

COMMONWEALTH OF PENNSYLVANIA  
PROFESSIONAL STANDARDS AND PRACTICES COMMISSION

In Re:      A. Alan Opalek                   :  
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  PSPC Docket No. DI-92-10

MEMORANDUM AND ORDER

On May 22, 1992, the Department of Education (Department), through its Acting Commissioner of Postsecondary and Higher Education and its Office of Chief Counsel, issued a Notice of Charges to the respondent, A. Alan Opalek. The Department avers in the Notice of Charges that the respondent holds an Instructional I teaching certificate endorsed in the area of chemistry issued to him in September 1982. On or about November 16, 1990, the Department avers, the respondent was charged with the following crimes: one count each of Indecent Assault, Corruption of Minors, Unlawful Restraint, False Imprisonment, Aggravated Indecent Assault, Indecent Exposure, Simple Assault, Aggravated Assault, and two counts of Involuntary Deviate Sexual Intercourse. Attached to the Notice of Charges are copies of court documents reflecting the charges certified by the Philadelphia Clerk of Court.

The Department contends that the crimes with which the respondent has been charged are crimes involving moral turpitude requiring the Professional Standards and Practices Commission (Commission) to suspend all professional certificates held by the respondent pursuant to section 5(a)(11) of the Teacher Certification Law, as amended, 24 P.S. §12-1255(a)(11). In addition, the Department avers that the respondent is a danger to the health, safety and welfare of students in the schools of this Commonwealth, requiring immediate suspension of the certificate.

On September 28, 1992, the Department filed with the Commission a Motion for Judgment on Default pursuant to 1 Pa. Code §35.37 and 22 Pa. Code §233.13(e)(iii). In its motion, the Department avers that the respondent received a copy of the Notice of Charges by certified mail on May 26, 1992. Because the respondent had not filed an answer or requested a hearing with the Commission within the statutorily-prescribed 30 days, the Department contends the respondent is in default and the facts set forth in the Notice of Charges should be deemed to be admitted. Consequently, the Department requests that the Commission order the Department to suspend the respondent's professional teaching certificate immediately.

In response to the Department's motion, the respondent on October 7, 1992 filed with the Commission a letter opposing the motion for judgment on default. However, respondent did not deny

in his letter that he has been charged with the crimes listed in the Notice of Charges. The respondent also states he sent letters to Acting Commissioner Peter Garland and Department Assistant Counsel M. Patricia Fullerton dated May 26, 1992, stating that he could not respond to the Notice of Charges on advice of counsel. However, he did not file any documents with the Commission.

By letter dated October 21, 1992, legal counsel for the Commission invited the respondent and his counsel and Ms. Fullerton to participate in an oral argument on the Department's motion for judgment on default. The argument was set for October 29, 1992 at 10:00 A.M. in the Office of General Counsel.

Although the Department's counsel appeared, neither the respondent nor counsel on his behalf appeared to argue.

Consequently, by letter dated October 29, 1992, the Commission's legal counsel announced that he would re-refer the Department's motion to the Commission with a recommendation that the Department's motion be granted. On October 30, 1992, the respondent was invited to appear at the Commission's meeting on Thursday, November 19, 1992 at 2:00 P.M. to address the Department's motion for judgment on default.

The respondent did not appear at the Commission's meeting. The motion for judgment on default was duly considered by the

Commission, and the Commission voted to enter the following  
Order:

ORDER

AND NOW, this 19th day of November, 1992, upon consideration of the Department of Education's Motion for Judgment on Default and the response thereto by respondent A. Alan Opalek, it is hereby ORDERED that the Department's motion is GRANTED. It is further ORDERED that the respondent is in default and he is deemed to have admitted the facts set forth in the Department's Notice of Charges. Therefore, it is hereby ORDERED that the Department of Education shall forthwith SUSPEND all professional certificates held by the respondent, A. Alan Opalek. It is further ORDERED that the Department shall immediately notify all appropriate persons and entities pursuant to 22 Pa. Code §49.64f.

PROFESSIONAL STANDARDS  
AND PRACTICES COMMISSION

By:

Howard R. Selekman  
Howard R. Selekman  
Chairperson

Attest:

Warren D. Evans  
Warren D. Evans  
Executive Director

DATED: