



At its meeting on July 25, 2000, the School Ethics Commission found no probable cause and dismissed the allegations in Ms. Morales' complaint against Mr. Cirillo. However, during the course of the investigation, the Commission found discrepancies in Mr. Cirillo's filing of disclosure statements. Specifically, in response to question number "three" of the personal/relative disclosure statement, Mr. Cirillo did not set forth that his wife received compensation from a business that was a party to a contract with the district. Also, on question number "one" on the financial disclosure statement, he did not set forth that his wife received income in excess of \$2,000.00 from Cirillo Electric. The Commission therefore found probable cause to credit the allegations that Antonio Cirillo violated N.J.S.A. 18A:12-25(a)(3) and N.J.S.A. 18A:12-26(a)(1) of the School Ethics Act when he omitted material facts on his 1999 personal/relative and financial disclosure statements.

The Commission found that the material facts were not in dispute as to the charges upon which it based its finding of probable cause. Therefore, it provided Mr. Cirillo with the opportunity to file a written statement as to whether the conduct set forth by the Commission constituted a violation of the Act. Respondent submitted a timely statement. At its September 27, 2000 meeting, the Commission found Mr. Cirillo in violation of N.J.S.A. 18A:12-25 and 26 of the Act and recommended a penalty of censure.

## FACTS

The Commission finds the following facts to be undisputed.

At all times relative to this complaint, Antonio Cirillo was the President of the Moonachie Board of Education.

Antonio Cirillo signed his 1999 personal/relative disclosure statement on April 26, 2000.

Question number “three” on the form asks, in pertinent part:

Do you or does any relative receive compensation from or have any interest in any business which is a party to a contract with the school district in which you hold office or are employed? ... If so, list the name of the each business and if applicable, school district.

The form then leaves spaces for the school official to list the name of the person(s) who receives such compensation, his or her relationship to him, the name of the business and the school district. Mr. Cirillo left these spaces blank. In contrast, when he filed his 1998 personal/relative disclosure statement, Mr. Cirillo wrote “N/A” for “not applicable” in the space provided for the answer.

Mr. Cirillo's 1999 financial disclosure statement was also signed on April 26, 2000. Question number "one" of that form asks the school official to list the name and address of each source of income, earned or unearned, from which he or a member of his immediate family received in excess of \$2,000. Mr. Cirillo listed only his own source of income ("SSI") and did not list any source of income for his wife. Mr. Cirillo's wife made over \$2,000.00 from Cirillo Electric in 1999. She also made over \$2,000.00 from her employment with an insurance company. On the 1998 form, he also listed only his own income.

On March 26, 1998, Cirillo Electric bid on a contract with the Moonachie School District to perform electrical work to the media center in the Robert L. Craig School. Since the Commission requested, but did not receive, board minutes showing the Board's approval of a contract with Cirillo Electric, the Commission must infer that such minutes do not exist. Instead, the Commission received minutes of the September 8, 1998 meeting showing that the Board approved a payment to Cirillo Electric in the amount of \$7,200.00, the amount of the company's bid. Mr. Cirillo abstained.

Cirillo Electric also performed work for the Board in 1999 installing an outlet for television monitor in an office for \$120.00.

## **ANALYSIS**

As set forth above, the Commission found probable cause that Mr. Cirillo violated N.J.S.A. 18A:12-25(a)(3) and N.J.S.A. 18A:12-26(a)(1) of the School Ethics Act when he omitted facts on his 1999 personal/relative and financial disclosure statements. The Commission specifically found that, on question number “three” of the personal/relative disclosure statement, Mr. Cirillo did not set forth that his wife received compensation from a business that was a party to a contract with the district. Also, on question number "one" on the financial disclosure statement, he did not set forth that his wife received income in excess of \$2,000.00 from Cirillo Electric.

N.J.S.A. 18A:12-25(a)(3) provides, in pertinent part:

On a form to be prescribed by the commission and filed annually with the Commission, each school official shall state:

...

(3) whether the school official or a 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 or employment...

N.J.S.A. 18A:12-25(c) provides, in pertinent part:

A school official who fails to file a statement or who files a statement containing information which the school official knows to be false shall be subject to reprimand, censure, suspension, or removal pursuant to the procedures established in [N.J.S.A. 18A:12-29.]

In response to the Commission's finding of probable cause, Mr. Cirillo argues that the charges on which the Commission found probable cause should be dismissed for several reasons. First, he argues that the charges are procedurally defective. He states that the Commission found no probable cause and dismissed the allegations in the complaint. Therefore, he argues, under N.J.S.A. 18A:12-29, there would have to be a new complaint signed under oath setting forth the current charges. He argues that since the entire Commission has decided to bring these charges, regarding the disclosure statements they must all recuse themselves from further consideration of the disclosure violations.

The Commission finds this argument to be unpersuasive. The Commission has the right to determine probable cause based upon a potential violation that comes to light in the course of its investigation of a complaint. When members of the public file complaints without counsel, they are not always drafted precisely. The Commission considers this to be an extension of the initial complaint. This type of extension is especially permissible, where, as here, the information upon which the probable cause finding is based is contained in disclosure statements, which, by law, must be filed with the Commission. Mr. Cirillo's statements came to light during the course of the investigation of the complaint. They are not completely new

allegations but allegations that arose from the charges in the initial complaint. Given the Commission's statutory duty to oversee the filing of statements and the fact that the statements speak for themselves, there is no need to have one Commission member file a complaint who would then recuse himself from the hearing of the case.

Mr. Cirillo next argues that his failure to note that his wife received compensation from a business that is a party to a contract with the Board was not intentional. He notes that his wife was only a part-time employee with Cirillo Electric and the only contract that Cirillo Electric had with the Board in 1999 was for the installation of an outlet for a TV monitor for \$120.00. The written submission provides, "Given the status of Respondent's wife as a part-time secretarial worker and, more importantly, the insignificance of the invoice terms of both dollars and services performed by Cirillo Electric, Inc. in 1999, there can be, it is respectfully submitted, no possible finding of probable cause as to a knowing violation of the Act in this regard." The Commission disagrees.

N.J.S.A. 18A:12-25(c) prohibits a school official from filing a statement containing information that he knows to be false. Mr. Cirillo does not deny knowing that his wife worked for Cirillo Electric, but denies knowing that Cirillo Electric had a contract with the Board in 1999 until the Commission requested further information in connection with the complaint. The Commission rejects this argument. This is not the first contract that Cirillo Electric performed for the Board. Cirillo Electric had a contract for \$7,200.00 with the Board in 1998. At that time, Mr. Cirillo's wife was not working for Cirillo Electric. However, when Mr. Cirillo's wife was

not working for Cirillo Electric, Mr. Cirillo answered the question regarding whether his spouse received compensation from any business that was a party to a contract with the Board, he wrote, “N/A” for “not applicable.” If Mr. Cirillo believed that Cirillo Electric did not have a contract with the Board in 1999, the Commission is certain that he would have again answered, “N/A.” Instead, he left it blank. The Commission also notes that he signed the 1999 disclosure statement in April 2000, after the complaint had been filed on December 20, 1999 alleging that the Board had a contract with a company owned by Mr. Cirillo’s brother. In Mr. Cirillo’s answer, he responded that he did not work for Cirillo Electric. He never said that Cirillo Electric did not have a contract with the Board. For those reasons, the Commission believes that Mr. Cirillo filed a statement that he knew to be false in violation of N.J.S.A. 18A:12-25(a)(3) and N.J.S.A. 18A:12-25(c).

Further, N.J.S.A. 18A:12-22(a) 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.

Given the Legislature’s purpose for enacting the School Ethics Act set forth above, the Commission does not believe that N.J.S.A. 18A:12-25(c) should be read too strictly. It should



not preclude finding a violation in situations where the school official should know, and there is ample evidence that he did know, that the information he provided was false. As the Commission stated in its probable cause finding, omitting material information required under N.J.S.A. 18A:12-25 defeats the purpose of the disclosure forms, which is to allow the public access to information to ensure that school officials do not violate the public trust. N.J.S.A. 18A:12-22. Mr. Cirillo had a duty to disclose that his wife received compensation from a business that was a party to a contract with the Board. Therefore, the Commission finds that Mr. Cirillo violated N.J.S.A. 18A:12-25 by omitting material information from his personal/relative disclosure statement.

With respect to the probable cause finding on N.J.S.A. 18A:12-26, which requires the disclosure of all sources of income of the school official and members of his immediate family, Mr. Cirillo argues that the omission was inadvertent and caused by the part-time nature of the employment and the small amount of business Cirillo Electric did with the Board in 1999.. A spouse is an immediate family member pursuant to N.J.S.A. 18A:12-23. Mr. Cirillo was required by the Act to list all such sources of income for himself and members of his immediate family over \$2,000.00. He does not deny that he should have listed his wife's source of income, but denies that he had any intent to falsify the statement.

N.J.S.A. 18A:12-26 requires the disclosure of any source of income for a school official and his immediate family members in an amount greater than \$2,000.00. The question of whether employment is full-time or part-time does not affect a school official's duty to disclose

the source. The amount of the corporation's contract with the Board is also not relevant to the question posed by N.J.S.A. 18A:12-26. The source of income refers to any source, not any source that has a contract with the Board. Mr. Cirillo's inclusion of only his own source of income represented to the Commission and the public that his wife had no source of income. This is a material misrepresentation. Given that the statement was signed during while the complaint was pending alleging unethical conduct due to Cirillo Electric's contract with the Board, the Commission does not believe that the omission was inadvertent. Therefore, the Commission finds that Mr. Cirillo violated N.J.S.A. 18A:12-26 by misstating information on his financial disclosure statement.

## **DECISION**

For the foregoing reasons, the School Ethics Commission finds that Antonio Cirillo violated N.J.S.A. 18A:12-25(a)(3) and 26(a)(1) of the Act when he omitted material information on his 1999 disclosure statements and thereby filed a false statement.

In determining the penalty to recommend, the Commission considered several factors. The Commission finds that misrepresenting or omitting material information from one's disclosure statement is a serious offense. However, the Commission also considered that, with respect to the violation of N.J.S.A. 18A:12-25, the amount of the contract with Cirillo Electric was very small as compared to the year before. While the amount of the contract does not

excuse Mr. Cirillo's failure to disclose that his spouse worked for the company, the Commission believes that it mitigates the penalty. Therefore, the Commission finds that a penalty of a censure is sufficient to ensure that Mr. Cirillo understands that his omissions were improper and to ensure that they will not occur again. Furthermore, Mr. Cirillo has represented that he will amend his 1999 return in accordance with the Commission's findings. If he has not yet had the opportunity to amend his return, the Commission is hereby ordering him to do so.

This decision has been adopted by a formal resolution of the School Ethics Commission. This matter shall now be transmitted to the Commissioner of Education for action on the Commission's recommendation **for sanction only**, pursuant to N.J.S.A. 18A:12-29. Within thirteen (13) days from the date on which the Commission's decision was mailed to the parties, any party may file written comments on the recommended sanction with the Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, NJ 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the School Ethics Commission and all other parties.

Paul C. Garbarini

Chairperson

**Resolution Adopting Decision -- C26-99**

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

Whereas, the Commission has found that Antonio Cirillo violated N.J.S.A. 18A:12-25 and 26 of the School Ethics Act; and

Whereas the Commission has reviewed the proposed decision of its staff; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision referenced as its decision in this matter and directs its staff to notify all parties to this action of the Commission's decision herein.

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Paul C. Garbarini, Chairperson

I hereby certify that the School Ethics Commission authorized the dissemination of this decision at its public meeting on September 27, 2000.

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Lisa James-Beavers  
Executive Director