

**BEFORE THE
COMMISSION ON TEACHER CREDENTIALING
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CHRISTOPHER THOMAS SINGER, Respondent

Case No. 2-347158659

OAH No. 2023080079

PROPOSED DECISION

Timothy J. Aspinwall, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on November 15, 2023, from Sacramento, California.

Stephanie Alamo-Latif, Deputy Attorney General, represented Mary Vixie Sandy, Ed.D. (complainant), Executive Director of the California Commission on Teacher Credentialing (Commission).

David R. Wiksell, Attorney at Law, represented Christopher Thomas Singer (respondent), who was present.

Evidence was received, the record closed, and the matter submitted for decision on November 15, 2023.

FACTUAL FINDINGS

Background and Jurisdictional Matters

1. On January 19, 2022, the Commission issued a Preliminary Single Subject Teaching Credential (Credential) to respondent. Respondent's Credential will expire on February 1, 2027, unless renewed. On March 5, 2020, the Commission issued a Certificate of Clearance (Certificate) to respondent. Respondent's Certificate will expire on April 1, 2025, unless renewed.

2. On June 12, 2023, complainant, acting in her official capacity, caused to be filed the Accusation in this matter. Complainant seeks to revoke all credentials, certificates, and authorizations issued to respondent, based on two misdemeanor convictions and respondent's misconduct underlying those convictions, as set forth below. Respondent timely filed a notice of defense, and this hearing followed.

Respondent's DUI Conviction and Underlying Misconduct

3. On August 24, 2021, in Butte County Superior Court, respondent was convicted on his no contest plea of misdemeanor driving under the influence (DUI) of alcohol, with a blood alcohol content (BAC) of 0.08 percent or higher, in violation of Vehicle Code section 23152, subdivision (b). Respondent also admitted to having a BAC of 0.15 percent or higher, specifically 0.19 percent, as a special allegation within the meaning of Vehicle Code section 23578. The court placed respondent on informal probation for three years, with terms and conditions including that he complete a Level I DUI program and pay fines and fees.

4. The circumstances leading to respondent's conviction were that on March 26, 2021, at approximately 10:00 p.m., a California Highway Patrol (CHP) officer

stopped respondent as he drove on a surface street because respondent's pickup truck did not have an operating rear license plate light. When the CHP officer approached respondent in his pickup truck, the officer noticed a strong odor of alcoholic beverages, and that respondent's eyes were bloodshot and his speech was slurred. The officer asked respondent to perform field sobriety tests, which he failed to perform satisfactorily. The officer administered a breath test, which showed respondent had a BAC of 0.19 percent. Respondent was then transported to Butte County Jail.

Respondent's Firearm Conviction and Underlying Misconduct

5. On July 7, 2022, in Butte County Superior Court, respondent was convicted on his no contest plea of misdemeanor discharging a firearm with gross negligence, in violation of Penal Code section 246.3, subdivision (a). The court placed respondent on formal probation for three years, with terms and conditions including that he refrain from the use or possession of alcohol or non-prescribed controlled substances, enroll in and complete a Batterers Treatment Program, and pay fines and fees.

6. The circumstances leading to respondent's conviction, as set forth in a Butte County Sheriff's Office report, are that on February 22, 2022, at approximately 10:20 p.m., a Butte County deputy sheriff was dispatched to the residence respondent shares with his spouse Brianda Bastida (Ms. Bastida) and their infant daughter. Ms. Bastida had called 911 and stated that respondent had armed himself with a nine-millimeter (mm) pistol, made threats to kill himself, and fired a bullet into the floor of their residence.

7. When the deputy sheriff arrived at the residence, Ms. Bastida came outside carrying their daughter. Respondent eventually exited the residence after

being instructed to do so multiple times through a loudspeaker, and was arrested without further incident.

8. The deputy sheriff interviewed Ms. Bastida and respondent separately. Ms. Bastida said that she and respondent usually get along except when he drinks alcohol. That evening they had gotten into an argument about respondent's drinking and being drunk. At one point respondent said something about getting his gun and shooting himself. As Ms. Bastida sat in the living room holding their daughter, respondent retrieved a pistol from a small safe in their bedroom. He then walked into another room and fired a single bullet into the floor. She believed respondent fired the gun to scare her. She did not believe respondent was ever going to shoot himself.

9. The deputy sheriff confronted respondent with what Ms. Bastida had told him. He shared that he knew respondent had not fired his pistol in the backyard, as respondent told another deputy sheriff at the time of his arrest. Respondent told the deputy sheriff that he was "just being irresponsible," that he had "no intentions to harm anyone," and that he "wasn't trying to scare her." He also stated that he knows firearms and alcohol do not mix.

10. The sheriff's deputies retrieved respondent's nine mm caliber handgun and took photographs of a single bullet hole in the floor outside the residence bathroom. Respondent was transported to jail, where he submitted a breath test. The test registered a BAC of 0.16 percent.

Respondent's Evidence

RESPONDENT'S TESTIMONY AND WRITTEN STATEMENTS

11. Respondent testified at hearing and submitted two written statements. One is dated November 1, 2022, addressed to the Commission. The other is addressed to "whom it may concern" and dated July 18, 2023. Respondent's testimony and written statements are summarized below.

12. Regarding the February 22, 2022 incident, respondent started drinking alcohol in the backyard in the early afternoon. When his spouse, Ms. Bastida, returned home with their daughter, she became upset with respondent because he was sitting in the backyard intoxicated and drinking alone. Respondent later came into the house. He was highly intoxicated. He remembered that when he returned from shooting his handgun the previous day, he had not put it in the gun safe as usual. Instead, he had put it in a more accessible locker in the master bedroom. In his intoxicated state, he took his handgun from the locker in the master bedroom, and walked to the extra bedroom where the gun safe is located.

13. Ms. Bastida was sitting on the living room sofa with their daughter when he walked past her with the handgun. She asked him what he was doing, he told her "don't worry about it" because he was still in a bad mood from their argument about his alcohol consumption. When he got to the extra bedroom, he put a magazine of bullets in the gun, then pulled back the slide to put a bullet in the firing chamber. He then took the magazine out of the handgun and pulled back the slide again, intending to eject the bullet from the firing chamber. He pointed the gun at the floor and pulled the trigger, attempting to "dry fire" the gun to ensure there was no bullet in the firing chamber. In fact, there was a bullet in the firing chamber because respondent had not

successfully ejected it. Instead of a “dry fire,” respondent accidentally shot a bullet into the floor.

14. Respondent acknowledged this would not have occurred if he had not made the irresponsible decision to handle a firearm while intoxicated. He has not consumed any alcohol since his arrest on February 22, 2022, and he no longer possesses any firearms.

15. Respondent has complied with probation imposed as a consequence of his 2022 conviction, including completion of a 52-week Batterers Treatment Program. He attended the program diligently and had no absences. The program helped him understand the destructive role of alcohol in family dynamics. Beyond this, respondent has not participated in any alcohol abuse counseling, nor has he attended any support groups focused on alcohol or drug abuse.

16. Regarding respondent’s 2021 DUI arrest and conviction, he completed the court-ordered Level I DUI program in December 2021. However, he acknowledged that he “did not take proper steps” to address his alcohol problems, as evidenced by his continued consumption of alcohol and his 2022 conviction.

17. Respondent has been employed as a teacher at a K-12 charter school in Orland, California, since October 2022. He teaches Spanish, English language development, and independent study. The possibility of working in the teaching profession is something he had long considered. He finally obtained a teaching credential in 2022.

BRIANDA BASTIDA'S TESTIMONY AND WRITTEN STATEMENTS

18. Ms. Bastida testified at hearing and submitted two written statements. One is dated March 22, 2023, addressed to the Commission. The other is addressed to "whom it may concern" and dated November 1, 2022. Ms. Bastida's testimony and written statements are summarized below.

19. Ms. Bastida and respondent have been married for approximately nine years. They have a two-year-old daughter. Ms. Bastida is happy to be married to respondent. Respondent has never been physically or emotionally abusive to her, and she has never known him to be an aggressive person in any way. Ms. Bastida does not work outside the home. She and their daughter rely upon respondent's income as a teacher.

20. To Ms. Bastida's observation, respondent definitely has a passion for teaching. She can see the excitement in his eyes when he talks about his job as a teacher. In her view, respondent "always had a mindset of being a professional and being able to teach what he knows" She believes "100 percent that [respondent's] passion is teaching."

21. With respect to the February 22, 2022 incident, she and respondent got into an argument because he had been drinking alcohol again. Later in the evening, she saw respondent get his handgun from their bedroom. She was sitting on the sofa in the living room holding their daughter. He did not threaten her with the gun or point it in her direction. She did not see him handling the gun but heard him fire a shot. She was frightened and upset, so she called 911. She does not recall telling the police or the 911 operator that respondent threatened to kill himself.

22. Ms. Bastida believes respondent is an alcoholic. She last saw him drink alcohol on February 22, 2022.

DANIEL LA BAR'S TESTIMONY AND LETTERS OF SUPPORT

23. Mr. La Bar testified at hearing and submitted two letters he wrote to the Commission. Mr. La Bar's testimony and written statements are summarized below.

24. Mr. La Bar is employed as the principle of a K-12 charter school in Orland, where respondent has worked as a teacher since October 2022. Mr. La Bar participated in respondent's hiring process. Respondent was forthright about his DUI conviction and pending gun charge in his employment application and throughout the hiring process. Respondent kept the human resources department and district administration informed as the case progressed, including when he was convicted and placed on probation based on the gun charge.

25. Respondent is an asset to the educational community. Mr. La Bar wrote to the Commission the following:

As his supervisor, [respondent] has exceeded my expectations regarding job performance. He brings with him a level of integrity, honesty, and authenticity. . . . [Respondent] has acted with the utmost respect as well as physical and emotional safety in terms of working with his students, their families, and his colleagues. I have no concerns regarding his supervision of enrolled students.

26. Respondent has been open and honest regarding his problems with alcohol. He appears to have these challenges under control.

ADDITIONAL LETTERS OF SUPPORT

27. Respondent submitted six additional letters of support from family members, supervisors when he served as a student teacher, and the superintendent of the school district in which he now serves as a teacher. The letters corroborate respondent's own stated commitment to teaching and express a high regard for his aptitudes and work ethic. The letter from Brian Bentz, Superintendent of the Glenn County Office of Education, states the following:

[Respondent] has been a model employee, he is intelligent, hard-working and works well with staff, students and administration and he is committed to serving this community.

I realize [respondent] has had some previous issues but was forthcoming with his faults

Again, I believe [respondent] is a quality teacher and an upstanding human being. I understand he has a difficult past, but that is being rectified, and I believe he has a lot to offer the teaching profession.

Analysis

28. Respondent testified credibly and candidly regarding his problems with alcohol, and the incidents leading to his arrests and convictions. Ms. Bastida was credible in her account of events. Any inconsistencies among their various written and oral statements are not significant with respect to the central issue in this matter: whether respondent is fit to serve as a teacher.

29. Respondent's convictions and his underlying misconduct are wholly attributable to his alcohol consumption. He had a BAC of 0.19 percent when he was arrested for DUI, and a BAC of 0.16 percent when he was arrested for grossly negligent discharge of a firearm. Respondent has not consumed alcohol since he was arrested in February 2022. He concedes he is an alcoholic. But he has not attended any counseling or support groups focused on alcohol or drug abuse.

30. The central concern regarding respondent's fitness to teach is not the quality of his teaching or his interactions with student, parents, and colleagues. The evidence is clear and persuasive that he excels in these areas. The concern is whether he is stable in his recovery from alcohol abuse. Should he relapse, all his progress as a teacher could be lost, and the welfare of students put at risk.

31. For these reasons, it is necessary to impose discipline that will ensure respondent's continued sobriety. This necessarily includes terms and conditions of probation, as set forth in the Legal Conclusions below.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant has the burden of proving cause for adverse action by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 583, 855–856.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Brooks* (2008) 169 Cal.App.4th 176, 190.)

Jurisdiction and Applicable Law

2. Pursuant to Education Code section 44000 et seq., and California Code of Regulations, title 5, commencing with section 80001, the Commission is responsible for credentialing teachers in public schools in California, including issuing credentials, and taking adverse action against applicants and credential holders. (Statutory references are to the Education Code unless otherwise specified.)

3. Section 44421 authorizes the Commission to take adverse action against an individual's teaching credential for, among other specified causes, unprofessional conduct, evident unfitness for service, immoral conduct, acts of moral turpitude, or for any cause that would warrant denial of an application for a credential. Section 44345, subdivision (e), allows the Commission to deny an application of one who has committed an act involving moral turpitude.

Alleged Causes for Adverse Action

UNPROFESSIONAL CONDUCT

4. Unprofessional conduct in the teaching profession has been defined as that which violates the rules or ethical code of the profession or is unbecoming of a member of the profession in good standing. (*Bd. of Ed. of City of Los Angeles v. Swan* (1953) 41 Cal.2d 546, 553, overruled on other grounds by *Bekiaris v. Bd. of Ed.* (1972) 6 Cal.3d 575.)

5. Based on the Factual Findings and Legal Conclusions as a whole, complainant established by clear and convincing evidence that respondent committed unprofessional conduct when he drove while under the influence of alcohol and discharged a firearm in a grossly negligent manner. For these reasons, and based on

the Factual Findings and Legal Conclusions as a whole, cause exists for adverse action against respondent's credentials pursuant to section 44421.

EVIDENT UNFITNESS FOR SERVICE

6. "Evident unfitness for service" means a teacher is clearly not fit, not adapted to or unsuitable for teaching, ordinarily by reason of temperamental defects or inadequacies. (*Woodland Joint Unified School Dist. v. Com. on Professional Competence* (1992) 2 Cal.App.4th 1429, 1444.) "Unlike 'unprofessional conduct,' 'evident unfitness for service' connotes a fixed character trait, presumably not remediable merely on receipt of notice that one's conduct fails to meet the expectations of the employing school district." (*Ibid.*)

7. Based on the Factual Findings and Legal Conclusions as a whole, complainant did not establish by clear and convincing evidence that respondent is evidently unfit for service, especially given respondent's record of employment and insight into his misconduct in this matter. Based on the evidence as a whole, respondent is fit to serve as a teacher.

IMMORAL CONDUCT

8. The term "immoral" has been defined generally as "that which is hostile to the welfare of the general public and contrary to good morals. . . . [It] includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, dissoluteness; or as willful, flagrant, or shameless conduct showing moral indifference to the opinions of respectable members of the community, and as an inconsiderate attitude toward good order and the public welfare." (*Bd. of Ed. of San Francisco Unified School Dist. v. Weiland* (1960) 179 Cal.App.2d 808, 811.)

9. Based on the Factual Findings and Legal Conclusions as a whole, complainant established by clear and convincing evidence that respondent engaged in immoral conduct when he drove while under the influence of alcohol and discharged a firearm in a grossly negligent manner. For these reasons, and based on the Factual Findings and Legal Conclusions as a whole, cause exists for adverse action against respondent's credentials pursuant to section 44421.

ACTS OF MORAL TURPITUDE

10. "Moral turpitude" has been defined as "everything done contrary to justice, honesty, modesty or good morals." (*Rice v. Alcoholic Beverage Appeals Bd.* (1979) 89 Cal.App.3d 30, 36.) An act involves moral turpitude if it involves a serious breach of a duty owed to another or to society. (*In re Stuart K. Lesansky* (2001) 25 Cal.4th 11, 16.)

11. Based on the Factual Findings and Legal Conclusions as a whole, complainant established by clear and convincing evidence that respondent committed acts of moral turpitude when he drove while under the influence of alcohol and discharged a firearm in a grossly negligent manner. For these reasons, and based on the Factual Findings and Legal Conclusions as a whole, cause exists for adverse action against respondent's credentials pursuant to sections 44421 and 44345, subdivision (e).

Fitness to Teach

12. In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, the California Supreme Court concluded that a teaching credential cannot be disciplined for immoral conduct, unprofessional conduct, or conduct involving moral turpitude "unless that conduct indicates that the [educator] is unfit to teach." (*Id.* at p. 229.) The Court

outlined factors to consider when determining whether an educator's conduct demonstrates unfitness to teach, which have been codified in California Code of Regulations, title 5, section 80302, subdivision (a). The criteria are as follows: (1) the likelihood of adverse effects on students, fellow teachers, or the educational community; (2) the proximity or remoteness in time of the misconduct; (3) the type of credential held by respondent; (4) extenuating or aggravating circumstances; (5) praiseworthiness or blameworthiness of motives; (6) likelihood of recurrence; (7) the extent to which disciplinary action may chill or have an adverse impact upon the exercise of constitutional rights among teachers or other persons involved; (8) publicity or notoriety of respondent's misconduct.

13. The *Morrison* factors are considered, as follows. There is no evidence that respondent's past misconduct had or is likely to have an adverse effect on students or others in the educational community. Respondent's misconduct is more proximate than remote in time. Respondent's single subject teaching credential puts him near impressionable students, who would be vulnerable if he were to engage in further misconduct or have an alcohol relapse. Aggravating circumstances exist to the extent respondent engaged in multiple acts of wrongdoing resulting in two misdemeanor convictions, and demonstrated indifference to the consequences of his conduct by driving and handling a firearm while intoxicated. Respondent's separate acts of misconduct are blameworthy in that they followed from his choices on separate occasions to drive on a public road and handle a firearm after drinking excessive amounts of alcohol. Respondent is unlikely to engage in similar misconduct again, so long as he remains sober. Disciplinary action in this matter will not have an adverse impact upon anyone's exercise of constitutional rights. There is no evidence of publicity or notoriety of respondent's misconduct.

14. On balance, application of the *Morrison* factors demonstrates a nexus between respondent's misconduct and his fitness to teach. However, they do not indicate respondent is unfit to maintain his credentials and continue teaching, provided he remains sober and free of alcohol or other intoxicating substances.

Disposition

15. Licensing disciplinary matters like this are not designed to punish an individual. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 165.) Rather, a licensing agency should be primarily concerned with protecting the public. (*Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.) In this matter, public protection will be achieved by imposing a three-year term of probation that will allow the Commission to monitor respondent's conduct and to ensure respondent maintains his sobriety.

ORDER

The Preliminary Five-Year Single Subject Teaching Credential and the Certificate of Clearance issued to respondent Christopher Thomas Singer are revoked. However, the revocation is stayed, and respondent is placed on probation for three years from the effective date of this decision and order on the following terms and conditions.

SEVERABILITY CLAUSE: Each condition of probation contained herein is a separate and distinct condition. If any condition of probation is declared unenforceable in whole, in part, or to any extent, the remaining conditions of probation, and each of them, shall not be affected. Each condition of probation shall separately be valid and enforceable to the fullest extent permitted by law.

1. NEW CREDENTIALS SUBJECT TO ORDER: Any new credential issued by the Commission to respondent during the period of probation shall be subject to the same terms and conditions of probation, as set forth herein.

2. OBEY ALL LAWS: Respondent shall obey all federal, state, and local laws and regulations, including, but not limited to, the statutes and regulations of the Commission.

Except for minor traffic infractions, within 72 hours of any incident resulting in respondent's arrest, the filing of any criminal charges, or citation issued, respondent shall submit a full and detailed description of the incident to the Commission. For purposes of this condition, a "minor traffic infraction" includes only traffic violations which are punishable by a maximum of \$400, and do not subject the offender to incarceration or probation.

3. COMPLIANCE WITH PROBATION: Respondent shall fully comply with the terms and conditions of this order and cooperate with representatives of the Commission in its monitoring and investigation of his compliance. Any credentials issued to respondent during the period of probation shall be subject to the conditions contained herein.

4. COOPERATION WITH COMMISSION: During the period of probation, respondent shall be available for interviews with the Commission in person or by telephone upon reasonable notice.

5. MAINTAIN CURRENT CONTACT INFORMATION: Within seven days of the effective date of this decision and order, respondent shall notify the Commission of his current mailing address and phone number where voicemail messages may be left.

Respondent will notify the Commission in writing of any change of mailing address or residence within 10 days of such change.

6. NOTIFICATION OF EMPLOYER: Within five days of the effective date of this decision and order, respondent shall provide a true and correct copy of this decision, together with a true and correct copy of the Accusation in this matter, to respondent's employer, if any, and to respondent's immediate supervisor at that employer. Within five days of complying with this notification requirement, respondent shall submit proof of compliance to the Commission.

If respondent changes employment at any time during probation, respondent shall again comply with this notification requirement within seven days of accepting new employment and shall again submit proof of compliance to the Commission within five days of complying with this notification requirement.

7. ABSTAIN FROM DRUGS AND ALCOHOL: Respondent shall completely abstain from the possession or use of alcohol, controlled substances, illicit drugs, or associated paraphernalia, except when possessed or used pursuant to a legitimate prescription. Any possession or use of alcohol, controlled substances, illicit drugs, or associated paraphernalia for which a legitimate prescription has not been issued, shall be considered a violation of probation.

8. DRUG AND ALCOHOL TESTING: Respondent, at his expense, shall participate in a random, biological fluid testing or a drug screening program, approved by the Commission, for the detection of banned substances, including alcohol, controlled substances, and dangerous drugs. The length of time and frequency will be subject to approval by the Commission. Respondent is responsible for keeping the Commission informed of his current telephone number at all times. Respondent shall

also ensure that messages may be left at the telephone number when he is not available and ensure that reports are submitted directly by the testing agency to the Commission, as directed. Any confirmed positive finding shall be reported immediately to the Commission by the program and shall be considered a violation of probation.

By no later than 30 days after the effective date of this decision and order, respondent shall have completed all the following tasks: enrolled and registered with an approved drug and alcohol testing vendor; provided that vendor with any documentation, and any information necessary for payment by respondent; commenced testing protocols, including all required contacts with the testing vendor to determine testing dates; and begun testing. At all times, respondent shall fully cooperate with the testing vendor, and the Commission or its designee, with regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to cooperate shall be considered a violation of probation.

Prior to any vacation or other period of absence from the area where the approved testing vendor provides services, respondent shall seek and receive approval from the Commission or its designee to use an alternate testing vendor to ensure testing can occur. Upon approval, respondent shall enroll and register with the approved alternate drug testing vendor, provide to that alternate vendor any documentation required by the vendor, including any necessary payment by respondent. During the period of absence from the area, respondent shall commence testing protocols with the alternate vendor, including required daily contacts with the testing vendor to determine whether testing is required, and required testing. Any failure to timely seek or receive approval from the Commission or its designee, or to timely enroll and register with, timely commence testing protocols with, or timely

undergo testing with, the alternate testing vendor, shall be considered a violation of probation.

9. THERAPY OR COUNSELING: Commencing no later than 30 days after the effective date of this decision and order, respondent shall at his expense, participate in therapy or counseling with a licensed psychologist or therapist competent to treat alcohol and substance use disorders, at intervals recommended by the psychologist or therapist, until such time as the Commission releases him from this requirement, and only upon recommendation of the treating psychologist or therapist.

10. ATTENDANCE AND PARTICIPATION IN GROUP SUPPORT MEETINGS: commencing no later than 30 days after the effective date of this decision and order, respondent shall begin attendance at an addictive behavior support group (e.g., Alcoholics Anonymous, or other similar support group). Respondent shall attend at least one meeting of the support group per week for the duration of probation. Verified documentation of attendance shall be submitted by respondent every three months or at intervals required by the Commission.

11. VIOLATION OF PROBATION: The Commission shall retain jurisdiction over respondent during the period of probation. If respondent violates any term or condition of this order, after giving him written notice and an opportunity to be heard on the issue of any violation of probation, the Commission may set aside the stay order and impose the revocation of respondent's credentials. If an accusation or petition to revoke probation is filed against respondent during probation, the probation period shall automatically be extended until a final decision is made on the accusation or petition.

12. COMPLETION OF PROBATION: Upon successful completion of the terms of this probation, respondent's credentials shall be fully restored.

DATE: November 30, 2023

Timothy Aspinwall

TIMOTHY J. ASPINWALL

Administrative Law Judge

Office of Administrative Hearings