

COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION

SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. **24-0012**

IN THE MATTER

OF

ROBERT J. GALIBOIS, II

DISPOSITION AGREEMENT

The State Ethics Commission (“Commission”) and Robert J. Galibois, II (“Galibois”) 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 May 18, 2023, the Commission initiated a preliminary inquiry, pursuant to G.L. c. 268B, § 4(a), into possible violations of the conflict of interest law, G.L. c. 268A, by Galibois. On November 17, 2023, the Commission concluded its inquiry and found reasonable cause to believe that Galibois violated G.L. c. 268A, § 23(b)(2)(ii).

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

Findings of Fact

1. Galibois was sworn in as Cape and Islands District Attorney on January 4, 2023.

The Campaign Donor’s Apartments

2. On February 5, 2023, the owner of “CapeBuilt,” a campaign donor (“the Donor”), sent a text message to Galibois’ personal cell phone that read, in part,

In the past we have reached out to Barnstable Police and Fire as apartments became available . . . and thought . . . new staff coming in your office might have an interest as well. Our goal has always been to provide great housing options for the folks who make Barnstable work! Let me know if there is someone in your office I should connect with. We have a couple apartments coming up at 255 Main and wanted to go out to our Town and County contacts before advertising to the open market.

3. Cape and Island District Attorney's Office ("DA's Office") employees undergo background checks, which are conducted by the Massachusetts State Police.

4. Galibois sent an office-wide email using the DA's Office email account ("DA's email account") notifying the DA's Office staff about the Donor's apartments and offering to provide anyone interested in the apartments with the Donor's contact information. The email read:

Hi all.

The owner of CapeBuilt contacted me to say he has a number of apartments located at 255 Main St in Hyannis above offices on the 1st floor that will be coming available. CapeBuilt also owns several recently built apartment buildings on Pleasant St in Hyannis. If you are interesting(sic) [in] exploring any of these opportunities please let me know and I will get you contact info.

5. Galibois received three inquiries in response to his email: two from Assistant District Attorneys ("ADAs") and one from a DA's Office administrative staff member on behalf of her son and his family who were not on the DA's Office staff.

6. Galibois referred the two ADAs to the Donor, noting that they were "prosecutors," "great" and "public servants."

7. Neither of the two ADAs rented the units from the Donor.

8. Galibois did not refer the administrative staff person to the Donor because her son and his family were not DA's Office staff.

The Accident

9. On February 23, 2023, at approximately 11:00 a.m., Galibois was involved in a motor vehicle accident (“the Accident”) in his DA’s Office vehicle (“state vehicle”) while making an illegal U-turn.

10. Galibois has access to his state vehicle at all times.

11. The Barnstable Police Department issued a warning citation to Galibois in relation to the Accident for (1) improper turn (2) marked lane violation and (3) “accident report, fail file - c. 90 § 26.”¹

12. After the Accident garnered media attention, Galibois directed his Second Assistant ADA to draft a press release (“Press Release”) regarding the Accident.

13. The Second Assistant ADA, a paid state employee, spent approximately one hour working on the Press Release.

14. The Press Release, which was issued on DA’s Office letterhead, read:

On Thursday, February 23, 2023, at 11:15 am, while travelling to a meeting, DA Galibois executed a three point turn on Barnstable Road, Hyannis. Another motorist alerted DA Galibois that the other motorist was under the impression that the two cars had come into contact with one another. Upon the second motorist coming to DA Galibois’ attention, he immediately pulled over. DA Galibois exchanged appropriate paperwork with the operator. At the scene, the DA’s offer to call the police was declined by the

¹ Section 26 of G.L. c. 90 states,

Every person operating a motor vehicle which is involved in an accident in which any person is killed or injured or in which there is damage in excess of one thousand dollars to any one vehicle or other property shall, within five days after such accident, report in writing to the registrar on a form approved by him and send a copy thereof to the police department having jurisdiction on the way where such accident occurred; provided, however, that such police department shall accept a report filed by an owner or operator whose vehicle has been damaged in an accident in which another person has unlawfully left the scene of such accident. Such report shall not be required during the period of incapacity of any person who is physically incapable of making a report. If the operator is not the owner of the vehicle and is physically incapable of making such written report, the owner shall within five days after the accident make such report based on such knowledge as he may have and such information as he can obtain regarding the accident. The registrar may require any such operator or owner to file a supplementary written report whenever in the opinion of the registrar the original report is insufficient. The registrar may revoke or suspend the license of any person violating any provision of this section.

other operator. The other operator told DA Galibois that the exchange of information was sufficient. There were no injuries. There were no mechanical or structural issues with either car. DA Galibois observed no damage to either car at the scene. DA Galibois responded subsequently to the other operator's insurance company, including emailing them photographs.

After communicating with the other motorist's insurance company, DA Galibois was contacted by the Barnstable Police Department. DA Galibois cooperated fully. Photographs subsequently taken and viewed by law enforcement of DA Galibois' car, show no identifiable damage to the vehicle. DA Galibois deeply appreciates the Barnstable Police Department's efforts and accepts responsibility for civil motor vehicle infractions.

Conclusions of Law

Use of Public Resources to Promote Campaign Donor's Apartments

15. Section 23(b)(2)(ii) of G.L. c. 268A prohibits a municipal employee from knowingly, or with reason to know, using or attempting to use his official position to secure for himself or others unwarranted privileges or exemptions of substantial value² that are not properly available to similarly situated individuals.

16. As Cape and Islands District Attorney, Galibois is a state employee as defined by G.L. c. 268A, § 1(q).

17. The use of state resources to offer private rental apartments to a targeted group of desirable prospective tenants was an unwarranted privilege because there was no justification for using public resources for this private purpose.

18. The unwarranted privilege was substantially valuable to the Donor because it aided the Donor's search for desirable tenants and because it involved the use of valuable DA's Office resources, including the DA's office email distribution list, staff time, and the authority of Galibois' position as District Attorney to ensure the email was

² Substantial value is \$50 or more. 930 CMR 5.05

read by persons likely to be desirable tenants.

19. Galibois knowingly used his official position as District Attorney to aid and assist the Donor in offering their units preferentially to public employees by, as District Attorney, sending an officewide email through the DA's Office email account, serving as liaison between his staff and the Donor, providing recommendations for two ADAs, and screening out the interested would-be tenants who were not public employees.

20. This unwarranted privilege was not properly available to similarly situated private property owners and landlords seeking public employees as tenants.

21. The Commission is not aware of any evidence that Galibois expected or received any financial gain from assisting the Donor in finding tenants for his apartments.

22. Therefore, by using his position as Cape and Islands District Attorney and the resources of his public office to promote the Donor's apartments to a targeted group of desirable prospective tenants, Galibois knowingly used his official position to secure for the Donor unwarranted privileges of substantial value that were not properly available to similarly situated individuals. In so doing, Galibois violated § 23(b)(2)(ii).

*Use of Public Resources to Promote a Narrative
of the Accident Favorable to Himself*

23. The Barnstable Police Department cited Galibois with a warning for making an improper turn, a marked lane violation and a failure to file an accident report. In response to press reports regarding the accident, Galibois expended DA's Office resources to present in the Press Release the facts of the Accident in the light most favorable to himself with the phrases, "the other motorist was under the impression that the two cars had come into contact with one another" and "executed a three point turn."

This use of public resources for a private purpose, that is to turn the public narrative of the Accident to his own favor, was an unwarranted privilege.

24. Galibois used his official Cape and Islands District Attorney position to direct DA's Office staff to expend public resources to publicize and promote a version of the Accident favorable to himself.

25. This use of paid public agency staff to write and issue a press release in the name of the public agency for a private purpose is not properly available to similarly situated motorists who are involved in traffic accidents. Such use of valuable public resources to publicly promote one side of a private dispute and to protect one's own financial and political interests is of substantial value.

26. Therefore, by using his position as Cape and Islands District Attorney and the public resources of his office to promote a public narrative of a private motor vehicle accident favorable to himself for his personal advantage and benefit, Galibois knowingly or with reason to know used his official position to secure for himself unwarranted privileges of substantial value that were not properly available to similarly situated individuals. In so doing, Galibois violated § 23(b)(2)(ii).

Disposition

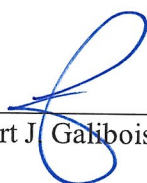
In view of the foregoing violations of G.L. c. 268A by Galibois, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the following terms and conditions agreed to by Galibois:


- (1) that Galibois 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, § 23(b)(2)(ii); and

- (2) that Galibois 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, Galibois acknowledges that he has personally read this Disposition Agreement, that it is a public document, and that he agrees to its terms and conditions.

STATE ETHICS COMMISSION

 4/9/24
Robert J. Galibois, II Date

 5/1/24
David A. Wilson Date
Executive Director