

COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION

SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. *11-0015*

IN THE MATTER

OF

CHARLES FAMOLARE, III

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 March 18, 2011, the Commission (a) found reasonable cause to believe that Charles Famolare, III ("Famolare") violated G.L. c. 268A, § 23(b)(2) by using his official position as Town of Winthrop Harbormaster to obtain (1) free goods and services for himself or Gary Ward from Boston Towing and Transportation ("Boston Towing") and/or Boston Forging and Welding ("Boston Welding") in the form of finger piers and the installation thereof, and (2) the free removal of barnacles and mussels from his jet ski float, and (b) authorized the initiation of adjudicatory proceedings.

BACKGROUND FACTS

3. During all times relevant, Famolare was the Winthrop Harbormaster ("Harbormaster"). As such, he was a municipal employee as that term is defined in G.L. c. 268A, § 1(g).

4. As Harbormaster, Famolare's authority included enforcement of

G.L. c. 90B's provisions governing vessels, as well as controlling traffic, directing and inspecting vessels, and supervising mooring areas in Winthrop Harbor.

5. As part of its business, Boston Towing performed marine construction in and about Winthrop Harbor, which required the transport of materials and equipment in the harbor. As Harbormaster, Famolare had authority over these activities.

6. In or about October 2006, Boston Towing entered into a \$2 million construction contract with the Town of Winthrop to build a pier ("Project").

7. Famolare's role in the Project as Harbormaster included, from November 2006 to at least September 2007, acting in advisory and oversight capacities and acting as the liaison between the Town of Winthrop and the project engineer and/or Boston Towing regarding construction of the pier. Accordingly, Famolare had a significant role as Harbormaster regarding the work that Boston Towing performed on the Project.

Finger Piers

FACTS

8. The Petitioner repeats and realleges paragraphs 3-7 as though specifically restated herein.

9. In 2007, Famolare and Gary Ward were friends.

10. In or about 2007, Famolare and Gary Ward shared a boat.

11. The boat was moored at Famolare's private dock.

12. In or about July 2007, Boston Towing employees, along with the owner of Boston Forging and Welding, attached two finger piers provided by Boston Towing to

Famolare's private dock.

13. Famolare did not have a private relationship with Boston Towing or its employees, who provided and attached the finger piers, or with the owner of Boston Forging and Welding, who assisted in attaching the finger piers.

14. Each finger pier was worth approximately \$3,500.

15. The installation of the finger piers was worth in total approximately \$3,600.

16. Famolare did not pay for the finger piers or their installation.

LAW

17. General Laws chapter 268A, § 23(b)(2), as in effect in 2007, prohibited a municipal employee from using or attempting to use his official position to secure an unwarranted privilege of substantial value for himself or others, which was not properly available to similarly situated individuals.

18. The receipt of free finger piers and their free installation on Famolare's private dock were privileges.

19. These privileges were unwarranted because there was no reasonable justification for Famolare to obtain such privileges.

20. The free finger piers and their free installation were of substantial value, worth \$50.00 or more.

21. Famolare knew or had reason to know that he received free finger piers and their free installation because of his official position as Harbormaster.

22. These privileges were not properly available to similarly situated

individuals.

23. Thus, Famolare knowingly, or with reason to know, used his official position as Harbormaster to secure free finger piers and their free installation for himself and/or Gary Ward from Boston Towing and/or Boston Forging and Welding, unwarranted privileges of substantial value not properly available to similarly situated individuals, thereby violating G.L. c. 268A, § 23(b)(2).

Jet Ski Float

FACTS

24. The Petitioner repeats and realleges paragraphs 3-7 as though specifically restated herein.

25. In or about July 2007, Boston Towing employees scraped barnacles and mussels from Famolare's private jet ski float.

26. The value of the work was in total approximately \$1,900.

27. Famolare did not pay for the work.

LAW

28. The free work on Famolare's jet ski float was a privilege.

29. This privilege was unwarranted because there was no reasonable justification for Famolare to obtain such a privilege.

30. The value of the work on Famolare's jet ski float was of substantial value, worth \$50.00 or more.

31. Famolare knew or had reason to know that he received the free work on

his jet ski float because of his official position as Harbormaster.

32. This privilege was not properly available to similarly situated individuals.

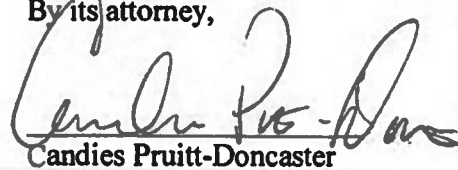
33. Thus, Famolare knowingly, or with reason to know, used his official position as Harbormaster to obtain free work on his jet ski float, an unwarranted privilege of substantial value not properly available to similarly situated individuals, thereby violating G.L. c. 268A, § 23(b)(2).

WHEREFORE, Petitioner asks that the Commission:

1. find that Famolare violated G.L. c. 268A, § 23(b)(2) by using his official position as Winthrop Harbormaster to obtain free goods and services 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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Dated: July 20, 2011