| 1 2 | BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION OF THE STATE OF OREGON | | | |
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| 3 4 5 6 7 8 9 | 4 In the Matter of the Educator) DEFAU 5 License of) DENIA 6 CHELSEA M. CHERRY) SUSPEI 7) | LT ORDER OF L OF APPLICATION AND NSION OF RIGHT TO APPLY | | |
| 10 | 10 On December 6, 2023, the Teacher Standards an | d Practices Commission | | |
| 11 | (Commission) issued a Notice of Opportunity for Hearing to Chelsea M. Cherry (Cherry) in | | | |
| 12 | which the Commission charged her with Gross Neglect of Duty. The Notice was sent via U.S | | | |
| 13 | First Class Mail and U.S. Certified Mail Receipt 9589 0710 5570 0844 8664 70 to the | | | |
| 14 | address on file with the Commission. The Notice designated the Commission file as the | | | |
| 15 | record for purposes of proving a prima facie case. The Certified Mail receipt was returned to | | | |
| 16 | 16 the Commission as unclaimed on/about January 4, 202 | the Commission as unclaimed on/about January 4, 2024. The first-class mail was not | | |
| 17 | returned to the Commission and assumed delivered. Additionally, TSPC staff confirmed via | | | |
| 18 | 18 phone call with Cherry on December 5, 2023 that she in | phone call with Cherry on December 5, 2023 that she intended to let the case lapse into | | |
| 19 | 19 default. The Notice of Opportunity of Hearing, dated De | default. The Notice of Opportunity of Hearing, dated December 6, 2023 and signed by | | |
| 20 | Anthony Rosilez, Executive Director, stated: | | | |
| 21 22 23 24 25 26 27 28 29 | PERIOD, YOUR RIGHT TO A HEARING SHALL UNLESS YOUR FAILURE TO REQUEST A HEA REASONABLE CONTROL. IF YOU DO NOT RE YOUR REQUEST FOR HEARING, IF YOU FAIL NOTIFY THE COMMISSION THAT YOU WILL COMMISSION WILL ADOPT AN ORDER OF DE THE REVOCATION OR SUSPENSION OF YOU DISCIPLINE." | L BE CONSIDERED WAIVED RING WAS BEYOND YOUR QUEST A HEARING, WITHDRAW TO APPEAR AT A HEARING, OR NOT APPEAR AT HEARING, THE EFAULT WHICH MAY INCLUDE | | |
| 30 31 | | e intends to let the case default. The | | |
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| 34 | 34 concerning this matter. | | | |
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| 36 | 36 FINDINGS OF FA | FINDINGS OF FACT | | |
| 37 | 37 1. On May 8, 2023 Cherry applied for a Charter School | Registration with TSPC. As part | | |
| 38 | of the standard TSPC licensure/background procedu | ure, TSPC staff ran a | | |

comprehensive criminal background check on Cherry. The background check came 1 back with more criminal history than Cherry had documented on her application to 2 TSPC. Based on this, TSPC opened an internal investigation to review the matter. At 3 the time Cherry made application to TSPC, she was an applicant for a teaching 4 position with the Lane County ESD. 5 2. The internal TSPC investigation determined the following: 7 8 On May 8, 2023, Cherry applied for a Charter School Registration with TSPC. 9 On the application Cherry answered "yes" to character question 8 which reads 10 as follows: 11 12 "Have you ever been convicted or been granted a diversion or conditional discharge 13 by any court for any: (a) Felony; or (b) Misdemeanor; or (c) Major traffic violation 14 including but not limited to: driving under the influence of intoxicants or drugs; 15 16 reckless driving; fleeing from or attempting to elude a police officer; driving while your license was suspended, revoked or used in violation of any license restriction; 17 or failure to perform the duties of a driver or witness at an accident?" 18 19 In response to this "yes" answer, Cherry indicated the following reason - "DUI20 21 (sic) 2011-diversion completed" 22 · Upon running the background check on Cherry, TSPC staff discovered more 23 criminal history than the DUI that she had reported on the application. A 24 review of court records from the Oregon Judicial Case Information Network 25 (OJIN) revealed the following arrests and court dispositions: 26 27 28 a. Possession of methamphetamine and theft 3rd degree (Offense date 11/24/2012) - Convicted on 12/04/2012 for drug offense; theft charge was 29 dismissed. 30 31 b. Possession of methamphetamine (offense date 01/25/2014) - Convicted on 02/12/2014 32

| 1 | | c. Possession of heroin and methamphetamine, driving while suspended or |
|----|---|---|
| 2 | | revoked (Offense date 09/17/2016). Charges were dismissed 12/27/2016. |
| 3 | | d. Possession of methamphetamine and driving while suspended or revoked |
| 4 | | [4 counts] (Offense dates 06/20/2016; 07/26/2016 and 09/06/2016). |
| 5 | | Case transferred to drug court 07/10/2017. Case transferred to drug court |
| 6 | | 07/20/2017 - Successful completion 11/02/2018 |
| 7 | | e. Possession of heroin and methamphetamine (Offense date 11/28/2016). |
| 8 | | Case transferred to drug court 07/10/2017. Case transferred to drug court |
| 9 | | 07/20/2017. Successful completion 11/02/2018 |
| 10 | | f. Delivery of heroin; possession of heroin; delivery of methamphetamine |
| 11 | | and possession of methamphetamine (Offense date 01/11/2016). Case |
| 12 | | transferred to drug court 07/20/2017. Successful completion 11/02/2018. |
| 13 | | |
| 14 | • | On May 15, 2023, TSPC sent the following email to Cherry regarding her |
| 15 | | background check: |
| 16 | | |
| 17 | | "During a routine background check, we discovered far more criminal |
| 18 | | history than you reported on your recent application for licensure |
| 19 | | beginning in 2011. You are required to submit an explanation for your |
| 20 | | failure to disclose, and explanation for each conviction from 2011 to |
| 21 | | present." |
| 22 | | |
| 23 | • | On May 17, 2023, Cherry responded (via email) to the above email and stated |
| 24 | | that she never meant to hide any of the arrests/convictions, but at the time of |
| 25 | | her application she was unsure of dates and the amount of things she had |
| 26 | | been convicted of. Cherry provided the following explanation: |
| 27 | | |
| 28 | | "I would prefer to just explain in a general way. I was lost in drug |
| 29 | | addiction for almost a decade. I sold drugs and stole things to support |
| 30 | | my habit and in doing so I was convicted of many crimes. Since then, I |
| 31 | | have completed a drug court that I graduated from in November of 2019 |

and fought to get my life back in every way possible. I am currently the Executive Chef running 2 restaurants and a very active member in my community.

I did not mean to fail to disclose my convictions, honestly there are way more than I had originally thought. I am currently in the process of trying to get as many of these as I can expunged. Again, my apologies for sending in incorrect information."

3. TSPC Investigative Staff sent a Request to Interview letter to Cherry on June 1, 2023 via certified mail. The return receipt was signed by "Emily Cherry" and was received back at TSPC via USPS mail on June 9, 2023. Additionally, TSPC made two more efforts to contact Cherry to schedule an interview by sending her a request to interview letter to the two emails TSPC had on record for Cherry. TSPC had previously corresponded with Cherry during the background/application process on one of the email addresses.

CONCLUSIONS OF LAW

The criminal convictions/arrests as described in section three (3) above, constitute gross neglect of duty in violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5) (*Use professional judgment*). This conduct also constitutes gross unfitness in violation of ORS 342.175(1)(c); OAR 584-020-0040(5)(c) (*Conviction of violating any federal, state, or local law. A conviction includes any final judgment of conviction by a court whether as the result of guilty plea, no contest plea or any other means*); OAR 584-020-0040(5)(d) (*Commission of an act listed in OAR 584-020-0040(1*); and OAR 584-020-0040(5)(e) (*Admission of or engaging in acts constituting criminal conduct, even in the absence of a conviction*). Additionally, Cherry's criminal convictions and conduct related to the convictions constitute "gross unfitness" in violation of ORS 342.175(1)(c); OAR 584-020-0040(3)(c) and (d) as defined by OAR 584-020-0040 (5) (*Gross unfitness is any conduct which renders an educator unqualified to perform his*

| 1 | or her professional responsibilities). | | |
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| 3 | The Commission's authority to impose discipline in this matter is based upon ORS | | |
| 4 | 342.175. | | |
| 5 | FINAL ORDER | | |
| 6 | The Commission hereby issues a denial of Cherry's application for licensure and | | |
| 7 | suspension of her right to apply for licensure for one (1) year. | | |
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| 9 | a | | |
| 10 | IT IS SO ORDERED THIS day of February, 2024. | | |
| 11 | TEACHER STANDARDS AND PRACTICES COMMISSION | | |
| | By: | | |
| 12 | By: | | |
| 13 14 | Melissa Goff, Executive Director | | |
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| 18 | NOTICE OF APPEAL OR RIGHTS | | |
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| 20 | YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW | | |
| 21 | MAY BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM | | |
| 22 | THE SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE | | |
| 23 | PROVISIONS OF ORS 183.482 TO THE OREGON COURT OF APPEALS. | | |