

<b>CURTIS M. LACKLAND</b>	:	<b>BEFORE THE SCHOOL</b>
	:	<b>ETHICS COMMISSION</b>
v.	:	
	:	
<b>DORIS GRAVES</b>	:	<b>Docket No. C04-05</b>
<i>PLEASANTVILLE</i>	:	
<i>BOARD OF EDUCATION</i>	:	<b>DECISION</b>
<i>ATLANTIC COUNTY</i>	:	
	:	

**PROCEDURAL HISTORY**

This matter arises from a complaint filed on February 14, 2005 by Curtis M. Lackland alleging that Doris Graves, a member of the Pleasantville Board of Education (Board) violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. Complainant specifically alleges that Ms. Graves violated N.J.S.A. 18A:12-24(a) and (b) of the Act and N.J.S.A. 18A:12-24.1(e) and (f) of the Code of Ethics for School Board Members when, at the March 16, 2004 Board meeting, she made a motion and voted to accept the Superintendent’s recommendation for the Board to award Atlantic Associates a two-year contract as the insurance broker of record.

For good cause, the Commission granted Ms. Graves an extension of the time to file her answer. In her answer, Ms. Graves denied that she violated the Act and asked the Commission to find that the complaint was frivolous and sanction the complainant. Because the allegations in this complaint were pending in Superior Court, the Commission, pursuant to N.J.S.A. 18A:12-32, held the complaint in abeyance until the litigation was resolved. The litigation was resolved on February 3, 2006, when the Superior Court dismissed the matter. Therefore, the Commission placed the matter on the agenda for the March 28, 2006 meeting. The Commission invited, but did not require, the parties to attend its March 28, 2006 meeting. The parties were advised of their right to bring counsel and witnesses. The complainant and his attorney, Richard Fauntleroy, Esquire, attended the hearing and the complainant testified before the Commission. At its public meeting on March 28, 2006, the Commission voted to find no probable cause that Ms. Graves violated N.J.S.A. 18A:12-24(a) and (b) of the Act and N.J.S.A. 18A:12-24.1(e) and (f) of the Code of Ethics for School Board Members. The Commission also voted to find that the complaint was not frivolous.

**FACTS**

The Commission was able to discern the following facts based on the pleadings, testimony and the documents submitted.

At all times relevant to this complaint, Ms. Graves was a member of the Board. Ms. Graves was the campaign treasurer and campaign chairperson for the committee to elect candidates 4, 6, 7 and 1 in the 2004 Pleasantville school board election. Ms. Graves

was not running for office during the 2004 school board elections. Lena Fulton is currently, and was in 2004, the owner of Atlantic Associates.

At the March 16, 2004 Board meeting, Ms. Graves made a motion that the Board accept the Superintendent's recommendation for the Board to award Atlantic Associates a two-year contract as the insurance broker of record for the period of 7-1-04 to 6-30-06. Ms. Graves voted yes on the motion and it was passed by a vote of six to three. On March 25, 2004, a few days after the vote on the contract with Atlantic Associates, the son of Ms. Fulton, who is an insurance agent with Atlantic Associates, contributed four personal checks of \$175 per candidate, for a total of \$700 to the campaign to elect candidates 4, 6, 7 and 1.

## **ANALYSIS**

The complainant alleges that Ms. Graves violated N.J.S.A. 18A:12-24(a) of the Act when, at the March 16, 2004 Board meeting, she made a motion and voted to accept the Superintendent's recommendation for the Board to award Atlantic Associates a two-year contract as the insurance broker of record. N.J.S.A. 18A:12-24(a) provides:

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

"Interest" is defined at N.J.S.A. 18A:12-23 as, "the ownership or control of more than 10 percent of the profits, assets or stock of a business but shall not include the control of assets in a labor union." There is no evidence here to show that Ms. Graves held an interest in a business organization. The Commission considers Ms. Graves' political activities of serving as campaign treasurer and campaign chairperson for the committee to elect candidates 4, 6, 7 and 1 to be professional activities. For a violation to exist under N.J.S.A. 18A:12-24(a), there would have to be a substantial conflict between Ms. Graves' professional activities and her duties as a Board member. Therefore, the Commission must determine if Ms. Graves' position as campaign treasurer and chairperson of the committee to elect candidates 4, 6, 7 and 1 is in substantial conflict with the proper discharge of her duties in the public interest. The Commission does not have sufficient evidence to conclude that Ms. Graves' professional activities are in substantial conflict with her Board member duties. In *Advisory Opinion A31-05*, (February 10, 2006), the Commission advised that a board member may not serve as the district's School Resource Officer because her daily involvement with staff, students and parents would be in conflict with the proper discharge of her board duties. Unlike *A31-05*, Ms. Graves' professional activities are unrelated to the daily administration of the district. The Commission finds that Ms. Graves' activities as campaign treasurer and chairperson of the committee to elect candidates 4, 6, 7 and 1 are not in substantial conflict with the proper discharge with her duties as a member of the Board. Therefore, the Commission finds no probable cause to credit the allegation that Ms. Graves violated N.J.S.A. 18A:12-24(a).

The complainant also alleged that Ms. Graves violated N.J.S.A. 18A:12-24(b) of the Act when, at the March 16, 2004 Board meeting, she made a motion and voted to accept the Superintendent's recommendation for the Board to award Atlantic Associates a two-year contract as the insurance broker of record. N.J.S.A. 18A:12-24(b) provides:

No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others;

The complainant alleges that Ms. Graves received a campaign contribution from Atlantic Associates for the committee to elect candidates 4, 6, 7 and 1. The evidence shows that an insurance agent who was the son of the owner and who worked for Atlantic Associates personally made the contribution and not Atlantic Associates. The Commission notes that it was the Superintendent's recommendation to engage Atlantic Associates in a two-year contract. The Commission also notes that there is insufficient evidence for the Commission to conclude that the two-year contract was unwarranted. Therefore, the Commission finds no probable cause to credit the allegation that Ms. Graves violated N.J.S.A. 18A:12-24(b).

The complainant also alleges that Ms. Graves violated N.J.S.A. 18A:12-24.1(e) and (f) of the Code of Ethics for School Board Members when, at the March 16, 2004 Board meeting, she made a motion and voted to accept the Superintendent's recommendation for the Board to award Atlantic Associates a two-year contract as the insurance broker of record. The Commission notes that, pursuant to N.J.S.A. 18A:12-29, the complainant bears the burden of factually proving any violations of the Code of Ethics for School Board Members.

N.J.S.A. 18A:12-24.1(e) provides:

I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

When Ms. Graves made a motion and voted to accept the Superintendent's recommendation for the Board to award Atlantic Associates a two-year contract as the insurance broker of record she did so in her role as a member of the Board. There is insufficient evidence for Commission to conclude that Ms. Graves took any private action that may have compromised the Board. While her acceptance of the campaign contribution for the committee to elect candidates 4, 6, 7 and 1 was a private action, the Commission did not find that it could have compromised the Board. Therefore, the Commission finds no probable cause to credit the allegation that Ms. Graves violated N.J.S.A. 18A:12-24.1(e).

N.J.S.A. 18A:12-24.1(f) provides:

I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

When Ms. Graves made the motion and voted for the Board to award Atlantic Associates a two-year contract as the insurance broker of record, she did so upon the recommendation from the Superintendent. There is no evidence to show that her actions were taken based upon the campaign contribution from the insurance agent from Atlantic Associates. The Commission notes that Atlantic Associates is not a partisan political group. There is also no evidence to show that Atlantic Associates is a special interest group. The Commission further notes that the campaign contribution was not for Ms. Graves' campaign since she was not running in the 2004 election. There is also no evidence to show that Ms. Graves has a relationship with Atlantic Associates or its owners and employees. Therefore the Commission finds no probable cause to credit the allegation that Ms. Graves violated N.J.S.A. 18A:12-24.1(f).

## **DECISION**

For the reasons expressed above, the Commission finds no probable cause to credit the allegations that respondents violated the School Ethics Act and dismisses the allegations against them.

## **REQUEST FOR SANCTIONS**

Respondent has asked that the Commission find that the complaint was frivolous and impose sanctions pursuant to N.J.S.A. 18A:12-29(e). In order to find that a complaint, counterclaim, cross-claim or defense of the nonprevailing party was frivolous, the Commission must find on the basis of the pleadings, discovery, or the evidence presented that either:

- 1) The complaint...was commenced, used or continued in bad faith, solely for the purpose of harassment, delay or malicious injury; or
- 2) The nonprevailing party knew, or should have known, that the complaint...was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law. [N.J.S.A. 2A:15-59.1]

The Commission can find no evidence that the complaint was filed in bad faith solely for the purpose of harassment, delay or malicious injury. There is also no evidence to show that the complainant knew or should have known that there was no reasonable basis for the complaint. It is clear to the Commission that, based upon the complainant's testimony, he believed that there was a reasonable basis for the complaint. For the

foregoing reasons, the Commission finds that the complaint was not frivolous and denies the respondent's request for sanctions against the complainant.

This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Paul C. Garbarini  
Chairperson

**Resolution Adopting Decision – C04-06**

**Whereas**, the School Ethics Commission has considered the pleadings and the response filed by the parties and the documents submitted in support thereof; and

**Whereas**, the Commission finds no probable cause to credit the allegations that Respondents violated N.J.S.A. 18A:12-21 et seq.; and

**Whereas**, the Commission has reviewed the proposed decision of its staff dismissing the complaint; and

**Whereas**, the Commission agrees with the proposed decision;

**Now Therefore Be It Resolved** that the Commission hereby adopts the proposed decision to dismiss as its final 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 the Resolution was duly adopted by the School Ethics Commission at its public meeting on April 25, 2006.

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Lisa James-Beavers  
Executive Director

PCG/LJB/MET/ethics/decisions/C04-06