

CITY OF SPOKANE ETHICS COMMISSION

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

FINDINGS

The Ethics Commission makes the following findings:

1. On or about December 2, 2015, Alexander J. Shogan filed an ethics complaint against David Condon with an amended complaint being filed on December 14, 2015.
2. The amended complaint alleges that Mr. Condon violated SMC 1.04A.030 (N) of the Code of Ethics regarding prohibition against commissions of acts of moral turpitude or dishonesty. The complaint asserts two allegations that Mr. Condon violated SMC 1.04A.030 N. The first allegation, set forth in the first sentence of Paragraph C of the complaint, asserts that Mr. Condon committed an act of dishonesty "With regard to rumors of Misconduct by the then Spokane Police Chief Frank Straub," Respondent had heard of "these issues" in the "last several weeks." The second allegation, set forth in the second and third sentences of Paragraph C and in Paragraph D of the complaint, asserts that Mr. Condon failed to tell the truth regarding claims of sexual harassment made by city employees formerly working at the Police Department.
3. On or about February 16, 2016, complainant Alexander J. Shogan and respondent David Condon filed a document entitled "Stipulation for Voluntary Withdrawal of Ethics Complaint." The Ethics Commission was not asked to act upon this document, and did not do so. The Ethics Commission did, however, remove the complaint from its docket, and took no further action upon it.
4. On or about October 6, 2016, Mr. Shogan filed a document entitled "Re-filing of Complaint And Amended Complaint Alleging Violation of Section 1.04A.030 Of The City Of Spokane Code Of Ethics."
5. This document attached as Exhibit A thereto a total of eight documents, as follows: (a) Stipulation for Voluntary Withdrawal of Ethics Complaint; (b) Amended Witness List and Request for Subpoenas By Complainant Shogan; (c) City of Spokane Ethics Commission Ethics Complaint Form (heading I); (d) Sworn Complaint Alleging Violation of Section 01.04A.030 of City of Spokane Code of Ethics; (e) two-page form referencing Sworn Complaint and containing Complainant declaration; (f) City of Spokane Ethics Commission Ethics Complaint Form (heading II); (g) attachments totaling two pages referencing "Amended Sworn

Complaint” and containing Complainant Declaration identical to (e) above; and (h) Amended Sworn Complaint dated December 14, 2015.

6. On December 21, 2016, a hearing was held before the Ethics Commission. At such hearing, Complainant was asked to identify the precise actions that, he alleged, violated the Code of Ethics. Complainant attempted to do so, but could not identify a single document containing all of the allegations Respondent would be required to defend against.

7. At the December 21, 2016 hearing, Commissioners read through the history of the Complainant’s complaints filed in 2015 and in 2016, in effort to determine which allegations, if any, from the 2015 complaint or amended sworn complaint might still be brought before the Commission.

8. At the December 21, 2016 Commission meeting, the Commission considered the December 14, 2015 amended complaint filed by Mr. Shogan, the December 29, 2015 Motion to Dismiss filed by Mr. Condon’s attorney, the Respondent David Condon’s Motion to dismiss, the testimony of Complainant and the documents previously filed by Complainant, together with the Findings and Conclusions previously entered by the Commission on January 27, 2016.

9. At the December 21, 2016 hearing, complainant advised the Commission that he relied solely upon documents filed October 6, 2016, and thereafter.

CONCLUSION

The Ethics Commission makes the following conclusions:

1. The Commission is not bound by the stipulation of the parties of February 16, 2016.

2. The Commission’s jurisdiction is not clearly invoked by the series of documents filed by the Complainant.

3. The Commission concludes that, implicit in the specific requirements of a complaint provided for in SMC 01.04A.110 C is the requirement that the complaint allege facts that constitute the violation in sufficient detail so that the Commission and the respondent can reasonably be expected to understand the nature of the alleged violations. This series of documents does not meet this implicitly-required level of specificity.

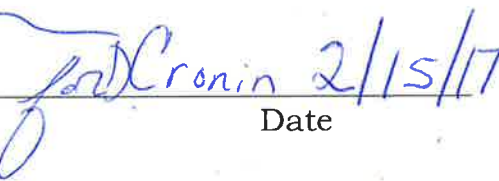
4. The Commission further concludes that, once a complaint has been removed from the docket of pending allegations, voluntarily or involuntarily, any complainant wishing to make further complaint must clearly invoke the Commission's jurisdiction, and may not rely upon earlier determinations of jurisdiction.

DECISION

Based upon the Findings and Conclusions set forth above and the deliberation of the Ethics Commission, the Ethics Commission concludes that the amended complaint is dismissed pursuant to SMC 1.04A.110 (D) (1) (a) for lack of sufficient detail as required in SMC 1.104A.110 C.

This decision was approved by a vote of five to one of the Ethics Commission members present for and participating in the hearing.

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Chairperson

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Date