

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Christopher Evans,

*Appellant,*

v.

Case No. 2014-REM-07-0195

Franklin County Department of Job & Family Services,

*Appellee,*

**ORDER**

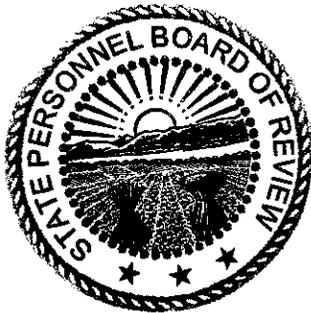
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judges in the above-captioned appeal.

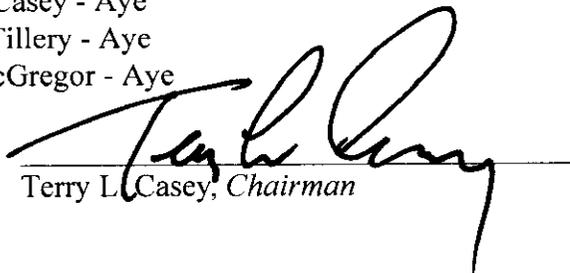
The Board notes that, with the assistance of respective counsel, the record in this matter was extensively and very thoroughly developed. *Moreover, the Board wishes to commend respective counsel (John W. Waddy, Jr., Attorney at Law and Denise L. DePalma, Assistant Prosecuting Attorney) for their professionalism, diligence, and hard work in representing their respective clients in this matter that involved major issues and a complex/lengthy record.*

Accordingly, after a thorough examination of the entirety of the record, including a review of the Report and Recommendation of the Administrative Law Judges, along with any objections to that report and responses thereto which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judges.

Wherefore, it is hereby **ORDERED** that Appellant's removal from the position of Quality Control Review Supervisor is **AFFIRMED**, pursuant to R.C. 124.03 and R.C. 124.34.

Casey - Aye  
Tillery - Aye  
McGregor - Aye



  
Terry L. Casey, *Chairman*

## CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes (the original/a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, September 23, 2016.

  
Clerk

**NOTE:** Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.

## NOTICE

Where applicable, this Order may be appealed under the provisions of Chapters 124 and 119 of Ohio Revised Code. An original written Notice of Appeal or a copy of your Notice of Appeal setting forth the Order appealed from and the grounds of appeal must be filed with this Board fifteen (15) days after the mailing of this Notice. Additionally, an original written Notice of Appeal or a copy of your Notice of Appeal must be filed with the appropriate court within fifteen (15) days after the mailing of this Notice. At the time of filing the Notice of Appeal or copy of your Notice of Appeal with this Board, the party appealing must provide a security deposit to the Board. In accordance with administrative rule 124-15-08 of the Ohio Administrative Code, the amount of deposit is based on the length of the digital recording of your hearing and the costs incurred by the Board in certifying your case to court. The length of the digital recording, the costs incurred, the corresponding amount of deposit required, and the final date that the Notice of Appeal or copy of your Notice of Appeal and the Deposit will be accepted by this Board are listed at the bottom of this Notice. If a full or partial transcript of the digital recording has been prepared prior to the filing of an appeal, the costs of a copy of that certified transcript will be accepted by this Board; transcript costs will be listed at the bottom of this Notice.

**IF YOU ELECT TO APPEAL THIS BOARD'S FINAL ORDER, THEN YOU MUST PROVIDE THE DEPOSIT LISTED BELOW AT THE TIME YOU FILE YOUR NOTICE OF APPEAL OR COPY OF YOUR NOTICE OF APPEAL WITH THIS BOARD.** Please note that the law provides that you have fifteen (15) calendar days from the mailing of the final Board Order to file your Notice of Appeal or copy of your Notice of Appeal both with this Board and with the Court of Common Pleas. The fifteenth day is the date that appears at the bottom of this Notice.

**METHOD OF PAYMENT:** for all entities other than State agencies, payment of the deposit must be by money order, certified check, or cashier's check. State agencies are required to use the Intra-State Transfer Voucher (ISTV) system (OBM Form 7205), which must be processed prior to the filing of an appeal. To initiate an ISTV, State agencies may call the State Personnel Board of Review Fiscal Office at 614/466-7046.

**IF YOU MAINTAIN YOU CANNOT AFFORD TO PAY THE DEPOSIT LISTED BELOW, THEN YOU MUST COMPLETE THE BOARD'S "AFFIDAVIT OF INDIGENCE" FORM. YOU CAN OBTAIN THAT FORM BY CALLING 614/466-7046. THE COMPLETED AFFIDAVIT MUST BE RECEIVED BY THIS BOARD ON OR BEFORE September 30, 2016.** You will be notified in writing of the Board's determination. If the Board determines you are indigent, you will be relieved of the responsibility to pay the deposit to the Board. However, if the Board determines you are NOT indigent, then **YOU MUST FILE YOUR NOTICE OF APPEAL OR A COPY OF YOUR NOTICE OF APPEAL AND PAY THE DEPOSIT BY THE DATE LISTED BELOW.**

**If you have any questions regarding this notice, please contact the Board at 614/466-7046.**

Case Number: 2014-REM-07-0195

Transcript Costs: \$886.50 Administrative Costs: \$25.00

Total Deposit Required: \* \$911.50

Notice of Appeal and Deposit Must  
Be Received by SPBR on or Before: October 11, 2016

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Christopher Evans

Case No. 2014-REM-07-0195

*Appellant*

v.

July 29, 2016

Franklin County Department of  
Job and Family Services

*Appellee*

James R. Sprague  
*Chief Administrative Law Judge*  
Raymond M. Geis  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on April 6 and 7, 2016. Present at the hearing was Appellant, Christopher Evans (Employee), who was represented by John W. Waddy, Jr., Attorney at Law. Appellee, Franklin County Department of Job and Family Services (FCJFS), was present through its designee, Maria Durban, Investigations Supervisor, and was represented by Denise L. DePalma, Assistant Prosecuting Attorney.

This cause comes on due to Appellant's filing of an appeal from his removal from the position of Quality Control Reviewer Supervisor (QCRS) with the FCJFS. Appellant was served with his R.C. 124.34 Order of Removal on July 25, 2014 and the Order was effective that same day.

The record in this matter was then extensively developed. This included a Board determination that Appellant had been timely served with his pertinent R.C. 124.34 Order of Removal and that such service was procedurally sufficient to go forward. It also included a Board determination that Appellee's allegations set forth in Appellant's pertinent Order of Removal were sufficient to apprise this Board and any other reasonable reader of the bases for Appellee's action in removing Appellant.

Further, we waited until Employee made an informed 5<sup>th</sup> Amendment determination as to whether the Franklin County Sheriff would be proceeding with any collateral criminal charges against Employee. Moreover, the parties engaged in extensive Board-offered mediation in good faith and full effort but, unfortunately, were unable to amicably resolve their differences.

Finally, a substantial technical issue arose regarding the production of the transcript in this matter following hearing. Resolution of this issue added several months to the processing of the instant appeal.

Appellee timely filed its post hearing brief on June 17, 2016. Appellant timely filed his post hearing brief on July 13, 2016. Appellee chose not to file its optional reply brief and the instant record was closed on July 21, 2016. *The undersigned also note that respective counsel performed diligently and admirably in representing their clients in this matter and are to be commended, accordingly.*

The subject matter jurisdiction of the Board was established pursuant to R.C. 124.03 and R.C. 124.34.

#### Removal Order

Christopher Evans was removed from his position of QCRS, effective July 25, 2014.

The R.C. 124.34 Order of Removal states, in pertinent part:

Per 123:1-31-01 of the Ohio Administrative Code, on 6/23/2014 a hearing was held for Mr. Evans for the following disciplinary offenses: dishonesty, violation of ethics policy, violation of agency fraud risk management plans, malfeasance and nonfeasance. At the hearing three large binders of exhibits were submitted by the management that contained information gathered from an investigation. Based on the documentation submitted there was just cause for removal of Mr. Evans from his position.

#### Procedural Pleadings: motion *in limine* denied

Appellee filed a motion *in limine* to exclude testimony from Employee at hearing due to the potential for unfair surprise. FCJFS argues that Employee's choice to remain silent during his *Loudermill* hearing deprived FCJFS from discovering potential exculpatory evidence necessary to render a just decision. FCJFS argues that Employee should be precluded from offering testimony in rebuttal at hearing because Appellee could not have considered such information before its decision to remove Employee. This matter was then fully briefed.

R.C. 124.03 gives this Board final authority to review, affirm, disaffirm or modify any order of an appointing authority. This generally includes the authority to

review all relevant facts and evidence at hearing in order to build a full and fair administrative record.

From a practical standpoint, FCJFS had ample opportunity to cross-examine Employee at hearing and was therefore not prejudiced by his testimony on direct. Moreover, Appellee was provided with a full opportunity to offer all rebuttal testimony that it requested at hearing, in relation to the Employee's testimony on direct.

We note that the *Loudermill* hearing is designed merely to be an initial check against an erroneous decision by an employer. It is an opportunity for the *employee* to state his or her side of the story so that the employer can consider it. It was never intended as a formal "trial" type hearing.

Accordingly, an employee retains the right to testify in future proceedings, even if the employee is silent at a *Loudermill* hearing and does *not* at that time assert a 5<sup>th</sup> Amendment privilege. Indeed, an employee can waive the opportunity to have a *Loudermill* hearing, yet still preserve his or her ability to testify at any later proceeding.

To summarize, it is the employee who holds the constitutional right to a *Loudermill* hearing, not the appointing authority. To rule otherwise would restrain the record of this post-deprivation hearing and prevent the ascertainment of the truth through the engine of cross examination. The motion *in limine* is, therefore, denied.

### **CONSOLIDATED STATEMENT OF THE CASE**

There are two essential issues of this case. **First**, did Employee either knowingly or recklessly fail to report his ex-wife to FCJFS for illegally collecting publically funded childcare subsidies? **Secondly**, did Employee benefit from this non-disclosure?

There is also a third issue that is not central to the determination in this case, namely, did Employee improperly use an Ohio Directions Card (EBT food stamp card) for his benefit?

The ALJs take administrative notice that Employee's ex-wife, Karen Evans, pleaded guilty and was convicted of Falsification - in Theft Offense, in violation of R.C. 2921.13 (A) (4), a misdemeanor of the First Degree, for knowingly making a false statement to secure government benefits. (*State v. Evans* 14-CR-003105, 2015)

Subject Policies and Duty of Employee

Employee worked for FCJFS. Employee received and was subject to the terms of the *FCJFS Fraud Risk Management Plan* ("Fraud Plan") issued in October 2011. (Appellee's Exhibit I)

Employee received the Fraud Plan, received training on it, and acknowledged it on two occasions. (Appellee's Exhibit J) The Acknowledgement of Receipt states in pertinent part, "I understand the provisions of said [Fraud Plan] and I am aware that ***if I believe I have witnessed a fraudulent act I should promptly report the fraud*** in the manner listed in this Plan." (*emphasis added*) *Id.*

Employee was also subject to the County Board of Commissioners Ethics Policy No. BOC-10.01 (Appellee's Exhibit K). He acknowledged receipt of this policy which is part of the Employee Handbook. (Appellee's Exhibit L) The Ethics Policy states in pertinent part, "***We must avoid conduct which undermines public trust by creating the perception that a government position has been used improperly.***" (Appellee's Exhibit K)

Testimony of FCJFS Investigator Maria Durban

FCJFS Investigations Supervisor 2 Maria Durban ("Investigator Durban") testified that she both supervised and investigated Employee. She became suspicious when Employee disclosed that his ex-wife had an open case with FCJFS when Employee was asked about it around October 2013.

Investigator Durban offered that through their work relationship and conversations with Employee, she learned that Employee's children resided with him after his dissolution. She was able to confirm this by interviewing day care workers and reviewing Employee's supposed admission during a Sheriff's Office interview.

She uncovered that Employee had made co-payments to Sunshine House daycare for his children on days he worked. She also reviewed lease agreements and school enrollment data further tending to show that Employee's children lived with him. (Appellee's Exhibit B – 46, B-47 and B-49)

According to Investigator Durban, Employee needed to apply individually for benefits for the days that he was responsible for childcare. Employee never applied. However, Investigator Durban noted, Employee made too much money and would be disqualified anyway.

The co-payments were considerably less costly than regular tuition at Sunshine House daycare. (Appellee's Exhibit H) Investigator Durban noted that the *Schedule J- Current Expenditures of Individual Debtors* in Employee's 2007 bankruptcy filing showed day care expenses were only \$120 per month. (Appellee's Exhibit B-72 p. 48 of 65 item 13 c) Investigator Durban concluded from this that Employee ought to know that his ex-wife was paying far too little for daycare and this should have triggered a sufficient belief to report fraud under the Fraud Plan.

Moreover, emails between Employee and the ex-wife showed Employee knew the ex-wife was reapplying for benefits in 2011. (Appellee's Exhibit B-78).

Upon learning this, employee replied *via* email, "I thought you stopped after filing taxes, because I told you the repercussions with us being together..." (Appellee's Exhibit B-84 at p. 5)

In yet another email *circa* June 2012 from Employee to his ex-wife, he asks for the name of her caseworker explaining, "[child name] still isn't on the case and I isn't paying all that. I am gonna light a fire up under their butts. Call up there and see what's the holdup..." (Appellee's Exhibit B-83 at p. 16)

Investigator Durban testified that she examined work emails by Employee to a caseworker in which Employee asks about the income thresholds for childcare subsidies in November 2011. (Appellee's Exhibit B-83 at p. 12-13)

Next, she concluded Employee used an Ohio Directions Card which is an EBT food stamp card. She based this on her study of EBT transactions from the in house EPPIC system which showed many transactions occurred near Employee's home when he was not at work. There was no video to positively identify Employee using the card.

On cross examination, she admitted that a recipient can authorize another person to use the card for the benefit of the recipient. This would make it possible for Employee to rightfully use the card ostensibly to benefit their children.

Later, Investigator Durban was called for rebuttal. She remembered that Employee would come to her office often and ask if he was in trouble after disclosing that his ex-wife had an open case in 2013. She would say, "Why are you asking"? She viewed this as suspicious.

#### Testimony of "Employee" Christopher Evans

Employee worked for FCJFS for over 16 years working his way up through the ranks from mail clerk, to workfare assigner, to business supervisor and finally to

quality control supervision. He testified that he had a rocky relationship with his ex-wife prior to their dissolution in June 2011. Their separation agreement and co-parenting plan fixed responsibility for daycare expenses with his ex-wife. (Appellee's Exhibit B-73 at p. 6)

Employee testified that he did not know that his ex-wife was illegally collecting benefits. He assumed she was eligible because she was approved. He occasionally paid some co-pays because he could not drop his children off at daycare if his ex-wife had not paid the bill already.

Employee testified he did not know the precise income and family size eligibility requirements for publically funded childcare. Also, he stated that he did not know that his ex-wife had reapplied for publically funded childcare. It did not raise any red flags for him when his ex-wife told him she already had "Title XX" (publicly funded childcare), he offered. Without directly saying it, he implied that he did not know his income would have to be used to determine eligibility for the days the children were in his care.

Employee repeatedly testified that he thought his ex-wife was eligible for the childcare subsidy because she was approved for it. Employee testified he was not allowed to access his ex-wife's case due to FCJFS rules.

So, Employee could not actually know his ex-wife was committing fraud (ostensibly because he could not see her application in the system). He provided her with application forms. But this was not improper by itself. He had no idea she misrepresented him as an absentee parent on the application in order to qualify, he professed.

The couple was separated off and on throughout the marriage. So, he did not always know what was going on. He made her get rid of the publically funded childcare at one time when they were together, he pledged.

He claimed, at one point, he wanted to get full custody. Thus, he asserted, he asked about whether he could qualify on his own for publicly funded childcare. He asked the caseworkers about the income threshold for a family of five, which included him, his three biological children, and a step child.

He noted that income eligibility changed often. He intimated that it did not stick out to him that his ex-wife would reapply for childcare; because they were now separate households, and both the daycare provider approved and FCJFS approved her in the past.

So too, he claimed that he did not know that his ex-wife was getting food stamps. He disclaimed use of the EBT card. He noted there are two Kroger stores in Gahanna and she would use one of them. He conjectured this would explain why some of the EBT transactions occurred in Gahanna, where he lived.

Employee's duties included reviewing benefits decisions. However, he noted that he did not read them; he only looked at the decision paragraph; for follow up to ensure that the FCJFS complied with the decision.

Following up on his testimony regarding U.S. Bankruptcy Schedule J., Employee offered that he was paying \$120.00 per month for *home* daycare.

#### Testimony of Lawrence Richey, the "Friend" of Employee

Lawrence Richey testified that he works in the Overpayment Recovery Unit of FCJFS. He and Employee have been friends since high school. They hung out together a lot over the years. He is aware that Employee and his ex-wife had a rocky marriage.

He described the problems as "communications issues." He did not know specifics about Employee's childcare situation with the ex-wife but remarked that he knew Employee had concerns about his children's care when with the ex-wife.

#### Testimony of FCJFS Chief Legal Counsel Laura Repasky

Chief Repasky testified that she authorized the preliminary and eventual administrative investigation against Employee. *She considered Employee's lack of prior discipline and 16 plus years of service with FCJFS before recommending removal to the Board of County Commissioners.*

The Chief testified that Employee's failure to report the fraud by his ex-wife was so serious that it warranted removal in light of FCJFS' zero tolerance for fraudulent activities. The Chief cited the Fraud Plan and Ethics Policy as the primary reasons for the removal.

Employee's failure to report constituted nonfeasance as well, she opined. The Chief regarded the usage of the EBT card as malfeasance. However, the Chief noted that this charge was not the primary reason for removal.

#### Issues Presented

Did Employee have enough information to form a reasonable belief that wrongdoing was afoot? If he did, then he violated the Fraud Plan. There were

noticeable signs and Employee had some background knowledge which he could apply to the situation.

We do not need to delve into Employee's awareness of the cost differential between full tuition and publicly funded childcare or into whether Employee had precise knowledge of the family size and income thresholds. Employee acknowledged during testimony that he knew his ex-wife was receiving publically funded childcare.

At issue is whether Employee could reasonably believe that FCJFS made a correct determination regarding his ex-wife's eligibility. Or more precisely, could Employee reasonably believe that his wife would qualify, now that they were split up into separate households and now that she was responsible for the costs of childcare under the separation agreement?

Had the ex-wife retained the children during the week, Employee's claims would be more believable. However, Employee had the children during the week, and it was his need for daycare, not hers.

Employee surely benefitted from passing along the cost of daycare to his ex-wife in the separation agreement. *More importantly, once Employee knew his ex-wife was receiving a substantial daycare subsidy which covered the days and times when he cared for the children, he should have realized that he was not entitled to that benefit by proxy.*

There is conflicting testimony between Employee and Investigator Durban about whether he conveyed that he had the children full time during the week. Yet, it is not disputed that Employee failed to divulge this information in 2011 and 2012.

It is true that Employee disclosed that his ex-wife had an open case with FCJFS, albeit after being asked in 2013. Was this enough information to put FCJFS on notice of suspected fraud by the ex-wife? No, it was not.

This is because Employee never officially informed FCJFS that he took care of the children during the week. Without this information, FCJFS could not compare the real situation (*i.e.* that Employee had the children during the work week) with what was stated on the ex-wife's application (*i.e.* that the ex-wife had the children during the week and that Employee was an absentee parent).

Employee's argument seems to suggest that FCJFS already had the information it needed to inquire into the matter without further disclosure. After all, FCJFS had reports about eligibility issues from a previous daycare provider. Why

should Employee bear the full brunt of FCJFS' mistakes, if FCJFS should have independently uncovered the fraud?

*The reason is that Employee had a non-delegable duty arising from the Fraud Plan to "promptly" report fraud regardless of what knowledge FCJFS possessed.*

Employee claims his email communications with the ex-wife were benign. He only gave her an application. Moreover, Employee claims his communications with caseworkers regarding income and family size eligibility were self-directed and did not espouse an awareness that his income should be counted along with the ex-wife or that his income would count for days the children reside with him (for purposes of eligibility determination).

Employee's claims are specious. The timing of Employee's communications is suspect. The simplest interpretation of the emails on their face is that Employee and ex-wife conspired to continue to get benefits so Employee could avoid the cost of full tuition.

Finally, Employee did not even disclose that his wife had an open case until 2013. He probably should have reported as far back as 2011 or before, along with information about the actual parental sharing arrangement.

Next, FCJFS argues that we should draw the inference that Employee used the EBT Ohio Directions (food stamp) card due to transactions a few blocks from his house at times that he was not at work. Counsel for Employee suggests another family member, specifically Employee's ex-mother-in-law, could have made the transactions and be authorized to do so. Ex-mother-in-law did not testify. Neither did ex-wife.

Employee testified that he did not use the card and the ex-wife shopped in Gahanna, too. While there is some circumstantial evidence of opportunity supporting probable cause, there is no eyewitness testimony or record positively identifying Employee at the scene -- even one time. Because there is no direct evidence of usage, FCJFS does not meet its burden of *more likely than not* in this instance.

#### Findings of Fact

1. Findings, above, whether express or implied, are incorporated herein by reference.

2. **Employee, Christopher Evans, worked for FCJFS from 1998 until his removal on July 22, 2014. Employee had no prior discipline of note at the time of his removal.**
3. Employee's duties as QCRS included reviewing benefit hearings decisions and ensuring that FCJFS took action in accordance with them.
4. Employee knew generally that income and household size affected eligibility for public benefits programs. Employee was on constructive notice of O.A.C. 5101:2-16-30 regarding the requirements for publically funded childcare. Employee's experience as QCRS gave him basic knowledge that income and family size impacted eligibility for government benefits. As a consequence, Employee was generally aware that publically funded childcare subsidies substantially reduced out of pocket costs for daycare tuition.
5. Employee knew that, when his income increased, it disqualified his family from receiving publicly funded childcare during his marriage. After dissolution, Employee actually knew he was not eligible due to his income, through his consultation with caseworkers.
6. Employee was actually aware that his ex-wife received publicly funded childcare and reapplied for it periodically.
7. Employee's children physically resided with him during the work week and childcare was needed as a result.
8. Employee, on occasion, paid very low co-pays to Sunshine House daycare giving him reason to know that he benefitted from the lowered tuition for times that he needed childcare.
9. The separation agreement and parenting plan fixed day care costs on the ex-wife.
10. The apportionment of childcare costs in the separation agreement did not alter the eligibility criteria for publically funded childcare.
11. A reasonable person standing in the shoes of Employee, with like knowledge and circumstances, would believe that his ex-wife wrongfully obtained childcare benefits for days that the children did not reside with her. Correspondingly, a reasonable person would realize that accepting this benefit of substantially reduced daycare tuition costs is unclean.

12. An appearance of impropriety exists when Employee, a hearings supervisor, pays reduced costs and/or avoids costs for childcare, while having actual or perceived authority to review and implement public assistance decisions that may be adverse to recipients.

### **CONCLUSIONS OF LAW**

R.C. 124.34 makes it an offense to violate an appointing authority's work rules. Employee violated R.C. 124.34 when he violated the Fraud Plan rule of his employer, FCJFS, by failing to promptly report suspected fraud on the part of his ex-wife.

This also constitutes nonfeasance under R.C. 124.34 because all FCJFS employees have an affirmative duty to report fraud when circumstances dictate that a reasonable person would suspect the potential existence of fraud.

Employee further violated R.C. 124.34 by violating his employer's Ethics Policy. This is because his conduct undermined public trust by creating the perception that his government position was being used improperly to accept the benefit of publically funded childcare, through his ex-wife's illegal participation in the program.

FCJFS *failed to demonstrate* that Employee committed malfeasance with regard to the allegation that he improperly used the EBT card. This is because FCJFS failed to adduce sufficient evidence to support that Employee actually used the card and that he was an unauthorized user.

Circumstantial evidence of motive and possible opportunity do not constitute preponderant evidence; in the absence of other corroboration. This is because FCJFS failed to place Employee at the scene and failed to show that he consumed these goods.

FCJFS has substantially proven the merits of the R.C 124.34 Removal Order by preponderant evidence. Employee received substantial benefits from his ex-wife's illegal activity, albeit indirectly through cost avoidance. But for her illegal activity, Employee would need to individually pay many hundreds of dollars per month more in full tuition for necessary childcare during the times he worked and his children resided with him.

Employee knew that he did not qualify for benefits. Employee cannot reasonably rely on his ex-wife's apparent approval for benefits as a correct determination of eligibility. In fact, Employee made it a point at hearing to suggest his wife/ex-wife was untrustworthy and dishonest regarding family matters.

Here, an ordinary member of the public would likely view the situation thus: A county welfare employee making well over the mean Ohio wage of approximately \$44,750 per year<sup>1</sup> pays around \$15 dollars a week per child for day care. Conversely, the record establishes that regular tuition at Sunshine House daycare in 2014-2015 was \$109 to \$119 dollars per week per school aged child. (Appellee's Exhibit H)

Ironically, this same county employee, who substantially benefits from reduced childcare costs, also appears to have authority to review decisions by hearing officers who can deny these very same benefits to other recipients.

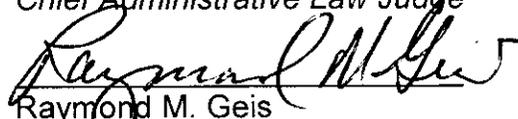
It does not matter that Employee took no active role in FCJFS' decision to grant benefits to his ex-wife. *What does matter* is the manifest appearance of conflict that arises when an employee, who occupies a position of authority regarding FCJFS' distribution of public assistance, also receives the fruits of illegally obtained benefits.

Based on the foregoing, the instant Order of Removal should be affirmed.

Therefore, we respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** Appellant's removal from the position of Quality Control Review Supervisor, pursuant to R.C. 124.03 and R.C. 124.34.



James R. Sprague  
Chief Administrative Law Judge



Raymond M. Geis  
Administrative Law Judge

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<sup>1</sup> U.S. Department of Labor: Bureau of Labor Statistics May 2015 State Occupational Employment and Wage Estimates, annual mean wage, all occupations ([http://www.bls.gov/oes/current/oes\\_oh.htm#00-0000](http://www.bls.gov/oes/current/oes_oh.htm#00-0000)) Friday, April 22, 2016. (Administrative Notice of an official publication of the United States government.)