

IN THE MATTER OF	:	NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF	:	STATE BOARD OF EXAMINERS
HARRY GUERRIERE	:	ORDER OF REVOCATION
	:	DOCKET NO: 1920-112

Guerriere is the holder of a standard Teacher of Handicapped certificate, issued June 1986; a standard Teacher of Driver Education certificate, issued June 1993; a standard Teacher of Elementary Education in Grades K-8 certificate, issued in September of 1995; and a Speech Language Specialist Equivalency certificate, issued in February 2002.

At its meeting of November 1, 2019, the State Board of Examiners (Board) reviewed information it received from the New Jersey Superior Court - Atlantic County Vicinage and the Office of Student Protection (“OSP”) regarding Harry Guerriere. In August 2018, Guerriere was indicted for Theft by Deception – False Impression (3rd degree), *N.J.S.A.* 2C:20-4a; Conspiracy – Agree/Engage in Conduct Constituting a Crime (3rd degree), *N.J.S.A.* 2C:5-2a(1); and Unsworn Falsification (4th degree), *N.J.S.A.* 2C:28-3a. It was alleged that he received disaster relief funds by falsely claiming a residential property as a primary residence. On July 11, 2019, Guerriere pled guilty to the downgraded charge of Disorderly Conduct – Offensive Language, *N.J.S.A.* 2C:33-2b, and was sentenced to fines and penalties.

After reviewing the above information, at its December 13, 2019 meeting, the Board voted to issue an Order to Show Cause (OSC) to Guerriere as to why his certificates should not be revoked.

On December 19, 2019, the Board sent Guerriere the OSC by regular and certified mail. The OSC provided that Guerriere must file an Answer within 30 days pursuant to *N.J.A.C.* 6A:9B-4.6(b). Guerriere filed an Answer on January 3, 2020. *See* Answer. In his answer, Guerriere admitted that he was criminally charged after he received disaster relief funds by falsely claiming a property as a primary residence and that he pled guilty to the downgraded charge. *Id.* at ¶¶ 3-4.

His separate defenses claim there is no statutory or regulatory basis for action on his certificates.
See Separate Defenses.

As there were material facts in dispute, the Board transmitted the matter to the Office of Administrative Law (OAL) for a hearing as a contested case on February 5, 2020. On October 17, 2024, Administrative Law Judge (ALJ) Catherine A. Tuohy issued an Initial Decision in the case. *In the Matter of the Certificates of Harry Guerriere*, OAL Dkt. No. EDE 01759-20 (Initial Decision, October 17, 2024).

The ALJ acknowledged that the parties stipulated as to particular facts. Specifically, the parties stipulated that Guerriere and his wife, Dr. Theresa Guerriere, co-owned homes in Jersey City and Brigantine, New Jersey. *Id.* at 3. The parties also stipulated that the Jersey City home was Guerriere's principal residence on October 29, 2012, the date of Superstorm Sandy. *Ibid.* And that Guerriere's wife applied for grants offered by the State of New Jersey for relief from the effects of Superstorm Sandy on their Brigantine home. *Ibid.* Further, the parties stipulated that Guerriere signed a document entitled "Resettlement Program Self-Certification of Income," certifying the gross annual income for his household and that the information was complete and accurate. *Ibid.* Lastly, the parties stipulated that Guerriere provided testimony before ALJ Todd Miller in a separate matter of *Theresa Guerriere v. Department of Community Affairs*, OAL Dkt. No. CAF 11204-15 (*adopted* Comm'r Initial Decision, April 1, 2016). *Ibid.*

The ALJ heard testimony from four witnesses on behalf of the Board, including testimony from Guerriere and his wife. *Id.* at 4-20. After reviewing the testimony and the record, the ALJ found the testimonies of Guerriere and his wife to not be credible. *Id.* at 21. Overall, the ALJ found that Guerriere's testimony that he was unaware of what his wife was doing was not credible because Hurricane Sandy was a devastating storm that caused substantial damage, and it was not credible that there would be no conversation between Guerriere and his wife as to the steps they would take to repair one of their most significant assets. *Ibid.*

Specifically, the ALJ found that Guerriere's testimony that he signed the Self-Certification of Income document without knowing what he was signing just because his wife said to sign it was not credible. *Ibid.* The ALJ also found that Guerriere's testimony that he changed his address on all of his vital documents from the Jersey City home to the Brigantine home because his wife told him to do so and he did not know his wife was applying for a relief grant claiming their primary residence was the Brigantine home was not credible. *Ibid.* Guerriere's testimony that he did not know about the receipt of the \$10,000 check that was deposited into their joint account was also not credible. *Ibid.* Further, Guerriere's testimony that he did not know about his wife's application for the grant until the January 2016 hearing in the separate matter was directly contradicted by his wife's testimony that she took him with her when she signed the grant documents in July 2013. *Id.* at 21-22.

As to her credibility determinations, the ALJ reasoned that "[e]ven if one person in a marriage handles the paperwork and bill paying, there are generally ongoing discussions between a married couple regarding issues of mutual importance concerning their finances and property." *Id.* at 22. The ALJ also reasoned that as educated professionals, they should have understood the definition of "primary" residence given the grant documents themselves specifically explain what is considered your primary residence and what proofs are necessary to establish that fact. *Ibid.* Further, the ALJ found that the significant interests and motives of both Guerrier and his wife in protecting and preserving their certificates, income and pensions led her to disbelieve their testimony. *Ibid.*

Based on the testimony presented and her credibility findings, the ALJ made findings of fact. The ALJ found that at the time of Superstorm Sandy, October 29, 2012, Guerriere and his wife both worked full time in Jersey City, and continued to do so after the storm, and that every vital document indicated that Jersey City was their residence at the time of storm. *Id.* at 22-23. The ALJ also found that the storm substantially damaged their Brigantine home. *Id.* at 23. Further,

the ALJ found that, after the storm, Guerriere and his wife changed their vital documents to reflect Brigantine as their primary residence. *Ibid.*

The ALJ found that the relief applications required the damaged property to be the applicant's primary residence as of the date of the storm and that the applications explained eligibility criteria and provided a definition for "Occupancy as Primary Residence." *Ibid.* The ALJ also found that Guerriere's name and cell number were listed as an alternate contact on the Renovation, Reconstruction Elevation and Mitigation application, all of the letters of appeal were made on behalf of Mr. and Mrs. Harry Theresa Guerriere, and their tax returns indicated their primary residence as the Jersey City home. *Id.* at 24-25. Further, the ALJ acknowledged that ALJ Miller in the separate matter found that the Guerriere's primary residence was the Jersey City home and that it was not until 2013 that they changed most of their vital documents to Brigantine. *Id.* at 25. Lastly, the ALJ found that Guerriere was aware of and assisted his wife in the application for Hurricane Sandy relief and assisted her in the appeal, they acted in concert and Guerriere was complicit in his wife's actions in misrepresenting their primary residence as being in Brigantine when it was in fact in Jersey City at the time of Superstorm Sandy on October 29, 2012. *Id.* at 25-26. The ALJ determined that Guerriere and his wife made a "substantial misrepresentation[]" in order to qualify for Hurricane Sandy relief funds to which they were not entitled." *Id.* at 26.

Based on the above findings of fact, the ALJ concluded that Guerriere engaged in conduct unbecoming a certificate holder. *Id.* at 28. The ALJ explained that the Board of Examiners has repeatedly found that revocation is warranted in cases involving fraud. *Id.* at 27. After finding that Guerriere was complicit in his wife's actions of substantially misrepresenting their primary residence in order to secure Hurricane Sandy grants to which they were not entitled, the ALJ reasoned that type of fraudulent conduct has a tendency to destroy public respect for public employees and confidence in the operation of public services and warrants revocation of his teaching certificates. *Id.* at 28.

On November 1, 2024, Guerriere filed Exceptions to the ALJ's Initial Decision. In his exceptions, Guerriere argues that the initial decision is not supported by the testimony of Guerriere and his wife, that the Board failed to prove that Guerriere was complicit in his wife's actions, and that his knowledge of the numerous documents that his wife signed is not complicity. *See* Exceptions at pp. 3. He reiterated that his and his wife's testimony indicated that his wife handled all paperwork, signed checks and handled finances, that his wife was the applicant, not him, and that he did not participate in the applications and subsequent appeal. *Id.* at 5. Guerriere also argues that the changing of vital documents is of no consequence because the change was not retroactive and that the ALJ's "gratuitous comment" about their motives in protecting their certificates, income and pensions was unwarranted. *Id.* at 3-4. Further, Guerriere argues that the ALJ relied on conjecture, guesswork and theory when determining that a married couple has general discussions regarding issues of mutual importance concerning finances and property and improperly imputed knowledge of wife's actions to him based upon same. *Id.* at 4. Lastly, he acknowledges he was "led astray by his wife's adventure" but argues that his "complacency was not complicity" and nothing he did rises to level of unbecoming conduct. *Id.* at 7.

On November 18, 2024, the Deputy Attorney General (DAG) representing the Board filed Reply Exceptions. The DAG states that the ALJ is responsible for the credibility determinations and overall assessment of the story in light of its rationality, consistency, whether it hangs together with other evidence, and that the interest, motive, bias or prejudice of a witness or party may affect credibility. *See* Reply Exceptions. The DAG argues that the ALJ discredited some of Guerriere and his wife's testimony because the evidence demonstrates that Guerriere was not a passive spectator, but an active participant. Specifically, Guerriere assisted his wife in misrepresenting their primary residence by changing his address after his wife told him to do so and signing documents his wife asked him to sign. *Id.* at 14. Further, Guerriere testified that he discusses important financial decisions with his wife and that she consults him, and decisions regarding

damage to one of two homes they owned would certainly be an important financial decision. *Id.* at 21. Guerriere also confirmed that the certification he swore was accurate was in fact inaccurate. *Ibid.* The DAG also argues that there was no reason for Guerriere to change his address afterwards other than to claim relief funds, especially since the damaged residence in Brigantine was not livable at that time of the change. *Id.* at 16. Lastly, the DAG agrees with the ALJ that Guerriere had motive and bias as he doesn't want to lose his certificates and/or his pension. *Ibid.*

The Board must now determine whether to adopt, modify, or reject the Initial Decision in this matter. At its meeting of December 6, 2024, the Board reviewed the Initial Decision. After full and fair consideration of the Initial Decision, the Board voted to adopt the Initial Decision.

The Board, in reviewing the matter, does not find the ALJ's findings to be arbitrary or not based on sufficient credible evidence. Further, the ALJ's conclusions are proper under the law.

The Board's long-standing belief is that teachers must serve as role models for their students. "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. A "violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct" may provide the basis for a finding of unbecoming conduct. *Bound Brook Bd. of Educ. v. Ciripompa*, 228 N.J. 4, 14 (2017) (quoting *Karins v. City of Atlantic City*, 152 N.J. 532, 555 (1998)) (internal quotation marks omitted). The "elastic" concept of "conduct unbecoming" includes "conduct which adversely affects the morale or efficiency" of the public entity or "which has a tendency to destroy public respect for . . . [public] employees and confidence in the operation of [public] services." *In re Emmons*, 63 N.J. Super. 136, 140 (App. Div. 1960) (internal quotations and citations omitted); *see also Bound Brook Bd. of Educ.*, 228 N.J. at 13.

As noted above, after reviewing the testimony in the record, the ALJ found that Guerriere

acted in concert with his wife and was complicit in his wife's actions of misrepresenting their primary residence as being in Brigantine as of October 29, 2012, when in fact their primary residence at that time was in Jersey City. And that the misrepresentation was made in order to qualify for storm relief funds to which they were not entitled. Such conduct was certainly unacceptable and certainly unbecoming of a teacher. The Board agrees that Guerriere's actions in assisting his wife with applications on the couple's behalf for Superstorm Sandy relief funds wherein they misrepresented which home was their primary residence and thus they were not eligible for the relief funds were inappropriate and do not comport with "role model" behavior. Thus, the Board agrees that Guerriere engaged in unbecoming conduct.

The ALJ determined that revocation of his certificates was appropriate for the conduct. The Board agrees. Guerriere change his vital documents after the storm to reflect Brigantine as his primary residence and then proceeded with his wife to apply for relief funds for which they were not eligible. Although the application specifically included a definition of primary residence, Guerriere and his wife claimed that their home in Brigantine was their primary residence on October 29, 2012, when in fact Jersey City was their primary residence on that date, making their claim a clear misrepresentation. A primary point of eligibility for the relief funds was that the damaged home had been your primary residence on the day of the storm. As such, misrepresenting your primary residence on the day of the storm was a substantial misrepresentation on the application for relief funds. Submitting documents with a substantial misrepresentation, that a particular residence was your primary residence on a particular date when in fact it was not, in order to gain public relief funds tends to destroy confidence in the operation of public services. Thus, the Board finds that revocation of Guerriere's certificates is warranted in this matter.

Accordingly, on December 6, 2024, the Board voted to adopt the Initial Decision. On this 16th day of January, 2025, the Board formally adopted its written decision to adopt the Initial Decision in this matter and it is therefore ORDERED that Harry Guerriere's standard Teacher of

Handicapped certificate, standard Teacher of Driver Education certificate, standard Teacher of Elementary Education in Grades K-8 certificate, and Speech Language Specialist Equivalency certificate are hereby REVOKED, effective immediately. It is further ordered that Guerriere return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.



Rani Singh, Secretary
State Board of Examiners

Date of Mailing:
via certified and regular mail

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.