

Seattle Ethics and Elections Commission Special Meeting

June 29, 2023

The June 29, 2023, Seattle Ethics and Elections Commission (SEEC) Special meeting convened in Seattle Municipal Tower Conference Room 1600 and remotely. Commissioners David Perez, Chalia Stallings-Ala'ilima, and Susan Taylor were present with Chair Zach Pekelis, Vice Chair Kristin Hawes, and Commissioner Richard Shordt participating via Webex. (Note: Commissioner Shordt left the meeting right before 5:00 p.m.) Commissioner Hardeep Singh Rekhi was absent. Executive Director Wayne Barnett was present with staff Cliff Duggan, Randal Fu, Polly Grow, and René LeBeau; and Assistant City Attorneys Gary Smith and Joe Levan. Staff Fedden Amar, Chrissy Courtney, and Neelam Shah attended via Webex.

The Chair called the meeting to order at 4:07 p.m.

Final Action Items

1. Approval of June 7, 2023, Commission Regular Meeting minutes

The motion to approve the June 7 minutes was made by Commissioner Taylor and seconded by Commissioner Stallings-Ala'ilima. The Chair abstained from voting as he was not present at the meeting. The June 7, 2023, Commission Regular Meeting minutes were approved.

The Chair acknowledged and welcomed the new SEEC Commissioner David A. Perez. Mr. Perez was confirmed by the Seattle City Council on June 20 for a term expiring December 31, 2023. Mr. Perez is a lawyer with Perkins Coie and serves as the firmwide chair of the Business Litigation practice, and the co-chair of the Real Estate Litigation group.

2. Modification Request of Maritza Rivera

The Chair asked the Director to reintroduce the SEEC F-1 modification request from City Council District 4 candidate Maritza Rivera. The request was first put up in May after the Washington State Public Disclosure Commission (PDC) granted Ms. Rivera's PDC F-1 modification. At that time, the SEEC was unwilling to grant Ms. Rivera the same modification and requested additional information. A letter dated June 26, 2023, from Ms. Rivera's attorney has been provided to the Commissioners. Ms. Rivera's modification request is now back before the Commission.

Ms. Rivera participated via Webex. The Chair asked if there was anything else Ms. Rivera would like to say besides what had been discussed and the written correspondence from her counsel which is in the record. Ms. Rivera thanked the Chair and said that the letter from her attorney sums up the request. The Chair then opened the discussion to any Commissioners who might have additional views based on the new information that is in the record since the June 7 SEEC Commission Regular Meeting.

Commissioner Shordt reviewed Ms. Rivera's letter from her counsel. The Commissioner understands that Ms. Rivera articulated many of the reasons she may not want to report. The Commissioner asked if Ms. Rivera had contacted Sound View Strategies LLC ("Sound View") for the required reporting information. Ms. Rivera responded she had not. The Commissioner asked Ms. Rivera if her husband, Daniel Kully, had asked Sound View for the required reporting information. Ms. Rivera stated Mr. Kully had not.

Commissioner Shordt understood her position that Mr. Kully doesn't receive any compensation from Sound View at this time. Ms. Rivera said, as the letter from her attorney states,

she and her husband do not have any dealings with any of the Sound View clients. She said it would be asking Sound View about things that she and her husband do not have any direct interest or knowledge of. In addition, her husband does not collect any money from Sound View. So, the burden is that they do not do anything with Sound View, do not have any direct interest or knowledge, and do not know anything about their clients or how they conduct their business. That is the burden.

Commissioner Shordt appreciated the response but came back to the regulatory reporting requirement of a related person (in this case, spouse) who has an ownership stake. The Commissioner was not persuaded of this being a burden if there has been no request made of Sound View. The Commissioner noted it would have been more persuasive if the request had been made and a response from Sound View had been received.

Commissioner Shordt mentioned an analogy that if somebody else approached the Commission and said that they did not want to comply with this requirement because even though they had an ownership stake, they lost money because of the deal. So, there was no actual remuneration that the Commission might be setting some strange precedent that it would not want to do. The Commissioner appreciates all the time and the effort but is not particularly persuaded as Sound View has not informed Ms. Rivera they will not provide the information that she and her spouse are required to provide.

Ms. Rivera said she is not sure the analogy applies because if money was lost, it implies that you've been involved in the business and that you've done some work and lost money. In this case, Mr. Kully has not done any work with Sound View or worked with any of their clients. It is different, because he does not do any day to- day work with them on any other clients. So, to ask

Sound View to disclose things that Mr. Kully doesn't have any knowledge of or does any work with, or he doesn't make any money on any of the clients or any other work that they do is burdensome.

Commissioner Shordt had an additional question for Ms. Rivera. Is it accurate that the PDC granted this exemption but intends to revisit the modification should Ms. Rivera transition from candidate to elected official? The Commissioner asked Ms. Rivera if this was accurate. Ms. Rivera said that it was correct.

Commissioner Taylor said she was persuaded by the letter from Ms. Rivera's attorney when she thought about the purpose of the disclosure for being transparent and to avoid conflicts of interest. The Commissioner mentioned that the likelihood of a conflict of interest is when there *is* a financial interest. During this time period Mr. Kully seems to have had no interaction with Sound View. However, there is a question about what ownership means. Overall, the Commissioner was particularly persuaded when reviewing at Mr. Kully's disclosed list of customers from his own firm of Kully Maeder Muir/KMM Strategies. The Commissioner felt that this list would serve the Commission's means for transparency.

Vice Chair Hawes stated a difficulty in squaring the notion of ownership with the lack of disclosure or lack of involvement. The Vice Chair read the supplemental materials provided by Ms. Rivera's counsel but is still unclear on the actual burden. The Vice Chair expressed concern about the precedent which Commissioner Shordt mentioned that might be created by granting the exemption in this instance.

Ms. Rivera addressed the Commissioners by saying she wants to be clear that she and Mr. Kully want to disclose everything that's under their control. For this reason, she disclosed her

husband's entire client list, which is quite robust, because that is under his control, and how he makes his money. Ms. Rivera reiterated that her husband doesn't do anything through Sound View. The burden for Mr. Kully is to ask Sound View to disclose things when they don't have anything to do with Ms. Rivera, and Mr. Kully doesn't have anything to do with their clients. If Mr. Kully did, then they would be disclosing those.

Ms. Rivera noted it is not that they are trying to not disclose things they personally benefit from or have a connection to. It is a burden to ask other people that Ms. Rivera and Mr. Kully do not have dealings with to disclose things that they don't have any ties to.

Commissioner Stallings-Ala'ilima said that she is also unclear on the language and whether there is a hardship. To Commissioner Shordt's question of any inquiry of Sound View, she is hearing that it was not done. The Commissioner does not see how asking the question is a hardship; it would depend on what answer is received by Sound View. The Commissioner said that ownership to her means there would be a benefit connected to an asset sale.

Ms. Rivera responded that if there were a sale of Sound View, Mr. Kully would not benefit from it because he doesn't do anything with the company. He hasn't brought in any money so he wouldn't get paid out. It would not be fair or ethical for him to take a penny when he's not doing anything with the company. Ms. Rivera also pointed out that the PDC had the same question, so she very much appreciates all the Commission's questions. However, the PDC came out and said there is no reason for Ms. Rivera to disclose right now. Ms. Rivera is not currently on the City Council. She does not know if she will be successful in this race. If Ms. Rivera is successful, then at that point she would have another requirement to disclose, and the PDC would again take up the issue. Ms. Rivera is not clear on how the PDC's regulations are different from the City's. She said

if the SEEC Commission decides now not to move forward with the request, obviously she will come before the Commission again.

The Chair said the Commissioners' comments reflected a disconnect between the legal standard of manifestly unreasonable hardship that must be applied. It appeared to the Chair that most of the arguments and information provided by Ms. Rivera and her counsel did not really relate to the burden of compliance in these particular cases. The Chair said the Commission does have to look at the burden of a particular disclosure in light of the importance of that disclosure as it is implicit in the notion of the reasonableness. In this case, the Chair said the burden seems to be quite small. The Chair agrees with respect to the non-profits that Mr. Kully serves on with the value of disclosure probably quite *de minimis*. In the absence of any minor effort expended by the candidate and spouse, the Chair would not be inclined to grant the request.

The Chair offered the floor to Ms. Rivera for any comments. Ms. Rivera thanked the Chair. She said that this is about a conflict of interest. However, she doesn't have any dealings with any of these companies and in particular Sound View. Mr. Kully is not making any money. He doesn't have awareness of their clients. He's not involved with them. Ms. Rivera repeated that she does not actually know what interest is served for them to have to burden someone else with giving information that Ms. Rivera and Mr. Kully have nothing to do with and when Ms. Rivera is not sitting on the City Council. Ms. Rivera considers that is a pretty high burden. Ms. Rivera said again, she thought the PDC's standard would be the same as the SEEC's standard. The PDC came on the side of wait and see if Ms. Rivera is going to be on the City Council, and then it will be a different conversation.

Ms. Rivera thanked the Commission for listening. She has submitted documents from her lawyers. She mentioned that obviously they will be coming before the Commission again if she is a successful candidate. But right now, Ms. Rivera reiterated that she does not sit on the City Council and does not currently have a conflict of interest.

Hearing no further comments or questions, the Chair said the Commission was at a point to vote on the request. Commissioner Taylor made the motion to approve Ms. Rivera's request for a modification, allowing manifestly unreasonable hardship. There was no second for Commissioner Taylor's motion.

Commissioner Stallings-Ala'ilima moved to deny the modification request without prejudice. The Chair acknowledged that Commissioner Stallings-Ala'ilima had so moved and asked for a second. Commissioner Shordt seconded the motion. The Chair asked all in favor of denying the modification request without prejudice to raise their hand or say aye. The Chair, Vice Chair Hawes, and Commissioners Shordt and Stallings-Ala'ilima voted to deny the request. Commissioner Perez abstained.

The Chair informed Ms. Rivera of the Commission's recommendation to deny her request for modification without prejudice. The Chair explained that if Ms. Rivera has additional information or takes additional steps that would establish a manifestly unreasonable hardship along the lines described during the meeting, she may reapply to the SEEC for the same modification request during the current election cycle.

The Chair asked Ms. Rivera if she had any questions. Ms. Rivera sought clarification that she could provide additional information and reapply to the Commission. Ms. Rivera then asked if

she would have to disclose all the entities. The Chair answered in the affirmative. Ms. Rivera thanked the Commission and ended her call.

3. Modification Request of Victoria Palmer

The Director explained that this was a modification request by Victoria Palmer who is a candidate for City Council District No. 6. The Director believes that Ms. Palmer is a dependent of her mother as Ms. Palmer's mother provides most of her financial support. Under SMC 2.04.165.B.1, and SMC 4.16.030, a parent is considered part of the immediate family. However, under the PDC guidelines, a parent is not considered an immediate family member; therefore, there is no need to disclose at the PDC level. Consequently, there is no PDC action which the SEEC may refer to. This is the first time the Director is aware of someone as a candidate who was the dependent of another. The Chair handed the discussion over to Ms. Palmer.

Ms. Palmer explained the reporting modification concerns the Seattle business Schippers & Crew, Inc. ("Schippers"). Ms. Palmer worked for the company for 22 years but resigned in 2015. Ms. Palmer's mother is the CFO at Schippers and is a 50 percent co-owner. Ms. Palmer explained after she divorced, she moved in with her mother to restart her profession. Even though her mother has access to day-to-day operations, Ms. Palmer is not involved with the business at this point and is not paid by the business. Ms. Palmer stated that she asked Schippers if they would release data, and they declined. The business explained that it would be prohibitive if they were required to release their customer list.

The Chair asked the Director to clarify the manifestly unreasonable hardship standard. The Director stated "manifestly unreasonable hardship" language is in the City of Seattle Code of

Ethics under Statements of financial interest (SMC 4.16.080.D) providing the language the SEEC considers on requests.

The Chair said that the request presents somewhat novel legal questions of both state and municipal law. The Chair believed it would be appropriate for the Commissioners to receive advice and analysis from assigned legal counsel and called for an Executive Session. The Chair explained to Ms. Palmer that the Commission might act on her request after the Executive Session, but also that it may be held over until the next Commission meeting. It was suggested that the Director contact Ms. Palmer with the Commission's determination status. Ms. Palmer agreed to the arrangement.

Commissioner Taylor asked Ms. Palmer what her role at Schippers was at the time of her resignation in 2015. Ms. Palmer said she was in Human Resources as an Administrative Manager. Commissioner Stallings-Ala-ilima asked Ms. Palmer to describe the nature of the business. Ms. Palmer explained the business does electronics manufacturing for other customers; they work with designers of printed circuit boards to manufacture the product. Most customers are in the Greater Puget Sound region and are mid-sized manufacturers of products such as marine controls for loading equipment, controls for manufacturing equipment, and some test equipment.

The Chair noted that Ms. Palmer's mother had a 50 percent ownership stake in Schippers and Ms. Palmer confirmed that she herself did not have an ownership stake in the business. Vice Chair Hawes asked Ms. Palmer if she had been involved with the company since she left in 2015. Ms. Palmer replied she has not been involved with the company.

Commissioner Shordt asked Ms. Palmer why the business would not release information. Ms. Palmer explained the main reason is that the business felt it would be a competitive

disadvantage as they have acquired their customer base is by persistence and by scouting people out. She explained that if competitors had access to Schippers' customer list, they could then attempt to poach those customers for their own businesses. Ms. Palmer also noted that some of Schippers' clients have non-disclosure agreements regarding their relationship.

Ms. Palmer mentioned a previous appointment at 5:00 p.m. and asked if she could be notified of the Commission's deliberation at a later time. The Chair assured Ms. Palmer that the Commission would provide her with an email of their decision. Ms. Palmer thanked the Commission and ended her call.

NOTE: Due to a prior commitment, Commissioner Shordt left the Executive Session right before 5:00 p.m.

The Chair called the meeting back to order after the Executive Session ended at 5:23 p.m. The Chair said that the Commission had a discussion regarding the applicable statutory definitions both of "immediate family," the Ethics Code, and the terms on which the SEEC can grant a modification in situations where the PDC is not involved. The Chair requested a motion to either grant or deny Ms. Palmer's modification request.

The motion to grant Ms. Palmer's modification request was made by Commission Taylor and seconded by Commissioner Stallings-Ala'ilima. The Commissioners voted unanimously to approve Ms. Palmer's request.

Discussion Items

4. Executive Director's report

The Director said again how glad he was that Mr. Perez has joined the Commission. The Director also mentioned that Commissioner Rekhi would like to step down from the Commission as he is currently running six months past his term date. The Director asked for the Commissioners to share any ideas they have for a new Commissioner. The vacancy is a City Council appointee position.

The Chair thanked the Director for the report. There being no additional items of business, the Chair adjourned the June 29, 2023, SEEC Commission Special meeting at 5:28 p.m.