

**IN THE LOUISVILLE/JEFFERSON COUNTY
METRO ETHICS COMMISSION
CAUSE NO. 11-P-001**

**IN RE: ETHICS COMPLAINT AGAINST
DR. JUDITH GREEN**

This matter was heard before the Louisville/Jefferson County Metro Ethics Commission on April 28, 2011. The Investigative Officer, Hon. James A. Earhart, was present with the Complainant, Ray Barker, Sr.. The Respondent, Dr. Judith Green, was present with her counsel, Hon. Kent Wicker and Hon. Steven A. Reed. Judge Tom McDonald, retired, presided. Immediately prior to the hearing, several motions were heard and ruled upon, after which Chairman Ricketts called the proceedings to Order.

Mr. Earhart presented his opening statement, followed by Mr. Wicker. The taking of proof then commenced, with testimony offered from the following witnesses:

Dr. Judith Green
Dr. Eddie Woods
Dianne Samwaru
Musa Kamara
Nina Williams (testimony stricken)

Mr. Wicker then closed, followed by Mr. Earhart. Various exhibits were introduced and made part of the record.

FINDINGS OF FACT

Dr. Judith Green has served on the Louisville Metro Council since January 2007, and was on the Council when the current Code of Ethics was implemented. In the late spring of 2008, Dr. Green designed and implemented the "Green Clean Team", a program to assist youth in her district. Dr. Green noted that she saw a need in west

Louisville for clean-up efforts, as well as a need for young people to have summer jobs. She testified “ I ... designed a program that would meet those needs to help young people have gainful employment, learn interview skills, learn soft skills about how to work on a job, and also just to--just to get the clean--get the District 1 cleaned up” (Transcript, p. 26, l. 19-24).

The original grant was obtained and administered by “Youth Alive” in 2008, but because of reasons not relevant to this inquiry, it was necessary for Dr. Green to find another agency to apply for and administer the 2009 grant. In June 2009, Dr. Green asked Dr. Eddie Woods to take over the administration of the Green Clean Team and become its fiscal agent. Dr. Woods has served as the CEO of the LIFE Institute for the past twenty (20) years. The Institute is a non-profit organization which promotes safe schools and communities, and is also involved in gang and drug intervention. With regard to the Green Clean Team, Dr. Woods testified; “As we understood it, we were going to be pretty much running the program. Initially, that’s how we understood it.” (Transcript, p. 154, l. 3-5). Dr. Woods noted that he was very comfortable administering this program, as he has managed similar programs for the past twenty (20) years.

Dr. Woods worked with Dr. Green and submitted a grant application to the Department of Housing and Family services in the amount of Fifty-Five Thousand (\$55,000.00) dollars. Thirty Five Thousand (\$35,000.00) dollars was for the Green Clean Team and Twenty Thousand (\$20,000.00) dollars was for Dr. Woods gang and drug intervention program, Operation Hope. Dr. Green determined the amount of the grant. (Transcript, p. 49, l. 21-23). When asked why these two grant applications were combined, Dr. Woods testified “I -- I really don’t know, other than the fact that it was set up to happen that way. I -- I’m not sure.” (Transcript, p. 158, l. 14-16).

Dr. Woods noted that the grant was approved and he accordingly prepared various documents, including sign-in sheets, attendance forms, rosters and daily report forms, to be utilized in administering the Green Clean Team. However, he was subsequently informed that he would not be managing the program. Dr. Woods testified; “We just were -- were basically told by Dr. Green that she was going to run the program.” (Transcript, p. 167, l. 21-23). Dr. Woods also testified that Dr. Green and her staff were in charge of approving or admitting the participants into the program. Dr. Woods stated

that the LIFE Institute was willing and capable of doing this work and that he “had no idea” why he was not permitted to fulfill this role. (Transcript, p. 170, l. 11)

Although he had no oversight of the Green Clean Team program, the LIFE Institute was directed by Dr. Green and her office as to the amount the Institute was to pay each child. Dr. Woods noted that relatives of Dr. Green were participants in the Green Clean Team program and that they were paid differently, explaining that: “For the same hours, some -- or the same days of attendance, sometimes they would get more” [money]. (Transcript, p. 184, l. 5-7). He again emphasized that Dr. Green and her staff made the determination as to how much money each participant in the program would receive.

Dr. Green testified that ten (10) of her relatives; i.e., adopted children, foster children, nieces and nephews, participated in the Green Clean Team program. Dianne Samwaru is a paralegal in the office of defense counsel and a former employee of the U.S. Attorney’s Office in Louisville, Kentucky. She is experienced in the preparation of forensic financial and data analysis and has received educational training offered by the U.S. Department of Justice. In preparation for her testimony, Ms. Samwaru reviewed the reports of the Louisville Police Public Integrity Unit regarding its investigation of this matter, and the City of Louisville internal audit report prepared by Mike Norman, as well as the supporting documents of those reports. She testified that her examination of the audit revealed that the largest single payment to anyone working on the Green Clean Team was for Four Hundred (\$400.00) dollars, which was paid to a supervisor. Ms. Samwaru further testified that the second highest amount of any check, in any pay period, was for Three Hundred Twenty-Five (\$325.00) dollars. She explained that Ten (10) checks were written in this amount and that Seven (7) of these were payable to relatives of Dr. Green.

Under questioning by a member of the Commission, Ms. Samwaru was asked to examine the documents relating to pay period 3. It was during pay period 3 that \$22,570.00 of the \$35,000.00 Green Clean Team portion of the grant was disbursed. After doing so, Ms. Samwaru confirmed that non-relatives of Dr. Green received an average paycheck during this period in the amount of One Hundred Ninety-Five (\$195.00) dollars, while relatives of Dr. Green received an average of Three Hundred Ten

(\$310.00) for the same pay period.

The LIFE Institute had not received the grant funding in time to make the first payroll. Dr. Woods utilized other LIFE Institute funds to pay the children. The grant had still not been received by the time of the second payroll and Dr. Green said she paid the children in cash from her personal funds in an amount totaling approximately \$3,900.00. Neither Life Institute nor Dr. Green provided documentation to the Internal Auditor or the Ethics Commission for the original source of the cash provided by Dr. Green. The names and specific amounts paid to those to whom she said she advanced said funds were incomplete and no signatures of those to whom payments were advanced, acknowledging receipt of the funds, were provided. When the grant money arrived at the LIFE Institute, Dr. Green asked Dr. Woods to reimburse her for this expenditure. He testified that he was prepared to write her a check for this amount and that it was standard procedure to write a check to reimburse someone for such a substantial amount of money. However, Dr. Woods testified that he reimbursed Dr. Green in cash, "Because that's what she asked for." (Transcript, p. 182, l. 5).

Dr. Green testified that she was dissatisfied with the manner in which Dr. Woods was managing the Green Clean Team, so she removed him and appointed her husband, James P. Green, to take his place. Dr. Green testified that she personally interviewed applicants who wished to be employed by the Green Clean Team, selected the program participants, took roll, and even supervised some of the participants. In addition, she or a member of her staff determined how much each participant would be paid. Dr. Green testified: "...I wrote out receipts, along with my staff members, to expedite the process of children getting their checks." (Transcript, p. 50, l. 2-4). The receipts were in turn presented to the LIFE Institute for payment.

The Commission finds the testimony and intentions of Dr. Eddie Woods to be credible and sincere

In summary, Dr. Green asked Dr. Eddie Woods to use the LIFE Institute to apply for a Metro Government grant on her behalf. Dr. Green determined the amount of this grant. Dr. Green supported this appropriation before the Metro Council and in fact, lobbied her council colleagues to approve this grant. After it was approved, Dr. Green replaced Dr. Woods with her husband, James P. Green. Dr. Green controlled every

aspect of the Green Clean Team program. She interviewed applicants, determined who would participate, decided when and where the children would work, frequently personally supervised the work, directly and indirectly prepared payment vouchers, and directed how much each child would be paid. Relatives of Dr. Green who participated in the Green Clean Team received more pay than non-relatives for the same work.

The Commission finds Dr. Green intended to, and did in fact, use LIFE Institute's legitimate status to receive metro funds in obtaining public funds. Further the Commission finds Dr. Green intended to use the funds and run the program in accordance with her standards and directives. Dr. Green did not intend to turn control of the program over to the LIFE Institute after funds were received.

CONCLUSIONS OF LAW

The Commission finds by clear and convincing evidence that the preceding described actions of Dr. Judith Green constitute intentional and deliberate violations of the Louisville Metro Code of Ethics, Ordinance 52, Series 2010.

Initially, it should be noted that, as a member of the Metro Council, Dr. Green meets the definition of "Metro Officer", thus rendering her subject to the provisions of Louisville Metro Ethics Ordinance 52, Series 2010. Further, members of Dr. Greens family that participated in the Green Clean Team meet the definition of "Family Members." The following Sections of this Ordinance are relevant to this inquiry:

Code of Ethics Section 21.02 (A):

No Metro Officer or member of his/her family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in conflict with the proper discharge of such officer's duties in the public interest.

Code of Ethics Section 21.02(B):

No Metro Officer shall use or attempt to use his/her official position to secure unwarranted privileges or advantages for himself/herself, members of his/her family or

other persons.

Code of Ethics Section 21.02(C):

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

Dr. Green “partnered” with the LIFE Institute to obtain city funding for their respective programs, which in this instance was clearly in conflict with the proper discharge of her duties in the public interest. The term “partnered” is not defined by the ordinance and is given its plain meaning. Although LIFE Institute may have believed the partnership was to be mutually beneficial, Dr. Green intended to hijack the public funds once received by LIFE Institute.

According to Dr. Green, youth programs were one of her highest priorities. She took great pride in the fact that the Green Clean Team was her pet project. Dr. Green solicited LIFE Institute to partner with the Green Clean Team project only after the 2008 Grantee, “Youth Alive,” was unable to continue in that capacity. Although there was no presented evidence as to the administration of the previous program, it was apparent that the transition from the previous agency to Life Institute was necessary to fund the Green Clean Team program as it had run in the past. Life Institute was simply the legitimate, non-profit conduit through which Dr. Green obtained the grant to personally administer those funds.

The “proper discharge” of a Metro Council member’s “duties in the public interest” is violated when that member originates, promotes, and succeeds in obtaining a grant which not only directly benefits that member, but allows that member the unregulated use of public grant funds for her own purposes, however noble that purpose may be. In this case, Dr. Green created a project, promulgated the rules and requirements of employment for that project, including job titles, duties, rates of pay, and accounting and bookkeeping methods. She controlled virtually every aspect of this program. A conflict of interest occurred when Dr. Green solicited public funds through a non-profit organization,

utilizing her position as a member of the Metro Council, which she covertly intended to personally administer.

The totality of the evidence strongly suggests, by clear and convincing evidence, that it was the intention of Dr. Green from the outset to personally control the day-to-day operations of the Green Clean Team and to control its finances.

The Commission further finds by clear and convincing evidence that Dr. Green utilized her official position to pay or ensure payment to family members with public funds at a rate higher than other program participants, and as such obtained unwarranted privileges for herself and other family members. The Commission finds by clear and convincing evidence that Dr. Green had direct and indirect financial and personal involvement in an organization when she loaned LIFE Institute cash for payroll and solicited public funds on behalf of LIFE Institute while intending to control use of the funds, all of which impaired her objectivity and independence of judgment.

Further, the LIFE Institute was placed at a competitive advantage over other worthwhile, and perhaps competing, causes for Metro Government funding by virtue of this joint venture with Dr. Green. One might ask whether the LIFE Institute really had a choice of participating in this “relationship?” Had it refused Dr. Green’s request to act as fiscal agent for the Green Clean Team, would its request for its own “Operation Hope” still have been supported by Dr. Green, now or in future requests? The Commission finds that placing any potential grantee in such an untenable position is unquestionably in conflict with the proper discharge of a Metro Council member’s duties in the public interest.

Code of Ethics Section 21.02(B):

No Metro Officer shall use or attempt to use his/her official position to secure unwarranted privileges or advantages for himself/herself, members of his/her family or other persons.

Code of Ethics Section 21.04(B)

No Metro Officer shall act in his/her official capacity to hire, or cause to be hired any member of his/her family at an hourly pay rate or with benefits in excess of any other

employee with similar job duties, responsibilities and qualification requirements.

The evidence also reveals by clear and convincing evidence that Dr. Green personally benefited from the LIFE Institute grant by virtue of her control over funds which permitted her to hire and otherwise reward friends and potential voters with taxpayer funds. These benefits also radiated to her extended family. As noted previously, Dr. Green controlled every aspect of the Green Clean Team, even to the point of replacing Dr. Woods with her husband. She interviewed applicants and determined how much each participant would be paid. The testimony presented demonstrates that Dr. Green's relatives were clearly compensated at a rate higher than other participants for the same work or similar job duties. Seven (7) out of the ten (10) highest checks to non-supervisors went to family members of Dr. Green. In addition, in pay period 3, when \$22,570.00 of the \$35,000.00 was disbursed, non-relatives of Dr. Green received an average paycheck of \$195.00, while family members of Dr. Green received an average paycheck of \$310.00. Her extensive involvement in every aspect of the Green Clean Team, from procurement of the funds to personally administering the grant, impaired her independence of judgment and secured unwarranted advantages for her and her family.

Code of Ethics Section 21.02(H):

No Metro Officer shall use, or allow to be used, his/her public office, or any information, not generally available to the members of the public, which such officer receives or acquires in the course and by reason of his/her office, for the purpose of securing financial gain for himself/herself, any member of his/her family, or any business organization with which such officer is associated.

Insufficient evidence was presented to the Commission to find a violation of Code of Ethics Section 21.02(H) by Dr. Green.

INTENTIONAL CONDUCT

The Commission finds, pursuant to Code of Ethics Sections 21.99 (A)(1)(c) and (d) and Sections 21.99 (A)(2) and (3)(b) and (c), the actions of Dr. Green to have been

“Intentional”. While “intentional” is not defined by the Ordinance, it is to be given its plain meaning.

In addition to the reasons cited above, the Commission is particularly troubled by the lack of documentation that exists with respect to the entire operation of the Green Clean Team, which received over half of the grant given to LIFE Institute. There are insufficient records in virtually every aspect of this program, including records of who worked, when they worked, where they worked, what they did, their rate of pay, who verified and documented their participation, and numerous other instances where record-keeping would seem extremely important to even the most unsophisticated administrator. Dr. Green’s nonchalance about the absence of records is especially perplexing, especially in light of her educational background and business experience in her chosen profession.

Dr. Green testified that she sometimes accepts cash in her dental practice, and the patient is provided a receipt in that instance. Yet, when she was required to meet the second payroll period with her own personal funds, the documentation with respect to these cash advancements is wholly inadequate. Instead, when the grant money finally arrived, she told Dr. Woods of the LIFE Institute that she needed to be reimbursed \$3,900.00, and she wanted to be paid *in cash*. The Commission cannot conceive of a situation that calls for meticulous record-keeping and documentation more so than one in which a public official is handling taxpayer funds involving cash transfers.

It is rare enough for any public official to be in such a position, but for one to be in such a position, and not deem it of paramount importance to be exact in ones record-keeping is difficult to comprehend, if not outright unbelievable. Further, the Commission cannot envision any legitimate reason why a public official would insist upon being reimbursed in cash under these, or any other circumstances. Rather, Dr. Green’s insistence upon a cash reimbursement is strong evidence that the lack of documentation was not the result of sloppy bookkeeping or unintentional conduct, but was an intentional and deliberate attempt to conceal her total involvement in the Green Clean Team operation.

ORDER

The Louisville/Jefferson County Metro Ethics Commission, after a thorough

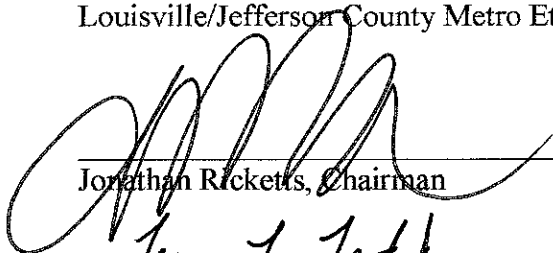
review of the testimony, evidence and arguments of counsel, unanimously finds by clear and convincing evidence, that Respondent, Dr. Judith Green, intentionally engaged in conduct in violation of Ordinance 52, 2010, Sections 21.02 (A), (B), (C) and Section 21.04 (B). The allegation of a violation of Section 21.02 (H) is hereby dismissed.


As a result of the Hearing Officer's ruling that Section 21.99(A)(2) of the Ordinance is not available to the Commission as a penalty, the Commission invokes the most severe sanction available to it under Ethics Ordinance 52, Section 21.99, a Letter of Reprimand and Letter of Formal Censure, to be issued at a later date.

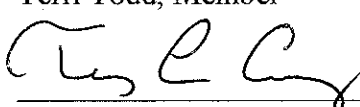
Further, the Commission recommends that the Metro Council exercise its authority under Section 21.99 (A)(3)(b) and KRS 67C.143, and commence proceedings for the removal of Dr. Judith Green from her elected position.

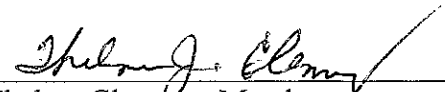
This Ruling shall be delivered forthwith to the Metro Council, pursuant to Ordinance 52, Series 2010, Section 21.99 (A)(3)(b) and (c), for further actions, if any, it may deem appropriate.

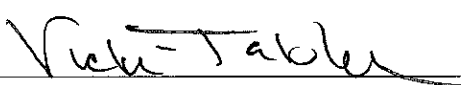
Entered this 10th day of June, 2011, by the following members of the Louisville/Jefferson County Metro Ethics Commission

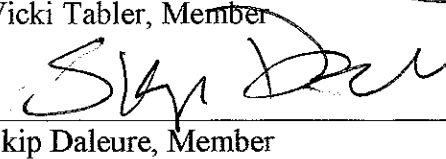

Jonathan Ricketts, Chairman


Terri Todd, Member


Terry Conway, Member


Thelma Clemons, Member


Vicki Tabler, Member


Skip Daleure, Member