

**State of New Jersey**

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**Office of the Inspector General  
Schools Development Authority**

**Report of Investigation into Allegation  
Of False Swearing by a New Jersey  
Schools Development Authority  
Vice President / Chief Operating Officer**

***June 1, 2010***

**Mary Jane Cooper  
Inspector General of New Jersey**



**State of New Jersey**  
**OFFICE OF THE INSPECTOR GENERAL**  
PO Box 208  
TRENTON NJ 08625-0208

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

MARY JANE COOPER  
*Inspector General*

June 1, 2010

Honorable Chris Christie  
Governor, State of New Jersey  
State House  
PO Box 001  
Trenton, NJ 08625

**Re: Report of Investigation of False Swearing by a Former Vice President and  
Chief Operating Officer of the New Jersey Schools Development  
Authority**

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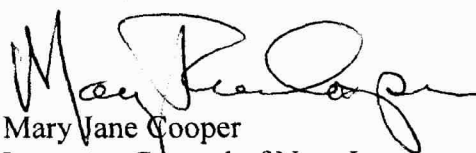
Dear Governor Christie:

Enclosed is a copy of the report the New Jersey Schools Development Authority Office of the Inspector General has prepared concerning an investigation into allegations of false swearing by a former Vice President and Chief Operating Officer of the New Jersey Schools Development Authority.

The report is being provided as required by OIG's statute and is available on OIG's website.

I am available to discuss this report at any time.

Very truly yours,

  
Mary Jane Cooper  
Inspector General of New Jersey

Enclosure

cc: Kim Guadagno, Lieutenant Governor, State of New Jersey  
Stephen Sweeney, Senate President, New Jersey State Senate  
Sheila Oliver, Assembly Speaker, New Jersey State Assembly  
Marc Larkins, Chief Executive Officer, Schools Development Authority  
Jeffrey Chiesa, Chief Counsel to the Governor  
Deborah Gramiccioni, Director, Governor's Authorities Unit  
Stephen Taylor, Director, Division of Criminal Justice

## Table of Contents

|      |                             |    |
|------|-----------------------------|----|
| I.   | INTRODUCTION.....           | 1  |
| II.  | SUMMARY OF CONCLUSIONS..... | 3  |
| III. | STANDARDS.....              | 4  |
| IV.  | ANALYSIS OF EVIDENCE.....   | 6  |
| V.   | CONCLUSIONS.....            | 15 |
| VI.  | REFERRAL.....               | 17 |
| VII. | APPENDIX A .....            | 18 |

## I. INTRODUCTION

This matter was initiated based upon information provided by the New Jersey State Ethics Commission (NJSEC). Specifically, NJSEC informed the New Jersey Schools Development Authority Office of the Inspector General (SDA OIG) that a Complaint filed by NJSEC concerning conduct by then SDA<sup>1</sup> Vice President and Chief Operating Officer Gerald Murphy<sup>2</sup> had been resolved<sup>3</sup>. The matter was concluded by way of a Consent Order dated March 17, 2009, entered into between the NJSEC and Murphy.<sup>4</sup> The NJSEC's position in this matter can be found in the attached Consent Order but summarized it is that Murphy acted in a way that "might reasonably be expected to create a suspicion among the public having knowledge of his acts that he may have engaged in conduct violative of his trust as a State officer or employee"; that he should have recused himself from any involvement in the review and approval of certain vendor invoices for payment because of a close personal relationship with an employee of the vendor; and that he provided an unwarranted benefit to the vendor. (See Consent Order, ¶ 19-23). As part of the Consent Order, Murphy accepted

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<sup>1</sup> The SDA was created by legislation signed into law by Governor Jon S. Corzine on August 6, 2007 as the successor to the New Jersey Schools Construction Corporation (SCC). Although some of the conduct at issue in this matter took place before the SDA succeeded the SCC, the term SDA will be used throughout the report to describe the entity for the sake of consistency and to avoid confusion.

<sup>2</sup> Gerald Murphy retired from the New Jersey Schools Development Authority effective February 1, 2010. This investigation however, commenced while Murphy was still employed by SDA. Murphy was made aware of the substance of this investigation prior to his retirement and attempts were made to interview him prior to his retirement date.

<sup>3</sup> The Office of the Inspector General had previously cooperated with the NJSEC in their investigation concerning Gerald Murphy.

<sup>4</sup> A copy of this Consent Order is attached hereto.

responsibility for his actions as “expressly set forth” in the Consent Order and agreed to pay a civil penalty in the amount of \$3,000.00.<sup>5</sup>

NJSEC informed SDA OIG that the evidence gathered during NJSEC’s investigation indicated that during the course of the NJSEC proceedings, Murphy made contradictory sworn statements. NJSEC then provided SDA OIG with the Consent Order, the sworn interview statements of Gerald Murphy, the Certification of Gerald Murphy, and other documents from the NJSEC investigative file.<sup>6</sup> In addition, SDA OIG obtained relevant documents from SDA.

The purpose of SDA OIG’s investigation was to determine whether Murphy had knowingly made contradictory sworn statements and whether those statements were material to the matter under investigation. During SDA OIG’s investigation, Murphy was provided an opportunity, in the presence of his attorney, to address the apparent contradictions. He declined to do so. In addition, he was provided a draft copy of this report. Neither Murphy nor his attorney provided comments or a statement in response to the draft report.

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<sup>5</sup> A more detailed account of Murphy’s position can be found in the Consent Order at ¶ 24-25.

<sup>6</sup> A subpoena duces tecum was served on the NJSEC seeking their entire investigative file. NJSEC complied with the subpoena and all relevant documents were obtained.

## **II. SUMMARY OF CONCLUSIONS**

The evidence gathered during the SDA OIG investigation indicates that former SDA Vice President and Chief Operating Officer Gerald Murphy knowingly made contradictory sworn statements of material fact during the course of the NJSEC investigation. He was given an opportunity to explain those statements, and he did not.

### III. STANDARDS

Several New Jersey statutes may be applicable to the conduct at issue in this matter.

#### **N.J.S.A. 2C:28-1. Perjury**

a. Offense defined. A person is guilty of perjury, a crime of the third degree, if in any official proceeding he makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a statement previously made, when the statement is material and he does not believe it to be true.

.....

d. Retraction. It is an affirmative defense under this section that the actor retracted the falsification in the course of the proceedings or matter in which it was made prior to the termination of the proceeding or matter without having caused irreparable harm to any party.

#### **N.J.S.A. 2C:28-2. False swearing**

a. False swearing. A person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he does not believe the statement to be true, is guilty of a crime of the fourth degree.

.....

b. Perjury provisions applicable. Subsections c. and d. of section 2C:28-1 apply to the present section.

**N.J.S.A. 2C:28-3. Unsworn falsification to authorities**

a. Statements "Under Penalty." A person commits a crime of the fourth degree if he makes a written false statement which he does not believe to be true, on or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable.

.....

c. Perjury provisions applicable. Subsections c. and d. of section 2C:28-1 and section c. of 2C:28-2 apply to the present section.



#### **IV. ANALYSIS OF EVIDENCE**

In 2005, the NJSEC opened an investigation based on a complaint that former SDA Vice President and Chief Operating Officer Gerald Murphy had used SDA contacts to benefit a business run by Murphy's son. Specifically, the NJSEC investigation initially focused on whether Murphy improperly used his position at SDA to require either Joseph Ashdale, a union representative with potential SDA contacts, or Tom Foy, Vice President of Hill International Inc., a company with a contract with SDA, to assist Murphy's son in the son's business. In that investigation, Murphy provided two sworn interview statements to the NJSEC: one on December 6, 2005; and the other on September 25, 2006. At the time he provided the sworn statements, it was in Murphy's best interest to establish that he had in fact known both Ashdale and Foy long before he started working at SDA. Murphy could then claim that to the extent he had any contact with Ashdale or Foy and asked for advice about his son's business, his long standing relationship with them was the source of that contact not his SDA relationships. Thus, in those sworn statements, he spoke of his personal relationships with both Ashdale and Foy as having begun before he became an SDA employee. About his personal relationship with Tom Foy, Murphy was very specific.

NJSEC INVESTIGATOR: And how do you know Tom Foy?

MURPHY: Tom is – when I came over here was one of the mentors of me, more or less a person I had met when I was in Philadelphia. I knew him when I was Deputy Mayor in Philadelphia under Ed Rendell and then was friendly with him, and then over here became more friendly and socialized with him. (NJSEC Sworn Interview of Gerald Murphy, 12/6/05)

Murphy reiterated the details of his relationship with Tom Foy in a second sworn interview with NJSEC on September 25, 2006.

MURPHY: ...Tom and I knew each other from when I was even in Philadelphia. They did some things over there, project labor agreements. In fact they did a study over here for project labor agreements. He was with Hill International. Tom and I became friends over the years.... (NJSEC Sworn Interview of Gerald Murphy, 9/25/06)

Murphy confirmed elsewhere in both sworn statements that he knew Tom Foy prior to his employment with the SDA.

NJSEC INVESTIGATOR: But you had known [Foy] for—

MURPHY: Well I knew him before I came over to SCC, yes. (NJSEC Sworn Interview of Gerald Murphy, 12/6/05)

And:

NJSEC INVESTIGATOR: Ok so you said that you knew Tom before you came over to the State?

MURPHY: Yes. (NJSEC Sworn Interview of Gerald Murphy, 9/25/06)

Sometime later, the focus of NJSEC's investigation had changed. The focus was no longer whether Murphy had used his SDA contact to benefit his son's business but rather whether Murphy had violated ethics laws as an SDA employee in view of his personal relationship with Foy. In that regard, the investigation revealed the following facts.

On or about June 11, 2002, SDA (then EDA) issued a Request for Proposals (RFP) to select a firm to develop a set of protocols to select and monitor school facilities projects placed under Project Labor Agreements (PLA). The SDA established a five person selection committee, including Murphy as the Chairman. The records indicate that Murphy did not disclose to responsible SDA representatives or his co-committee members that he had a close personal friendship and business relationship with Foy<sup>7</sup>. Nor did Murphy recuse himself from the selection committee despite this close personal friendship and prior business relationship.<sup>8</sup>

Three firms submitted technical proposals as well as fee proposals.<sup>9</sup> Hill International was ultimately the firm rated highest by the selection committee. Hill International submitted a fee proposal in the amount of \$477,060.00 plus approximately \$42,500.00 in expenses totaling \$519,560.00. This figure was the highest fee proposal of the three that were submitted and more than \$356,000.00 higher than the fee proposal submitted by the second rated firm which also submitted the lowest fee proposal. After negotiations with Selection Committee Chairman Murphy and another SDA employee, who was the SDA selection coordinator, Hill International reduced its fee to \$396,810.00, still more than \$233,000.00 higher than the fee submitted by the

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<sup>7</sup> As described in his quoted sworn interview statements *infra*, as Deputy Mayor of Philadelphia, Murphy met Thomas Foy, Vice President of Hill International, and they worked together on City of Philadelphia Project Labor Agreements, the same type of work that Foy was proposing to do for SDA.

<sup>8</sup> In addition, Murphy also was on the selection committee choosing the Round 3 PMF firms in or about July 2002. Hill International was one of the firms selected. Despite his close personal friendship with Thomas Foy, VP, Hill International, Murphy also failed to recuse himself from that selection committee.

<sup>9</sup> A two step approach was to be used by SDA in selecting a firm. First, the selection committee would score each firm's technical proposal based on the established criteria. The technical proposals would be evaluated without regard to each firm's fee proposal and only after the firms were scored on their technical proposals would their fee proposals be opened. Then the fee proposal of the highest ranked firm could be negotiated until the price was agreeable to all parties.

second rated firm.<sup>10</sup> Hill International was ultimately the firm selected to be the PLA consultant.<sup>11</sup>

Thereafter, Hill International began to work as a consultant for SDA (then EDA). Foy, as Vice President of Hill International, worked directly on the PLA contract. Murphy again failed to recuse himself and directly oversaw Hill International's performance under the PLA contract. In addition, Murphy was responsible for approving payments made to Hill International under the contract, including expenses and other charges submitted by Foy, who was the Hill International employee responsible for managing the PLA consulting work. Indeed, on four separate occasions, Murphy personally certified to the accuracy of Hill International's invoices despite his close personal friendship with Foy.

Further, between August 27, 2002 and June 4, 2004, Murphy attended a number of business meals with Foy. While, according to the Consent Order, Murphy agreed that he attended certain business meals, he denied that he attended all of the meals that the NJSEC Complaint alleged that he did. Further, Murphy claimed that he paid his share of the meal for every business meal that he attended, but he has no receipts to corroborate his claim. According to the Consent Order, Foy submitted credit card receipts to Hill International demonstrating that Foy paid for at least eighteen (18) separate business meals that were attended by Murphy. Of the eighteen separate meals where Foy submitted credit card receipts to Hill International, four (4) of

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<sup>10</sup> If an agreement on price could not be reached with the highest ranked firm, nothing precluded SDA from instead opting to negotiate a fee with the second ranked firm until a price could be agreed upon and the contract awarded to the second ranked firm.

<sup>11</sup> It is difficult to estimate the perhaps subtle impact that Murphy's role as Chairman of the selection committee played in selecting the firm that employed his long time personal friend and then in negotiating a price with that firm.

those meals were billed to SDA by Hill International (through Foy) as an alleged appropriate billing expense under the PLA contract. NJSEC contended that Murphy attended all four of these lunches based upon Murphy's calendar as well as mileage reimbursement documents that Murphy submitted to SDA that placed Murphy at the location of the lunches. Upon receipt of Hill International's invoices, Murphy personally certified to their accuracy and approved the reimbursement for the lunches<sup>12</sup>. There is no documentation in the record that Murphy questioned whether any payment he allegedly made for the meal was taken into account and deducted from the charges submitted to SDA.

At the conclusion of its investigation, a Complaint was filed by NJSEC against Murphy charging *inter alia* that Murphy violated ethics laws as an SDA employee in view of his personal relationship with Foy. Murphy contested the charges and during the course of the NJSEC proceedings, Murphy filed a Certification with the NJSEC, dated February 23, 2009, that directly contradicted his earlier sworn 2005 and 2006 interview statements partially quoted above. This time, Murphy denied that he had a prior relationship with Foy or even knew him prior to becoming employed by EDA/SCC/SDA. Murphy stated in his Certification:

So that there is no misunderstanding, I never met or had a relationship with Thomas Foy prior to my joining the EDA in 2002. I was introduced to him by James O'Neill, Vice

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<sup>12</sup> While not part of the NJSEC Complaint, there is a question as to whether ordinary business lunches with SDA employees, not related to business travel, were appropriate expenses under the PLA contract. The contract itself is silent as to whether these expenses are reimbursable other than stating at §3.2.1 that "Copies of all bills for reimbursable expenses allowed by contractual documents must be attached to the invoice form." The contract however incorporates by reference, the RFP and all responses thereto. The RFP does not seem to contemplate business meals being reimbursable under the contract. The only reimbursable expenses mentioned in the RFP are printing costs as well as travel, postage and telephone. The only mention of meals is in Hill's initial fee proposal which estimates "Travel, Lodging, Meals etc" at \$12,500.00. This fee proposal was subsequently modified and meals were deleted from the expense section and replaced with "Travel, Lodging, *Subsistence*" which more accurately reflects the intent of the RFP. Regardless of how the contract is to be interpreted, it is clear that Murphy should not have been involved in making this decision in light of his close personal friendship with Foy. Further, there is no indication that Murphy sought a legal interpretation regarding whether lunches with SDA employees were appropriate expenses under the PLA contract.

President of Hill International around the time that a contract was entered into between Hill and the EDA. (Certification of Gerald Murphy, 2/23/09, ¶ 6).

In the February 23, 2009 Certification, Murphy attempted to explain that the NJSEC ethics charges based on a prior relationship between himself and Foy were incorrect and that Murphy may have misspoke in his sworn interview statements. Murphy states in his Certification that:

The facts contained in the [NJSEC] investigators' report are incorrect but are apparently based upon my misstatements during the interview. ... Apparently when referring to my relationship with Mr. Ashdale, I used Foy's name incorrectly. (Certification of Gerald Murphy, 2/23/09, ¶ 5).

However, a review of the transcript of the NJSEC interviews makes Murphy's sworn attempt to deflect the allegations implausible. In the sworn interview statements, Murphy went into great detail about the circumstances surrounding how he came to meet Foy. Those details make it clear that when speaking of Foy, he meant Foy, who worked for Hill International, a company consulting in project labor agreements, not Ashdale, a union representative. In the sworn interview, Murphy stated:

We used Hill International for a project labor study over there that Mayor Rendell at the time had an Executive Order that he utilized and project labor agreements. So to do project labor agreements you usually need some authority to come – you know, a company that comes in that specializes in them that basically can set up the justification for it. So we used Hill.

Then I met Tommy [Foy, not Joseph Ashdale] back then with – you know how many years ago when I was Deputy Mayor of Philadelphia and basically became friendly there because, you know, we were involved there as dealing directly with labor all the time. So we were involved in it, then became friendly.

Then when I came over here, Tommy reached out to me right away, said congratulations for coming over and then we just maintained a friendship, you know, social. (NJSEC Sworn Interview of Gerald Murphy, 9/25/06)

In Murphy's second NJSEC sworn interview he spoke about his relationships with Ashdale and Foy at the same time, indicating that their relationships were similar, undermining the possibility that Murphy misspoke and said "Foy" when he meant "Ashdale" or vice versa, since he was speaking about both of them.

NJSEC INVESTIGATOR: And just to recap, your conversations with Mr. Ashton [sp] and Mr. Foy were of a personal nature?

MURPHY: Personal

NJSEC INVESTIGATOR: You didn't represent yourself as -- in your official capacity?

MURPHY: No, no. I've socialized with both of them, been to different games and things like that with both socially -- I mean socially myself in my own social capacity; nothing to do with my job. [Emphasis added] (NJSEC Sworn Interview of Gerald Murphy, 9/25/06)

In addition to the above, in the February 23, 2009 Certification, Murphy also contradicted his sworn interview statements regarding the nature of his relationship with Foy. In his Certification, Murphy swore that his and Foy's relationship was strictly a business relationship. He stated:

Subsequent to my introduction to Mr. Foy, our relationship was strictly business related. The only time I met Mr. Foy involved business related matters. I have never been out with Mr. Foy socially. (Certification of Gerald Murphy, 2/23/09, ¶ 7).

Once again, the above sworn statement taken from the Certification is in direct contradiction to Murphy's two sworn interview statements. Murphy stated numerous times during his earlier sworn interviews that he had a social relationship with Foy. The following provides a succinct example of Murphy's earlier sworn interview characterization of his relationship with Foy:

NJSEC INVESTIGATOR: You were social friends?

MURPHY: Social friends as well, yeah. If you knew Tommy Foy he had a lot of friends. He's been elected to every office except dog catcher I think. He's been a Senator and Deputy Commissioner over here. But Tommy's just a good – great guy, good friend. (NJSEC Sworn Interview of Gerald Murphy, 9/25/06)

The February 23, 2009 Certification denying a social and personal relationship was submitted to the NJSEC by Murphy to defend against the possible ethics concerns surrounding Murphy's actions as an SDA employee involving Foy, an individual with whom he had a prior existing personal relationship. However, shortly after he submitted the Certification, when he was provided transcripts of his earlier sworn interviews, he seemingly quickly abandoned this defense. Within three weeks of signing the Certification, he entered into the March 17, 2009 Consent Order with the NJSEC resolving this matter, making statements in the Consent Order indicating that the earlier sworn interview statements were correct and the recent Certification was false. In the Consent Order, Murphy acknowledged that he "had a long term close personal friendship with Foy, which predated Murphy's State employment and/or Hill International's PLA contract with the EDA and/or SCC" (Consent Order, page 4). Thus, Murphy necessarily acknowledged the falsity of the statements in his Certification. Indeed, if there is any question as to which statements were true -- those in the earlier sworn interview statements acknowledging



that Murphy had a personal relationship with Tom Foy prior to becoming employed by SDA or those in the more recent sworn Certification denying that Murphy had ever met Foy prior to becoming employed by SDA -- Murphy's signature on the Consent Order resolves that question. The personal relationship with Foy existed well before Murphy's SDA employment, yet Murphy did not retract the Certification during the course of the NJSEC proceeding.

Notwithstanding the above, SDA OIG offered Murphy an opportunity to explain his actions. He refused to answer OIG's questions about the matter and instead invoked his Fifth Amendment right against self-incrimination. During the attempt to interview Murphy the following dialogue occurred:

Q: Mr. Murphy we planned to interview you today about contradictory sworn statements of material fact made by you to the New Jersey State Ethics Commission concerning when you met Tom Foy and the nature of your relationship with him.

Your attorney, who is present today with you, informed me that you will be refusing to testify in that matter. Will you, in fact, be refusing to testify in that matter?

A: That's correct.

Q: On what basis are you refusing to testify?

A: On the advice of my attorney. Fifth Amendment.

Q: Okay. I'd like to inform you that with or without your testimony this matter is going to go forward. Our investigation will continue and a report will issue, and that report will be public. This is your opportunity to tell your side of the story and have it included in the report.

Having said that, is it still your intention to assert your Fifth Amendment rights and refuse to answer each and every question that I ask you about sworn statements that you made during the State Ethics Commission investigation and subsequent hearing concerning when you met Tom Foy and your relationship with him?

A: Yes.

## V. CONCLUSIONS

The evidence gathered during the SDA OIG investigation indicates that former SDA Vice President and Chief Operating Officer, Gerald Murphy made contradictory sworn statements of material fact during the course of the NJSEC investigation.

The evidence indicates that Murphy knew that in 2005 and 2006 the subject matter of the NJSEC investigation was whether Murphy had used SDA contacts to benefit Murphy's son's business. Murphy defended himself against those allegation in two sworn statements provided to the NJSEC, describing in detail his personal relationship with Foy as having begun while Murphy was Deputy Mayor of Philadelphia, and long predating Murphy's employment at SDA. More particularly, Murphy indicated in those sworn statements that prior to his employment as an EDA/SCC/SDA officer, he served as Deputy Mayor of Philadelphia. In that capacity, he met Thomas Foy, Vice President of Hill International, when they worked together on City of Philadelphia Project Labor Agreements, and Murphy and Foy formed a close personal friendship. The close personal friendship between Murphy and Foy continued long after Murphy left his position in Philadelphia and was hired as Director of Workforce Development for the New Jersey Economic Development Authority Schools Construction Program in approximately June 2002. The statements made by Murphy were directly relevant and material to the matter NJSEC was investigating.

In 2009, the NJSEC filed a Complaint against Murphy charging *inter alia* that he violated ethics laws as an SDA employee in view of his personal relationship with Foy. Again, Murphy knew the subject matter of the NJSEC investigation as the Complaint spelled out in detail the

facts supporting the ethics violations. This time, Murphy defended himself against the charges in the Complaint in a sworn Certification to the NJSEC. Murphy swore in the Certification to the NJSEC that he was not a long time personal friend of Foy's. Murphy swore that he had met Foy only after Hill International had been awarded the SDA PLA contract. This statement was directly relevant and material to the matter NJSEC was investigating.

During the course of its proceeding, NJSEC provided Murphy a copy of the earlier sworn interview statements that directly contradicted his Certification. He did not retract either of the interview statements or the Certification during the course of the NJSEC proceeding. When Murphy was provided an opportunity by SDA OIG to explain these contradictory statements, he declined to do so citing his Fifth Amendment right against self incrimination.

## **VI. REFERRAL**

The SDA OIG will refer this matter to the New Jersey Attorney General's Office, Division of Criminal Justice for its review and determination of whether any of the conduct described herein warrants further action by that entity. Pursuant to N.J.S.A. 52:15B-12, OIG requests that the Division of Criminal Justice notify OIG of its decision.

## **VII. APPENDIX A**

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
R. J. Hughes Justice Complex  
25 W. Market Street  
P.O. Box 106-Treas.  
Trenton, New Jersey 08625-0106  
Attorney for Petitioner,  
State Ethics Commission

By: Kimberly A. Sked  
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(609) 633-8455

STATE OF NEW JERSEY  
OFFICE OF ADMINISTRATIVE LAW  
DOCKET NO. ETH 02110-08  
AGENCY REF. NO. 51-05

|                  |   |                       |
|------------------|---|-----------------------|
| In the Matter of | ) | Administrative Action |
|                  | ) |                       |
| GERALD MURPHY    | ) | CONSENT ORDER         |
|                  | ) |                       |

WHEREAS, the State Ethics Commission ("Ethics Commission") is authorized to initiate, receive, hear and review complaints regarding violations, by any State officer or employee in the Executive Branch, of the New Jersey Conflicts of Interest Law ("Conflicts Law"), N.J.S.A. 52:13D-12 et seq., or of any code of ethics promulgated thereunder;

WHEREAS, the Ethics Commission has conducted an investigation of this matter;

WHEREAS, Gerald Murphy ("Murphy") was Director of Workforce Development for the New Jersey Economic Development Authority's Schools Construction and Financing Program (the "EDA Schools Program");

WHEREAS, in August 2002, the EDA Schools Program was reconstituted as the New Jersey Schools Construction Corporation ("SCC"), a wholly-owned subsidiary of the EDA;

WHEREAS, upon the SCC's creation, Murphy was employed by the SCC as Managing Director of Communications Policy and Operations until January 2004, when Murphy was appointed Chief Operating Officer of the SCC;

WHEREAS, at all times relevant to this matter, Murphy was employed by the EDA or SCC and, therefore, was a State employee within the meaning and coverage of N.J.S.A. 52:13D-13b(1);

WHEREAS, the EDA promulgated a Code of Ethics, which was approved by the Commission on July 17, 1985, pursuant to the Conflicts Law and in force and effect at all times relevant to this matter (the "EDA Code of Ethics");

WHEREAS, at all times relevant to this matter, the EDA Code of Ethics applied to all employees of both the EDA and the SCC;

WHEREAS, on June 10, 2002, Murphy signed a written acknowledgment that he received a copy of the EDA Code of Ethics and was bound thereby;

WHEREAS, at all times relevant to this matter, Murphy was bound by the Conflicts Law, administrative rules promulgated thereunder, and the EDA Code of Ethics;

WHEREAS, at all times relevant to this matter, the Conflicts Law established that, "No State officer or employee, special State officer or employee, or member of the Legislature shall accept from any person, whether directly or indirectly and whether by himself or through his family or through any partner or associate, any gift, favor, service, employment or offer of employment or any other thing of value which he knows or has reason to believe is offered to him with intent to influence him in the performance of his public duties and responsibilities." N.J.S.A. 52:13D-14;

WHEREAS, at all times relevant to this matter, the Conflicts Law and the EDA Code of Ethics established that, "No State officer or employee or special State officer or employee should accept any gift, favor, service or other thing of value under circumstances from which it might be reasonably inferred that such gift, service, or other thing of value was given or offered for the purpose of influencing him in the discharge of his duties." N.J.S.A. 53:13D-23(e)(6); EDA Code of Ethics § VII, ¶ (a);

WHEREAS, at all times relevant to this matter, the Conflicts Law and the EDA Code of Ethics required that "[n]o State officer or employee or special State officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may be engaged in conduct violative of his



trust as a State officer or employee or special State officer or employee." N.J.S.A. 52:13D-23(e)(7), EDA Code of Ethics § V, ¶ (a);

WHEREAS, at all times relevant to this matter, the Ethics Commission's administrative rules established that a State official must recuse himself or herself from a matter if he or she has "any personal interest, direct or indirect, that is incompatible with the discharge of the State official's public duties." Then codified as N.J.A.C. 19:61-7.4(a)(2), since recodified as N.J.A.C. 19:61-7.4(c)(2);

WHEREAS, at all times relevant to this matter, Hill International, Inc. ("Hill") was a contractor with the EDA and/or the SCC as a Project Labor Agreement ("PLA") consultant;

WHEREAS, Murphy served on the selection committee that awarded Hill the PLA contract and he oversaw Hill's performance under the contract as well as payments made to Hill pursuant to the contract;

WHEREAS, at all times relevant to this matter, the late Thomas Foy, Esquire ("Foy"), was a vice president of Hill, working directly on the PLA contract;

WHEREAS, Murphy had a long term close personal relationship with Foy, which predated Murphy's State employment and/or Hill's PLA contract with the EDA and/or SCC;

WHEREAS, Foy submitted to Hill credit card receipts demonstrating that he paid for at least eighteen meals, in their entirety, and claimed that the meals were business meals with Murphy and/or at least one other State officer or employee in attendance;

WHEREAS, on at least five occasions between September 3, 2002 and June 4, 2004, inclusive, Murphy attended business meals with Foy;

WHEREAS, Murphy has no receipts to demonstrate that he or any other State employee or officer paid for Murphy's share of any of the business meals at issue in this matter;

WHEREAS, Hill submitted to the EDA and/or the SCC four consultant invoices for work performed on the PLA contract, all of which were certified by Foy;

WHEREAS, Foy's receipts and expense reports for at least four business meals were attached as supporting documentation to the consultant invoices submitted by Hill;

WHEREAS, Murphy signed all four consultant invoices as the EDA or SCC Project Officer and by his signature certified the accuracy and approved payment of the invoices;

WHEREAS, on at least two occasions, Murphy approved invoices seeking reimbursement to Hill for four meals that Foy and one or more EDA or SCC employee attended;

WHEREAS, the Ethics Commission and Murphy (collectively, the "Parties") desire to enter into a final and complete resolution of all matters and issues raised with respect to the above-captioned matter:

IT IS THEREFORE agreed by the Parties as follows:

1. On October 16, 2002, Foy attended a business lunch at Pete Lorenzo's Cafe in Trenton, with EDA employees, for which Foy paid by credit card \$418.14.

2. Foy submitted a receipt and expense report to Hill, and sought from Hill reimbursement for all expenses that Foy paid relating to the October 16, 2002 lunch.

3. On November 12, 2002, Hill submitted to the SCC an invoice that sought, among other payments, reimbursement for the costs associated with the October 16, 2002 lunch as an appropriate business expense under the PLA contract, as documented by Foy's receipt and expense report.

4. On December 11, 2002, as the EDA or SCC Project Officer, Murphy personally certified to the accuracy of Hill's November 12, 2002 billing invoice, in its entirety, and approved payment of the entire invoice, including the October 16, 2002 lunch.

5. On October 24, 2002, Foy attended a business lunch at Panico's in New Brunswick, with EDA/SCC employees; the total amount that Foy paid by credit card for this meal was \$388.45.

6. Foy submitted a receipt and expense report to Hill, and sought from Hill reimbursement for the entire amount that he paid for the October 24, 2002 business meal.

7. On November 8, 2002, Foy attended a business meal at Lahiere's Restaurant in Princeton, with various State employees and officials, including Mr. Murphy.

8. The total amount that Foy paid, by credit card, for the November 8, 2002 meal was \$623.92, of which he claimed \$253.92 as an appropriate business expense to Hill.

9. Foy submitted the receipt and expense report to Hill, and sought from Hill partial reimbursement in the amount of \$253.92 for costs incurred at the November 8, 2002 business lunch.

10. On November 12, 2002, Foy attended a business meal at Marsilio's, in Trenton, with SCC employees.

11. The total amount that Foy charged to his credit card for the November 12, 2002 meal was \$581.75, of which he attributed, by handwritten note on the receipt, \$281.75 to "EDA" and the remaining \$300.00 to Hill.

12. Foy submitted a receipt and expense report to Hill, and sought from Hill partial reimbursement in the amount of \$281.75 for costs incurred at the November 12, 2002 business lunch.

13. On December 12, 2002, Hill submitted to the SCC an invoice that sought, among other payments, reimbursement for the all of the costs that Foy claimed for the October 24, 2002,



November 8, 2002, and November 12, 2002 lunches, detailed above, as appropriate business expenses under the PLA contract, and as documented by Foy's receipt and expense report.

14. On December 23, 2002, as the EDA or SCC Project Officer, Murphy personally certified to the accuracy of Hill's December 12, 2002 billing invoice, in its entirety, and approved payment of the entire invoice, including the October 24, 2002, November 8, 2002, and November 12, 2002 meals.

15. Between August 27, 2002 and June 4, 2004, inclusive, Murphy attended a number of business meals with Foy, including the November 8, 2002 and November 12, 2002 meals set forth above and as recorded on Foy's receipts and/or expense reports.

16. In the time frame listed in paragraph 15, Murphy also attended business meals with Foy on September 3, 2002, August 13, 2003, and January 23, 2004.

17. On the occasions referenced in paragraphs 15 and 16, above, Murphy contends that he paid for his meals in cash or had another State officer or employee pay for his share of the meal; however, he has no receipts to demonstrate that he actually paid for his share of the meals, and all receipts available demonstrate only Foy paying for the meals on his credit card.

18. Additionally, when Hill sought reimbursement of the meals occurring on November 8, 2002 and November 12, 2002, Murphy approved the accuracy of the billing and approved the

reimbursement, without questioning whether any payment he made for his meal was taken into account.

19. It is the Ethics Commission's position that in approving reimbursement for any costs arising from Foy's business meals and in certifying the accuracy of Foy's receipts as part of these invoices, Murphy acted in a way that "might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may have engaged in conduct violative of his trust as a State officer or employee," a violation of N.J.S.A. 52:13D-23(e)(7) and EDA Code of Ethics § V, ¶ (a).

20. It is the Ethics Commission's position that Murphy should have recused himself from any involvement in the review and approval of invoices submitted by Foy, with whom he had a personal relationship, and in approving payment of the consultant invoices referenced in paragraphs 3 and 13 above, Murphy violated then-N.J.A.C. 19:61-7.4 (a)(2) (now codified as N.J.A.C. 19:61-7.4 (c)(2)).

21. It is the Ethics Commission's position that in approving reimbursement for any costs arising from the October 16, 2002, October 24, 2002, November 8, 2002 and November 12, 2002 business meals and in certifying the accuracy of Foy's receipts as part of Hill's November 12, 2002 and December 12, 2002 invoices, Murphy provided an unwarranted benefit to Foy's employer and acted in a way that "might reasonably be expected to create an impression

or suspicion among the public having knowledge of his acts that he may have engaged in conduct violative of his trust as a State officer or employee," a violation of N.J.S.A. 52:13D-23(e)(7) and EDA Code of Ethics § V, ¶ (a).

22. It is the Ethics Commission's position that Murphy should have recused himself from any involvement in the review and approval of invoices submitted by Foy, with whom he had a close personal friendship, and in approving reimbursement for any invoice submitted by Foy, Murphy violated then-N.J.A.C. 19:61-7.4(a)(2) (now codified as N.J.A.C. 19:61-7.4(c)(2)).

23. It is the Ethics Commission's position that Murphy's acceptance of meals from Foy on September 3, 2002, November 8, 2002, November 12, 2002, August 13, 2003, and January 23, 2004, and/or his failure to retain documentation to demonstrate that he or another State officer or employee had, in fact, paid for Murphy's share thereof, constitutes or could be viewed as a violation of N.J.S.A. 52:13D-23(e)(6) and (7), and the EDA Code of Ethics §§ V, ¶(a) and VII, ¶ (a).

24. It is Murphy's position that with respect to his approval of the reimbursement of the meals occurring on October 16, 2002, October 24, 2002, November 8, 2002, and November 12, 2002, he did not seek to violate any ethical statutes, rules, or codes of conduct. However, in retrospect, Murphy now understands that he should not have approved payment of any meals for Hill related to

the PLA contract and, specifically, that he should not have been involved in the review of any submission by Foy, with whom he had a personal relationship. Murphy understands how his conduct in approving invoices submitted by a friend, when viewed as one ongoing course of dealings, could reasonably be construed as a violation of the ethics rules, in that he failed to recuse himself from a transaction in which he had any personal interest. Murphy further understands that reimbursement to Hill was a permissible expense under the contract, and the Ethics Commission's position that if it were an improper reimbursement, by approving such reimbursement to his friend's employer, Murphy's actions, taken as one ongoing course of conduct, might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may have engaged in conduct violative of his trust as a State Officer or employee.

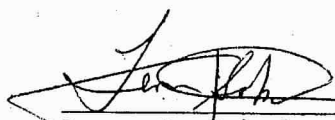
25. It is also Murphy's position that he or another State officer or employee paid for all of Murphy's business meals that he attended with Foy on September 3, 2002, November 8, 2002 and November 12, 2002, August 13, 2003, and January 23, 2004. In retrospect, however, Murphy understands how his failure to obtain and maintain documentation of any payments he or any other State officer or employee made on Murphy's behalf with respect to these meals could reasonably create an impression that, in each instance, there was a violation of N.J.S.A. 52:13D-23(e) (6) and (7), and the EDA Code of Ethics §§ V, ¶(a) and VII, ¶ (a).

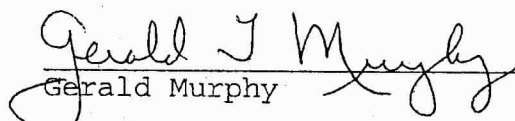



26. The Parties agree that this consent order is entered into as a final agency action that constitutes a complete and final resolution of all the matters and issues that are involved herein and that this consent order is not intended to constitute a finding or admission of guilt or liability on the part of Murphy except as expressly set forth herein.

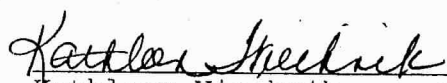
27. In consideration thereof, Murphy agrees to pay a civil penalty in the amount of Three Thousand Dollars (\$3,000.00).

DATED: March 17, 2009

  
Leon J. Sokol, Esq.

  
Gerald Murphy

  
State Ethics Commission  
By: Paula A. Franzese  
Chairwoman

  
Kathleen Wiechnik  
Executive Director