

COMMONWEALTH OF MASSACHUSETTS  
STATE ETHICS COMMISSION

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SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 17-0002

IN THE MATTER

OF

VINCENT MICHIEZI, SR.

**DISPOSITION AGREEMENT**

The State Ethics Commission (“Commission”) and Vincent Michienzi, Sr. (“Michienzi”) enter into this Disposition Agreement pursuant to Section 3 of the Commission’s *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j).

On June 22, 2016, 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. On September 21, 2017, the Commission concluded its inquiry and found reasonable cause to believe that Michienzi violated G.L. c. 268A, §§ 19 and 23(b)(3).

The Commission and Michienzi now agree to the following findings of fact and conclusions of law:

***Findings of Fact***

1. Michienzi, a resident of Bourne, was a Bourne Planning Board member during the relevant time.
2. In his private capacity, Michienzi is a commercial developer and manager.

3. Michienzi owns a commercial property located at 111 Main Street, Bourne, MA (the "Property"). He also owns property that abuts 111 Main Street.

4. On May 1, 2012, Michienzi executed a two-year lease with a commercial tenant to operate an antique store/flea market ("antique store") on the Property.

5. On July 16, 2012, the commercial tenant filed an application with the Bourne Planning Board for a special permit to operate the antique store with a tent on the Property.

6. At a January 10, 2013 public hearing, Michienzi voted as a Planning Board member to approve the special permit to operate the antique store on the Property. The Planning Board declined to consider the tent.

### *Conclusions of Law*

#### Section 19

7. Section 19 of G.L. c. 268A prohibits a municipal employee from participating<sup>1</sup> as such an employee in a particular matter<sup>2</sup> in which, to his knowledge, he has a financial interest.<sup>3</sup>

8. As a Bourne Planning Board member, Michienzi was a municipal employee as that term is defined in G.L. c. 268A, § 1(g).

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<sup>1</sup> "Participate" means to participate in agency action or in a particular matter personally and substantially through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, § 1(j).

<sup>2</sup> "Particular matter" means any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination or finding. G.L. c. 268A, § 1(k).

<sup>3</sup> "Financial interest" means any economic interest of a particular individual that is not shared with a substantial segment of the population of the municipality. *See Graham v. McGrail*, 370 Mass. 133 (1976). This definition has embraced private interests, no matter how small, which are direct, immediate or reasonably foreseeable. *See EC-COI-84-98*.

9. The special permit application was a particular matter.

10. Michienzi participated in that particular matter as a Bourne Planning Board member by voting to approve the special permit.

11. Michienzi had a financial interest in the particular matter because (1) it affected the use of his commercial property and (2) the use was the subject of the lease he had signed with his commercial tenant.

12. At the time of his participation, Michienzi knew he had a financial interest in the particular matter.

13. Thus, by voting on a special permit concerning his own commercial property, Michienzi participated as a Bourne Planning Board member in a particular matter in which he had to his knowledge a financial interest in violation of § 19.

Section 23(b)(3)

14. Section 23(b)(3) prohibits a municipal employee from knowingly or with reason to know acting in a manner that would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person.

15. By voting on a special permit for his tenant's use, Michienzi knowingly or with reason to know acted in a manner that would cause a reasonable person to believe that Michienzi's commercial tenant could enjoy Michienzi's favor in the performance of his official duties as a Bourne Planning Board member in violation of § 23(b)(3).

In view of the foregoing violations of G.L. c. 268A by Michienzi, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Vincent Michienzi, Sr.:

- (1) that Vincent Michienzi, Sr. pay to the Commonwealth of Massachusetts, with such payment to be delivered to the Commission, the sum of \$5,000 as a civil penalty for violating G.L. c. 268A, §§ 19 and 23; and
- (2) that Vincent Michienzi, Sr. waive all rights to contest, in this or any other administrative or judicial proceeding to which the Commission is or may be a party, the findings of fact, conclusions of law and terms and conditions contained in this Agreement.

By signing below, Vincent Michienzi, Sr. acknowledges that he has personally read this Disposition Agreement, that it is a public document, and that he agrees to all of the terms and conditions therein.

STATE ETHICS COMMISSION

  
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Vincent Michienzi, Sr.      Date

 11/30/17  
\_\_\_\_\_  
David A. Wilson      Date  
Executive Director