

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the Application
of Debra Ellebracht

Case No: 17-PPC-22

OAH No: 18ED0002

FINAL ORDER

NOW, on this 12th day of June 2018, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board). Appearing for the Board are Chairman, Jim Porter, and members, John Bacon, Kathy Busch, Sally Cauble, Deena Horst, Jim McNiece, Ann Mah, Steve Roberts, Janet Waugh, and Ken Willard.

WHEREUPON the Professional Practices Commission (Commission) considered the matter on April 13, 2018. Debra Ellebracht appeared not. The Kansas State Department of Education appeared through its attorney, Kelli Broers. After reviewing the evidence, the Commission voted **5 - 0**, to recommend the Board deny Ellebracht's application for a teaching license.

WHEREUPON the Board reviewed the Commission's Initial Order and after considering the presentation by Linda Sieck, Commission Chair, who was available to answer the Board's questions and being otherwise duly advised in the premises, the Board adopted the Commission's findings of fact and conclusions of law by a vote of **10 - 0**.

All findings set forth in the Commission's Initial Order attached hereto are incorporated by reference and made a part of this Final Order as though fully set forth at length herein.

IT IS THEREFORE CONCLUDED by the Kansas State Board of Education that Debra Ellebracht's application is denied.

This Final Order is made and entered this 12th day of June 2018.

Kansas State Board of Education



BY: Jim Porter, Chairman
Signed June 13th, 2018

NOTICE TO LICENSEE/APPLICANT

This is a Final Order and is effective upon service.

To request reconsideration of this order, you must file a Petition for Reconsideration with the Secretary to the State Board of Education, at the address below, within 15 days after service of this Final Order. The Petition must state the specific grounds upon which relief is requested.

To request a stay of effectiveness of this order, you must file a Petition for Stay with the Secretary to the State Board of Education at the address below. A petition can be filed until the time which a petition for judicial review would no longer be timely.

To seek judicial review of a Final Order, you must file a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* within 30 days following the service of the Final Order. Filing a Petition for Reconsideration is not a prerequisite for seeking judicial review. A copy of any Petition for Judicial Review must be served upon the Secretary to the State Board of Education at the address below.

Peggy Hill
Secretary, Kansas State Board of Education
Landon State Office Building
900 SW Jackson Ave. Suite 600N
Topeka, Kansas 66612

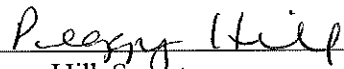
CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of June 2018, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Debra Ellebracht
717 Sturbridge Ct.
Lawrence, Kansas 66049

And via interoffice mail to:

R. Scott Gordon
Kansas State Department of Education
900 SW Jackson Street, Ste. 102
Topeka, Kansas 66612



Peggy Hill, Secretary
Kansas State Board of Education

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION

In the Matter of
the Application of
Debra Ellebracht

Case No. 17-PPC-22

OAH No. 18ED0002

INITIAL ORDER

Statement of Case

This matter comes on for hearing before the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) upon the Complaint filed by the KSDE seeking denial of the application of Debra Ellebracht for a teaching license.

The hearing was held on April 13, 2018. Appearing for the Commission were: chairperson, Linda Sieck; vice chairperson, Jessica Snyder; and members, Vici Jennings, Nathan Reed, and Maret Schrader.

Ms. Ellebracht appeared *pro se*. The KSDE appeared by and through its attorney, Kelli Broers.

Findings of Fact

Ms. Ellebracht, a 48-year-old woman, holds a BSE and MS from the University of Tennessee. She was first licensed as a Kansas educator in 1998.

During the relevant time period, Ms. Ellebracht was employed as a teacher in the Baldwin City School District, U.S.D. 348.

Ms. Ellebracht was a member of the Omicron Chapter (chapter) of Delta Kappa Gamma which is a professional women educator's organization. The chapter is staffed by educators who assist with educational needs such as scholarships.

Ms. Ellebracht was an active member of the chapter and served as its treasurer from July 2012 through September 2014.

During her tenure as treasurer, and while employed as an educator, Ms. Ellebracht embezzled approximately \$30,000 from the chapter by transferring the chapter's seed money from a CD to its checking account and obtaining a debit card for the account. She concealed her theft by creating altered monthly bank statements using parts of the real statements and then "cutting and pasting" false information regarding transactions and the balance into new bank statements. She then presented these false statements at the chapter meetings.

During this time, Ms. Ellebracht freely spent funds from the chapter checking account for her own personal use, without permission. Ms. Ellebracht used the funds to take at least one trip out of the country and multiple trips to Texas. Ms. Ellebracht frequently ate at restaurants, including the Hereford House and other steak houses. She spent thousands of dollars in retail purchases.

In July 2014, Ms. Ellebracht's embezzlement was discovered shortly after Georgiana Beverly was elected chapter president.

Ms. Ellebracht was charged with felony theft in violation of K.S.A. 21-5801(a)(1)(b)(2) in Case No. 2014-CR- 000926 in the District Court of Douglas County, Kansas.

Ms. Ellebracht's father-in-law gave her the money to repay the chapter almost immediately. She also wrote an apology letter to the chapter. Ms. Ellebracht received diversion for her crime.

During this period of time, Ms. Ellebracht kept her job at USD 348. She disclosed her legal troubles, however, did not fully disclose all the facts. Upon learning the truth, her employment with USD 348 ended.

On June 29, 2015, the KSDE filed a Complaint seeking revocation of Ms. Ellebracht's license. Ms. Ellebracht timely requested a hearing.

Eventually, Ms. Ellebracht agreed to voluntarily surrender her license as a consequence of her criminal charges and her subsequent entry into a diversion agreement.

On January 13, 2016, the Kansas State Board of Education revoked Ms. Ellebracht's Kansas teaching license.

Ms. Ellebracht took a teaching job in Missouri as she continued to be licensed in Missouri.

Ms. Ellebracht successfully completed diversion. Her case was dismissed on April 7, 2017. She applied for reinstatement of her Kansas license on May 22, 2017.

On August 10, 2017, the KSDE filed the Complaint at issue against Ms. Ellebracht seeking denial of her application based on the above-referenced criminal conduct.

On August 25, 2017, Ms. Ellebracht filed her request for hearing.

Conclusions of Law
and
Discussion

K.A.R. 91-22-1a(b) provides that a “license may be denied by the state board to any person . . . for any act for which a license may be suspended or revoked pursuant to subsection (a).”

K.A.R. 91-22-1a(a) provides, in pertinent part, that “[a]ny license issued by the state board may be suspended or revoked, or the license holder may be publicly censured by the state board for misconduct or other just cause” including: 11) “entry into a criminal diversion agreement after being charged with any offense or act described in this subsection [in this case, felony theft].”

The Commission, in determining whether to recommend to the Board that an individual’s application should be granted, is required to determine the extent of the applicant’s efforts at rehabilitation as well as the fitness of the applicant to be a member of the teaching profession. *Wright v. State Bd. of Educ.*, 268 P.3d 1231 (Kan.App. 2012).

K.A.R. 91-22-1a(g)(1) provides factors relevant to a determination as to rehabilitation. (*See also* K.S.A. 72-2165(c).) The factors are as follows:

- (A) The nature and seriousness of the conduct that resulted in the denial or revocation of a license;
- (B) the extent to which a license may offer an opportunity to engage in conduct of a similar type that resulted in the denial or revocation;
- (C) the present fitness of the person to be a member of the profession;

- (D) the actions of the person after the denial or revocation;
- (E) the time elapsed since the denial or revocation;
- (F) the age and maturity of the person at the time of the conduct resulting in the denial or revocation;
- (G) the number of incidents of improper conduct; and
- (H) discharge from probation, pardon, or expungement.

Ms. Ellebracht was in her mid-forties when she began embezzling funds from the chapter. For almost two years, Ms. Ellebracht repeatedly used chapter funds, totaling almost \$30,000. She knew these funds, which had been a gift from a donor, were to be used, in part, for educational needs including scholarships for women.

At the time, Ms. Ellebracht was a licensed professional and was employed as a teacher for USD 348.

Ms. Ellebracht told others, including the Commission, she took the funds to help pay medical bills and other expenses which were the result of her husband's serious medical issues. Ms. Ellebracht, however, provided no evidence that the funds were used to pay medical bills and/or expenses. Instead, the overwhelming evidence was that during the two-year period, Ms. Ellebracht used the chapter's funds to take trips, including a trip to Jamaica, spend thousands of dollars eating out at restaurants, and thousands of dollars on retail purchases.

Each and every time Ms. Ellebracht used the debit card to access chapter funds, she knew she was engaging in criminal activity. Each and every time she produced the

false bank statement, her actions were intentional in an effort to conceal her criminal activity. Her conduct was a wanton abuse of trust.

Several witnesses testified on Ms. Ellebracht's behalf. Notwithstanding their testimony, the Commission is not convinced that Ms. Ellebracht is rehabilitated. Instead, the Commission finds that Ms. Ellebracht has not really "paid dearly" for her actions, as one witness claimed.

Ms. Ellebracht got the money to pay the chapter back from her father-in-law. Ms. Ellebracht testified that she has not made any effort to repay her father-in-law.

Despite having her teaching license revoked in Kansas, Ms. Ellebracht has continued to teach in Missouri.

Other than the testimony of her clergy, there was no evidence that Ms. Ellebracht has sought professional help to ascertain what caused her to embezzle the money and develop strategies to prevent such conduct in the future.

The Commission found it telling that Ms. Ellebracht's clergy testified that he would not put her in a position where she had access to money. Certainly, as an educator, there will be opportunities for Ms. Ellebracht to take money. The Commission is simply not convinced that Ms. Ellebracht would not engage in similar conduct.

The Commission finds that Ms. Ellebracht failed to establish that she possesses the character and fitness to be in a position of public trust and perform the duties and responsibilities of a member of the teaching profession in Kansas.

On a vote of 5-0, the Commission finds that there is sufficient and just cause to deny Ms. Ellebracht's application for a teaching license.

IT IS THEREFORE RECOMMENDED by the Commission that the Board of Education deny Debra Ellebracht's application for a teaching license.

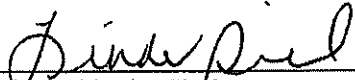
This Order is not a Final Order. The Kansas State Board of Education must review the order in accordance with the provisions of the Kansas Administrative Procedure Act. The State Board will review all issues. Notice of review with the specific date and time will be provided to the parties within 15 days of the review.

You may submit to the State Board for its consideration as part of its review of the Initial Order, a written brief citing legal authority as to why the above recommendation should not be accepted. You must file the brief with the State Board Secretary at the address indicated below within **ten calendar days** after service of the Initial Order for transmittal to the State Board. You must also make any request for oral argument at that time.

Peggy Hill
Secretary, Kansas State Board of Education
900 SW Jackson Street, Suite 600
Topeka, Kansas 66612

Response briefs are due within **ten calendar days** after service of the legal brief upon the opposing party. Any reply brief is due **five calendar days** after service of any response brief upon the opposing party. Any response or reply briefs must also be filed with the State Board Secretary at the address indicated above.

This Initial Order is made and entered this 7 day of May, 2018.



Linda Sieck, Chairperson
Professional Practices Commission


CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of May 2018, a true and correct copy of the above and foregoing Initial Order was deposited in the U.S. Mail, postage paid, addressed to:

Debra Ellebracht
717 Sturbridge Ct.
Lawrence, KS 66049

and via interoffice mail to:

Scott Gordon, Chief Counsel
Kansas State Department of Education
900 SW Jackson, Ste. 102
Topeka, KS 66612
Telephone: 785-296-3204



Gwen Kramer, Secretary
Professional Practices Commission
Kansas State Department of Education
900 SW Jackson Street
Topeka, KS 66612-1182