

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ANITA NATALINI : ORDER OF DISMISSAL
_____ : DOCKET NO: 0405-104

At its meeting of September 23, 2004, the State Board of Examiners reviewed information it had received from the Office of Compliance (OCI) within the Department of Education. The OCI had provided information about Anita Natalini. The OCI alleged that Natalini, a teacher in the Harrison School district and a co-owner with Carmella Confessore of an Abbott preschool called the Harrison Learning Center (HLC), was aware that the HLC was making fraudulent payroll payments to an individual who did not perform any duties at the preschool. Judy Treanor, a part-time employee of the school did not have her name on any of the school's payroll registers. Instead, her salary payments went to her son, Brian Treanor. Natalini was aware of the payment arrangements that Confessore had established with the Treanors. The Board of Examiners voted to issue an Order to Show Cause to Natalini. Natalini currently holds Teacher of Elementary School and Teacher of Nursery School certificates, both issued in June 1987.

The Board sent Natalini the Order to Show Cause by regular and certified mail on April 19, 2005. The Order provided that Natalini must file an Answer within 30 days. Natalini filed her Answer on May 17, 2005. In her Answer, Natalini admitted that Judy Treanor was not identified as a school employee on the payroll register and that her salary payments went to her son Brian. (Answer, ¶ 3). She denied that Brian Treanor was not a school employee claiming that he performed custodial work there and that a portion of the salary payments made to him were for that work. (Answer, ¶ 3). Natalini

denied having authorized the payment arrangements with the Treanors and argued that the alleged conduct did not warrant any action against her certificates. (Answer, ¶¶ 4-5). Natalini added that she had been an exemplary employee of the Harrison school district for 18 years and had been an owner/manager of four preschools over 17 years and had never been disciplined relating to those activities. (Answer, ¶ 5).

The Board of Examiners transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Irene Jones heard testimony on February 15, 2007. After the record closed, the ALJ issued an Initial Decision on October 31, 2007. *In the Matter of the Certificates of Anita Natalini*, Dkt. No. EDE 09629-05 (Initial Decision, October 31, 2007).

In that decision, ALJ Jones found that “the record unequivocally demonstrates that Judith Treanor and her son Brian worked at the HLC.” (Initial Decision, slip op. at 9). The ALJ also found unpersuasive Treanor’s testimony that Natalini had knowledge of the payroll relationship Confessore had established with Treanor and her son. (Initial Decision, slip op. at 10). ALJ Jones also questioned Treanor’s credibility regarding her friendship with Confessore, concluding that Treanor tried to diminish it in her testimony in order to protect Confessore. (Initial Decision, slip op. at 10). In sum, the ALJ found that “Treanor was not credible or a persuasive witness.” (Initial Decision, slip op. at 11).

The ALJ determined that Natalini did not have responsibility for the payroll operations of the HLC and that “it is entirely reasonable that she did not know about Treanor’s payroll accommodation.” (Initial Decision, slip op. at 11). She therefore concluded that because Treanor’s testimony was not credible and there was no other proof in the record, the Board of Examiners had not met its burden of proving that

“respondent engaged in and/or was aware of the payroll arrangement.” (Initial Decision, slip op. at 12). ALJ Jones determined that “the issue here is not whether Natalini should have known, but whether she did know. I CONCLUDE, based on the preponderance of the credible evidence, that Natalini did not engage in or consent to the payroll arrangement.” (Initial Decision, slip op. at 12). The ALJ therefore ordered the matter dismissed. (Initial Decision, slip op. at 12).

The Deputy Attorney General (DAG) representing the Board of Examiners filed exceptions to the Initial Decision arguing that there was other testimony presented during the hearing that proved that Natalini was aware of the payroll arrangement the Treanors had with the HLC because she had attended meetings where the issue was discussed. (Exceptions, p. 2.) The DAG also noted that “respondent has offered no evidence other than her own denial to support her claim that she had no knowledge whatsoever about the payment arrangements.” (Exceptions, p.3.) The DAG argued that the “findings outlined in the Initial Decision should be rejected.” (Exceptions, p. 3.) In her Reply Exceptions Natalini argued that the ALJ appropriately concluded that Treanor’s testimony regarding how the payroll arrangement had been struck was “conflicting.” (Reply Exceptions, p. 2.) Natalini further claimed that the ALJ recognized that the Board’s other witness, the HLC’s payroll supervisor, fully supported Natalini’s position “that she was unaware of Confessore’s payment arrangement with Treanor.” (Reply Exceptions, p. 2.) Natalini also noted that the ALJ fully credited her testimony that payroll checks came pre-signed; she further claimed that “the petitioner failed to offer any contradictory evidence, such as a hand signed payroll check.” (Reply Exceptions, p. 2.) Finally, Natalini stated that the Board’s suggestion that her own denial regarding knowledge of the payment arrangement

was insufficient evidence “reflects a fundamental misstatement of the law.” (Reply Exceptions, p. 3.) Accordingly, Natalini argued that “the detailed findings and conclusions of the ALJ should be accepted. (Reply Exceptions, p.3.)

The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. At its meeting of December 6, 2007, the State Board of Examiners reviewed the Initial Decision. After full and fair consideration of all the submissions, the Board voted to adopt the Initial Decision and dismiss the Order to Show Cause issued to Natalini. 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. After assessing the witnesses, ALJ Jones believed Natalini’s presentation of events and determined that she was not aware of the payroll arrangements Confessore established with the Treanors. As that was the predicate for the issuance of the Order to Show Cause, the ALJ was correct in dismissing the case.

Accordingly, on December 6, 2007, the Board voted to adopt the Initial Decision and dismiss the Order to Show Cause. On this 17th day of January 2008, the Board formally adopted its decision to dismiss and it is so ORDERED.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing: JANUARY 22, 2008

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

RRH:MZ: