two or more individuals, or a person other than an individual, that has:

- (a) Received a contribution for the purpose of supporting or opposing a candidate, measure or political party; or
- (b) Made an expenditure for the purpose of supporting or opposing a candidate, measure or political party. For purposes of this paragraph, an expenditure does not include:
 - (A) A contribution to a candidate or political committee that is required to report the contribution on a statement filed under ORS 260.057 or 260.076 or a certificate filed under ORS 260.112; or
 - (B) An independent expenditure for which a statement is required to be filed by a person under ORS 260.044.”

ORS 260.005(3) defines “contribute” or “contribution” as:

- “(a) The payment, loan, gift, forgiving of indebtedness, or furnishing without equivalent compensation or consideration, of money, services other than personal services for which no compensation is asked or given, supplies, equipment or any other thing of value:
 - (A) For the purpose of influencing an election for public office or an election on a measure, or of reducing the debt of a candidate for nomination or election to public office or the debt of a political committee; or
 - (B) To or on behalf of a candidate, political committee or measure; and
- (b) The excess value of a contribution made for compensation or consideration of less than equivalent value.”

ORS 260.005(8) defines “expend” or “expenditure” as:

“...the payment or furnishing of money or anything of value or the incurring or repayment of indebtedness or obligation by or on behalf of a candidate, political committee or person in consideration for any services, supplies, equipment or other thing of value performed or furnished for any reason, including support of or opposition to a candidate, political committee or measure, or for reducing the debt of a candidate for nomination or election to public office. ‘Expenditure’ also includes contributions made by a candidate or political committee to or on behalf of any other candidate or political committee.”

ORS 260.035 requires every “political committee” to “file a statement of organization” under ORS 260.042 “[n]ot later than the third business day after a political committee first receives a contribution or makes an expenditure.”

Our Oregon’s Purpose

On its 2018 Form 990 filed with the Internal Revenue Service (IRS), Our Oregon indicates it is organized under 26 U.S.C. § 501(c)(4) and describes its “mission or most significant activities” as, “[promoting] economic and social fairness by working in coalition on a broad range of issues and activities in the public arena.” See **Exhibit A**, a copy of Our Oregon’s 2018 IRS 990 form.²

However, other sources reveal that Our Oregon regularly describes its purpose in more explicitly political terms.

In a January 23, 2020 job posting for its political director, the organization states:

“Our Oregon is a 501(c)(4) organization dedicated to advancing economic and social justice for all Oregonians – with a focus on ballot measures.” (emphasis added)

A section in the posting titled, “About Our Oregon,” further states:

“We Are:

- **Committed to winning elections.** We know that winning and losing at the ballot box sends a signal so we need a slam dunk every time.
- **Clear on the long term.** While we have to win elections every cycle, we need to do it in a way that builds a strong coalition...” (emphasis in original)

The job posting goes on to state that Our Oregon’s political director will provide “political and strategic direction, mentorship and consultation for electoral ballot [campaigns]” and will regularly work with Our Oregon’s staff “to inform and evaluate a comprehensive and coordinated advocacy and/or ballot measure campaign.” Furthermore, the political director will “[l]ead Our Oregon’s

² Part III, section 1.

Progressive Ballot Measure Coordination Table and will play a central role in key ballot measure campaigns.”

According to the job posting, the political director will “report directly to the Executive Director, serve on the senior leadership team and manage staff on a regular, seasonal basis.” See **Exhibit B**, a copy of the job posting from Our Oregon’s webpage.

This description of Our Oregon’s true purpose aligns closely with a May 2018 blog post in which Our Oregon announced the hiring of Becca Uherbelau, the organization’s current executive director. The post stated that:

“Our Oregon’s core mission is to promote social and economic justice in Oregon by advancing progressive ballot measures and defending against threats to families, schools and services, and workers.” (emphasis added)

See **Exhibit C**, a copy of the blog post from Our Oregon’s webpage.

The blog post then specifies two means by which Our Oregon advances its core mission: (1) “advancing progressive ballot measures”; and, (2) “defending against threats to families, schools and services, and workers.” See **Exhibit C**.

The meaning of the former is clear. The meaning of the latter requires additional context but becomes equally apparent upon examining Our Oregon’s own description of the “threats” against which it defends.

Expanding upon its “core mission” as described in the May 2018 blog post, Our Oregon goes on to list, “[defeat]ing Bill Sizemore’s anti-worker attacks,” and, “[leading] a coalition that passed Measures 66 and 67,” as two of its most important accomplishments. See **Exhibit C**.

This aligns closely with the “About” page of Our Oregon’s website, where the organization offers an even more detailed description of its key activities:

“Our accomplishments start with defeating Bill Sizemore’s destructive anti-school, anti-worker, and anti-service ballot measures. In response to the Great Recession, we led the unprecedented coalition that helped pass Measures 66 & 67 to fund schools and services. In November 2012, we successfully reformed the corporate kicker tax loophole and instead re-directed millions of dollars to education and defeated a proposed tax break for millionaires. Currently, we are working to increase corporate tax transparency and hold businesses accountable for their fair share in taxes so that we can reverse decades of disinvestment in our schools and services.”

See **Exhibit D**, a copy of Our Oregon’s webpage.

The mentions of “kicker tax loophole” and “tax break for millionaires” almost certainly refer to Ballot Measures 85 and 84 from 2012. See **Exhibit E**, a copy of Our Oregon’s webpage. The

organization’s work to “increase corporate tax transparency and hold businesses accountable for their fair share in taxes” likely refers, at least in large part, to Ballot Measure 97 in 2016 and Initiative Petition 25 in 2018. See **Exhibit F**, a copy of Our Oregon’s webpage and **Exhibit G**, an article from *The Oregonian*.

In short, most – if not all – of the major “accomplishments” promoted on Our Oregon’s website are directly related to its support of or opposition to ballot measures. Furthermore, Our Oregon describes its own mission explicitly in terms of “advancing progressive ballot measures,” boasts that it is “committed to winning elections,” admits that its key staff members “play a central role in key ballot measure campaigns,” and states that ballot measures are its primary focus.

Contributions Received by Our Oregon

Not only has Our Oregon admitted that its primary purpose is political advocacy, it also solicits and receives contributions specifically for this purpose.

At least between June 29, 2013 and March 25, 2015 (and possibly longer), Our Oregon maintained a page on its website dedicated to soliciting and processing contributions electronically via credit card. Directly beneath a button labeled, “Make Your Donation,” was the following statement:

“Our Oregon is a 501(c)(4) nonprofit organization and, because of that designation that allows us to spend time on ballot measures and other lobbying activities, donations to Our Oregon ARE NOT tax deductible.”

See **Exhibits H-I**, archived copies of Our Oregon’s webpage.

The majority of Our Oregon’s financial support comes from labor unions that regularly itemize their contributions to Our Oregon under Schedule 16, “political activities and lobbying,” of their Forms LM-2 filed with the U.S. Department of Labor in accordance with the Labor Management Reporting and Disclosure Act.

According to the U.S. Department of Labor’s Office of Labor-Management and Standards (OLMS), “[a] political disbursement or contribution” reported under Schedule 16,

“...is one that is intended to influence the selection, nomination, election, or appointment of anyone to a Federal, state, or local executive, legislative or judicial public office, or office in a political organization, or the election of Presidential or Vice Presidential electors, and support for or opposition to ballot referenda.”

See **Exhibit J**, a copy of OLMS’ annual report.³

Political Contributions in 2013

1. On its 2013 Form LM-2, the American Federation of State, County and Municipal Employees (AFSCME) Council 75 reported making three contributions totaling \$60,000 to Our Oregon to

³ Page 27.

oppose “anti-worker measures.” See **Exhibit K**, a copy of AFSCME Council 75’s 2013 LM-2 form. Along with a fourth payment of \$5,000, the union itemized each of the contributions under Schedule 16.

Our Oregon unquestionably received these contributions for the purpose of supporting and opposing ballot measures. Not only did the union itemize the contributions under Schedule 16, “political activities and lobbying,” it also explicitly described the purpose of the three larger payments as contributions to fight “anti-worker measures.”

It’s also worth noting that OLMS requires labor unions to list the “type or classification” of the entities to which they contribute. AFSCME Council 75 described Our Oregon on its LM-2 as a “statewide coalition.”

2. Under Schedule 16, “political activities and lobbying,” of its FY2013 and FY2014 Forms LM-2, the Service Employees International Union (SEIU) Local 503 reported making four contributions totaling \$303,845 to Our Oregon for “coalition work.” See **Exhibits L-M**, copies of SEIU Local 503’s FY2013 and FY2014 LM-2 forms.

While “coalition work” is ambiguous, Our Oregon has received contributions for ballot measure work within precisely that context. See **Exhibit K**.

Furthermore, Our Oregon has regularly admitted that its coalition-building activities directly relate to its electoral goals. Consider the following statements contained in the organization’s job posting for political director:

- “While we have to win elections every cycle, we need to do it in a way that builds a strong coalition...”
- “The Political Director will be responsible for developing and leading Our Oregon’s political and field strategy in collaboration with coalition partners.”
- “The Political Director will also serve as a leader and resource for coalition partners... They will lead Our Oregon’s Progressive Ballot Measure Coordination Table and will play a central role in key ballot measure campaigns.”

See **Exhibit B**.

Even if Our Oregon claims to engage in more than one kind of “coalition work,” the organization has admitted that ballot measures are its primary focus and stated that one of its political director’s primary responsibilities is to lead political coalitions with the goal of influencing ballot measure elections. Given Our Oregon’s paramount goals in this respect, any contribution for “coalition work” should be closely scrutinized to determine whether the contribution was more likely received for the organization’s primary purpose – political activity on ballot measures – or some secondary one.

3. Under Schedule I of its FY2013 and FY2014 Forms 990 filed with the IRS, the Oregon Education Association (OEA) reported making \$549,825 in total contributions to Our Oregon for “general support.” See **Exhibits N-O**, copies of the OEA’s FY2013 and FY2014 IRS 990 forms.⁴

The use of such a vague descriptor does little to ease suspicion about the intended political use of these funds. According to Our Oregon itself, the organization’s “core mission” is made up entirely of two fronts: supporting progressive ballot measures and opposing those it perceives as threats. See **Exhibit C**. Because every activity in which Our Oregon engages is presumably geared toward accomplishing that mission (including its coalition work), it appears very likely that “general support” in this case simply refers to the OEA’s regular support of Our Oregon’s ballot measure activities.

4. On its FY2013 Form LM-2, the Oregon Nurses Association (ONA) reported making a \$5,000 payment to Our Oregon. See **Exhibit P**, a copy of ONA’s FY2013 LM-2 form. The union itemized the payment under Schedule 16, “political activities and lobbying.”

Political Contributions in 2014

5. On its FY2014 and FY2015 Forms LM-2, SEIU Local 503 reported making six contributions totaling \$333,000 to Our Oregon. See **Exhibits M and Q**, copies of SEIU Local 503’s FY2014 and FY2015 LM-2 forms.

As before, the union itemized each of the transactions under Schedule 16 and labeled their purpose as “coalition work.” While further investigation into these contributions is warranted for the aforementioned reasons, especially notable in this case is the timing of at least one significant contribution.

On July 15, 2014, Initiative Petition 55 qualified for the November ballot and became known as Ballot Measure 90. See **Exhibit R**, a copy of the Secretary of State’s webpage. Ten days later, on July 25, 2014, Our Oregon received a \$50,000 contribution from SEIU Local 503 (see **Exhibit M**).

On July 26, 2014 – one day after receiving the contribution from SEIU Local 503 – Our Oregon proceeded to make a \$20,000 cash contribution to ‘Protect Our Vote,’ the political committee opposing Measure 90.⁵

Not only was Our Oregon the very first contributor to the political committee opposing the newly qualified measure, but the committee was operated by Our Oregon’s principals and filed its statement of organization on July 25, 2014, the same day that Our Oregon received the \$50,000 contribution from SEIU Local 503. See **Exhibit S**, a copy of the committee’s statement of organization.

⁴ It is unclear exactly how much of this amount was contributed to Our Oregon during the calendar year 2013, as the OEA’s IRS 990 forms cover the 2013 and 2014 fiscal years and do not disclose the exact date of the contributions.

⁵ Oregon Secretary of State, Oregon Elections System for Tracking and Reporting (ORESTAR). Retrieved from <https://secure.sos.state.or.us/>.

The fact that ‘Protect Our Vote’ was, at the time, a political committee required to report its transactions does not permit Our Oregon to hide behind the definitional exceptions found in ORS 260.005(18)(b)(A). Because Our Oregon received these and other contributions for the particular purpose of influencing elections on ballot measures, Our Oregon also meets the statutory definition of a political committee and thus should have filed a statement of organization as required by ORS 260.035.

6. Under Schedule 16 of its 2014 Form LM-2, “political activities and lobbying,” AFSCME Council 75 reported making \$232,187 in total contributions to Our Oregon. *See Exhibit T*, a copy of AFSCME Council 75’s 2014 LM-2 form.

Like the contributions described above, Our Oregon received at least two of these payments shortly after Measure 90 qualified for the November ballot and before making expenditures in opposition to the measure. As one of Our Oregon’s most prominent financial supporters along with SEIU Local 503, it is conceivable – even likely – that these election-season contributions from AFSCME Council 75 were made for the similar purpose of influencing the vote on Measure 90.

For example, one of these transactions also took place on July 24, 2014 – the same day that Our Oregon’s principals filed the statement of organization for ‘Protect Our Vote’ – and its purpose was for political polling.

7. Under Schedule I of its FY2014 and FY2015 Forms 990 filed with the IRS, the OEA reported making \$640,000 in total contributions to Our Oregon. *See Exhibits O and U*, copies of the OEA’s FY2014 and FY2015 IRS 990 forms.⁶

As before, the union described the purpose of its contributions as “general support.” However, given the explicitly political nature of Our Oregon’s coalition work (*see Exhibit K*) and the fact that Our Oregon has admitted that ballot measures are its primary focus (*see Exhibit B*), it appears unlikely that the OEA’s contributions in 2014 were made for any other purpose than its ongoing support of the group’s ballot measure work.

8. On its FY2014 Form LM-2, the state federation of the American Federation of Teachers (AFT-Oregon) reported making a \$5,000 payment to Our Oregon. *See Exhibit V*, a copy of AFT-Oregon’s FY2014 LM-2 form. The union itemized the payment under Schedule 16, “political activities and lobbying.”
9. On its FY2014 Form LM-2, ONA reported making a \$5,000 payment to Our Oregon. *See Exhibit W*, a copy of ONA’s FY2014 LM-2 form. The union itemized the payment under Schedule 16, “political activities and lobbying.”

⁶ It is unclear exactly how much of this amount was contributed to Our Oregon during the calendar year 2014, as the OEA’s IRS 990 forms cover the 2014 and 2015 fiscal years and do not disclose the exact date of the contributions.

10. On its FY2015 Form LM-2, the SEIU Leadership Council reported making a \$5,000 payment to Our Oregon. *See* **Exhibit X**, a copy of SEIU Leadership Council’s FY2015 LM-2 form. The union itemized the payment under Schedule 16, “political activities and lobbying.”
11. On its FY2015 Form LM-2, the Oregon School Employees Association (OSEA) reported making a \$10,000 payment to Our Oregon. *See* **Exhibit Y**, a copy of OSEA’s FY2015 LM-2 form. The union itemized the payment under Schedule 16, “political activities and lobbying.”

Political Contributions in 2015

12. On its FY2015 and FY2016 Forms LM-2, SEIU Local 503 reported making three contributions totaling \$297,250 to Our Oregon. *See* **Exhibits Q and Z**, copies of SEIU Local 503’s FY2015 and FY2016 LM-2 forms.

As in years past, the union itemized the transactions under Schedule 16, “political activities and lobbying,” and labeled their purpose as “coalition work.” However, because Our Oregon has admitted that its coalition work is political and because it has received contributions from coalition partners for the explicit purpose of political activity on ballot measures (*see* **Exhibits B and K**), there is little reason to believe these contributions received by Our Oregon were intended for any other purpose.

13. On its 2015 Form LM-2, AFSCME Council 75 reported making two contributions totaling \$117,500 to Our Oregon. *See* **Exhibit AA**, a copy of AFSCME Council 75’s 2015 LM-2 form.

Not only did the union itemize the contributions under Schedule 16, but at least one of these transactions, a \$105,000 contribution made on July 31, 2015, was specifically earmarked for ballot measure work.

14. On its FY2015 Form LM-2, the American Federation of Teachers (AFT) reported making two contributions totaling \$110,000 to Our Oregon. *See* **Exhibit BB**, a copy of AFT’s FY2015 LM-2 form. The union itemized the contributions under Schedule 16, “political activities and lobbying.”

The largest transaction – a contribution of \$100,000 – was specifically described as “ballot initiative support.”

While work on “initiative petitions” in Oregon does not trigger the same registration and reporting requirements as work on “measures,” it is important to recognize that this distinction is unique to Oregon law. It is quite common for other states – including neighboring Washington – to make no distinction between ballot “initiatives” or ballot “measures.” Because an out-of-state entity like AFT may not keep up with the nuances of Oregon campaign finance law, it is reasonable to think that AFT’s \$100,000 contribution could have been intended for ballot *measure* work.

In fact, this is likely the case. Schedule 16 of the AFT’s FY2015 Form LM-2 reveals that it made no less than 10 additional contributions for “ballot initiative” support during the same

period, several of which appear to have been made for the purpose of supporting ballot *measure* campaigns during the 2014 general election. Despite making contributions to ballot measure campaigns, AFT listed the purpose of each contribution as “ballot initiative support.”

15. Under Schedule I of its FY2015 and FY2016 Forms 990 filed with the IRS, the OEA reported making \$1,008,600 in total contributions to Our Oregon. *See Exhibits U and CC*, copies of the OEA’s FY2015 and FY2016 IRS 990 forms.⁷

As before, the union described the purpose of its contributions as “general support.” However, given the explicitly political nature of Our Oregon’s coalition work and the fact that Our Oregon has admitted that ballot measures are its primary focus (*see Exhibits B and K*), it is unlikely that the OEA’s contributions in 2015 were made for any other purpose than its ongoing support of the group’s ballot measure work.

16. On its FY2016 Form LM-2, AFT-Oregon reported making a \$5,000 payment to Our Oregon. *See Exhibit DD*, a copy of AFT-Oregon’s FY2016 LM-2 form. The union itemized the payment under Schedule 16, “political activities and lobbying.”
17. On its FY2016 Form LM-2, OSEA reported making a \$5,000 payment to Our Oregon. *See Exhibit EE*, a copy of OSEA’s FY2016 LM-2 form. The union itemized the payment under Schedule 16, “political activities and lobbying.”
18. On its FY2016 Form LM-2, ONA reported making a \$5,000 payment to Our Oregon. *See Exhibit FF*, a copy of ONA’s FY2016 LM-2 form. In addition to itemizing the payment under Schedule 16, “political activities and lobbying,” the union also described Our Oregon as an “elections” organization.

Political Contributions in 2016

19. On its FY2016 and FY2017 Forms LM-2, SEIU Local 503 reported making six contributions totaling \$654,221 to Our Oregon. *See Exhibits Z and GG*, copies of SEIU Local 503’s FY2015 and FY2016 LM-2 forms.

The union itemized the transactions under Schedule 16, “political activities and lobbying,” and described several of the contributions as either “coalition work” or “coalition support.” Because Our Oregon has admitted that its coalition work is political and because it has received contributions from coalition partners for the explicit purpose of political activity on ballot measures (*see Exhibits B and K*), there is little reason to believe these contributions received by Our Oregon were intended for any other purpose.

Additionally, the organization received at least two of these contributions after Ballot Measure 97 qualified for the 2016 general election. One such transaction – a \$68,750 contribution on October 31, 2016 – took place approximately one week before election day.

⁷ It is unclear exactly how much of this amount was contributed to Our Oregon during the calendar year 2015, as the OEA’s IRS 990 forms cover the 2015 and 2016 fiscal years and do not disclose the exact date of the contributions.

Our Oregon’s director also served as the director of ‘Yes on 97,’ the political committee organized to advance Ballot Measure 97 through the general election. *See Exhibit HH*, a copy of the committee’s statement of organization. Given the extent of Our Oregon’s direct involvement in the campaign, Our Oregon almost certainly received some of these contributions from SEIU Local 503 for the purpose of influencing the vote on Measure 97.

20. On its 2016 Form LM-2, AFSCME Council 75 reported making a \$75,000 contribution to Our Oregon, which it described as a “statewide coalition.” *See Exhibit II*, a copy of AFSCME Council 75’s 2016 LM-2 form.

The contribution was received by Our Oregon less than two months before the general election on Measure 97.

Because Our Oregon has admitted that its coalition work is political and because it has received contributions from AFSCME Council 75 for the explicit purpose of political activity on ballot measures (*see Exhibits B and K*), there is little reason to believe these contributions received by Our Oregon were intended for any other purpose.

21. Under Schedule I of its FY2016 and FY2017 Forms 990 filed with the IRS, the OEA reported making \$968,600 in total contributions to Our Oregon. *See Exhibits CC and JJ*, copies of the OEA’s FY2016 and FY2017 IRS 990 forms.⁸

As before, the union described the purpose of its contributions as “general support.” However, given the explicitly political nature of Our Oregon’s coalition work and the fact that Our Oregon has admitted that ballot measures are its primary focus (*see Exhibits B and K*), it appears unlikely that the OEA’s contributions in 2016 were made for any other purpose than its ongoing support of the group’s ballot measure work.

22. On its FY2017 Form LM-2, the SEIU Leadership Council reported making a \$5,000 payment to Our Oregon. *See Exhibit KK*, a copy of SEIU Leadership Council’s FY2017 LM-2 form. The transaction took place approximately one month before the 2016 general election and the union itemized the payment under Schedule 16, “political activities and lobbying.”
23. On its FY2017 Form LM-2, AFT-Oregon reported making a \$5,000 payment to Our Oregon. *See Exhibit LL*, a copy of AFT-Oregon’s FY2017 LM-2 form. The transaction took place less than two months before the 2016 general election and the union itemized the payment under Schedule 16, “political activities and lobbying.”
24. On its FY2017 Form LM-2, OSEA reported making a \$5,000 payment to Our Oregon. *See Exhibit MM*, a copy of OSEA’s FY2017 LM-2 form. The transaction took place less than two months before the 2016 general election and the union itemized the payment under Schedule 16, “political activities and lobbying.”

⁸ It is unclear exactly how much of this amount was contributed to Our Oregon during the calendar year 2016, as the OEA’s IRS 990 forms cover the 2016 and 2017 fiscal years and do not disclose the exact date of the contributions.

25. On its FY2017 Form LM-2, ONA reported making two payments totaling \$10,000 to Our Oregon. *See Exhibit NN*, a copy of ONA’s FY2017 LM-2 form. Both transactions took place leading up to the 2016 general election, one of them coming approximately one week before election day. The union itemized the payments under Schedule 16, “political activities and lobbying,” and described Our Oregon as an “elections” organization.

Political Contributions in 2017

26. Under Schedule 16 of its FY2017 and FY2018 Forms LM-2, SEIU Local 503 reported making five contributions totaling \$330,060 to Our Oregon. *See Exhibits GG and OO*, copies of SEIU Local 503’s FY2017 and FY2018 LM-2 forms.

As in years past, the union itemized the transactions under Schedule 16, “political activities and lobbying,” and labeled their purpose as “coalition work.” However, because Our Oregon has admitted that its coalition work is political and because it has received contributions from coalition partners for the explicit purpose of political activity on ballot measures (*see Exhibits B and K*), there is little reason to believe these contributions received by Our Oregon were intended for any other purpose.

27. On its 2017 Form LM-2, AFSCME Council 75 disclosed three contributions totaling \$135,000 to Our Oregon. *See Exhibit PP*, a copy of AFSCME Council 75’s 2017 LM-2 form.

The union itemized each of the transactions under Schedule 16, “political activities and lobbying,” and described Our Oregon as a “statewide coalition.” Because Our Oregon has admitted that its coalition work is political and because it has received political contributions from AFSCME Council 75 within that same context in years past (*see Exhibits B and K*), there is little reason to believe these contributions were intended for any other purpose.

28. Under Schedule I of its FY2017 and FY2018 Forms 990 filed with the IRS, the OEA reported making \$587,500 in total contributions to Our Oregon. *See Exhibits JJ and QQ*, copies of the OEA’s FY2017 and FY2018 IRS 990 forms.⁹

As before, the union described the purpose of its contributions as “general support.” However, given the explicitly political nature of Our Oregon’s coalition work and the fact that Our Oregon has admitted that ballot measures are its primary focus (*see Exhibits B and K*), it appears unlikely that the OEA’s contributions in 2017 were made for any other purpose than its ongoing support of the group’s ballot measure work.

29. On its FY2018 Form LM-2, the SEIU Leadership Council reported making a \$5,000 payment to Our Oregon. *See Exhibit RR*, a copy of SEIU Leadership Council’s FY2018 LM-2 form. The union itemized the payment under Schedule 16, “political activities and lobbying.”

⁹ It is unclear exactly how much of this amount was contributed to Our Oregon during the calendar year 2017, as the OEA’s IRS 990 forms cover the 2017 and 2018 fiscal years and do not disclose exactly when such contributions or installments of contributions took place.

30. On its FY2018 Form LM-2, AFT-Oregon reported making a \$5,000 payment to Our Oregon. *See Exhibit SS*, a copy of AFT-Oregon’s FY2018 LM-2 form. The union itemized the payment under Schedule 16, “political activities and lobbying.”
31. On its FY2017 and FY2018 Forms LM-2, ONA reported making two payments totaling \$37,700 to Our Oregon. *See Exhibit NN and TT*, copies of ONA’s FY2017 and FY2018 LM-2 forms. In addition to itemizing the payments under Schedule 16, “political activities and lobbying,” the union also described Our Oregon as an “elections” organization.

Political Contributions in 2018

32. Under Schedule 16 of its FY2018 and FY2019 LM-2 reports, SEIU Local 503 reported making seven contributions to Our Oregon for “campaign [assistance].” *See Exhibits OO and UU*.

The use of the phrase “campaign [assistance]” strongly implies electoral political activity. The most likely explanation is that it refers to Our Oregon’s opposition to four ballot measures during Oregon’s 2018 general election.

Other sources appear to confirm this suspicion. SEIU Local 503 also reported the contributions under Schedule I of its FY2018 Form LM-2 filed with the IRS, where it explicitly described their purpose as “political activities.” *See Exhibit VV*, a copy of SEIU Local 503’s FY2018 IRS 990 form.

In 2018, Our Oregon’s principals operated “Defend Oregon,” the political committee organized to support Ballot Measure 102 and oppose Measures 103, 104, 105 and 106. *See Exhibit WW*, a copy of the committee’s statement of organization.

Given Our Oregon’s involvement in actively supporting and opposing these ballot measures, it appears unlikely that any other “campaign” would have garnered such massive political contributions from SEIU Local 503 at that time. Furthermore, the organization received SEIU Local 503’s largest contribution of \$400,000 on July 23, 2018, after the deadline to submit initiative petition signatures had passed.

33. On its 2018 Form LM-2, AFSCME Council 75 disclosed six contributions to Our Oregon totaling \$251,655. *See Exhibit XX*, a copy of AFSCME Council 75’s 2018 LM-2 form.

The union itemized each of the transactions under Schedule 16, “political activities and lobbying,” and described Our Oregon as a “statewide coalition.” Because Our Oregon has admitted that its coalition work is political and because it has received political contributions from AFSCME Council 75 within that same context in years past (*see Exhibits B and K*), there is little reason to believe these contributions were intended for any other purpose.

34. Under Schedule I of its FY2018 Form 990 filed with the IRS, the OEA reported making \$287,500 in total contributions to Our Oregon. *See Exhibit QQ*, a copy of the OEA's FY2018 IRS 990 form.¹⁰

As before, the union described the purpose of its contributions as “general support.” However, given the explicitly political nature of Our Oregon’s coalition work and the fact that Our Oregon has admitted that ballot measures are its primary focus (*see Exhibits B and K*), it appears unlikely that the OEA’s contributions in 2018 were made for any other purpose than its ongoing support of the group’s ballot measure work.

35. Under Schedule 16 of its FY2019 LM-2 report, the National Education Association (NEA) reported making a \$250,000 contribution to Our Oregon for a “ballot [initiative] grant.” *See Exhibit YY*, a copy of the NEA’s FY2019 LM-2 report.

The contribution was made on October 26, 2018, less than two weeks before election day, and the union described Our Oregon as a “ballot initiative committee.”

Although the contribution was described as a “ballot [initiative] grant,” and Our Oregon as a “ballot initiative committee,” an out-of-state entity like the NEA may not know the distinction between “initiative” and “measure” when it comes to the registration and reporting requirements of Oregon political committees, and it is highly unlikely that the NEA would provide a grant for initiative petition work two weeks before the 2018 general election.

Given the timing of this particular contribution, it is reasonable to believe that the NEA’s \$250,000 grant was actually intended for Our Oregon’s use on the ballot measures that it was actively supporting and opposing at the time.

36. On its FY2019 Form LM-2, AFT-Oregon reported making a \$5,000 payment to Our Oregon. *See Exhibit ZZ*, a copy of AFT-Oregon’s FY2019 LM-2 form. The transaction took place approximately one month before the 2018 general election and the union itemized the payment under Schedule 16, “political activities and lobbying.”
37. On its FY2019 Form LM-2, OSEA reported making a \$5,000 payment to Our Oregon. *See Exhibit AAA*, a copy of OSEA’s FY2019 LM-2 form. The transaction took place less than two months before the 2018 general election and the union itemized the payment under Schedule 16, “political activities and lobbying.”
38. On its FY2018 and FY2019 Forms LM-2, ONA reported making three payments totaling \$20,000 to Our Oregon, which it described as a “political organization.” *See Exhibit TT and BBB*, copies of ONA’s FY2018 and FY2019 LM-2 forms. One of the transactions took place approximately two weeks before the 2018 general election.
39. On its FY2019 Form LM-2, the Northwest Regional Council of Carpenters reported making a \$5,000 payment to Our Oregon. *See Exhibit CCC* a copy of Carpenters’ FY2019 LM-2 form.

¹⁰ It is unclear exactly how much of this amount was contributed to Our Oregon during the calendar year 2018, as the OEA’s IRS 990 form covers the 2018 fiscal year and does not disclose the exact date of the contributions.

In addition to itemizing the payment under Schedule 16, “political activities and lobbying,” the union also described Our Oregon as an “political organization.”

Political Contributions in 2019

40. On its FY2019 Form LM-2, SEIU Local 503 reported making four contributions totaling \$229,464 to Our Oregon. *See Exhibit UU*, a copy of SEIU Local 503’s FY2019 LM-2 forms.

The union itemized the transactions under Schedule 16, “political activities and lobbying,” and described Our Oregon as a “labor coalition.” However, because Our Oregon has admitted that its coalition work is political and because it has received contributions from coalition partners for the explicit purpose of political activity on ballot measures (*see Exhibits B and K*), there is little reason to believe these contributions received by Our Oregon were intended for any other purpose.

41. On its 2019 Form LM-2, AFSCME Council 75 reported making \$179,711 in total contributions to Our Oregon. *See Exhibit DDD*, a copy of AFSCME Council 75’s 2019 LM-2 form.

One of the transactions – a contribution of \$50,000 – was described as “[ballot measure] field work.”

Furthermore, the union itemized the transactions under Schedule 16, “political activities and lobbying,” and described Our Oregon as a “statewide coalition.” Because Our Oregon has admitted that its coalition work is political and because it has received political contributions from AFSCME Council 75 within that same context in years past (*see Exhibits B and K*), there is little reason to believe these contributions were intended for any other purpose.

Additional Political Contributions

It is impossible to publicly identify the contributions Our Oregon has received from labor unions that have yet to file their 2019 or FY2020 Form LM-2. However, given the pattern of union disbursements made to Our Oregon over the past several years, it is reasonable to suspect that Our Oregon received additional political contributions from labor unions in 2019 and has continued to receive similar contributions in 2020.

Our Oregon’s Leadership

As outlined above, Our Oregon has received numerous contributions from labor unions for the purpose of influencing ballot measure elections. However, even if a labor union didn’t specifically label its contribution to Our Oregon as being for political purposes, the officers of those labor unions knew or reasonably should have known that their unions’ contributions would be used for political purposes because those officers also served as Our Oregon’s officers and made the decisions to use the funds on politics.

Between 2013 and 2018, the following individuals served as Our Oregon’s officers and board members:

2013 Leadership

- Patrick Green, executive director. Green was also the national partnership director for SEIU's national headquarters. *See Exhibit EEE*, a copy of SEIU's 2013 LM-2 form.¹¹
- BethAnne Darby, president and board member. Darby was also the executive director of public affairs for the OEA. *See Exhibit N*.¹²
- Arthur Towers, secretary/treasurer and board member. Towers was also the political director of SEIU Local 503. *See Exhibit L*.
- Melissa Unger, board member. Unger is currently the executive director of SEIU Local 503 and in 2013 was the executive director of the SEIU Leadership Council. *See Exhibits UU and L*.
- Joe Baessler, board member. Baessler was also the political director of AFSCME Council 75. *See Exhibit K*.
- Trent Lutz, board member. Lutz is currently the OEA's assistant executive director of public affairs and in 2013 was a government relations consultant for the OEA. *See Exhibit FFF*, a copy of Lutz's LinkedIn profile and *Exhibit GGG*, a copy of the OEA's webpage.
- Jeston Black, board member. Black also served as a public affairs consultant for the OEA. *See Exhibit HHH*, a copy of Black's LinkedIn profile.
- Sarah Baessler, board member. Baessler was also a political organizer for ONA. *See Exhibit P*.
- Graham Trainor, board member. Trainor is also the president of the Oregon AFL-CIO, a labor federation to which AFSCME Council 75, AFT-Oregon, OSEA and ONA belong. *See Exhibits III-JJJ*, copies of Oregon AFL-CIO webpages.¹³
- Elana Guiney, board member. Guiney was the legislative and communications director for the Oregon AFL-CIO. *See Exhibit KKK*, an article from *NW Labor Press*.

2014 Leadership

- BethAnne Darby, president and board member. Darby was also the executive director of public affairs for the OEA. *See Exhibit O*.¹⁴
- Melissa Unger, secretary/treasurer and board member. Unger is currently the executive director of SEIU Local 503 and in 2014 was the union's political director. *See Exhibits UU and M*.
- Joe Baessler, board member. Baessler was also the political director of AFSCME Council 75. *See Exhibit T*.
- Trent Lutz, board member. Lutz is currently the OEA's assistant executive director of public affairs and has been a government relations consultant for the OEA since 2013. *See Exhibits FFF and GGG*.
- Matt Swanson, board member. Swanson was also a political organizer for the SEIU Leadership Council. *See Exhibit X*.

¹¹ Unless otherwise indicated, refer to Schedule 12.

¹² Part VII.

¹³ Also accessible at www.orafclcio.org/officers-staff and www.orafclcio.org/affiliates.

¹⁴ Part VII.

- Shannon Brett, board member. Brett was also the director of political and legislative affairs for AFT-Oregon. *See Exhibit LLL*, an archived copy of AFT-Oregon’s webpage.
- Sarah Baessler, board member. Baessler was also a government relations officer for ONA. *See Exhibit W*.
- Graham Trainor, board member. Trainor is also the president of the Oregon AFL-CIO. *See Exhibit III*.

2015 Leadership

- Trent Lutz, president and board member. Lutz is currently the OEA’s assistant executive director of public affairs and has been a government relations consultant for the OEA since 2013. *See Exhibits FFF and GGG*.
- Melissa Unger, secretary/treasurer and board member. Unger is currently the executive director of SEIU Local 503 and in 2015 was the union’s political director. *See Exhibits UU and Q*.
- Joe Baessler, board member. Baessler was also the political director of AFSCME Council 75. *See Exhibit AA*.
- Matt Swanson, board member. Swanson was also the executive director of the SEIU Leadership Council. *See Exhibit X*.
- Sarah Baessler, board member. Baessler was also a government relations officer for ONA. *See Exhibit FF*.
- Jenn Baker, board member. Baker was the director of government relations for ONA in 2015 and is now the executive director of the SEIU Leadership Council. *See Exhibit FF and Exhibit MMM*, a copy of Baker’s LinkedIn profile.
- Shannon Brett, board member. Brett was also the director of political and legislative affairs for AFT-Oregon. *See Exhibit NNN*, an archived copy of AFT-Oregon’s webpage.
- Graham Trainor, board member. Trainor is also the president of the Oregon AFL-CIO. *See Exhibit III*.

2016 Leadership

- Trent Lutz, president and board member. Lutz is currently the OEA’s assistant executive director of public affairs and has been a government relations consultant for the OEA since 2013. *See Exhibits FFF and GGG*.
- Melissa Unger, secretary/treasurer and board member. Unger is currently the executive director of SEIU Local 503 and in 2016 was the union’s political director. *See Exhibits UU and Z*.
- Joe Baessler, board member. Baessler was also the political director of AFSCME Council 75. *See Exhibit II*.
- Matt Swanson, board member. Swanson was also the executive director of the SEIU Leadership Council. *See Exhibit OOO*, a copy of the SEIU Leadership Council’s FY2016 LM-2 form.
- Sarah Baessler, board member. Baessler was also a government relations officer for ONA. *See Exhibit FF*.
- Jenn Baker, board member. Baker was the director of government relations for ONA in 2016 and is now the director of the SEIU Leadership Council. *See Exhibit FF and Exhibit MMM*.

- Graham Trainor, board member. Trainor is also the president of the Oregon AFL-CIO. *See Exhibit III.*

2017 Leadership

- Trent Lutz, president and board member. Lutz is currently the OEA’s assistant executive director of public affairs and has been a government relations consultant for the OEA since 2013. *See Exhibits FFF and GGG.*
- Melissa Unger, secretary/treasurer and board member. Unger is currently the executive director of SEIU Local 503 and in 2017 was the union’s political director. *See Exhibits UU and GG.*
- Joe Baessler, board member. Baessler was also the political director of AFSCME Council 75. *See Exhibit PP.*
- Elvyss Argueta, board member. Argueta was also a political organizer for SEIU Local 503. *See Exhibit GG.*
- Chris Hewitt, board member. Hewitt was also an organizer for ONA. *See Exhibit NN.*
- Graham Trainor, board member. Trainor is also the president of the Oregon AFL-CIO. *See Exhibit III.*

2018 Leadership

- Andrea Cooper, president and board member. Cooper is also the political director of SEIU Local 503. *See Exhibit UU.*
- Trent Lutz, secretary, past president and board member. Lutz is currently the OEA’s assistant executive director of public affairs and has been a government relations consultant for the OEA since 2013. *See Exhibits FFF and GGG.*
- Melissa Unger, past secretary and board member. Unger is currently the executive director of SEIU Local 503 and held that position in 2018. *See Exhibits UU and OO.*
- Joe Baessler, board member. Baessler was also the political director of AFSCME Council 75. *See Exhibit XX.*
- Elvyss Argueta, board member. Argueta was also a political organizer for SEIU Local 503. *See Exhibit OO.*
- Jenny Smith, board member. Smith was a statewide political organizer and communications consultant for the OEA. *See Exhibit PPP*, a copy of Smith’s LinkedIn profile.
- Graham Trainor, board member. Trainor is also the president of the Oregon AFL-CIO. *See Exhibit III.*
- Jess Giannettino, board member. Giannettino is also the political director of the Oregon AFL-CIO. *See Exhibit III.*

See Exhibit A and Exhibits QQQ-UUU, copies of Our Oregon’s 2013-2018 IRS 990 forms.

Because the officers of the unions contributing to Our Oregon were also officers of Our Oregon and deciding how to spend the money, the unions supporting Our Oregon were aware of Our Oregon’s political activity and likely even directed the political use of the contributions it received.

Expenditures Made by Our Oregon

Because Our Oregon is a political committee by virtue of the contributions it receives, it is also a political committee by virtue of the expenditures it makes.

According to campaign finance data from the Oregon Elections System for Tracking and Reporting (ORESTAR), Our Oregon's unreported expenditures from 2013 to the present include 271 separate expenditures totaling \$1,986,295.32 that were reported as cash and in-kind contributions by various registered committees.¹⁵ The committees to which Our Oregon contributes clearly include a number of political committees that receive those funds for the purpose of supporting or opposing candidates, measures and political parties.

While Our Oregon may assert that its political expenditures are protected from disclosure by ORS 260.005(18)(b)(A), this statutory exception does not apply here. Although certain entities may not be required to report expenditures so long as they are made to a political committee that is required to report them, the fact that Our Oregon is a political committee by virtue of the contributions it receives means it cannot evade the concurrent obligation to disclose its expenditures.

In addition to the political expenditures it has made to entities required to report the transactions, Our Oregon has certainly made other expenditures – including monthly staff salary and benefits, payroll taxes, facility rent, and other such expenditures – that have not been reported by any other candidates or committees but must, nonetheless, be disclosed.

Allegation 2: Violations of ORS 260.042

ORS 260.042 specifies the information that must be included in a political committee's statement of organization, including the "name, address and nature of the committee" and "[a] designation of any measure that the committee is opposing or supporting, or intends to support or oppose."

As an unregistered political committee, Our Oregon has failed to disclose any of the information required under ORS 260.042.

Allegation 3: Violations of ORS 260.054

ORS 260.054 states that political committees shall establish "a single exclusive campaign account" and requires them to "maintain the campaign account in the name of the political committee." The statute also details various requirements for the making of political expenditures and the proper handling of campaign funds.

By failing to register as a political committee, Our Oregon has also failed to comply with the requirements of ORS 260.054.

Allegation 4: Violations of ORS 260.057

ORS 260.057 requires political committees to "file with the secretary statements of contributions received and expenditures made" via an electronic filing system, in accordance with regulations

¹⁵ Oregon Secretary of State, Oregon Elections System for Tracking and Reporting (ORESTAR). Retrieved from <https://secure.sos.state.or.us/>.

adopted by the Secretary of State, to be made publicly available online. ORS 260.083 prescribes in greater detail the contents of the statements required by ORS 260.057.

Our Oregon's failure to file a statement of organization and subsequent statements of contributions received and expenditures made represents an independent violation of ORS 260.057 for every contribution and expenditure not reported.

Allegation 5: Violations of ORS 260.402

Our Oregon's failure to register as a political committee has resulted in numerous violations of ORS 260.402 by causing it to receive and make contributions to ballot measure and other campaigns in its own name, when in truth those contributions were made by labor unions for the particular purpose of supporting and opposing those campaigns.

ORS 260.402 provides:

- “(1) A person may not make a contribution in any name other than that of the person who in truth provides the contribution to:
- (a) Any other person, relating to a nomination or election of any candidate or the support of or opposition to any measure;
 - (b) Any political committee; or
 - (c) A petition committee required to file a statement under ORS 260.118 (Treasurer and statement of organization of petition committee).
- (2) Except as provided in subsection (3) of this section, a person, political committee or petition committee may not knowingly receive a contribution prohibited under subsection (1) of this section or enter or cause the contribution to be entered in accounts or records in another name than that of the person by whom it was actually provided.
- (3) If a person receives a contribution from a political committee, the person may enter the contribution into accounts or records as received from the political committee.”

Although Our Oregon receives many contributions for the purpose of supporting and opposing ballot measures, several in particular can be described as “pass-through” donations from the various labor unions that made them.

For example, Our Oregon received multiple contributions from AFSCME Council 75 in 2013, 2015 and 2019 that were specifically earmarked for the purpose of supporting or opposing ballot measures. *See Exhibits K, AA and DDD.*

The election-season contributions made by SEIU Local 503 and AFSCME Council 75 in 2014 also appear to have directly passed through Our Oregon to the campaign against Measure 90. *See Exhibits M and T.*

Our Oregon also received large contributions from SEIU Local 503 and the NEA leading up to the 2018 general election, including the NEA's \$250,000 "ballot initiative grant" approximately two weeks before election day. *See Exhibit YY.* Under the circumstances, it is difficult to envision a more pressing purpose for these contributions than the organization's work to influence the vote on ballot measures it actively opposed.

If such payments were intended to help Our Oregon contribute to specific ballot measure campaigns, then Our Oregon violated ORS 260.402 by falsely representing to the candidates and political committees receiving the funds that it was the contributor, instead of identifying the specific labor unions that were the actual contributors. The deception resulted in the reporting of the contributions under a false name.

Procedural Issues

Statute of Limitations

ORS 260.345(7) provides that a complaint alleging violations of Oregon campaign finance law "shall be filed by an elector under this section no later than 90 days following the election at which a violation of an election law or rule is alleged to have occurred, or 90 days following the date the violation of an election law or rule is alleged to have occurred, whichever is later."

There is reason to believe that Our Oregon has violated ORS 260.035 within the past 90 days. In each of the past five years, Our Oregon has regularly received one or more contributions from labor unions in the months of February, March and/or April. *See Exhibits K-DDD.* Given the consistency with which these unions have contributed to Our Oregon over the past several years, it is reasonable to believe the organization has already received similar contributions in 2020.

If this is the case, Our Oregon has again failed to file a statement of organization as required by ORS 260.035.

However, even if no violations have occurred within the past 90 days, the Secretary of State is directed by ORS 260.345(8) to proceed with an investigation if it has "reason to believe that a violation of an election law or rule has occurred." Such investigations may proceed "no later than two years following the election at which a violation of an election law or rule is alleged to have occurred, or two years following the date the violation of an election law or rule is alleged to have occurred, whichever is later."

As there is substantial evidence that Our Oregon committed violations of Oregon's campaign finance laws in the past several years, the Secretary of State can and should proceed with an investigation pursuant to ORS 260.345(8).

Furthermore, ORS 260.345(7) applies strictly to violations that are subject to a civil penalty under ORS 260.995. Because Our Oregon's violations of ORS 260.035 have also resulted in the reporting of contributions in false name (a violation subject to a criminal penalty under ORS 260.993), the Secretary of State can and should proceed with an investigation to determine whether such violations have occurred.

Prior Dismissal

In 2008, the Secretary of State's Election Division dismissed a complaint alleging violations of Chapter 260 ORS by Our Oregon. *See Exhibit VVV*, a copy of the final determination.

That dismissal has no bearing here. The facts discussed in the 2008 final determination were substantially different than those presented here, and the mere fact that an investigation into Our Oregon's status as a political committee was conducted in the past does not mean that Our Oregon can never subsequently become a political committee. Indeed, the evidence now shows that it has since become a political committee.

Conclusion

Our Oregon's continuing failure to register as a political committee represents a new and separate violation of Oregon campaign finance law with every contribution it receives and every expenditure it makes. Since Our Oregon admits that its purpose is primarily political (and its website continues to state as much even today), every contribution it receives and every expenditure it makes requires reporting, and its failure to do so represents a multiplicity of continuing violations.

The organization's persistent violations of Chapter 260 ORS are nothing to take lightly. Its failure to comply with the law means that millions of dollars spent influencing electoral politics in Oregon remain hidden from public view and permits Our Oregon and its contributors to deceive voters about the extent of their influence in Oregon elections.

We respectfully urge the Secretary of State to perform a thorough investigation into these allegations and initiate an enforcement action. Please do not hesitate to contact me if I can be of assistance.

Sincerely,



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