

COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION

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2012 MAR 12 PM 2:44

SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 12-0002

IN THE MATTER

OF

CHERYL JACQUES

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 April 15, 2011, the Commission initiated, pursuant to G.L. c. 268B, § 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Cheryl Jacques ("Jacques"). On September 16, 2011, the Commission concluded its inquiry and found reasonable cause to believe that Jacques violated G.L. c. 268A, § 23(b)(2)(ii).

FACTS

3. Jacques has been employed as a Department of Industrial Accidents administrative judge since 2008.

4. In the fall of 2010, Jacques called a dental office to attempt to resolve her brother-in-law's dental bill, which had a balance due of more than \$1,000.

5. Jacques introduced herself to the dental office receptionist as a judge, and

said that she was representing her brother-in-law. During the conversation, Jacques asserted that the dental office had overcharged her brother-in-law for services and demanded that the dental office write off the balance due on the bill. The receptionist advised that he could not do this and referred Jacques to the office manager, who referred Jacques to the owner of the dental office.

6. According to the owner of the dental office, when she returned Jacques' call, Jacques introduced herself as "Judge Jacques," calling on behalf of her brother-in-law. Jacques demanded the dental office write off her brother-in-law's balance due on the bill because she claimed her brother-in-law had been misled into obtaining services from the dental office, which was an out-of-network insurance provider for his particular plan, and because her brother-in-law was unemployed. (Whether a provider is an in-network or out-of-network provider governs the amount that an insured has to pay out-of-pocket.) According to the owner, the dental office staff was frightened and uncomfortable because they had spoken with a judge.

7. The dental office owner had some sympathy regarding the brother-in-law's unemployment and was intimidated by Jacques, so the owner offered to take a few hundred dollars off the brother-in-law's balance due on the bill. Jacques rejected this offer and continued to demand that the dental office owner write off the entire remaining balance. When the dental office owner refused, Jacques threatened to call the insurance company to revoke the dental office's status as an insurance plan provider. (The dental office was in-network for other plans within the brother-in-law's insurance carrier but was out-of-network for his particular plan.) Jacques also threatened to report the dental

office to the Consumer Protection Division of the Attorney General's Office.

LAW

8. 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.

9. As an administrative judge, Jacques was at all times relevant to this matter a state employee as defined in G.L. c. 268A, § 1.

10. The reduction or elimination of her brother-in-law's debt was a privilege.

11. The privilege was unwarranted because Jacques attempted to use her position as an administrative judge to reduce or eliminate her brother-in-law's debt.

12. This privilege was of substantial value because the debt was more than \$1,000. (The Commission has established a \$50.00 threshold to determine "substantial value." 930 CMR 5.05.)

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

14. By repeatedly mentioning her position as a judge to resolve a private billing dispute, Jacques knowingly or with reason to know attempted to use her administrative judge position to obtain for her brother-in-law an unwarranted privilege of substantial value not properly available to other similarly situated individuals in violation of § 23(b)(2)(ii).

WHEREFORE, Petitioner asks that the Commission:

- (1) find that Jacques, in the fall of 2010, repeatedly violated G.L. c. 268A, § 23(b)(2)(ii); and,
- (2) levy such fines, issue such orders, and grant such other relief as may be appropriate.

Date: March 12, 2012

Respectfully submitted,
Petitioner State Ethics Commission
By its attorney,



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CERTIFICATE OF SERVICE

I hereby certify, under the pains and penalties of perjury, that a true and correct copy of the above document was electronically mailed on March 12, 2012, and properly addressed to respondent's counsel:

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