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INSPECTOR GENERAL

## The Commonwealth of Massachusetts

### Office of the Inspector General

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June 3, 2020

Angus Jennings, Town Manager  
Town of West Newbury  
381 Main Street  
West Newbury, MA 01985

**Re: Selectman Kemper and Money Owed to Town**

Dear Mr. Jennings:

The Massachusetts Office of the Inspector General (“OIG”) reviewed allegations that one of West Newbury’s selectmen, Glenn Kemper, owed the town thousands of dollars and that town employees had been unable to collect the money. The OIG found that Selectman Kemper accrued over \$29,440 in debt to the town for his health insurance premiums. Selectman Kemper accrued this debt over three and a half years; after the town removed Selectman Kemper from its health insurance, the debt remained unpaid for another two years. Furthermore, other selectmen knew of the debt but did not require Selectman Kemper to repay the town. After the OIG began its review, Selectman Kemper paid the town in full.

By neglecting to pay the town for his share of his insurance premiums, Selectman Kemper abused his elected position and violated his duties of care to the town. Furthermore, Selectmen Archibald and Anderson should have required Selectman Kemper to repay the town. In failing to do so, they failed in their duties to the town and its residents.

### **Background**

The town of West Newbury offers health insurance to its employees, including paid elected officials. In March 2010, the town paid fifty percent of each employee’s health insurance premium. Each town employee was responsible for the other half. Then, as now, an employee’s portion was deducted from their paycheck or the employee was required to pay their share to the town each month. Town officials were also required to pay their share of the premium to the town every month.

On March 1, 2010, in response to a budget shortfall, the Board of Selectmen voted to reduce the annual stipends for elected town officials to one dollar. The Board reduced the stipend to one dollar – rather than eliminating the stipend altogether – so Board members would remain eligible for the town’s health insurance.<sup>1</sup>

Selectman Kemper has served on the West Newbury Board of Selectmen for thirteen years: from August 2005 to May 2011 and from May 2012 to the present. Selectman Kemper served as Chair of the Board in fiscal years 2010, 2016 and 2019.

In May 2012, Selectman Kemper began participating in the town’s health insurance program. Selectman Kemper consistently paid his portion (50%) of the monthly health insurance premiums from May 2012 to May 2013. When Selectman Kemper did not pay for July and August 2013, the town treasurer sent an overdue notice to Selectman Kemper’s home on October 15, 2013. In response, Selectman Kemper paid \$913 dollars in November 2013, leaving a balance of \$3,059.

Selectman Kemper continued to pay the town sporadically and by the end of June 2014, he owed the town \$4,478. Despite the outstanding debt and additional overdue notices from the town treasurer, the town continued to provide Selectman Kemper with a family health insurance plan. The debt increased monthly until June 2015, when it reached a balance of \$15,863. Selectman Kemper then paid \$2,070, leaving a balance of \$13,793. In March 2016, Selectman Kemper paid another \$2,000 towards his outstanding debt, but continued to owe a significant balance (\$20,929) to the town.

In July 2016, the town’s contribution to employee health insurance premiums increased to sixty percent, with the employee’s contribution decreasing to forty percent.

On December 14, 2016, the town’s finance director, Michael Bertino, notified Selectman Kemper in writing that his insurance coverage would be cancelled on December 31, 2016 due to his outstanding balance. Selectman Kemper did not pay the town and Mr. Bertino cancelled his health insurance effective December 31, 2016. At the time, Selectman Kemper owed the town approximately \$29,440.<sup>2</sup>

In January 2017, Mr. Bertino resigned as the financial director and Andrew Gould became the interim finance director. When Mr. Gould began his tenure, Mr. Bertino told him about Selectman Kemper’s outstanding debt.<sup>3</sup> In May 2017, Selectman Kemper paid another \$2,000 and

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<sup>1</sup> Selectman Kemper voted to approve this reduction. He did not have health insurance through the town at the time.

<sup>2</sup> See Attachment A.

<sup>3</sup> The town experienced a period of high turnover in the finance department between 2011 and 2018, resulting in the loss of some institutional knowledge. Warren Sproul served as the finance director from 2011 to 2015, Michael Bertino served from 2015 to December 2016, and Andrew Gould served as interim finance director from January 2017 to June 2018. In 2018, the town changed its form of government and created the town manager position. Angus Jennings, as the new town manager, assumed the duties of finance director on July 2, 2018.

inquired about getting back on the town's insurance plan. Mr. Gould told Selectman Kemper that he was ineligible due to his outstanding debt to the town.

According to Selectman Kemper, he never requested or drafted a payment plan so he could repay the town. When Mr. Gould tried to establish a repayment schedule, Selectman Kemper told Mr. Gould he needed to assess what a new health insurance policy would cost on a monthly basis and then he would propose a reasonable arrangement. Nevertheless, Selectman Kemper did not propose a plan or repay the town.

Mr. Gould also told the town's other selectmen, Joseph Anderson and David Archibald, about Selectman Kemper's debt, asking for guidance on how to implement a repayment agreement. Mr. Gould never heard back from either of them. As a result, no repayment agreement was established.

In annual audit management letters from 2015 through 2019, the town's independent auditor addressed Selectman Kemper's debt. The annual audit management letters are always addressed to the Board. Since 2018, the town manager has also received the letters. In their letter dated January 27, 2019, the auditors reported the following:

In two prior years we communicated to the town that the health insurance withholding balances did not reconcile properly and that a significant deficit also existed. This amounted to approximately \$10,000 at the end of 2016 and \$20,000 at the end of 2017. This situation was unchanged during fiscal year 2018. These deficits are, for the most part, the result of the nonpayment of health insurance obligations by an individual who was on the health insurance rolls through December 2016.

We urge the town to negotiate with this individual and make attempts to make the town whole. We also strongly recommend the town seek advice from outside special counsel. Many issues could evolve as a result of negotiations such as (1) has an unauthorized loan occurred, or (2) should any resolved negotiation be approved at town Meeting.

On Friday, April 5, 2019, after town officials learned of the OIG's investigation, Selectman Kemper met with the town manager Angus Jennings, and confirmed the exact amount he owed. The stated amount – \$27,440 – did not include any interest on the original balance. The next day, Selectman Kemper hand-delivered two treasurer's checks to the treasurer's office for the full amount he owed to the town.

Selectman Kemper had failed to pay his full share of the monthly premiums for more than five years. Selectman Kemper indicated to the OIG that the outstanding debt was not "that serious" as no one had made a "big deal" about it. He denied that the issue was important to the town, despite the auditors' reports and despite the fact that town employees had repeatedly tried to collect from him.

**Finding 1: Selectman Kemper violated the duties of care that he owes to the residents of West Newbury as an elected official.**

Selectman Kemper abused his position and failed to hold the public interest above his own. Upon taking office, Selectman Kemper swore an oath to “faithfully and impartially discharge and perform all the duties incumbent upon [a Selectmen]....”<sup>4</sup> Included in those duties is a responsibility to the town and its citizens to faithfully and impartially administer town funds. Under Article V of the Massachusetts Declaration of Rights, moreover, all governmental officials in the Commonwealth, as agents of the people, should “work with an eye single to the interest” of the public.<sup>5</sup>

By his own admission, Selectman Kemper knew about his outstanding debt to the town and of the repeated efforts by various town officials to implement a repayment plan. Nevertheless, Selectman Kemper did not fully repay the town for five years. He did so only after town officials learned of the OIG’s investigation. In essence, Selectman Kemper gave himself an interest-free loan from the town – a benefit unavailable to any other town employee or resident.

Furthermore, Selectman Kemper continued to vote on financial decisions during public meetings, including salary increases and funding union contracts for town employees, while he owed the town more than \$29,000.

**Finding 2: Other selectmen failed to establish a corrective action plan in a timely manner and therefore neglected their duties to the town and its employees.**

Selectmen Archibald and Anderson also swore an oath to “faithfully and impartially discharge and perform all the duties incumbent upon [Selectmen]....”<sup>6</sup> By the early summer of 2017, both selectmen knew about Selectman Kemper’s debt. Nevertheless, both failed to take action, such as to establish a repayment plan. It was the other selectmen’s responsibility to address the issue; instead, they left the responsibility to town employees whose positions and salaries were ultimately overseen by Selectman Kemper. That is, Selectman Kemper was in a position of power over the employees who were tasked with collecting money from him. The lack of leadership from the other selectmen put these employees – who were trying to protect the town – in an untenable position.

By failing to address Selectman Kemper’s debt, Selectmen Archibald and Anderson failed in their responsibilities to protect the public interest.

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<sup>4</sup> Town of West Newbury Oath of Office.

<sup>5</sup> *IA Auto, Inc. v. Dir. of Office of Campaign & Political Fin.*, 480 Mass. 423, 445 (2018) (Budd, J. concurring) (internal quotation marks omitted) (citing *McKinley v. Williams*, 74 F. 94, 95 (8th Cir. 1896)).

<sup>6</sup> Town of West Newbury’s Oath of Office.

## **Conclusion**

The OIG's investigation revealed that by virtue of his position, Selectman Kemper avoided paying for health insurance premiums that all other participating town employees had to pay, in essence giving himself an interest-free loan from the town. Further, the other members of the Board of Selectmen tasked town employees with collecting the debt, rather than implementing a plan themselves. In doing so, the other selectmen did not consider the imbalanced power dynamic between these employees and Selectman Kemper, and they failed in their responsibilities to town employees and the town.

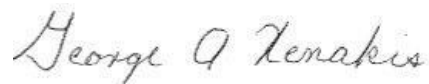
## **Recommendations**

The OIG recommends the town revise its policies and procedures to include clear and precise parameters for participation in the town's health insurance program, including policies pertaining to eligibility, payment, and consequences for non-payment. Moreover, the town must then enforce those policies.

Further, the OIG recommends that the Board of Selectmen attend a training on fiduciary duties and the responsibilities of public boards. For instance, the OIG provides a free, online training for members of boards and commissions.

Thank you for your attention to this matter. The OIG appreciates the cooperation of the town of West Newbury, its employees and residents. If the town needs any assistance in pursuing these recommendations, fraud prevention programs or other internal control measures, please do not hesitate to contact us.

Sincerely,



George A. Xenakis  
Director  
Audit, Oversight and Investigations

cc: David W. Archibald, Chairman of the Board of Selectmen  
Glenn A. Kemper, Selectman  
Richard Parker, Selectman

Payment due	Amt. Due	Payment Made	Outstanding Balance
07/01/2012	\$ 913.04	\$ 913.04	\$ -
08/01/2012	\$ 913.04	\$ 913.04	\$ -
09/01/2012	\$ 913.04	\$ 913.04	\$ -
10/01/2012	\$ 913.04	\$ 913.04	\$ -
11/01/2012	\$ 913.04	\$ 913.04	\$ -
12/01/2012	\$ 913.04	\$ 913.04	\$ -
01/01/2013	\$ 913.04	\$ 913.04	\$ -
02/01/2013	\$ 913.04	\$ 913.04	\$ -
03/01/2013	\$ 913.04	\$ 913.04	\$ -
04/01/2013	\$ 913.04	\$ 913.04	\$ -
05/01/2013	\$ 913.04	\$ 913.04	\$ -
06/01/2013	\$ 913.04		\$ 913.04
07/01/2013	\$ 977.10		\$ 1,890.14
08/01/2013	\$ 977.10	\$ 1,826.88	\$ 1,040.36
09/01/2013	\$ 977.10		\$ 2,017.46
10/01/2013	\$ 977.10		\$ 2,994.56
11/01/2013	\$ 977.10	\$ 913.04	\$ 3,058.62
12/01/2013	\$ 977.10		\$ 4,035.72
01/01/2014	\$ 977.10	\$ 3,652.16	\$ 1,360.66
02/01/2014	\$ 977.10		\$ 2,337.76
03/01/2014	\$ 977.10		\$ 3,314.86
04/01/2014	\$ 977.10		\$ 4,291.96
05/01/2014	\$ 977.10	\$ 913.04	\$ 4,356.02
06/01/2014	\$ 1,035.04	\$ 913.04	\$ 4,478.02
07/01/2014	\$ 1,035.04		\$ 5,513.06
08/01/2014	\$ 1,035.04		\$ 6,548.10
09/01/2014	\$ 1,035.04		\$ 7,583.14
10/01/2014	\$ 1,035.04		\$ 8,618.18
11/01/2014	\$ 1,035.04		\$ 9,653.22
12/01/2014	\$ 1,035.04		\$ 10,688.26
01/01/2015	\$ 1,035.04		\$ 11,723.30
02/01/2015	\$ 1,035.04		\$ 12,758.34
03/01/2015	\$ 1,035.04		\$ 13,793.38
04/01/2015	\$ 1,035.04		\$ 14,828.42
05/01/2015	\$ 1,035.04		\$ 15,863.46
06/02/2015		\$ 2,070.08	\$ 13,793.38
06/01/2015	\$ 913.61		\$ 14,706.99
07/01/2015	\$ 913.61		\$ 15,620.60
08/01/2015	\$ 913.61		\$ 16,534.21
09/01/2015	\$ 913.61		\$ 17,447.82
10/01/2015	\$ 913.61		\$ 18,361.43
11/01/2015	\$ 913.61		\$ 19,275.04
12/01/2015	\$ 913.61		\$ 20,188.65
01/01/2016	\$ 913.61		\$ 21,102.26

<b>Payment due</b>	<b>Amt. Due</b>	<b>Payment Made</b>	<b>Outstanding Balance</b>
02/01/2016	\$ 913.61		\$ 22,015.87
03/01/2016	\$ 913.61		\$ 22,929.48
03/07/2016		\$ 2,000.00	\$ 20,929.48
04/01/2016	\$ 913.61		\$ 21,843.09
05/01/2016	\$ 913.61		\$ 22,756.70
06/01/2016	\$ 954.72		\$ 23,711.42
07/01/2016	\$ 954.72		\$ 24,666.14
08/01/2016	\$ 954.72		\$ 25,620.86
09/01/2016	\$ 954.72		\$ 26,575.58
10/01/2016	\$ 954.72		\$ 27,530.30
11/01/2016	\$ 954.72		\$ 28,485.02
12/01/2016	\$ 954.72		\$ 29,439.74
05/23/2017		\$ 2,000.00	\$ 27,439.74
04/05/2019		\$ 13,646.36	\$ 13,793.38
04/05/2019		\$ 13,793.30	\$ 0.08