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7 **BEFORE THE SEATTLE ETHICS AND ELECTIONS COMMISSION**

8 In the Matter of) Case No. 09-2-1028-1
9)
10 Kenny Stuart,) AMENDED DECISION AND ORDER
11 Treasurer for Working for Seattle,) OF THE COMMISSION
12)
13 Respondent,)

14 **I. INTRODUCTION**

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16 The Executive Director filed charges in this matter on October 29, 2009. The Notice of Charges
17 alleged that (1) Respondent violated SMC 2.04.160 when he, as the only named officer of the committee,
18 failed to timely file with the City Clerk a statement of organization and (2) Respondent violated SMC
19 2.04.265 on four occasions when he, as the committee's treasurer, failed to timely report to the SEEC late
20 contributions in excess of \$1,000. The Seattle Ethics and Elections Commission (the "Commission") held
21 a special meeting on October 30, 2009 to conduct a hearing on the charges pursuant to SMC 2.04.075.¹

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23 **II. STIPULATED FACTS**

24 The parties stipulated to the following facts:

- 25
26 1. Respondent is the President of Seattle Firefighters Union Local 27. Local 27's
27 political action committee has made independent expenditures in the past in support of City
28 candidates, including City Council candidates Dwight Pelz, Jan Drago in 2005, and Tim Burgess
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¹ This matter was heard by Commissioners Carr, Iglitzin, Mahon, Radosevich, and Sherman; Commissioners Burney and Miller did not participate.

1 in 2007.

2 2. In each of those cases, Local 27 worked with Laurus Associates LLC, and in each
3 of those cases the independent expenditures were timely reported to the Seattle Ethics and
4 Elections Commission ("SEEC").

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6 3. Respondent is also the Chairman of Secure Seattle, which filed a C-1 with the
7 SEEC on August 5, 2009. Mike Sheridan of Laurus Associates LLC is Secure Seattle's treasurer.

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9 4. In September of this year, Bruce Boram of Laurus Associates LLC contacted
10 Heather Clarke of Tumwater, Washington, about doing compliance work for Working for Seattle.

11 5. Mr. Boram asked Ms. Clarke whether she had ever done compliance work for a
12 political action committee in Seattle, which Ms. Clark took to mean in King County. Ms. Clarke
13 responded that she was aware that state law required that a C-1 be filed with King County.

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15 6. On October 13, 2009, the State Public Disclosure Commission ("PDC") received
16 a filing from Working for Seattle. Exhibit A. Working for Seattle registered as a continuing
17 political committee, with respondent as its treasurer and Ms. Clarke listed as a person who
18 performs ministerial functions on the committee's behalf. No filing was made with the SEEC.

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20 7. On October 16, 2009, Working for Seattle filed three C-3's with the PDC,
21 reporting deposits totaling \$102,500 and a C-4. Exhibits B, C, D and E. No filings were made
22 with the SEEC.

23
24 8. On October 19, 2009 Working for Seattle filed another C-3 with the PDC,
25 reporting a \$5,000 deposit. Exhibit F. No filing was made with the SEEC.

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27 9. On Monday, October 26, 2009, after receiving an e-mail from Mr. Boram, Ms.
28 Clarke e-mailed the SEEC to inquire about how to file reports with the SEEC. Also on Monday,
29 October 26, 2009, *The Seattle Times* posted a story on-line about the existence of Working for
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1 Seattle. Exhibit G.

2 10. On Tuesday, October 27, 2009, Ms. Clarke filed all of the outstanding reports
3 with the SEEC.

4 III. POSITIONS OF THE PARTIES

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6 The Executive Director argued that the stipulated facts established that Respondent had
7 violated SMC 2.04.160 and SMC 2.04.265. The Executive Director further asserted that the
8 violations were extremely serious in light of the magnitude of the deposits (over \$100,000) that
9 were not timely reported and the timing of the deposits close to the election. The Executive
10 Director argued that Respondent's reports with the PDC and King County did not excuse the
11 failure to timely file with the Commission, because Seattle voters depend upon the Commission's
12 web site to obtain information about Seattle elections in a timely and user friendly format. The
13 Executive Director requested that the Commission impose total penalties of approximately
14 \$15,750.
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17 Respondent testified and argued that his failure to file timely reports with the
18 Commission was an unintentional oversight, which was corrected when brought to his attention.
19 Respondent noted that there was no intention to hide anything from the public and that reports
20 were, in fact, available to the public through timely filings with the PDC and King County.
21 Respondent indicated that he took responsibility for the failure. Respondent asked the
22 Commission to dismiss the alleged violations as being inadvertent.
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25 IV. CONCLUSIONS

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27 Having considered the Notice of Charges, the stipulated facts and exhibits filed with the
28 Commission, the oral testimony of Mr. Kenny Stuart, and the oral argument presented by the
29 parties at the hearing, the Commission concludes:
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1 1. Respondent violated SMC 2.04.160 when he, as the only named officer of
2 Working for Seattle, failed to timely file a statement of organization with the City Clerk.

3 2. Respondent violated SMC 2.04.265 on four occasions when he, as committee
4 treasurer, failed to timely report late contributions in excess of \$1,000 to the Commission.
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6 3. The Commission is the agency responsible for administering and enforcing the
7 Seattle Elections Code, Chapter 2.04 SMC. Respondent's filing of reports with the PDC and King
8 County did not satisfy the requirements of the Seattle Elections Code or excuse his failure to timely
9 file reports with the Commission.
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11 4. Respondent's failure to file the reports with the Commission occurred late in the
12 election cycle, after ballots were mailed to voters and after some voters had already voted.
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14 5. The amount of money (over \$100,000) that was not reported to the Commission in a
15 timely manner was very significant.

16 6. Respondent has a history of compliance with the Seattle Elections Code.

17 7. Respondent's violations, although serious, were unintentional.
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19 V. **ORDER**

20 Based on the conclusions above and pursuant to SMC § 2.04.500, IT IS HEREBY ORDERED:

21 1. Respondent shall pay a penalty of \$5,000.
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23 2. Fifty percent of the penalty (\$2,500) is due and payable within fourteen days of this
24 Amended Decision and Order or such later date as authorized by the Executive Director.

25 3. Payment of the remaining fifty percent of the penalty (\$2,500) is suspended for a
26 period of up to two years from the date of this Amended Decision and Order. If Respondent, Mr.
27 Stuart, commits a violation of the Seattle Elections Code within this two year period, the suspended
28 portion of the penalty will be payable immediately. If Respondent commits no violations of the
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1 Seattle Elections Code within this two year period, the suspended portion of the penalty is waived
2 and need not be paid.

3 DATED this 5th day of November, 2009.

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5 **SEATTLE ETHICS AND ELECTIONS**
6 **COMMISSION**

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10 Robert L. Mahon
11 Chair, Seattle Ethics and Elections Commission
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