

COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION

SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 25-0008

IN THE MATTER

OF

GARY SHEPHERD

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 24, 2025, the Commission found reasonable cause to believe that Gary Shepherd (“Shepherd”) violated G.L. c. 268A, §§ 17(a), 17(c) and 20.

Greenville Road Bridge Replacement Project

Facts

3. Since May 2022, Shepherd has been Chief of the Town of Townsend (“Town”) on-call fire department.

4. In his private capacity, Shepherd owns and operates Townsend-based company Shepco, Inc. (“Shepco”), a heavy equipment operations, landscaping and site services company.

5. Shepherd serves as Shepco’s president, treasurer, secretary, and director and is the company’s sole shareholder.

6. As a Shepco officer, Shepherd from time to time receives a disbursement

of funds from Shepco's operating account called an "officer's draw."

7. Shepherd decides the amount and timing of the Shepco disbursements.

8. Shepherd is also a Shepco employee and receives a weekly salary of approximately \$990-\$1,200.

9. Shepherd's salary and officer's draw are not segregated from the other funds in the Shepco operating account.

10. In 2022, the Town, through its Highway Department, sought bids to replace an existing bridge on Greenville Road in Townsend ("Greenville Road Bridge").

11. On November 3, 2022, on behalf of Shepco as its president, Shepherd signed and submitted a bid of \$763,333¹ for the Greenville Road Bridge replacement.

12. The Town Board of Selectmen voted to accept Shepco's bid for the Greenville Road Bridge replacement on November 29, 2022.

13. By letter dated November 30, 2022, the Enforcement Division of the State Ethics Commission ("Enforcement Division") issued a four-page private education letter ("Education Letter") to Shepherd.

14. The Education Letter advised, in part, that (1) Shepherd needed an exemption from § 20 of G.L. c. 268A in order to have a contract with the Town, (2) "acting as agent" means acting on behalf of another person or business, including one's own business, and (3) § 17 of G.L. c. 268A applies less restrictively to special municipal employees and that Shepherd could request such a designation from the Board of Selectmen.

15. The Education Letter further advised that there were resources available to

¹ Shepco's bid contained a computational error. The actual bid was \$754,333.

Shepherd for his future guidance, including the Legal Division of the State Ethics Commission, and that Shepherd should consult with the Legal Division each time he considered entering into contract with the Town.

16. Shepherd did not seek an exemption from § 20 in order to have a contract with the Town or seek Legal Division advice.

17. Shepherd did not secure special municipal employee designation for his Fire Chief position from the Board of Selectmen, until after he had received notice dated January 18, 2024, of the Commission's formal investigation into his financial interest in a contract with the Town, among other allegations.

18. On December 7, 2022, and in his capacity as Shepco's President, Shepherd signed a contract with the Town to replace the Greenville Road Bridge ("Greenville Road Bridge Contract") for \$754,333.

19. Shepco received periodic payments from the Town for services rendered under the Greenville Road Bridge Contract based on invoices delivered to the Highway Department by Shepherd and his Project Manager.

20. Periodic Town payments to Shepco for services rendered under the Greenville Road Bridge Contract were deposited to Shepco's operating account.

21. During the term of the Greenville Road Bridge Contract, Shepherd received his Shepco regular salary and officer's draw.

Law

Section 17(a)

22. Section 17(a) of G.L. c. 268A prohibits a municipal employee from, otherwise than as provided by law for the proper discharge of official duties, directly or

indirectly receiving or requesting compensation from anyone other than the town in relation to any particular matter in which the town is a party or has a direct and substantial interest.

23. As Fire Chief, Shepherd was a municipal employee of the Town.

24. The Greenville Road Bridge Contract was a particular matter to which the Town was a party and had a direct and substantial interest.

25. Shepco received Town payments for work performed under the Greenville Road Bridge Contract, which were deposited to Shepco's operating account.

26. As a Shepco employee, Shepherd received his salary, and as president, treasurer, secretary and director of Shepco, Shepherd received his officer's draw, all from Shepco's operating account.

27. Where Shepherd shared in the Town payments Shepco received in return for services rendered in relation to the Greenville Road Bridge Contract through his salary and/or officer's draw, Shepherd directly or indirectly received compensation in relation to a particular matter in which the Town was a party and had a direct and substantial interest.

28. Shepherd's receipt of compensation in relation to the Greenville Road Bridge Contract was not provided by law for the proper discharge of his official duties as Fire Chief.

29. Therefore, Shepherd violated § 17(a).

Section 17(c)

30. Section 17(c) of G.L. c. 268A prohibits a municipal employee from, otherwise than in the proper discharge of his official duties, acting as agent or attorney

for anyone other than the town in connection with a particular matter in which the same town is a party or has a direct and substantial interest.

31. By signing and submitting Shepco's bid on the Greenville Road Bridge replacement to the Town, Shepherd acted as agent for Shepco.

32. By signing the Greenville Road Bridge Contract with the Town on Shepco's behalf, Shepherd acted as agent for Shepco.

33. By submitting to the Town an invoice for payment on Shepco's behalf to the Highway Department for work Shepco performed under the Greenville Road Bridge Contract, Shepherd acted as agent for Shepco.

34. Acting as agent for Shepco in relation to the Greenville Road Bridge Contract was not provided by law for the proper discharge of Shepherd's official duties as Fire Chief.

35. Therefore, by acting as agent for Shepco in relation to the Greenville Road Bridge Contract as described above, Shepherd repeatedly violated § 17(c).

Section 20

36. Section 20 of G.L. c. 268A prohibits a municipal employee from having a financial interest, directly or indirectly, in a contract made by a municipal agency of the same town, in which the town is an interested party of which financial interest he has knowledge or has reason to know.

37. The Greenville Road Bridge Contract was a contract between the Town, through the Highway Department, and Shepco.

38. As the sole shareholder, officer, director, and employee of Shepco, Shepherd had direct and indirect financial interests in the Greenville Road Bridge

Contract, of which he had knowledge.

39. Therefore, as Fire Chief, Shepherd violated § 20 by having a financial interest in the Greenville Road Bridge Contract, of which he had knowledge.

Water Main Contract

Facts

40. In 2021, the Town Water Department (“Water Department”) decided to construct a new water treatment plant and water main extension after perfluoroalkyl and polyfluoroalkyl substances levels in the Town’s largest source of drinking water were found to exceed maximum allowable contaminant level.

41. The water main extension included (1) construction of a several thousand foot long “raw water” transmission main to the site of a future water treatment plant; (2) construction of a finished water main; and (3) a “Bid Alternate” for construction of a looping water main (“Water Main Project”).

42. From March 1, 2023, through March 30, 2023, the Town Water Department sought sealed bids for the Water Main Project.

43. On March 30, 2023, Shepherd signed and submitted a bid of \$4,756,421.71 on behalf of Shepco for the Water Main Project.

44. The Water Department received four bids on the Water Main Project, which were opened on March 30, 2023.

45. Shepco’s bid was approximately \$600,000 less than the next highest bid.

46. On May 3, 2023, the Town, through the Water Department, awarded the Water Main Project contract (“Water Main Contract”) to Shepco for \$4,756,421.71.

47. Shepherd signed the Water Main Contract on behalf of Shepco on May 24,

2023.

48. Also on May 24, 2023, Shepherd attended the first Water Main Contract preconstruction meeting as Shepco's representative.

49. Shepco received periodic Town payments for services rendered under the Water Main Contract based on payment requisitions Shepherd signed on Shepco's behalf dated June 29, 2023, July 28, 2023, September 1, 2023, October 6, 2023, October 31, 2023, December 8, 2023, and January 22, 2024.

50. The periodic Town payments to Shepco for services rendered under the Water Main Contract were deposited to Shepco's operating account.

51. During the term of the Water Main Contract, Shepherd received his Shepco regular salary and officer's draw.

Law

Section 17(a)

52. The Water Main Contract was a particular matter to which the Town was a party and had a direct and substantial interest.

53. Shepco received Town payments for work performed under the Water Main Contract, which were deposited to Shepco's operating account.

54. Shepherd received his salary as a Shepco employee, and his officer's draw as Shepco's president, treasurer, secretary, and director, from Shepco's operating account.

55. Where Shepherd shared in the compensation Shepco received in return for services rendered in relation to the Water Main Contract through his salary and/or the officer's draw, Shepherd directly or indirectly received compensation in relation to a

particular matter in which the Town was a party and had a direct and substantial interest.

56. Shepherd's receipt of compensation in relation to the Water Main Contract was not provided by law for the proper discharge of his official duties as Fire Chief.

57. Therefore, Shepherd violated § 17(a).

Section 17(c)

58. By signing and submitting Shepco's bid on the Water Main Project to the Town, Shepherd acted as agent for Shepco.

59. By signing the Water Main Contract with the Town on Shepco's behalf, Shepherd acted as agent for Shepco.

60. By attending the Water Main preconstruction meeting as Shepco's representative, Shepherd acted as agent for Shepco.

61. Each of the seven times Shepherd signed a payment requisition on Shepco's behalf for submission to the Town, Shepherd acted as agent for Shepco.

62. Acting as agent for Shepco in relation to the Water Main Contract was not provided by law for the proper discharge of Shepherd's official duties as Fire Chief.

63. Therefore, by acting as agent for Shepco in relation to the Water Main Contract as described above, Shepherd repeatedly violated § 17(c).

Section 20

64. The Water Main Contract was a contract between the Town through the Water Department and Shepco.

65. As the sole shareholder, officer, director, and employee of Shepco, Shepherd had direct and indirect financial interests in the Water Main Contract, of which

he had knowledge.

66. Therefore, as Fire Chief, Shepherd violated § 20 by having a financial interest in the Water Main Contract, of which he had knowledge.

Section 21(b)

67. Shepherd's violations of §§ 17 and 20 were to his economic advantage because the Greenville Road Bridge Contract and Water Main Contract resulted in multiple payments by the Town to his company, Shepco, and salary and officer's draw payments from Shepco to him.

54. The total amount of Sheperd's economic advantage resulting from his violations of §§ 17 and 20 was up to \$5.4 million dollars.

WHEREFORE, Petitioner asks that the Commission:

1. find that Gary Shepherd violated G.L. c. 268A, §§ 17(a), 17(c) and 20; and
2. levy such civil penalties, impose such additional remedies under G.L. c. 268A, § 21, including damages in the amount of Shepherd's economic advantage from his violations up to the section's limit and restitution to any injured third party, and issue such orders and grant such further relief, as may be appropriate.

Respectfully submitted,
Petitioner State Ethics Commission

By its attorney,

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