

## **CITY OF SPOKANE ETHICS COMMISSION**

### **Ethics Commission's Findings of Fact, Conclusions of Law and Decision Regarding Complaint By Neil Muller Against Karen Stratton**

#### **FINDINGS OF FACT**

The Ethics Commission makes the following findings of fact:

1. On September 13, 2019, the Ethics Commission received a written complaint from Neil Muller against Council Member Karen Stratton alleging violations of the City of Spokane's Code of Ethics, Chapter 1.04A SMC. A copy of the September 13, 2019, complaint is attached to this decision.
2. The complaint alleges in part that Council Member Stratton violated the Code of Ethics when, on June 20, 2018, she authored a letter on Spokane City Council letterhead addressed to the City of Pasco's City Council, which allegedly co-mingled Council Member Stratton's private business interests with her position as an elected official. The complaint alleges violations of SMC 1.04A.030 A, C, E, F, G, H, J, and K.
3. On October 16, 2019, the Ethics Commission held a meeting to review Mr. Muller's complaint to determine whether, pursuant to SMC 1.04A.110 D, the Commission had jurisdiction to conduct further proceedings and whether the complaint, on its face, alleges facts that, if true, would substantiate a violation. Without ruling on the merits of the complaint, the Commission determined that it has jurisdiction to hear the complaint and that the complaint alleged facts that, if found to be true, would be sufficient to constitute a violation of the Code of Ethics. The Commission determined to proceed to a hearing pursuant to SMC 1.04A.110 F.
4. The Commission held a hearing on January 22, 2020, to consider the parties' arguments as to whether the conduct alleged in the complaint constituted a violation of the Code of Ethics.
5. The Commission considered the following information during the January 22, 2020, hearing:
  - a. the September 13, 2019, complaint and exhibits,
  - b. the October 2, 2019, response to the complaint filed by Council Member Stratton,
  - c. the October 3, 2019, reply filed by Mr. Muller,
  - d. the Respondent's exhibit list,
  - e. the Opening Brief filed by Mr. Muller on November 27, 2019,
  - f. the Reply Brief filed by Council Member Stratton on December 4, 2019,
  - g. the Rebuttal Brief filed by Mr. Muller on January 15, 2020,

- h. the testimony of Council Member Stratton and David Morgan, and
- i. the oral argument of the parties.

6. At the January 22, 2020, hearing, Mr. Muller limited his argument that Council Member Stratton violated the Code of Ethics by her use of Spokane City Council letterhead to advocate before the Pasco City Council for a private party's business interest in violation of SMC 1.04A.030 K. 1, 3, 4 and 5. That section provides:

SMC 1.04A.040 K Fair and Equitable Treatment.

- 1. No City officer or employee shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use position to secure special privileges or exceptions for himself/herself or for the benefit, gain or profits of any other persons.
- 3. No City officer or employee shall use City-owned vehicles, equipment, materials, money or property for personal or private convenience or profit. Use is restricted to such services as are available to the public generally, for the authorized conduct of official business (not personal use), and for such purposes and under such conditions as can be reasonably expected to be approved by City policies.
- 4. Except as authorized by law and in the course of his or her official duties, no City officer or employee shall use the power or authority of his or her office or position with the City in a manner intended to induce or coerce any other person to provide such City employee or any other person with any compensation, gift, or other thing of value directly or indirectly.
- 5. City Officers and employees are encouraged to participate in the political process on their own time and outside of the workplace by working on campaigns for the election of any person to any office or for the promotion of or opposition to any ballot proposition, but shall not use or authorize the use of City facilities or resources for such purposes except as authorized by the provisions of RCW 42.17A.555

7. Mr. Muller asserted that Council Member Stratton violated SMC 1.04A.030 K. 1, 3, 4 and 5 by using her position as a council member and by using Spokane City Council letterhead to advocate for the business interest of Lucky Leaf, owned by David and Shilo Morgan, by encouraging the Pasco City Council to take legislative action that would allow for retail sales of marijuana products. Mr. Muller further argues that such action creates a potential indirect gain for Council Member

Stratton's own marijuana business by expanding the marijuana marketplace and potential direct financial gains for Lucky Leaf by creating a new retail market in the City of Pasco. Mr. Muller's specific allegations relating to the Code of Ethics are as follows:

SMC 1.04A.030 K 1 – Council Member Stratton's conduct specifically advocated for gain in the marijuana marketplace for the Morgan's and by doing so, she advocated for gain in the marketplace for a product that she indirectly sells by way of wholesale.

SMC 1.04A.030 K 3 – Council Member Stratton's use of City Council letterhead in her advocacy.

SMC 1.04A.030 K 4 – Council Member Stratton addressed the Pasco City Council as a fellow elected official from Spokane and referenced the council member district position in the letterhead.

SMC 1.04A.03 K 5 – Council Member Stratton's intent was to induce and coerce the Pasco City Council members to take legislative action that would provide an indirect gain to her by broadening the marketplace for her own marijuana business and a direct gain for the Morgans.

8. Council Member Stratton responded to these allegations in part by stating that:
- a. the June 20, 2018, letter weighed in on Pasco's moratorium on marijuana businesses as a matter of general public interest and broad application,
  - b. any benefit or gain applied equally to anyone seeking the right to open a retail marijuana business in Pasco,
  - c. there is no business relationship between Council Member Stratton's marijuana wholesale business and the Morgan's marijuana retail business,
  - d. any benefit to Lucky Leaf would have been remote, and
  - e. the submission of the June 20, 2018, letter was similar to other City efforts to recruit employers to the City using City resources

9. The Commission concludes that the facts presented in this hearing demonstrates that:

- a. the June 20, 2018, letter constituted a use by Council Member Stratton of her city position as a city council member and the use of City resources,
- b. Council Member Stratton knowingly provided the letter upon the request of David and Shilo Morgan, the owners of Lucky Leaf,
- c. The Morgan's requested the letter from Council Member Stratton because of their need for assistance before the Pasco City Council and because of Council Member Stratton's knowledge of the marijuana industry,
- d. The letter was not prepared or reviewed as part of any action sanctioned by the City Council through a resolution, ordinance or policy but was instead the individual action of Council Member Stratton upon the request of the Morgan's,
- e. The content of the letter specifically endorsed the business efforts of Luck Leaf in relation to the Pasco City Council's consideration of legislative action to permit marijuana retail business in Pasco,
- f. Council Member Stratton's awareness of possible application of the Code of Ethics was sufficient to cause her to contact others in the City Council Office for guidance,
- g. Use of official City Council letterhead was not for an official City function or purposes but instead was for the sole benefit, gain or profit of a private party,
- h. There was no intent on the part of Council Member Stratton to commit a violation of the Code of Ethics.

### **CONCLUSION OF LAW**

The Ethics Commission makes the following conclusions of law:

1. The Code of Ethics prohibits City officers and employees from knowingly using his or her office or position for the benefit, gain or profits of any other persons. SMC 1.04A.030 K.1.
2. The Code of Ethics prohibits City officers and employees from using the power and authority of his or her office or position with the City in a manner intended to induce or coerce any other person to provide any other person with any other things of value directly or

indirectly, except as authorized by law and in the course of his or her official duties. SMC 1.04A.030 K. 4.

3. The Code of Ethics prohibits City officers and employees from using City facilities or resources for the purpose of working on campaigns for the election of any person to any office or for the promotion of or opposition to any ballot proposition. SMC 1.04A.030 K.5.

## DECISION

Based upon the Findings of Fact and Conclusions of Law set forth above and the deliberation of the Ethics Commission, the Ethics Commission determined by unanimous vote of four to zero that:

1. Council Member Stratton violated SMC 1.04A.030 K. 1. by knowingly using her office and position as a City Council Member and City Council letterhead for the benefit, gain or profit of the owners of a business who potentially would benefit financially with expanded business opportunities in another City. The action taken by Council Member Stratton was not authorized or sanctioned by action of the City Council, did not benefit the City and was not related to a City action or purpose.
2. Council Member Stratton violated SMC 1.04A.030 K. 4. by using her position as a City Council member to induce the Pasco City Council to take legislative action that would provide the owners of a private business with potential financial benefit through new business opportunities and that such action was not authorized by law or in the course of her official duties.
3. Council Member Stratton violated SMC 1.04A.030 K. 5. through unauthorized use of City resources.
4. Pursuant to SMC 1.04A.040. B. 5, Council Member Stratton shall be penalized for her violations of the Code of Ethics as set forth above through a written reprimand, which shall be included as part of this decision, filed with the City Clerk and placed in the City Council minutes.

   
Sarah O'Hare - Chairperson      Date