City of Spokane Ethics Commission
Troy Bruner, Chair
808 W Spokane Falls Blvd
Spokane, WA 99204

RECEIVED
MAY 06 2016
OFFICE OF THE CITY ATTORNEY

Re: Reply to Response to Ethics Complaint and Request for Dismissal

Dear Mr. Bruner,

Mr. McDaniel is presumptive in his demand that you "must" dismiss the complaint for various reasons.

One such reason is that "this complaint does not assert a violation that amounts to a violation of the City's ethics code..."

Plainly, yes it does.

This complaint shows a clear violation of the ethics code under sections F and G. Section G does state "No city officer or employee may benefit either directly or indirectly from any legislation or contract to which the City shall be a party except for the lawful compensation or salary of the City officer or employee unless such interest is a remote interest where the facts and extent of such interest is disclosed."

He details how he doesn't benefit from individual policies because he is not an immigrant, has never been charged with possession of marijuana, he doesn't develop PCB-free materials, etc. Mr. McDaniel tries to obfuscate the idea of him receiving any kind benefit by misdirecting the argument around specific policies. In reality, since Mr. McDaniel is in the business of policy making, the issue at hand (and the subject of the ethics violation) isn't what specific type of policy he worked on and got passed, but rather the issue is simply that he worked on any policy and got it passed at all. Clearly this is what was important to his business and why his business benefited, from the act of working on, promoting and getting policy passed. Any policy. He doesn't have to specifically benefit from any single one, but rather from the simple act of passing it (in this case, a collective body of work), regardless of what it includes, since that is the function of his business.

So then, it is incorrect to say that this complaint fails to show any direct or indirect benefit. There was an indirect benefit to McDaniel Projects (as was Mr. McDaniel's intent) when McDaniel Projects claimed credit for the same work Mr. McDaniel did in his capacity as a city employee. That was the clear intent of showing the McDaniel Projects worked on that specific list of policies. So McDaniel Projects could receive a benefit from "successfully leading the progressive shift in Spokane." If there was no benefit, we might question why McDaniel Projects, a registered business, would claim credit for such an accomplishment.

The code doesn't limit a benefit to being a monetary benefit. The benefit in this case is accomplishment, and is designed to make the McDaniel Project business more marketable and thus profitable. In addition to his admitted direct compensation from now sitting city council members, Mr. McDaniel still receives a benefit by being able to promote himself and his accomplishments in a business capacity for profit. His "only" paying client, Lori Kinnear, was obtained after starting McDaniel Projects and listing accomplishments.

If the goal was simply personal achievement, Mr. McDaniel could have just added those accomplishments to his personal resume. Instead he specifically said his business that is registered with the WA State Dep of Revenue, McDaniel Projects, worked on the very same list of policies that he worked on is his capacity as a city employee and that the Council passed. The intent was to give McDaniel Projects credit. Again, the benefit is to make the McDaniel Project business more marketable and thus profitable.

The attached letter from Council President Stuckart only speaks to outside campaign work, not at all what this complaint pertains to. He cites section K of the ethics code when this complaint is specific to sections G and F. Stuckart alleges the complaint "neglects to address the section of the Ethics Code that explicitly allows political campaign work" and he views the complaint as baseless. In strict terms, he is right, this complaint doesn't address that section of the code (section K), but rather the complaint is regarding sections G and F, which he seems to either not understand or purposely overlook. In fact, Mr. McDaniel and Mr. Stuckart appear to be defending against separate parts of the ethics code. McDaniel specifically addresses sections F and G and offers inadequate his defense in terms of not receiving a benefit, showing he understands the nature of the complaint. Then he includes a letter from Mr. Stuckart which does not address the correct section of the code and suggests that Mr. McDaniel is "approved" to volunteer on campaigns, which is not at all the issue or subject of the complaint. And Mr. McDaniel uses this as a defense.

Mr. McDaniel's defense fails to demonstrate there was no violation. At this point, the Ethics Commission simply determines if facts are true and whether they constitute a violation of the code. McDaniel fails to address the standard for jurisdiction in this case by highlighting political differences and impugning the motives of anyone disagreeing with him or filing a complaint.

He makes light of my request for information by detailing the mundane items I will find in his Internet history. In reality, such a request is germane to this complaint as it relates to the policies Mr. McDaniel worked on in his capacity as a city employee and for which his business also claims credit.

He uses words like "frivolous", "harassment" and even "terrorize" in an effort to defect the fact he violated the code. Calling attention to an ethics violation is not

intimidating, harassing, or terrorizing – it's simple accountability. Mr. McDaniel includes examples to support his assertion that this complaint amounts to harassment, intimidation and terrorization, born from nothing more than political difference yet the public record shows how he himself treats people who hold opinions different from his own. From a recent article in the Inlander:

"You know you're doing something right when businesses outside of Spokane are begging the Council to not adopt a paid sick leave law," McDaniel wrote on Twitter in January.

When Sweet Frostings bakery was quoted in a TV story, concerned about the impact of the sick-leave policy on their business, McDaniel fired off a joke with the premise that the business was rife with illness.

"I really enjoy the peanut butter and flu as well as their strep throat strawberry cupcakes," he tweeted. "They're delicious."

Mr. McDaniel himself is quite comfortable engaging those whose opinions differ politically, in a manner that some would argue is harassment. He should clearly defend his own actions when being held accountable for violating the City's Code of Ethics without resorting to hyperbole and pretending to be a victim.

Being a public employee means that he is accountable to uphold the City's Code of Ethics. In this case, he violated it by receiving a benefit (direct or indirect, monetary or not) beyond his lawful compensation as a city employee for the legislation the he worked to pass as a city employee.

Thank you for your service and consideration.

Sincerely,

Michael Cannon