

handout, which contained excerpts and data from reports prepared by three engineering and architectural firms that had been retained by the Board to study and make recommendations to it concerning three "excess" (i.e., currently underutilized) school buildings.

Following the July 25, 2000 meeting, at its request, the Commission received copies of the following supplemental documentation from the Board: the written lease agreements between the Board and all of its current tenants (i.e., lessees of school property); an excerpt from the corrective action plan (1998-99 COPA Remediation Plan) pertaining to school buildings; and an excerpt from the minutes from the April 6, 2000 Board meeting. At its July 25 meeting, the Commission voted to postpone a probable cause determination in this matter pending its receipt and review of this documentation.

At its public meeting of September 27, 2000, the Commission found no probable cause and dismissed the Complaint against Mr. Coleman.

STATEMENT OF FACTS

The following facts have been discerned from the pleadings, testimony and documentation reviewed by the Commission during the course of its investigation.

At all times relevant to this matter, Mr. Coleman served as a member of the Willingboro Board of Education.

The Cathedral of Love Church ("CLC") is a religious institution. The Church of God in Christ ("CGC") is also a religious institution. Although the two Churches are distinct legal entities, they are connected by an "umbrella" organization.

The CLC owns and operates a State-licensed child care center known as the Cathedral of Love Christian Academy & Preschool ("Academy"), which is a private, religious school. The Academy is housed in a portion of one of the Willingboro School District's school buildings known as the J.C. Stuart Elementary School ("Stuart School"). The CLC leases this property from the Board pursuant to a written lease agreement. Similar leases exist between the Board and other entities involving the same and other school buildings.

There are currently three school buildings in the School District considered to be "excess" property by the Board. These buildings are the Stuart School, the Garfield Elementary School and the County Club School (the last of which is now closed). These buildings have been the subject of extensive study and debate among the Board Members, in terms of their current and future use.

The Family Alliance Charter School ("Charter School") is a State-licensed charter school, which, by law, operates as a public school. The Charter School's principal offices are located in Willingboro.

The Charter School has sought to lease space from the Board of Education to house its operations. At the Board meeting of March 27, 2000, a motion was made to lease space to the

Charter School in the School District's Levitt Building. Mr. Coleman voted in favor of the motion; however, it failed to gain enough votes to pass. The tally was four in favor and four against.² Immediately thereafter, the Board considered a motion to lease space at the Stuart School. Mr. Coleman voted against the motion, which also failed to pass ending with the same tally.

Another Board meeting was held on April 6, 2000, during which the Board considered a motion to utilize a portion of the Stuart School for "returning" special education students.³ The motion failed to carry with a two to four vote.⁴ Mr. Coleman voted against the motion stating that he favored selling the Stuart School and housing the special education program at the County club School instead. He also stated that his vote was not influenced by the Academy, the current tenant in the Stuart building. Prior to the vote, another Board Member made a reference to what she perceived as a conflict of interest on Mr. Coleman's part.

Following the aforementioned vote, the same motion appears to have been voted upon again. This time, there were seven votes cast: three in favor, three against (including Coleman) and one abstention. The motion again failed to pass.

Following the second vote and further discussions, a more generalized motion was made "to commit to bring back (the) special education program into the District". Prior to the vote on this motion, a discussion ensued among the Board Members themselves and with the Board Attorney. Margaret Reynolds, a Board Member, stated her belief that Mr. Coleman, whom she described as a Deacon in the Church (presumably, the CLC) had a conflict of interest with regard to motions involving the Stuart School and that he should recuse himself from considering and voting upon such motions. She also referenced a prior censure of Mr. Coleman. Mr. Coleman responded by stating that he is only precluded from participating "in matters pertaining to the current lease arrangement with the Board of Education and that organization" (i.e., the CLC). The Board Attorney also stated, for the record, that he spoke to Mr. Coleman during a break in the meeting; the substance of the conversation, however, is not set forth in the minutes. Following this discussion, a vote was taken on the more generalized motion. This time only six Board Members voted with a tally of four in favor (including Mr. Coleman), 1 against and 1 abstention. The attorney declared the motion to have failed due to the lack of a majority vote.

At the Board meeting of May 8, 2000, a motion was made to "re-visit" a lease with the Charter School, "if (it) was still interested" in such a lease. It was to be given space "wherever" the

2 The Willingboro Board of Education is comprised of nine (9) members. One member was absent from the March 27 meeting.

3 The meeting minutes do not provide a detailed description of the students in question, their program or from where they were "returning."

4 The meeting minutes indicate that, near the start of the meeting, eight out of nine Board Members were present. However, only six individuals voted on the resolution noted above. It is unclear from the minutes why the two other members did not vote upon the resolution.

Administration deemed appropriate. This motion passed with Mr. Coleman abstaining from the vote.

The record contains a copy of a lease between the Charter School and the Board of Education, effective July 1, 2000, for space located at the Stuart School. Thus, it appears that the Stuart School currently has two tenants: the Charter School and the Academy.⁵

At the Commission's July 25 meeting, Mr. Coleman testified to the following. As of October, 1999, neither he nor any member of his family were members of the CLC. He is now a minister of the CGC. Although the two churches are distinct legal entities, they are covered by the same "umbrella" organization. He testified that he did not previously publicly disclose the change in church membership, as he believed there is no obligation to do so. Mr. Coleman believes that the Stuart School, which he describes as being physically in bad shape, is a liability to the Board as it would be extremely expensive to bring it up to code. He believes that the School should be sold, which is why he voted against leasing it to the Charter School.

Mr. Coleman further testified that he has spoken with the Board Attorney regarding potential conflicts of interest and that he was advised that he could discuss anything regarding School District buildings that did not include the CLC. He also testified that neither he nor his family derives any benefit from the Board's lease with that entity. He further testified that he believes that both the Stuart and Country Club Schools should be sold and that, in the past, the Board advertised for bids on the latter school and the CLC won the bid, however it failed to secure the purchase money and thus never purchased that building.

The Commission notes, finally, that Mr. Coleman was the subject of a prior Complaint. In In re Raymond Rodney Coleman, *supra*, which was decided in March 23, 1999, the Commission found that Mr. Coleman, who was then a Board Member and a Deacon in the CLC violated N.J.S.A. 18A:12-24(c) when he participated in Board discussions concerning that entity's lease of Stuart School property and then subsequently voted not to rescind the lease. For this infraction, on May 24, 1999, the Commissioner of Education adopted the Commission's recommendation of a censure.

⁵ Although the copy of the lease between the Board of Education and the Academy is unsigned, this merely seems to be a clerical oversight in the submissions made to the Commission. Additional evidence in the record indicates that such a lease relationship currently exists.

ANALYSIS

The Complainant alleges that the above facts show that Mr. Coleman has violated N.J.S.A. 18A:12-24(a), (b), (c) and (f). 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.

The facts have not shown that Mr. Coleman has an interest in a business organization since an “interest” is defined in N.J.S.A. 18A:12-23 of the Act as more than one-third of the profits, assets or stock in the business. Therefore, the question is whether he engaged in a professional activity that is in substantial conflict with the proper discharge of his duties in the public interest. There has been no information or documentation submitted to demonstrate that Mr. Coleman’s service as a minister in the CLC or the CGC is in substantial conflict with his duties as a Board Member. The Commission concluded in its prior decision that the Cathedral of Love Academy’s lease with the Board meant that Mr. Coleman could not participate in matters involving the CLC or the lease. The Commission did not conclude that Mr. Coleman’s activity in serving as an officer of the Church constituted such a conflict that he could not properly discharge his duties as a board member. Such a conclusion would mandate that Mr. Coleman could not serve as a Board Member while the lease was in effect. This would be an extreme result that the Commission does not believe that the Act requires. Therefore, the Commission finds no probable cause to credit the allegation that Mr. Coleman violated N.J.S.A. 18A:12-24(a).

Complainant also alleges that Mr. Coleman violated N.J.S.A. 18A:12-24(b), which 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 Commission is unclear as to the nature of the privilege or advantage that Mr. Coleman is alleged to have attempted to secure for himself or his church. The only privilege that the Commission can discern is the CLC Academy’s leasing the Stuart School exclusively. In that case, the Commission does not find exclusivity to be a privilege or an advantage where, as here, the CLC Academy signed a lease for the Stuart School when there were no other tenants. The Commission had previously found in its prior decision regarding Mr. Coleman that the lease itself was not an unwarranted privilege. Therefore, the Commission does not have any additional information from which to conclude that by voting on the items in question, Mr. Coleman attempted to use his position to secure unwarranted privileges or advantages for himself or others. Thus, the Commission finds no probable cause to credit the allegation that Mr. Coleman violated N.J.S.A. 18A:12-24(b).

Next, the Complainant alleges that Mr. Coleman violated N.J.S.A. 18A:12-24(c). The Commission will also consider here whether he violated the Commission's prior decision in which it found that Mr. Coleman violated N.J.S.A. 18A:12-24(c). N.J.S.A. 18A:12-24(c) provides:

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.⁶

There is no indication that either Mr. Coleman or a member of his immediate family had a financial involvement in any of the matters on which he voted. Also, as noted earlier, the CLC is not a business in which he held an interest within the meeting of the Act. Therefore, the question is whether Mr. Coleman had a personal involvement with the votes in question that constituted some benefit to him or member of his immediate family.

Mr. Coleman testified that he is no longer a member of the CLC. Rather, he stated that he is now a minister of the CGC, which is under the same umbrella as the CLC. In *In the Matter of Raymond Coleman, supra*, the Commission cited *Landau v. Township of Teaneck*, 231 N.J. Super. 586, 595 (Law Division 1989) for the proposition that "the interest of a synagogue or church passes to all its members." (Citing *Marlboro Manor, Inc. v. Montclair Township*, 187 N.J. Super. 359, 361-62 (App. Div. 1982) and *Zell v. Borough of Roseland*, 42 N.J. Super. 75 (App. Div. 1956). However, in the *Landau* case, the council member ultimately was found to not have a conflict because he was a member of a different congregation of the same faith. The Commission finds Mr. Coleman's testimony to be credible that he is no longer a member and Deacon with the CLC and therefore finds the *Landau* case to be directly on point. Mr. Coleman did not have a personal involvement that constituted a benefit to him if he no longer served as a member of the CLC, but was affiliated with the CGC instead. Therefore the Commission finds no probable cause to credit the allegation that Mr. Coleman violated N.J.S.A. 18A:12-24(c).

In addition, the Commission notes that Mr. Coleman voted in favor of the Charter School leasing space at the Country Club School, although the motion failed to pass. The competition for Willingboro students that Complainant appears to believe is the basis of Mr. Coleman's conflict would exist whether the charter leased space at the Stuart School or the Country Club School since they are both located in the District. Therefore, the Commission finds that this fact also demonstrates a lack of a conflict of interest in this instance.

Last, the Complainant alleges that Mr. Coleman's conduct violated N.J.S.A. 18A:12-24(f). It provides:

⁶ The Commission notes that this amended version of N.J.S.A. 18A:12-24(c) was enacted on October 15, 1999, after the Commission's prior decision, *In the Matter of Raymond Coleman*.

No school official shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated.

As set forth above, the votes that are at issue in the present case did not result in financial gain to Mr. Coleman or a member of his immediate family. However, there could be a question as to whether the votes were cast to secure financial gain for the CLC since CLC can be considered a business organization with which Mr. Coleman is associated. The votes in question involved whether the Family Alliance Charter School would lease space from the Board and, if so, where that space would be located. The votes did not involve the lease rate that CLC was paying to lease the Stuart School or even the rate that the Charter School would pay. Therefore, the Commission does not discern any financial gain that Mr. Coleman could secure for the CLC by his votes.

The Complainant appears to suggest that the Academy would gain by not having competition from the Family Alliance Charter School since students do not have to pay to attend the Charter School. However, a financial gain in such circumstances is speculative. If parents desire that their children attend a Christian school, then it is not likely that they will pull their children from the Academy to have them attend the charter school solely because it provides a free public education. Similarly, it is not likely that the Academy would gain students and thereby gain financially because the Charter School is forced to lease space outside of Willingboro. The sole issue here is whether Mr. Coleman used, or allowed to be used, his office or confidential information to secure financial gain for himself or the CLC. The Commission concludes that the facts do not support such a finding and therefore finds no probable cause that Mr. Coleman violated N.J.S.A. 18A:12-24(f).

DECISION

For the foregoing reasons, the School Ethics Commission finds that Respondent Raymond Rodney Coleman did not violate N.J.S.A. 18A:12-24(a), (b), (c) or (f) of the School Ethics Act and therefore dismisses the Complaint against him.

This decision constitutes final agency action and thus may be appealed directly to the Appellate Division of the Superior Court.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C04-00

Whereas, the School Ethics Commission has considered the Complaint, the Answer, the documents submitted in the course of the Commission’s investigation and the testimony before the Commission; and

Whereas, the Commission has reviewed all of the information and now finds no probable cause to credit the allegation that respondent violated N.J.S.A. 18A:12-24(a), (b), (c) or (f) of the School Ethics Act when he participated in the votes concerning the charter school; and

Whereas, the Commission has reviewed the proposed decision of its staff setting forth the reasons for its conclusion; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission hereby finds no probable cause to credit the allegation that Raymond Rodney Coleman violated the School Ethics Act and dismisses the complaint against him; and

Be It Further Resolved that the Commission adopts the enclosed decision referenced as its decision in this matter.

Paul Garbarini, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on October 24, 2000. Commissioner Rosalind Frisch voted against this decision.

Lisa James-Beavers
Executive Director