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SEP 21 2016

OFFICE OF THE CITY ATTORNEY

CITY OF SPOKANE ETHICS COMMISSION

SPOKANE AREA NOW,

Complainant

vs.

DAVID CONDON, MAYOR,

Respondent

RESPONDENT CITY OF
SPOKANE MAYOR DAVID
CONDON'S PRE-HEARING
BRIEF

COMES NOW Respondent David Condon, Mayor of the City of Spokane by and through his undersigned counsel and in compliance with the deadlines set in the Final Prehearing Order, timely¹ submits the following Pre-Hearing Brief.

I. INTRODUCTION

The lone issue remaining before the Commission is whether City of Spokane Mayor David Condon ("Mayor Condon") violated the Spokane Municipal Code ("SMC") Section 01.04A.030N during a press conference on a September 22, 2015. Spokane Area NOW ("NOW") cannot satisfy its burden of proof to show that Mayor Condon was "dishonest" or committed an act of "moral turpitude." NOW's remaining complaint amounts to a contrived

¹ See, Final Prehearing Order, pg. 4, Subsection G ("Parties must serve and file any briefing they wish the Commission to consider on[e] week prior to the full hearing").

1 semantic disagreement, *by omission*. Although NOW has the burden of proof, the evidence in
2 this case will unmistakably show that Mayor Condon was honest at the press conference. When
3 asked whether “complaints” had been “lodged” he truthfully responded “no.” To place his
4 response in context, Ms. Cotton never lodged a formal complaint against former Police Chief
5 Frank Straub, nor did she file a claim against the City of Spokane. As Mayor Condon clarified
6 in subsequent questioning, there had been “no official filings of anything.” That was true and
7 remains true.
8

9
10 NOW’s contentions have been placed before this Commission, as well as Honorable
11 Blaine Gibson in connection with the matter *In re: Recall Petition of Mayor David Condon*.
12 Judge Gibson found the allegation factually and legally insufficient to support a violation of the
13 oath of office or a finding of misfeasance or malfeasance. He found that the statement was at
14 best, a semantic disagreement, and even then, if it could be construed as dishonest, it was de
15 minimis. The charge, therefore, was dismissed. Similarly, in response to a nearly identical
16 complaint brought by Spokane citizen Jamie Pendleton, this Commission determined that any
17 alleged inaccuracies in the Mayor’s press conference responses were *de minimis*, and therefore,
18 the charge was dismissed. Thus, NOW’s charge should be dismissed not only on its merits, but
19 because it has been previously litigated and dismissed on its merits, and also because even if the
20 facts did support a violation, the violation would be de minimis.
21

22 II. EXHIBITS

23 The following items are attached hereto:

- 24 1. Transcript of Press Conference of September 22, 2015.

2. Complaint of Jamie Pendleton; Commission Minutes Concerning Disposition; and Findings and Conclusions of Ethics Commission.
3. Complaint of Mara Spitzer; Findings and Conclusions of Ethics Commission.
4. Ballot Synopsis of Recall Petition Against David Condon; Order Dismissing Recall Petition.²
5. Various dictionary definitions cited herein.

III. AUTHORITIES AND ARGUMENTS

A. Burden Of Proof.

The term “burden of proof” and its importance in western jurisprudence was described by the Washington State Supreme Court as follows:

The term ‘burden of proof’ has two distinct meanings; (1) the establishing of the truth of a given issue by the required quantity of evidence, and (2) the duty of producing evidence to make a prima facie case. A statutory presumption making a prima facie case does not shift the burden of proof or require the adversary to prove the negative by the preponderance of the evidence; it merely requires the submission of the issue to the jury to determine the preponderance of the evidence, required throughout of the party asserting the affirmative of the issue. State v. Rouw, 156 Wash. 198, 286 P. 81.

‘The term ‘burden of proof’ has two distinct meanings. By the one is meant the duty of establishing the truth of a given proposition or issue by such a quantum of evidence as the law demands in the case in which the issue arises; by the other is meant the duty of producing evidence at the beginning or at any subsequent stage of the trial, in order to make or meet a prima facie case. Generally speaking, the burden of proof, in the sense of the duty of producing evidence, passes from party to party as the case progresses, while the burden of proof, meaning the obligation to establish the truth of the claim by a preponderance of evidence, rests throughout upon the party asserting the affirmative of the issue, and

² Mayor Condon will likewise submit a transcript of the proceeding in which the Petition was dismissed. However, it is not yet available.

1 unless he meets this obligation upon the whole case he fails. This burden
2 of proof never shifts during the course of a trial, but remains with him
3 to the end.' 10 R.C.L. 897

4 *Gillingham v. Phelps*, 11 Wash. 2d 492, 501–02, 119 P.2d 914, 918–19 (1941)

5 The initial question which must be determined is which party to this case bears the
6 burden of proof. Next, the Commission must decide the appropriate quantum of proof which
7 applies to an ethics inquiry. A review of Washington law shows that (1) the Complainant, NOW,
8 bears the burden of proof in this case and (2) that the appropriate burden of proof is “clear,
9 cogent, and convincing evidence.”

10
11 **1. NOW Has The Burden Of Proof**

12 As set forth in the *Gillingham* case, cited above, the burden of proof – that is, persuasion
13 – usually stays with one party throughout the course of the proceeding. The party bearing the
14 burden “rests upon the party asserting the affirmative of the issue.” *Gillingham*, 11 Wash. 2d at
15 501–02. The principle of *Gillingham* – that the party making the assertions giving rise to the
16 legal action bear the burden of proof – has been confirmed over decades of case law regardless
17 of subject matter.

18
19 In civil cases the plaintiff bears the burden of proof of each element of their legal claims.
20
21 *Alprin v. City of Tacoma*, 139 Wash.App. 166, 159 P.3d 448 (Div.2, 2007); *Johnson v. Spokane*
22 *to Sandpoint, LLC*, 176 Wash.App. 453, 309 P.3d 528 (Div.3, 2013). In criminal cases, the state
23 which has charged the defendant with violations of law bears the burden of proof. *City of Seattle*
24 *v. Parker*, 2 Wash.App. 331, 467 P.2d 858 (Div.1, 1970); *State v. Lindsay*, 180 Wash.2d 423,
25 326 P.3d 125 (2014). See Also, *In re Welfare of KJB*, 188 Wash.App. 263, 354 P.3d 879 (Div.3,
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27
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1 2015) (state carries burden of proof in termination of parental rights proceeding), *Rozner v. City*
2 *of Bellevue*, 116 Wash.2d 342, 804 P.2d 24 (1991) (agency carries burden of proof in property
3 forfeiture proceeding), *In re Adoption of Doe*, 74 Wash.2d 396, 444 P.2d 800 (Prospective
4 parents bear burden of proof in establishing fitness to be named adoptive parents).

5
6 Clearly, the common thread amongst the various actions described above is that the party
7 bringing the charges or pursuing the allegations bears the burden of proof. NOW bears the
8 burden of proving to the Commission that its allegations are true.

9
10 **2. The Appropriate Burden Of Proof Is Clear, Cogent, And Convincing Evidence.**

11 Having established that NOW must carry the burden of proof in this proceeding, the next
12 question is the quantum of proof required to carry that burden. The three generally accepted
13 standards are: proof by a “preponderance of the evidence,” proof by “clear, cogent, and
14 convincing evidence,” and “proof beyond a reasonable doubt.” SMC 01.04A.110(H) states that
15 “The Commission’s conclusions shall be based on the preponderance of the evidence standard.”
16 However, considerations of constitutionally protected due process rights dictate that the clear,
17
18
19 cogent, and convincing standard must apply under the circumstances.

20 The standard to be applied is dictated by the nature of the interest at stake in the
21 proceeding. *Nguyen v. State Dep’t of Health Medical Quality Assurance Commission*, 144
22 Wash.2d 516, 29 P.3d 689 (2001). The spectrum is defined by physical confinement on the one
23 end (carrying the heaviest burden of proof, “beyond a reasonable doubt”) and “a mere, yet
24 erroneous, money judgment” (carrying the slightest burden of proof “preponderance of the
25 evidence”) on the other. *Id.* at pg. 521.

1 In the middle of the spectrum – carrying the clear, cogent and convincing standard – are
2 proceedings in which the nature of the interest is “the diminished reputation” or “professional
3 dishonor” of an individual. *Id.* In *Nguyen*, the Supreme Court stated:

4 The intermediate clear preponderance standard is required in a variety
5 of civil situations “to protect particularly important individual
6 interests,” that is, those interests more important than the interest
7 against erroneous imposition of a mere money judgment. *Addington*,
8 441 U.S. at 424, 99 S.Ct. 1804. Examples of such proceedings include
9 involuntary mental illness commitment, fraud, “some other quasi-
criminal wrongdoing by the defendant” as well as the risk of having
one’s “reputation tarnished erroneously.” *Id.*

10 *Addington* makes yet a further distinction: It observes while the
11 interest of the individual may dictate a higher standard of proof to
12 avoid erroneous deprivation, important interests of the state are
13 likewise vindicated by the higher burden as they are potentially
14 compromised by a lower burden of proof which inevitably increases
15 the incidents of erroneous results. *Addington*, 441 U.S. at 425, 99 S.Ct.
16 1804. Aside from vindicating interests of accuracy in professional
17 disciplinary proceedings, as Dean Roscoe Pound observed, “There is a
18 public policy in maintaining the interests of individuals as well as one
19 in upholding the agencies of government.”

20 *Nguyen*, 144 Wash. 2d at 525.

21 The *Nguyen* case involved a Medical Quality Assurance Commission complaint against
22 a physician. The Supreme Court held that the appropriate burden of proof was “clear and
23 convincing evidence.” Similarly, allegations concerning the conduct of lawyers before the bar
24 association are governed by the “clear preponderance”³ standard. *See*, Rules for Enforcement of
25 Lawyer Conduct 10.14(b). The range of sanctions for physician and lawyer conduct range from
26 formal reprimand or admonition to monetary fines to a suspension or permanent loss of the

27
28 ³ “Clear preponderance,” “clear, cogent, and convincing” and “clear and convincing” are used interchangeably.

1 ability to engage in the profession. ELC 13.1-13.9. Here, the sanctions for ethics violations range
2 from a finding of ethical wrongdoing to recall. *See*, SMC 01.04A.040-050. As was the case in
3 *Nguyen*, the stigma attached to an alleged ethics violation warrants a higher burden of proof.
4 *Nguyen*, 144 Wash.2d at 529-530.

5
6 Finally, the Spokane Code of Ethics in its entirety is designed to supplement RCW
7 42.020, et seq., which is a code section dealing with *criminal* misconduct of public officers. Its
8 contents, therefore, the “beyond a reasonable doubt” standard applies to its contents. *State v.*
9 *Funkhouser*, 30 Wash.App. 617, 637 P.2d 974 (Div.2 1981). Here, at a minimum, “clear, cogent,
10 and convincing evidence” is the appropriate standard under the due process clause of the
11 Washington State and United States Constitutions and any statute imposing a lesser burden is
12 constitutionally impermissible.
13
14

15 **B. Spokane Municipal Code – Ethics Provisions.**

16 SMC Section 01.04.030N provides as follows:

17 Commission of Acts of Moral Turpitude or Dishonesty Prohibited.
18 No City officer or employee shall commit any act of moral turpitude
19 or dishonesty relating to his or her duties or position as a City officer
20 or employee or arising from business with the City. Conviction of a
21 felony or a misdemeanor involving moral turpitude or dishonesty, the
22 nature of which demonstrates lack of fitness for the position held, shall
23 be considered conclusive evidence of a violation of this Code of
Ethics. Demonstrated acts of moral turpitude or dishonesty are not
limited to felony or misdemeanor criminal convictions.

24 The Code of Ethics defines neither “moral turpitude” nor “dishonesty.”

25 ***Moral Turpitude.*** Acts of “moral turpitude” have been defined by Washington courts
26 for nearly a century as acts of “baseness, vileness, or depravity.” *In re Farina*, 94 Wash. App.
27

1 441, 460, 972 P.2d 531, 541 (1999), *as amended on reconsideration* (Apr. 13, 1999), *See Also*,
2 *City of Seattle v. Jones*, 3 Wn.App. 431, 467, 475 P.2d 790 (1970) ('A crime involves moral
3 turpitude if it is an act of baseness, vileness, or depravity in the private and social duties which
4 a man owes to his fellow men or to society in general.');

5 *Dearinger v. Dep't of Soc. & Health*
6 *Servs.*, 130 Wash. App. 1032 (2005) ("Moral turpitude in this connection has been defined to
7 be an act of baseness, vileness, or depravity in the private and social duties which a man owes
8 to his fellow man or to society in general, contrary to the accepted and customary rule of right
9 and duty between man and man"); *Roane v. Columbian Pub. Co.*, 126 Wash. 416, 419, 218 P.
10 213, 214 (1923). **"The definition of moral turpitude does not encompass merely technical**
11 **and unwitting violations."** *Farina, supra*.

12
13
14 ***Dishonesty.*** "Dishonesty" is not defined by the SMC. Complainant suggests the
15 Commission adopt the definition of dishonesty found in the online version of Merriam-
16 Webster's Dictionary: "lack of honesty, the quality of being untruthful or deceitful." *NOW*
17 *Complaint, pg. 1*. The Oxford Dictionary posits two definitions of dishonesty: "(1) Deceitfulness
18 shown in someone's character or behavior, (1.1) A fraudulent or deceitful act."⁴ Further, the
19 Spokane Ethics Code supplements the provisions of RCW 42.20, et seq. ("Misconduct of Public
20 Officers"). Notably, that section requires a showing of a knowing violation or misleading
21 statement.
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28 ⁴ www.en.oxforddictionaries.com/definition/us/dishonesty.

1 **C. Mayor Condon Was Neither Dishonest Nor Did He Commit An Act Of Moral**
2 **Turpitude.**

3 Two additional terms assist in evaluating NOW's complaint. As set forth above, NOW
4 contends that the following exchange was dishonest:

5 REPORTER 1: Were there any sexual harassment complaints lodged
6 against Frank?

7 MAYOR CONDON: No.

8 REPORTER 2: There have been rumors of an inappropriate
9 relationship between the Chief and Ms. Dugaw (phonetic). Has that
10 been brought up at all? Was that made any part of this as well?

11 MAYOR CONDON: The critical thing is the management style. The
12 issue with -- that you speak of, but there has been no official filing of
13 anything.

14 *Transcript of Press Conference – September 22, 2015, pgs. 4-5.*

15 As the Judge Gibson recently determined in connection with his evaluation of the recall
16 petition, the critical inquiry is whether a "complaint" had been "lodged." More specifically, had
17 a complaint alleging sexual harassment been lodged by Ms. Cotton.

18 The operative version of the term "complaint" implies the initiation of a formal process.
19
20 Black's Law Dictionary defines "complaint" as follows:

- 21
22 1. The initial pleading that starts a civil action and states the basis for the court's
23 jurisdiction, the basis for the plaintiff's claim, and the demand for relief.
24
25 2. *Criminal law.* A formal charge accusing a person of an offense.

26 Garner, Bryan A., Black's Law Dictionary, Deluxe Ninth Edition (2009).

1 The term “lodge[d]” is defined by Merriam Webster as “to lay (as a complaint) before a
2 proper authority.”⁵ A synonym for that specific definition is to “file.” *Id.* The definition section
3 for “lodge” in Black’s Law Dictionary refers the reader to the definition of “file.” The Oxford
4 Dictionary reinforces and clarifies the formality of “lodging” a complaint: “Present (a complaint,
5 appeal, claim, etc.) formally to the proper authorities.”⁶ No formal process was initiated. The
6 Mayor was expressly told by Cotton that she was not pursuing a sexual harassment complaint,
7 was not going to participate in any investigation into alleged sexual harassment, would not file
8 a formal complaint and wanted confidentiality.
9
10

11 Failing to show that Mayor Condon was untruthful, NOW adopts its own definition of
12 “lodging” a “complaint,” unsupported by any authority: “...the Mayor chose to give a narrow
13 answer that withheld key facts...these actions amount to a lie of omission or continuing
14 misrepresentation.” *NOW Complaint*, pg. 3.
15

16 No one filed or made any formal claim of sexual harassment against Straub prior to his
17 resignation. Monique Cotton still has not filed a formal claim and has specifically disclaimed
18 any intent to file a formal claim. The Code of Ethics does not contain any requirement that the
19 Mayor must answer not only truthfully answer the questions that are asked at a press conference,
20 but also identify questions which have not been asked and disclose responsive information. A
21 lack of disclosure, without inquiry, is not dishonest absent any duty to make such disclosures.
22
23

24 The Mayor was also asked if a rumor of an inappropriate relationship between Chief
25 Straub and a “Ms. Dugaw” was involved in the Straub resignation. Dugaw is Cotton’s maiden
26

27 ⁵ Merriam-Webster, “lodge.” www.merriam-webster.com/dictionary/lodge - accessed 9/21/2016

28 ⁶ www.en.oxforddictionaries.com/definition/us/lodge – accessed 9/21/2016

1 name, unbeknownst to Mayor Condon at that time. The Mayor responded truthfully that Straub's
2 resignation was due to management style issues and that there had been no official filings of
3 anything. Accordingly, the question asked of Mayor Condon on September 22, 2015, was
4 whether there had been any sexual harassment complaints lodged against Chief Straub. Mayor
5 Condon responded by saying, "No," and added that there had been "no official filings of
6 anything." It was and is the case that Monique Cotton has never filed a formal claim against the
7 City of Spokane alleging workplace misbehavior by Chief Straub. The Respondent's truthful
8 statement on September 22, 2015, that there had been "no official filings" of anything is
9 unassailable.

12 In fact, should the Respondent have disclosed information conveyed to him by
13 Ms. Cotton in April of 2013, with her specific request for confidentiality, the Respondent would
14 have been in jeopardy of violating §01.04A.030I of the Code of Ethics which prohibits the
15 disclosure of confidential information gained by reason of an official position

18 No City officer or employee shall, except as required or
19 reasonably believed to be required for the performance of his/her
20 duties, disclose confidential information gained by reason of
21 his/her official position or use such information for his/her own
22 personal interest. "Confidential information" is all information,
23 whether transmitted orally or in writing, that the employee has
24 been informed, is aware of, or has reason to believe is intended to
25 be used only for City purposes, **is not intended for public
26 disclosure, or is otherwise of such a nature that it is not, at the
27 time, a matter of public record or public knowledge.**

28 **Confidential information includes**, but is not limited to,
29 personal information regarding City officials and **employees**;
30 private financial and other personal information provided by City
taxpayers, licensors, contractors, and customers; **intelligence and
investigative information, including the identity of persons**

1 **filing complaints**; formulas, designs, drawings, and research data
2 obtained or produced by the City and preliminary, nonfinal
3 assessments, opinions, and recommendations concerning City
 policies and actions. . .

4 (emphasis added). Further, SMC 01.04A.030 states: "Performance of a legally required duty by
5 a City officer or employee shall not be considered a violation of the Code of Ethics."

6 Confronted by the inalterable fact that Mayor Condon spoke truthfully at the September
7 22 press conference when he stated no official complaints had been filed concerning Chief
8 Straub, NOW contends that the Mayor's statement "amounts to a lie of omission or continuing
9 misrepresentation." But, in the absence of any common law or statutory or legislative definition
10 of the term "dishonesty" in the Code of Ethics, what NOW argues is that any time the Mayor is
11 asked a question, he must respond by providing all information known or possessed by him
12 concerning the subject, regardless of whether the information in his possession has been relayed
13 to him subject to the information remaining confidential, in order to prevent "a misconception."
14 Contorting the Code of Ethics into a vehicle by which every city employee is obligated to answer
15 any question put to them by disclosing all information of any kind bearing on the subject
16 imposes an intolerable burden on employees and officers of the City of Spokane, is not
17 contemplated by, proscribed or prohibited by the Code of Ethics, and is a stunningly intolerable
18 burden to impose as a condition of public employment.

19 Accordingly, this aspect of the NOW Complaint is subject to dismissal under
20 §01.04A.110(d) in that even if NOW were to prove that Mayor Condon made the cited remark
21 at the time of the September 22, 2015, press conference, the statement is a true summary of the
22 existing status of Ms. Cotton as an employee of the City. Without evidence that the Mayor was

1 asked further follow up questions regarding any complaints of any kind, formal or informal,
2 written or verbal, NOW's charge should be rejected.

3 **D. NOW's Final Charge Should Be Precluded Under Principles Of Res Judicata Or**
4 **Collateral Estoppel.**

5 Under general principles of collateral estoppel and res judicata and given the prior
6 dismissal of the factually indistinguishable Pendleton and Spitzer complaints, as well as the
7 recall petition which was recently litigated, this aspect of the NOW Complaint is likewise
8 subject to dismissal. The doctrine of res judicata is applicable in quasi-judicial administrative
9 matters. *Davidson v. Kitsap County*, 86 Wn.App. 673, 937 P.2d 1309 (1997). When an
10 administrative proceeding is quasi-judicial and a final decision has been made, the judicial
11 doctrines of preclusion apply. *Hilltop Terrace Home Owners Assoc. v. Island County*, 72
12 Wn.App. 91, 863 P.2d 604 (1993). The decisions of an administrative tribunal are given
13 preclusive effect under collateral estoppel principles when the agency acted within its
14 confidence to make a factual decision; when agency and court procedural differences are
15 minimal, and when policy considerations support application of the doctrine. *City of Bremerton*
16 *v. Sesko*, 100 Wn.App. 158, 995 P.2d 1257 (2000).

17 Here, the Commission has already dismissed two complaints involving the same
18 response and conduct (Pendleton and Spitzer) at its meeting of January 13, 2016, because it is
19 undisputed that the statement by Mayor Condon on September 22 that no official complaints
20 had been filed was true. Likewise, Judge Gibson determined that the Mayor's press conference
21 responses were not a violation of the oath of office, were not misfeasance or malfeasance,
22 NOW's Complaint should be dismissed.

1 **E. Any Alleged Violation Of The Code Of Ethics Was Not Accompanied by Any**
2 **Harm, and Was De Minimis.**

3 The purpose and policy behind the Code of Ethics is as follows:

4 It is the intent of the City Council that this chapter be reasonably construed to
5 accomplish its purpose of protecting the public against decisions that are affected by
6 undue influence, conflicts of interest or any other violation of this Code of Ethics. This
7 Code of Ethics is supplemental to state law, including, but not limited to, chapter 42.20
8 RCW – Misconduct of Public Officers, chapter 42.23 RCW – Code of Ethics for
Municipal Officers – Contract Interests, and chapter 42.36 RCW – Appearance of
Fairness Doctrine.

9 SMC 01.04A.010(B).

10 There is no allegation, nor is there any evidence that the public requires “protection” due
11 to undue influence, conflicts, of interest, or any other violation of the Code of Ethics. Thus, even
12 if a technical violation of the Code of Ethics were to occur, it is contrary to the Code of Ethics
13 to pursue litigation over harmless violations.

14
15 Next, the Commission “shall” dismiss a complaint if the “allegation is a minor or de
16 minimis violation.” SMC 01.04A.110D(1)(c). Recently, the Honorable Blaine G. Gibson
17 presided over the matter of *In re Recall of David Condon*, Spokane County Superior Court Cause
18 No. 16-203395-9. One of the allegations in the Recall Matter was whether Mayor Condon
19 “committed an act of malfeasance and misfeasance and violated his oath of office when he said
20 ‘no’ at the September 22, 2015 press conference when asked the question ‘were there any sexual
21 harassment complaints lodged against Frank?’” Judge Gibson, in rendering his oral ruling,
22 related that any disagreement concerning the Mayor’s response was at best, semantic. He stated
23 on the record that any such violation would amount to nothing more than a “de minimis”
24 violation insufficient to support a recall petition. He further found the allegation to lack both
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1 legal and factual sufficiency to support an allegation of misfeasance, malfeasance, or a violation
2 of the oath of office.⁷

3 DATED at Spokane, Washington this 21st day of September, 2016.

4 EVANS, CRAVEN & LACKIE, P.S.

5 By 

6 James B. King, WSBA #8723

7 Markus W. Louvier, WSBA #39319

8 Attorney for Respondent

9 Mayor David Condon

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27 ⁷ The hearing on the recall petition took place on September 14, 2016. A transcript of the hearing was ordered
28 immediately upon completion of the hearing. Counsel has been advised that a transcript will be produced on
either 9/22/2016 or 9/23/2016.

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 21st day of September 2016, the foregoing was delivered to the following persons in the manner indicated:

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

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

9-21-16 / Spokane, WA
(Date/Place)

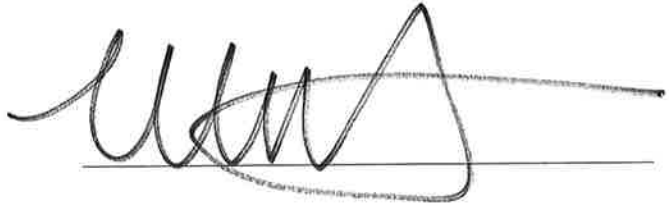


EXHIBIT 1

MAYOR OF SPOKANE DAVID CONDON
AND CITY COUNCIL PRESIDENT BEN STUCKART

PRESS CONFERENCE
HELD ON
TUESDAY, SEPTEMBER 22, 2015

TRANSCRIBED BY
NAEGELI DEPOSITION AND TRIAL
25 SOUTH ALTAMONT STREET
SPOKANE, WASHINGTON 99202

Public trust and confidence in our police officers has risen dramatically. We have been fortunate to collaborate with the Independent Citizen Use of Force Commission and the U.S. Department of Justice COPS program, as we set out to reintroduce our officers to the community and improve law enforcement service citywide.

We appreciate very much Frank's service and the work he has done to help us get to this point. He gave us great momentum to build from law enforcement organizations, city and community, and we remain committed to those efforts.

The men and women of the Spokane Police Division have done outstanding work over the past four years. Their commitment to serving this community and their tireless efforts in delivering Spokane to us is well down the road to becoming the safest city of our size.

There is still work to be done, and the Spokane Police Division is up to that challenge. The Division is under the leadership of Chief Rick Dobrow, who will continue driving down crime and building relationships with our community as we go. With that, I'll be followed by Council President.

MR. STUCKART: We are open for questions.

REPORTER: Was Frank forced to resign, or was this on his own?

MAYOR OF SPOKANE DAVID CONDON
AND CITY COUNCIL PRESIDENT BEN STUCKART
PRESS CONFERENCE HELD ON
TUESDAY, SEPTEMBER 22, 2015

MAYOR CONDON: I'm with Council president.

Commanding a police department is difficult work. The environment is demanding, and sometimes the time comes to move in a different direction. Today I accepted Frank Straub's resignation. He will be reassigned to City Attorney to ensure important strategic criminal justice initiatives and ensure a seamless transition as we pursue those. His last day of city employment will be January 1st, 2016. Rick Dobrow will serve as the interim chief.

The Spokane Police Division has come a long way under Frank's leadership. Crime has decreased by double digits last year and is again down double digits through the first three quarters of this year. The use of force incidents have also declined significantly as officer training has emphasized new crisis intervention and de-escalation techniques. Staffing has risen to just over 300 officers with a plan in place to keep that level consistent.

Transparency, including the use of body cameras, is at an all-time high and will continue. Officers are building new relationships with neighborhoods they serve.

MAYOR CONDON: You know, after receiving some concerns over the last few weeks, several weeks of his management style, it was clear that we needed to move in a direction. Change management is different as we implement some of these, and I think it's critical, as we moved forward, it was mutually agreed that this is the best way to do that.

REPORTER: That Monique Cotton was transferred to the Parks Department related to this any way?

MAYOR CONDON: The -- it's definitely part of the -- the management process, but also as we sought to look for the -- the background in someone we had in this organization for our parks, and particularly the capability of marketing, a capability of very proactive public information and taking it beyond as public information, but also as we -- we implement the new park strategy, she will continue to be there and is serving very well there as we roll out the new Riverfront Park and other major initiatives in the Parks Department.

REPORTER 1: But has that had something to do with her transfer?

MAYOR CONDON: It was -- she definitely was part of this discussion.

REPORTER 1: Were there any sexual harassment complaints lodged against Frank?

1 MAYOR CONDON: No.

2 REPORTER 2: There have been rumors of an
3 inappropriate relationship between the Chief and Ms. Dugaw
4 (phonetic). Has that been brought up at all? Was that made
5 any part of this as well?

6 MAYOR CONDON: The critical thing is the
7 management style. The issue with -- that you speak of, but
8 there has been no official filing of anything.

9 REPORTER 3: When you say management style, can
10 you elaborate?

11 MAYOR CONDON: You know, I spoke about this, you
12 know, a few moments ago. I think it's critical, as -- as we
13 implement a significant change, and I think you'll probably
14 be seeing that, and making sure that we stayed on that
15 course and -- and held people accountable. There's ways to
16 do that. And it then become evident more and more that the
17 -- that the management style of Chief Straub was not
18 consistent with his senior management.

19 And they -- they expressed that over the last
20 several weeks. And then -- and we have been doing -- I have
21 been interviewing many of them, and so the City
22 Administrator -- but culminated in a memorandum that I
23 believe you have that memorialized those needs.

24 REPORTER 4: Can you talk a little bit about some
25 of those complaints that they had with the Chief?

1 And so we will -- we are committed to the
2 programs, whether it be the Youth Engagement programs, to
3 the -- the management and utilizing the tools of comp staff,
4 those have proven to be highly regarded and useful in
5 bringing down our crime rate and -- and really having the
6 best officers that we've had in years, both trained and
7 automobile (phonetic).

8 MR. STUCKART: Time for two more questions.

9 REPORTER 5: When did you guys first hear about
10 these complaints, how long ago, and can we expect any other
11 shakeups within the Police Department, any other
12 resignations at this point?

13 MAYOR CONDON: You know, it's been -- over the
14 last several weeks, as we have been, you know, starting to
15 hear of some of these -- these issues that maybe rise above
16 folks, you know, just complaining about those changes and
17 there's new ways of doing things, which I suggest would be
18 in any organization as you -- as you make major changes. I
19 see a very steady senior leadership in at least in the
20 interim (phonetic). I have full confidence in -- in Rick
21 Dobrow. He has been with the Police Division for 21 years.
22 He is very steady. And there's no initial plans to do any
23 type of changes in the -- in the senior management.

24 REPORTER 5: So no other resignations, either
25 within the Police Department or outside of it.

1 MAYOR CONDON: I think they're in front of you.
2 You can see those. And -- and really, it was a -- you can
3 see them in front of you.

4 REPORTER 4: Senior staff letters, kind of, pull
5 this out, some of the concerns, outbursts, inappropriate use
6 of language, retaliation.

7 REPORTER 5: I think -- you know, that you said
8 the Chief put in some pretty strict reforms. Do you think
9 this could just be outbreaks among the rank and file trying
10 to get out a police chief who was making changes within the
11 Department?

12 MAYOR CONDON: You know, I think that you -- you
13 drive at an issue of how do we continue to move us forward
14 in a culture change. But -- and that's why -- I mean, this
15 is -- this is not a decision that we make lightly, meaning
16 the progress that our Police Division has made is -- is now
17 being nationally recognized. But that being said, that's
18 why we needed to -- to do firsthand interviews with those
19 folks and really substantiate them.

20 And I think as you -- as you look at these, and
21 yes, we needed to make sure we had the right people in
22 place. We have an excellent senior management team in the
23 Police Division. Many of them were selected by Frank
24 Straub, and they will continue in those positions with Rick
25 Dobrow. Rick Dobrow was selected by Chief Straub.

1 REPORTER 6: And when you sought out Chief Straub
2 for this job and that went through a process, what is the
3 process going to look like for his replacement? Is Dobrow
4 going to stay? Is he an interim? Are you going to go out
5 for a national search for a new chief?

6 MAYOR CONDON: You know, at this point, it's --
7 Chief Dobrow will serve in an interim capacity, but there is
8 no immediate steps to be taken for a national search,
9 although I think his -- his role as the Assistant Chief has
10 -- well, his role will serve us well as we implement many of
11 these programs and procedures and pilot programs. We've
12 seen great success in them, and so my opinion is to stay
13 that course. Rick Dobrow is committed to -- to these
14 programs that have been brought to Spokane, so there is no
15 immediate steps to do anything except to have Rick Dobrow as
16 the Chief and the senior management team to stay in place.

17 REPORTER: And just real quick. Council has
18 really high confidence in Chief Dobrow. I have never dealt
19 with anybody in the police force that has answered any
20 question or concern I have faster or more thoroughly, and
21 you can do exactly your job (phonetic).

22 REPORTER: Mayor, he was your choice for police
23 chief. Do you think this will have any sort of effect of
24 your re-election?

25 MAYOR CONDON: You know, let's remember how this

1 process went. It was a national search. All of the senior
2 positions are ultimately appointed by me and confirmed by
3 the Council. This was probably one of the most engaged
4 citizens' election process, if, well not, it was the most.
5 And so it went through five different selections mates.

6 He was the overwhelming choice by those selection
7 committees, especially the -- the community-based committees
8 that met that day. And so I think as we see this, yes, all
9 these positions are appointed by the mayor and confirmed by
10 the Council. But this is the selection that was made by
11 this community.

12 And let's remember where we've come in the last
13 four years. This -- the national expertise that Frank
14 Straub brought to our community, the programs, the
15 facilitation of the education and training of our senior
16 officers had never been at this level before. And so those
17 will continue.

18 And what's -- and what is exciting is just that
19 was an investment in our officers that we have not seen.
20 With the -- with the full allocation by the City Council, we
21 -- we allocated budget resources to the Police Division that
22 we hadn't seen in years that allowed us to invest in our
23 officers and allowed us -- you know, we're the only one that
24 we know of, maybe in the country, that's 40 hours of
25 critical incident training. And you've seen the dividends

1 that they've been paid. You know, we have had reduction in
2 use of force. We have better-trained officers to deal with
3 those that are in mental crisis. The story continues. The
4 youth programs that we've had. We were recognized by the
5 White House just a month ago.

6 As I traveled there with members of our community
7 and with the Chief and presented on some of those, of how we
8 were making true changes and -- and really growing those
9 programs, whether it be WPI or whether it be other
10 initiatives of engaging our youth. And I think our
11 community has seen that and will continue to see that
12 because that has spread throughout the entire Police
13 Division. Thank you very much.

14 REPORTER: Frank, can you answer some questions?

15 MR. STUCKART: Sure.

16 REPORTER: Who will be paying the Chief's salary
17 at the Attorney's Office? Will it still come from the
18 Police Department or the City Attorney's Office?

19 MR. STUCKART: Those details are still being
20 worked out at this point. We've really just gotten together
21 today, so we've got some work to do in figuring out the
22 details.

23 REPORTER: And also, you didn't really speak of
24 why the sudden adjournments, why did it just come together
25 today and why are we all gathered here with ten minutes'

1 warning?

2 MR. STUCKART: Well, I think it may feel sudden to
3 you, but this is something that's been going on and being
4 discussed. As we talked about, there have been some
5 conversations that have been going on for the past couple of
6 weeks that have occurred, and it came to a point where there
7 was a mutually-agreed upon decision that it was time for
8 everybody to move forward.

9 REPORTER: And Theresa Sanders described to me the
10 \$10,000 pay increase that Monique Cotton got as enticement,
11 to entice her to Rec and Parks, and the Mayor said it didn't
12 sound like it was an enticement. How do you reconcile what
13 Theresa Sanders says a month ago?

14 MR. STUCKART: So you're familiar with the step
15 system we have. Since she was close to the step -- to the
16 step increase, she was weeks away from her, you know, being
17 in a step increase. So that was factored in there.

18 Ms. Nadrich (phonetic) reported on -- I believe
19 also it included a bump that had been heard with the
20 resolution of the -- a contract, and a contract that got
21 ultimate -- everybody bumped in --

22 REPORTER: Why did she describe that as an
23 enticement, then?

24 MR. STUCKART: To me, it was part a step increase
25 to move her forward so she -- you know, she wanted to be

1 sure that for Monique's sake, that she was taking another
2 career advancement and moving forward in her career, taking
3 a job that was -- we just wanted to be sure that that would
4 be a good for her.

5 REPORTER: So there was other factors in her
6 \$10,000 pay increase and --

7 MR. STUCKART: No.

8 REPORTER: -- move to Parks?

9 MR. STUCKART: No.

10 (End of September 22, 2015 Press Conference)

DECLARATION

Transcript of: Transcription Date: 09/22/15
Regarding: Press Conference
Transcriber: Broyles

I declare under penalty of perjury the following to be true:

I have read my deposition and the same is true and accurate save and except for any corrections as made by me on the Correction Page herein.

Signed at _____,
on the _____ day of _____, 2016.

Signature _____

DECLARATION

Transcript of: Transcription Date: 09/22/15
Regarding: Press Conference
Transcriber: Broyles

I declare under penalty of perjury the following to be true:

I have read my deposition and the same is true and accurate save and except for any corrections as made by me on the Correction Page herein.

Signed at _____,
on the _____ day of _____, 2016.

Print Name _____

Signature _____

EXHIBIT 2

CITY OF SPOKANE ETHICS COMMISSION ETHICS COMPLAINT FORM

Please review the City of Spokane's Code of Ethics – Chapter 1.04A SMC – before completing this complaint form. When you have completed this form, submit it to:

City of Spokane Ethics Commission

Attention: Rebecca Riedinger

Office of the City Attorney

5th Floor Municipal Building

W. 808 Spokane Falls Blvd.

Spokane, WA 99201

or at: riedinger@spokanecity.org

Pursuant to the City of Spokane's Code of Ethics, I am filing a complaint regarding conduct which I believe constitutes a violation of the City's Code of Ethics.

Name, position, and department of person(s) I believe to have violated the Code of Ethics:

Name: David Condon

Position/Title: Mayor

Nature of Code of Ethics violation:

What specific provision of SMC 1.04A.030 do you believe has been violated?

Section A - General Prohibition Against Conflicts of Interest: ...no current City officer shall have an interest that might be seen as adverse to the interests of the City.

Section N - Commission of Acts of Moral Turpitude or Dishonesty Prohibited.

Describe in as much detail as possible the alleged Code of Ethics violation conduct. Attach additional sheets of paper, if necessary. Please include all documentation you believe demonstrates a violation. Your description should include the date, location and frequency of the alleged violation.

Regarding SMC 1.04A.030 – Section A:

Mayor David Condon knowingly withheld allegations of sexual harassment by former Police Chief Frank Straub against another city employee. This information was not made public until after David Condon had won re-election. The dishonesty by omission of the whole truth while campaigning for re-election constitutes an action adverse to the interests of the City by withholding information pertinent to voters.

The timing of these revelations present a clear conflict of interest since these allegations speak to David Condon's integrity in discharging the duties of the Mayor's Office in the eyes of Spokane's constituency.

Regarding SMC 1.04A.030 – Section N:

In public remarks on September 22 David Condon denied that any complaint of sexual harassment was made. This is blatant dishonesty relevant to Spokane voters in an election.

Names and positions of the persons who may have witnessed the event:

These allegations were made public by the Mayor's Office on Tuesday, November 24th, 2015.

Evidence or documentation

Please list any evidence or documentation that would support your allegation of a Code of Ethics violation. Indicate whether you can personally provide that information.

This evidence is public record in a city publication.

"Condon himself denied that any complaints of sexual harassment had been filed against the former chief when he announced Straub's departure on Sept. 22 [2015]. "The issue that you speak of, there has been no official filings of anything," -Mayor David Condon

<http://www.inlander.com/Bloglander/archives/2015/11/24/alleged-sexual-harassment-public-records-and-mayor-condons-re-election>

Complainant Declaration

I declare under penalty of perjury of the laws of the State of Washington that to the best of my knowledge, information, and belief formed after reasonable reflection, the information in the complaint is true and correct.

JAMIE PENDLETON
Complainant's Signature

Date and Place (e.g. City, State)

11/30/2015 SPOKANE, WA

Name (please print): JAMIE PENDLETON

Address: P.O. BOX 1888 VERADALE WA 99037

Phone Number(s): 208-918-1045

E-Mail Address: BABYFACE @ DS BABYFACE .COM

ETHICS COMMISSION MEETING OF JANUARY 13, 2016
MINUTES

This meeting was digitally recorded and an audio recording has been maintained.
Meeting was held in City Council Chambers.

Present: (There is a quorum.)

Alice Buckles, Member
Dennis Cronin, Member
Troy Bruner, Chair
Tyler Wasson, Member
Michael Piccolo, City Attorney's Office
Rebecca Riedinger, Staff Liaison

Media and Members of the community are present in the audience.

Prior Minutes are reviewed and approved by all.

FIRST MOTION

Troy: Motion to Approve Meeting Agenda

Levi- Seconds, All approve, Motion Carried

SECOND MOTION

Levi: Motion to Approve Minutes from prior meetings as there are no changes.

Tyler: Seconds, Dennis Abstains as he was not present, all others Approve, Motion Carried

THIRD MOTION

Dennis: Motion to Determine Definitions before proceeding any further – Wants to dismiss complaints w/. Prejudice to refile again.

Levi wants to go ahead despite Cronin's protests to determine jurisdiction.

Piccolo reminds him that the Commission has to deal with the first motion.

Dennis: Motion to Dismiss, or in the alternative, to carry over, the complaints in order to allow time to obtain definitions. No. Second. Motion dies.

FOURTH MOTION

PENDLETON COMPLAINT

In reviewing the Pendleton Complaint, Levi states the complaints appears proper in formatting/ signature, etc.

Dennis states he has problems with the second and fourth factors. Dennis states that he does not understand how we can move forward without having defined all the terms that they are supposed to be reviewing, for example, "dishonest" and "moral turpitude" How do we know what they mean without determining what definitions there are.

Troy states that this a Commission of citizens and, consequently we have to use our best judgment. Not every word or term is defined for us, so seems prudent to use the common definitions.

Levi notes that the next question would be if the act was committed, would it be a violation of the code.

Dennis states that the potential for the Mayor's recall stemming from their decision and the possible severity of the outcome, he finds it concerning that we would not seek to define the terms. The matters should be stayed. We need to have our decision stand up to the community's scrutiny.

Jamie Pendleton stands to the podium and tells Mr. Cronin, You are new. You have just been appointed, noting everyone should know the definitions of dishonesty.

Troy agrees, stating that we are getting off the rails.

Jim King stands at the podium and states that they have submitted documents in response and agrees with Dennis Cronin's analysis that he would like to have terms defined & stay their review.

Levi notes we haven't even determined jurisdiction, necessary to go forward. Troy states, Dennis, do you want to make a motion?

Dennis makes a motion the commission should determine the definitions of terms alleging dishonesty, moral turpitude – pending classification of what these terms mean. Piccolo notes that the state did not define the terms either.

Troy asks how we can accomplish anything in a timely manner. Doesn't seem practical.

Dennis asks how can they not define the terms, just to move forward quickly. Troy states that is not what he is saying. He is looking at it for the common good, the concerned citizens with a common sense point of view. He feels obligated to not get bogged down- not all the terms are defined.

Joe Shogan from the crowd yells that Cronin does not speak for him and he is a citizen.

Levi states that he still thinks regarding the definition of dishonesty- they could use some guidance. For example, even if Pendleton's complaint were true, there was no dishonesty.

Levi- Motion to Dismiss Complaint. There is No Second. Troy states he almost agreed to Motion, but it was not worded right. Levi says any damage was minimal.

Troy states, so lets Move to dismiss the Complaint, on the basis, that if it was committed any affect was de minimus.

Dennis Cronin abstains. All other approve. Motion carries 4 to 1. PENDLETON COMPLAINT DISMISSED.

FIFTH MOTION

JOE SHOGAN

Joe Shogan's complaint is determined to be proper/signed.

Levi moves to dismiss for lack of evidence, and, even if allegations were true, any damage would be de minimus.

Troy Seconds that Motion. Dennis says he won't vote, because he has already said he is abstaining.

No other votes. Motion does not carry.

Alice states she would like a review of the complaint listed in second page, item C, and all of D and E, excluding A, B and 1st paragraph – to investigate it further, hold over to the next hearing. Troy seconds that Motion. Dennis abstains. Levi and Tyler agree. Motion carries. Matter carried over for hearing.

SIXTH MOTION

SPITZER

Levi motion to Dismiss. Seconded by Alice. Dennis abstains. All others in favor. Motion carries. Spritzer matter is dismissed.

MJP reminds there is King's Motion for Additional time.

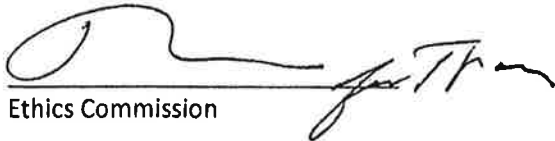
Dennis moves the commission accept that Motion and Levi Seconds. All in Favor. Motion for more time is approved.

SEVENTH MOTION

Teresa Simon- Matter No. 1 only

Troy moves to dismiss. Levi seconds. Dennis abstains All others agree Motion carries.

Minutes review and approved this 24th day of February, 2016.


Ethics Commission

CITY OF SPOKANE ETHICS COMMISSION

Ethics Commission's Findings, Conclusions and Decision Regarding Complaint filed by Jamie Pendleton Against David Condon

FINDINGS

The Ethics Commission makes the following findings:

1. On or about November 30, 2015, Jamie Pendleton filed an ethics complaint against David Condon.

2. The complaint alleges that Mr. Condon violated SMC 1.04A.030 (A) of the Code of Ethics regarding prohibition against conflicts of interest whereby a City officer or employee has an interest that might be seen as adverse to the interest of the City. The complaint alleges that Mr. Condon knowingly withheld allegations of sexual harassment by former Police Chief Frank Straub against another city employee until after Mr. Condon won re-election and that this dishonesty by omission constitutes an action adverse to the interest of the City by withholding information pertinent to voters.

The complaint further alleges that Mr. Condon violated SMC 1.04.030 (N) of the Code of Ethics regarding prohibition against commissions of acts of moral turpitude or dishonesty. The complaint alleges that Mr. Condon's denial of any complaint of sexual harassment being made was blatant dishonesty relevant to the Spokane voters in an election.

3. On December 29, 2015, Mr. Condon, through his attorney, submitted Motion for Dismissal of the ethics complaint pursuant to SMC 1.04A.110 (D) (1) (b) on the basis that the Ethics Commission lacks jurisdiction. The Motion asserts that the alleged conduct does not constitute a violation of SMC 1.04A.030 (N) and should be dismissed pursuant to SMC 1.04A.110 (D) (1) (b).

4. On January 13, 2016, the Ethics Commission held a meeting to review the complaint to determine whether, pursuant to SMC 1.04A.110 (D) (1) and (2), the Commission had jurisdiction to conduct further proceedings and whether the complaint, on its face, alleges facts that, if true, would substantiate a violation.

5. At the January 13, 2016 Commission meeting, the Commission considered the November 30, 2015 complaint filed by Mr. Pendleton, the December 29, 2015 Motion to Dismiss filed by Mr. Condon's attorney, the

testimony submitted by the parties at the hearing and the deliberation of the Commission members.

CONCLUSION

The Ethics Commission makes the following conclusions:

The complaint met the requirements of SMC 1.04A.110 regarding the signed written complaint form, cites to a provision of the Code of Ethics and asserts an alleged violation against a City official who is subject to the Code of Ethics. The complaint, however, asserts facts, that even if true, potentially would not constitute a violation of the Code of Ethics or would be a de minimus violation.

DECISION

Based upon the Findings and Conclusions set forth above and the deliberation of the Ethics Commission, the Ethics Commission concludes that the complaint by Mr. Pendleton is dismissed pursuant to SMC 1.04A.110 (D) (1)(c) on the basis that the alleged violation is a minor or de minimis violation.

This decision was approved by a vote of four to one of the Ethics Commission members present for and participating in the hearing with Commissioner Cronin voting no on the basis that the Commission needed a definition of the terms "moral turpitude" and "dishonesty," as set forth in SMC 1.04A.110 (N), in order to determine jurisdiction. Commissioner Cronin's motion to stay the proceedings pending a clarification of these terms or, in the alternative, to dismiss the complaints without prejudice failed for a lack of a second.


Troy Bruner - Chairperson Date

EXHIBIT 3

RECEIVED

DEC 08 2015

CITY CLERK'S OFFICE

CITY OF SPOKANE ETHICS COMMISSION

ETHICS COMPLAINT FORM

Please review the City of Spokane's Code of Ethics – Chapter 1.04A SMC – before completing this complaint form. When you have completed this form, submit it to: DEC 08 2015

OFFICE OF THE CITY ATTORNEY

City of Spokane Ethics Commission
Attention: Rebecca Riedinger
Office of the City Attorney
5th Floor Municipal Building
W. 808 Spokane Falls Blvd.
Spokane, WA 99201

or at: rriedinger@spokanecity.org

Pursuant to the City of Spokane's Code of Ethics, I am filing a complaint regarding conduct which I believe constitutes a violation of the City's Code of Ethics.

Name, position, and department of person(s) I believe to have violated the Code of Ethics:

Name: David Condon

Position/Title: Mayor

Nature of Code of Ethics violation:

What specific provision of SMC 1.04A.030 do you believe has been violated?

Section A - General Prohibition Against Conflicts of Interest
no current city officer shall have an interest that might be seen as
adverse to the city interests of the city.
Section B - Commission of Acts of Moral Turpitude or Dishonesty Prohibited.

Describe in as much detail as possible the alleged Code of Ethics violation conduct.

Attach additional sheets of paper, if necessary. Please include all documentation you believe demonstrates a violation. Your description should include the date, location and frequency of the alleged violation.

Spitzer / Condon ¹

2015-12

Regarding SMC 1.04A-030 - Section N: In public remarks on September 22, 2015 David Condon denied that any complaint of sexual harassment was made. This is blatant dishonesty relevant to Spokane voters in an election.

Regarding SMC 1.04A-030 - Section A: Mayor David Condon knowingly withheld allegations of sexual harassment by former Police Chief Frank Straub against another city employee. This information was not made public until after David Condon had won re-election. The dishonesty by omission of the whole truth while campaigning for re-election constitutes an action adverse to the interests of the city by withholding information pertinent to voters. The timing of these revelations present a clear conflict of interest since these allegations speak to David Condon's integrity in discharging the duties of the Mayor. Names and positions of the persons who may have witnessed the event: ^{office in the eyes of Spokane's} constingency. These allegations were made public by the Mayor's Office on Tuesday, November 24th, 2015

Evidence or documentation

Please list any evidence or documentation that would support your allegation of a Code of Ethics violation. Indicate whether you can personally provide that information.

This evidence is public record in a city publication.
"Condon himself denied any complaints of sexual harassment had been filed against the former chief when he announced Straub's departure on Sept. 22, 2015. The issue that you speak of, there has been no official filings of anything, Mayor David Condon.

Complainant Declaration

I declare under penalty of perjury of the laws of the State of Washington that to the best of my knowledge, information, and belief formed after reasonable reflection, the information in the complaint is true and correct.

Mara Spitzer
Complainant's Signature

December 8th, 2015
Date

Date and Place (e.g. City, State)

Spokane, WA

Name (please print): Mara Spitzer

Address: 1010 S. Rockwood Blvd. #316

Phone Number(s): 509-565-0418

E-Mail Address: maraspitzer@gmail.com

CITY OF SPOKANE ETHICS COMMISSION

Ethics Commission's Findings, Conclusions and Decision Regarding Complaint filed by Mara Spitzer Against David Condon

FINDINGS

The Ethics Commission makes the following findings:

1. On or about December 8, 2015, Mara Spitzer filed an ethics complaint against David Condon.
2. The complaint alleges that Mr. Condon violated SMC 1.04A.030 (A) of the Code of Ethics regarding prohibition against conflicts of interest whereby a City officer or employee has an interest that might be seen as adverse to the interest of the City. The complaint alleges that Mr. Condon knowingly withheld allegations of sexual harassment by former Police Chief Frank Straub against another city employee until after Mr. Condon won re-election and that this dishonesty by omission constitutes an action adverse to the interest of the City by withholding information pertinent to voters.

The complaint further alleges that Mr. Condon violated SMC 1.04.030 (N) of the Code of Ethics regarding prohibition against commissions of acts of moral turpitude or dishonesty. The complaint alleges that Mr. Condon's denial of any complaint of sexual harassment being made was blatant dishonesty relevant to the Spokane voters in an election.

3. On December 29, 2015, Mr. Condon, through his attorney, submitted Motion for Dismissal of the ethics complaint pursuant to SMC 1.04A.110 (D) (1) (b) on the basis that the Ethics Commission lacks jurisdiction. The Motion asserts in part that complaint fails to state a claim under 1.04A.030 A and that allegations concerning a violation of SMC 1.04A.110 A are impermissible under both the Washington State and U.S. constitutions because of its chilling effect on fundamentally political public activity and free speech activity.
4. On January 13, 2016, the Ethics Commission held a meeting to review the complaint to determine whether, pursuant to SMC 1.04A.110 (D) (1) and (2), the Commission had jurisdiction to conduct further proceedings and whether the complaint, on its face, alleges facts that, if true, would substantiate a violation.

5. At the January 13, 2016 Commission meeting, the Commission considered the December 8, 2015 complaint filed by Ms. Spitzer, the

December 29 , 2015 Motion to Dismiss filed by Mr. Condon's attorney, the testimony submitted by the parties at the hearing and the deliberation of the Commission members.

CONCLUSION

The Ethics Commission makes the following conclusions:

The complaint met the requirements of SMC 1.04A.110 regarding the signed written complaint form, cites to a provision of the Code of Ethics and asserts an alleged violation against a City official who is subject to the Code of Ethics. The complaint, however, fails to describe the facts that constitute the violation of the Code of Ethics in sufficient detail to enable the Commission and the respondent to reasonably be expected to understand the nature of the office that is being alleged pursuant to SMC 1.04A.110 (C).

DECISION

Based upon the Findings and Conclusions set forth above and the deliberation of the Ethics Commission, the Ethics Commission concludes that the complaint by Ms. Spitzer is dismissed pursuant to SMC 1.04A.110 (D) (1) (a) on the basis that the Commission lacks jurisdiction due to the Complainants failure to describe the facts that constitute the violation of the Code of Ethics in sufficient detail to enable the Commission and the respondent to reasonably be expected to understand the nature of the office that is being alleged, pursuant to SMC 1.04A.110 (C).

This decision was approved by a vote of four to zero of the Ethics Commission members present for and participating in the hearing with Commissioner Cronin abstaining on the basis that the Commission needed a definition of the terms "moral turpitude" and "dishonesty," as set forth in SMC 1.04A.110 (N), in order to determine jurisdiction. Commissioner Cronin's motion to stay the proceedings pending a clarification of these terms or, in the alternative, to dismiss the complaints without prejudice failed for a lack of a second.

 1-27-16
Troy Bruner - Chairperson Date

EXHIBIT 4

BALLOT SYNOPSIS OF RECALL CHARGES

David Condon

Mayor of City of Spokane

The charges that David Condon, as Mayor of City of Spokane, committed misfeasance, malfeasance, and/or violated his oath of office allege:

(1) The City of Spokane received a public records request on August 18, 2015 and six additional public records requests between September 5, 2015 and October 20, 2015 for public records relating to Frank Straub and Monique Cotton. Mayor Condon violated the Public Records Act by intentionally withholding certain public records until after the Mayor's re-election.

(2) Mayor Condon violated the Spokane Code of Ethics when he untruthfully said "no" at the September 22, 2015 press conference in response to the question "Were there any sexual harassment complaints lodged against Frank [Straub]?"

(3) On August 1, 2016, Mayor Condon announced Craig Meidl's appointment as Chief of Police. Mayor Condon violated the Spokane Municipal Code and Charter by not submitting the appointment of Craig Meidl to the Spokane City Council.

(4) Beginning in April, 2015, Mayor Condon failed to follow Spokane and Spokane Police Department policies with respect to the sexual harassment claim by Monique Cotton, resulting in direct financial loss to the taxpayers and citizens of Spokane.

Should David Condon be recalled from office based on any of these charges?

EXHIBIT "C"



SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE

(Clerk's Date Stamp)

IN THE MATTER OF:

THE RECALL OF DAVID CONDON,
Mayor of the City of Spokane

CASE NO. 16-2-03395-9

ORDER
(OR)

I. BASIS

On August 16, 2016, David Green filed with the Spokane County Auditor a Statement of Charges in Support of the Recall of Spokane Mayor David Condon. The Auditor referred the Statement of Charges to the Spokane County Prosecutor, who, on August 29, 2016, filed it with the Spokane County Superior Court, along with a Petition to Determine Sufficiency of Recall Charges and for Approval of Ballot Synopsis. A hearing was held on the Petition on September 13, 2016.

II. FINDING

After reviewing the case record to date, and the basis for the motion, the court finds that:

NONE OF THE CHARGES ARE BOTH
FACTUALLY AND LEGALLY SUFFICIENT.

III. ORDER

IT IS ORDERED that:

This matter is dismissed.

Dated: September 13, 2016



Judge Blaine G. Gibson

EXHIBIT 5

- Follow
- GADSDIS
 - JILLAWRUS
 - WORD OF THE DAY
 - VIDEO
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Follow

dishonesty

dis
nuhn-dee-huhn-ess-ty (duh-ess-tee)
Popularity: Bottom 40% of words

Simple Definition of *dishonesty*

- Lack of honesty: the quality of being untruthful or deceitful

Source: Merriam-Webster's Learner's Dictionary

Examples of *dishonesty* in a sentence

-
-
-
-
-
-

Full Definition of *dishonesty*

1. : lack of honesty or integrity : disposition to defraud or deceive
2. 2. : *dishonesty* wet: fraud

See *dishonesty* defined for English-language learners

See *dishonesty* defined for kids

Examples of *dishonesty* in a sentence

1. Are you accusing him of *dishonesty*?
2. Her *dishonesty* about what happened

1999

First Known Use of *dishonesty*

1999

dishonesty Synonyms

Related Words: Dishonest
See more at [www.merriam-webster.com](#)

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See more at [www.merriam-webster.com](#)

DISHONESTY Defined for Kids

dishonesty

dis
nuhn-dee-huhn-ess-ty (duh-ess-tee)

Definition of *dishonesty* for Students

1. : the quality of being untruthful : lack of honesty

Learn More about *dishonesty*

1. Thesaurus: [Full Synonyms and Antonyms for Dishonesty](#) Spanish Central: [Translation of dishonesty](#) Nginix: [Translation of dishonesty for Spanish speakers](#)

Seen and Heard

What made you want to look up *dishonesty*? Please tell us where you read or heard it (including the quote, if possible)

18 Comments

- Jeff Barker on Jan 14, 2016 at 10:11 AM
Dishonesty is...

18 Comments



DICTIONARY

THESAURUS

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SIGN IN

DICTIONARY (US)

Type word or phrase



WORD OF THE DAY



NOUN

Home North American English dishonesty

Definition of *dishonesty* in English:**dishonesty**

NOUN

- 1 Deceitfulness shown in someone's character or behavior.

'the dismissal of thirty civil servants for dishonesty and misconduct'

[More example sentences](#)

[Synonyms](#)

- 1.1 A fraudulent or deceitful act.

[Example sentences](#)

Origin

Late Middle English (in the sense dishonor, sexual misconduct); from Old French deshoneste indecency (see dishonest).

Pronunciation:

dishonesty /dis'änəstē/



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12 synonyms for fool



55 words ending in 'ster' you didn't know you needed to know



DICTIONARY (US)

Type word or phrase



MENU



What do they call French toast in France? (And other similar questions)

'Too' or 'To'

Which of the following is correct?

- ☐ I've been married to Jack for 4 years
- ☐ I've been married too Jack for 4 years

NEXT

0/10

TRENDING WORDS

Most popular in the world

1. barathea
2. racism
3. remustering
4. pp
5. communication

Further reading



5 tasty sandwich etymologies

Which Joe gave his name to 'sloppy joes'? We look at five interesting sandwiches and their lexical origins.

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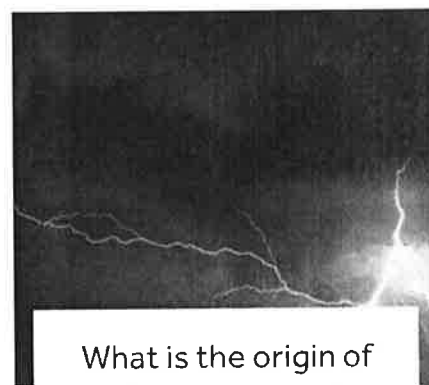
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How brothers became buddies and bros

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Type word or phrase



MENU

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doi:10.1017/S0022292412001606

- GAMES
- THE CLASS
- WORD OF THE DAY
- VIDEO
- STUDENT PLAN
- DAY 2012

Request denied by WatchGuard HTTP proxy.

Reason: request URL path too large

Method: GET
1

lodge

Popularity: Bottom 50% of words

- to provide (someone) with a place to stay for a short period of time
- to stay at a place for a short period of time
- to become stuck or fixed in a specified place or position

Source: Merriam-Webster's Learner's Dictionary
Examples: *hedge* in a sentence ▾

* Writing? Check your grammar now!

lodged

lodging

- 1 standard verb
- 2 *a* (*ll*) to provide temporary quarters for (*ll*); to rent *habitar* *a* *b* to establish or settle in a place
- 1 2 *a* serve as a receptacle for: *recibir*
- 3 *a* *habitar* has a script that fits the ground
- 4 *a* to bring to an intended or a fixed position (as by throwing or thrusting)
- 6 *a* in demand for safeguard or preservation
- 7 *a* to place or rest especially in a source, means, or agent
- 8 *a* to lay (as a complaint) before a proper authority: *file*
- 9 intrinsically verb
- 10 *a* *ll* to occupy a place temporarily: *slip* *b* (*ll*): to have a residence: *dwell* (*ll*): to be a *habitar*
- 11 *a* to come to a rest
- 12 *a* to fall or lie down—used especially of hay or grain crops

See [judge](#) defined for English-language learners

See [judge](#) defined for kids

- 1 The warlord was *lodged* in temporary camp.
- 2 The refugees needed to be *lodged* and fed.
- 3 We *lodged* at the resort.
- 4 The bullet *lodged* in his brain.
- 5 The bullet *lodged* itself in his brain.
- 6 The group has *lodged* a grievance.

8.265-4, entry

13th century

***lodge* Synonyms**

symptoms
accompanied, breath, bitter
See more at [this page](#) [here](#)

Адрес: 100000, Москва, ул. Мясницкая, 28

2

lodge

SAGE JRN

- * : a house or hotel in the country or in mountains for people who are doing some outdoor activity
- * : the place where a beaver lives
- * : a local group that is part of a larger organization

Source: Merriam-Webster's Learner's Dictionary.

1 *I chiefly dialect*: a rude shelter or abode
 2 *a* = a house set apart for residence in a particular season (as the hunting season) *b*: a resort hotel = inn
 3 *a* = a house on an estate originally for the use of a gamekeeper, catwaker, or porter *b*: a shelter for an employee (as a gamekeeper)

- See **judge** defined for English-language learners.

- 1 He's a member of a Masonic *lodge*.
- 2 an annual dinner at the *lodge*

Middle English *loge*, from Anglo-French, of Germanic origin; akin to Old High German *loufa* porch

First Known Use: 17th century

Synonyms

See more at www.pearsoned.com

file
biographical name \ (b) \

1. Henry Cabot 1850-1924 Am statesman & author

biographical name

1 Henry Cabot 1902–1985 *grandson of free*. Am. polit. & diplomat

Geographical name

† Sir Oliver Joseph 1851–1940 Eng. physicist

biographical name

1. Thomas 1558–1625 Eng. poet & dramatist

- **Travel and Booking**

play
verb \ kájv \

lodged

1 1: to provide a temporary living or sleeping space for <The lodge lodged guests for the night>
2 2: to use a place for living or sleeping <We lodged in motels>
3 3: to become stuck or fixed <The arrow lodged in a tree>
4 4: ³file 2 <I'm lodging a complaint>

3

plus
nouveau

1. 1: a house set apart for residence in a special season or by an employee on an estate <a hunting lodge> <the caretaker's lodge>
2. 2: a den or resting place of an animal <a beaver's lodge>
3. 3: the meeting place of a social organization

[illegible]

What made you want to look up *forfic*? Please tell us where you read or heard it (including the quote, if possible)

1 Commente

3 of 11


$$f_{\text{eff}}(z) = \frac{1}{2} \left(\frac{1}{z} + \frac{1}{z^2} \right)$$
[illegible]

1

DICTIONARY

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DICTIONARY (US)

Type word or phrase



WORD OF THE DAY

lunula

NOUN

[Home](#) [North American English](#) [lodge](#)Definition of *lodge* in English:**lodge**

NOUN

- 1 A small house at the gates of a park or in the grounds of a large house, typically occupied by a gatekeeper, gardener, or other employee.

[Example sentences](#)[Synonyms](#)

- 1.1 A small country house occupied in season for sports such as hunting, shooting, fishing, and skiing.

'a hunting lodge'[More example sentences](#)

- 1.2 A large house or hotel.

'Cumberland Lodge'

- 1.3 A porter's quarters at the main entrance of a college or other large building.

[Example sentences](#)

- 1.4 The residence of a head of a college, especially at Cambridge.

- 1.5 An American Indian hut.



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12 synonyms for fool



55 words ending in 'ster' you didn't know you needed to know



DICTIONARY (US)

Type word or phrase



MENU

Example sentences

- 2 A branch or meeting place of an organization such as the Freemasons.

Example sentences

Synonyms



What do they call French toast in France? (And other similar questions)

VERB

- 1 [WITH OBJECT] Present (a complaint, appeal, claim, etc.) formally to the proper authorities.

'he has 28 days in which to lodge an appeal'

More example sentences

Synonyms

- 1.1 Leave money or a valuable item in (a place) or with (someone) for safekeeping.

Example sentences

- 2 Make or become firmly fixed or embedded in a particular place.

[WITH OBJECT] *'they had to remove a bullet lodged near his spine'*

[NO OBJECT] *figurative 'the image had lodged in her mind'*

More example sentences

Synonyms

- 3 [NO OBJECT] Stay or sleep in another person's house, paying money for one's accommodations.

'the man who lodged in the room next door'

More example sentences

Synonyms

- 3.1 [WITH OBJECT] Provide (someone) with a place to sleep or stay in return for payment.

Example sentences

- 4 [WITH OBJECT] (of wind or rain) flatten (a standing crop)

'rain that soaks standing or lodged crops'

[NO OBJECT] *'the variety is high yielding, but it has mostly lodged'*

Types of Dance

Which of the following is a type of dance?

☐ checkered

☐ polka

0/10

TRENDING WORDS

Most popular in the world

1. barathea
2. racism
3. remustering
4. pp
5. communication



Origin

Middle English loge, via Old French loge arbor, hut from medieval Latin laubia, lobia (see lobby), of Germanic origin; related to German Laube arbor.

Pronunciation:

lodge /ləj/

Further reading



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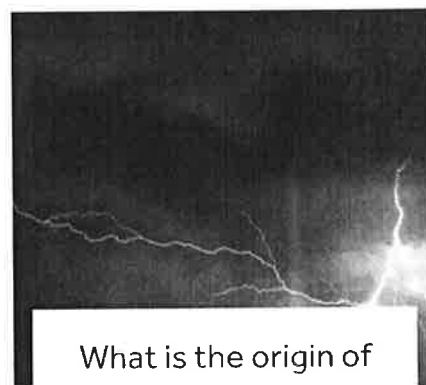
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DICTIONARY (US)

Type word or phrase  

[MENU](#)

on. A completely efficient market situation, by numerous buyers and sellers, product, perfect information for all complete freedom to move in and out

- Perfect competition rarely if ever

rust scholars often use the theory as a measuring market performance.

mpetition. See *horizontal competi-*

ition. (1954) Competition between different levels of distribution, such as, or devices that, if kept secret by a economically exploited to improve market share or to increase its income.

ntage. The potential benefit from as, or devices that, if kept secret by a economically exploited to improve market share or to increase its income.

tising. See ADVERTISING.

ee BID (2).

service examination. A test designed on's qualifications for a civil-service type of examination may be open to civil-service employment, or it may those civil servants seeking a promotion. [Cases: Officers and Public 3.]

A wrongful economic loss caused by l, such as the loss of sales due to unfair advantage in a plaintiff's ability to defendant, caused by the defendant's n. • Most courts require the plaintiff itive injury as an element of a misap- n, or to have standing to prosecute a action under 15 USCA § 1125(a)(1) d competitive harm. [Cases: Antitrust tion 138.]

aud. See FRAUD.

-pə-lay-shən, n. (15c) 1. Copyright. erary works arranged in an original formed by collecting and assembling rials or data that are selected, coor- ged in such a way that the resulting es an original work of authorship. • eates a compilation owns the copy- pilation but not of the component A § 101. Cf. *collective work, deriva-* ORK (2). [Cases: Copyrights and Intel- 12(3).] 2. A collection of statutes, nged to facilitate their use. — Also statutes. [Cases: Statutes 144.] 3. nent that does not have an account- f conformity with generally accepted iples. • In preparing a compilation, es not gather evidence or verify the nformation provided by the client; ntant reviews the compiled reports / are in the appropriate form and are ors. — **compile**, *vb*.

compiled statutes. 1. See COMPILATION (2). 2. See STAT-UTE.

complainant (kəm-playn-ənt). (15c) 1. The party who brings a legal complaint against another; esp., the plain- tiff in a court of equity or, more modernly, a civil suit.

"A suit in equity, under the procedure of the English Court of Chancery, which was generally adopted in the American States prior to the code, is instituted by the plaintiff filing a bill of complaint. The plaintiff is usually called the complainant, in the Federal courts the complainant or plain- tiff indifferently. The bill is in substance a petition to the chancellor, or judge of the court of equity, setting forth at large the grounds of the suit, and praying the process of the court, its subpoena, to bring the defendant into court and compel him to answer the plaintiff's bill, and, also, for such relief by decree or interlocutory remedy, by way of injunction, etc., as the plaintiff supposes himself entitled to." Edwin E. Bryant, *The Law of Pleading Under the Codes of Civil Procedure* 55 (2d ed. 1899).

2. A person who, under oath, signs a statement (called a "complaint") establishing reasonable grounds to believe that some named person has committed a crime. — Also termed *affiant*. [Cases: Criminal Law 210.]

complainantless crime. See *victimless crime* under CRIME.

complaint. (14c) 1. The initial pleading that starts a civil action and states the basis for the court's jurisdiction, the basis for the plaintiff's claim, and the demand for relief. • In some states, this pleading is called a *petition*. [Cases: Federal Civil Procedure 671; Pleading 38.5.] 2. *Criminal law.* A formal charge accusing a person of an offense. Fed. R. Crim. P. 3. Cf. INDICT- MENT; INFORMATION. [Cases: Indictment and Infor- mation 54.]

amended complaint. (1822) A complaint that modifies and replaces the original complaint by adding relevant matters that occurred before or at the time the action began. Fed. R. Civ. P. 15(d). • In some circumstances, a party must obtain the court's permission to amend its complaint. Fed. R. Civ. Pro. 15(a). — Also termed *substituted complaint*. Cf. *supplemental complaint*. [Cases: Federal Civil Procedure 839; Pleading 233, 242.]

complaint for modification. See *motion to modify* under MOTION.

counter-complaint. A complaint filed by a defendant against the plaintiff, alleging that the plaintiff has committed a breach and is liable to the defendant for damages. [Cases: Federal Civil Procedure 775-784; Pleading 138; Set-Off and Counter- claim 9.]

fresh complaint. See FRESH COMPLAINT.

preliminary complaint. (1833) A complaint issued by a court to obtain jurisdiction over a criminal suspect for a hearing on probable cause or on whether to bind the suspect over for trial. [Cases: Criminal Law 208.]

substituted complaint. See *amended complaint*.

supplemental complaint. (1821) An additional com- plaint that either corrects a defect in the original