City of Seattle

Ethics and Elections Commission

March 20, 2013

Re: Case No. 12-01-1116-1

Dear *******:

On November 16, 2012, you made a report to our office alleging that Dave Stewart, Director of the City's Personnel Department, violated the Ethics Code by participating in a hiring process when a friend of his was a candidate for the position without disclosing the relationship either to the Mayor or to this office. We have completed our inquiry, and I have determined that Mr. Stewart did not violate City's Ethics Code.

Facts

Mr. Stephen Hardy was a candidate for a position with the Personnel Department. You told us that when Mr. Stewart first introduced Mr. Hardy at a training Mr. Hardy conducted for Personnel – prior to Mr. Hardy becoming a candidate for a position with the department – Mr. Stewart referred to Mr. Hardy as his friend.

We learned that Messrs. Stewart and Hardy were colleagues at the Washington State Department of Licensing. Stewart was the Assistant Director, and Hardy was in Stewart's chain of command. Hardy was charged with developing training curricula and delivering programming for State leadership and executive development programs. Stewart was impressed with Hardy's work.

Our inquiries yielded no evidence, however, of any personal relationship between Messrs. Stewart and Hardy. Neither the two men nor their families ever vacationed together or dined together, or apparently socialized together outside of work in any way.

Law

Under the Ethics Code, an employee must file a written disclosure "when it could appear to a reasonable person, having knowledge of the relevant circumstances, that the Covered Individual's judgment is impaired because of …a personal or business relationship…" SMC 4.16.070.1.c.

Analysis

The relationship between Messrs. Hardy and Stewart was not the kind of relationship that could appear to impair Stewart's judgment. Accordingly, there was no need for Mr. Stewart to file a disclosure.

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Generally speaking, disclosure is required when there is a personal component to the relationship that could make it difficult for a City employee to act in the City's best interests instead of in the interests of his or her friend. If an employee and an applicant vacation together annually, for example, rejecting that friend's application for a job could damage the relationship. When the employee and the applicant are colleagues or former colleagues, though, the danger that the employee will sacrifice the City's interests to serve the applicant's interests are significantly reduced. In fact, the employee's professional relationship with the applicant arguably enhances his or her ability to judge the applicant's fitness for a position.

Conclusion

Based on the foregoing, I am dismissing your report. If you would like to appeal this dismissal to the full Commission, under Administrative Rule 4[1] you have 21 days in which to do so.

Very truly yours,

Wayne Barnett
Executive Director

cc: Dave Stewart, Personnel Department
Carl Marquardt, Counsel to the Mayor

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[1] Rule 4 APPEALS

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.

E. When an appeal is filed, the Executive Director's decision shall not be final until the Commission has acted on the appeal.

F. The Commission shall act on the request at the next meeting at which it may be practicable by:

1. deciding whether to review the Executive Director's decision; and

2. if it decides to do so, either affirming, reversing, or amending the decision.

G. In reviewing the Executive Director's decision, the Commission shall base its review on whether the Executive Director had a rational basis for the decision, and shall only reverse or amend a decision to the extent that a rational basis is lacking.