
MITCHELLE DRULIS

v.

**ANNA FALLON,
FLEMINGTON-RARITAN REGIONAL
BOARD OF EDUCATION,
HUNTERDON COUNTY**

**BEFORE THE SCHOOL
ETHICS COMMISSION**

DOCKET NO.: C61-17

FINAL DECISION

SUMMARY DISPOSITION

PROCEDURAL HISTORY

This matter arises from a Complaint filed on July 5, 2017, by Michelle Drulis (Complainant) alleging that Anna Fallon (Respondent), a member and then President of the Flemington-Raritan Regional Board of Education (Board), violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. More specifically, the Complaint alleges that Respondent violated N.J.S.A. 18A:12-26(a)(4) in Count 1, N.J.S.A. 18A:12-25(b) and N.J.S.A. 18A:12-25(c) in Count 2, and violated N.J.S.A. 18A:12-22 in Count 3.

On July 27, 2017, and following a failed attempt on July 10, 2017, the Complaint was served on Respondent via regular and certified mail, notifying her that charges were filed against her with the School Ethics Commission (Commission), and advising that she had twenty (20) days to respond to the Complaint. On August 16, 2017, Respondent, through counsel, requested an extension of time to respond. Ultimately, on August 31, 2017, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and also alleged that the Complaint was frivolous. On September 11, 2017, Complainant filed a written response to the Motion to Dismiss, and to the allegation of a frivolous Complaint.

The parties were notified by correspondence dated September 18, 2017, that this matter would be placed on the Commission's agenda for its meeting on September 26, 2017, in order for the Commission to make a determination regarding the Motion to Dismiss and allegation of frivolous filing. At its meeting on September 26, 2017, the Commission considered the filings and, at its meeting on October 31, 2017, the Commission voted to grant the Motion to Dismiss in part (as to the alleged violations of N.J.S.A. 18A:12-25(b) and N.J.S.A. 18A:12-25(c) in Count 2, as well as N.J.S.A. 18A:12-22 in Count 3); deny the Motion to Dismiss in part (as to the alleged violation of N.J.S.A. 18A:12-26(a)(4) in Count 1); find the Complaint not frivolous; and to direct the filing of an Answer to Complaint as to the remaining allegation in the Complaint (Count 1). Respondent filed her Answer to Complaint (Answer) on November 21, 2017, as directed.

By correspondence dated November 21, 2017, the parties were notified that this matter would be placed on the Commission's agenda for its meeting on November 28, 2017, in order for the Commission to make a determination regarding probable cause for the remaining allegation in the Complaint (Count 1). At its meeting on November 28, 2017, the Commission considered the filings, and at its meeting on December 19, 2017, the Commission voted to find probable cause for the alleged violation of N.J.S.A. 18A:12-26(a)(4) in Count 1, and to decide this matter by summary decision pursuant to N.J.A.C. 6A:28-10.7(c)(1). The Commission also directed Respondent to file, within

twenty (20) days, a statement setting forth the reasons she should not be found in violation of the Act. Respondent filed a statement on January 10, 2018, as directed.

At its meeting on January 23, 2018, the Commission reviewed the entire record in this matter, and at its meeting on February 27, 2018, the Commission voted to find that Respondent violated N.J.S.A. 18A:12-26(a)(4), but declined to issue a penalty due to the totality of the circumstances.

SUMMARY OF THE RECORD

Following the Commission's dismissal of the alleged violations of N.J.S.A. 18A:12-25(b) and N.J.S.A. 18A:12-25(c) in Count 2, and the dismissal of the alleged violation of N.J.S.A. 18A:12-22 in Count 3, the remaining charge before the Commission is the alleged violation of N.J.S.A. 18A:12-26(a)(4) as detailed in Count 1. More specifically, Complainant contends that Respondent violated N.J.S.A. 18A:12-26(a)(4) because she failed to disclose her spouse's "interest" in a "business organization" in response to Question 3 (Section III) on her 2017 Personal/Relative and Financial Disclosure Statements (Disclosure Statements).

The record shows that Respondent is a member of the Board, and has been since January 2012. The record also shows that Respondent served as President of the Board from January 4, 2016, until the Board's most recent reorganization meeting (in January 2018).

School officials are required to file, on an annual basis, Disclosure Statements with the Commission. N.J.S.A. 18A:12-25, N.J.S.A. 18A:12-26, and N.J.A.C. 6A:28-3.1. Disclosure Statements have four (4) Sections. Section I of the Disclosure Statements requires a school official to provide personal information, including her name and address, as well as the name of her spouse (if applicable). Section II requires a school official to disclose "relative information," including whether any relative of the school official or any other person related to her by marriage is employed by the school district with which the school official holds office (Question 1); whether a school official or her relative is a party to a contract with the school district with which the school official holds office (Question 2); and whether a school official or her relative is employed by, receives compensation from, or has an interest in any business which is a party to a contract with the school district with which the school official holds office (Question 3).

Section III of the Disclosure Statements requires a school official to disclose "financial information," including each source of income, earned or unearned, exceeding two thousand dollars (\$2,000.00) received by the school official or a member of her immediate family during the preceding calendar year (Question 1); each source of fees/honorariums, or gifts/reimbursements or prepaid expenses, having an aggregate amount exceeding two hundred fifty dollars (\$250.00) received by the school official or a member of her immediate family during the preceding calendar year (Question 2); and the name and address of all business organizations in which the school official or a member of her immediate family had an interest during the preceding calendar year (Question 3). Section IV of the Disclosure Statements requires a school official to certify that the Disclosure Statements "contain no willful misstatement or omission of material fact and constitute a full disclosure," and to indicate an understanding that the filing of information that the school official knows to be false shall subject the school official to disciplinary action, up to and including removal pursuant to N.J.S.A. 18A:12-29.

In her 2017 Disclosure Statements, Respondent disclosed her spouse's business organization, Asset and Wealth Management Group, L.L.C., as a source of income in response to Question #1 (in

Section III), but did not disclose that she or her spouse had an interest in any business organization (in response to Question #3, Section III). Complainant contends that, although this information was withheld from Respondent's 2017 Disclosure Statements, Respondent's spouse does, in fact, have an "interest" in Asset and Wealth Management Group, L.L.C. because he is listed as a "General Partner" on State records. By not properly disclosing this information, Complainant contends that Respondent violated N.J.S.A. 18A:12-26(a)(4).

In her Statement, Respondent acknowledges that she did not list Asset and Wealth Management Group, L.L.C. "under question 3 of the Financial Disclosure Statement, which speaks to business organizations in which [she] or a member of [her] family held an interest." Respondent further admits, "[t]his omission was a mistake, rather than an attempt to conceal [her] connection to [Asset and Wealth Management Group, L.L.C.]." As for why she should not be found in violation of the Act, Respondent notes that Asset and Wealth Management Group, L.L.C. is a limited liability corporation without assets, she has always disclosed Asset and Wealth Management Group, L.L.C. as a source of income to her and her spouse, and an ethics complaint has never previously been filed against her with the Commission.

FINDINGS OF FACT

The Commission finds the following facts to be undisputed:

1. Respondent has been, and continues to be, a duly elected member of the Board.
2. When Complainant filed her Complaint with the Commission, Respondent served as President of the Board.
3. Respondent has a spouse.
4. According to "New Jersey Business Gateway Business Entity Information and Records Service," Asset and Wealth Management Group, L.L.C. is a domestic limited liability company, and its charter documents were originally filed in 2002.
5. According to "New Jersey Business Gateway Business Entity Information and Records Service," Respondent's spouse, along with two others, is a "General Partner" of Asset and Wealth Management Group, L.L.C.
6. On January 24, 2014, Respondent filed her 2014 Disclosure Statements.
7. In her 2014 Disclosure Statements, Respondent disclosed Asset and Wealth Management Group, L.L.C. as a source of income (for her spouse) in response to Question 1 (Section III).
8. In her 2014 Disclosure Statements, Respondent did not disclose Asset and Wealth Management Group, L.L.C. as a business organization in which she or her spouse had an interest in the preceding calendar year in response to Question 3 (Section III).
9. On February 12, 2015, Respondent filed her 2015 Disclosure Statements.

10. In her 2015 Disclosure Statements, Respondent disclosed Asset and Wealth Management Group, L.L.C. as a source of income (for her spouse) in response to Question 1 (Section III).

11. In her 2015 Disclosure Statements, Respondent disclosed Asset and Wealth Management Group, L.L.C. as a business organization in which her spouse had an interest in the preceding calendar year in response to Question 3 (Section III).

12. On February 24, 2016, Respondent filed her 2016 Disclosure Statements.

13. In her 2016 Disclosure Statements, Respondent disclosed Asset and Wealth Management Group, L.L.C. as a source of income (for her spouse) in response to Question 1 (Section III).

14. In her 2016 Disclosure Statements, Respondent did not disclose Asset and Wealth Management Group, L.L.C. as a business organization in which she or her spouse had an interest in the preceding calendar year in response to Question 3 (Section III).

15. On March 15, 2017, Respondent filed her 2017 Disclosure Statements.

16. In her 2017 Disclosure Statements, Respondent disclosed Asset and Wealth Management Group, L.L.C. as a source of income (for her spouse) in response to Question 1 (Section III).

17. In her 2017 Disclosure Statements, Respondent did not disclose Asset and Wealth Management Group, L.L.C. as a business organization in which she or her spouse had an interest in the preceding calendar year in response to Question 3 (Section III).

ANALYSIS/CONCLUSIONS OF LAW

As an initial matter, the Commission finds that Respondent, as a member of the Board, is a “school official” within the meaning of the Act. N.J.S.A. 18A:12-23. As a school official, Respondent is required, among other things, to file Disclosure Statements on an annual basis. N.J.S.A. 18A:12-25, N.J.S.A. 18A:12-26, and N.J.A.C. 6A:28-3.1.

With regard to her 2017 Disclosure Statements, Complainant alleges that Respondent violated N.J.S.A. 18A:12-26(a)(4) because she failed to disclose her spouse’s “interest” in Asset and Wealth Management Group, L.L.C. and, thereby, violated N.J.S.A. 18A:12-26(a)(4). N.J.S.A. 18A:12-26(a)(4) provides:

a. Each school official shall annually file a financial disclosure statement with the School Ethics Commission. All financial disclosure statements filed pursuant to this act shall include the following information which shall specify, where applicable, the name and address of each source and the school official’s position:

(4) The name and address of all business organizations in which the school official or a member of his immediate family had an interest during the preceding calendar year.

The Act defines a “member of immediate family” as “the *spouse* or dependent child of a school official residing in the same household.” N.J.S.A. 18A:12-23 (emphasis added). Therefore, the Commission finds that Respondent’s spouse clearly falls within the Act’s definition of “member of immediate family.”

The Act further defines “business” as “any *corporation*, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union, political organization, *or other legal entity* but shall not include a local school district or any other public entity.” N.J.S.A. 18A:12-23 (emphasis added). Because Asset and Wealth Management Group, L.L.C. is a limited liability company that has been registered with the State of New Jersey since at least 2002, the Commission finds that Asset and Wealth Management Group, L.L.C. is a “business organization” within the meaning of the Act.

In addition, the Act defines an “interest” as “the ownership or control of more than 10% of the profits, assets, or stock of a business but shall not include the control of assets in a labor union.” N.J.S.A. 18A:12-23. Based on the record, including (a) the nature of Asset and Wealth Management Group, L.L.C., (b) the fact that Asset and Wealth Management Group, L.L.C. provides Respondent’s spouse with income in excess of two thousand dollars (\$2,000.00), and (c) the fact that Respondent’s spouse is one of three individuals who serve as a “General Partner” of the company, the Commission finds that Respondent’s spouse has an “interest” in Asset and Wealth Management Group, L.L.C.

Based on the above, and because Respondent candidly acknowledges that she failed to list Asset and Wealth Management Group, L.L.C. in response to Question 3 (Section III) in connection with her 2017 Disclosure Statements, the Commission finds, based on the undisputed evidence, that Respondent violated N.J.S.A. 18A:12-26(a)(4). However, the Commission has determined, by majority vote, not to issue a penalty because Respondent’s failure in this regard is both technical and *de minimis*.

It is irrefutable that Respondent listed Asset and Wealth Management Group, L.L.C. as a “source of income” in her 2017 Disclosure Statements (in response to Question 1, Section III), and that she also consistently disclosed this information as part of her 2014, 2015, and 2016 Disclosure Statements. In this way, Respondent has never attempted to conceal or otherwise withhold from the public the fact that she, and her spouse, benefit financially from Asset and Wealth Management Group, L.L.C. The Commission also finds important the fact that Respondent properly disclosed her spouse’s interest in Asset and Wealth Management Group, L.L.C. as part of her 2015 Disclosure Statements. Nonetheless, whether due to carelessness or negligence, Respondent did not properly disclose Asset and Wealth Management Group, L.L.C. when she filed her 2017 Disclosure Statements. However, the Commission cannot find, based on the record, that Respondent’s failure to disclose her spouse’s interest in Asset and Wealth Management Group, L.L.C. in connection with her 2017 Disclosure Statements was intentional or willful, such that she should be subjected to a penalty. Instead, the Commission accepts Respondent’s representation that this omission was a mistake, and inadvertent.

Although the Commission has declined to issue a penalty in this matter, the Commission cautions Respondent that failure to properly complete all aspects of her Disclosure Statements in future filings may result in the Commission recommending a penalty. In addition, the Commission reminds all board secretaries and charter school designees that they are required, pursuant to N.J.A.C. 6A:28-3.2(g)(1), to review each school official’s Disclosure Statements. To the extent that a school official may fail to answer a question(s) or omit responsive information, board secretaries and charter school designees can assist in ensuring accuracy and completeness.

DECISION

This decision shall be forwarded to the Commissioner of Education (Commissioner) for review of the Commission's finding of a violation of the Act, and the decision not to issue a penalty. Parties may either: 1) file exceptions to the decision not to issue a penalty; 2) file an appeal of the Commission's finding of a violation; or 3) file exceptions to the decision not to issue a penalty and an appeal of the Commission's finding of a violation.

Parties taking exception to the recommendation not to issue a penalty but *not disputing* the Commission's finding of a violation may file, within **thirteen (13) days** from the date the Commission's decision is forwarded to the Commissioner, written exceptions. The forwarding date shall be the mailing date to the parties, as indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, New Jersey 08625, marked "Attention: Comments on School Ethics Commission Decision." A copy of any comments filed must be sent to the Commission, and to all other parties.

Parties seeking to appeal the Commission's finding of a violation *must* file an appeal pursuant to the standards set forth at N.J.A.C. 6A:4, et seq. within **thirty (30) days** of the filing date of the decision from which the appeal is taken. The filing date shall be three (3) days after the mailing date to the parties, as indicated below. In such cases, the Commissioner's review of the Commission's recommendation not to issue a penalty will be deferred and incorporated into the Commissioner's review of the finding of a violation on appeal. Where a notice of appeal has been filed on or before the due date for exceptions to the Commission's recommendation not to issue a penalty (thirteen (13) days from the date the decision is mailed by the Commission), exceptions need not be filed by that date, but may be incorporated into the appellant's brief on appeal.

Robert W. Bender
Chairperson

Mailing Date: February 28, 2018

RESOLUTION ADOPTING DECISION – C61-17

WHEREAS, at its meetings on November 28, 2017, and December 19, 2017, the School Ethics Commission (Commission) voted to find probable cause to credit the allegation that the Respondent violated N.J.S.A. 18A:12-26(a)(4) of the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq.; and

WHEREAS, at its meetings on November 28, 2017, and December 19, 2017, the Commission voted to resolve this matter by summary decision, pursuant to N.J.A.C 6:28-10.7(c)1; and

WHEREAS, the Commission has considered the record, including Respondent's Statement; and

WHEREAS, at its meeting on January 23, 2018, the Commission found that Respondent violated N.J.S.A. 18A:12-26(a)(4), but determined, by majority vote, not to issue a penalty because Respondent's failure in this regard is both technical, and *de minimis*; and

WHEREAS, at its meeting on February 27, 2018, the Commission reviewed and voted to approve the within decision memorializing its findings from January 23, 2018; and

NOW THEREFORE BE IT RESOLVED, that the Commission hereby adopts the within decision and directs its staff to notify all parties to this action of its decision herein.

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on February 27, 2018.

Kathryn A. Whalen, Director
School Ethics Commission