

1 To: Marion County District Attorney Paige Clarkson
2 CC: Christine Kotek, in her official capacity as Governor of Oregon

3
4 Complaint against Christine Kotek for Quo Warranto regarding the Office of Governor,

5
6 Introduction

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8 Pursuant to ORS 30.510(2), I present this complaint for quo warranto to challenge Christine
9 Kotek's authority to hold Office of Governor for exceeding "ten percent" as proscribed by Oregon
10 Constitution Article II § 22 Section (2).

11
12 Complaint

13
14 I, Donice Noelle Smith, 2022 Governor Candidate for the Constitutional Party of Oregon,
15 am the lawful Governor of Oregon; see ATT01. I received 8,047 votes in my race against Christine
16 Kotek (917,074 votes), Christine Drazen (850,347 votes), Betsy Johnson (168,431 votes), and
17 Leon Noble (6,867 votes).

18
19 Christine Kotek filed for the Governor's race on 11/16/2021 (See ATT02); **AFTER**
20 precedents established by *Multnomah County et al v. Mehrwein et al.*, 366 Or. 295 (2020), *Couey*
21 *v. Clarno*, 305 Or App 29, 469 P.3d 790 (2020), and Multnomah County Case No. 17CV18006,
22 OPINION AND ORDER, UPON REMAND, RE: (hereinafter the "REMAND").

23
24 Christine Drazen and Betsy Johnson suffer unelected forfeiture under Oregon Constitution
25 Article II § 22 Section (2) for similar violations of Oregon Constitution Article II § 22 Section (1).

26
27 Oregon Constitution Article II § 22 provides that:

28 Section (1) For purposes of campaigning for an elected public office, a
29 candidate may use or direct only contributions which originate from individuals
30 who at the time of their donation were residents of the electoral district of the public
31 office sought by the candidate, unless the contribution consists of volunteer time,
32 information provided to the candidate, or funding provided by federal, state, or local
33 government for purposes of campaigning for an elected public office.

34
35 Section (2) **Where more than ten percent (10%) of a candidate's total**
36 **campaign funding is in violation of Section (1), and the candidate is**
37 **subsequently elected, the elected official shall forfeit the office and shall not**
38 **hold a subsequent elected public office for a period equal to twice the tenure**
39 **of the office sought. Where more than ten percent (10%) of a candidate's total**
40 **campaign funding is in violation of Section (1) and the candidate is not elected, the**
41 **unelected candidate shall not hold a subsequent elected public office for a period**
42 **equal to twice the tenure of the office sought.**

43
44 Section (3) A qualified donor (an individual who is a resident within the
45 electoral district of the office sought by the candidate) shall not contribute to a
46 candidate's campaign any restricted contributions of Section (1) received from an

unqualified donor for the purpose of contributing to a candidate's campaign for elected public office. An unqualified donor (an entity which is not an individual and who is not a resident of the electoral district of the office sought by the candidate) shall not give any restricted contributions of Section (1) to a qualified donor for the purpose of contributing to a candidate's campaign for elected public office.

Section (4) A violation of Section (3) shall be an unclassified felony. [Created through initiative petition filed Jan. 25, 1993, and adopted by the people Nov. 8, 1994] (Emphasis Added)

According to ORESTAR data (11/16/2021 to 11/08/2022), Christine Kotek received 80.947829% (\$19,613,338.22) of her total campaign funding in violation of Oregon Constitution Article II § 22 Section (1) suffering forfeiture of the Office under Oregon Constitution Article II § 22 Section (2). Please see the following data:

1. Oregon Individuals; please see ATT04 ("OregonIndividuals"):
 - a. \$3,562,518.13 total cash contributions.
2. Out of State Individuals; please see ATT04 ("OutOfStateIndividuals"):
 - a. \$2,647,412.22 total cash contributions.
3. Business Entities; please see ATT04 ("BusinessEntities"):
 - a. \$763,850 total cash contributions.
4. Labor Organization; please see ATT04 ("LaborOrganization"):
 - a. \$2,606,500 total cash contributions.
5. Other; please see ATT04 ("Other"):
 - a. \$7,085,000 total cash contributions.
6. Political Committee; please see ATT04 ("PoliticalCommittee"):
 - a. \$4,739,077 total cash contributions.
7. Political Party Committee; please see ATT04 ("PoliticalPartyCommittee"):
 - a. \$3,500 total cash contributions.
8. Unregistered Committee; please see ATT04 ("UnregisteredCommittee"):
 - a. \$1,767,999 total cash contributions.
9. Total Cash Contributions; please see ATT04 ("TotalCashContribution"):
 - a. \$24,229,603.76
10. Total Unlawful; please see ATT04 ("TotalUnlawful"):
 - a. \$19,613,338.22

History on Oregon Constitution Article II § 22

Oregon Constitution Article II § 22 was made void by the Oregon Supreme Court; please see *Vannatta v. Keisling*, 324 Or. 514 (1997) (facially challenged under Oregon Constitution Article I § 8). The Oregon Supreme Court concluded that "VANNATTA I erred in holding that those laws are facially invalid on that basis"; please see *Couey v. Clarno*, 305 Or App 29, 38-39, 469 P.3d 790 (2020) (relying on *Multnomah County et al v. Mehrwein et al.*, 366 Or. 295, 322 (2020)). See also *Great Northern Ry. Co. v. Sunburst Oil & Refining Co.*, 287 U.S. 358 (1932) (A state in defining the limits of adherence to precedent may make a choice for itself between the principle of forward operation and that of relation backward.)

“In reaching the decision in Mehrwein, Chief Justice Walters, writing for the Court, expressly rejected the reasoning and result of Vannatta v. Keisling, 324 Or. 514 (1997) which was controlling precedent for this court analysis and decision, thus overruling a case which had guided the application of the framework established in State v. Robertson, 293 Or. 402, 412 (1982) for determining which laws are subject to a facial challenge under Article I, Section 8, of the Oregon Constitution.”, see REMAND; ATT03-01.

On August 23, 2021, Circuit Court Judge Eric J. Bloch on remand from the Oregon Supreme Court establish Oregon’s analysis under the 1st Amendment regarding challenges to campaign contribution laws; see REMAND, page 16 (ATT03-16).

ATTACHMENTS

The following attachments are true and correct copies to the best of my knowledge;

1. ATT01 is an ORESTAR printout of Candidate Information for Donice Noelle Smith’s Original filing for Office of Governor.
2. ATT02 is an ORESTAR printout of Candidate Information for Christine Kotek’s Original filing for Office of Governor.
3. ATT03 is Multnomah County Case No. 17CV18006, OPINION AND ORDER, UPON REMAND, RE:
4. ATT04 is a USB drive containing the following ORESTAR Exports of Christine Kotek’s Cash Contributions:
 1. OregonIndividuals
 2. OutOfStateIndividuals
 3. BusinessEntities
 4. LaborOrganization
 5. Other
 6. PoliticalCommittee
 7. PoliticalPartyCommittee
 8. UnregisteredCommittee
 9. TotalCashContribution
 10. TotalUnlawful

Dated: February 21, 2025,

/s/ Donice Noelle Smith

Donice Noelle Smith

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#112

Roseburg, OR 97471-4600

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541-530-4718

Sui Juris

ACKNOWLEDGEMENT

I hereby declare that the above statement is true to the best of my knowledge and belief, and that

I understand it is made for use as evidence in court and is subject to penalty for perjury.

Executed on (date) 21 Feb, 20 25

Donice Noelle Smith

Signature

State of Oregon Notarial Certificate**Verification on Oath or Affirmation**

State of Oregon)

County of Multnomah)

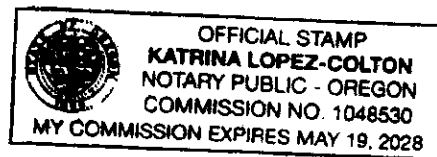
Signed and sworn to (or affirmed) before me on (date) February, 21st, 2025 by

(Name(s) of individuals making statement) Donice Noelle Smith

Katrina Lopez-Colton
Notary Public - State of Oregon

OFFICIAL STAMP

Katrina Lopez-Colton
Print Name



May 19th, 2028
My Commission Expires