

Office of the Inspector General

Commonwealth of Massachusetts

Gregory W. Sullivan
Inspector General

Contractor Gifts to Braintree Electric Light Department Employees

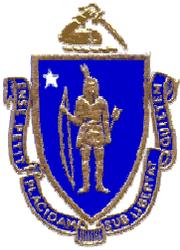
October 2002

Contractor Gifts to Braintree Electric Light Department Employees

This Office issued a letter to the Braintree Electric Light Department (BELD) on September 6, 2002 summarizing findings of fact and law resulting from an extensive documents review by this Office. (See attachment.) The letter issued by this Office informed the BELD Board of Commissioners of numerous items of substantial value that were bestowed upon BELD's general manager, engineering manager, district supervisor, and foreman by vendors under contract with BELD for professional services. The letter also informed the BELD Board of Commissioners about the state conflict of interest law, which provides penalties for public officials who accept anything of substantial value from people with whom they conduct official business. Massachusetts Courts and the State Ethics Commission have held that substantial value is equivalent to \$50 or more.

This Office cited several instances of gifts bestowed upon BELD employees from 1998 to 2002. For example, Power Line Models, Inc., an electric power engineering firm with an office in Hopkinton, MA, paid for many golf outings for BELD employees, lunches for BELD managers, and major league baseball tickets for BELD managers. R.W. Beck, Inc., an engineering and consulting firm with an office in Framingham, MA, also paid for lunches with BELD managers.

This Office recommended that the BELD Board of Commissioners take measures to correct these practices. The BELD Board voted on October 15, 2002 to send a letter to 400 companies that contract with the BELD warning against offering gifts worth more than \$50 to employees. The Board also sent a memo to all employees warning against the acceptance of gifts worth more than \$50. In addition, the chairman of the BELD Board has asked to examine the last four years of BELD employee credit card statements, receipts, and back up information for the town-paid credit cards, in light of this Office's report on credit card abuse by the Reading Municipal Light Department.



The Commonwealth of Massachusetts
Office of the Inspector General

GREGORY W. SULLIVAN
INSPECTOR GENERAL

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September 6, 2002

Mr. Thomas Reynolds
Chairman of the Braintree Electrical Light Board
Braintree Electrical Light Department
150 Potter Road
Braintree, MA 02184

Dear Mr. Reynolds:

Pursuant to our September 5, 2002 meeting, I am submitting this letter to you concerning the conduct of certain vendors and employees of the Braintree Electric Light Department (BELD). This Office commends you and the Braintree Electric Light Board (Board) for expressing commitment to implementing self-corrective measures to address the conduct outlined in this letter. It is clear to this Office that the Commissioners of the Braintree Electric Light Department have not authorized and do not condone the conduct outlined in this letter.

This Office received information from BELD pursuant to a request for documents. The information summarized below could possibly violate M.G.L. c. 268A, the Commonwealth's conflict of interest law. Two vendors, Power Line Models, Inc. (PLM) and R.W. Beck, Inc. (Beck) are the focus of this letter, but the concerns outlined herein inure to all BELD vendors. The time period for this review spanned from January 1998 to January 2002.

M.G.L. c. 268A, §3(a) states:

“Whoever otherwise than as provided by law for the proper discharge of official duty, directly or indirectly, gives, offers or promises anything of substantial value to any present or former state, county or municipal employee . . . for or because of any official act performed or to be performed by such an employee . . . shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than two years, or both.”

M.G.L. c. 268A, §23(b) states in part:

“No current officer or employee of a state, county or municipal agency shall knowingly, or with reason to know:

(2) use or attempt to use his official position to secure for himself or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals.

(3) act in a manner which 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. . .”

Massachusetts courts and the State Ethics Commission have deemed “substantial value” to be \$50 or more. The Ethics Commission has also determined the following to be gifts: waived fees, discounts, gift certificates and entertainment.¹ Private parties, and in this case BELD vendors, who offer such inducements or rewards are also subject to penalties under the conflict law.²

Specifically, documents indicate numerous items of substantial value were bestowed upon BELD’s general manager, engineering manager, district supervisor, and foreman by vendors under contract with BELD for professional services. Many gifts from PLM and Beck were over the \$50 threshold. In other cases, gifts from PLM and Beck were received but the value of the gifts was not provided to this Office. However, even if the vendor gifts were less than \$50.00, the frequency of the gift giving is notable in light of the fact that the State Ethics Commission considers a pattern of bestowing gifts valued at less than \$50.00 to be a violation of M.G.L. c. 268A.

The conduct of BELD employees in instances where gifts were accepted undermines the integrity of the working relationships between BELD and its vendors. Moreover, ratepayers are not assured that objectivity is guiding BELD contracting decisions, or whether personal relationships with vendors have unduly influenced BELD’s contracting practices.

Set forth below are several examples of questionable conduct:

1998:

On May 19th, the engineering manager and district manager played golf with a PLM consultant at the Saddle Hill County Club in Hopkinton, MA. The cost of the golf outing paid by PLM was \$195.40;

¹ Massachusetts State Ethics Commission pamphlet, “Guide to the Conflict of Interest Law for Municipal Employees.”

² Id.

On June 28th, general manager and several other BELD employees were invited to golf outing at the Brae Burn Country Club, Newton, MA sponsored by PLM. The total non-PLM participants invited to the outing were 91 and the cost of the outing to PLM was \$12,350; and,

The engineering manager stated that he attended lunches with PLM consultants “possibly” six times during the year. He stated that PLM sponsored his attendance at a Red Sox game and the PLM Christmas party. The engineering manager did not reveal to this Office the purposes, costs, locations or who paid for the lunches.

1999:

On July 21st, the district supervisor and foremen played golf with a PLM consultant and had lunch at the Maplegate Country Club in Bellingham, MA. The cost to PLM was \$253.00;

The general manager stated he attended the Major League Baseball All-Star Game at Fenway Park, Boston, MA courtesy of PLM. BELD did not reveal to this Office the cost of the ticket; and

The engineering manager stated that he ate lunch on “possibly” three occasions with PLM consultants and twice with Beck consultants. Again, BELD did not reveal to this Office the purposes, cost, locations or who paid for the lunches.

2000:

The general manager accepted an opening day Red Sox ticket from PLM on April 6th, valued at \$30;

On May 11th, the engineering manager and district supervisor played golf and dined with a PLM consultant at the Easton Country Club, Easton, MA. The cost to PLM was \$210.50;

On August 3rd, the general manager played golf and dined with a PLM consultant and one other person at the Sterling County Club in Sterling, MA. The golf outing was paid by PLM and totaled \$383.21. It should be noted that the bill included a \$83.02 charge for beverages;

On October 26th, the general manager played golf and dined with a PLM consultant and one other person at the Sterling County Club in Sterling, MA. The golf outing was paid by PLM and totaled \$327.75; and

The engineering manager stated in 2000 that he had three lunches with PLM consultants and two lunches with Beck consultants. He did not disclose to this Office the purposes, cost, locations, or who paid for the lunches. He also stated he attended a Red Sox game sponsored by PLM.

2001:

On April 6th, the general manager attended the opening day Red Sox game courtesy of PLM. The ticket was valued at \$30.00;

On December 18th, the general manager stated that he had lunch with a Beck consultant. BELD did not disclose to this Office the purpose, location, cost and who paid for the lunch;

On December 19th, the general manager, engineering manager, foreman and four other unidentified people had lunch with a Beck consultant. The location was not disclosed. The purpose was stated as "Holiday lunch." The lunch cost Beck \$256.18; and,

The engineering manager also stated that in 2001 he "might have" had five lunches with PLM consultants and one lunch with a Beck consultant. He stated that he played golf with a PLM consultant, the BELD district foreman, and BELD foreman. He stated that he went to two Red Sox games sponsored by PLM; and had a holiday lunch with a Beck consultant. BELD did not disclose the specifics to this Office, including payment information.

2002:

The general manager accepted a Red Sox ticket from PLM on the April 1st opening day ball game valued at \$32;

The general manager stated he attended a "kickoff" dinner with another BELD consultant at Legal Seafood on January 26th in Braintree, MA. BELD did not disclose to this Office the purpose, cost of the dinner or who paid the tab; and,

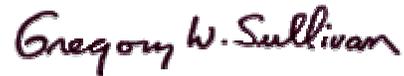
The engineering manager stated that he "might have" gone to lunch once with a PLM consultant and once with a Beck consultant. BELD did not disclose to this Office the dates, purposes, places, costs and who paid for the lunches.

This Office's review revealed that more effective oversight of the conduct of certain BELD employees is necessary. This Office recommends that the Board conduct its own inquiry into the propriety of conduct between BELD vendors and employees. This Office has every confidence that the Board of Commissioners is in a position to impose self-correcting measures on behalf of the ratepayers regarding employee compliance with Massachusetts law. In addition, this Office recommends that the Board strengthen internal rules and policies pertaining to conduct with vendors by prohibiting the receipt of gifts by BELD employees. This Office also recommends that the Board directly apprise BELD vendors that BELD employees are prohibited from accepting gifts.

This Office looks forward to cooperating with the Board in it's efforts to correct the problems identified in this letter and commends it for expressing the commitment to do so. For your review, I have attached the Massachusetts State Ethic Commissioner's Fact Sheet for business and entertainment expenses and a sample Code of Conduct for Public Employees written by this Office.

If you have any questions regarding this letter, please do not hesitate to call.

Sincerely,

A handwritten signature in dark ink that reads "Gregory W. Sullivan". The signature is written in a cursive, slightly slanted style.

Gregory Sullivan
Inspector General

cc: The Massachusetts State Ethics Commission

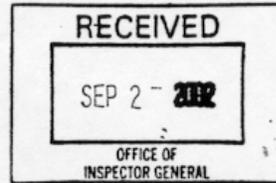
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General Manager
Walter R. McGrath

Commissioners
Guy F. Luke
Darrin M. McAuliffe
Thomas J. Reynolds

100 Potter Road
Braintree, MA 02184
www.beld.com
781.348.BELD
781.348.1004 fax



September 23, 2002

R.W. Beck
P. O. Box 9344
Framingham, MA 01701-9344

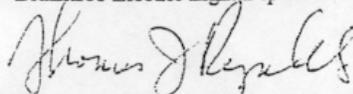
To whom it may concern:

The Braintree Electric Light Board recently received a letter from the Inspector General of the Commonwealth of Massachusetts expressing concern regarding the conduct of BELD employees and their professional services contract vendors. The contents of this letter was based on information supplied by both BELD and its vendors. The Inspector General Office has recommended that the BELD Board of Commissioners strengthen internal rules and policies pertaining to conduct with vendors by prohibiting the receipt of gifts or other gratuities by a BELD employee.

Please accept this letter on behalf of BELD and its commissioners as notification to refrain from offering gifts or gratuities to BELD employees and BELD commissioners.

The BELD Board of Commissioners is taking the recommendation of the Inspector General very seriously. Failure to comply could result in the violation of Massachusetts General Law, Chapter 268A.

If you have any questions feel free to contact me at BELD's office at 781-348-1011.

Sincerely yours,
Braintree Electric Light Department

Thomas J. Reynolds
Chairman, BELD Board of Commissioners

cc: Commonwealth of Massachusetts Office of the Inspector General
Braintree Board of Selectmen

Your community owned electric and communications utility

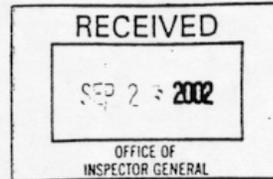


150 Potter Road
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781.348.BELD
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General Manager
Walter R. McGrath

Commissioners
Guy F. Luke
Darrin M. McAuliffe
Thomas J. Reynolds



September 23, 2002

PLM
35 Main Street
Hopkinton, MA 01748

To whom it may concern:

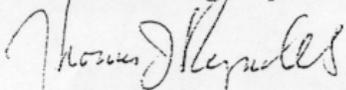
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Thomas J. Reynolds
Chairman, BELD Board of Commissioners

cc: Commonwealth of Massachusetts Office of the Inspector General
Braintree Board of Selectmen

Your community owned electric and communications utility