
IN THE MATTER OF	:	Before the
	:	School Ethics Commission
MEERA MALIK AND	:	
ELIZABETH VASIL,	:	Docket No. C06-98 and C08-98
TOMS RIVER BOARD OF EDUCATION	:	
OCEAN COUNTY	:	DECISION
	:	

PROCEDURAL HISTORY

The above matter arises from two separate complaints filed by Kevin Root against Meera Malik and Elizabeth Vasil, members of the Toms River Board of Education, for violating the School Ethics Act (“Act”), N.J.S.A. 18A:12-21 et seq. Mr. Root filed the above-captioned complaints on February 20, 1998 alleging that Mrs. Malik and Mrs. Vasil accepted money from school board professionals and then later voted to appoint these individuals to contracts with the Toms River Board of Education (Board) in 1993 in violation of N.J.S.A. 18A:12-24(e). The complaints also alleged that when the respondents ran for the Board in 1996, they received over \$30,000.00 in contributions below the report limit of \$200.00. He continued that at the April 22, 1997 organizational meeting of the Toms River Board, the respondents’ running mate abstained from all the professional contracts because she had accepted money from them. Mrs. Vasil did not. The complaint against Mrs. Vasil also alleged in a third paragraph that Mrs. Vasil obtained a job in the Ocean County Comptroller’s Office while a sitting Board member and her husband gained employment with Dover Township. About a year after Mrs. Vasil secured the county job, her boss left that post to become the Business Administrator of the Toms River schools.

The Commission investigated the complaint and sent out notices on June 5, 1998 informing the parties that it would discuss the case at its June 23, 1998 meeting. The parties appeared at the meeting and presented testimony. The respondents were represented by Craig Wellerson, Esquire. The Commission tabled the complaint at that time and asked the respondents to provide a list of contributors to their election campaigns of amounts under \$200.00. Both respondents later provided certifications that such lists did not exist.

At its meeting of July 30, 1998, the School Ethics Commission (Commission) found no probable cause to credit the allegations that respondents violated N.J.S.A. 18A:12-24(e) and dismissed that charge. The Commission set forth in its probable cause determination that there were no facts to indicate that the respondents accepted the contributions based upon an understanding that they were given for the purpose of influencing them in the discharge of her official duties as that section requires. It also dismissed the remaining allegations as well. The Commission’s investigation revealed no information to indicate that Mrs. Malik and Mrs. Vasil knew the contributors to their campaign of amounts under \$200.00. The Commission requested records of the

contributors, but no such records existed since they were not required to maintain them by the Election Law Enforcement Commission. There was also no information to indicate that Mrs. Vasil used her position as a board member to secure unwarranted privileges or employment with the county for herself, with the township for her husband or with the Board for her supervisor. The Commission could not discern a way for her to use her position as board member to gain employment with government entities other than the Board. Regarding Mrs. Vasil's former supervisor, the Commission's investigation showed him to be qualified to be the school district's business administrator after having served in the same capacity for the township. It did not appear that he received assistance from Mrs. Vasil to get the position or that she acted in her official capacity in a matter in which she had a personal or financial involvement.

Notwithstanding the above, the Commission voted to find probable cause to credit the allegations that Meera Malik and Elizabeth Vasil violated N.J.S.A. 18A:12-24(c) when they voted in favor of appointing various Board professionals after having accepted monetary contributions from the same professionals for their 1993 election campaign. The Commission found the material facts to be undisputed regarding the conduct on which it found probable cause and therefore did not transmit the case to the Office of Administrative Law for a hearing. The Commission invited the respondents to file written submissions setting forth why the Commission should not find them in violation of N.J.S.A. 18A:12-24(c) of the School Ethics Act for voting on the vendors who contributed to their 1993 campaign by September 11, 1998.

The Commission received timely written submissions on September 11, 1998. The respondents were now represented by Richard Stanzione, Esq. Although the Commission issued four separate probable cause determinations for each of the four respondents, he filed one brief on behalf of these two respondents and one on behalf of two other Toms River board members. The Commission is thus issuing these decisions in this fashion. Mr. Root filed an unsolicited response on September 17, 1998, which was also considered. The Commission rendered this decision at its September 22, 1998 meeting.

FACTS

Based on the pleadings, the Commission's investigation and the testimony presented, the Commission found the following facts to be undisputed. Ms. Vasil was a candidate for the Toms River Board of Education in April 1993. As a candidate for the school board, she was required to submit reports to the Election Law Enforcement Commission setting forth the names of all contributors of amounts greater than \$200.00. Mrs. Vasil's 20-day post election report for 1993 shows that the accounting firm of Cowan & Guteski gave \$700.00; the law firm of Gilmore & Monahan gave \$2500.00; insurance consultants Insurance Dynamics gave \$3500.00; and the engineering firm of Pravin Patel Associates gave \$2500.00. Although she did not solicit the contributions, she knew that the professionals had contributed to her campaign by viewing her Election Law Enforcement Commission report that noted such contributions. At the April 27, 1993

reorganization meeting, Mrs. Malik and Mrs. Vasil voted in favor of appointing these professionals to contracts with the Toms River Board of Education.

ANALYSIS

The Commission must now determine whether respondent's conduct violated N.J.S.A. 18A:12-24(c), which provides:

No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment.

Respondents argue first that the Commission erred in finding probable cause under N.J.S.A. 18A:12-24(c) because neither Mrs. Malik nor Mrs. Vasil had a financial or personal involvement with the professionals. They state that the Legislature did not intend to prohibit this type of conduct where there was no financial benefit to be derived from their vote. They subsequently argue that the Commission must refer this matter to the Office of Administrative Law for a hearing although they set forth no material factual disputes requiring such a hearing. Mr. Root, in his submission, takes exception to the respondents' statements in their written submission that his complaint is politically motivated and indicates that a spokesperson at ELEC told him that the candidate must maintain all records of every dollar collected for a four year period.

The Commission now decides that the respondents did not violate N.J.S.A. 18A:12-24(c) of the School Ethics Act, but for different reasons than those set forth by respondents. The Commission agrees that the Legislature did not intend to have campaign contributions analyzed under subsection (c). Rather, in setting forth N.J.S.A. 18A:12-24(e), the Legislature sought to ensure that a school board member would not be punished for accepting a campaign contribution unless he solicited or accepted the contribution "with the understanding that it was meant to influence him in the exercise of his official duties". Although the Commission found probable cause based on the respondents' vote for the vendors, rather than on the acceptance of the campaign contribution, the Commission believes that the Legislature would not have created subsection (e) had it desired that school board members be prohibited from voting on vendors who have provided campaign contributions.

The Commission also finds persuasive that acceptance of a campaign contribution does not create a personal or financial involvement under N.J.S.A. 18A:12-24(c) of the School Ethics Act. The Commission found probable cause because there was a possibility that the public might reasonably expect that the respondents' acceptance of a campaign contribution from vendors created a personal or financial involvement that might reasonably be expected to impair their objectivity. The terms "financial involvement" and "personal involvement" had not previously been defined. After reviewing the legal

argument of the respondents, the Commission sees the necessity to define such terms. By definition, financial means “pertaining to money matters” or “pecuniary”. *Random House College Dictionary* (Revised Edition 1984). The Commission therefore holds that a financial involvement is one in which money is the basis such as an association based on the exchange or sharing of money or profit, the sale of goods or services. Although the vendors contributed money to the campaigns, the acceptance of contributions alone does not rise to that level since the respondents are not in any way sharing in the profit of the vendors’ businesses. Thus, respondents did not have a financial involvement with the vendors in violation of N.J.S.A. 18A:12-24(c).

A personal involvement is much more difficult to define. Respondents argue that Black’s Law Dictionary (5th Edition) defines personal as “appertaining to the person; belonging to an individual; limited to the person.” They argue further that the definitions for person effects, personal income and personal liability show that the word “personal” is something that directly benefits or is attributed to that person. The Commission disagrees that a personal involvement has to “benefit” a person. In *Scannella v. Scudillo*, the Commission found that a board member had a personal involvement when she voted to hire her son-in-law as superintendent although there was no ostensible benefit to her. Rather, the personal involvement was predicated on the relationship between the board member and her daughter that would reasonably be expected to impair her objectivity in voting to hire her daughter’s husband to the top position in the district. *Scannella v. Scudillo*, C14-93 (April 22, 1997), aff’d Commissioner June 10, 1997. Therefore, the Commission holds that a personal involvement is an association or relationship that is more than casual or collegial. Thus, a board member had a personal involvement when he voted to hire a city council member for whom he had served as campaign treasurer for his election. *In the Matter of Famularo*, C23-96 (February 24, 1998), aff’d Commissioner March 19, 1998. While the Commission believes that persons running for office may be shown to have more than a casual association with their contributors, there is no information to indicate that respondents had more than a casual association with the vendors who contributed in 1993. Further, the Commission believes, as set forth above, that this interpretation was not intended by the Legislature as demonstrated by the language in N.J.S.A. 18A:12-24(e) requiring an understanding that the contribution was given with an intent to influence. Thus, the Commission concludes that respondents have not been shown to have a personal or financial involvement reasonably expected to impair their objectivity in violation of N.J.S.A. 18A:12-24(c).

Since the Commission now concludes that the respondents did not violate the School Ethics Act, there is no need to address their argument that the matter should be sent to the Office of Administrative Law. There is also no need to respond to respondents’ motion to vacate the Commission’s finding of probable cause since the Commission is now dismissing the complaints.

DECISION

For the foregoing reasons, the Commission concludes that Mrs. Malik and Mrs. Vasil did not violate N.J.S.A. 18A:12-24(c) of the School Ethics Act and dismisses the charges against them.

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 – C06-98 and C08-98

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

Whereas, the Commission found probable cause to credit the allegation that respondents violated N.J.S.A. 18A:12-24(c) of the School Ethics Act in connection with their votes to appoint vendors from whom they had accepted contributions in April 1993; and

Whereas, the Commission reviewed the written submission of the respondents and the complainant and now concludes that their conduct did not violate N.J.S.A. 18A:12-24(c) of the School Ethics Act and it is therefore appropriate to dismiss the complaint against them; 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 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 the Resolution was duly adopted by the School Ethics Commission at its public meeting on September 22, 1998.

Lisa James-Beavers
Executive Director

LJB/h:lisa/decisions/c0898dec