BEFORE THE SEATTLE ETHICS AND ELECTIONS COMMISSION

In the matter of	)	Case No. 12-0702-1
	)	
Nguyet Au	)	SETTLEMENT AGREEMENT
	)	
	)	

This settlement is made between Nguyet Au and the Executive Director of the Seattle Ethics and Elections Commission (the "Director"). Upon approval by the Seattle Ethics and Elections Commission (the "Commission"), the following findings, conclusions and agreements shall be binding upon Au, the Director, and the Commission (the "Parties"), and their successors, heirs and assigns, and shall constitute the complete agreement between the Parties.

Au and the Director agree to the following:

FINDINGS OF FACT

1. Au has worked for Seattle Public Utilities (SPU) for 28 years. She works in the Finance Division's Budget section in the Systems group.

2. Au's primary responsibility is to guarantee accessibility to software systems for other Finance Department members, to troubleshoot systems and to work with City technology professionals when problems arise. Au does not interact with vendors or software developers.

3. Au and her family own several businesses. Secretary of State records show one business, SKF Kirkland, LLC, a State Farm Insurance office, owned by Au and her daughter.

4. Between October 2011 and June 2012, Au assisted her daughter in setting up the State Farm insurance company office in Kirkland, Washington. Au's desk phone records and City email account show the following:

   a. October 2011:

      i. Au communicated with State Farm personnel and support services regarding the use of the State Farm Premium Fund Accounting system

[PFA], as well as the Intuit software programming and support products utilized by the PFA accounting system.

ii. Au reviewed insurance office systems manuals, daily office routines, marketing letters regarding the opening of the Kirkland office, and corresponded with Laughlin and Associates, a Nevada Corporation specializing in incorporations.

iii. Au made several phone calls to an Arizona company, Infusion Soft, which offers an "all-in-one software package covering customer recruitment and management, e-commerce, sales, e-mail and social marketing."

b. November and December 2011;

i. Au continued her contacts with Infusion Soft and the State Farm Support Center support service regarding Intuit's Quicken software.

c. January, February, March and April of 2012;[1]

i. Au made several calls to Infusion Soft in Arizona, one lasting 52 minutes.

ii. Au had several communications with Fujitsu computer customer support, Intuit online services, and Laughlin Associates.

d. May and June 2012;

i. Au made telephone calls to Intuit Quickbooks Support.

ii. Au reviewed payroll and commission figures for an insurance office employee.

iii. Au exchanged e-mails regarding two new insurance clients.

5. Au received a written reprimand from SPU in December 2007 for excessive personal use of the Internet and e-mail, "including for-profit business work."

[1] During January – June 2012, Au was paid for full-time employment, but was only sporadically at her desk as she used a significant amount of earned leave.

CONCLUSIONS OF LAW

1. SMC 4.16.070.2.b states that a Covered Individual may not use any City funds or property for a purpose that is or to a reasonable person would appear to be for other than a City purpose.

2. Au is a City employee, and therefore a Covered Individual.

3. Equipment provided to Au by SPU is City property.

4. Au's use of City property during all times relevant to this complaint, to help run the affairs of a private family business was use for other than a City purpose, and violates SMC 4.16.070.2.b.

AGREEMENT

1. Au acknowledges that she violated the Seattle Ethics Code when she used City facilities to assist her and her family's personal business.

2. Au agrees to pay the City of Seattle $1,000 for these violations.

3. The Parties agree that this settlement agreement, upon the Commission's approval, will constitute, insofar as is legally possible, a full and final settlement between the Parties, as to any violation of the Seattle Code of Ethics related to the findings of facts cited above. The Parties, release, acquit and discharge each party, its present or former officials, employees, agents, representatives, heirs and assigns from all present claims, demands, damages, costs (specifically including attorney's fees and costs), actions or causes of action which arise out of the specific facts outlined in this violation of the Ethics Code, and the acts or omissions of the Commission, its members, agents or employees in handling the matter filed under Ethics and Elections Commission Case No. 12-1-0721. This release by the Director and the Commission does not preclude actions by other parts of the City of Seattle, including the employee's employing department or any other law enforcement agency.

4. The Parties agree that the Commission's review of this settlement agreement does not preclude the Commission from hearing this case in the event that the Commission rejects this agreement and calls for a hearing, or in the event that Au rejects any Commission modification of this agreement and requests a hearing.

5. The Parties agree that if Au breaches this agreement, in any respect, the Commission will be entitled to hold a special meeting or a regular meeting to issue a determination that Au has violated the Seattle Ethics Code. Under the municipal code, the Commission may impose a fine of up to $5,000 per violation, and may require costs that do not exceed the amount of any monetary fine.

6. The Parties agree that this settlement incorporates and supersedes any and all other oral and written agreements and assurances of any and all kinds between the parties, and that there are no other written or oral agreements that alter or modify this agreement.

Nguyet Au
Date: 11/13, 2012

Wayne Barnett, Executive Director
Date: Nov. 28, 2012