

IN THE MATTER OF ANTONIO CIRILLO, :
MOONACHIE BOARD OF EDUCATION, : COMMISSIONER OF EDUCATION
BERGEN COUNTY. : DECISION

SYNOPSIS

This matter arose from a complaint alleging that respondent Board President violated the School Ethics Act (Act) when he failed to disclose that his wife worked part time for a company that had a contract with the Board and additionally failed to disclose that she also worked for an insurance company.

The Commission found probable cause that respondent violated *N.J.S.A.* 18A:12-25 and 26 when he omitted facts on his 1999 personal/relative and financial disclosure statements thereby filing a false statement. Finding that misrepresenting or omitting material information from one's disclosure statement was a serious offense, and considering that the amount of the contract in question was very small, the Commission found that a penalty of censure was sufficient to ensure that respondent understood that his omissions were improper and to ensure that they would not occur again. Moreover, the Commission directed respondent to amend his 1999 return in accordance with the Commission's findings, and transmitted the recommendation of censure to the Commissioner for action.

Initially, the Commissioner emphasized that the determination of the Commission as to violation of the Act is *not reviewable by the Commissioner*. The Commissioner's jurisdiction is limited to reviewing the sanction to be imposed following a finding of violation by the Commission. Upon independent review of the record, the Commissioner found that, in recommending the penalty of censure, the Commission was in the optimum position to determine whether respondent inadvertently or knowingly violated the Act, and to weigh the effects of any mitigating circumstances. Thus, the Commissioner did not disturb the recommended penalty of the Commission. The Commissioner ordered respondent censured as a school official found to have violated *N.J.S.A.* 18A:12-25(a)(3) and *N.J.S.A.* 18A:12-26(a)(1).

November 20, 2000

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The record of this matter and the decision of the School Ethics Commission (Commission), including the recommended penalty of censure, have been reviewed.

This matter comes before the Commissioner to impose a sanction upon Respondent Antonio Cirillo, President of the Moonachie Board of Education, based upon findings of fact and conclusions of law by the Commission that he 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 failed to disclose that his wife worked as a part-time secretary for a company that had a contract with the Board for the installation of an outlet for a TV monitor for \$120¹ and additionally failed to disclose that his wife also worked for an insurance company.² Therefore, respondent was found to have filed a false statement by the omission of material information on his 1999 disclosure statement.

Upon issuance of the decision of the Commission, respondent was accorded thirteen days from the mailing of such decision to file written comments on the recommended penalty for the Commissioner's consideration. Respondent's comments were filed in accordance with such timeline.

¹ Cirillo Electric, which is owned by respondent's brother, received \$7,200 from the Board for work performed in 1998; however, respondent's wife was apparently not working for Cirillo Electric at that time.

² The Commission's investigation revealed that respondent's wife received over \$2,000 in compensation from Cirillo Electric and over \$2,000 in compensation from an insurance firm in 1999. Respondent did not list any source of income for his wife on his 1999 disclosure statement.

Initially, it must be emphasized that, pursuant to *N.J.S.A.* 18A:12-29(c), the determination of the Commission as to violation of the School Ethics Act is *not reviewable by the Commissioner*. Only the Commission may determine whether a violation of the School Ethics Act occurred. The Commissioner's jurisdiction is limited to reviewing the sanction to be imposed following a finding of violation by the Commission. Therefore, this decision is restricted solely to a review of the recommended penalty.

In his comments, respondent urges the Commissioner to impose the lesser sanction of reprimand, arguing that failure to disclose his wife's sources of income was "an isolated incident in an otherwise selfless period of uncompensated service" to the Board from 1997 to the present. (Respondent's Comments at 2) Respondent also points out that he cooperated fully with the Commission's investigation by providing extensive responsive pleadings, affidavits, exhibits, and all other materials requested by the Commission. (*Ibid.*)

Upon a thorough review of the record, the Commission's decision in this matter, respondent's comments on penalty and the penalties assessed for similar violations of the School Ethics Act, the Commissioner determines to adopt the Commission's recommendation to impose the penalty of censure on respondent.

The Commissioner agrees that respondent's misrepresentation or omission of material information from his disclosure statement is a serious offense. The Commissioner also acknowledges that the penalty must be sufficient to impress upon respondent the gravity of his offense to ensure that it will not reoccur. A review of the penalties assessed against other board members for similar instances of violations of the School Ethics Act, including violations which touch on the employment of family members, reveals that the penalties assessed have generally been less severe than censure. In contrast to those matters, however, where the Commission

found board members' violations were inadvertent or otherwise explained, the Commission in this instance found that Mr. Cirillo *knowingly* filed a false statement. *See, for example, In the Matter of Michael J. DeBartolo*, settlement approved by the Commissioner February 7, 1995, the board member received a reprimand for *inadvertently* failing to list certain rental property as an additional source of income on his 1993 financial disclosure statement; *In the Matter of Wayne Wurtz*, 96 N.J.A.R.2d (EDU) 843 (1996), an *inexperienced* board member was reprimanded for *inadvertently* voting to approve a list of teacher aides which included his spouse; *In the Matter of Frank Montagna*, 96 N.J.A.R.2d (EDU) 1039 (1996), the board member was reprimanded for *inadvertently* voting on a list of game personnel which included his spouse; *In the Matter of Matilda Touw*, 97 N.J.A.R.2d (EDU) 343 (1997), a board member, who believed that it was permissible to do so because her son was a grown man, was reprimanded for voting on her son's reappointment as Assistant Head Custodian; and *In the Matter of Katherine Mallette*, decided by the Commissioner February 9, 1999, the board member was reprimanded for participating in discussions concerning the Board's purchase of property when one of the parcels was owned by her brother-in-law, receiving the lesser penalty because she was found to have exerted no influence on the Board's purchase.

The Commissioner further notes that, in recommending the penalty of censure, the Commission was in the optimum position to determine whether respondent inadvertently or knowingly violated the School Ethics Act, and to weigh the effects of any mitigating circumstances. Therefore, the Commission's recommended penalty in this matter will not be disturbed.

Accordingly, IT IS hereby ORDERED that Antonio Cirillo be censured as a school official found to have 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, under the circumstances set forth by the Commission.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: November 20 2000

Date of Mailing: November 20, 2000

³ This decision, as the Commissioner's final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.