

***Before the School Ethics Commission***  
***Docket No.: C84-22***  
***Probable Cause Notice***

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**Kathleen Fable,**  
***Complainant***

v.

**Jessica Spillane,**  
**Northern Valley Regional Board of Education, Bergen County,**  
***Respondent***

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**I. Procedural History**

The above-captioned matter arises from a Complaint that was filed on September 1, 2022, by Kathleen Fable (Complainant), alleging that Jessica Spillane (Respondent), a member of the Northern Valley Regional Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.*<sup>1</sup> More specifically, the Complaint avers that Respondent violated *N.J.S.A.* 18A:12-26(a)(1) (“Annual financial disclosure statement”).

On September 8, 2022, the Complaint was served on Respondent via electronic mail, notifying her that ethics charges had been filed against her with the Commission, and advising that she had twenty (20) days to file a responsive pleading.<sup>2</sup> On September 30, 2022, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and also alleged that the Complaint is frivolous. On October 14, 2022, Complainant filed a response to the Motion to Dismiss and allegation of frivolous filing.

At its meeting on December 20, 2022, and after reviewing the parties’ submissions at its meeting on November 22, 2022, the Commission adopted a decision denying the Motion to Dismiss in its entirety; finding the Complaint not frivolous, and denying Respondent’s request for sanctions; and directing Respondent to file an Answer to Complaint (Answer). On January 17, 2023, Respondent filed an Answer as directed.

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<sup>1</sup> By correspondence dated September 2, 2022, Complainant was notified that the Complaint was deficient, and required amendment before the School Ethics Commission (Commission) could accept her filing. On September 7, 2022, Complainant cured all defects and filed an Amended Complaint (Complaint) that was deemed compliant with the requirements detailed in *N.J.A.C.* 6A:28-6.3.

<sup>2</sup> In order to conduct business during the Coronavirus (COVID-19) pandemic, the Commission implemented an electronic filing system, which remains a permissible method by which the Commission and parties can effectuate service of process. Consequently, service of process was effectuated by the Commission through electronic transmission only.

Thereafter, the parties were notified by correspondence dated February 13, 2023, that this matter would be placed on the Commission’s agenda for its meeting on February 21, 2023, in order to make a determination regarding probable cause. At its meeting on February 21, 2023, the Commission considered the filings and, at its meeting on March 21, 2023, the Commission adopted a decision finding that probable cause did not exist for the alleged violation of *N.J.S.A.* 18A:12-26(a)(1) and, therefore, dismissing the above-captioned matter.

## **II. Summary of the Pleadings**

### **A. *The Complaint***

According to Complainant, when Respondent filed her Personal/Relative and Financial Disclosure Statements on April 10, 2022, she “omitted” more than \$2,000.00 that she collected from conducting COVID-19 testing with another Board member (Ghanshyam Vaghasia) and his spouse. Although Board member Vaghasia disclosed Accu Alliance Partners LLC, Suarez Health Medical, and Suretox Laboratory LLC as sources of income on his Financial Disclosure Statement, Respondent’s Financial Disclosure Statement did not disclose any of these companies. According to Complainant, “it was well known in the community” that Respondent worked with Board member Vaghasia and his spouse “to conduct testing out of [Respondent’s] Pilates Studio,” and together they administered more than a half million COVID-19 tests.

As a result, Complainant alleges that Respondent violated *N.J.S.A.* 18A:12-26(a)(1) because she failed to disclose receipt of any income from Accu Alliance Partners LLC, Suarez Health Medical, and/or Suretox Laboratory LLC, “while it was known throughout the ... community that [she] was conducting [COVID-19] testing in exchange for Venmo (and cash) payments charged at \$20 per test ... .”

### **B. *Answer***

In her Answer, Respondent *admits* that she is a Board member for the Northern Valley Regional High School District, and represents the town of Harrington Park; she submitted her Financial Disclosure Statement to the Commission on April 10, 2022, and, with this filing, certified the sources of income for both herself, and her spouse; she listed Jumping Frog Pilates, LLC, as a source of income on her Financial Disclosure Statement; she listed Howard Zimmerman Architects and Earth Architecture LLC as sources of income received by her spouse; performed COVID-19 testing services for Bergen Family Center, a non-profit entity, in or about February 2021, by “packaging tests at her Jumping Frog Pilates LLC studio, and invoicing for testing services provided, through Jumping Frog Pilates LLC”; and, as Respondent “performed testing services for Bergen Family [Center], she admired the significant community support services being provided ... and intermittently volunteered her services.”

However, Respondent *denies* that she omitted “any source of income personally received” in excess of \$2,000.00 on her Financial Disclosure Statement, and denies that she personally received “any income in excess of \$2,000.00 for COVID-19 testing from the companies alleged by Complainant, including Accu Alliance Partners LLC, Suarez Health

Medical, and/or Suretox Laboratory LLC, and states that all testing services were performed, and payments received accounted for, through Respondent's company, Jumping Frog Pilates, LLC."

Respondent additionally asserted six Affirmative Defenses, namely: Complainant fails to state a claim upon which relief may be granted; she properly disclosed her company as a source of income on her Financial Disclosure Statement and all "compensable testing services were performed, and payments received accounted for" through her company (Jumping Frog Pilates LLC); her actions do not rise to a violation of *N.J.S.A.* 18A:12-26(a)(1); there is "no evidentiary basis upon which to support the allegation that Respondent personally received income in excess of \$2,000.00 related to COVID-19 testing from the companies enumerated in the Complaint"; at all times, Respondent complied with the requirements of the Act, the Code and the Financial Disclosure Statement requirement; and the allegations in the Complaint are frivolous and a fine should be imposed on Complainant "to offset the costs incurred by the taxpayers in defense of this action."<sup>3</sup>

### III. Analysis

This matter is before the Commission for a determination of probable cause pursuant to *N.J.A.C.* 6A:28-10.7, processing of Complaints alleging solely prohibited acts. A finding of probable cause is not an adjudication on the merits but, rather, an initial review whereupon the Commission makes a preliminary determination as to whether the matter should proceed to an adjudication on the merits, or whether further review is not warranted.

In order to determine whether probable cause exists, the Commission must determine whether there is a reasonable ground of suspicion supported by facts and circumstances strong enough in themselves to warrant a reasonable person to believe that the Act, and *N.J.S.A.* 18A:12-26(a)(1) specifically, was violated. *N.J.A.C.* 6A:28-10.7.

#### *Alleged Violation of the Act*

Complainant submits that, based on the conduct more fully detailed above, Respondent violated *N.J.S.A.* 18A:12-26(a)(1), and this provision of the Act states:

#### **18A:12-26. Annual financial disclosure statement:**

- a. Each school official shall annually file a financial disclosure statement with the School Ethics Commission. All financial disclosure statements filed pursuant to this act shall include the following information which shall specify, where applicable, the name and address of each source and the school official's position:

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<sup>3</sup> As noted in the *Decision on Motion to Dismiss* adopted by the Commission on December 20, 2022, it has already denied Respondent's request to find the Complaint frivolous, and to impose sanctions.

(1) Each source of income, earned or unearned, exceeding \$2,000 received by the school official or a member of his immediate family during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security or interest derived from a financial institution is the source of income, the security or interest derived from a financial institution need not be reported unless the school official or member of his immediate family has an interest in the business organization or financial institution;

Based on its analysis, the Commission finds that Complainant has not articulated a reasonable ground of suspicion supported by facts and circumstances strong enough in themselves to warrant a reasonable person to believe that *N.J.S.A.* 18A:12-26(a)(1) was violated as contended. Although the Commission can understand why, based on the substance of the Financial Disclosure Statement submitted by Board member Vaghasia, and the fact that it was “well known in the community” that Respondent, Board member Vaghasia, and Board member Vaghasia’s spouse worked together “to conduct testing out of [Respondent’s] Pilates Studio,” Complainant believed or perceived that Respondent “must” have also received income from one of the entities listed in Board member Vaghasia’s Financial Disclosure Statement, there is not, based on the record in its current form, sufficient credible evidence to support a finding(s) that Respondent “omitted” a source of income from her own filing in violation of *N.J.S.A.* 18A:12-26(a)(1). The only “evidence” offered by Complainant is the innuendo that because Board member Vaghasia received income from an entity(ies), Respondent must have also received income from the same entity(ies). Absent some specific concrete or tangible evidence demonstrating, or even remotely suggesting, the existence of a contractual, employment, or direct relationship between *Respondent* and Accu Alliance Partners LLC, Suarez Health Medical, and/or Suretox Laboratory LLC, the Commission cannot find that Respondent “omitted” any or all of these entities from her Financial Disclosure Statement.

Moreover, the fact that Jumping Frog Pilates, LLC, may have directly contracted with Accu Alliance Partners LLC, Suarez Health Medical, and/or Suretox Laboratory LLC, is of no moment because Respondent appropriately disclosed Jumping Frog Pilates, LLC, as a source of income on her filing, and also disclosed her ownership interest; importantly, Respondent was not under an obligation to disclose “individual client fees, customer receipts, or commissions on transactions received through a business organization,” namely Jumping Frog Pilates, LLC.

Accordingly, and pursuant to *N.J.A.C.* 6A:28-10.7(d), the Commission dismisses the alleged violation of *N.J.S.A.* 18A:12-26(a)(1) for failure to provide sufficient facts to support a finding of probable cause. Notwithstanding its determination, the Commission notes that it offers no determination as to the propriety, or the legality, of Respondent’s use of Jumping Frog Pilates, LLC, to conduct COVID-19 testing.

#### **IV. Notice**

Pursuant to *N.J.S.A.* 18A:12-29(b), the Commission hereby notifies Complainant and Respondent that it does not find probable cause to credit the alleged violation of *N.J.S.A.* 18A:12-26(a)(1) and, therefore, dismisses this matter.

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

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Robert W. Bender, Chairperson

Mailing Date: March 21, 2023

***Resolution Adopting Decision  
in Connection with C84-22***

***Whereas***, at its meeting on February 21, 2023, the School Ethics Commission (Commission) considered the Complaint and Answer to Complaint (Answer) submitted by the parties in connection with this matter; and

***Whereas***, at its meeting on February 21, 2023, the Commission discussed finding that probable cause did not exist for the alleged violation of *N.J.S.A.* 18A:12-26(a)(1) and, therefore, dismissing this matter; and

***Whereas***, at its meeting on March 21, 2023, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on February 21, 2023; and

***Now Therefore Be It Resolved***, that the Commission hereby adopts the decision and directs its staff to notify all parties to this action of its decision herein.

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Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on March 21, 2023.

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Kathryn A. Whalen, Esq.  
Director, School Ethics Commission