

KEVIN HANZEL and CHERYLE HANZEL	:	BEFORE THE SCHOOL
	:	ETHICS COMMISSION
V.	:	:
	:	Docket No.: C09-01
R. GRAY ACHEE,	:	:
<i>WOODSTOWN-PILES GROVE REGIONAL,</i>	:	DECISION
<i>SALEM COUNTY</i>	:	:

PROCEDURAL HISTORY

This matter arises from a Complaint filed by Kevin and Cheryl Hanzel against Woodstown-Pilesgrove Regional Board of Education Member R. Gray Achee for violating the School Ethics Act, N.J.S.A. 18A:12-21 *et seq.* Specifically, the complainants allege that Mr. Achee violated N.J.S.A. 18A:12-24(a), (b), (c), (d), (e) and (f) of the School Ethics Act by selling t-shirts through his company to the Woodstown-Pilesgrove Regional Board of Education coaches, parents and students¹.

The Commission advised the Complainants that they had alleged the same facts in a complaint that they previously filed against Mr. Achee, Hanzel v. Achee, C10-00 (January 23, 2001). The Commission found no probable cause to credit the allegations in the previous complaint and dismissed it. The Commission therefore asked the complainants to set forth a reason that the Commission should consider the present complaint and not consider the issue presented to have been resolved by its prior decision.

Mrs. Hanzel replied that she and Mr. Hanzel are requesting to appeal the Commission’s findings and reopen the case for further investigation. They also stated that the Commission should provide them with the same opportunity to be heard as it did for Mr. Achee. She set forth no information that they were unable to present previously.

In answer to the present complaint and the response of the Complainants, Mr. Achee stated that the Complainants failed to respond with specific facts as requested in the Commission’s prior correspondence. He requested that the Commission dismiss the Complaint. Mr. Achee had previously answered to C10-00 that his company, T-Shirt Supply, Inc., had ceased all sales to the Board after being informed that the School Ethics Act prohibited such sales, and that he did not participate in discussions or vote on the payment of outstanding invoices. He denied having committed any violation of the Act.

The parties were advised that the Commission would discuss whether to dismiss this matter at its April 24, 2001 meeting. At this meeting, the Commission dismissed the complaint.

¹ Complainants also allege that Mr. Achee’s conduct violates N.J.S.A. 18A:12-2; however, this statute is not part of the School Ethics Act and therefore, it is not under the Commission’s jurisdiction.

ANALYSIS

The complaint alleges that Mr. Achee violated the Act in connection with the sale of t-shirts by T-Shirt Supply to coaches, parents and students. The question before the Commission is whether there is any new information or any reason that the Commission should again consider whether Mr. Achee violated the School Ethics Act in connection with his ownership of T-Shirt Supply.

The Commission will not set forth the facts in the present case as they were thoroughly set forth in Hanzel v. Achee, C10-00 (January 23, 2001).

Complainants allege that Mr. Achee violated N.J.S.A. 18A:12-24(a), (b), (c), (d), (e) and (f) of the School Ethics Act, by virtue of the sales of t-shirts to persons employed by the school district. Although the Complainants did not previously allege violations of sections (e) and (f) of N.J.S.A. 18A:12-24, the Commission will not hear a complaint a second time merely because the complainants did not previously allege that some additional provisions of the Act had been violated. In any event, the Commission had the authority to consider whether any provisions of the School Ethics Act were violated before it determined whether probable cause existed to credit the allegations in the prior complaint. It chose not to do so in rendering a decision on C10-00.

The Complainants' main contention is that they did not have the opportunity to refute the testimony of Mr. Achee when he testified that he sold t-shirts to the school district and staff only twice and that he ceased to do it after being notified that he could not. However, Complainants were provided with notice that the Commission would discuss this case at its November 28, 2000 meeting. The Complainants and Mr. Achee were invited to attend the Commission meeting and give testimony. Mr. Achee appeared. The Hanzels did not. At its public meeting on that date, the Commission determined that there was no probable cause and dismissed the Complaint.

The Commission finds no basis upon which to reconsider its prior decision. If Complainants desired to appeal the Commission's prior decision, they were advised at the conclusion of that decision that appeal had to be made to the Appellate Division of the Superior Court. However, such an appeal would now be out of time.

DECISION

For the foregoing reasons, the School Ethics Commission dismisses the complaint against Respondent R. Gray Achee.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C09-01

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

Whereas, at its meeting of April 24, 2001, the Commission found no probable cause to credit the allegations that Respondent violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. and therefore dismissed the charges against him; and

Whereas, the Commission requested that its staff prepare a decision consistent with the aforementioned conclusion; and

Now Therefore Be It Resolved that the Commission hereby authorizes 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 authorized by the School Ethics Commission at its public meeting on May 22, 2001.

Lisa James-Beavers
Executive Director