



## **SHELTER ISLAND BOARD OF ETHICS**

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### **Board of Ethics Opinion**

30 June 2023

**Re: Kiely/Opinion 2-2023**

#### **Question Presented:**

Is there a conflict of interest between Stephen Kiely's role as the attorney for the Town of Shelter Island and his candidacy for the Southold Town Board?

#### **Facts:**

Stephen Kiely has been Shelter Island Town Attorney since Jan. 28, 2022. It is a full-time position which pays a base salary of \$145,600 a year, according to the budget. In March 2023, Mr. Kiely announced he is running for Southold Town Board. That would be a part-time (20 hours) job which pays \$38,350 a year. <https://shelterislandreporter.timesreview.com/2023/03/21/island-town-attorney-running-for-southold-town-board/>

By email dated March 13, 2023, Mr. Kiely asked for our advisory opinion on whether his Southold candidacy posed a conflict of interest with his Town of Shelter Island job. His email followed a similar question from the editor of the local newspaper. (The Board of Ethics was not allowed to answer that editor's question directly under the ethics code in effect at that time. Mr. Kiely, whose Shelter Island duties include serving as counsel to the ethics board, has strictly recused himself from our deliberations on his question.)

By email dated March 16, 2023, the Board of Ethics asked Mr. Kiely a series of questions. By email dated May 4, 2023, Mr. Kiely responded to these questions. The board has discussed this matter at two meetings out of the presence of Mr. Kiely.

#### **Relevant laws:**

Shelter Island Town Code Chapter 8, entitled "Ethics, Code of"

##### **§ 8-2 Conflicts of Interest**

No Town employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest.

§ 8-3 Standards of Behavior

(G) Each Town employee shall endeavor to pursue a course or conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

**Analysis:**

Political candidacy is typically a part-time undertaking which would not conflict with a regular job unless it was to cause misuse of confidential information or resources or time at the regular job. This is also true of office-holders who run for re-election. Mr. Kiely should be careful to campaign on his own time and not misuse Shelter Island public resources. He says he is fully aware of that. There is no allegation of misuse.

Whether Mr. Kiely – should he win – would have significant conflicting interests is another, at this time hypothetical, question. It would be up to the Shelter Island Town Board whether to continue his employment as full-time Town Attorney if he wins the Southold position. Mr. Kiely says he can do both and there would be no significant conflicts. There is no reason for us to comment on that hypothetical at this time. We do not want to discourage anybody from running for a public office.

As of May 4, Mr. Kiely said he has not raised the conflict-of-interest question with the Shelter Island Town Supervisor or Town Board who hired him as Town Attorney. He added, “but if any issue arises that may be perceived as a potential conflict I will advise and consult with the Board.” He also wrote, “I will consult with the State Bar Association, or private ethics counsel, if an issue comes up that I feel may be a potential conflict.”

In light of these possibilities that reflect on the candidacy question before us, we formally request Mr. Kiely to also inform us of any such issue or discussion with the Town Board or State Bar Association.

We are holding this Opinion confidential under the terms of the ethics code, but Mr. Kiely is free to share it with anyone he would like, including the Town Board and newspaper editor who first asked the question.

**Conclusion:**

In the unanimous opinion of this board, there is no conflict-of-interest between Mr. Kiely’s job as Shelter Island Town Attorney and his candidacy for Southold Town Board. We hold this opinion along with the cautions and request stated above.

Please be guided accordingly.



Duff Wilson (Chairperson)  
Laura Cunningham  
Deborah Grayson  
Shelby Mundy  
Robert Raiber