

<b>IN THE MATTER OF RASHUN STEWART OCEANSIDE CHARTER SCHOOL ATLANTIC COUNTY</b>	: : : : : : : :	<b>BEFORE THE SCHOOL ETHICS COMMISSION</b>  <b>Dkt. No. C17-09 DECISION</b>
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**PROCEDURAL HISTORY**

This matter arises from an Order to Show Cause issued by the School Ethics Commission on April 30, 2009 alleging that RaShun Stewart, a former administrator at the Oceanside Charter School, filed a disclosure statement containing information which the school official knew to be false, in violation of N.J.S.A. 18A:12-25c.<sup>1</sup> Pursuant to N.J.A.C. 6A:28-3.3(c), Mr. Stewart was accorded 20 days from receipt of the Order to show cause why the School Ethics Commission should not recommend that the Commissioner of Education impose a sanction, as permitted by law. Mr. Stewart was therein notified that upon receipt of his response to the Order to Show Cause, or upon expiration of the 20-day time period for so filing, the Commission would proceed to a determination of probable cause. N.J.A.C. 6A:28-3.3(c).

By letter dated June 25, 2009, the Commission invited the respondent to appear at its meeting on July 28, 2009, prior to making a probable cause determination. The respondent did not reply to the Commission’s request and did not appear at the meeting. The Commission found probable cause to credit the allegation that the respondent violated N.J.S.A. 18A:12-25 of the School Ethics Act. The Commission adopted its probable cause notice at its meeting on August 25, 2009 and mailed the notice to the complainant, via regular and certified mail, on August 26, 2009. Pursuant to N.J.A.C. 6A:28-6.8(b), the respondent was accorded 30 days from the date of the probable cause notice to submit a written statement setting forth the reasons he should not be found in violation of the Act. Respondent was further notified that upon receipt of his submission, or upon expiration of the 30-day period, the Commission would proceed to a final determination. The respondent did not submit a response to the probable cause notice.<sup>2</sup> At its meeting on October 27, 2009, the Commission found that the respondent violated N.J.S.A. 18A:12-25, recommended a penalty of censure and adopted the within decision.

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<sup>1</sup> On April 15, 2009, the State Board of Education adopted amendments to N.J.A.C. 6A:28, the regulations governing matters that come before the School Ethics Commission. These rules became effective on May 18, 2009. However, because the Order to Show Cause in this matter was issued prior to May 18, 2009, the Commission followed procedures and rendered its determinations herein in accordance with the rules that were in effect at the time the Order was issued to the respondent. To the extent this decision cites to regulations, they are the regulations that were in effect when the complaint was filed.

<sup>2</sup> The probable cause notice was sent via regular and certified mail. The copy sent via certified mail was returned to the Commission’s office as “unclaimed.” The copy sent by regular mail was not returned to the Commission’s office and, therefore, is deemed received.

## FINDINGS OF FACT

1. The respondent was employed as a school administrator in the Oceanside Charter School during the 2006-2007 and 2007-2008 school years.
2. As a school administrator, the respondent was required to file annual statements disclosing personal/relative and financial interests.
3. While a salaried administrator of the charter school during both the 2006-2007 and 2007-2008 school years, the respondent facilitated the charter school's requisition of services from Inner City Issues (ICI) while the respondent was also the owner/agent of record for ICI, Inc.
4. The respondent failed to disclose a personal interest in ICI on his disclosure statement filed April 30, 2008.<sup>3</sup>
5. The respondent's employment contract with the Oceanside Charter School was terminated as of February 10, 2009.

## ANALYSIS

The School Ethics Act, (the "Act") N.J.S.A. 18A:12-21 et seq. was enacted by the New Jersey State Legislature to ensure and preserve public confidence in school officials and to provide specific ethical standards to guide their conduct. Each school official, as defined in N.J.S.A. 18A:12-23, must file personal/relative and financial disclosure statements with the Executive County Superintendent, annually, on or before April 30 of each year on forms provided through the Executive County Superintendent. Additionally, each school official elected in the annual April school election, appointed to fill a vacancy, or appointed in a Type I district on May 16 or June 1, shall file such statements within 30 days of taking office. N.J.S.A. 18A:12-25 and 26; N.J.A.C. 6A:28-3.1. These disclosure statements must be maintained as a public record with the County Office as the School Ethics Commission's designee.

The Act specifically requires that each school official shall disclose:

Whether the school official or a relative is a party to a contract with the school district with which the school official holds office or employment ...; and

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<sup>3</sup> Specifically, on his April 30, 2008 personal/relative disclosure statement, question number two, the respondent wrote "N/A" for "not applicable" after the question: "Are you or is any person related to you or related to you by marriage, a party to a contract with your school district or a charter school?" The respondent also wrote "N/A" for "not applicable" after the question three: "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 or charter school in which you hold office or are employed?"

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 ... and if so, the name of each such business. N.J.S.A. 18A:12-25a(2) and (3).<sup>4</sup>

A school official who files a statement containing information which the school official knows to be false shall be subject to reprimand, censure, suspension or removal. N.J.S.A. 18A:12-25c.

## **DECISION**

On the undisputed facts set forth above, the Commission finds that the respondent violated N.J.S.A. 18A:12-25 when, in April 2008, he failed to disclose his personal interest in ICI on his personal/relative disclosure statement.<sup>5</sup>

## **PENALTY**

The Commission recommends that the Commissioner of Education impose a penalty of censure upon Mr. Stewart. In so doing, the Commission notes that the respondent is no longer employed by the Oceanside Charter School. In a similar matter, the Commission recommended a penalty of censure, which was affirmed by the Commissioner of Education, when the Commission found that a Board member, Anthony Cirillo, violated N.J.S.A. 18A:12-25(a)(3) by filing a statement which he knew to be false. That is, on question number three of his personal/relative disclosure statement, the Board member did not set forth that his wife received compensation from a business that was a party to a contract with the district. Additionally, on the financial disclosure statement, the Board member did not indicate that his wife received an income in excess of \$2,000 from Cirillo Electric, a company which had a contract with the Board. Both the Commission and the Commissioner of Education confirmed that misrepresentation or omission of material information from a disclosure statement is a serious offense. I/M/O Anthony Cirillo, Moonachie Bd. of Ed., Bergen County, C26-99A (November 20, 2000), Commissioner of Education Decision No. 385-00SEC.

Although the Board member in Cirillo was sanctioned for two violations, the Commission nevertheless finds the circumstances surrounding the violation herein to be more egregious in that the respondent was an administrator in the District who was in a position where he facilitated the charter school's requisition of services from ICI. In so doing, the Commission

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<sup>4</sup> Pursuant to N.J.S.A. 18A:12-23.1, the provisions of the Act shall apply to an administrator and a member of the board of trustees of a charter school.

<sup>5</sup> Upon further review of this matter, the Commission also notes that there may be a concomitant violation of N.J.S.A. 18A:12-26, but the Commission need not reach to such analysis in the context of this matter, where the Commission finds, as set forth herein, the respondent's actions in violating N.J.S.A. 18A:12-25 were sufficiently flagrant to warrant the strongest penalty that it can recommend to a school official who is no longer employed in the position where the violation occurred.

finds that respondent's actions implicate the very purpose of the School Ethics Act, as the Legislature found that:

[I]t 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. N.J.S.A. 18A12-22a.

In this connection, the Commission also notes that the School Ethics Act, and the specific prohibitions set forth therein, were intended to establish ethical standards for school officials along with a mechanism "to weed out the few people who would use our schools for personal gain." (Office of the Governor, News Release, January 16, 1992, "Governor Florio Signs Law Imposing Greater Accountability for School Districts.")

Pursuant to N.J.S.A. 18A:12-29(c), this decision shall be forwarded to the Commissioner of Education for review of the School Ethics Commission's recommended sanction. Parties may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's finding of violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of violation may file, within **13 days** from the date the Commission's decision is forwarded to the Commissioner, written exceptions regarding the recommended penalty to the Commissioner. The forwarding date shall be the mailing date to the parties, indicated below. Such exceptions must be forwarded to: 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.

Parties seeking to appeal the Commission's finding of violation *must* file an appeal pursuant to the standards set forth at N.J.A.C. 6A:4 within **30 days** of the filing date of the decision from which the appeal is taken. The filing date shall be three days after the date of mailing to the parties, as shown below. In such cases, the Commissioner's review of the Commission's recommended sanction will be deferred and incorporated into the Commissioner's review of the finding of violation on appeal. Where a notice of appeal has been filed on or before the due date for exceptions to the Commission's recommended sanction (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 briefs on appeal.

Robert Bender  
Chairperson

Mailing Date: October 30, 2009

**Resolution Adopting Decision – C17-09**

**Whereas**, the School Ethics Commission issued an Order to Show Cause to the respondent via regular and certified mail on April 30, 2009; and

**Whereas**, the respondent failed to respond to the Order and failed to challenge the facts set forth in the Order;

**Whereas**, at its meeting on July 28, 2009, the Commission found probable cause to credit the allegation that the respondent violated the School Ethics Act, N.J.S.A. 18A:12-25; and

**Whereas**, the respondent was provided an opportunity pursuant to N.J.A.C. 6A:28-6.8(b) to submit a written statement setting forth the reasons he should not be found in violation of the Act; and

**Whereas**, the respondent did not respond to the Commission’s Notice of Probable Cause; and

**Whereas**, at its meeting on October 27, 2009, the Commission found that the respondent violated N.J.S.A. 18A:12-25 and recommended a penalty of censure; and

**Whereas**, the Commission has reviewed and approved the within decision;

**Now Therefore Be It Resolved** that the Commission hereby adopts the decision and directs its staff to notify all parties to this action of its decision herein.

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Robert Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its public meeting on October 27, 2009.

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Joanne Boyle, Executive Director  
School Ethics Commission