

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
GEORGE FEATHERSON : ORDER OF DISMISSAL
_____ : DOCKET NO: 0405-177

At its meeting of January 20, 2005, the State Board of Examiners voted to issue George Featherson an Order to Show Cause. The Order was predicated on charges of unbecoming conduct. Featherson currently holds a Principal/Supervisor Certificate of Eligibility, issued in August 2000, and a Principal/Supervisor certificate, issued in November 2001.

This case originated when Senator Leonard Lance, provided information to the Department of Education, Office of Compliance Investigation (OCI) regarding Featherson. Senator Lance had received information from a constituent who was an employee of the Paterson Charter School for Urban Leadership (PCSFUL). The employee alleged that Featherson had accepted a \$30,000 award from the Kensington Foundation. Earl Hayes was the president of the foundation. In return, Featherson appointed Hayes to a “no show” job at the Charter School at a salary of \$90,000. Although Hayes repaid the salary to the school, he used the salary amount to increase his pension eligibility. When the Board of Trustees of the Teachers’ Pension and Annuity Fund (TPAF) learned of the arrangement, it denied Hayes his pension. Thereafter, on January 20, 2005, the Board of Examiners issued an Order to Show Cause to Featherson based upon the documentation OCI had provided.

The Board sent the Order to Show cause to Featherson by regular and certified mail on February 7, 2005. The Order provided that Featherson’s Answer was due within 30 days. Featherson filed his Answer on April 11, 2005. In that Answer, Featherson denied that he appointed Hayes to a “no show” job or that he had accepted an award from Hayes’ company. (Answer, ¶ 3). He also claimed that the Board of Trustees of PCSFUL hired Earl Hayes in a

unanimous vote and that he could not be held liable for Hayes' hiring since it was an action of the school entity. (Answer, Affirmative Defenses, ¶¶ 2-4). Featherson demanded judgment dismissing the Order to Show Cause. (Answer, ¶ 6).

The Board of Examiners transmitted the case to the Office of Administrative Law (OAL) for a hearing. After denying a motion for summary decision, Administrative Law Judge (ALJ) Carol Cohen heard testimony on January 18, and 19, 2006. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on February 24, 2006. *State Board of Examiners v. George Featherson*, OAL Dkt. No. EDE 05329-05 (February 24, 2006).

In that decision, the ALJ found that PCSFUL was having financial difficulties in 2001. (Initial Decision, slip op. at 4). In November 2001, Hayes, as president of Kensington Associates, offered a \$30,000 donation to the school in exchange for an agreement that PCSFUL would hire a Kensington associate for a one-year administrative position for research and development in innovative school programs. (Initial Decision, slip op. at 4). Kensington would fund the position in full. (Initial Decision, slip op. at 4). Several of the administrators at PCSFUL discussed the proposal, including Featherson. (Initial Decision, slip op. at 5). He asked Dr. James Catalano, the Director of Curriculum, to research the legality of the proposal. (Initial Decision, slip op. at 5). Catalano reported that he received verbal approval from the New Jersey Attorney General's Office that the proposal was legal although PCSFUL never received written confirmation. (Initial Decision, slip op. at 5). The PCSFUL Board of Trustees approved the agreement with Kensington at its open Board meeting on November 15, 2001. (Initial Decision, slip op. at 6). Hayes was appointed as Assistant Director of Curriculum and Assessment and enrolled in TPAF. (Initial Decision, slip op. at 6). PCSFUL made payments

into the TPAF system for Hayes. (Initial Decision, slip op. at 6). TPAF denied Hayes' application to transfer into the system. (Initial Decision, slip op. at 7). The ALJ found that Hayes performed minimal services for PCSFUL. (Initial Decision, slip op. at 7). She also found that this was Featherson's first position as a principal and that he was overwhelmed by the day to day operations of the school and therefore did not oversee Hayes' attendance and services to the school. (Initial Decision, slip op. at 7).

After reviewing the testimony, ALJ Cohen determined that the Board of Examiners produced "very little evidence to show that the Examiners had met their burden of demonstrating that Mr. Featherson's conduct in hiring Mr. Hayes could be considered conduct unbecoming." (Initial Decision, slip op. at 10). The ALJ found no evidence that demonstrated that Featherson knew hiring Hayes "would be a fraud on the pension fund or that there was an element of deception by the respondent in accepting the Kensington proposal." (Initial Decision, slip op. at 10). Moreover, ALJ Cohen also stated that "[t]here was nothing presented during the State's case to show that Mr. Featherson misrepresented the proposal or its legality to the board." (Initial Decision, slip op. at 10). In fact, according to the ALJ, all of the testimony Featherson presented supported his contention that Dr. Catalano bore the responsibility of checking on the legality of hiring Hayes under the proposed plan. (Initial decision, slip op. at 11-12). She found Dr. Catalano "had particular difficulty remembering the specifics of any conversations regarding Mr. Hayes including the details of any conversation regarding the legality of Mr. Hayes' appointment." (Initial Decision, slip op. at 9). However, ALJ Cohen "did not find his testimony to be credible." (Initial Decision, slip op. at 9). ALJ Cohen stated that she did not believe "that Mr. Featherson had any intention of defrauding the pension fund, when he endorsed the proposal." (Initial Decision, slip op. at 14). As to Featherson's role in his supervision of Hayes,

the ALJ determined that “there was negligence on Mr. Featherson’s part in monitoring Mr. Hayes (sic) performance of his duties.” (Initial Decision, slip op. at 14). However, she concluded that although Featherson “did not exhibit proper management skills and control of his staff, I do not believe that it rose above the level of simple negligence.” (Initial Decision, slip op. at 16). ALJ Cohen therefore found that “the evidence presented did not substantiate the charge of conduct unbecoming or other sufficient cause.” (Initial Decision, slip op. at 16). Accordingly, the ALJ dismissed the Order to Show Cause. (Initial Decision, slip op. at 16).

In response to the Initial Decision, the Deputy Attorney General (DAG) representing the Board of Examiners filed exceptions challenging the ALJ’s dismissal of the Order to Show Cause. The DAG argued that the ALJ erred in concluding that Featherson’s participation in Earl Hayes’ plan did not constitute conduct unbecoming a certificate holder. (Exceptions, pp. 1-2). The DAG stated that Featherson “took affirmative steps to ensure that Hayes was enrolled in TPAF after he was aware that Featherson was not providing any services to the school.” (Exceptions, p.2). Furthermore, the DAG argued that the ALJ’s conclusion that Featherson was overwhelmed should be rejected. (Exceptions, pp. 2-3). The DAG stated that although Featherson was new to the role of executive Director of a charter school, “he was not new to the responsibilities of being an educator and supervisor.” (Exceptions, p. 3). The DAG claimed that Featherson’s actions in reporting Hayes as an employee to TPAF even though he knew Hayes performed no services for the school was conduct unbecoming and warranted action against his certificates. (Exceptions, p. 4).

In reply exceptions, Featherson argued that the ALJ’s decision to dismiss the Order to Show Cause was correct. (Reply Exceptions, p. 1). Featherson claimed that the Board failed to produce “any meaningful testimony” regarding any scheme to defraud TPAF or Featherson’s

participation in such a scheme. (Reply Exceptions, pp. 1-2). Furthermore, according to Featherson, the Board presented a weak case at trial and could not meet its burden of proof. (Reply Exceptions, p. 2). Featherson also claimed that the Board changed its theory of the case during the hearing: first arguing that Featherson participated in a scheme to defraud TPAF and when that theory failed, then arguing that Featherson was guilty of conduct unbecoming in his failure to supervise Hayes properly. (Reply Exceptions, pp. 2-3).

The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. At its meeting of May 4, 2006, the State Board of Examiners reviewed the Initial Decision, exceptions and reply exceptions. After full and fair consideration of all the submissions, the Board voted to adopt the Initial Decision. The Board agrees that the ALJ correctly reviewed the evidence and testimony before her. The fact that the ALJ determined that Featherson exercised poor judgment is not inconsistent with the finding that he did not engage in conduct unbecoming a teaching staff member.

Furthermore, there is no doubt that the ALJ is in the best position to render credibility determinations in this matter. Accordingly, the Board will defer to those findings. The ALJ reviewed all of the testimony at length and found that Featherson's witnesses all presented credible evidence that was consistent with his recitation of the facts. The Board of Examiners agrees with the ALJ that Featherson's behavior, while indicative of poor judgment, does not warrant either the suspension or revocation of his certificates.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9-17.5*. In this case because there has been no finding that

Featherson has engaged in conduct unbecoming a teacher or the presentation of “other just cause” the Board will take no action against his certificates.

Accordingly, pursuant to the Board of Examiners’ vote, it is therefore ORDERED that the Order to Show Cause issued to George Featherson seeking to suspend or revoke his Principal/Supervisor Certificate of Eligibility and his Principal/Supervisor certificate be dismissed effective this 8th day of June 2006.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: JUNE 12, 2006

Appeals may be made to the State Board of Education pursuant to the provisions of *N.J.S.A.* 18A:6-28.