

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
JOSEPH LEMME : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 0708-286

At its meeting of September 11, 2008, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on December 3, 2007, Joseph Lemme had pled guilty to Theft By Failure to Make Required Disposition, a 2<sup>nd</sup> degree crime. On February 15, 2008, Lemme was sentenced to five years' imprisonment. Lemme currently holds a Teacher of Social Studies certificate, issued in June 1979 and a Supervisor certificate, issued in November 1991. Upon review of the above information, at its October 16, 2008, meeting, the State Board of Examiners voted to issue Lemme an Order to Show Cause.

The Board sent Lemme the Order to Show Cause by regular and certified mail on October 17, 2008. The Order provided that Lemme's Answer was due within 30 days. Lemme filed his response on October 21, 2008. In that Answer, Lemme recounted that the prosecutors at his criminal trial "stated that they had no problem with me retaining my certificates." (Answer, p. 1.) Lemme also noted that he was very anxious to pay restitution and that keeping his certificates so he could teach would accelerate the process. (Answer, p. 1.) He stated that he had been released from prison after serving only three months and was now participating in the Intensive Supervision Program. (Answer, p. 1.) Lemme maintained that even while in prison he tutored other inmates and wanted to be a good influence on his future students. (Answer, pp. 1-2.) In addition to his Answer, Lemme also submitted numerous reference letters from former students, colleagues and family members. (Answer, p. 2.)

Thereafter, pursuant to *N.J.A.C.* 6A:9-17.7(e), on November 12, 2008, the Board of Examiners sent Lemme a hearing notice by regular and certified mail. The notice explained that

since it appeared no material facts were in dispute, Lemme was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Lemme was also provided the opportunity to appear before the Board to offer testimony on the sanction issue. On December 12, 2008, Lemme submitted his reply.

In that response, Lemme reiterated the arguments he had presented in his Answer and urged the Board to read his character reference letters as well as a submission from his ISP officer. (Hearing Response, pp.1-2.) Lemme also testified before the Board at its meeting on February 23, 2009, and expressed his remorse for his conduct.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Lemme's conviction of Theft By Failure to Make Required Disposition constitutes conduct unbecoming a certificate holder. At its meeting of March 31, 2009, the State Board of Examiners reviewed the charges and papers Lemme filed in response to the Order to Show Cause.<sup>1</sup> After review of Lemme's submissions as well as his testimony, the Board of Examiners determined that no material facts related to Lemme's offense were in dispute since he admitted that he had pled guilty to the offenses charged and had been sentenced accordingly. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The State Board of Examiners must now determine whether Lemme's offense as set forth in the Order to Show Cause, provides just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that it does.

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*. "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." *Tenure of Sammons*, 1972 *S.L.D.* 302, 321. Moreover, the Commissioner has long held that teachers serve as role models for their students and that unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). Lemme's acts of embezzling four hundred thousand dollars from the school where he was a principal are inexcusable for any individual, but especially egregious given his position of leadership.

Lemme argues that he should retain his certificates since the prosecutor in his criminal case voiced no objection. While the prosecutor's view is instructive, it is not dispositive since statutorily, the Board of Examiners is the final arbiter of who shall receive and retain teaching certificates. *N.J.S.A. 18A:6-38*.

Notwithstanding Lemme's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." *See In the Matter of the*

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<sup>1</sup> Lemme also submitted a letter dated March 25, 2009, detailing the personal sanctions he has faced since his conviction and noting that his restitution was reduced by half due to a civil settlement between his former school and

*Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners*, 96 N.J.A.R. 2D (EDE) 1, 16 *aff'd*, App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing *In the Matter of the Revocation of the Teaching Certificate of James Noll*, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that Lemme has begun to make restitution, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on March 31, 2009, the Board of Examiners voted to revoke Joseph Lemme's Teacher of Social Studies and Supervisor certificates. On this 11th day of May 2009 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Lemme's certificates be effective immediately. It is further ORDERED that Lemme return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

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Robert R. Higgins, Secretary  
State Board of Examiners

Date of Mailing:

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

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the bank. The Board reviewed this submission in its deliberations as well.