

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE LICENSE OF : STATE BOARD OF EXAMINERS
GREGORY POWER : ORDER OF REVOCATON
_____ : DOCKET NO. 297 - 05/97 -103

At its meeting of May 18, 1995, the State Board of Examiners reviewed information received from the Florida Educational Practices Commission indicating that Mr. Gregory Power, who holds a Teacher of Music license in New Jersey, agreed to the revocation of his Florida teaching certificate for seven (7) years commencing December 6, 1994 in response to allegations of gross sexual misconduct with female minor students.

At that meeting, the State Board of Examiners voted that said allegations constituted sufficient grounds for issuing an Order to Show Cause. The Order to Show Cause was mailed to Mr. Power by regular and certified mail on June 7, 1995. On June 19, 1995, an answer to the Order to Show Cause was received from David M. Lamos, Esq. on behalf of his client, Gregory Power.

Thereafter, the State Board of Education decided two cases which impacted on the hearing process conducted by the State Board of Examiners. The first case is captioned, In the Matter of the Certificates of Sheridan. The other is captioned, In the Matter of the Certificates of Vitola. Within these two cases, the State Board of Education determined that the State Board of Examiners was required to amend its regulations in order to permit it to hear directly legal matters in which material facts are not in dispute. During the pendency of the revisions to the State Board of Examiner' regulations regarding its hearing process, all such hearings were held in abeyance. Said regulatory amendments were finally codified in May of 1997.

On July 9, 1997, pursuant to the newly recodified hearing provisions of N.J.A.C. 6:11-3.6(a)1, a hearing notice was mailed by certified mail to Mr. Lamos. A regular mail copy was forwarded to Mr. Power. Said notice explained that, it appearing that no material facts were in dispute, Mr. Power was provided an opportunity to offer legal argument on the issue of whether the revocation of his Florida certificate constituted conduct unbecoming a license holder.

On July 30, 1997 a response to the hearing notice was received from Mr. Power.

On February 7, 1994, a petition was filed with the State of Florida, alleging numerous grounds of misconduct during his tenure of office. After litigation on the matter, an agreement was reached in September, 1994, which resulted in the end of the litigation and his suspension from teaching for seven years. The State Board of Examiners was notified of the sanction imposed by the State of Florida, N.J.A.C. 6:11-3.6 (d)1. The Florida action served as the basis for the Order to Show Cause at issue in this matter.

Mr. Power's response to the hearing notice raises the following points:

Mr. Power claims he is innocent of the allegations made by A.S. and D. R. He claims his resignation from his teaching position was coerced through deception. He submits he was lied to by Sandra Akre, the head of personnel for the St. Lucie County Schools, where he was employed. He claims he resigned in an effort to spare his students the trauma of an investigation, but that contrary to Ms. Akre's statement, students and parents had already been questioned as of the interview he had with Ms. Akre in January, 1993. He was also told at that meeting that if he chose to resign, no further investigation would be necessary. Mr. Power further alleges that the two girls who claimed inappropriate sexual contact with him refused to take a position when questioned by his attorney, so he decided to accept the settlement, because he believed he was going to lose on the merits of the case, no matter what his defense might be.

Mr. Power's Answer to the Order to Show Cause adds that during the course of the litigation, his teaching certificate lapsed. The logic he followed therefrom was that there appeared to be no need to litigate the matter further because the lapsing of the certificate effectively ended his ability to teach. Nevertheless, the Answer to Show Cause admits Mr. Power did agree to a stipulation of settlement, without admitting or denying any of the charges, and he further agreed not to reapply for certification for a number of years.

Included with the Answer is a copy of the investigative report that Mr. Power commissioned in order to challenge the results of the litigation in Florida. In summary, Mr. Power's Answer notes that any allegations made against him have been totally retracted and are in fact groundless, as set forth in the investigative report. He claims the said allegations are fraudulent and false, and he seeks a formal hearing involving all due process rights.

At its meeting of October 9, 1997, the State Board of Examiners reviewed the charges against Mr. Power as well as his responses to the Order to Show Cause and the hearing notice. After its review, the State Board of Examiners determined that no material facts were in dispute related to the action concerning Mr. Power's right to teach in Florida and the matter, could, therefore proceed to a determination as to whether the resolution of the litigation charging him with gross sexual misconduct with minor female students, in which he is foreclosed from teaching in Florida for seven years, constitutes conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

Initially, it is necessary to address the investigative report commissioned by Mr. Power and submitted by him to challenge the proceedings in Florida, which concluded with his being barred from teaching in that state for seven years. Mr. Power had a full and fair opportunity to contest the action in that state. He is therefore precluded in this matter from relitigating the

issues in the Florida proceeding. The prohibition of relitigation is in accord with the principles of collateral estoppel. That doctrine holds that a party may not relitigate facts necessary to a prior judgment. T.W. v. A.W. 224 N.J. Super 675 (App. Div. 1988). Thus, the State Board of Examiners accepts without reservation the results of the Florida hearing charging him with gross sexual misconduct with minor female students, which foreclosed him from teaching in that state for seven years.

In reviewing the record here, the State Board of Examiners finds that the grave nature of the charges, culminating with Mr. Power's removal from the teaching profession in a sister state, constitutes unbecoming conduct for a teacher who is also licensed in New Jersey. By virtue of holding a teacher license, Mr. Power has been entrusted by the state with the care and custody of school children In re Tenure Hearing of Jacque Sammons, 1972 S.L.D. 302. In agreeing to remove himself from the teaching profession in Florida, in face of the serious allegations concerning his conduct with female students, he has cautioned the public that his continued performance in the classroom is problematic. The totality of the circumstances in the Florida hearing convinces the State Board of Examiners that the public in New Jersey must be assured that Mr. Power will no longer be given access to children in this state.

Accordingly, it is hereby ORDERED on this 9th day of October, 1997 that Gregory Power's New Jersey Teacher of Music license is hereby REVOKED.

It is further ordered that Gregory Power return his licenses to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500, Trenton, NJ 8625-0500 within fourteen (14) days of receipt of this letter.

Secretary

State Board of Examiners

Date of Mailing: November 21, 1997

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

IBG:KHK:br:Powerrv