

**Karen J. Stratton**  
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Spokane, Washington 99205

**RECEIVED**

**OCT 02 2019**

Office of the City Attorney

October 2, 2019

City of Spokane Ethics Commission  
Office of the City Attorney  
5th Floor Municipal Building  
W. 808 Spokane Falls Boulevard  
Spokane, WA 99201  
ATTN: Rebeca Riedinger

Via hand Delivery

RE: Ethics Complaint Filed Against Karen Stratton

Dear Members of the Ethics Commission:

I write this letter in response to the Ethics Complaint filed against me by Neil Muller and dated September 13, 2019. I request the Commission dismiss the complaint under SMC 1.014A.110 D.

As a preliminary matter, I request that Ethics Commission member Clayton McFarland carefully consider whether he can participate in any consideration of this complaint. I do not know Mr. McFarland personally and have no reason to suspect he would be biased in this proceeding, but I do note that he is a broker with Goodale & Barbieri and is a member of the Building Owners and Managers Association (BOMA). This complaint was filed by Neil Muller, the Co-Chair of the BOMA Legislative Committee. In addition, local realtors have openly supported my opponent in a race for the District 3 council seat. I am concerned that Mr. McFarland's connection to both BOMA and realtor organizations may affect his view of the case.

### **AGREED FACTS AND LAW**

The complaint arises from June 20, 2018 letter I sent on my city council letterhead and addressed to the Pasco City Council. The letter is already part of the record in this case and need not be attached here. I would add only that the letter speaks for itself, and any characterization of the letter by the complainant must be weighed against the actual statements in the letter, and not speculation about the motivations behind it.

For the benefit of the Commission, I will set forth those statements in the complaint that I accept as true. It is true I authored the June 20, 2018 letter to the Pasco City Council, and that I did so at the behest of David and Shilo Morgan, the owners of the "Lucky Leaf" cannabis retailer in Spokane. It is also true that my spouse and I own 50% of "Family Plot, LLC," a licensed marijuana producer (WSLCB 416065).

It is true that the production, sale and consumption of marijuana remains illegal under federal law, although the State of Washington allows it under RCW 69.50. However, other state statutes and regulations specific to marijuana licensing are germane to the issue before the Commission. First, a licensed marijuana producer cannot have a direct or indirect interest in a licensed marijuana retailer. See, RCW 69.50.328. In addition, a licensed marijuana producer may only sell marijuana wholesale to another licensed producer or processor. See, RCW 69.50.325(1), RCW 60.50.366; WAC 314-55-075(1). Thus, any direct or indirect interest between Lucky Leaf, a licensed marijuana retailer, and Family Plot, our marijuana growing

business, would be illegal. Any direct sales by our family business to Lucky Leaf would be illegal.

I request dismissal of the complaint on the grounds that the alleged violations, if true, do not violate the City's Ethics Code and that the complaint is frivolous. I will address each of the allegations in the order they are presented in the complaint.

**SMC 1.04A.030. A. General Prohibition Against Conflicts of Interest.**

The City's Ethics Code provides that "no current City officer or employee shall have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that might be seen as conflicting with the City officer or employee's proper discharge of his or her official duties, the conduct of official City business or as adverse to the interests of the City."

The complaint does not identify exactly how the June 20 letter conflicts with the official discharge of my duties, the conduct of Spokane city business, or interests adverse to the City of Spokane. It is one of my fundamental duties as a Council Member to assist Spokane residents and businesses with municipal matters. Also, my participation in legislative matters that are of general application to the public (whether such legislation applies to citizens of Spokane or Pasco) are not violations of the Ethics Code. See, *SMC 1.014A.030.G*.

**SMC 1.04A.030 B.,C. Remote Interest.**

This allegation is inane. I am assuming that the complainant is alleging that our family business violated the section of the Code prohibiting personal interests in City of Spokane contracts. As no City of Spokane contract is implicated in this matter, there can be no violation of this section of the Ethics Code.

**SMC 1.04A.030 E. Representation of Private Person at City Proceeding Prohibited.**

In order for this section of the Ethics Code to be violated, the conduct in question must pertain to "*an action or proceeding to which the City or a City officer in an official capacity is a party, or accept a retainer or compensation that is contingent upon a specific action by the City.*" To the extent the June 20 letter can even be considered an "appearance" within the meaning of this section, it does not constitute a representation in a proceeding to which the City of Spokane was a party, nor one where the Spokane City Council would be taking any action. This allegation is clearly frivolous.

**SMC 1.04A.030 F, Certain Private Employment Prohibited.**

The complaint includes a copy of a pleading from our case in the U.S. Bankruptcy Court, which the complaint identifies as an "Order Dismiss." As is plainly evident from the document itself, it is a motion, not an order. There is no finding by any court that my husband and I violated federal law. This document has no bearing on this proceeding and is irrelevant.

In any event, the complaint makes no attempt to identify how my engagement in a state-licensed business is “incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.” My duties are to the citizens of Spokane. If anything, my connection to our licensed marijuana grow makes me uniquely qualified among elected officials to discharge my official duties to the extent they concern local regulation of marijuana businesses. My involvement in the industry ensures fair and informed consideration of local issues related to this new industry.

**SMC 1.04A.030 G. Personal Interest in Legislation Prohibited.**

As with other parts of the Ethics Code, the key element is that the proceedings or actions must pertain to matters in the City of Spokane. This section prohibits a City officer or employee from benefiting “either directly or indirectly from any legislation or contract *to which the City shall be a party.*” (emphasis added). The June 20 letter did not pertain to legislation proposed or pending in Spokane, and in any event was legislation of a general application. This allegation is also frivolous.

**SMC 1.04A.030 H, Continuing Financial Interest.**

This allegation is perhaps the most insensible of all statements in the complaint. It is hard to fathom how the June 20 letter “compromises” the City of Spokane or places it in a “precarious position.”

Regardless, the Ethics Code defines “City” as the City of Spokane. See, *SMC 1.04A.020.E*. For a city official to violate the prohibition against a continuing financial interest, it must be shown that our family business was seeking a contract with the City of Spokane. No such contract was at issue here (and certainly there was no contract evident from any of the materials describing the marijuana debate in Pasco). This allegation is also frivolous.

**SMC 1.04A.030 J., Acceptance of Compensation, Gifts, Favors, Rewards or Gratuity.**

The complaint insinuates (nothing more) that the campaign donation by Lucky Leaf, which I received on August 8 of this year, constituted a “reward” for a letter sent a year earlier. Setting aside the lack of any allegation of an agreed “quid pro quo” behind the letter (an allegation I would vehemently deny), this part of the complaint ignores the express exemption in the Ethics Code for campaign contributions. See, *1.04A.020. R.8*. In short, a campaign contribution does not constitute a gift under the Ethics Code. Moreover, this portion of the ethics Code only applies to City *employees*, not to *elected officials*. See, *1.04A.020.N*. It does not apply to my conduct as a Council Member.

**SMC 1.04A.030 K., Fair and Equitable Treatment.**

As presented, the Ethics Commission can only guess how the June 20 letter violates the requirement for “fair and equitable treatment.” The Commission is asked to use the occasion of the June 20 letter as a “teachable moment.” Without conceding that this subsection K applies at all to the June 20 letter, I am guessing that the complainant believes I improperly used City of Spokane resources to secure a personal benefit, gain or profit for myself or my business, or

that I did so for the benefit of the owners of Lucky Leaf. It is clear from the June 20 letter that I was weighing in on the City of Pasco's moratorium against marijuana businesses, a matter of general public interest and broad application. To the extent David and Shiloh Morgan stood to gain from my letter, it was a benefit that applied equally to anyone seeking the right to open a marijuana business in Pasco.

For the foregoing reasons, I ask that the Commission dismiss the September 13, 2019 complaint. The complaint does not set forth any allegations that, if true, amount to a violation of the Ethics Code, technical or otherwise. Moreover, because the complaint makes no attempt to tie factual allegations to the specific elements of the Ethics Code, I ask that the Commission find the complaint frivolous under SMC 1.04A.020.P. and 1.014A.D.1.d.

Very truly yours,



Karen J. Stratton