

APPENDIX H

April 11, 2016

Marilyn Brenneman
Investigator
City of Seattle
Seattle Municipal Tower
700 5th Ave, Suite 4010

Re: Ethics Inquiry

Dear Marilyn:

I am writing to follow up on recent conversations concerning my possible violation of the Ethics Code. Over the past weeks, I have carefully reviewed the Ethics Code and the facts surrounding my hiring and first year of employment. As a result of my review, I can see that I neglected to ensure that I had formally disclosed the identify of my former employers in accordance with the City of Seattle's ethics compliance process, and that I participated in matters involving one of my former employers without obtaining a waiver from the Executive Director of the Ethics and Elections Commission. In carrying out the duties of my job, I believe that I have consistently acted in the best interests of the City of Seattle and never for my own benefit or for the benefit of my former employers. However, I understand the importance of strict compliance with our City's Ethics Code, and I accept responsibility for my failures to follow procedures in place to ensure compliance.

As you may already know, the key facts are as follows:

- I worked for Alta Bike Share from January 6, 2014 until June 30, 2014.
- I began work with the City of Seattle on July 28, 2014, as Director of the Seattle Department of Transportation (SDOT). Several weeks before that date, on July 11, 2014, Lorena Gonzalez, Counsel to the Mayor, contacted me by email to begin the process of identifying my former employers, and create a plan to avoid conflicts of interest and to obtain waivers where appropriate. Ms. Gonzalez's email was forwarded from my City email account to my personal email account by Holly Krejci, an Executive Assistant in the SDOT Director's Office. I replied to the email, and inserted answers to Ms. Gonzalez's questions. I thought my reply would be seen by Ms. Krejci, who would forward it to Ms. Gonzalez, and that Ms. Gonzalez would then prepare a request for approval of waiver from the Director (as she had done for Michael Mattmiller, the City's Chief Technology Officer). However, the reply went to my own email account at the City of Seattle, and I don't know whether it was ever forwarded to Ms. Gonzalez. I suspect it was not, and I accept responsibility for that oversight. During that month of July 2014 I was focused on wrapping up my affairs in Chicago, arranging for my move to Seattle, and finding housing in Seattle. I should have confirmed that Ms. Gonzalez had received my email.

- A copy of my July 11, 2014 email to Ms. Gonzalez is attached. I disclosed that one of my employers in the preceding twelve months was Alta Bicycle Share (Alta). I also disclosed that a potential conflict of interest might arise from Alta's contract with Puget Sound Bicycle Share (PSBS), a non-profit organization formed to operate the Pronto bikesharing system in Seattle and other municipalities in the Puget Sound region. SDOT provided grant funding to PSBS, and an SDOT representative sat on the PSBS Board of Directors.
- Over the first twelve months of my employment with the City of Seattle, I engaged with Alta and its successor, Motivate, on several different issues, as follows. (The dates are to the best of my recollection—they may be slightly off.)
 - August – October 2014: I spoke with both Alta and PSBS to assess their interest in an e-bike application for bikesharing in Seattle. I also attempted to assist PSBS in getting deliveries of equipment from Alta in time for the planned launch of PSBS's Pronto bikesharing program in Seattle. I later had some minor interactions with PSBS and Alta regarding the testing of equipment in the lead up to the Pronto launch.
 - January 2015: I had contacts with Motivate and one of its suppliers to determine whether Pronto membership accounts could be integrated with ORCA.
 - March – July 2015: I communicated with Motivate regarding a TIGER grant application to support the Pronto bikesharing program in Seattle. I also discussed with Motivate potential terms that might apply if Motivate were to operate the bikesharing program on behalf of the City of Seattle, in the event the City were to take over the program from PSBS. One of the goals if the City were to take over Pronto was to negotiate a lower cost to operate the bikeshare program.

In each of the interactions with Alta and Motivate I've described above, I always understood that my duty was to act exclusively in the best interests of the City of Seattle, and I acted accordingly. However, I regret that I did not take steps to confirm my full compliance with the Ethics Code, including formal disclosure of my past employment with Alta, and obtaining a waiver from the Director before participating in any matter involving Alta.

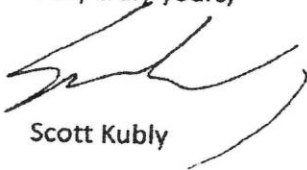
Discovering this lapse on my part has been very difficult and unpleasant. It is personally embarrassing to cause my ethics to be called into question. More importantly, it has been a distraction to the staff of SDOT. This issue has resulted in the Department being the focus of negative attention, and that is not fair to the employees of SDOT. This experience has been a reminder and a lesson on the importance of paying attention to the strictest compliance with the ethics rules.

In order to reduce further impacts on my department and minimize the City's investigation costs, I would like to try to pursue a settlement of this violation. In considering this there are several factors that I hope the Ethics and Elections Commission will take into account:

- My prior employment history was widely known, shown on my resume, part of the reason I was hired, and part of the press release/conference when the Mayor announced my hiring.
- The City did not enter into a contract with Motivate or make any payments to Motivate during my first 12 months with the City, and the City is currently preparing for a competitive procurement for the operation of the Pronto bikesharing system.
- I attempted to submit a disclosure, although it did not go through due to an oversight on my part.
- My work has always been driven by the best interest of the City.
- I never had any equity or other financial interest in Alta or its successor Motivate.

I am willing to accept an appropriate censure and to pay a fine of \$500. I am also willing to commit to using this incident as part of a formal training presentation for the Mayor's cabinet or others. Please let me know which representative of the Ethics and Election Commission I should speak with regarding resolution of this matter.

Very truly yours,



Scott Kubly