

<b>LISA ANN MORRELL</b>	:	<b>Before the</b>
	:	<b>School Ethics Commission</b>
<b>v.</b>	:	
	:	
<b>SISTER MIRIAM MACGILLIS</b>	:	<b>Docket No. C09-03</b>
<b>RIDGE AND VALLEY</b>	:	
<b>CHARTER SCHOOL</b>	:	
<b>WARREN COUNTY</b>	:	<b>DECISION</b>
	:	

**PROCEDURAL HISTORY**

This matter arises from a complaint that Ridge and Valley Charter School Board of Trustees member, Sister Miriam MacGillis has a conflict of interest in violation of the School Ethics Act (Act), N.J.S.A. 18A:12-24, because she is a Dominican Sister in the Catholic Church. Complainant also alleges it is a violation for Respondent to be a founder and member of Genesis Farm, an ecological organization, while serving on the Charter School Board. Complainant avers that these two affiliations conflict with her ability to serve on the Board of Trustees. Specifically, Complainant avers that it is a violation of the Act to have a person who is a member of a Catholic religious order to have involvement in a publicly funded charter school. Additionally, complainant alleges that respondent violated N.J.S.A. 18A:12-24 when she gave the Charter School a three-year, no-interest loan.

In her answer, Respondent denies that she violated any provision of the Act in that she is a citizen of the United States and thereby protected by the Bill of Rights to participate in various organizations. She states that her affiliation with the Catholic Church and with Genesis Farm should have no bearing on her position as a charter school trustee. She notes that Genesis Farm is widely recognized for its value in teaching earth literacy and has been recognized by the United Nations. With regard to the loan, Respondent explains that she was able to secure, from Genesis Farm, two no-interest loans to the Ridge and Valley Charter School. One of these was not used under the current State Charter and was, thus returned to Genesis Farm in full. The second loan was for start-up costs of the charter school, and was fully repaid in 2002.

The Commission invited the parties to attend its meeting on May 27, 2003, to present witnesses and testimony to aid in the Commission’s investigation. The complainant and a witness, Carol Haag, appeared *pro se*. The respondent did not attend the meeting, but submitted a statement in lieu of appearance.

At its public meeting on May 27, 2003, the Commission voted to find no probable cause and dismiss the complaint.

## FACTS

The Commission found the following facts on the basis of the pleadings, documents submitted, testimony and its investigation.

Sister Miriam MacGillis is a Dominican Sister and founding member of Genesis Farm, a non-profit organic farm. She is also a founding member of the board of trustees for the Ridge and Valley Charter School. Ridge and Valley School does not yet exist, however, the School has been granted another planning year by the New Jersey Department of Education. In order to begin operations, the Charter School needed to raise \$7,500 for start-up costs. With the assistance of Sister MacGillis, Genesis Farm provided one non-interest bearing loan to the Ridge and Valley Charter School in 2001 that was used by the trustees. This loan of \$2,500 was fully repaid to Genesis Farms in 2002.

## ANALYSIS

The applicable provision of the School Ethics Act for this analysis is N.J.S.A. 18A:12-24(c), which 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.

The Commission finds no basis with which to credit the allegation that Respondent is in violation of this provision of the School Ethics Act, because she holds dual roles as a Dominican Sister and trustee on a charter school board. In its investigation, the Commission found no facts supporting the contention that Sister MacGillis is using, or has used, her position as a charter school trustee to promote religion. It further finds that her service in itself is not a conflict. The Commission finds that she is one member of a board of trustees. She is neither a teacher nor an administrator. As long as the board member recuses herself from acting when a conflict exists, she is not barred from board of trustee membership.

Any further contention that Respondent's board membership is a violation of church and State, would be a constitutional matter arising under the Establishment Clause of the First Amendment, U.S.C.A. Const. Amend. 1. A violation of this provision is not reviewable by the School Ethics Commission.

Further, the Commission does not find Respondent's membership on the board of Genesis Farm to prevent her from serving as a trustee of a charter school. There are many who serve on charter school boards who also serve on other public and private boards simultaneously. Often, these are individuals inclined toward service and have much to offer in the way of organizational and managerial experience. It is not a conflict simply to have different affiliations, as long as one can act objectively in both capacities, and refrain from acting when a conflict of interest is presented.

With regard to the matter concerning the loan to the Charter School, the Commission also fails to find sufficient evidence to support a violation. In rendering this decision, the Commission looked to *Advisory Opinion, A07-01(May 22, 2001)*, as instructive in the present analysis.

In *A07-01*, a charter school trustee member was employed as the executive director of a leasing company that was landlord to the charter school building. In that matter, the Commission initially sought to determine whether the trustee had any ownership in the leasing company and determined that the trustee did not. Secondly, the trustee did not receive any additional compensation from her company based on the leasing of various properties. Lastly, the Commission found it significant that neither the trustee, nor her company made any profit on the lease. Therefore, the Commission advised that there was no conflict of interest preventing service as a charter school trustee, but she would have to recuse herself from lease issues made under N.J.S.A. 18A:12-24(c).

In the previous matter, the Commission found that the board of trustee member did not act in any financial matter to prejudice her objectivity of judgment, so long as she recused herself from acting on discussions and votes pertaining to the lease, or even the discussion of purchasing property elsewhere as that could result in a loss of revenue to her employer. Further, she was not found to have acted in a personal matter that would create a benefit to herself or her company.

In the present matter, a similar analysis would apply. The loan was not provided directly by the respondent but by Genesis Farm. Further, although the loan was secured through Respondent, it was provided to the school from Genesis Farm. Respondent receives no financial or personal benefit from the loan. Nor is there evidence that Genesis Farm, a non-profit organization, receives a financial benefit from making these loans to the charter school. Therefore, the Commission finds no probable cause to credit the allegation that respondent violated N.J.S.A. 18A:12-24(c).

## **DECISION**

Accordingly, the Respondent's actions securing the loans to the charter school do not arise to a violation of the School Ethics Act. This is so as long as Respondent

refrains from discussions and votes concerning the loans made by Genesis Farm to the Charter School.

For the foregoing reasons, the Commission finds no probable cause to credit the allegation that Sister Miriam MacGillis violated the School Ethics Act and dismisses the complaint.

This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division.

Paul C. Garbarini  
Chairperson

### **Resolution Adopting Decision – C09-03**

Whereas, the School Ethics Commission has considered the pleadings filed by the parties, the documents submitted in support thereof, testimony and the information obtained from its investigation; and

Whereas, at its meeting of May 27, 2003, the Commission found no probable cause to credit the allegations that Sister Miriam MacGillis violated the School Ethic Act, N.J.S.A. 18A:12-21 et seq. and therefore dismissed the charges against her; and

Whereas, the Commission that its staff prepare a decision consistent with the aforementioned conclusion; and

Whereas; the Commission has reviewed the decision and agrees with the 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 this Resolution was duly adopted by the School Ethics Commission at its public meeting on June 24, 2003.

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Lisa James-Beavers, Executive Director