

COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 14-0007

IN THE MATTER

OF

ROBERT MURPHY

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 February 20, 2014, the Commission (a) found reasonable cause to believe that Robert Murphy (“Murphy”) violated G.L. c. 268A, §§ 17(a) and 23(b)(3), and (b) authorized the initiation of adjudicatory proceedings.

FACTS

3. During the relevant period, Murphy, a resident of South Easton, worked as a consultant to the Town of Canton Conservation Commission (“ConCom”). As such, Murphy was a municipal employee as that term is defined in G.L. c. 268A, § 1.

4. The ConCom is responsible for issuing Orders of Conditions (“permits”) to fill, dredge, build upon, or alter property near wetlands.

5. In 2010 through 2012, Murphy’s duties as ConCom consultant included receiving all permit applications and plans submitted to the ConCom and reviewing them for completeness.

6. During the same period, Murphy was also President of M & M Engineering, Inc. ("M&M"), which performed surveying and engineering work.

7. Between 2010 and 2012, M&M prepared eight permit applications and plans for private projects, and filed them with the ConCom for approval. M&M also presented the projects to the ConCom at public hearings.

8. As M&M President, Murphy prepared the eight permit applications, assisted M&M contractors in drafting the plans, and hired contractors to present proposals for the private projects to the ConCom.

9. As M&M President, Murphy received compensation for each private project. Murphy received at least \$2,400 for his work on the eight projects.

10. Murphy's official duties as a ConCom consultant did not authorize him to receive compensation from private parties to prepare permit applications and draft plans for submission to the ConCom.

11. Murphy, in his capacity as a ConCom consultant, reviewed the eight permit applications and plans for completeness prior to their presentation to the ConCom.

12. Murphy failed to disclose his relationship with M&M to his appointing authority.

LAW

Section 17(a)

13. General Laws chapter 268A, § 17(a) prohibits a municipal employee from, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receiving compensation from anyone other than the municipality in relation to a

particular matter in which the municipality is a party or has a direct and substantial interest.

14. Each of the eight private applications and plans prepared by M&M and submitted to the ConCom was a particular matter.

15. The Town of Canton was a party to and had a direct and substantial interest in those particular matters because the ConCom was its permit-granting authority.

16. Murphy received at least \$2,400 from private parties for the work he performed as President and owner of M&M in relation to each of the eight permit applications and plans submitted to the ConCom.

17. The compensation Murphy received for the eight permit applications and plans was not as provided by law for the proper discharge of Murphy's ConCom consultant duties.

18. Therefore, Murphy received compensation in relation to a particular matter in which the town had a direct and substantial interest, which was not as provided by law for the proper discharge of Murphy's ConCom consultant duties and, by doing so, repeatedly violated § 17(a).

Section 23(b)(3)

19. Section 23(b)(3) of G.L. c. 268A 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 his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue

influence of any party or person. The section further provides that it shall be unreasonable to so conclude if such employee has disclosed in writing to his appointing authority the facts, which would otherwise lead to such a conclusion.

20. By reviewing plans and applications prepared by M&M as ConCom consultant, while Murphy was simultaneously serving as M&M's President, Murphy knowingly, or with reason to know, acted in a manner, which would cause a reasonable person, having knowledge of all the relevant circumstances, to conclude that M&M could unduly enjoy Murphy's favor in the performance of his official duties. Murphy did not file a written disclosure with his appointing authority to dispel this appearance of impropriety. Therefore, Murphy repeatedly violated G.L. c. 268A, § 23(b)(3).

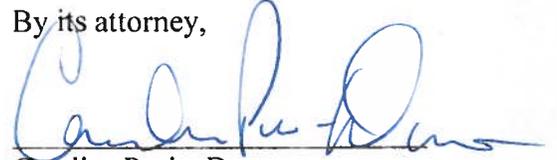
WHEREFORE, Petitioner asks that the Commission:

1. find that Murphy violated G.L. c. 268A, §§ 17(a) 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,



Candies Pruitt-Doncaster

Staff Counsel

Enforcement Division

State Ethics Commission

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Dated: July 17, 2014