City of Seattle

Ethics and Elections Commission

September 16, 2008

Dear *******:

The Commission staff received your Whistleblower complaint on June 9, 2008, in which you allege violations of the Ethics Code involving several Personnel Department employees. Commission staff has reviewed your complaint, the facts and available evidence. Based on this review, I find no reasonable cause to believe that Personnel Department employees violated the Ethics Code. Therefore, I am dismissing your complaint.

Factual Basis and Allegations

Shortly after receipt of your complaint, we found that a contemporaneous investigation was underway, and that this investigation involved several of the issues in your letter dated May 20, 2008 (but received by us on June 9, 2008). This investigation, by Ms. Claire Cordon, was nearing completion and an investigative report was in the offing. To avoid duplication of effort and resources we chose to review the report and determine whether Commission staff needed to launch our own investigation.

We received and reviewed the Cordon investigative report and conducted a phone interview of Ms Cordon. Her investigation was both comprehensive and thorough. Ms. Cordon interviewed 22 City employees and reviewed a wealth of documents. Ms. Cordon is a member of the Washington State Bar. We did not duplicate her investigative work, and rely on its factual findings for our analyses of your complaint.

1. *It was not a misuse of City facilities and personnel for Personnel Department employees to assemble dog blankets for a non-profit organization.*

You allege that Ms. Julie Curtis, a Personnel Department manager, misused City property and employees for personal purposes when she and other employees stitched dog blankets for a non-profit that Ms Curtis had founded. This activity took place in a 55th floor conference room directly observable from the Personnel Department Director's office.

Although you allege that employees worked on the dog blankets on City time, your allegations were not corroborated by any other Personnel Department employees. Every person interviewed by Ms. Cordon told her that work on the blankets took place at the lunch hour and on break time.

GCIU 804-M

In SEEC Advisory Opinion 93-28, the Commission held that the minimal use of City facilities to support non-profit work does not constitute a violation of the Ethics Code. The opinion charges management with ensuring that such activities do not "substantially interfere with City work or result in added cost to the City." Based on the evidence and the law as it has been interpreted by the Commission, I am dismissing your allegation regarding the use of City facilities to support a non-profit.

2. *Ms. Curtis did not violate the Ethics Code when she brought her dog to work.*

In a related allegation, you allege that Ms. Curtis used City employees to care for her dog when it accompanied Ms. Curtis to work. Ms. Curtis confirmed for Ms. Cordon that she brought a puppy to the workplace on two occasions. Ms. Curtis explained that had scheduled a week off to care for a puppy she was adopting. Ms. Curtis was called into the office twice that week, however, to attend to pressing business. Ms. Curtis stated that she brought the puppy in, completed the task required, and left the office. Other members of the staff corroborated this account.

Ms. Curtis's presence in the office during the week that she had scheduled a vacation served a City purpose. The fact the brought her new puppy along with her does not establish a violation of SMC 4.16.070.2.

3. *Ms. Curtis did not violate the Ethics Code when she accessed the Human Resources Information System to determine the Director's middle name.*

You allege that Ms. Curtis impermissibly accessed the Human Resources Information System (HRIS) to find the middle name of the Personnel Director, Mark McDermott. Ms. Curtis confirms this account, but says she did so at your request.

The Ethics Code bars the disclosure or use of "privileged or proprietary information." SMC 4.16.070.4. Employees' middle names are neither privileged nor proprietary. According to the City Attorney's office, they must be divulged in response to a public records request. Because the information is neither privileged nor proprietary, the disclosure or use of the Director's middle name does not violate the Ethics Code. Accordingly, I am dismissing this allegation.

4. *There is insufficient evidence to establish that employees improperly altered records.*

There are two remaining allegations contained in your complaint, and both deal with alteration of public documents.

First, you allege that Raquel Gonzales, another Personnel Department manager, insisted that a co-worker assist her in correcting an error on her resume after the resume has been

submitted for an employment opportunity. We interviewed an employee in the Department of Information Technology to see if this allegation could be verified or disproved by looking at computer records. The City is unable to verify if and when a change had been made to the resume. Given Ms. Gonzales's denial of the allegation, I find insufficient evidence to charge a violation of the Ethics Code.

Your last allegation involves the Personnel Director, Mark McDermott. You allege that he improperly used his authority when he instructed Barbara Gangwer, Personnel's Finance Manager, to alter documentation and warned her not to divulge the alterations. Both Mr. McDermott and Ms. Gangwer deny this allegation. Because there is no evidence to support your allegations that Mr. McDermott ordered Ms. Gangwer to alter documents, or that Ms. Gonzales altered an employment application, I am dismissing these allegations

Conclusion

As the foregoing discussion makes clear, I do not believe there is sufficient evidence to charge anyone with a violation of the Ethics Code. Accordingly, I am dismissing your complaint.

You are entitled to appeal my dismissal under Seattle Ethics and Elections Commission Administrative Rule 4.[1] Please be advised that if you elect to file an appeal under Administrative Rule 4, we will no longer be able to preserve your anonymity.

Very truly yours,

Wayne Barnett
Executive Director

cc: Seattle Ethics and Elections Commission *(complainant's name and address withheld)*
Mark McDermott, Personnel Director *(complainant's name and address withheld)*

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[1] A. Upon the written request of a party aggrieved by the Executive Director's decision to dismiss a complaint, or to impose late-filing penalties under SMC 2.04.330, the action may be reviewed by the Commission.
B. An appeal of a dismissal shall be served at the Commission's office no later than 21 days after the date of mailing the decision of which review is sought.
C. An appeal of late-filing penalties shall be served at the Commission's office no later than 14 days after the date of mailing the decision of which review is sought.
D. A request for review shall state the grounds therefor, and shall be no longer than twelve 8-1/2" x 11" double-spaced pages in length with margins of at least 1" on every side, and no more than 12 characters per inch.