

	:	BEFORE THE SCHOOL
WALTER E. DORITY, JR.	:	ETHICS COMMISSION
	:	
v.	:	
	:	Docket No.: C02-06
CHARLES PALUMBO,	:	
<i>BLACK HORSE PIKE REGIONAL</i>	:	
<i>SCHOOL DISTRICT</i>	:	
<i>CAMDEN COUNTY</i>	:	DECISION
	:	

PROCEDURAL HISTORY

This matter arises from a complaint filed by Walter Dority on February 6, 2006 alleging that Black Horse Pike Regional Board of Education (Board) member Charles Palumbo violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. Specifically, he alleges that Mr. Palumbo violated N.J.S.A. 18A:12-24(b) and (c) when he remained in an executive session meeting when the hiring of his brother was discussed.

Mr. Palumbo filed an answer pursuant to an extension on March 29, 2006 denying that his brother’s employment was discussed in the executive session meeting in question and denying that he committed any violation of the School Ethics Act.

The Commission notified the parties that it would discuss the complaint at its meeting on April 25, 2006 and advised the parties that they had the right, but were not required to appear. Neither party attended the meeting. At its public meeting on April 25, 2006, the Commission tabled the complaint to seek additional information. At its public meeting of June 27, 2006, the Commission voted to find no probable cause, dismiss the complaint and adopt this decision.

STATEMENT OF FACTS

The following facts have been discerned from the pleadings, minutes, testimony and the Commission’s investigation.

Mr. Palumbo is a member of the Black Horse Pike Regional Board of Education. On December 15, 2005, the Board held an executive session meeting in which Mr. Palumbo was present along with Board members Mrs. McMurray, Mr. Vizoco, Mrs. Williams, Mrs. Wilson, Mr. Baldino and Mr. Custodio. The minutes to this executive session meeting do not indicate that the hiring of Mr. Palumbo’s brother was discussed. At the public session meeting on

December 15, 2006 the Board voted to hire Mr. Palumbo's brother in the position of cafeteria manager. Mr. Palumbo abstained on the vote.

Prior to the December 15, 2005 meeting, Board Secretary/Business Administrator John Oberg and Principal Frank Palatucci interviewed Mr. Palumbo and six other candidates for the position of cafeteria manager. They concluded that Mr. Palumbo's brother was the most qualified candidate. Superintendent Ralph Ross recommended the appointment to the Board.

Mr. Palumbo stated under oath in his answer that he did not know that his brother was applying for job because he already had a job, which paid more money. He denies having any influence in the hiring of his brother. He also denies participating in any official meetings or votes concerning his brother.

ANALYSIS

Complainant first alleges that Mr. Palumbo's attendance in the December 15, 2005 executive session meeting violated N.J.S.A. 18A:12-24(b), which sets forth:

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.

Complainant's allegation is based on the assumption that the hiring of Mr. Palumbo's brother in the position of cafeteria manager was discussed during the executive session in question. Although it would be customary procedure for a board to discuss in executive session a hiring that is to be voted upon in the public session meeting, the Commission has no information that the employment of Mr. Palumbo's brother was discussed in the executive session prior to the time that the Board approved his hiring in the public session. There is nothing in the executive session minutes indicating that the matter was discussed. Further, there is no other information to suggest that Mr. Palumbo exerted any influence to secure the hiring of his brother. Without such information, the Commission has no basis to support a finding of probable cause that Mr. Palumbo used his official position to secure the employment of his brother. Therefore, the Commission finds no probable cause to credit the allegation that Mr. Palumbo violated N.J.S.A. 18A:12-24(b) and dismisses that charge against him.

Complainant next alleges that Mr. Palumbo violated N.J.S.A. 18A:12-24(c) by staying in the executive session while his brother was being discussed because his presence had a great bearing on the selection of his brother. N.J.S.A. 18A:12-24(c) sets forth:

No school official shall act in his official capacity in any matter in which he, a member of his immediate family, or a business organization in which he holds an interest, has a direct or indirect financial involvement that might

reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family.

As in the first allegation, this allegation is based on the assumption that the employment of Mr. Palumbo's brother was discussed in the executive session meeting. The Commission's investigation along with the pleadings and documents submitted do not establish that the Board discussed Mr. Palumbo's brother in the executive session. Further, Mr. Palumbo did not vote on his brother's employment in the public session. Thus, there is no information to support a finding of probable cause that Mr. Palumbo acted in his official capacity in a matter in which he had a personal involvement. For the foregoing reason, the Commission finds no probable cause to credit the allegation that Mr. Palumbo violated N.J.S.A. 18A:12-24(c) and dismisses that charge against him.

DECISION

For all of the foregoing reasons, the Commission finds no probable cause to credit the allegations in the complaint that Mr. Palumbo violated N.J.S.A. 18A:12-24(b) or (c) and dismisses the complaint against him.

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

Paul C. Garbarini
Chairperson

Resolution Adopting Decision -- C02-06

Whereas, the School Ethics Commission has considered the pleadings filed by the parties, the documents submitted in support thereof and the Commission's investigation; and

Whereas, the Commission found no probable cause to credit the allegations in the complaint; and

Whereas, the Commission has reviewed a draft decision and agrees with the draft 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.

Paul C. Garbarini, Chairperson

I hereby certify that this decision was duly adopted by the School Ethics Commission at its public meeting on July 25, 2006.

Lisa James-Beavers
Executive Director