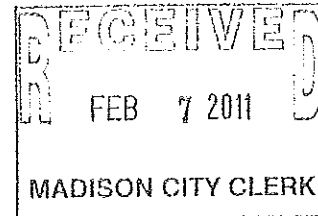


33 East Main Street
Suite 500
Madison, WI 53703-3095
Mailing Address:
P.O. Box 2038
Madison, WI 53701-2038
Phone:
608.257.7181
Fax:
608.257.2508
www.murphydesmond.com

Marinus (Rick) J.W. Petri
Direct Line 608.268.5574
Facsimile 608.257.4333
rpetri@murphydesmond.com



4 February 2011

HAND DELIVERED

City Clerk
City of Madison
City-County Building
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703

Re: Ethics Board Complaint
Davin Pickell v. Tom Carto

Dear Clerk:

Enclosed for filing and distribution to the Ethics Board please find the enclosed Additional Information Regarding Previously Submitted Motion for Reconsideration.

Sincerely,

A handwritten signature in cursive script that reads "Rick Petri" followed by a flourish.

Rick Petri

RP:srp
25471.108089
City Clerk lt2
Enclosure

cc: Davin Pickell VIA U.S. MAIL
Thomas Carto VIA EMAIL tcarto@cityofmadison.com
Steven C. Brist VIA EMAIL sbrist@cityofmadison.com
Attorney James D. Sweet VIA EMAIL
Attorney Catherine J. Furay VIA EMAIL

4832-8911-1048, v. 1

CITY OF MADISON ETHICS BOARD

In the Matter of the
Complaint of
Davin Pickell against
Tom Carto.

Motion for Reconsideration

TO: DAVIN PICKELL

**ADDITIONAL INFORMATION REGARDING PREVIOUSLY
SUBMITTED MOTION FOR RECONSIDERATION**

On December 27, 2010, on behalf of Mr. Carto, we filed a Motion for Reconsideration regarding your earlier decision that you had subject matter jurisdiction over the Davin Pickell Complaint filed against Mr. Carto.

We would like to make one correction to the material submitted at that time. On page 3, first paragraph, it is asserted that the computer in question was owned by 201 Foundation. In fact, we were subsequently informed by Mr. Carto that the computer in question was owned by MCAD. Consequently, we request that you take this additional information into consideration.

We think this rebuts the assertion in the Pickell Complaint regarding the use of a City computer and further assert that the attached letterhead from the Motion for Reconsideration shows on its face that it was not a City of Madison letterhead. Mr. Pickell also uses the term "City computer network" as another nexus underpinning his allegations. While it is somewhat ambiguous to assert the term computer network, as a result of the Complaint, we engaged in follow-up correspondence with Rich Beadles, the City of Madison's technical services manager in the City's IT Department. Enclosed please find an email that he sent to

me dated February 2, 2011, regarding the City of Madison's network. That email makes it clear that the computer allegedly used was not City owned and that it was not attached to any City network resources and that because Deirdre Garton was not a City employee, she had no direct access to the City's network.

To the extent that there are any remaining questions relating to the allegations in the Complaint which might implicate the Ethics Code, we believe that this last material completely forecloses any suggestion of a violation.

Respectfully submitted this 4th day of February, 2011.

MURPHY DESMOND S.C.
Attorneys for Respondent

By: *Rick Petri / ppj*
Marinus (Rick) J.W. Petri
State Bar Number: 1012373
33 East Main Street, Suite 500
P.O. Box 2038
Madison, WI 53701-2038
(608) 257-7181

Rick J.W. Petri

From: Beadles, Rich [R.Beadles@cityofmadison.com]
Sent: Wednesday, February 02, 2011 3:25 PM
To: Rick J.W. Petri
Subject: Carto Ethics Complaint

Dear Mr. Petri,

This message is in response to your inquiry regarding an email sent by Deirdre Garton to 9295 Pacmail recipients, allegedly from the City of Madison network. The City of Madison's network is a private network, as is its email system. This means that in order to access the city's network, you must physically connect your computer to a city-owned network jack, located in a city-owned office, and then enter credentials (login name and password) to gain access to network resources, including the city's private email system. Only authorized city employees are provided network credentials and the process of adding new network accounts is closely audited by our IT Network Administration Team and departmental network security contacts. Our Network Communications Team has tools that monitor the network to ensure that only city-owned devices are attached to the network, which includes computers. The city's private network is secured with multiple firewalls, which restricts incoming Internet traffic to ensure that only authorized traffic is allowed to pass through into our private network. We have security audits performed on our network annually to ensure that our security measures are effective and no holes exist in our network's perimeter or inside the private network. In 10 years of security assessments, none of the security auditors have been able to penetrate our network security defenses. This leads me to confidently contend that no unauthorized person was able to send an email message from inside the city's private network using our private email system.

The city does provide wireless unfettered INTERNET ONLY access to citizens, vendors, and customers of the City of Madison. This wireless network is provided in most major city-owned facilities, including the Madison Municipal Building, the City/County Building and the Overture Center. The city uses IP addresses on this wireless network that are licensed/registered to the City of Madison. This means that if citizens associate themselves with the free city-owned wireless network, their PC or wireless device would be assigned an IP address that is licensed to the City of Madison. This does NOT mean that they would have access to the city's private network. The wireless network user could use this wireless network to access private email accounts, such as Gmail, Yahoo! and any other commercial email provider. The messages sent from the wireless network would have a city-owned IP address associated with them, but not come from the city's private email system.

In summary, the computer that the Deirdre Garton email came from was not a city-owned PC, it was a computer owned by 201 State Street Foundation and therefore could not have been attached to any city network resources other than the public wireless network. Based on this information, the Deirdre Garton email could not have come from a computer on the city's private network, nor could it have come from the city's private email system.

Please let me know if you have questions regarding this message or need further clarification regarding the city's private network or private email system.

Rich Beadles
Technical Services Manager
City of Madison
608.261.9649
rbeadles@cityofmadison.com



Please consider the environment before printing this e-mail. Thank you!