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**ATLANTIC ASSOCIATES  
INSURANCE AGENCY**

**V.**

**JOHN PAGE, JUANITA HYMAN  
and OLIVIA CALDWELL,  
*PLEASANTVILLE BOARD OF ED.  
ATLANTIC COUNTY***

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**: Before the School  
: Ethics Commission**

**:  
: Docket No.: C21-98**

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: DECISION**

## **PROCEDURAL HISTORY**

The above-captioned matter was initially filed by Atlantic Associates Insurance Agency as an Action in Lieu of Prerogative Writ before the Superior Court – Law Division. The insurance agency sought to void a resolution of the Pleasantville Board of Education (Board) appointing Curtis Lackland as insurance broker of record, to reinstate Atlantic Associates as the broker of record and to obtain an order barring the above respondents from participating in discussions and votes concerning Curtis Lackland. It also sought compensatory damages. However, the judge dismissed the action as an education issue that was within the proper jurisdiction of the Commissioner of Education. The complainant then filed a verified petition with the Commissioner. However, upon noting that the verified petition before him alleged ethical violations, the Commissioner forwarded it to the School Ethics Commission. The Commissioner retained jurisdiction, however, for resolution of the issues that do not fall under the School Ethics Act.

The verified petition filed by Atlantic Associates Insurance Agency alleges that Pleasantville Board members John Page, Juanita Hyman and Olivia Caldwell violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. when they participated in discussions and voted on the appointment of an insurance broker of record.<sup>1</sup> Atlantic Associates alleges that when the above Board members ran for election in April 1998, Curtis Lackland, a competing insurance broker, was either their campaign manager or was intimately involved in the operation of the campaign. The complaint sets forth that although Mr. Page abstained from the vote, he did not abstain from participating in the closed and public sessions leading to the vote.

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<sup>1</sup> Atlantic Associates also complained against Mr. Curtis Lackland alleging that his proposal for the position of insurance broker of record was fraudulent. However, since he was not a school official against whom one could file a complaint under the School Ethics Act, he was removed as a respondent in the case before the Commission.

## STATEMENT OF FACTS

The following facts were discerned from the pleadings, documents submitted, testimony and the Commission's investigation.

In April 1998, respondents ran for and were elected to the Board. Curtis Lackland, a New Jersey licensed insurance broker doing business as Corporate Benefits Consultants (CBC), was a supporter of their campaign. The extent of the support is in dispute. Atlantic Associates, which is owned by Lena Fulton, served as broker of record for the Board from June 1995 to June 1998.

On May 6, 1998, the Board published a Request for Proposals (RFP) for an insurance broker of record to begin on July 1, 1998. Ms. Fulton, who was then the Board's broker of record, submitted a proposal as did Mr. Lackland and one other broker. On May 26, 1998, Ms. Fulton and Mr. Lackland were interviewed for the broker of record position. The Commission then went into executive session at which time a board member requested that the business administrator check Mr. Lackland's references. All three respondents participated in the closed session meeting. On June 3, 1998, the Superintendent provided the Board with a memorandum indicating that the Business Administrator had check Mr. Lackland's references and setting forth the results of his interviews. According to the Business Administrator, all the references were verified. At the Board's public meeting on June 3, 1998, the Board adopted a resolution to appoint Curtis Lackland's firm, CBC, as insurance broker of record. Board members Caldwell, Harmon, Hyman and Johnson voted in favor of the appointment and Board members Bryant and Smith voted against it. Board member Page abstained, he said because of the concerns of the public expressed at the beginning of the meeting. Two other Board members also abstained and the resolution passed by a 4-2-3 vote.

The question before the Commission is whether Board members Page, Caldwell and Hyman violated N.J.S.A. 18A:12-24(c) of the School Ethics Act because of their connection to Mr. Lackland.

## ANALYSIS

Complainant set forth that the respondents have violated N.J.S.A. 18A:12-24(c), which provides:

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

Administrative Law Judge Jeff Masin set forth three factors that must be considered when trying to determine whether a political affiliation or contribution constitutes a “personal involvement” under the School Ethics Act. *In the Matter of James Famularo*, OAL Docket No. EEC 2723-97 (January 27, 1998), aff’d SEC Docket No. C23-96 (February 24, 1998). The first is the prominence of the person or persons’ support in the campaign. The second is the amount of time that has lapsed between the time of active campaigning and the time of consideration by the public body of the issue of interest to the supporter. The third is the extent to which the issues on which the candidate campaigned and the supporters expressed concern remain matters of public debate and controversy. *In the Matter of James Famularo*, OAL Docket No. EEC 2723-97 (January 27, 1998), aff’d SEC Docket No. C23-96 (February 24, 1998).

Regarding the first factor, the *Famularo* case set forth that a campaign treasurer was a person of prominence in a campaign. The complainant sets forth that Mr. Lackland “was the campaign manager for or was otherwise intimately involved in the direction, control and operation of the Board election campaigns of Page, Caldwell and Hyman.” The Commission has reviewed the records of the Election Law Enforcement Commission and has determined that Mr. Lackland was not the campaign manager of the respondents on any of the official reports. Complainant nonetheless submits that Mr. Lackland held himself out as their campaign manager, spoke for the candidates and otherwise guided their campaign.

In support of its argument, the complainant presented the testimony of a Board member who testified that his own campaign manager had a discussion with Mr. Lackland wherein Mr. Lackland identified himself as the respondents’ campaign manager. In addition, the Board member said that Mr. Lackland called in during a radio talk show and would not deny that he was their campaign manager when asked. The complainant also produced an affidavit from Tony, Stefanie and Bruce Davenport stating that Mr. Lackland approached them as campaign manager for Mr. Page during the 1998 Board election. Tony Davenport was a candidate for election in 1998.<sup>2</sup> Mr. Page testified that Patricia Johnston, a board member who was not running in 1998, was the campaign manager for the respondents. He testified that Mr. Lackland was not a de facto manager as suggested, but rather acted as one of twelve advisors to the campaign. He advised on issues of public relations such as how to get airtime and how to distribute flyers.

The Commission finds that Mr. Lackland’s involvement in respondents’ campaign did not rise to the level of a position of prominence like a campaign treasurer. The Commission prefers to take a narrow view of what is considered a position of prominence. There may be instances where someone who does not have an official title in a campaign is nevertheless

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<sup>2</sup> Tony Davenport contacted the Commission after the meeting at which the affidavit was presented and recanted the statements in it saying that he was never placed under oath and that the Board member who testified before the Commission just asked him to sign without explaining. The Commission asked him to submit something in writing to refute the affidavit, but he did not do so. Thus, the affidavit stands.

determined to have a position of prominence, but more evidence would be required than the proof that was set forth in the present case.

Since the Commission finds that the first factor of prominence in the campaign was not met, the Commission need not address whether the facts support the other two. The three-part test for discerning whether a board member has such political ties to a person that he cannot be objective in voting on an issue involving that person has not be met. Therefore, the Commission finds no probable cause to credit the allegation that the respondents had a personal involvement with Mr. Lackland that might reasonably be expected to impair their objectivity when voting on the appointment of insurance broker of record.

## **DECISION**

For the foregoing reasons, the Commission finds no probable cause to credit the allegations that respondents violated N.J.S.A. 18A:12-24(c) of the School Ethics Act. Therefore, the Commission dismisses the complaint of Atlantic Associates Insurance Agency. The Commission will so inform the Commissioner of Education who has retained jurisdiction over this matter.

This decision constitutes final agency action and thus is directly appealable to the Appellate Division of the Superior Court on the issue of whether the respondents violated the School Ethics Act.

Respectfully submitted,

Paul C. Garbarini  
Chairman

### **Resolution Adopting Decision -- C21-98**

Whereas, the School Ethics Commission has considered the pleadings filed by the parties and the documents submitted in support thereof and if applicable, has considered the arguments raised by parties in subsequent submissions; 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, Chairman

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on May 26, 1999.

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Lisa James-Beavers  
Executive Director