

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**TARA TRAUGER-WALSH,
Respondent.**

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DOCKET NO. DI-22-040

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

This matter is before the Professional Standards and Practices Commission (“Commission”) on a Notice of Charges and Motion for Summary Judgment filed by the Department of Education (“Department”). After consideration of the record in this matter and the applicable law, the Commission finds that summary judgment in favor of the Department is appropriate and enters this Order as follows:

BACKGROUND AND PROCEDURAL HISTORY

Tara Trauger-Walsh (“Respondent”) currently holds an Instructional I certificate in the area of Biology 7-12 and an Educational Specialist certificate in the area of Secondary School Counselor 7-12. The Department initiated disciplinary proceedings against Respondent with the filing of a Notice of Charges on April 6, 2022. The Notice of Charges alleges that Respondent was convicted of the federal crime of Fraudulent Returns, Statements, or Other Documents, which the Department alleges is a crime of moral turpitude. Certified copies of the pertinent court documents are attached to the Notice of Charges. Simultaneous with the filing of the Notice of Charges, the Department filed a Motion for Summary Judgment requesting that the Commission enter summary judgment in its favor and revoke Respondent’s certificates and

employment eligibility based upon her conviction.

As required, the Department mailed copies of the Notice of Charges and Motion for Summary Judgment to Respondent at her last-known address. Respondent did not file an answer to either pleading.

The Commission heard oral argument at its regularly scheduled meeting on July 18, 2022. Respondent was not present.

SUMMARY JUDGMENT STANDARD

Summary Judgment is appropriate only when, after examining the whole record in the light most favorable to the non-moving party, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Snyder v. Department of Environmental Resources, 588 A.2d 1001 (Pa. Cmwlth. 1991).

MATERIAL FACTS

The material facts are not in dispute.¹ On January 8, 2016, Respondent was convicted in the United States District Court for the Middle District of Pennsylvania of Fraudulent Returns, Statements, or Other Documents, 26 U.S.C. § 7207. The facts underlying Respondent's conviction are that she filed a false tax return to receive a refund of \$187,142.

DISCUSSION

The Department seeks the revocation of Respondent's certificates and employment eligibility pursuant to section 9b(a)(2) of the Educator Discipline Act ("Act"). 24 P.S. § 2070.9b(a)(2). That section mandates, in relevant part, that the Commission

1. Since Respondent did not file a responsive pleading, the only facts considered by the Commission are those alleged in the Notice of Charges, which are deemed admitted and incorporated herein by reference. See 22 Pa. Code § 233.115(c)(1); 1 Pa. Code § 35.37; See *also* Kinniry v. Professional Standards and Practices Commission, 678 A.2d 1230 (Pa. Cmwlth. 1996).

shall direct the Department to revoke the certificate and employment eligibility of an educator convicted of a crime involving moral turpitude upon the filing of a certified copy of the verdict, judgment or sentence of the court with the Commission. Id.² The Commission's regulations define moral turpitude, in relevant part, as follows:

(a) *Definition.* Moral turpitude includes the following:

(1) That element of personal misconduct in the private and social duties which a person owes to his fellow human beings or to society in general, which characterizes the act done as an act of baseness, vileness or depravity, and contrary to the accepted and customary rule of right and duty between two human beings.

(2) Conduct done knowingly contrary to justice, honesty or good morals.

...

22 Pa. Code § 237.9. Similarly, the Commonwealth Court has defined moral turpitude as "anything done knowingly contrary to justice, honesty, or good morals." Gombach v. Department of State, Bureau of Comm'ns, Elections & Legislation, 692 A.2d 1127, 1130 (Pa. Cmwlth. 1997). A crime of moral turpitude requires a requires a reprehensible state of mind or *mens rea*. Bowalick v. Commonwealth, 840 A.2d 519, 523-24 (Pa. Cmwlth. 2004). Crimes in which fraud is an ingredient have always been regarded as involving moral turpitude. Moretti v. State Board of Pharmacy, 277 A.2d 516 (Pa. Cmwlth.1971); *citing* Jordan v. DeGeorge, 341 U.S. 223, 71 S.Ct. 703 (1951) (fraud is the touchstone of moral turpitude).

Here, the Department has presented the Commission with certified court records of Respondent's conviction for Fraudulent Returns, Statements, or Other Documents.

2. The term conviction includes a plea of guilty or nolo contendere. 24 P.S. § 2070.9b(a)(2).

The Department seeks a determination that this crime involves moral turpitude. The Commission is required to make its assessment “based solely upon the elements of the crime.” 22 Pa. Code § 237.9(b); See *also Startzel v. Commonwealth, Department of Education*, 562 A.2d 1005, 1007 (Pa. Cmwlth.1989). The underlying facts or details of a conviction are not relevant to the issue of moral turpitude.

The crime of Fraudulent Returns, Statements, or Other Documents is defined as follows:

Any person who willfully delivers or discloses to the Secretary any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$10,000 (\$50,000 in the case of a corporation), or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047(b) [26 USCS § 6047(b)], section 6104(d) [26 USCS § 6104(d)], or subsection (i) or (j) of section 527 [26 USCS § 527] to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than \$10,000 (\$50,000 in the case of a corporation), or imprisoned not more than 1 year, or both.

26 U.S.C. § 7207. The term “willfully” as used in the statute “means a voluntary, intentional violation of a known legal duty.” *United States v. Pomponio*, 429 U.S. 10, 12-13 (1976). Clearly this crime requires conduct “contrary to the accepted and customary rule of right and duty,” 22 Pa. Code § 237.9(a)(1), and conduct “done knowingly contrary to justice, honesty or good morals,” 22 Pa. Code § 237.9(a)(2), and thus a “reprehensible state of mind or *mens rea*.” *Bowalick*, 840 A.2d at 524. Fraud is also an essential ingredient of this crime. Therefore, the Commission concludes that the federal crime of Fraudulent Returns, Statements, or Other Documents is a crime of moral turpitude.

Because Respondent has been convicted of a crime of moral turpitude, the Commission must direct the Department to revoke Respondent's certificates and employment eligibility. 24 P.S. § 2070.9b(a)(2); See also Bowalick, 840 A.2d at 522 (revocation of a teaching certificate on summary judgment is appropriate upon proof of a conviction of a crime of moral turpitude); *citing* Kinniry v. Professional Stds. & Practices Comm'n, 678 A.2d 1230, 1234 (Pa. Cmwlth. 1996).³

ORDER

AND NOW, this 19th day of August 2022, upon consideration of the Department of Education's Motion for Summary Judgment and the lack of response thereto, it is hereby ORDERED:

1. The Motion for Summary Judgment is Granted.
2. Pursuant to 24 P.S. § 2070.9b(a)(2), the Department is directed to revoke Respondent's certificates and eligibility to be employed as a charter or cyber charter school staff member or a contracted educational provider staff member effective on the date of this Order.
3. Respondent is not eligible to be employed in a school entity in a position requiring certification or as a charter or cyber charter school staff member or contracted educational provider staff member, or eligible for any certificate until her certificates and employment eligibility are reinstated in accordance with the Act.

3. An appeal shall not operate as a stay if the discipline is imposed under section 9b of the Act. 24 P.S. § 2070.15. Therefore, the revocation of Respondent's certificates and employment eligibility will be effective immediately.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By: 

Myron Yoder
Chairperson Pro Tempore



Attest:

Shane F. Crosby
Executive Director

Date Mailed: August 19, 2022