



DEPARTMENT OF JUSTICE  
CRIMINAL JUSTICE DIVISION

**INVESTIGATION REPORT**

CASE/FILE NO.: CPC0007-04

DATE: January 21, 2005

INVESTIGATORS: Dave Rubey, Criminal Investigator  
Kerry Taylor, Assistant Chief Investigator

ATTORNEY: Steven Briggs  
Attorney-in-Charge  
Organized Crime Section

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**I. BASIS FOR INVESTIGATION**

On September 29, 2004 Oregon State Treasurer Randall Edwards requested that the Oregon Department of Justice (DOJ) conduct an investigation to determine the facts surrounding Oregon Investment Council (OIC) member Diana Goldschmidt's involvement in the OIC decision to authorize investment of up to \$300 million in a Texas Pacific Group (TPG) fund known as "TPG Fund IV" (TPG Fund IV). A portion of this fund was directed toward the purchase of Portland General Electric (PGE) to be held by a TPG subsidiary, the Oregon Electric Utility Company. Diana Goldschmidt's husband Neil Goldschmidt eventually was named chair of the Board of Directors of the Oregon Electric Utility Company. Our inquiry is limited to determining whether there has been a violation of the criminal laws of the State of Oregon.

**II. BACKGROUND OF SUBJECTS**

Diana Emily Goldschmidt  
DOB: 10/29/47  
Occupation: Consultant

Neil E. Goldschmidt  
DOB: 6/16/40  
Occupation: Retired

### III. SCOPE OF INVESTIGATION

In our investigation the following persons were interviewed on the dates indicated:

1. Mark S. Gardiner (member, OIC), September 30, 2004
2. Kate Cooper Richardson (Oregon State Treasury ((Treasury))), October 5, 2004
3. Linda M. Haglund (Treasury), October 7, 2004
4. John B. "Jay" Fewel (Treasury), October 11, 2004
5. Randall T. Edwards (Oregon State Treasurer), October 12, 2004
6. Michael G. Mueller (Treasury), October 13, 2004
7. Ronald D. Schmitz (Treasury), October 13, 2004
8. Norma L. Harvey (Treasury), October 13, 2004
9. Gerard K. Drummond (chair, OIC), October 18, 2004
10. H. Gerald "Jerry" Bidwell (former member, OIC), October 20, 2004
11. Thomas J. Walsh (Board of Directors member, Oregon Electric Utility Company), October 25, 2004
12. Thomas J. Imeson (principal, Goldschmidt Imeson and Carter), October 26, 2004
13. James M. Voytko (former Executive Director of Oregon Public Employees Retirement System, non-voting member of OIC), November 4, 2004
14. Gerald Grinstein (Board of Directors member, Oregon Electric Utility Company), November 11, 2004
15. John D. Carter (principal, Goldschmidt Imeson and Carter), November 5, 2004
16. Mark Dodson (President/CEO of NW Natural), November 12, 2004
17. Carrie A. Wheeler (TPG), November 16, 2004
18. Kelvin L. Davis (TPG), November 16, 2004
19. David Bonderman (TPG), November 18, 2004
20. Peter H. McMillan (TPG), November 18, 2004
21. James R. "Jamie" Gates (TPG), December 13, 2004
22. Diana Emily Goldschmidt, December 10, 2004
23. Neil E. Goldschmidt, December 10, 2004

We also reviewed numerous records, including the following:

- Cell, business and personal phone records obtained by an Attorney General's subpoena for the following people for the period of August 1, 2003 to November 1, 2003 to determine dates and times of relevant calls<sup>1</sup>:
  - Neil Goldschmidt
  - Diana Goldschmidt

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<sup>1</sup> Southwest Bell of Texas and Pacific Bell of California denied access to records for work phone numbers for David Bonderman, Kelvin Davis and Carrie Wheeler absent a search warrant. No search warrant was sought because we concluded there was no probable cause to support a warrant request. Further, the primary purpose for seeking the phone records was to determine whether there was any communication between TPG personnel and Diana Goldschmidt or Neil Goldschmidt and we did obtain the Goldschmidts' phone records.

- David Bonderman
- Kelvin Davis
- Carrie Wheeler
  
- TPG phone toll records, which investigators determined might be relevant to the investigation, for the period of August 1, 2003 to November 1, 2003 for the following locations:
  - TPG corporate offices in New York City
  - TPG corporate offices in San Francisco
  - TPG corporate offices in Ft. Worth
  - TPG corporate jet
  - Cellular telephone records for David Bonderman
  - Cellular telephone records for Kelvin Davis

These records were voluntarily provided.

- E-mail records from Treasury. Because of the difficulty of retrieving old e-mails, Treasury spent significant time in recovery. A DOJ analyst conducted a hand search of records, and Investigator Rubey conducted a computerized search of all e-mails for relevant Treasury employees. This search looked for any e-mails containing the following words: Goldschmidt, Texas Pacific, TPG, Bonderman, Davis, Wheeler, McMillan, Gates.
  
- E-mail records from TPG. TPG retention policy provided for destruction of e-mails after 180 days, so few e-mails were available unless they had been placed in separate files or maintained due to an unrelated subpoena. E-mails related to the following people were reviewed:
  - David Bonderman
  - Kelvin Davis
  - Carrie Wheeler
  - Peter McMillan
  - James Gates

These records were voluntarily provided.

- TPG files related to acquisition of PGE. Voluminous files were reviewed for personal notes, correspondence or e-mails related to any contact TPG may have had with Neil Goldschmidt.

These records were voluntarily provided.

- Goldschmidt Imeson and Carter consulting firm files related to TPG and PGE.

These files were voluntarily made available.

- Minutes and available recordings from OIC meetings for the following dates:
  - May 28, 2003
  - October 29, 2003
  - November 19, 2003
  - December 17, 2003
  - February 25, 2004
  - July 28, 2004

#### IV. SYNOPSIS OF INVESTIGATION <sup>2</sup>

##### *Background*

The OIC consists of four members appointed by the Governor and the Oregon State Treasurer. The OIC serves as the governing body for investments made by the Oregon Public Employees Retirement Fund. Treasury personnel are responsible for providing investment information to the OIC, including potential future investment opportunities. Senior Equity Investment Officer Jay Fewel (Fewel) was one of the Treasury personnel responsible for providing such advice to the OIC. Fewel had previously helped facilitate OIC investments with TPG, an investment firm that specializes in large-scale investments. The OIC had invested approximately \$650 million in three previous TPG funds; each of these investments has been successful.

Fewel was a member of the OIC's Alternative Equities Subcommittee (Subcommittee) which also included two other Treasury employees: Deputy State Treasurer Linda Haglund (Haglund) and Ron Schmitz (Schmitz), the head of Treasury's Investments Division. Relevant to this investigation, the Subcommittee was authorized by OIC Policy 4.06.01 to invest up to \$200 million in "alternative equity" investments, such as TPG Fund IV, without OIC approval.

OIC Chair Gerard Drummond (Drummond) described the relationship between the Subcommittee and the OIC. The Subcommittee was created to assume some of the OIC's repetitive investment decisions such as "re-ups", *i.e.*, new investments with *current* investment partners. Any proposed OIC investment with a *new* fund manager would be acted on by the full OIC instead of by the Subcommittee. In addition, any OIC member could cause any re-up to be

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<sup>2</sup> This account of relevant facts is derived in all instances from statements obtained during the investigation and from examination of documentary evidence secured during the investigation. In some instances, citation to a specific statement or document has been omitted to improve the readability of this synopsis.

brought before the full OIC for action. TPG Fund IV was considered a re-up because of the prior investment relationship between the OIC and TPG.

On October 29, 2003 the OIC met. This meeting was scheduled as an “annual workshop” meeting and no substantive decisions were planned. Michael Mueller (Mueller), Assistant Director of Investments for Treasury, recalled that during a break in the meeting Schmitz brought up an action item before the OIC. Schmitz said the Subcommittee needed an “emergency decision.” Schmitz asked the OIC to increase the Subcommittee’s investment authority from \$200 million to \$300 million to permit a \$300 million investment in TPG Fund IV. The OIC unanimously authorized the Subcommittee to invest as much as \$300 million in TPG Fund IV. Diana Goldschmidt was present at this meeting and voted in favor of the additional investment.

Fewel told DOJ that OIC’s emergency decision on October 29, 2003 was sought because he wanted to commit to invest in TPG Fund IV by November 14, 2003, the next closing date for TPG Fund IV. The next scheduled OIC meeting was November 19, 2003. The Subcommittee met on November 10, 2003, voted to invest \$300 million in TPG Fund IV, and entered into a signed agreement with TPG on November 12, 2003. Fewel explained to DOJ that it was advantageous to be an early investor in such a fund because early investment allowed Treasury to dictate terms on documents and future negotiable issues. A recording of the October 29, 2003 OIC meeting was not made, contrary to normal OIC procedures. According to Fewel, this was because no substantive issues had been placed on the agenda. According to Mueller, OIC member Mark Gardiner (Gardiner) questioned whether it was appropriate to proceed on the emergency issue under Oregon public meetings law. The OIC consulted legal counsel. Schmitz recalls that, other than this discussion of procedure, there was no other discussion, including discussion of specific investments to be made by TPG Fund IV. The OIC then authorized the Subcommittee to invest the additional \$100 million above the Subcommittee’s \$200 million investment authority, or a total of \$300 million, in TPG Fund IV.

### Knowledge of TPG’s Interest in PGE

In May 2003 David Bonderman (Bonderman), the managing partner of TPG, and other TPG personnel made a presentation at an OIC meeting relating to the general state of the private equity market. This presentation included a discussion of public utilities and power companies as an investment trend. PGE was not discussed. At this presentation TPG did not refer to what later became TPG Fund IV, and TPG did not mention a potential buyout of PGE. Diana Goldschmidt was in attendance.

Shortly after this presentation Bonderman contacted Fewel and said that TPG was taking a hard look at a utility “right in your own backyard.” In his interview Fewel stated this was not surprising because he was aware that two other investment firms were considering a purchase of PGE. Fewel also stated that investment firms such as TPG may consider several hundred

investments in a year before settling on one or two. Fewel said that he told only one person of this conversation with Bonderman: Schmitz, his supervisor.

In an interview on October 13, 2004 Schmitz stated that he remembered this conversation with Fewel. He said it was his impression from Fewel that TPG's interest in PGE was preliminary, and that there were many hurdles yet to overcome, including the bankruptcy of PGE's parent company Enron. Schmitz said that it was his understanding from Fewel that TPG wanted to keep this information confidential. This is "normal" since an inadvertent release of such information could affect negotiations. After further contact between Fewel and TPG in August 2003 about TPG's interest in PGE, Schmitz informed his superiors of TPG's interest in PGE. Schmitz told DOJ he has a personal policy of keeping his chain of command informed. Schmitz made his report to Haglund, State Treasurer Randall Edwards (Treasurer Edwards), and Drummond. In the course of our investigation we obtained a copy of the following e-mail from Schmitz to Treasurer Edwards and Haglund dated August 25, 2003:

*Jay [Fewel] received a call from TPG about a co-investment opportunity today on an investment in PGE. I hope to bounce it off Jerry Drummond to get his reaction. But, on the surface, this may be a very good way to slide into an area that I think we should explore.*

*This is VERY hush-hush. I have just violated the spirit of a pledge Jay [Fewel] made to TPG to keep this between himself, Jerry and myself.*

In separate interviews Haglund, Treasurer Edwards and Drummond each stated that he or she never told Diana Goldschmidt or anyone else about TPG's interest in taking over PGE. When asked why other members of the OIC were not informed about TPG's interest in PGE, Schmitz said this was a judgment call by his chain of command.

In a statement to investigators, Kelvin Davis (Davis), the lead TPG partner on the PGE purchase for TPG, explained the need for such secrecy. He said that disclosure of such information could benefit other investment firms who were competitors. Disclosure could also impact stock prices and therefore raise the ultimate purchase price of PGE.

Davis stated that a large number of people knew about TPG's interest in purchasing PGE because they were involved in doing "due diligence" research for TPG about the purchase. However, these persons were all bound to secrecy by confidentiality agreements with TPG and other potential investors including NW Natural and Madison Dearborne Partners, Inc.

Davis stated that during the summer of 2003 TPG developed a list of prospective board members for the holding company designed to operate PGE. This holding company was named Oregon Electric Utility Company (Oregon Electric). Davis said that he did not contact any of these people because of confidentiality concerns and the uncertain negotiations with Enron.

Through our investigation we obtained a copy of this list of prospective Oregon Electric board members while reviewing TPG records in TPG's San Francisco corporate offices. The list was an attachment to a September 4, 2003 e-mail from Stephanie Portillo, on behalf of Davis, to Gerald Grinstein (Grinstein) with copies to Bonderman and Carrie Wheeler (Wheeler), a TPG employee. The attachment listed Neil Goldschmidt as one of six potential General Partners. Neil Goldschmidt was not listed among seven named potential members of the Board of Directors of Oregon Electric.

According to Davis, on September 11, 2003 TPG reached an impasse in negotiations with Enron and negotiations ceased. It appeared that no deal would take place. It was further apparent to TPG management that their best chance of resurrecting and consummating a deal rested with a direct presentation to Enron creditors and their attorneys. On October 29, 2003 a meeting occurred in New York City between TPG, Enron and its creditors. A non-binding agreement was reached so that after this meeting it again appeared that an acquisition of PGE by TPG was likely. Davis felt such a deal would take place within six weeks, making it important to put in place a Board of Directors for Oregon Electric.

Bonderman said that on October 29, 2003 he called Grinstein around 3:00 p.m.-4:00 p.m. Eastern Standard Time from TPG's offices in New York to discuss potential members for Oregon Electric's Board of Directors. Bonderman believed that Oregon Electric should have strong ties to the local community. Grinstein, who is the CEO of Delta Airlines and a personal friend of Bonderman, has ties to the Northwest. Bonderman left a message and Grinstein returned the call 60-90 minutes later.

Grinstein told Bonderman that Grinstein didn't know whether Neil Goldschmidt would be interested in serving on the Oregon Electric Board of Directors but that Neil Goldschmidt should be the first person that TPG contacts. Grinstein agreed to make the first contact with Neil Goldschmidt. According to Bonderman, Grinstein called back the same day and said Neil Goldschmidt was interested.

In an interview on November 12, 2004 Grinstein could not verify the exact date but recalled Bonderman asking him to call Neil Goldschmidt to set up a meeting. Grinstein said that he told Neil Goldschmidt that Bonderman would like to speak with him about a proposed buyout of PGE by TPG. Grinstein thought Neil Goldschmidt seemed surprised by this but was agreeable to the proposal. Neil Goldschmidt told Grinstein he was on the way to the Portland airport because he was going to spend the weekend in San Francisco with Diana Goldschmidt. Grinstein said that he re-contacted Bonderman and gave him Neil Goldschmidt's phone number. Our review of phone records verifies that on October 29, 2003, between 3:00 p.m. and 6:00 p.m. Eastern Standard Time, three phone calls were made from TPG's New York offices to Grinstein's phone in Seattle.<sup>3</sup>

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<sup>3</sup> The first call was at 3:10 p.m. Eastern Standard Time and lasted .6 minutes. The second call occurred at 4:39 p.m. Eastern Standard Time and lasted 6.3 minutes. The third call occurred at 6:06 p.m. Eastern Standard Time and lasted .5 minutes.

Bonderman stated that on the same date, October 29, 2003, he then called Neil Goldschmidt around 6:00 p.m. Eastern Standard Time from TPG's offices in New York. Neil Goldschmidt told Bonderman he was in a car headed to the airport for a weekend getaway in San Francisco. Bonderman recalled that he told Neil Goldschmidt about TPG's interest in forming a holding company to acquire PGE, and asked whether Goldschmidt was interested in hearing more details. Neil Goldschmidt said he would like to hear more details when he returned from his trip. Bonderman responded that TPG had corporate offices in San Francisco and asked if Neil Goldschmidt would be willing to meet with Davis over the weekend. Neil Goldschmidt agreed.

Subpoenaed phone records for Neil Goldschmidt's cell phone reveal that at 2:39 p.m. Pacific Standard Time on October 29, 2003 he received a phone call that lasted 16 minutes. Phone records turned over by TPG substantiate this call, showing a 16-minute call beginning at 5:41 p.m. Eastern Standard Time.<sup>4</sup> Significantly, we found no record of any phone contact between TPG and Neil Goldschmidt or Diana Goldschmidt prior to this call.

Davis' personal calendar for October 30, 2003 was obtained. It listed a 7:00 a.m. Pacific Standard Time breakfast meeting with Neil Goldschmidt on October 30, 2003 at the Pan Pacific Hotel in San Francisco. Davis was present in New York on October 29, 2003 when Bonderman telephoned Neil Goldschmidt. Davis then flew to San Francisco to meet with him. Davis recalled that the meeting lasted about two hours, during which Davis briefed Neil Goldschmidt on the potential deal. Davis said that Neil Goldschmidt was interested but had concerns about an existing client and the possibility of a conflict of interest. Neil Goldschmidt called him the following Monday and they engaged in subsequent discussions for approximately a week before Neil Goldschmidt gave a commitment to become involved with Oregon Electric.

Davis said that he first learned that Diana Goldschmidt was a member of the OIC during the breakfast meeting with Neil Goldschmidt. Davis said that he met her briefly as she walked through the hotel. During subsequent conversations Davis and Neil Goldschmidt agreed that if Neil Goldschmidt committed to serve on the Oregon Electric Board of Directors, Diana Goldschmidt would have to abstain from any OIC business involving TPG.

During our review of TPG business records, we found in Davis' business file a copy of an internet biography of Neil Goldschmidt downloaded on October 29, 2003. We also found an e-mail dated October 30, 2003 sent at 2:29 a.m. from TPG employee Jeff Nykun to Bonderman, Davis, Wheeler and two other TPG employees. This found e-mail subject was "FYI-Biography of Neil Goldschmidt." The e-mail contained the text of the downloaded biography. This biography states that Neil Goldschmidt is "married to Diana Snowden, a former executive with Pacific Telecom currently serving as Interim Superintendent of Portland Public Schools." Diana Snowden and Diana Goldschmidt are the same person.

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<sup>4</sup> There is a two-minute discrepancy for the initiation of this phone call. However, the discrepancy is based on different phone records from different phone companies, and appears to simply reflect the fact that the phone companies' time clocks were two minutes apart.

In an interview on December 10, 2004 Diana Goldschmidt stated that at the time of the October 29, 2003 OIC meeting she did not know that a portion of TPG Fund IV was directed toward the purchase of PGE. She said that prior to the meeting she reviewed written material submitted by Fewel in which he asked the OIC for a one-time exception to the Subcommittee's \$200 million dollar investment cap in order to invest \$300 million in TPG Fund IV. This memorandum discussed Treasury's successful history with TPG, and terms and fees of the proposed association. The memorandum did not discuss specific investments. Our review of these documents is consistent with Diana Goldschmidt's recollection. Diana Goldschmidt also recalled that there was no verbal discussion of specific investments by TPG Fund IV at the October 29, 2003 OIC meeting. This is confirmed by others in attendance. Specifically, none of the persons we interviewed reported that TPG's interest in acquiring PGE was disclosed during this OIC meeting.

Diana Goldschmidt also explained when she first learned that a portion of TPG Fund IV was directed toward the purchase of PGE. She said that she and Neil Goldschmidt had planned to take a trip to San Francisco on October 29, 2003 with Jerry Bidwell (Bidwell) and his wife. Bidwell is a personal friend of Neil Goldschmidt and was an OIC member. Bidwell and Diana Goldschmidt had planned to travel together from the October 29, 2003 OIC meeting to the Portland airport where Diana Goldschmidt would join Neil Goldschmidt. While traveling from the OIC meeting to the airport, Diana Goldschmidt received a call from Neil Goldschmidt. She said that he told her he had just received a call from TPG and they wanted to talk with him about PGE. Diana Goldschmidt stated that her response was surprise, to the effect of "My God, we just authorized the staff to give money to TPG." Phone records obtained during the course of our investigation confirm that a one-minute phone call occurred between Diana Goldschmidt's cell phone and Neil Goldschmidt's cell phone at 3:01 p.m. Pacific Standard Time on October 29, 2003.

Diana Goldschmidt said the phone conversation was brief but that, once seated on the plane, she learned more from Neil Goldschmidt about TPG's phone call to him. Neil Goldschmidt told her that Bonderman wanted him to meet with a TPG partner while Neil Goldschmidt and Diana Goldschmidt were in San Francisco. Neil Goldschmidt agreed to a meeting around 7:00 a.m. so as not to interfere with the plans of Neil Goldschmidt and Diane Goldschmidt for the day. Diana Goldschmidt stated that Neil Goldschmidt did meet with Davis and that she had stopped by their table and briefly met Davis.

Bidwell stated that he had not known about TPG's interest in PGE when he voted at the October 29, 2003 OIC meeting. Bidwell confirmed that after the OIC meeting he and his wife accompanied Neil Goldschmidt and Diana Goldschmidt on a weekend trip to San Francisco. Bidwell stated that while in San Francisco Neil Goldschmidt told him about TPG's interest in purchasing PGE and that TPG wanted Neil Goldschmidt to be involved. This was when Bidwell first learned of TPG's interest in PGE. Bidwell said that Neil Goldschmidt told him that it sounded like an interesting deal but that Neil Goldschmidt would have to explore it further. Bidwell recalled that his discussion with Neil Goldschmidt on this topic was not detailed.

Neil Goldschmidt was interviewed on December 10, 2004. He stated that he first learned of TPG's interest in acquiring PGE on October 29, 2003 when he received a phone call in his office from Grinstein. Grinstein told Neil Goldschmidt that someone from TPG wanted to talk to Neil Goldschmidt about an acquisition plan for PGE. Neil Goldschmidt told Grinstein he would take the call and gave Grinstein his cell phone number. Neil Goldschmidt said he received a phone call from Bonderman while en route to the Portland airport for a trip to San Francisco. Bonderman briefly described TPG and asked if they could get together in the near future. Plans were made for Davis to meet with Neil Goldschmidt the next morning, October 30, 2003 at 7:00 a.m. in San Francisco.

### When Neil Goldschmidt Committed to Involvement with TPG

Neil Goldschmidt said he could not recall precisely when he made the decision to accept TPG's offer to serve as chair of the Board of Directors of Oregon Electric. He estimated that decision was probably two or three days prior to TPG's November 18, 2003 announcement of its intent to acquire PGE. Neil Goldschmidt stated that he believed he spent approximately the first two weeks of November determining whether he could disengage from his representation of PacifiCorp. Goldschmidt related that PacifiCorp was a significant client of his consulting firm and was a competitor of PGE, thus raising conflict of interest issues. Neil Goldschmidt said Diana Goldschmidt was involved in his entire decision making process.

In her December 10, 2004 interview Diana Goldschmidt said that her husband was interested in the proposal made by TPG on October 30, 2003 but that he did not make a decision immediately. She recalled that TPG publicly announced its purchase of PGE on November 18, 2003 and that Neil Goldschmidt had not agreed to participate until shortly before that date. She said a pivotal point in his decision was a meeting between Neil Goldschmidt and his business partner Tom Imeson (Imeson).

Imeson and Neil Goldschmidt were partners in the consulting firm of Goldschmidt Imeson and Carter. Imeson was interviewed on October 26, 2004. He recalled that Neil Goldschmidt called him on October 31 or November 1, 2003 and told Imeson about the October 29, 2003 TPG phone calls to Neil Goldschmidt and the subsequent meeting in San Francisco. The Goldschmidt Imeson and Carter firm subsequently became involved in TPG's attempt to purchase PGE. Imeson recalled a phone call from Davis on November 16, 2003 in which Davis indicated that the deal to purchase PGE would likely go through. It was also Imeson's impression from Davis that at this point Neil Goldschmidt was committed to serving on the Board of Directors of Oregon Electric.

On November 7, 2003 Imeson attended a breakfast meeting with Neil Goldschmidt and Tom Walsh (Walsh), owner of Walsh Construction Company. Walsh has since been named a member of the Board of Directors of Oregon Electric. Walsh was interviewed on October 25, 2004 and recalled that at this November 7, 2003 meeting Goldschmidt had not yet made a firm decision to accept a position on the Board of Directors of Oregon Electric.

### Conduct of Diana Goldschmidt After Learning of Her Husband's Involvement

Diana Goldschmidt stated that she contacted other OIC members on November 18, 2003 after TPG publicly announced its intention to purchase PGE. She said she did so to assure them that she was unaware of TPG's offer to Neil Goldschmidt during the vote at the October 29, 2003 OIC meeting. She stated that at the November 19, 2003 OIC meeting she announced her intention to abstain from participating in any further matters involving TPG.

Gardiner recalled receiving a phone call from Diana Goldschmidt on approximately November 15 or 16, 2003. She asked him about his experience declaring conflicts of interest. She assured Gardiner that she became aware of Neil Goldschmidt's involvement with TPG only after the October 29, 2003 OIC meeting.

Drummond recalled that Diana Goldschmidt discussed the issue with him at the November 19, 2003 OIC meeting. Drummond remembered Diana Goldschmidt saying that Neil Goldschmidt was not contacted by TPG until after the OIC meeting on October 29, 2003.

Haglund stated that after receiving OIC authorization to increase the investment in TPG Fund IV to \$300 million, the Subcommittee met on November 10, 2003 and approved the investment. She said that the \$100 million increase in authorized investment in TPG Fund IV was at the urging of the Subcommittee and was based on the prior successful investments with TPG. Haglund stated that the extra investment was not requested by TPG or Diana Goldschmidt.

Diana Goldschmidt said that after learning of Neil Goldschmidt's potential involvement with TPG, she did not attempt to influence the Subcommittee to approve the \$300 million investment at its November 10, 2003 meeting.

Significantly, Subcommittee members Haglund, Schmitz and Fewel each confirmed that he or she had no contact with Diana Goldschmidt between October 29, 2003 and November 10, 2003 when the Subcommittee voted to invest \$300 million in TPG Fund IV.

Peter McMillan (McMillan) is a TPG employee who was directly involved in the negotiations with Fewel and Treasury. McMillan recalled that on October 17, 2003 Fewel requested that TPG allow Treasury to increase its investment in TPG Fund IV from \$200 million to \$300 million. McMillan said TPG agreed even though TPG Fund IV was oversubscribed and would have to pare back on the amount of other partners' investments. The fact that TPG Fund IV was oversubscribed was confirmed by Bonderman.

Fewel recalled the negotiations. He stated that he approached TPG about increasing the investment in TPG Fund IV. He explained that OIC policy limits investments in private equities to 13% of overall investments. By the end of the summer of 2003 he believed that Treasury could invest \$200 million in TPG Fund IV without exceeding the cap on private equity

investments. By October 2003 the market had improved and Treasury had received some unexpected returns on prior investments. As a consequence, by October Fewel believed Treasury could invest \$300 million in TPG Fund IV without exceeding the 13% cap on private equities. Fewel recalled that the first “closing date” with TPG occurred in October 2003 and was missed. The Subcommittee met on November 10, 2003 and approved the \$300 million investment in TPG Fund IV in time for the second scheduled closing date of November 14, 2003.

### Subsequent OIC Investments in Purchase of PGE

On February 25, 2004 the OIC approved an investment in Oaktree Capital Management Fund (Oaktree Fund). Diana Goldschmidt was present at this meeting and participated in the vote. Drummond recalled that the information packet and due diligence report prepared for OIC members did not include any information on specific investments to be made by Oaktree Fund. Drummond recalled that sometime after the vote he had a conversation with Fewel and Schmitz in which he learned that the Oaktree Fund co-invested with TPG on the purchase of PGE.

Diana Goldschmidt stated that at the time of her February 2004 vote to invest in Oaktree Fund she was unaware that Oaktree Fund was a co-investor with TPG in the purchase of PGE. She stated she was mortified when she found out, and abstained from a July 28, 2004 OIC vote involving Oaktree Fund.

Schmitz confirmed that specific investments to be made by Oaktree Fund were not mentioned at the February 25, 2004 OIC meeting. He stated that he and Fewel were aware as early as August 2003 that one Oaktree Fund would be invested with TPG in the acquisition of PGE. Schmitz told investigators that Fewel mistakenly believed that the OIC’s February 25, 2004 action did not involve TPG’s planned acquisition of PGE. Thus, Oaktree Fund’s involvement with TPG was not called to the attention of the OIC, including Diana Goldschmidt, prior to the OIC’s vote on February 25, 2004. Schmitz stated that Fewel was later admonished for this error.

## V. CONCLUSION

Our investigation has found no evidence to support a conclusion that either Diana Goldschmidt or Neil Goldschmidt was aware that TPG was seeking to purchase PGE prior to the October 29, 2003 OIC meeting at which the OIC authorized the Subcommittee to invest up to \$300 million in TPG Fund IV. Further, we have uncovered no evidence to support a conclusion that, after learning of Neil Goldschmidt’s involvement with TPG, Diana Goldschmidt sought to influence the OIC or the Subcommittee to take action that would benefit Neil Goldschmidt or Diana Goldschmidt. Lastly, we found no evidence to suggest that at the time of her February 25, 2004 OIC vote, Diana Goldschmidt was aware that Oaktree Fund was a co-investor with TPG in purchasing PGE.

With regard to their involvement in TPG's purchase of PGE, no Oregon criminal statutes are implicated by the conduct of Diana Goldschmidt, Neil Goldschmidt, TPG personnel or Treasury employees.<sup>5</sup>

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<sup>5</sup> An Oregon prosecutor has an ethical obligation to "refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause." Oregon Rules of Professional Conduct 3.8(a).