

ELLEN F. ROSENBLUM
Attorney General



FREDERICK M. BOSS
Deputy Attorney General

DEPARTMENT OF JUSTICE
CIVIL ENFORCEMENT DIVISION

COPY

June 20, 2017

Portland Marathon, Inc.
c/o J. Alan Jensen, Registered Agent
111 SW Fifth Ave, Suite 2300
Portland, OR 97204

RE: Portland Marathon, Inc.
DOJ File No. 137300/XCT0023-17

Dear Board of Directors:

The Attorney General has common-law and statutory authority over all charitable corporations and trusts operating in Oregon. Pursuant to the supervisory power granted to the Attorney General by the Charitable Trust and Corporations Act, ORS 128.610 et seq., the Department plans to conduct a review of certain financial and governance practices involving the Portland Marathon, Inc.

The initial scope of our review is set forth in the attached Order to Appear and Produce Records, though the scope of the Department's review may expand or change as information is obtained. As the Order indicates, we do not want anyone to appear at this time. We would like to obtain the requested documents first. After reviewing the documents you provide, we will likely want to speak with the board members.

We ask that the requested documents be produced by July 26, 2017. The investigator assigned to this matter is Douglas W. Pearson. Feel free to contact him if you have any questions regarding the Order.

Sincerely,

A handwritten signature in cursive script that reads "Susan A. Bower".

Susan A. Bower
Assistant Attorney General

Enclosure

1 DEPARTMENT OF JUSTICE

2 STATE OF OREGON

3 In the Matter of:

4 PORTLAND MARATHON, INC., an
5 Oregon public benefit corporation.

**ORDER TO APPEAR AND PRODUCE
DOCUMENTS**

DOJ Case No. 137300/XCT0023-17

6 To: Portland Marathon, Inc.
7 J. Alan Jensen, Registered Agent
8 111 SW Fifth Ave, Suite 1900
Portland, OR 97204

9 This Order to Attend and Produce Documents is part of an official investigation being
10 conducted by the Oregon Department of Justice relating to the activities and assets of Portland
11 Marathon, Inc. pursuant to ORS 128.680 and ORS 128.690. Information and documents or other
12 materials believed to be in your possession, custody, or control are relevant to this investigation.

13 The purpose of this investigation is to find out whether there has been a violation of the
14 Oregon Charitable Trust and Corporations Act, ORS 128.610 through 128.750, the Oregon
15 Nonprofit Corporations Act, ORS 65.001 *et seq.*, the Charitable Solicitations Act, ORS 128.801
16 through 128.898, or common law.

17 You must produce all items listed in Exhibit 1, which is attached. This request should not
18 be construed as all-inclusive. We specifically reserve the right to seek access to additional
19 information and to pursue additional avenues of inquiry as we deem necessary. Because we may
20 request other documents or information at a later time, please suspend any procedures for
21 document destruction and take other measures to prevent the destruction of documents that are
22 relevant to the matter while it is pending.

23 **You are required to:**

24 (1) Provide a full and complete response to Exhibit 1, which is attached. You may mail,
25 deliver, or make other arrangements with our office for the production of these documents:

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Statement of Reasonable Accommodation

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If you are required to appear personally, your appearance will be conducted in a wheelchair accessible location. Written materials may be provided and/or graphic displays may be presented during the appearance. For any other accommodation needed by individuals due to a disability, please contact the person whose name appears below.

Douglas W. Pearson, Chief Investigator
Oregon Department of Justice
Charitable Activities Section
100 SW Market Street
Portland, OR 97201
Telephone: (971) 673-1880
Facsimile: (971) 673-1882

EXHIBIT 1: ORDER TO APPEAR AND PRODUCE DOCUMENTS
PORTLAND MARATHON, INC.

DEFINITIONS

“Relevant Time Period”: Unless otherwise specified, the **relevant time period** for which documents and information are requested is from **January 1, 2014 to present**.

“Possession, Custody, or Control”: The requests for production call for all described documents in the Organization’s possession, custody, or control without regard to the person or persons by whom or for whom the documents were prepared. A document is within the Organization’s control if the Organization has ownership, possession, or custody of the document, or the right to secure the document or a copy thereof from any person having physical control of the document.

“Correspondence” means all letters, telegrams, notices, messages, or other written communications or memoranda, electronic or otherwise, or other records of conversations, meetings, conferences, or other oral communications.

“Document” and/or “Documents” is used in the broadest sense and means all written, printed, typed, recorded, or graphic matter, photographic matter, sound reproductions, computer files, including but not limited to electronic mail, tapes, inputs or outputs, however produced or reproduced or in any other matter from which information may be obtained, and drafts, non-identical copies, file folders, and jackets in which the documents are contained. The phrase “non-identical copies” refers to reproductions of the original documents that have notations, marking, comments, or other materials not appearing in the original.

“Identify” and/or “Identification,” when used in reference to a natural person, means to state his or her name and present or last known address, telephone number, facsimile number, electronic mail address, and present or last known position or business affiliation. When used in reference to an entity, organization, or business, “identify” and/or “identification” means to state its name, the name and position of its contact person, and the present or last known address, telephone number, facsimile number, and electronic mail address of that contact person. When used in reference to a document, “identify” and/or “identification” means to states its date, its author, and the type of document (e.g., letter, memorandum, telegram, chart, photograph, sound reproduction, etc.) or, if the above information is not available, some other means of identifying it, and its present location and the name of each of its present custodians. If any such document was but no longer is in your possession, subject to your control, or in existence, state whether it is (a) missing or lost, (b) has been destroyed, (c) has been transferred voluntarily or involuntarily to other, or (d) otherwise disposed of, in each instance explain the circumstances surrounding, authorization and date (or approximate date) of such disposition.

“Organization” means the PORTLAND MARATHON, INC. and any other companies, groups, or entities controlled by or affiliated with the Organization, and the Organization’s officers, directors, employees, agents, independent contractors, or representatives.

“Relating to,” “related to,” and/or “relate to,” mean to be relevant in any way to the subject matter in question including, without limitation, all information that directly or indirectly contains,

records, reflects, summarizes, evaluates, refers to, indicates, comments upon, or discusses the subject matter. The terms also include documents or information that states the background of, was the basis for, records, evaluates, comments upon, or was referred to, relied upon, utilized, generated, transmitted, or received in arriving at any conclusion, opinion, estimate, position, decision, belief, or assertion concerning the subject matter.

“Representative” means any employee, independent contractor, or agent engaged in the selling of products or service, performance of services, or performing other actions on another’s behalf.

INSTRUCTIONS

In responding to the requests for production of documents:

1. In each instance in which a document is produced in response to a request, the current version of the document must be produced together with all earlier versions, drafts, non- identical copies, or predecessor documents serving the same function during the relevant time period.
2. Each requested document should be submitted in its entirety, even if only a portion of the document is responsive to a specification. Documents should not be edited, cut, or expunged and should include all cover letters and memoranda, transmittal slips, appendices, tables, or other attachments, and all other documents referred to in the document or attachments. All manuals, instructions, or other written materials necessary to understand any document produced in response to these specifications should also be produced.
3. The producer shall label each group of documents to indicate the request for production to which the group of documents relates.
4. If the Organization does not possess the documents requested, it must expressly so state in response to the request. If it has personal knowledge of the location of such documents, identify the person who has custody. If it has control over the document, but not custody or physical control, it must obtain custody and produce the document.
5. If all or any portion of a responsive document is withheld based on a claim of privilege or any other claim, please state in writing, individually for each document:
 - a. The document’s type, title, subject matter, and date;
 - b. The names, addresses, positions, and organizations of each author and recipient; and
 - c. The specific grounds for claiming that the document is privileged, as well as facts sufficient to support such a claim. If only a portion of the document is deemed privileged, redact the privileged material and produce the redacted document.


DOCUMENTS TO BE PRODUCED

1. All board, executive, and advisory board meeting minutes, agendas, and resolutions.
2. All articles of incorporation, bylaws, and any written board policies that are or were in effect for the relevant time period
3. All documents sufficient to identify all persons who have served or are currently serving on the board of directors or any committee and that identify such persons' individual contact information, including but not limited to mailing addresses, physical addresses, personal email addresses, cell phone numbers, other telephone numbers, and similar contact information.
4. All communications among or between board directors regarding the organization.
5. All documents relating to any compensation or reimbursements paid to any person who has been an officer or director of the organization.
6. All financial statements, budgets, accounting reports, balance sheets, and general ledgers, including but not limited to, any audited or unaudited financial statements prepared by any bookkeeper or CPA working on behalf of the organization
7. Complete banking and investment account records for the organization for all associated accounts, including but not limited to, all bank and credit card statements, cancelled checks, and deposit records.
8. All written agreements with other charitable organizations.
9. All documents demonstrating distributions to or contributions from other charitable organizations.
10. All documents related to any agreements or transactions between the organization and Next Events Productions, LLC and/or IMFTAPPAREL, LLC, including documents evidencing payments to either entity.
11. All documents demonstrating program activities of the Going the Distance Foundation.
12. All communications, reports, and accountings with Road Runners Club of America, Inc.
13. All directors and officers insurance policies for the organization.

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2017, I caused to be served the foregoing Order to Appear by mailing a true and correct copy thereof by Regular and Certified U.S. mail, postage prepaid, addressed as follows upon:

Portland Marathon, Inc.
J. Alan Jensen, Registered Agent
111 SW Fifth Ave, Suite 2300
Portland, OR 97204



Susan A. Bower, OSB #960960
Assistant Attorney General