

COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION

SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 13-0005

IN THE MATTER
OF
ELIZABETH GORSKI
ORDER TO SHOW CAUSE

1. The State Ethics Commission ("Commission") is authorized by G.L. c. 268B to enforce G.L. c. 268A, the state conflict of interest law, and in that regard, to initiate and conduct adjudicatory proceedings.
2. On November 20, 2012, the Commission (a) found reasonable cause to believe that Elizabeth Gorski ("Gorski") repeatedly violated G.L. c. 268A, §§ 17(c), 19, 23(b)(2)(ii) and 23(b)(3) and (b) authorized the initiation of adjudicatory proceedings.

FACTS

3. Gorski has been a member of the three-member Town of Groveland ("Town") Board of Selectmen ("BOS") since 2000. Gorski was re-elected to another three-year term in May 2012.
4. The BOS is the appointing authority for the police chief, the deputy chief, and the officers serving in the Groveland Police Department ("GPD").
5. Gorski is the mother of a GPD police officer ("Gorski's son"). Gorski's son has been a GPD police officer since 1997.

6. In July 2008, the BOS appointed Robert Kirmelewicz ("Chief Kirmelewicz" or "Chief") as the GPD chief and Jeffrey Gillen as the GPD deputy chief ("Deputy Chief Gillen" or "Deputy Chief").

7. On November 7, 2011, Chief Kirmelewicz placed Gorski's son on paid administrative leave.

8. By letter dated November 7, 2011, and delivered to the BOS at its November 7, 2011 meeting, Chief Kirmelewicz, without specifically naming Gorski's son, notified the BOS that he had put "one of the full-time police officers" of the GPD on paid administrative leave. In the letter, the Chief noted that he had been "advised by legal counsel to put the Groveland Board of Selectmen on notice that this officer could have influence on a board of selectmen member(s) [sic]." The BOS members understood that Gorski's son was the officer that the Chief had put on administrative leave.

9. By being placed on paid administrative leave, Gorski's son was no longer eligible to earn overtime pay or to work paid private details.

10. Following the November 7, 2011 BOS meeting, Gorski telephoned Deputy Chief Gillen. Gorski expressed her displeasure regarding the Chief putting her son on administrative leave, asked several questions about her son's situation and indicated that she wanted Deputy Chief Gillen to fix it.

11. Following the November 7, 2011 phone call, Gorski called Deputy Chief Gillen at least three more times and talked to him about her son's situation.

12. On Saturday, December 3, 2011, Gorski went to GPD headquarters and again spoke with Deputy Chief Gillen concerning her son. (Chief Kirmelewicz was not

on duty that day.) At one point in the conversation, Gorski asked Deputy Chief Gillen, "Aren't your [Deputy Chief Gillen's and Chief Kirmelewicz's] contract renewals coming up this year?"

13. In January 2012, Chief Kirmelewicz took Gorski's son off of paid administrative leave and instead put him on sick leave. As a result, Gorski's son was required to use accrued sick leave in order to be paid.

14. In January 2012, Gorski approached Deputy Chief Gillen in a Georgetown restaurant. Gorski again expressed her displeasure over her son's situation and indicated that she wanted Deputy Chief Gillen and Chief Kirmelewicz to rectify the situation. Gorski again mentioned that Deputy Chief Gillen's contract was up for renewal.

15. In February 2012, Gorski approached a GPD detective who was working a traffic detail. The GPD detective was president of the GPD union at the time. Gorski asked the detective whether he and the union were doing everything they could regarding her son's situation.

16. Gorski told the other two BOS members on more than one occasion that she was "upset" about Gorski's son being put on administrative leave.

17. On March 14, 2012, the BOS (initially without Gorski) held an executive session with Chief Kirmelewicz to discuss his contract. During the course of the discussion, the selectmen called Gorski at home and invited her to join the meeting. When Gorski arrived at the meeting she expressed her negative feelings to Chief Kirmelewicz about the decisions he had made regarding her son. The Chief, in turn, told Gorski his concerns about her son. Chief Kirmelewicz asked Gorski, "Why do you want

to take my job away?" In response, Gorski told the Chief, "Why are you ruining [Gorski's son's] name and his reputation and his livelihood?" The meeting was adjourned without further action.

18. On April 27, 2012, Chief Kirmelewicz signed a three-year contract extension with the two other BOS members; Gorski did not participate in approving that contract extension.

19. On July 13, 2012, Chief Kirmelewicz allowed Gorski's son to return to full, active duty.

LAW

20. As a BOS member, Gorski is a municipal employee as defined by G.L. c. 268A, § 1.

Section 23(b)(2)(ii)

21. Section 23(b)(2)(ii) of G.L. c. 268A prohibits a municipal employee from, knowingly, or with reason to know, using or attempting to use her official position to secure for herself or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals.

22. Gorski used her position as a BOS member in an attempt to get her son back on active duty on the police force. She did so by doing the following:

- Making multiple telephone calls to the Deputy Chief during which she talked with him regarding her son's situation.
- Talking with the Deputy Chief at the police station about her son's situation, during which conversation Gorski pointed out to the Deputy Chief that his (the

Deputy's) and the Chief's contract renewals were coming up before the BOS that year.

- Talking with the Deputy Chief at a local restaurant about her son's situation and again mentioning that the Deputy's contract was up for renewal.
- Approaching a GPD detective who was working a detail and asking him if the union was doing everything it could regarding her son's situation.
- On more than one occasion, telling the other two BOS members she was upset about her son being put on administrative leave.
- Participating extensively in the March 14, 2012 BOS executive session meeting concerning the Chief's job contract negotiations. In that session, Gorski discussed her son's situation and asked the Chief, "Why are you ruining [Gorski's son's] name and his reputation and his livelihood?"

23. Being restored to active duty would be a benefit, and, therefore, a privilege.

24. That privilege would be unwarranted because Gorski attempted to secure it by leveraging or exploiting her power as a selectman.

25. The privilege was of substantial value because a GPD officer is a compensated position. In addition, while on paid administrative leave, Gorski's son was no longer eligible to earn overtime pay or to work private details. Furthermore, beginning in January 2012, Gorski's son was required to use accrued sick time to cover his administrative leave.

26. This privilege was not properly available to similarly situated individuals (i.e., other town employees).

27. Therefore, by, in the manner described above, using her official position as a BOS member in an attempt to get her son back on active duty on the police force,

Gorski knowingly or with reason to know on multiple occasions used her official position to attempt to obtain for her son an unwarranted privilege of substantial value not properly available to other similarly situated individuals, thereby repeatedly violating § 23(b)(2)(ii).

Section 17(c)

28. Section 17(c) of G.L. c. 268A prohibits a municipal employee, otherwise than in the proper discharge of official duties, from acting as agent for anyone other than the municipality in connection with a particular matter in which the municipality is a party or has a direct and substantial interest.

29. The decision whether to restore Gorski's son to active duty on the police department was a particular matter.

30. The Town was a party to and/or had a direct and substantial interest in that particular matter.

31. By her actions as described above in advocating to town employees, including police department personnel and/or her selectmen colleagues, to restore her son to active duty while serving as a selectman, Gorski, otherwise than in the proper discharge of official duties, acted as an agent for someone other than the Town in connection with a particular matter in which the Town was a party and/or had a direct and substantial interest. By doing so, Gorski repeatedly violated § 17(c).

Section 19

32. Section 19, in relevant part, prohibits a municipal employee from

participating as such an employee in a particular matter in which to her knowledge, her immediate family has a financial interest.

33. The decision whether to restore Gorski's son to active duty on the police department was a particular matter.

34. Gorski's son had a financial interest in that decision because his police department position was a salaried position and while on paid administrative leave, Gorski's son was no longer eligible to earn overtime pay or to work private details. Furthermore, beginning in January 2012, Gorski's son was required to use accrued sick time to cover his administrative leave.

35. By taking actions as described above, Gorski participated in her capacity as a BOS member in the decisions involving her son's personnel matter.

36. Gorski's son was a member of Gorski's immediate family.

37. Therefore, based on the foregoing, Gorski repeatedly violated § 19.

Section 23(b)(3)

38. Section 23(b)(3) prohibits a municipal employee from knowingly, or with reason to know, acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy her favor in the performance of her official duties, or that she is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person.

39. By acting officially as a BOS member in (1) the ongoing controversy as to whether her son should return to active duty as a GPD police officer and (2) in the

contract negotiations regarding the police chief while her son had a pending personnel action before the chief, Gorski knowingly or with reason to know acted in a manner that would cause a reasonable person knowing all of the facts to conclude that her son can improperly influence or unduly enjoy Gorski's favor in the performance of her official duties or that Gorski is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. Therefore, Gorski repeatedly violated § 23(b)(3).

WHEREFORE, Petitioner asks that the Commission:

1. find that Elizabeth Gorski repeatedly violated G.L. c. 268A, §§ 23(b)(2)(ii), 17(c), 19, and 23(b)(3) as described above; and
2. levy such fines, issue such orders and grant such other relief as may be appropriate.

Respectfully Submitted,

Petitioner State Ethics Commission
By its attorney,



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