

**CITY OF MADISON
ETHICS BOARD**

In re: Gregg McManners

Ethics Board Matter #44164

AFFIDAVIT OF KATHERINE M. HURTGEN

COUNTY OF DANE)
)
STATE OF WISCONSIN) ss.

Katherine M. Hurtgen, being duly sworn and deposed, states:

1. My name is Katherine M. Hurtgen, and I filed the above captioned Ethics Complaint against Gregg McManners.
2. All statements contained herein are true and correct and based upon my own personal knowledge.
3. I am the Associate Director of Monona Terrace, Finance and Operations and have been in this role since September 2011. I had previously worked in the role of Finance Director at Monona Terrace since 2007.
4. My supervisor at Monona Terrace is Executive Director, Gregg McManners.
5. In my role as Associate Director, I manage finance, quality improvement, information technology, human resources, budgeting, payroll, purchasing, and serve as a liaison to affirmative action and the department of civil rights. I serve as a senior manager on the Monona Terrace management team, along with McManners, and Associate Director of Monona Terrace, Marketing and Event Services, William Zeinemann.
6. I have never had a negative employment review nor have I been subjected to any disciplinary action.

7. Beginning in or around November 2014, I began to notice a pattern of violations with the Madison Ordinances, city policies, and even state law within Monona Terrace, and in particular by McManners. As I attempted to address the violations with McManners, he made continuous attempts to convince me not to follow stated rules and policies. I refused to oblige with McManners' practices of telling me to look the other way. In response to my conviction to follow City and Monona Terrace policies, City Ordinances, and state law, McManners treated me hostilely and created obstacles to my completion of my job duties.
8. On April 4, 2016, I contacted Jason Glozier in the City of Madison Civil Rights Department regarding my concerns that McManners was not following city ordinances and other state and federal laws. He mentioned the ethics complaint process.
9. I filed an ethics complaint detailing McManners' ethics violations on May 6, 2016.
10. The Ethics Complaint alleged that McManners violated the Ethics Code by breaching various city ordinances including Affirmative Action and Purchasing as well as state and federal laws relating to employment.
11. After I filed the ethics complaint, I noticed that I had limited abilities to search my emails. For example, prior to May 6, 2016, when I searched "McManners" I was able to access and print emails back to 2009. Beginning shortly after May 6, 2016, using the same search terms, I am only able to see as far back as 60 days from the current date. When I use other search terms, some emails that I used to have access to do not appear at all.
12. I am not aware of any other employees with such stringent email limitations.
13. Any emails attached to the documents produced with dates in 2014 and 2015 were accessed before May 6, 2016.
14. The first violation in the Ethics Complaint is that McManners failed to follow purchasing guidelines regarding the contracting of advertising firm Hiebing in that he allowed the contract without it being bid competitively.

Purchasing

15. Monona Terrace staff call my department the "business office" and it consists of Andrea Miller, Jeff Boyd and myself. Jeff Boyd and I are the liaisons to purchasing.
16. In general, if there is some issue with a Monona Terrace contract, the purchasing department will contact me or one of my subordinate managers to ask questions, to get

more information or to provide direction. Then, I will coordinate with whatever manager is responsible for the project at issue.

17. McManners, Zeinemann and I are the only individuals with the power to authorize a potential contract to be sent to purchasing for analysis and approval.
18. Often, one of Zeinemann's subordinate managers will send a contract document such as a sole source justification over to my employee, Jeff Boyd. Boyd will put the paperwork together and ask for my signature so that it can be sent over to purchasing for evaluation.
19. Before 2014, Zeinemann had not contacted me directly about contracting with Hiebing for services.
20. In or around March 2014, I first became aware that Hiebing did not have all the required contracting paperwork completed in MUNIS.
21. Zeinemann had Hiebing complete advertising work for Monona Terrace in 2014, but as of March 2014, had not put together a Purchase of Services (POS), or a Purchase Order (PO).
22. As of mid-March 2014, Hiebing had not been paid for work completed in January of 2014.
23. January 2014 invoices from Hiebing went unpaid until August. This is shown by the dates in Zeinemann's and Boyd's handwritten notes on the invoices (2014 Invoices attached hereto as **Exhibit 1**).
24. The invoices for Hiebing were all paid in August because it took until August of 2014 for Zeinemann to provide the required paperwork to receive authorization from the City Finance department to pay these invoices.
25. On March 10, 2014, I sent an email with subject line "SoleSourceForm.doc" to McManners and Zeinemann that stated "I think we should do this for Hiebing asap." I stated this because Zeinemann had told me he that he could not pay Hiebing invoices from January. Getting the paperwork in to purchasing to get a PO would allow Hiebing to be paid as invoices would be receipted off of the PO. With a PO in the system, the issuance of a check could be approved. (See Ex. 3 to McManners' pre-hearing brief).
26. The March 10, 2014 email I sent had the sole source justification attached to it which included a narrative in support. The narrative was drafted by Zeinemann.

27. Zeinemann sent an email to McManners and me on March 14, 2014 with the subject “Sole Source Justification for Hiebing” whereby he asked, “Would it be worth sending a draft over to Patti McDermott to get some feedback before we make the formal request and put her in a position where she needs to either accept the justification or reject it.” (Email attached hereto as **Exhibit 2**).
28. I was surprised to receive that email. No one has ever asked me to run something by purchasing without asking for “formal request.” I did not respond to the email because I felt this request was inappropriate.
29. In 2014, I generally trusted my colleagues to submit paperwork for contracts of which they had proper bases to submit. So, I signed the 2014 sole source document for Hiebing, assuming that McManners had properly analyzed whether a sole source was appropriate. Also, I knew that it was the role of Purchasing to determine whether it would properly be considered a sole source.
30. The sole source was approved by the common council for one year, and Hiebing was used for 2014 for advertising services for Monona Terrace.
31. In 2015, Zeinemann and McManners expressed interest in using Hiebing again for advertising services for Monona Terrace. Hiebing had been used every year since 1998.
32. On August 26, 2015, I received an email from Kathy Schwenn stating that she did not believe that Hiebing was chosen in a competitive manner (See Ex. 1 to Ethics Complaint).
33. I forwarded this email to Zeinemann and McManners and told them that we needed to “re-up” the sole source for Hiebing. (see Ex. 5 to McManners’ pre-hearing brief). I sent this email to Zeinemann and McManners to explain what needed to be done if they decided to continue using Hiebing, and informed them, that if they wanted to, they could request the contract to be put into place for 2-3 years. I had just completed a contract for 2-3 years with my Operations manager so I knew this was possible.
34. On September 1, 2015, I emailed Kathy Schwenn to tell her that I approved the requisition in my queue in MUNIS workflow, which releases it to her in purchasing for approval/analysis. I stated that I communicated to Zeinemann what paperwork was still required and that it would go nowhere without this paperwork. (See email dated September 1, 2015 attached hereto as **Exhibit 3**).
35. An hour or so after I sent that email, I spoke with Kathy Schwenn on the phone and told her that I did not want to be involved with Hiebing because I did not believe it qualified as a sole source.

36. Kathy Schwenn then sent me an email on that same day at 2:25pm indicating her understanding that I did not wish to be involved with Hiebing Contract.

Affirmative Action

Studio Gear

37. On March 6, 2015 I received an email from Lara Mainella, in the City Attorney's office stating that Studio Gear did not have an affirmative action plan, but will need one once they hit \$25,000. Mainella was reviewing Studio Gear's terms and conditions, so Monona Terrace could contract with Studio Gear.
38. Typically, Studio Gear was paid with a city P-Card. But, in or around March 2015, Studio Gear requested to be paid by a check. Studio Gear received 2 payments for services provided in 2015 totaling over \$25,000. I verified this in MUNIS. (See Ethics Compl. Ex. 8)
39. In order for a subsequent check to be approved through MUNIS, an affirmative action plan, is required to be in place after a vendor has been paid \$25,000.
40. Paying with a city P-Card is different because the request does not have to go through MUNIS workflow.
41. I looked up the account in MUNIS and noticed that by April 9, 2015, Studio Gear had already billed \$25,760. (See Ethics Compl. Ex. 8).
42. I brought this to McManners' attention, and he and I attempted to get Studio Gear to submit an Affirmative Action plan. McManners and I had a conference call with the owner of Studio Gear and I set up a subsequent call with Norm Davis, Lara Mainella, and myself to attempt to reassure the owner that the Affirmative Action plan process was not punitive to vendors. The owner still refused to submit an Affirmative Action plan. I reported this back to McManners.
43. Knowing the refusal by Studio Gear, McManners told me to just pay Studio Gear with the P-card. I refused as this was a way around the Affirmative Action rules and I did not agree.
44. This was not the only time that McManners turned his back to an Affirmative Action Ordinance.

Tai Ping

45. On August 12, 2015, I received an email from Dana Hanaman in the City's Department of Civil Rights Office, that indicated that Tai Ping Carpets never submitted an

Affirmative Action Plan despite being paid \$579,600 in 2013 off of one invoice and without a contract for carpet.

46. Tai Ping Carpets objected to the Affirmative Action Plan when responding to the bid request. Tai Ping was not required to submit an Affirmative Action Plan.
47. McManners was involved in the carpeting purchase from the beginning with Jeff Griffith, Monona Terrace Maintenance Supervisor. He attended many meetings on this purchase.

Monona Terrace Friends Group

48. Part of my “Other duties as assigned” involves holding the checkbook for the remaining Monona Terrace Friends Group now called Monona Terrace Community Programs Inc. I also receive the bank statements for this 501(c)3 that donates to Monona Terrace.
49. I have expressed concern to McManners that receiving both the bank statements and holding the checkbook is against basic internal accounting controls. As the organization’s officers and structure was to change in 2014 or 2015, I requested that this practice change due to the risk to the City. I am worried about another Roloff type embezzlement as happened in 2006 when a Monona Terrace manager embezzled over \$85,000 from the same Friends group by holding the organization’s checkbook onsite. This opportunity stemmed from poor internal controls.
50. My objection has never been to the duties of this assignment, rather it was to the risk to the City of this arrangement. The current structure risks the misuse of funds just like 2006 did when Roloff embezzled.
51. In 2007, the Office of the Comptroller reviewed Monona Terrace procedures and determined that “The Friends of Monona Terrace should take control of its funds, including possession of the checkbook. The City and its employees should not undertake responsibility for the disbursement, receipt or accounting for the Friends funds.” (See Ex. F to Hurtgen’s prehearing brief).
52. I sent an email to the City attorney’s office (Lara Mainella and Steve Brist) on September 3, 2015 expressing my concern about the accounting practices of the Friends Group Funds. (see Ex. 9 to the Ethics Complaint).
53. I never heard a response from the City Attorney’s office.

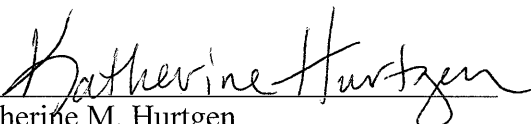
Time Cards

54. In or around late October 2014, McManners assigned me to be responsible for reviewing and approving time cards for the Maintenance and Audio Visual departments staff at Monona Terrace. The previous person in charge was Jeff Griffith, and he retired.
55. In or around early November 2014, I began to notice issues with the time cards, in particular with time cards for maintenance employees.
56. I noticed that overtime hours were not properly recorded, and that every time specific employees completed any painting, despite painting being a required portion of that employee's job, the employee received 2 hours of overtime pay. This appeared to be the case even where the employee had not worked more than forty hours during the workweek.
57. In one instance, an employee misrepresented on his time card that he completed snow removal. He was paid overtime for snow removal despite not actually completing snow removal.
58. As another example, a manager deleted overtime from an employee's automated timecard used to track hours worked. He then approved the deletions and submitted the record for payroll. This caused the employee to get paid less than the hours worked.
59. I brought these issues to McManners' attention in or around November 2014, and he told me that it was too early to make any changes and that I should keep doing it the way Griffith had done it.
60. McManners' instructions to me to approve time cards and subsequent payroll confirmations with my initials on them stating I agreed this was accurate information made me uncomfortable,
61. I spoke with Greg Liefer from Labor Relations and he advised me that in order to discipline employees, they would need to sign the Monona Terrace timecard policy. All staff using the timekeeping system were required to sign this policy in 2012. Upon checking records, Maintenance staff did not sign the policy in 2012 or after. Mr Liefer told me I needed that document signed to discipline staff in the future.
62. I sent an email on December 22, 2014 stating that it would be a good idea to get all of the maintenance employees to sign the time card policy. McManners responded in that email that my request should have waited until January. (See December 22, 2014 email attached hereto as Exhibit 4).

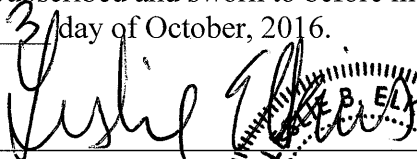
63. The maintenance employees have yet to sign the timecard policy. The signed timecard policies are routinely kept in each employee's confidential Human Resources file at Monona Terrace. There are no signed timecard policies in any of the maintenance employees' files.

Complaint

64. On August 25, 2016, I filed an employment discrimination action against the City of Madison based on negative treatment I have received as a result of filing the ethics complaint.


Katherine M. Hurtgen

Subscribed and sworn to before me this
3 day of October, 2016.


Notary Public, State of Wisconsin
My Commission is permanent.

