

COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION

SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 21-0003

IN THE MATTER

OF

GARY HALEY

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 January 6, 2021, the Commission (a) found reasonable cause to believe that Gary Haley (“Haley”) violated G.L. c. 268A, §§ 19, 20 and 23(b)(4), and (b) authorized the initiation of adjudicatory proceedings.

FACTS

3. Haley, a resident of Aquinnah, was at all relevant times a member of the Town of Aquinnah (“Town”) Board of Selectmen.

4. At all relevant times and in his private capacity, Haley was a master electrician.

5. In 2018, the Town began a project in Aquinnah Circle to bury all overhead utility wires underground. While the utility companies were responsible for burying their wires, the Town paid for the work.

6. Haley viewed himself as the “coordinator” of the Aquinnah Circle project on behalf of the Town.

7. In 2018, Haley decided as a member of the Board of Selectmen and the Aquinnah Circle project coordinator that he personally would install conduits for two utility companies to bury their utility wires underground.

8. Haley subsequently charged the Town \$17,445 for the installation of approximately 1,900 feet of conduit pipe at Aquinnah Circle during May 2018.

9. Haley's invoice to the Town included a materials supplied charge of \$285 and labor charges totaling \$17,160 for labor purportedly provided by a master electrician (Haley) and two laborers over a ten-day period in May 2018. According to Haley's invoice, the conduit installation work took a total of 78 hours. Haley charged the Town \$50/hour for each laborer, for a total of \$3,900 each, and \$120/hour for himself, for a total of \$9,360 (and a grand total of \$17,160).

10. Haley's invoice to the Town misdescribed and overstated the labor he provided for the conduit installation.

11. Haley's invoice charged the Town for labor purportedly performed by Haley and two laborers for eight hours on each of nine specific days in May 2018 and six hours on one specific day in May 2018, for a total of 78 hours.

12. Contrary to Haley's invoice: (a) the conduit installation was not performed over ten days but instead over at most seven days; and (b) two paid laborers did not work with Haley on the conduit installation but instead at most one laborer whom Haley did not pay. Thus, in his invoice to the Town Haley overstated the length of time the conduit installation work took by approximately 22 hours and the number of laborers who performed the work by one or more.

13. Haley's overstatement of the hours worked and the number of laborers he

employed on the Aquinnah Circle conduit installation in his invoice to the Town resulted in an overcharge of the Town for labor in excess of \$4,000.

14. Haley's invoice was placed on a Town expense warrant for payment.

15. Haley, as a member of the Board of Selectmen, approved the Town expense warrant containing his invoice for the conduit installation.

LAW

Section 19: Awarding Conduit Installation Contracts

16. General Laws chapter 268A, § 19, prohibits a municipal employee from participating as such an employee in a particular matter in which to his knowledge he has a financial interest.

17. As a Town selectman, Haley was a municipal employee of the Town as that term is defined by G.L. c. 268A, § 1(g).

18. The decision of who would install the utility company conduits was a particular matter.

19. Haley participated in that particular matter as a member of the Board of Selectmen by deciding to install the conduits himself and effectively awarding himself a contract with the Town.

20. Haley knew he had a financial interest in the decision to install the conduits because he intended to charge the Town for the work and expected the Town to pay him.

21. By, as a member of the Board of Selectmen, effectively awarding a Town contract to himself, Haley violated § 19 by participating in a particular matter in which, to his knowledge, he had a financial interest.

Section 20 Financial Interest in a Contract with the Town

22. Section 20 prohibits a municipal employee from having a financial interest, directly or indirectly, in a contract made by a municipal agency of the same city or town, in which the city or town is an interested party of which financial interest he has knowledge or has reason to know.

23. By having a financial interest in a contract with the Town to install conduits for utility companies, Haley violated § 20 by having a direct financial interest in a contract made by the Town.

Section 19: Approving Payment

24. The decision to approve the Town expense warrant that contained Haley's invoice to the Town for the conduit installation was a particular matter.

25. Haley participated in that particular matter as a member of the Board of Selectmen by approving the Town expense warrant that included his invoice.

26. Haley knew he had a financial interest in approving the expense warrant because he knew it contained his invoice.

27. By, as a member of the Board of Selectmen, approving the Town expense warrant that contained his invoice for installing conduits, Haley violated § 19 by participating as a municipal employee in a particular matter in which to his knowledge, he had a financial interest.

Section 23(b)(4): False Claim

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

29. By making a claim to the Town for 22 hours more than he worked and/or charging for laborers he did not hire or pay, Haley knowingly, or with reason to know presented a false or fraudulent claim to his employer for payment.

30. Haley's claim for payment for three days or 22 hours of labor that was not provided was of substantial value¹ because it was over \$4,000.

31. By billing the Town for 22 hours more than he worked, charging for laborers whom he did not employ and/or he did not pay, Haley violated § 23(b)(4) by knowingly, or with reason to know, presenting a false or fraudulent claim to his employer for payment of substantial value.

WHEREFORE, Petitioner asks that the Commission:

1. find that Haley violated G.L. c. 268A, §§ 19, 20, and 23(b)(4); 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,

/s/Candies Pruitt
Candies Pruitt
Staff Counsel
State Ethics Commission
One Ashburton Place, Room 619
Boston, MA 02108
(617) 371-9500

Date: May 19, 2021

¹ "Substantial value" is \$50 or more. 930 CMR 5.05.