

COMMONWEALTH OF MASSACHUSETTS  
STATE ETHICS COMMISSION 2013 OCT 28 AM 11:02

SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 13-0010

IN THE MATTER

OF

STEPHEN HYDE, SR.

**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 June 28, 2013, the Commission (1) found reasonable cause to believe that Stephen Hyde, Sr. violated G.L. c. 268A, § 23(b)(2)(ii) and § 23(b)(4), and (2) authorized the initiation of adjudicatory proceedings.

**FACTS**

3. During all times relevant, Stephen Hyde, Sr., a resident of the Town of Southampton (the "Town"), was chief of the Town's call fire department ("SFD"). A call fire department consists of firefighters who respond when there is a need and are paid per call, as opposed to working shifts and receiving a salary. As SFD chief, Hyde was a municipal employee as that term is defined in G.L. c. 268A, § 1.

4. To receive compensation, SFD firefighters complete call sheets for daytime station duty and for ambulance and fire calls.

5. For daytime station duty, each firefighter completes a separate call sheet by checking his/her name. For ambulance and fire calls, one of the responding firefighters completes a single call sheet by checking the names of all firefighters who responded to the call.

6. Hyde's duties as fire chief included calculating and signing the SFD's payroll based on the call sheets.

7. In his capacity as fire chief, Hyde regularly presented bi-weekly SFD payrolls to the Town for payment.

### **Falsifying Call Sheets**

#### **FACTS**

8. In June 2007, the Southampton Board of Selectmen appointed Hyde's son as a firefighter.

9. Hyde's son earned \$15.37 per hour for fire and ambulance calls and \$18.37 per hour for daytime station duty.

10. On nine occasions between April and August of 2011, Hyde checked his son's name on call sheets for fire and ambulance calls to which his son did not respond. As a result, Hyde's son was paid approximately \$225.

11. On 37 separate dates between January and November 2011, Hyde checked his son's name on call sheets for daytime station duty his son did not perform.

12. Of the 37 daytime station duty call sheets checked by Hyde, 18 call sheets were each for 10 hours of station duty, 18 call sheets were each for nine hours of station duty, and one call sheet was for four hours of station duty. The total number of hours Hyde credited his son for daytime station duty his son did not perform was 346 hours.

13. As a result, Hyde's son was paid approximately \$6,356 for daytime station duty he did not perform.

14. Between January and November 2011, Hyde presented payrolls to the Town for payment, 17 of which included requests for payment of \$50 or more for work his son did not perform.

#### LAW

##### Section 23(b)(2)(ii)

15. General Laws chapter 268A, § 23(b)(2)(ii) prohibits a municipal employee from knowingly, or with reason to know, using or attempting to use his official position to secure for himself or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals.

16. The 46 instances that Hyde checked his son's name on fire, ambulance and daytime station duty call sheets were privileges because they enabled Hyde's son to receive payments.

17. The privileges were unwarranted because Hyde's son did not perform the work for which he was credited and paid.

18. These privileges were of substantial value because Hyde's son was paid \$50 or more on each of the 37 occasions Hyde checked his son's name on the daytime station duty call sheets.

19. Hyde's son was paid \$50 or more in the aggregate as a result of the nine occasions Hyde checked his son's name on fire and ambulance call sheets.

20. These privileges were not properly available to similarly situated individuals because SFD firefighters are not entitled to receive pay for work they have not performed.

21. By, in his capacity as fire chief, repeatedly crediting his son for work his son did not perform, Hyde used his official position to secure these unwarranted privileges for his son.

22. Thus, by using his official position as fire chief to credit his son for work his son did not perform, Hyde knowingly, or with reason to know, used his fire chief position to secure for his son unwarranted privileges of substantial value not properly available to similarly situated individuals, thereby violating § 23(b)(2)(ii).

Section 23(b)(4)

23. Section 23(b)(4) of G.L. c. 268A prohibits a municipal employee from, knowingly, or with reason to know, presenting a false or fraudulent claim to his employer for any payment or benefit of substantial value.

24. Hyde's employer was the Town.

25. Each of the 17 payrolls, which Hyde presented to the Town for payment, was a claim presented to his employer.

26. Each of the 17 payrolls Hyde presented to the Town for payment was a false claim in that each payroll included payment for work Hyde knew his son had not performed.

27. Each false payroll was of substantial value because it included a request for payment of \$50 or more for work that Hyde's son had not performed.

28. Thus, by, in his capacity as fire chief, submitting 17 false payrolls to the Town, each of which was a claim for payment of \$50 or more for work Hyde knew his son had not performed, Hyde violated § 23(b)(4) by presenting false or fraudulent claims to his employer for payments or benefits of substantial value.

### **Using the Fire Department's Generator**

#### **FACTS**

29. In or about late 2009 - early 2010, Hyde took home the SFD's new generator and used it to power his home and SFD equipment he had at his home.

30. Hyde did not have authorization to use the SFD generator at his home for any purpose.

31. The new generator was worth at least \$2,000 and Hyde did not pay anything for the generator or its use.

32. Hyde did not return the generator until July 2012, when his contract as fire chief expired.

#### **LAW**

##### **Section 23(b)(2)(ii)**

33. Hyde's possession and use of the SFD's generator was a privilege.

34. The privilege was unwarranted because it involved the unauthorized use of a public resource for a private purpose.

35. This privilege was of substantial value because the generator cost at least \$2,000 to purchase and well over \$50 to rent for the more than two years Hyde had the generator at his home.

36. By using the SFD generator for a private purpose, Hyde used his official position as the fire chief to secure this unwarranted privilege for himself.

37. This privilege was not properly available to similarly situated individuals because other Town employees were not entitled to take home town-owned generators for their private use without authorization.

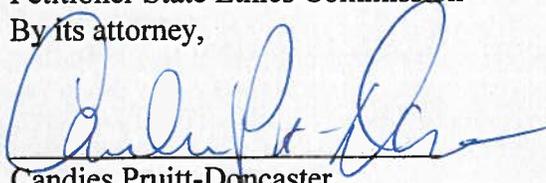
38. Thus, by using his official position as fire chief to take the SFD's \$2,000 generator home for his private use, Hyde knowingly, or with reason to know, used his official position to secure unwarranted privileges of substantial value not properly available to similarly situated individuals, thereby violating § 23(b)(2)(ii).

WHEREFORE, Petitioner asks that the Commission:

1. find that Stephen Hyde, Sr. violated G.L. c. 268A, §§ 23(b)(2)(ii) and 23(b)(4) 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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