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|---------------------------|---|--------------------------|
| CURTIS M. LACKLAND        | : | <b>BEFORE THE SCHOOL</b> |
|                           | : | <b>ETHICS COMMISSION</b> |
| v.                        | : |                          |
|                           | : |                          |
| <b>THEODORE BRYANT</b>    | : | <b>Docket No. C05-05</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 23, 2005 by Curtis M. Lackland alleging that Theodore Bryant, 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 Mr. Bryant violated N.J.S.A. 18A:12-24.1(e), (f) and (g) of the Code of Ethics for School Board Members when he signed a two-year contract with Atlantic Associates that was never voted on or approved by the full Board.

Mr. Bryant filed a timely response in which he denied that he 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 this 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 to credit the allegations that Mr. Bryant violated N.J.S.A. 18A:12-24.1(e), (f) and (g) of the Code of Ethics for School Board Members. The Commission also voted to find that the complaint was not frivolous. At its April 25, 2006 meeting, the Commission voted to adopt this decision and find that Mr. Bryant did not violate N.J.S.A. 18A:12-24.1(e), (f) and (g) of the Code of Ethics for School Board Members.

**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, Mr. Bryant was President of the Board. He was not reelected during the 2005 school board elections. At the March 16, 2004 Board meeting the Board 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 the period of 7-1-04 to 6-30-06. On March 31, 2004, Mr. Bryant signed a service agreement

contract between the Board and Atlantic Associates in the presence of the Board's Business Administrator. Within days of the vote on the contract, an insurance agent with Atlantic Associates made a personal contribution to the campaign to elect candidates 4, 6, 7 and 1.

## **ANALYSIS**

The Commission initially 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. The complainant alleges that Mr. Bryant violated N.J.S.A. 18A:12-24.1(e), (f) and (g) of the Code of Ethics for School Board Members when he signed a two-year contract with Atlantic Associates that was never voted on or approved by the full Board.

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.

The complainant has presented no evidence to show that Mr. Bryant failed to recognize that authority rests with the Board. When he signed the contract, he did so upon the recommendation of the Superintendent and approval by the Board. The complainant has also presented no evidence to show that Mr. Bryant took private action that may have compromised the Board. When Mr. Bryant signed the two-year contract with Atlantic Associates, he did so in his role as President of the Board. Therefore, the Commission finds that Mr. Bryant did not violate 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.

The Commission can find no evidence to show that any special interest or partisan political groups were involved in the recommendation and vote regarding the two-year contract with Atlantic Associates. While the evidence shows that, within days of the vote on the contract, an insurance agent with Atlantic Associates made a personal contribution to the campaign to elect candidates 4, 6, 7 and 1, it is unclear how this evidence is connected to Mr. Bryant. The complainant also failed to provide evidence to show how Mr. Bryant or a friend of his gained from the contract with Atlantic Associates. Therefore, the Commission finds that Mr. Bryant did not violate N.J.S.A. 18A:12-24.1(f).

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

I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

To prove a violation of N.J.S.A. 18A:12-24.1(g), the complainant alleges that the contract that Mr. Bryant signed was never given to the full Board for its review. However, this does not prove that Mr. Bryant failed to provide accurate information. The Superintendent made a recommendation for the Board to enter into a two-year contract with Atlantic Associates. There is no evidence for the Commission to conclude that Mr. Bryant failed to provide accurate information. Therefore, the Commission finds that Mr. Bryant did not violate N.J.S.A. 18A:12-24.1(g).

## **DECISION**

For the reasons expressed above, the Commission finds that Mr. Bryant did not violate the School Ethics Act and dismisses the allegations against him.

## **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. While the complainant may have filed previous complaints against other members of the Board, this does not show that this complaint was filed in bad faith solely for the purpose of harassment, delay or malicious injury. Based on testimony from the complainant, it is clear to the Commission that the complainant 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 – C05-05**

**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 that the respondent did not violate 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