

At its meeting on January 22, 2002, Mr. Ordini testified that the school was undergoing construction and that the signs were required to aid in traffic control due to significantly changed traffic and parking patterns. The Board Secretary/Business Administrator, Dennis Nettleton, submitted an affidavit in support of Mr. Ordini that indicates that Mr. Ordini's services were solicited on an emergent basis after the Board learned that William Starkey & Starkey Signs, the vendor with whom the Board normally contracted to provide signage, was unable to complete the project by September 10, 2001. Complainant testified that the school's administration was aware of the need for the aforementioned signage in August 2001 and had sufficient time to contract with another vendor to provide the service. Complainant provided a memorandum from the Superintendent of the district, Dr. Timothy Wade, dated August 16, 2001, which indicates that the traffic and parking patterns would be disrupted due to the construction.

Mr. Ordini's company also provided a banner sign for the Antheil Elementary School Parent Teacher Organization (PTO) to announce the anniversary of the school. The PTO is not governed by the Board and its finances are derived from dues paid by parents and fundraisers.

ANALYSIS

Complainant urges the Commission to find that Mr. Ordini violated N.J.S.A. 18A:12-24(a) and argues that the prior decisions of the Commission in I/M/O Larry Martin, C18-97 (April 28, 1998) and Hanzel v. Achee, C10-00 (January 23, 2001) support a finding of probable cause that Mr. Ordini violated the subsection. The Commission disagrees.

N.J.S.A. 18A:12-24(a) provides in pertinent part:

No school official or member of his immediate family shall...engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.

In Martin, Mr. Martin used his company to help his school secure the best price for computers that they intended to purchase. Mr. Martin did not make any profit on the deal and he acted to purchase the computers only when the distributor would not sell the computers directly to the school and the PTA. The Commission concluded that Mr. Martin did not engage in a business or transaction that was in substantial conflict with the discharge of his duties as a Board member. However, the Commission noted that perceived entanglements that ensue when a board does business with a board member made the board's subsequent decision not to make purchases through a board member again sound judgment. The Commission reasoned that there would always be questions about whether the board member gained financially or otherwise from a transaction with the board, despite his or her good intentions. The Commission also noted the lack of adequate procedures and policies of the administration.

In Achee, Mr. Achee sold t-shirts through his company to his board. There, the Commission noted that Mr. Achee did not offer services or otherwise solicit business from employees of the school district as board member. The Commission further noted that Mr. Achee priced the items at his cost. The Commission found that there is insufficient information from which to find probable cause that Mr. Achee engaged in a business or transaction in substantial conflict with the proper discharge of his duties in the public interest in violation of N.J.S.A. 18A:12-24(a). The Commission also cited to Martin and noted that a perceived entanglement ensues when a board does business with a board member.

While the Martin and Achee cases note the Commission's concerns with respect to boards conducting business with its members, the issue in both cases was whether the respondents violated N.J.S.A. 18A:12-24(a). As shown above, the Commission did not find probable cause that a violation of the subsection existed in either the Martin or Achee cases. Similar to the Martin and Achee cases, the issue in the present case is whether Mr. Ordini engaged in any business, transaction, or professional activity, which was in substantial conflict with the proper discharge of his duties in the public interest, in violation of N.J.S.A. 18A:12-24(a).

The complainant alleges that Mr. Ordini violated N.J.S.A. 18A:12-24(a) when he made signs for the middle school and sold them to the Board through his business. However, there are insufficient facts to demonstrate that Mr. Ordini engaged in any business, transaction, or professional activity, which was in substantial conflict with the proper discharge of his duties in the public interest. According to the facts presented, the Board appeared to have requested the signage on an emergent basis due to another company's late notification that it could not complete the signage by September 10, 2001, the start of the 2001/2002 school year. The Commission also notes that Mr. Ordini's company invoice shows that the signs were provided to the school at his cost. Like the respondents in Martin and Achee, Mr. Ordini did not solicit business from the Board and did not receive a profit from the transaction.

The Commission's conclusion here is consistent with its conclusion in Martin and Achee. The Commission finds that there is no probable cause to credit the allegation that Mr. Ordini violated N.J.S.A. 18A:12-24(a).

Complainant also alleges that Mr. Ordini violated N.J.S.A. 18A:12-24(a) when he provided signage for the Antheil Elementary School Parent Teacher Association (PTO). The Commission finds that there are insufficient facts to demonstrate that Mr. Ordini engaged in any business, transaction, or professional activity, which was in substantial conflict with the proper discharge of his duties in the public interest. Given the foregoing facts, the Commission finds that the PTO is a private organization as it is not funded or governed by the Board. Therefore, Mr. Ordini's service for the PTO would not present a conflict with his duties as a Board member. The Commission concludes that there is no probable cause to credit the allegation that Mr. Ordini violated N.J.S.A. 18A:12-24(a).

Next, the complainant alleges that Mr. Ordini violated N.J.S.A. 18A:12-24(d) and asserts that the Commission's finding in Martin and Achee support a finding of probable cause that a violation of the subsection exists. Again, the Commission disagrees.

N.J.S.A. 18A:12-24(d) provides:

No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties.

As set forth in the Martin and Achee cases, the Commission discourages school officials from doing any business with the Board that will ultimately require the Board to determine whether to pay the bill for the goods or services of that school official. However, the issue here is whether the goods that Mr. Ordini's company provided to the Board prejudiced or could reasonably be expected to prejudice his independence of judgment in the exercise of his official duties. The Commission does not have sufficient information from which to conclude that Mr. Ordini's conduct prejudiced or could prejudice his independence of judgment in the exercise of his duties as a Board member in violation of N.J.S.A. 18A:12-24(d). For the foregoing reasons, the Commission finds no probable cause to credit the allegation that Mr. Ordini violated the subsection.

Last, Complainant alleges that Mr. Ordini violated N.J.S.A. 18A:12-24(d) when he provided signage for the Antheil Elementary School Parent Teacher Association (PTO). The Commission finds that there are insufficient facts to demonstrate that such conduct prejudiced or could reasonably be expected to prejudice Mr. Ordini's independence of judgment in the exercise of his official duties. As mentioned previously, the Commission finds that the PTO is a private organization as it is not funded or governed by the Board. The Commission therefore finds that the aforementioned service Mr. Ordini's provided for the PTO would not present a conflict with his duties as a Board member and concludes that there is no probable cause to credit the allegation that Mr. Ordini violated N.J.S.A. 18A:12-24(d).

Although the Commission finds no probable cause that Mr. Ordini violated the Act, it notes that the Ewing Township Board of Education must clarify its procedure and policy regarding emergent acquisitions. The Commission therefore recommends that the Board seek bona fide quotations from at least three vendors that can provide requested services on an emergent basis to prevent the need to seek out the services of board members.

DECISION

For the foregoing reasons, the School Ethics Commission finds no probable cause to credit the allegations in the complaint and dismisses the charges against Respondent, Vince Ordini.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision - C34-01

Whereas, the School Ethics Commission has considered the pleadings filed by the parties and the documents submitted in support thereof and has considered the testimony of Mr. Ordini in executive session; and

Whereas, at its meeting of January 22, 2002, the Commission found no probable cause to credit the allegations that Respondent violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. and therefore dismisses the charges against him; and

Whereas, the Commission requested 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 on February 26, 2002 and directs its staff to notify all parties to this action of the Commission's decision herein.

Paul C. Garbarini, Chairperson

I hereby certify that this Amended Decision was duly adopted by the School Ethics Commission at its public meeting on February 26, 2002.

Jacqueline Richmond
Acting Executive Director