

Via electronic mail

October 18, 2021

Wayne Barnett
Executive Director
Seattle Ethics & Elections Commission
City of Seattle
PO Box 94729
Seattle, Washington 98124-4729

Re: Ethics Complaint Against Bruce Harrell
Seattle Mun. Code §§4.16.090(A)(1), (B)(1); RCW §42.23.070(1)

To Executive Director Wayne Barnett,

The City of Seattle holds that “the proper operation of democratic representative government requires that public officers and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.” Seattle Mun. Code 4.16.020(A). Seattle residents have a right to selfless public servants and an expectation that public officials who misuse their public positions face consequences.

Seattle Councilmember Bruce Harrell misused his official position to influence an Office of Labor Standards (“OLS”) investigation into serious workplace violations at the Royal Esquire Club (“REC”) when Councilmember Harrell was the Board Chairman. Councilmember Harrell’s misuse of public office included a threat to OLS, with the implication that if OLS did not conclude its investigation in a way that Councilmember Harrell approved, its funding would be in jeopardy.

The Executive Director should thoroughly investigate this matter. The evidence submitted with this complaint demonstrates that a material violation of the Seattle Ethics Code and of RCW §42.23.070 has occurred.

The Seattle Ethics Code and RCW Section 42.23.070

The City of Seattle Code of Ethics prohibits a covered individual such as Councilmember Harrell from “us[ing] or attempt[ing] to use his or her official position for a purpose that is, or would to a reasonable person appear to be, primarily for the private benefit of the covered individual or any other person,

rather than primarily for the benefit of the City[.]” Mun. Code §4.16.090(B)(1).¹ Similarly, RCW §42.23.070(1) states that “[n]o municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.”

In adopting this requirement of municipal officials, the Legislature “recognize[d] the burden this may place on public officials,” but “because public officials serve the interests of the citizens of Washington . . . [found] it appropriate to hold them to a high standard.” *Hubbard v. Spokane Cty.*, 146 Wash. 2d 699, 712, 50 P.3d 602, 609 (2002), *overruled on other grounds by Rose v. Anderson Hay & Grain Co.*, 184 Wash. 2d 268, 358 P.3d 1139 (2015)).

Additionally, Seattle Municipal Code §4.16.070(A)(1) prohibits a covered individual from “participat[ing] in a matter in which . . . a person the covered individual serves as an officer, director, trustee, partner, or employee” has a financial interest. Section 4.16.070(A)(3) prohibits covered individuals like Councilmember Harrell from performing official duties when it could appear that their judgment is impaired by a “transaction or activity engaged in by the covered individual.” And Section 4.16.070(B)(2) prohibits the use of City personnel for a purpose which is, or would appear to be, “for other than a City purpose.”

Councilmember Harrell has violated each of these provisions.

Councilmember Harrell’s Involvement in OLS Investigation of REC

REC is a non-profit, historically African-American §501(c)(7) social club that admits men to membership. Councilmember Harrell has been a member of REC since at least 2016 and Chairman of REC’s Executive Committee.² REC’s February 29, 2016 and subsequent Annual Reports with the Secretary of State list Councilmember Harrell as a “Governor.” Exhibit 1.

In his role as Executive Committee Director or Governor, Harrell appears to have been directly involved in personnel and employment issues at REC. For example, on January 9, 2017, Councilmember Harrell emailed a long-term employee who had inquired about her job description and asked for an employee manual. Councilmember Harrell responded with a copy of the employee handbook and

¹ The Code excepts activities permitted by Section 4.16.071, which is not applicable here.

² Eric Rietmulder, “At historic Royal Esquire Club, members add new energy amid a changing Seattle,” *Seattle Times*, June 17, 2019, available at: <https://www.seattletimes.com/entertainment/music/members-of-seattles-storied-royal-esquire-club-arent-letting-it-fade-into-history/>; Royal Esquire Club, “Leadership,” available at: <https://royalesquireclub.com/club-life/officers/>.

enlisted the employee in a future effort to formalize job descriptions at REC. Exhibit 2.

In 2018, an REC employee filed a complaint with Seattle's Office of Labor Standards, in Case No. 2018-00077. This led to an investigation into whether REC had violated Seattle's Wage Theft Ordinance and its Paid Sick Time and Paid Safe Time Ordinance. Senior Investigator Daron Williams was assigned to the investigation.

On November 1, 2018, according to Mr. Williams's memo to file, Councilmember Harrell called Williams asking about the purpose behind the investigation of REC. Exhibit 3. It is not clear from Mr. Williams's notes whether Councilmember Harrell explained whether he was calling in the capacity of Board Chair at REC or City Council President.

In complaining about OLS's investigation of REC, according to Mr. Williams, Councilmember Harrell threatened OLS's future funding. He stated "that he helped construct the Office of Labor Standards and would have to look in the future if *any changes in funding need to be implemented.*" Exh. 3 (emphasis added). Councilmember Harrell further threatened the OLS investigator by stating that he "received a lot of inquiries from his members" about the REC investigation and that "the Mayor and Fire Chief are coming to Esquire for an event soon[.]"

Councilmember Harrell then said that he had told his "members" that OLS was simply performing an audit as "routine practice." When Mr. Williams informed him that OLS does not perform "routine audits" and that the investigation stemmed from a complaint, Councilmember Harrell demanded to know who had filed the complaint against REC ("where it came from"), information that is obviously confidential during a sensitive workplace investigation. Despite Councilmember Harrell's threat to OLS's future funding (and thus, potentially, to Mr. Williams's job), Mr. Williams adhered to OLS policy and told Councilmember Harrell that "we can't give out that information."

Councilmember Harrell complained to Mr. Williams that REC had not been given enough time to respond to an information request and pressed him for information about whether other small businesses had an issue with OLS's timeline for producing documents. When Mr. Williams responded by stating that OLS tends to be "flexible with businesses," Councilmember Harrell stated "you better be, that's what you're supposed to be doing," even though OLS's prime mission is to "advance labor standards" in the City.

Having threatened OLS and Mr. Williams, Councilmember Harrell then offered the proverbial "carrot," stating that if Mr. Williams "needed anything for this investigation just let him know and he will be happy to help." Exh. 3.

Later on November 1, 2018, Councilmember Harrell had his “Community Relations Liaison” send an email to Mr. Williams that was intended to obfuscate Councilmember Harrell’s direct interest, as Chair of the REC Executive Committee, in the REC investigation. The Community Liaison presented Councilmember Harrell’s role in calling and threatening OLS and Mr. Williams as based on concerns from constituents, rather than a response to OLS’s investigation into an organization that Councilmember Harrell runs. The Community Liaison wrote: “Our office had recently received phone calls from members of the Royal Esquire Club concerning an Office of Labor Standards (OLS) inquiry into the organization.” Exhibit 4. This did not accurately describe Councilmember Harrell’s relationship to REC or to the OLS investigation.

The Community Liaison then reiterated Councilmember Harrell’s position that OLS should “help employers” in the City. Exh. 4 (stating that Councilmember Harrell “mentioned how strong your commitment is toward helping both employers and employees in the City[.]”). The “fist-in-the-velvet-glove” message to Mr. Williams and OLS was clear, as it would be to any reasonable person: Councilmember Harrell has power over your future funding, and your investigation of the compliant should be “flexible to” and “help” REC.

On May 10, 2019, two other senior OLS investigators, Margaret Weihs and Cathy Garza received an email from another City employee, Seattle Center Artistic Director Steven Sneed. The email cc’ed former Seattle Fire Chief and REC President Roberto Jourdan, and asked for a meeting. Jourdan used the meeting to complain about Investigator Daron Williams’s investigation of REC, even after Investigators Weihs and Garza had explained that they could not comment on an open OLS investigation. Specifically, Mr. Jourdan complained about the remedy for wage theft and unpaid sick leave that OLS was demanding. Exh. 5. At one point, Mr. Jourdan threatened to take REC’s complaints to the Mayor, who Mr. Jourdan stated referred to herself as an “Esquirette.”

It is unclear from the documents the undersigned possesses what, if any, role Councilmember Harrell played in brokering this meeting with OLS investigators.

On June 17, 2019, OLS entered into a settlement agreement with REC. Exh. 6. The settlement agreement states that OLS “investigated Royal Esquire Club Inc. and determined that employees were owed back wages and damages for their employment during the period October 2, 2015 to October 2, 2018.” Exh. 6, Attachment B.

Councilmember Harrell echoed his threats against OLS at a public meeting just prior to OLS’s execution of the settlement agreement. At a June 3, 2019 meeting of the Small Business Advisory Council, for example, Councilmember Harrell stated, “I can tell you some horror stories on, I have constituents in my

district, district 2 on their dealings with OLS,” that OLS was failing to be a “neutral party,” and that he was “incredibly concerned about that.”³ Councilmember Harrell did not disclose during this meeting that his organization, REC, was the subject of a pending investigation by OLS (or that the “horror stories” to which he referred involved in all likelihood involved an investigation in which he had a direct interest).

Councilmember Harrell again threatened OLS at a July 18, 2019 hearing of the Health, Energy, and Workers Rights Committee, stating that there had been “overwhelming” complaints about OLS’s investigations (although he did not say by whom) and that the OLS was “heavy handed” in its investigations. Councilmember Harrell demanded that a hearing be held on OLS’s investigations “before budget,” thus continuing to threat OLS’s funding based on its approach to workplace investigations. Councilmember Harrell did not disclose at this hearing that his organization, REC, had been the recent subject of an investigation about which he was now complaining.⁴

Councilmember Harrell made an official proposal to fund a \$50,000 survey of Seattle businesses and their experiences with OLS at an October 31, 2019 Select Budget Committee Hearing.⁵ Councilmember Harrell referred to OLS investigators as “unprofessional” and said that he had “horror stories” about OLS’s investigation into minority-owned businesses that had been “devastated” by OLS investigatory practices. Councilmember Harrell did not disclose during this hearing that he was the Chairperson of REC’s Executive Committee and had been directly involved in an OLS investigation into REC’s workplace violations.

Councilmember Harrell Has Misused His Official Position

The foregoing facts establish that Councilmember Harrell has misused his official position to impede the investigation and remedying of workplace violations at REC. Seattle Mun. Code §4.16.070(B)(1); RCW §42.23.070(1).

Councilmember Harrell threatened an OLS investigator with a reduction in OLS funding during a phone call about the Office’s investigation of REC. He thus

³ Small Business Advisory Council Briefing, June 3, 2019, at 1:32:00 to 1:35:00, available at: <https://www.seattlechannel.org/CouncilBriefings?videoid=x104707>

⁴ Housing, Health, Energy, and Workers’ Rights Committee Hearing, July 18, 2019, at 1:02:00 to 1:05:00 available at: <https://www.seattlechannel.org/mayor-and-council/city-council/2018/2019-housing-health-energy-and-workers-rights-committee/?videoid=x105882>.

⁵ Select Budget Committee Hearing, October 31, 2019, at 1:52:00 to 2:10:00, available at: <https://seattlechannel.org/BudgetCommittee?videoid=x108074>

“attempted to use his . . . official position for a purpose that is, or would to a reasonable person appear to be, primarily for the private benefit” of REC, rather than benefit of the City. This is clear because Councilmember Harrell’s statements were made during a private phone conversation with an OLS investigator about a specific pending matter. It is also clear because Councilmember Harrell had a direct interest in the investigation, as the Chair of REC’s Board, and REC would be the primarily beneficiary of the pressure Councilmember Harrell intended to apply to OLS Investigator Williams.

Councilmember Harrell also violated Seattle Municipal Code §4.16.070(A)(1), which prohibited him from “participat[ing] in a matter in which . . . a person the covered individual serves as an officer, director, trustee, partner, or employee” has a financial interest. REC obviously had a financial interest in OLS’s investigation of its wage theft and other workplace violations. Councilmember Harrell is a director or officer of REC. Councilmember Harrell “participated” in a “matter” because he “investigated” or “advised” OLS staffer Williams in an OLS “proceeding” or “case.” See Seattle Mun. Code §4.16.030.⁶

Councilmember Harrell violated Seattle Municipal Code §4.16.070(A)(3) by performing official duties—proposing and voting upon a survey into OLS’s investigatory practices—when it could appear to a reasonable person that Councilmember Harrell’s judgment is impaired because of his recent involvement in OLS’s investigation into the workplace violations of an organization of which he is a director. Councilmember Harrell did not disclose this fact to the public, nor did he file a disclosure with the Executive Director or City Clerk, leaving the public in the dark about his direct, private interest in punishing OLS for its rigorous enforcement of Seattle labor standards.

Finally, Councilmember Harrell used City personnel—his “Community Liaison”—for a purpose that was “other than a City purpose,” in violation of Section 4.16.070(B)(2). Councilmember Harrell had called OLS Investigator Williams on November 1, 2018, seeking to influence Mr. Williams’s investigation of REC. He then directed his Community Liaison to follow up on this personal matter, using City funds and personnel to do so.

The Executive Director Should Thoroughly Investigate This Matter

Seattle residents have a right to undivided trust from their political representatives, and Seattle’s working people have a right to the enforcement of Seattle’s labor standards without interference from political insiders. The evidence

⁶ Councilmember Harrell’s threats against OLS Investigator Williams were not done in regard to a legislative matter, so Seattle Municipal Code §4.16.070(A)(5) does not apply.

contained in this complaint clearly makes out violations of the state and municipal ethics codes.

The Executive Director should, however, conduct a further investigation to determine:

- What communications did Councilmember Harrell have with other public officials about OLS's investigation of REC?
- What role did Councilmember Harrell play in setting up the May 2019 meeting between REC's President and OLS investigators, at which REC addressed OLS's pending investigation?
- What role did Councilmember Harrell play in the ultimate settlement of OLS's action against REC and to whom did Councilmember Harrell communicate about that settlement?

Only when answers to these questions are fully vetted can Seattle residents have confidence that government decisions are made through proper channels, and not based on government officials' back-room threats.

Sincerely,

Rich Stolz, Complainant

P.S., A note about myself. I am the former Executive Director of OneAmerica, a statewide organization rooted in immigrant and refugee communities based in Seattle. In that role I was actively involved in efforts to enact several of the policies that REC allegedly violated, and I participated in efforts to create the Office of Labor Standards. I am personally concerned about the role that former Council Member Harrell may have played in undermining the enforcement role of OLS, and hope that a thorough investigation will protect agencies, like OLS, from undue and non-transparent interference from powerful elected leaders that breach the City's ethics rules, as documented in this memo.