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CITY OF SPOKANE ETHICS COMMISSION

SPOKANE AREA NOW,

Plaintiff,

vs.

DAVID CONDON, MAYOR,

Defendant

RESPONDENT MAYOR DAVID
CONDON 'S OBJECTION TO
CONSOLIDATION

COMES NOW, Respondent DAVID CONDON, MAYOR OF SPOKANE CITY, by and through his undersigned attorneys and objects to consolidation or proposed consolidation of the Complaint filed on or about December 22, 2015 by the Spokane Chapter of the National Organization of Women against the moving party with previously filed Ethics Complaints that were the subject of a discussion at the meeting of the Ethics Commission on or about December 9, 2015.

On December 22, 2015, the Spokane Chapter of the National Organization of Women filed an Ethics Complaint against Mayor Condon alleging violations of SMC 01.04A.030(N) in connection with alleged withholding of information regarding City employee Monique Cotton and her employment relationship with former Chief of Police Frank Straub. NOW

OBJECTION TO CONSOLIDATION- page 1

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1 claims the alleged withholding of information by Mayor Condon violates the cited provision
2 of the Code of Ethics.

3 NOW also alleges a violation of Section N as it relates to a communication on
4 December 11, 2015, from Mayor Condon to the City Council regarding personnel actions
5 concerning the Spokane Parks Department.
6

7 Consolidating the NOW Complaint with the existing Complaints that were the subject
8 of the meeting on December 9, 2015, deprives Mayor Condon of the rights afforded to a
9 respondent under City of Spokane Ethics Commission Policies and Procedures Manual, Rule
10 4.
11

12 First, a *nunc pro tunc* consolidation of the NOW Complaint deprives Mayor Condon of
13 the rights afforded to him under Section 4.3 of the Policies and Procedures Manual. Upon
14 receipt of a complaint, the Ethics Commission is obligated to notify the official identified in
15 the Complaint as having violated the Code of Ethics. Thereafter, the Commission, under
16 Section 4.3(1) is required to request an initial written response to the Complaint from the
17 Respondent which is due ten (10) business days **before** the Commission holds an initial
18 meeting to review the Complaint. Should the Commission undertake to review the NOW
19 Complaint on January 13, 2016, without having requested an initial written response and
20 without affording Mayor Condon the time permitted under Section 4.3 (1), the Commission
21 would be acting in derogation of its own Policies and Procedures Manual and therefore in an
22 *ultra vires* manner.
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27 Second, under Section 4.3(2), within thirty (30) days of the receipt of a complaint by
28 the Commission, the Commission is obligated to schedule an initial meeting to review the
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1 complaint to make a determination pursuant to SMC 01.04A.110(D). The Commission has
2 not scheduled a meeting and is not even obligated to schedule a meeting until on or before
3 January 22, 2016, in the NOW matter. The Commission is obligated, on or before January 22,
4 2016, to schedule, in the future, an initial meeting to review the complaint concerning its
5 jurisdictional sufficiency.
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7 Further, under Section 4.5 of the Policies and Procedures Manual, depending on the
8 action of the Commission at its initial meeting concerning the NOW Complaint, the
9 Respondent is entitled to notice (Section 4.5(1)) of a process to determine jurisdiction, and a
10 calendared date, time and place for the hearing, Section 4.5(2).
11

12 Finally, any hearing beyond the jurisdictional hearing, requires no less than fourteen
13 (14) days' notice regarding the date of the substantive hearing. Section 4.5(4).
14

15 Respondent has not stipulated to any shortening of time or abandonment of the rules as
16 it relates to the scheduling of any hearing concerning the NOW Complaint. Respondent
17 objects to any attempt to consolidate the recently filed NOW Complaint with the existing
18 complaints.
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20 In addition to the foregoing, it is clear from the reading of the NOW Complaint that it
21 invokes events and circumstances that are substantively unrelated to the previously filed
22 Complaints. First, contentions are made concerning a letter that was not even written by
23 Mayor Condon until after the Ethics Commission had its meeting concerning the filed
24 complaints on December 9, 2015.
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1 Second, the Complaint makes a unique argument alleging dishonesty against the
2 Mayor for not volunteering information at a press conference when he was under no duty to so
3 act and when he answered accurately all questions posed.

4 To hold the hearing on the NOW Complaint January 27, 2016, involving language in a
5 letter written on December 11, 2015, deprives Mayor Condon of his due process procedural
6 and substantive rights, is manifestly prejudicial, and should not be countenanced or approved
7 by the Commission.
8

9
10 DATED at Spokane, Washington this 29 day of December, 2015.

11 EVANS, CRAVEN & LACKIE, P.S.

12 By

13 James B. King, WSBA #8723
14 Attorney for Respondent
15 David Condon
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CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that on the 29 day of December, 2015, the foregoing was delivered to the following persons in the manner indicated:

Sheron L. Jones
2409 W. Mission Ave.
Spokane, WA 99201

VIA REGULAR MAIL ☒
VIA CERTIFIED MAIL []
VIA FACSIMILE []
HAND DELIVERED []

Rick Eichestaedt
Center for Justice
35 W. Main, Ste. 300
Spokane, WA 99201

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12-29-15 / Spokane, WA
(Date/Place)

