

May 13, 2025

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*Submitted online and via email to: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov); [susan.myers@ogec.oregon.gov](mailto:susan.myers@ogec.oregon.gov)*

**Re: Report of violations of ORS 171.764 by lobbyist Cynthia Branger Munoz**

Ms. Myers,

Pursuant to ORS 171.778,<sup>1</sup> I write to report violations of ORS 171.764 by lobbyist Cynthia Branger Munoz.

Specifically, Munoz violated the prohibition in ORS 171.764 against false statements or misrepresentations by lobbyists or public officials when, on or around March 10, 2025, she knowingly provided an incomplete and falsified document to the members of the legislature's House Committee on Labor and Workplace Standards for the purpose of influencing legislative action on House Bill (HB) 3789.

**Background**

On March 10, 2025, the Oregon House of Representatives' Committee on Labor and Workplace Standards held a public hearing on HB 3789, the ostensible purpose of which is to prohibit the false impersonation of public-sector unions and union representatives.<sup>2</sup>

During the hearing, Rep. Anna Scharf asked Tracey-Ann Nelson, the executive director of the Oregon Education Association (OEA), to provide the committee with examples of written communications that HB 3789's supporters considered to falsely impersonate unions or union representatives, noting that none had yet been provided. Specifically, Scharf requested that examples be uploaded to the legislative record via the Oregon Legislative Information System (OLIS) on behalf of the OEA and the bill's other supporters.<sup>3</sup>

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<sup>1</sup> ORS 171.778(1)(a) provides that, "Any person may file with the Oregon Government Ethics Commission a signed written complaint alleging that there has been a violation of any provision of ORS 171.725 to 171.785 or of any rule adopted by the commission under ORS 171.725 to 171.785. The complaint shall state the person's reason for believing that a violation occurred and include any evidence relating to the alleged violation."

<sup>2</sup> HB 3789 (2025). <https://olis.oregonlegislature.gov/liz/2025R1/Measures/Overview/HB3789>

<sup>3</sup> Exchange between Rep. Anna Scharf and Tracey Ann-Nelson. House Committee on Labor and Workplace Standards. March 10, 2025.

<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2025031142&startStreamAt=4942&stopStreamAt=5015>

Nelson responded that the OEA did, indeed, “have samples that we will put in the record of multiple different mailers” that had been sent to Oregon public employees allegedly attempting to impersonate a union.<sup>4</sup>

On or around March 10, 2025, Cynthia Branger Munoz, a registered lobbyist for the OEA,<sup>5</sup> uploaded a photocopy of a mailer to OLIS.<sup>6</sup> The mailer was from the Freedom Foundation, an organization that communicates with public employees about their constitutional right to opt out of union membership and dues payments through an outreach project called Opt Out Today.<sup>7</sup>

No other examples were provided. The Freedom Foundation mailer uploaded by Munoz was the only “example” of alleged false impersonation provided by the OEA or any of HB 3789’s proponents to the House Committee on Labor and Workplace Standards.<sup>8</sup>

However, not only did the mailer uploaded by Munoz not include any union logos, branding, or other evidence suggesting that it falsely impersonated union communications, but it was also incomplete. In fact, the copy had been edited to remove entire portions of the original mailer showing the return address to be that of the Freedom Foundation/Opt Out Today.

The below image illustrates the apparent edits made to remove (“white out”) entire portions of the mailer, with additional markups highlighting areas where content was evidently missed:

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<sup>4</sup> *Id.*

<sup>5</sup> Oregon Government Ethics Commission lobbyist registration details. Cynthia Branger Munoz.  
<https://apps.oregon.gov/OGEC/EFS/Records/GetUserProfile?filerID=2845&reportType=Registrations&filerType=Lobbyist>

<sup>6</sup> The document uploaded to OLIS by Cynthia Branger Munoz for the House Committee on Labor and Workplace Standards is available here:

<https://olis.oregonlegislature.gov/liz/2025R1/Downloads/PublicTestimonyDocument/149896>

<sup>7</sup> During the March 10, 2025, public hearing and subsequent legislative proceedings, it became evident that all of the accusations of false impersonation made by HB 3789’s supporters referred specifically to the Freedom Foundation.

- For example, though many of HB 3789’s supporters initially refrained from naming any particular organization as the target of their accusations, certain of its supporters eventually singled out the Freedom Foundation multiple times by name during the hearing, claiming that the alleged misleading mailers being discussed were “from the Freedom Foundation.”

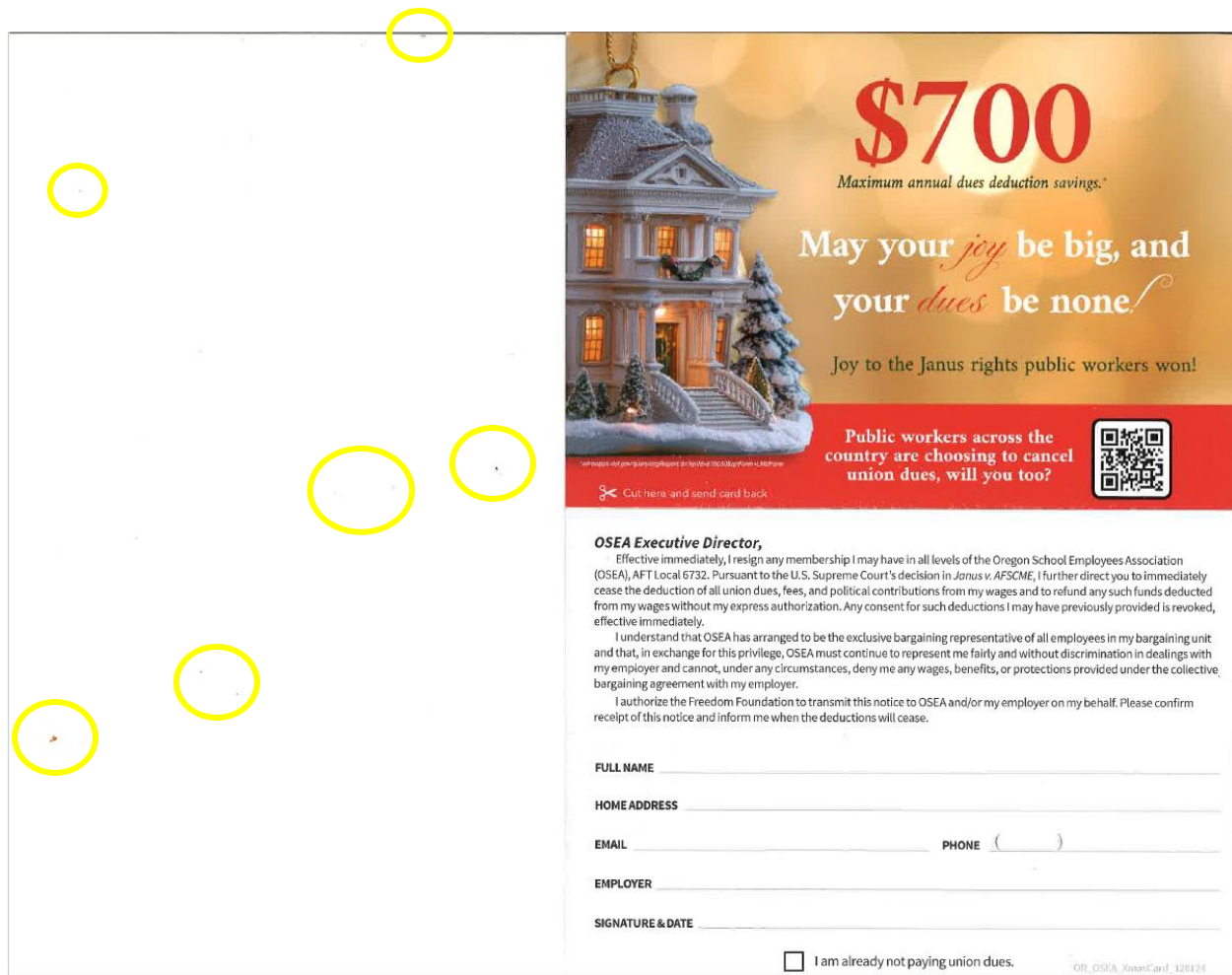
<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2025031142&startStreamAt=3798&stopStreamAt=3994>

- Additionally, when asked during the subsequent House floor debate on HB 3789 if the bill targeted any specific organization, Rep. Lucetta Elmer, vice-chair of the House Committee on Labor and Workplace Standards, responded, “Yes... the Freedom Foundation was singled out by name multiple times and [became] the exclusive subject of subsequent committee discussions.” Rep. Ed Diehl similarly noted that HB 3789 “target[s] one particular organization, the Freedom Foundation,” and Rep. Shelly Boshart Davis, another member of the House Committee on Labor and Workplace Standards, reiterated that the committee record “repeatedly singled out this one organization by name”—having identified the Freedom Foundation and Opt Out Today—“yet no other examples of alleged impersonation were provided.”

<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2025041145&startStreamAt=10895&stopStreamAt=14805>

<sup>8</sup> The list of submitted written testimony for the March 10, 2025 public hearing on HB 3789 in the House Committee on Labor and Workplace Standards is available here:

<https://olis.oregonlegislature.gov/liz/2025R1/Measures/Testimony/HB3789>



The Freedom Foundation subsequently provided the committee with written testimony that linked to a complete copy of the mailer,<sup>9</sup> also pointing out that the OEA—through Munoz—had neglected to include a copy of the mailer’s outer envelope that clearly identified the Freedom Foundation as the sender.<sup>10</sup>

### **Allegations and Arguments**

The members of the House Committee on Labor and Workplace Standards are legislative officials within the meaning of ORS 171.725(7).<sup>11</sup>

<sup>9</sup> A complete copy of the Freedom Foundation’s mailer and its outgoing envelope is available here: <https://www.freedomfoundation.com/wp-content/uploads/2025/03/OR-XmasCard-20242.pdf>

<sup>10</sup> Freedom Foundation written testimony on HB 3789. House Committee on Labor and Workplace Standards. March 10, 2025. <https://olis.oregonlegislature.gov/liz/2025R1/Downloads/PublicTestimonyDocument/150928>

<sup>11</sup> ORS 171.725(7) defines “legislative official” as “any member or member-elect of the Legislative Assembly, any member of an agency, board or committee that is part of the legislative branch, and any staff person, assistant or employee thereof.”

Cynthia Branger Munoz is a lobbyist within the meaning of ORS 171.725(9),<sup>12</sup> and is currently registered with the Oregon Government Ethics Commission (“the Commission”) as a lobbyist for the OEA.<sup>13</sup>

ORS 171.764 provides:

- “(1) No lobbyist or public official, as defined in ORS 244.020, shall make any false statement or misrepresentation to any legislative or executive official or, knowing a document to contain a false statement, cause a copy of such document to be received by a legislative or executive official without notifying such official in writing of the truth as prescribed in subsection (2) of this section.
- (2) It is a defense to a charge of violation of subsection (1) of this section if the person who made the false statement or misrepresentation retracts the statement or misrepresentation and notifies the official in writing of the truth:
  - (a) In a manner showing complete and voluntary retraction of the prior false statement or misrepresentation; and
  - (b) Before the subject matter of the false statement or misrepresentation is submitted to a vote of a legislative committee or either house of the Legislative Assembly or is relied upon by an executive official in an administrative hearing.
- (3) As used in this section:
  - (a) ‘False statement or misrepresentation’ means the intentional misrepresentation or misstatement of a material fact.
  - (b) ‘Material’ means that which may have affected the course or outcome of any proceeding or transaction if known prior to the proceeding or transaction.”

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<sup>12</sup> ORS 171.725(8) defines “lobbying” as “influencing, or attempting to influence, legislative action through oral or written communication with legislative officials, solicitation of executive officials or other persons to influence or attempt to influence legislative action or attempting to obtain the goodwill of legislative officials.”

ORS 171.725(9) defines “lobbyist” as,

- (a) Any individual who agrees to provide personal services for money or any other consideration for the purpose of lobbying.
- (b) Any person not otherwise subject to paragraph (a) of this subsection who provides personal services as a representative of a corporation, association, organization or other group, for the purpose of lobbying.
- (c) Any public official who lobbies.

ORS 171.725(9) provides the applicable definition of “lobbyist” for purposes of the prohibition in ORS 171.764. (the term is not defined in ORS 244.020, which, for the purposes of ORS 171.764, refers only to the definition of “public official”).

<sup>13</sup> Oregon Government Ethics Commission lobbyist registration details. Cynthia Branger Munoz.

<https://apps.oregon.gov/OGEC/EFS/Records/GetUserProfile?filerID=2845&reportType=Registrations&filerType=Lobbyist>

Munoz’s provision of the incomplete and doctored Freedom Foundation mailer clearly constitutes “misrepresentation” within the meaning of ORS 171.764(1), which prohibits lobbyists from making any “false statement or misrepresentation.” (Emphasis added). By the statute’s plain language, the “misrepresentation” need not also be a “statement.” Defined in ORS 171.764(3)(a) as “the intentional misrepresentation or misstatement of a material fact,” the making of *either* a false statement or misrepresentation, in whatever form the latter may be made, violates the statute.<sup>14</sup>

There is strong evidence that Munoz’s misrepresentation was intentional.

Regardless of who actually edited the document, any reasonable person, including Munoz, could see that parts of the photocopy had been obscured. Munoz would have been well aware of this before uploading the mailer to OLIS both for the obvious reason that it was visually apparent, and because Munoz knew it was a “mailer.” When asked by Scharf to provide examples, Nelson had specified that the OEA would put “mailers” on the record<sup>15</sup>—and this is precisely what Munoz, the OEA’s lobbyist, provided. Yet notably, the photocopy uploaded by Munoz was one-sided and conspicuously missing any content showing its sender or return address, elements commonly associated with any mailer.

In fact, there is no doubt that Munoz knew it was a Freedom Foundation/Opt Out Today mailer and had good reason to intentionally obscure this fact from legislative officials.

Though it eventually became clear to committee members that the various accusations of false impersonation made by HB 3789’s proponents were leveled squarely at the Freedom Foundation,<sup>16</sup> most of the bill’s supporters, including the OEA, made a conspicuous effort *not* to name any particular organization as the subject of their accusations during the May 10, 2025, public hearing on the bill. Presumably, this is because openly stating that HB 3789 targets a single, specific organization on the legislative record would have appeared discriminatory and hardly appropriate for consideration by the state’s lawmaking body.

In communications to its own members, however, the OEA has made it abundantly clear that HB 3789 does, indeed, target the Freedom Foundation.

In an April 2025 email titled, “Scam Alert: Don’t Fall for the Freedom Foundation,” sent to OEA members, the OEA accused the Freedom Foundation of “trick[ing] union members into dropping their union membership” and explicitly tied the accusation to the OEA’s support of HB 3789, stating:

**“What is OEA Doing to Fight the Freedom Foundation?”**

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<sup>14</sup> The fact that ORS 171.764(1) also specifically forbids the provision of documents containing false statements does not in any way limit the way in which a “misrepresentation” may be made.

<sup>15</sup> Exchange between Rep. Anna Scharf and Tracey Ann-Nelson. House Committee on Labor and Workplace Standards. March 10, 2025.

<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=20250311142&startStreamAt=4942&stopStreamAt=5015>

<sup>16</sup> See footnote 7.

OEA is supporting legislation being considered by the Oregon legislature this session that would make it unlawful for organizations to falsely impersonate a union representative. This tactic is often used by organizations like the Freedom Foundation as they seek to undermine our union using deceptive practices.

OEA Executive Director Tracey-Ann Nelson recently provided testimony to lawmakers urging them to support passage of this important bill.”<sup>17</sup>

(Emphasis in original).

Clearly, Munoz and the OEA understood that their accusations underpinning HB 3789 were aimed exclusively at the Freedom Foundation and the record shows that Munoz uploaded the Freedom Foundation mailer to OLIS for the express purpose of supporting those claims. Having full knowledge that the mailer was associated with the Freedom Foundation and its Opt Out Today project, Munoz’s decision to provide committee members with an incomplete and edited copy of the mailer that obscured this fact was, without question, “intentional.”

The misrepresentation was also clearly “material” within the meaning of ORS 171.764. The document provided by Munoz was the *only* example of alleged false impersonation provided to legislative officials prior to their subsequent votes on HB 3789 in both the House Committee on Labor and Workplace Standards and on the House floor.<sup>18</sup> Regardless of the Freedom Foundation’s efforts to rebut the misrepresentation made by Munoz, it is undeniably true that the doctored mailer, being the *only* supporting evidence provided to House members by HB 3789’s supporters, “may have affected the course or outcome” of the bill’s subsequent proceedings in the House.

OLIS serves as the legislature’s official record and is relied upon by both committee members and all other legislators and staff. There is no question that by uploading the mailer to OLIS (and by doing so in response to a state representative’s request, no less), Munoz made the misrepresentation “to” legislative officials.

Finally, there is no evidence that Munoz retracted the misrepresentation and notified legislative officials of the truth prior to the subsequent House committee or floor votes on HB 3789, as required by ORS 171.764(2).

In fact, the legislative record shows the opposite. Speaking during the subsequent House floor debate on HB 3789, Rep. Lucetta Elmer, the vice-chair of the House Committee on Labor and Workplace Standards, described the incomplete and edited mailer uploaded by Munoz and further explained that the misrepresentation would not have become known to her had the Freedom Foundation—not Munoz—not attempted to correct the record.<sup>19</sup> Elmer concluded that the edited

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<sup>17</sup> OEA email. “Scam Alert: Don’t Fall for the Freedom Foundation.” April 1, 2025.

<https://www.freedomfoundation.com/wp-content/uploads/2025/05/OEA-scam-email.pdf>

<sup>18</sup> The complete list of submitted written testimony on HB 3789 while under consideration in the House is available here (note that the bill subsequently advanced to a Senate committee, where it received additional testimony):

<https://olis.oregonlegislature.gov/liz/2025R1/Measures/Testimony/HB3789>

<sup>19</sup> Comments on the House floor by Rep. Lucetta Elmer. April 10, 2025.

<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2025041145&startStreamAt=12254&stopStreamAt=12304>

mailer provided by Munoz was still “the only example that we saw during committee” from HB 3789’s proponents, indicating that Munoz herself never corrected the misrepresentation pursuant to ORS 171.764(2).

Similarly, both Scharf and Rep. Shelly Boshart Davis, another member of the House Committee on Labor and Workplace Standards, discussed the mailer provided by Munoz in their comments about HB 3789 on the House floor, expressing their view that it was, indeed, a misrepresentation of the evidence requested by committee members and noting that it was, at the time, still the *only* example of alleged false impersonation that had been furnished to them by HB 3789’s proponents.<sup>20</sup>

In short, there is no indication that Munoz ever retracted her misrepresentation and notified legislative officials of the truth about the Freedom Foundation’s mailer, as required by ORS 171.764(2), prior to either the House committee or floor votes on HB 3789.

### **Enforcement and Penalties**

Pursuant to ORS 171.776 and 171.778, the Commission has a duty to investigate, upon a signed complaint by any individual or upon its own instigation, apparent violations of any provisions of ORS 171.725 to 171.785.

ORS 171.992 provides that “[a]ny person who violates any provision of ORS 171.740 to 171.762, or any rule adopted under ORS 171.725 to 171.785, shall forfeit and pay to the General Fund for each violation a civil penalty of not more than \$5,000, to be determined by the Oregon Government Ethics Commission,” and further authorizes the Commission to “issue a written letter of reprimand, explanation or education” related to the violation(s).<sup>21</sup>

Pursuant to the authority granted to it under ORS 244.290(2), the Commission has adopted rules promulgated in OAR Chapter 199 “to carry out its duties” under ORS 171.725 to 171.785 and 171.992.

Excluding the late filing of lobbyist reports, OAR 199-010-0150(2) provides that “the Commission will identify each action that constitutes a violation of ORS Chapter 171 and when multiple violations are committed, will charge them” in the manner further described in subsection (2)(a) of the rule.

OAR 199-010-0150(2)(a) describes, “When a lobbyist or client/employer of a lobbyist has committed two or more violations by repeated equivalent actions, the Commission will charge the lobbyist or client/employer with a single violation and count the repeated actions using the number

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<sup>20</sup> Comments on the House floor by Rep. Anna Scharf. April 10, 2025.

<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2025041145&startStreamAt=13000&stopStreamAt=13234>

Comments on the House floor by Rep. Shelly Boshart Davis. April 10, 2025.

<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2025041145&startStreamAt=13526&stopStreamAt=13751>

<sup>21</sup> ORS 171.992(4).

of the equivalent acts as aggravating factors when imposing any sanction as discussed in (2)(b) of this rule.”

Subsection (2)(a) provides several examples “to illustrate this rule” that are “not meant to limit its application,” including that:

- If a lobbyist fails to register as such for multiple clients/employers, each violation “will be combined into the charge of one violation with each additional failure to register being counted as an equivalent action”; and
- When a lobbyist or the client/employer of a lobbyist fails to report a lobbying expenditure for the benefit of multiple legislative or executive officials “who participated in the same event, the multiple violations will be combined into the charge of one violation with each additional failure to report an official being counted as an equivalent action.”<sup>22</sup>

Consequently, subsection (2)(b) of the rule provides:

“When two or more single violations are charged as one violation, each additional violation by this rule will be counted as an equivalent action. The number of equivalent acts will be identified as an aggravating factor and included in the calculation of any assessment of a civil penalty that would constitute a sanction as described in OAR 199-008-0015.”<sup>23</sup>

OAR 199-008-0015 describes the Commission’s penalty matrix for imposing sanctions, including civil penalties, for violations of ORS Chapter 171 and other laws under the Commission’s jurisdiction, with corresponding “tables” provided for calculating penalties based on a combination of aggravating and mitigating factors.<sup>24</sup> Factors listed in the Commission’s “Table A” include those such as the number of violations, equivalent actions, and whether or not any action was taken to self-report or rectify an alleged violation, while “Table B” establishes the standard penalties based on the point total from Table A.<sup>25</sup>

In this case, Munoz misrepresented the Freedom Foundation’s mailer to all members of the House Committee on Labor and Workplace Standards and, indeed, to all members of the House of Representatives who necessarily relied on the official legislative record published in OLIS, as they do for all legislation, when considering whether to vote for or against HB 3789 on the House floor. Specifically, Munoz’s misrepresentation was made to all seven members of the committee,<sup>26</sup> and again to all 54 legislators who were present to participate in the House floor vote on HB 3789.<sup>27</sup>

The multiple violations of ORS 171.764 by Munoz clearly constitute “equivalent actions” under the Commission’s rules. Just as the Commission explains that failure to report a lobbying

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<sup>22</sup> OAR 199-010-0150(2)(a).

<sup>23</sup> OAR 199-010-0150(2)(b).

<sup>24</sup> OAR 199-008-0015 and the corresponding penalty matrix/tables published by the Commission are available here: <https://www.oregon.gov/ogec/Documents/Rule%20and%20Matrix.pdf>

<sup>25</sup> *Id.*

<sup>26</sup> House Committee on Labor and Workplace Standards. OLIS.

<https://olis.oregonlegislature.gov/liz/2025R1/Committees/HLWS/Overview>

<sup>27</sup> HB 3789 (2025). “Measure History.” See roll call for final passage of the bill in the House on April 10, 2025.

<https://olis.oregonlegislature.gov/liz/2025R1/Measures/Overview/HB3789>



expenditure for the benefit of multiple public officials results in multiple “equivalent actions” with respect to each public official who obtained the benefit,<sup>28</sup> so, too, does Munoz’s misrepresentation, which was made to at least<sup>29</sup> seven legislative officials on one occasion and again to at least<sup>30</sup> 54 legislative officials on another, constitute multiple “equivalent actions” in violation of ORS 171.764.

Resulting in a total of no less than 61 points for equivalent actions under the Commission’s penalty matrix (*see* Table A), Munoz’s multiple violations in this case easily warrant that 80 to 100 percent of the maximum civil penalty for each violation should rightfully be imposed (*see* Table B).<sup>31</sup>

The Commission should therefore exercise its duty under OAR 199-010-0150(2) to identify and charge “each action that constitutes a violation of ORS Chapter 171” and, pursuant to ORS 171.992, impose 80 to 100 percent of the maximum civil penalty of \$5,000 for each equivalent action by Munoz in violation of ORS 171.764.

### **Conclusion**

Oregon law is clear. A lobbyist may not make any false statement or misrepresentation to any legislative official without timely retracting the misrepresentation and notifying such official in writing of the truth. The record shows that Munoz violated ORS 171.764 when she misrepresented the content and identity of the Freedom Foundation’s mailer to legislative officials. Further, the doctored mailer uploaded by Munoz to OLIS constituted the *only* documentary evidence purporting to illustrate the kind of conduct HB 3789 is ostensibly needed to prevent. There is ample evidence to conclude that Munoz’s actions were intentional and that she failed to issue the required retraction and correction.

We stand ready to provide any additional information, documentation or other assistance that may enable the Commission to expeditiously resolve these allegations.

Respectfully,



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<sup>28</sup> OAR 199-010-0150(2)(a).

<sup>29</sup> The totals presented here do not include legislative staff, who are nonetheless included in the definition of “legislative officials” for purposes of ORS 171.764.

<sup>30</sup> *Id.*

<sup>31</sup> OAR 199-008-0015 and the corresponding penalty matrix/tables published by the Commission are available here: <https://www.oregon.gov/ogec/Documents/Rule%20and%20Matrix.pdf>