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**IN THE MATTER OF  
JAMES CARPENTER,**

**BEFORE THE  
SCHOOL ETHICS COMMISSION**

***PENNSVILLE BOARD OF EDUCATION,  
SALEM COUNTY***

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**Docket No.: C21-01 and C22-01  
(Consolidated)  
DECISION**

## **PROCEDURAL HISTORY**

The above matter arises from complaints filed by Robert J. Settle on June 4, 2001 and Michael Wooten on June 8, 2001. Therein, they allege that Mr. Carpenter violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. when he participated in the selection of the Pennsville National Bank as the depository for the Pennsville Board of Education when he is an employee of the Pennsville National Bank. Mr. Settle also alleges that Mr. Carpenter is the Chairperson of the Administration Committee. Mr. Wooten also alleges that Mr. Carpenter serves on the school board budget committee and voted in favor of every increase while serving on the board knowing that the increase would be deposited with his employer. Mr. Wooten alleged that Mr. Carpenter participated and voted despite repeated warnings by the administration and other board members. Mr. Wooten alleged that the above conduct constitutes a violation of N.J.S.A. 18A:12-24(c). Mr. Settle did not allege a specific provision of the Act that was violated.

The answer to the complaint was filed on June 20, 2001. Therein, Mr. Carpenter stated that he participated and voted on the issue of the depository because he does not receive any financial gain or benefit from the bank being the depository. He denied having violated any provision of the School Ethics Act.

The Commission invited the parties to testify before it at its August 28, 2001 meeting. All parties appeared. Mr. Carpenter brought Dr. Robert Peddle, Pennsville School District Superintendent and Robert Vanderslice, President of Pennsville National Bank, to testify as witnesses on his behalf. After hearing testimony, the Commission voted at its public meeting to find probable cause that Mr. Carpenter violated N.J.S.A. 18A:12-24(c) when he participated in discussions and voted on the motion to name the Pennsville National Bank as the depository for the Pennsville Board of Education. The Commission found no probable cause and dismissed the allegation of Mr. Wooten that Mr. Carpenter's votes on the budget were in violation of N.J.S.A. 18A:12-24(c) because the budget funds are deposited in the Pennsville National Bank. The Commission consolidated the complaints of Mr. Settle and Mr. Wooten since it found probable cause to credit the same allegation in each complaint.

## **FINDING OF FACT**

The Commission finds the following facts to be undisputed.

Mr. Carpenter was elected to the Pennsville Board of Education in April 1998. He was re-elected to a second term in April 2001. He has been an employee of the Pennsville National Bank since 1989. Mr. Carpenter became an Assistant Vice President at the bank in 1990. He is a trust officer for the bank and has no responsibility for the retail operation of the bank. He receives no compensation other than his salary and benefit package and owns no bank stock.

As a board member since 1998, Mr. Carpenter has had four opportunities to vote on resolutions naming the Pennsville National Bank as the school district's local depository. The first year he abstained from the vote at the recommendation of the superintendent. The following two years he voted in favor of the resolutions. In April 2001, when the resolution was presented, Mr. Wooten stated that he did not think that Mr. Carpenter could vote on a resolution naming his employer as the district's depository. Mr. Carpenter replied that there was no conflict of interest due to the low level of his position at the bank.

The minutes show that on April 9, 2001, Mr. Carpenter voted in favor of Pennsville National Bank continuing as the district's depository until June 2001 when a new resolution formally naming the district's depository would be introduced. Mr. Wooten made his concerns of a conflict of interest known to Mr. Carpenter prior to the vote, but Mr. Carpenter voted nonetheless. On June 11, 2001, the minutes show that Mr. Carpenter abstained from voting on Pennsville National Bank as the district's depository. The date of the vote would have been after Mr. Carpenter received the two complaints in question from the School Ethics Commission.

The parties dispute the extent to which Mr. Carpenter was warned that he would be in violation of the School Ethics Act if he were to participate in the discussion and vote on whether Pennsville National Bank should be the depository. Mr. Wooten alleges that Mr. Carpenter was warned many times. Mr. Carpenter admitted that Mr. Wooten stated that he did not believe that Mr. Carpenter could vote for the Pennsville National Bank to be the depository because it was his employer. Mr. Carpenter further admitted that the superintendent advised that he should abstain from the vote when he first joined the Board and based on that advice, he abstained. The Commission has concluded that the dispute over how many times Mr. Carpenter was warned is not material to the determination of whether he violated N.J.S.A. 18A:12-24(c). For the purposes of this decision, the Commission accepts as undisputed the fact that Mr. Carpenter was twice given notice that he should not participate in discussions and vote on the Pennsville National Bank to be the depository.

Counsel for Mr. Carpenter agrees with the facts set forth above.

## **CONCLUSIONS OF LAW**

The Commission found probable cause on the charge that Mr. Carpenter's conduct when he participated in the discussion and vote on the resolution to continue the appointment of his employer, the Pennsville National Bank, as the depository for the Pennsville Board of Education violated N.J.S.A. 18A:12-24(c). It provides:

No school official shall act in his official capacity in any matter in which he, a member of his immediate family, or a business organization in which he holds an

interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family.

Although Mr. Carpenter stresses that he had a low level position with the bank, the Commission does not find his position to be of such a low level that the public would not be concerned of the appearance of impropriety created by his participation in the discussion and vote on this matter. Mr. Carpenter may not have a direct financial involvement with the resolution since he will not receive any compensation from the Pennsville National Bank serving as depository, but the Commission finds probable cause that Mr. Carpenter has an indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. In determining whether such an involvement exists, the Commission asks whether the public might reasonably perceive that the school official could acquire some indirect financial gain by his participation in the matter. The Commission finds probable cause that such an involvement exists here. The Commission also finds probable cause to credit the allegation that Mr. Carpenter has a personal involvement that creates a benefit to him because the Board is such a major client to the Pennsville National Bank that the loss of the Board as a client could have negative repercussions to his employment.

Mr. Carpenter argues that the Commission found no violation of the standard set forth in N.J.S.A. 18A:12-24(c), but rather the offense found by the Commission was the perceived appearance of impropriety which may exist in the minds of the public. The Commission disagrees.

In finding a violation of N.J.S.A. 18A:12-24(c), the Commission is also mindful of the Legislature's purpose set forth at N.J.S.A. 18A:12-22(a), which provides:

In our representative form of government it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people. These board members and administrators must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

In this case, the Commission is concerned that Mr. Carpenter's actions created a justifiable impression that the public trust was violated. Here, Mr. Carpenter is the Assistant Vice President of the bank that serves as the depository for the Board on which he sits. Although Mr. Carpenter may not be responsible for the retail operation of the bank, owns no bank stock and receives no compensation other than his salary and benefit package, he is nonetheless a bank employee who is impacted by the business the bank generates. The public would have a justifiable impression that its trust is being violated when Mr. Carpenter voted in favor of his employer, the Pennsville National Bank, to continue as the district's depository. While the Commission does not find a violation solely on N.J.S.A. 18A:12-24(a), the Commission believes that its conclusion that Mr. Carpenter violated N.J.S.A. 18A:12-24(c) of the Act is more than adequately supported by the Legislature's stated purpose.

## **PENALTY**

For the foregoing reasons, the Commission finds probable cause to credit the allegations that Mr. Carpenter violated N.J.S.A. 18A:12-24(c) of the School Ethics Act. It now recommends that the Commissioner of Education impose a penalty of reprimand.

In determining the penalty to recommend to the Commissioner of Education, the Commission considered that counsel for Mr. Carpenter advised that Mr. Carpenter would not vote on any matters that pertain to the Pennsville National Bank in the future as such action would violate Board policy. Therefore, the Commission finds that the appropriate penalty in this matter is a reprimand.

Paul C. Garbarini, Chairman

**Resolution Adopting Decision -- C21-01 and C22-01 Consolidated**

**Whereas**, the School Ethics Commission has considered the pleadings filed by the parties and the documents submitted in support thereof and has considered the arguments raised by parties in testimony; and

**Whereas**, the Commission found probable cause to credit the allegations in the complaint that respondent violated N.J.S.A. 18A:12-24(c) of the School Ethics Act; and

**Whereas**, the Commission has reviewed the written statement of the respondent setting forth the reasons that he should not be found in violation of the Act; and

**Whereas**, the Commission finds that Mr. Carpenter violated the Act;

**Now Therefore Be It Resolved** that the Commission finds that James Carpenter violated N.J.S.A. 18A:12-24(c) of the School Ethics Act, recommends that the Commissioner of Education impose a penalty of reprimand and adopts this decision.

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Paul C. Garbarini, Chairman

I hereby certify that this decision was duly adopted by the School Ethics Commission at its public meeting on November 27, 2001.

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Jacqueline Richmond  
Acting Executive Director