

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: **Mike Piccolo**
Office of the City Attorney
5th Floor Municipal Building
W. 808 Spokane Falls Blvd.
Spokane, WA 99201

or at: cityattorneyinfo@spokanecity.org

****Please be advised that the completed complaint form is a public record pursuant to the Washington State Public Records Act, Chapter 42.56 RCW and will be filed with the City Clerk's Office, posted on the Ethics Commission's website and provided to the person who is the subject of the complaint as well as any other individual making request for a copy of the complaint. The Ethics Commission's review of the complaint will occur in a meeting open to the public. ****

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: **Mark Carlos**

Position/Title: **Spokane City Council Legislative Assistant to Betsy Wilkerson**

Nature of Code of Ethics violation:

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

Section 01.04A.010 Purpose, Section 01.04A.030 Prohibited Conduct

Additional subsections as detailed in the attached.

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.

Please refer to documentation as detailed in the attached.

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

Zack Zappone, City Council Member; Jeff Gunn, Legislative Assistant

to Council Member Zappone, others as detailed in the attached.

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.

Please refer to documentation as detailed in the attached.

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.



Complainant's Signature

May 31, 2023

Date

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

Redistricting process 2022, Spokane, WA

Name (please print): **Neil Muller**

Address: **935 E 19th Ave, Spokane, WA 99203**

Phone Number(s): **509 220 9736**

E-Mail Address: **neilallenmuller@gmail.com**

May 31, 2023

Members of the Spokane, WA Ethics Commission,

I am a citizen of the City of Spokane and have resided here for 25 years. I live on the lower South Hill with my wife and children.

Last Summer and Fall, I became interested in the Spokane City Council redistricting process. What caught my attention was news reporting that Spokane City Council Member Zack Zappone was involving himself directly in the Spokane City Council district map drawing process.

At that time, I was concerned, but would not become fully disturbed by **Spokane City Council Legislative Assistant Mark Carlos**, who is the aide to Council Member and current candidate for Council President Betsy Wilkerson, until his activities were made public by Court-ordered subpoena.

As reported in The INLANDER on April 7, 2023:

“Behind the scenes, he [Zappone] and others strategized how to sell the map.”

As this complaint will detail, **Mark Carlos** was one of the others.

In fairness to **Mark Carlos**, he deserves the opportunity to address these concerns.

I turn to you to help me, our fellow citizens and especially **Legislative Assistant Mark Carlos** find closure on this important matter that goes to the heart of our society, the democratic fair election process, and the high ethical standards that we expect and deserve from our elected officials.

Thank you for volunteering your time and talents to this and all of the other matters that you address.

Gratefully,



Neil Muller

Jurisdiction: City Official Status of the Respondent

Mark Carlos is Legislative Assistant to Council Member Betsy Wilkerson. According to the City of Spokane's website, his official email is: mcarlos@spokanecity.org

Spokane Code of Ethics – SMC Section 01.04A.010 Purpose

- A. It is the policy of the City of Spokane to uphold, promote and demand the highest standards of ethics from all of its employees and City officers, whether elected, appointed or hired. City officers and employees shall maintain the utmost standards of responsibility, trustworthiness, integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants including the appearance of impropriety, and never use their City position, authority or resources for personal gain.
- B. It is the intent of the City Council that this chapter be reasonably construed to accomplish its purpose of protecting the public against decisions that are affected by undue influence, conflicts of interest or any other violation of this Code of Ethics. This Code of Ethics is supplemental to state law, including, but not limited to, chapter 42.20 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.

Spokane Code of Ethics – SMC Section 01.04A.030 Prohibited Conduct

The following shall constitute a violation of this Code of Ethics:

- A. General Prohibition Against Conflicts of Interest.
In order to avoid becoming involved or implicated in a conflict of interest or impropriety, or an appearance of conflict of interest or impropriety, 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. Performance of a legally required duty by a City officer or employee shall not be considered a violation of the Code of Ethics.
 - 1. Any employee who becomes aware that he or she might have a potential conflict of interest that arises in the course of his or her official duties shall notify in writing his or her supervisor or appointing authority of the potential conflict.
 - 2. Upon receipt of such a notification, the supervisor or appointing authority shall take action to resolve the potential conflict of interest within a reasonable time, which may include, but is not limited to, designating an alternative employee to perform the duty that is involved in the potential conflict. The supervisor or appointing authority shall document the disposition of the potential conflict in writing in files maintained by the appointing authority. The supervisor or appointing authority may request an advisory opinion from the Ethics Commission before addressing and resolving of the potential conflict.

Overview of Complaint

Spokane City Council Legislative Assistant to Council Member Betsy Wilkerson, Mark Carlos is believed to have engaged in several activities during the City of Spokane 2022 redistricting process that violate the Spokane Code of Ethics purpose, policies and intents as cited above and those additional sections to be detailed in this complaint.

Specifically, and to quote the Spokane Ethics code, Aide Carlos appears to have acted in a manner that is irresponsible, untrustworthy, without integrity, untruthful, dishonest, unfair, and improper.

Furthermore, Carlos appears to have failed to protect the public as he used undue influence, created, perpetuated and failed to properly report and seek advisory guidance on conflicts of interest.

Carlos not only engages directly in using his position with City Council to forward his political/electoral agenda, those of his employer (Wilkerson) and political allies; **he does so in a most cavalier and callous manner.**

“I think those Young Republicans may be connected to the Home Builders or Realtors. I’m hellbent on finding out how.”

Mark Carlos to Zack Zappone and Jeff Gunn
See attached, page 50

Likely Ethical Violations by Carlos Revealed in Court Proceedings

While members of the 2022 Spokane Redistricting Board and the general public expressed concerns regarding Council Member Zappone’s activities during the 2022 Spokane Redistricting process, clear evidence of Aide Mark Carlos’ unethical behavior would not come to light until 2023 legal proceedings (Spokane Redistricting and Michael Brown, et al) in Spokane County Superior Court (“the Court”).

Attorney Mark Lamb submitted a declaration (hereafter referred to as “Lamb Decl.”) to the Court on April 3, 2023 (see attachment) that reveals communications during the 2022 Spokane Redistricting process by Council Member Zack Zappone, Legislative Assistant Jeff Gunn and another Spokane City Council Legislative Assistant, Mark Carlos, Aide to Council Member Betsy Wilkerson.

The Lamb declaration document contains the bulk of evidence presented for consideration by the Spokane Ethics Commission. The portions of Attorney Lamb’s declaration involving Mark Carlos are attached to this complaint and referenced below.

<p>SMC 01.04A.010 A responsibility, integrity, trustworthiness, fairness, undue influence, conflicts of interest and appearance thereof</p> <p>- continues -</p>	<p><u>Lamb Decl. Pages 46-47.</u> Texting between Andrew Mark aka Mark Carlos, Jeff Gunn, and Zack Zappone.</p> <p>Mark Carlos writes to Zack Zappone and Jeff Gunn,</p> <p>“Yeah, not moving me. It’s Besty’s amendment and you’re one of my best friends. Best friend > Nice Lobbyist Lady</p> <p>That a constituent’s thoughtful outreach (attached page 47) on redistricting is summarily dismissed by Carlos is beyond alarming.</p> <p>- continues -</p>
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**SMC 01.04A.030
Prohibited Conduct**

A. General Prohibition
Against Conflicts of
Interest.

G. Personal Interest in
Legislation Prohibited.

K. Fair and Equitable
Treatment.

M. Aiding others
prohibited.

To quote the unfortunate old political adage, “Laws are like sausages. It’s best not to watch them being made.” To some this is funny. To me this is sad.

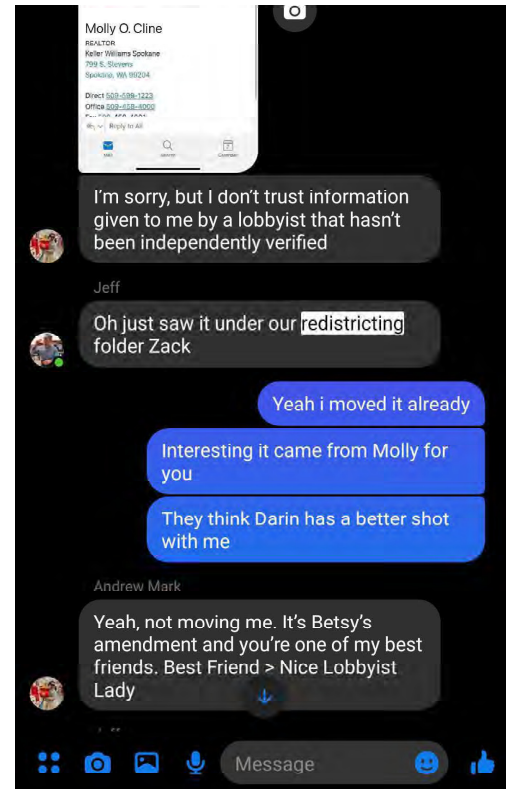
The disenfranchisement of any Spokane citizen should never occur.

Now that this behavior has come to light, it is time to stop paying staff to trade snarky comments that can only serve to anger and disillusion citizens.

Mark Carlos realized or should have realized that he was participating in a conflict of interest.

Spokane’s Code of Ethics requires in SMC Section 01.04A.030 A 1,

“Any employee who becomes aware that he or she might have a potential conflict of interest that arises in the course of his or her official duties shall notify in writing his or her supervisor or appointing authority of the potential conflict”



Mark Carlos should provide the Ethics Commission a copy of his written notification to his supervisor, in this case Wilkerson, expressing the self-awareness that he is or might be treading into the realm of the unethical.

This requirement of Mark Carlos should be applied to the items to be further presented in this complaint.

The Spokane Ethics Commission may choose to discuss:

- Can Mark Carlos point to a job description passage, expectation from his supervisor (Council Member Wilkerson) or any other official conveyance of authority to discuss the trustworthiness of constituent communications in a manner such as above with a fellow Council staff and Council Member?
- Does Mark Carlos believe that his above (and below) behaviors are in keeping with the intentions of his supervisor (Council Member Betsy Wilkerson)?
- How often to Mark Carlos and his supervisor (Council Member Betsy Wilkerson) discuss ethical expectations?

- end section -

Lamb Decl. Pages 49-50. Texting between Andrew Mark aka Mark Carlos, Jeff Gunn, and Zack Zappone.

Following a brief and disrespectful exchange about Appointed Volunteer Spokane Redistricting Board member Jennifer Thomas, Mark Carlos writes,

“Why does CMR have fingerprints all over the recent attacks on Council’s legitimacy?!?”

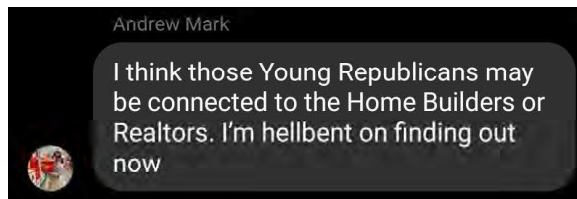
Carlos appears to reference U.S. Representative Cathy McMorris Rodgers. Carlos posts a screen shot of Jennifer Thomas’ facebook page.

Zappone writes,

“And she sat on the homebuilders interviews during the redistricting”

Carlos writes,

“I think those Young Republicans may be connected to the Home Builders or Realtors. I’m hellbent on finding out now”



Gunn writes, “They’re Gonzaga young republicans” “Work on CMR campaign”. Carlos writes, “Good work, Gunny”

Spokane’s Code of Ethics requires in SMC Section 01.04A.030 K,

“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.”

Mark Carlos is clearly politicizing his position as a public employee. In fact, he demands that he is “hellbent” on doing so. Carlos doesn’t accuse or even suggest that whom he has branded as members of a political party have done anything wrong. **What is Carlos suggesting will happen if/when he “finds out.”**

Nobody is “hellbent” on knowing that Mark Carlos is, according to his public posting, “Deputy Director - Pacific Region at Young Democrats of America.” It simply should not matter. If Mark Carlos believes in “finding out” about citizens and their political affiliations, he must cease to do so with City time and resources.

- end section -

October 4, 2022 City of Spokane Redistricting Board Meeting.

Mark Carlos testifies at roughly minute 36.

Carlos states to the Board, including,

“I do not speak at the behest of or on behalf of my employers ... although I do speak from experience being involved with them.”

“This map is designed by, I won’t say who, but is the governmental affairs director of the home builders association, who was part of a coalition that in 2021 spent

\$84,000 against Councilman Zack Zappone in his race, that is also pushed by the Downtown Partnership and Mayor Woodward used the same language stated in an email to tax ratepayers to her donors. So I ask who is in support of map 1?”



Once again, Mark Carlos blurs the lines between his City employment and activities of a private citizen. Had Carlos simply stated that he is not speaking on behalf of his employer (Wilkerson), he would not have crossed ethical lines. However, he does invoke his City employment and Council Member supervisor (Wilkerson) when he includes his involvement “with them.” **One can’t have matters of ethics both ways.**

Perhaps one could forgive and dismiss this ethical transgression due to the exuberance of youth or inexperience with such matters. This is not possible in this case. Carlos continues his testimony, citing knowledge of political donations and engages in casting aspersions on a highly reputable Spokane business district organization, a building trades association, and even the Mayor.

This section provides direct evidence of violations of **SMC 01.04A.010 A, SMC 01.04A.030 Prohibited Conduct A.** General Prohibition Against Conflicts of Interest, and K. Fair and Equitable Treatment.

- end section -

In Summary & Conclusion

Again, I thank you for your volunteer service to our City. This is the last way that I wanted to spend my time or yours. However, Mark Carlos' conduct during the 2022 Spokane Redistricting Board process requires a full review for the benefit of our community, including City Council employee Mark Carlos.

The following summarizes the likely violations of Ethics Code sections and subsections that are described in this complaint.

Section 01.04A.010 Purpose	To be applied throughout this complaint.
Section 01.04A.030 Prohibited Conduct	
A. General Prohibition Against Conflicts of Interest	To be applied throughout this complaint.
1. Duty to Notify Supervisor	To be applied throughout this complaint - documentation should be provided.
G. Personal Interest in Legislation Prohibited	Carlos' actions which dismiss, accuse and maliciously investigate the public are inherently personal, to the benefit of his political interests. Carlos consistently injected his personal politics in the redistricting legislative process.
K. Fair and Equitable Treatment.	
1. Personal benefit, special privilege, exemptions	Personal benefit, see above G. Carlos used his special access through work relationships and private messaging to conceal political discussions at work, exempting him, or so he must have thought, from public disclosure.
3. Equipment for personal	Carlos either used public equipment for political purposes, or he used private equipment for public purposes.
5. Political on own time	Carlos made the public redistricting process political while at work.
M. Aiding others prohibited	Carlos colluded with Council Member Zappone and Legislative Assistant Jeff Gunn.
N. Commission of Acts of Moral Turpitude or Dishonesty Prohibited	Carlos showed grievously unbecoming disrespect for constituents. See Section 01.04A.020 Definitions X.

I am greatly concerned that certain City Council Members and Staff are behaving more like a political campaign than public servants. Political agendas should be checked at the doors of City service.

The opportunity and teachable moments to recommit City Council staff to the letter and spirit of civil service is provided through this complaint process. I am available to further assist if you should request so.

HONORABLE TONY HAZEL

Hearing Date: April 7, 2023

Hearing Time: 1:30 p.m.

SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN THE COUNTY OF SPOKANE

IN RE: SPOKANE REDISTRICTING and
MICHAEL BROWN, REBECCA COOK,
COLIN COOK and MARK HOWARD, all
registered voters in the City of Spokane,
Petitioners,

NO. 22-2-04123-32

DECLARATION OF MARK C. LAMB
IN SUPPORT OF PETITIONERS'
MOTION TO GRANT PETITION FOR
SPOKANE REDISTRICTING

I, Mark C. Lamb, declare under penalty of perjury, under the laws of the State of Washington, that the following is true and correct.

1. I am over the age of 18, make this declaration based upon my personal knowledge, and am competent to testify on the matter stated herein.

2. I am one of the attorneys for Petitioners Michael Brown, Rebecca Cook, Colin Cook and Mark Howard herein.

3. Attached hereto as *Exhibit 1* is a true and correct copy of Z. Zappone's handwritten notes.

4. Attached hereto as *Exhibit 2* is a true and correct copy of email communications from October 2022.

5. Attached hereto as *Exhibit 3* is a true and correct copy of email communications from September 2022.

DECLARATION OF MARK LAMB IN SUPPORT OF
PETITIONERS' MOTION TO GRANT PETITION FOR
SPOKANE REDISTRICTING – 1

CARNEY BADLEY SPELLMAN, P.S.
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
(206) 622-8020

1 6. Attached hereto as *Exhibit 4* is a true and correct copy of meeting minutes and
2 agenda.

3 7. Attached hereto as *Exhibit 5* is a true and correct copy of text communication
4 with Jeff Gunn.

5 8. Attached hereto as *Exhibit 6* is a true and correct copy of text communication
6 with Josh Walters.

7 9. Attached hereto as *Exhibit 7* is a true and correct copy of text communication
8 with Breean Beggs.
9

10 10. Attached hereto as *Exhibit 8* is a true and correct copy of text communication
11 with Betsy Wilkerson.

12 11. Attached hereto as *Exhibit 9* is a true and correct copy of text communication
13 with Brian Parker.

14 12. Attached hereto as *Exhibit 10* is a true and correct copy of text communication
15 with Daniel Walters.
16

17 13. Attached hereto as *Exhibit 11* is a true and correct copy of text communication
18 with Paul Jim.

19 14. Attached hereto as *Exhibit 12* is a true and correct copy of text communication
20 with Macklin Scheldrup.

21 15. Attached hereto as *Exhibit 13* is a true and correct copy of text communication
22 with Ryan Oelrich.
23

24 16. Attached hereto as *Exhibit 14* is a true and correct copy of miscellaneous text
25 communications.
26

1 DATED this 3rd day of April, 2023.

2 CARNEY BADLEY SPELLMAN, P.S.

3 By 

4 Mark C. Lamb, WSBA No. 30134

5 Kenneth W. Hart, WSBA #15511

6 Attorneys for Petitioners

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

☒ Email and first-class United States mail, postage prepaid, to the following:

Attorneys for Non-parties Zack Zappone and Breean Beggs

Christopher J. Kerley, WSBA #16489

Evans, Craven & Lackie, P.S.

818 W. Riverside Ave., Ste. 250

Spokane, WA 99201

ckerley@ecl-law.com

509-455-3632

DATED this 3rd day of April, 2023.



Andrea H. Anthony, Legal Assistant

EXHIBIT 5

