

**COMMONWEALTH OF PENNSYLVANIA
PROFESSIONAL STANDARDS AND PRACTICES COMMISSION**

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**ANDREW MONATH,
Respondent.**

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DOCKET NO. DI-06-01

MEMORANDUM AND ORDER

On April 21, 2006, the Department of Education ("Department") filed a Motion for Judgment on Default, seeking revocation of the professional teaching certification of Respondent. Initially, the Department filed a Notice of Charges on January 10, 2006, alleging that the Respondent had engaged in conduct constituting immorality, negligence, and in violation of Pennsylvania's Code of Professional Practice and Conduct.

Specifically, the Department alleged that between October, 2003, and August, 2004, Respondent, while serving as a teacher, Choral Director and Performing Arts Coordinator in the Cheltenham Township School District, had misappropriated funds related to District activities. Respondent was subsequently charged with three counts of Theft By Unlawful Taking, three counts of Theft by Deception, three counts of Receiving Stolen Property, one count of Bad Checks and three counts of Theft by Failure to Make Required Disposition of Funds. On September 13, 2005, the

Respondent entered into an ARD program and was ordered to make restitution to the District.

On January 10, 2006, the Department attempted to serve the Notice of Charges on Respondent by certified mail and by first class mail, postage prepaid, at an address that the Postmaster has verified that the Respondent receives mail. Although the Respondent failed to claim the certified mail, the first class mail was not returned as undeliverable. Where efforts to serve the Notice of Charges are reasonably calculated to apprise the party of the pending action, Respondent will be considered to have been afforded an opportunity to present his objections. See Commercial Development Authority v. The Allegheny County Board of Property Assessment, 165 Pa. Commonwealth Ct. 671, 645 A.2d 944 (1994). Service is thus considered to have been effectuated.

Notwithstanding the language in the Notice of Charges cautioning Respondent that failure to respond could result in the factual assertions being deemed admitted and the imposition of discipline without a hearing, Respondent declined to file an answer or otherwise respond to the Notice of Charges. Accordingly, the Department has filed the instant Motion, requesting that the factual allegations in the Notice of Charges be deemed admitted and that revocation of Respondent's professional educator certificate be ordered.

In accordance with the Commission's bylaws, a professional educator who fails to respond to the Notice of Charges is in default as provided for in section 35.37 of the General Rules of Administrative Practice and Procedure. 22 Pa. Code §233.115(c)(1); 1 Pa. Code §35.37. Thus, all relevant facts stated in the Notice of Charges will be

deemed admitted. Accordingly, the Commission finds that Respondent:

1. served as a middle-school teacher in the Cheltenham Township School District;
2. served in the extracurricular positions of Choral Director and Performing Arts Director;
3. during the fall of 2003 and the spring of 2004, Respondent had a refund for a cancelled field trip in the amount of \$4800 wired directly to his personal account;
4. Respondent failed to refund the \$4800 to the District;
5. Respondent subsequently attempted to repay the District with a check that was returned for insufficient funds;
6. Respondent also failed to refund deposits made by certain parents for the field trip in the amount of \$1235.00;
7. Respondent engaged the services of a recording studio on behalf of the District and failed to pay for the services in the amount of \$2527.50;
8. Respondent arranged for a District field trip and incurred costs, \$6819.50 of which were never paid to the vendor; and
9. the District expended \$15,382.00, making restitution for the costs incurred by Respondent.

In its Motion, the Department argues that the afore-mentioned conduct of the Respondent constitutes immorality and negligence and violates Pennsylvania's Code of Professional Practice and Conduct. The Commission defines immorality as "conduct which offends the morals of a community and is a bad example to the youth whose ideals a professional educator has a duty to foster and elevate." 22 Pa. Code §237.3. Certainly theft falls squarely within the definition of immorality. See Lesley v. Oxford Area School District, 54 Pa. Commonwealth Ct. 120, 420 A.3d 764 (1980).

Similarly, the Commission finds that Respondent's conduct constitutes negligence: "continuing or persistent action or omission in violation of a duty." 22 Pa. Code §237.8. Respondent served as a fiduciary of both the school and its students and their parents when he accepted money in his official capacity for District trips. By defrauding the District and the students and their parents, he clearly breached his duty.

Respondent's conduct falls short of the values reflected in Pennsylvania's Code of Professional Conduct and Practice for Educators (22 Pa. Code §235.1 *et seq.*) and demeans the integrity of the profession. Accordingly, we direct the Department to revoke Respondent's Instructional II teaching certificate endorsed in the area of Music.

ORDER

AND NOW, this 27th day of July, 2006, upon consideration of the Motion for Judgment on Default filed by the Department of Education and the failure of Respondent to respond thereto, it is hereby ORDERED that the professional certificate issued to Respondent Andrew Monath shall be REVOKED.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

BY:

David J. Krauser
Chairperson

ATTEST:

Carolyn Angelo
Executive Director

Date Mailed: