

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DR. ERIC J. SMITH, AS)
COMMISSIONER OF EDUCATION,)
)
Petitioner,)
)
vs.) Case No. 09-0500PL
)
BATUMANE SHAD BANTOU)
KASANGANAY,)
)
Respondent.)
_____)

RECOMMENDED ORDER

Pursuant to notice a formal hearing was held by video teleconference on April 13, 2009, before J. D. Parrish, a designated Administrative Law Judge of the Division of Administrative Hearings with the parties appearing in Tallahassee, Florida, and West Palm Beach, Florida.

APPEARANCES

For Petitioner: Charles T. Whitelock, Esquire
Whitelock and Associates, P.A.
300 Southeast Thirteenth Street
Fort Lauderdale, Florida 33316

For Respondent: Joan Stewart, Esquire
Florida Education Association
300 East Park Avenue
Tallahassee, Florida 32301

STATEMENT OF THE ISSUE

The issue in this case is whether Respondent, Batumane Shad Banto Kasanganay (Respondent), committed the offenses alleged in

an Administrative Complaint issued June 24, 2008, and, if so, the penalty that should be imposed.

PRELIMINARY STATEMENT

On June 24, 2008, Dr. Eric J. Smith, as Commissioner of Education for the State of Florida (Petitioner), issued an Administrative Complaint against Respondent that alleged multiple counts of statutory and rule violations. All of the factual allegations related to a class conducted by Respondent that prepared persons to take the math portion of the General Knowledge teacher certification exam. More specifically, the complaint maintained that Respondent had engaged in conduct that compromised the integrity of the testing protocols used to certify teachers in Florida. Based upon Respondent's course of conduct, Petitioner alleged that the Education Practices Commission should take disciplinary measures against Respondent's teaching certificate. Through his attorney, Respondent disputed all allegations of the complaint and requested a formal hearing. The case was forwarded to the Division of Administrative Hearings for formal proceedings on January 29, 2009.

A Notice of Hearing was issued on February 10, 2009, and the case was scheduled for hearing. At the hearing, Petitioner presented testimony from Jennifer Tomko, Judy Warren, Dr. Michael Jones, and Renee Luallen. Petitioner's Exhibits 1-5,

together with the deposition testimony of Respondent were admitted into evidence. Respondent testified in his own behalf. The Transcript of the proceeding was filed with the Division of Administrative Hearings on April 24, 2009.

In accordance with the stipulation of the parties, the parties were granted fifteen days from the date of the filing of the transcript within which to file their proposed recommended orders. The parties timely filed Proposed Recommended Orders on May 11, 2009. The proposed orders have been fully considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. Petitioner, as the Commissioner of the Florida Department of Education, is responsible to investigate and prosecute complaints against persons who hold a Florida Educational Certificate who are alleged to have violated the provisions of law related to the education profession in the State of Florida. See §§ 1012.79 and 1012.795, Fla. Stat. (2008).

2. At all times material to the allegations of this case, Respondent has held Florida Educator's Certificate No. 752042, covering mathematics, that is valid through June 30, 2010.

3. From 1998 through the 2007 school year, Respondent was employed by the Palm Beach County School District as a math teacher at Bak Middle School (Bak). During his tenure at Bak,

Respondent's students performed well on the Florida Comprehensive Assessment Test (FCAT) and the school became favorably ranked for its math achievement. Additionally, Respondent's students improved FCAT scores in mathematics over the course of his time with them. Prior to working with the students at Bak, Respondent worked in Okeechobee, Florida, and was teacher of the year one of the two years he taught at the Eckerd Learning Center, a school for juvenile offenders.

4. Prior to the conduct complained of in this case, Respondent had no prior disciplinary concerns.

5. Respondent had received satisfactory evaluations every year.

6. Respondent, or "Mr. Kas" as he is also referred to in the record, came to the United States from central Africa. He spoke no English on his arrival but had received a degree in mathematics and physics from the Institute Alingea Studies. After moving to North Carolina, Respondent received a degree from Western Carolina University in Cullowhee, North Carolina, and became a United States citizen. Respondent travels under a U. S. passport and, at the time of the hearing in this cause, resides in Palmerston North, New Zealand.

7. Respondent created a corporation named Mr. Kas, Inc., and opened "Mr. Kas Learning Center" in 2000 in order to better assist students with math anxiety to learn and improve

mathematics skills. The learning center was a private business not affiliated with the Palm Beach County Schools where Respondent taught or tutored students from elementary school age through doctoral candidates to improve their math skills and to perform favorably on examinations. Respondent operated this "for profit" entity and received payment from those who participated in the after school program.

8. The record is not clear as to whether Mr. Kas, Inc., was formally "doing business as" the "Mr. Kas Learning Center," but it is definite that only Respondent individually committed the acts complained of in the instant case. That is to say, all comments that were alleged to have been uttered were made by Respondent. No other individuals who may have attended or been associated with Mr. Kas, Inc., or the "Mr. Kas Learning Center" were involved. The alleged offending behavior was attributed solely to Respondent.

9. None of the alleged behavior occurred during Respondent's work day at Bak.

10. Respondent was a member of the Palm Beach County Classroom Teachers Association (CTA). It was customary for the CTA to provide workshops for its members and on several occasions Respondent was asked to conduct workshops. Additionally, Respondent assisted new teachers, members of the CTA, to pass the state certification examination. Respondent

tutored/taught CTA members for compensation to pass the General Knowledge math portion of the certification examination. These sessions were generally group endeavors and Respondent was compensated based upon the number of persons in attendance.

11. In addition to the foregoing, Respondent also worked with firefighters, police, nurses, and others who were required to pass a math competency section as part of their professional testing.

12. Monday through Friday Respondent opened his learning center in the afternoon after school for school children. During this time he worked with students to complete their homework, prepare for tests, and study for exams.

13. On Saturdays Respondent used the learning center to conduct group sessions to work with adults and professionals.

14. The Department of Education publishes a preparation guide to address the General Knowledge test that must be passed for teacher certification in Florida. Respondent purchased the guide and used it and other questions he collected to develop a learning tool for persons who would take the Florida Teachers Certificate Examination and use his learning center for help to pass the math portion of the exam.

15. Jennifer Tomko was a first year middle school teacher in Palm Beach County, Florida, during the 2006/2007 school year. Ms. Tomko applied for her teaching certificate with the

Department of Education and was required to pass the General Knowledge examination, including the math section. On two occasions Ms. Tomko did not pass the math section.

16. On her third attempt to pass, Ms. Tomko became distraught as she believed she had again failed to achieve a passing score on the math test. A test proctor observed Ms. Tomko's demeanor and suggested that she consider attending one of Respondent's tutor sessions at his learning center.

17. Ms. Tomko had a "mentor teacher" at her school who had been tutoring her for several months. The mentor, Judith Warren, encouraged Ms. Tomko to attend Respondent's session. To that end, Ms. Tomko signed up for Respondent's Saturday math help session.

18. When Ms. Tomko met Respondent and told him of her prior failed attempts to pass the math section of the exam, he assured her that with his help, she would pass the test. He remarked that it was her "lucky day." As part of his guarantee that she would pass the math section, Respondent provided Ms. Tomko with key phrases of the actual test questions along with the correct answer for the question. Respondent instructed Ms. Tomko to make flash cards to include the key phrase of the questions and to look for the answers he provided. Since Ms. Tomko did not have index cards with her, she used sheets of paper to make columns. The columns had the "key phrase" and the

"answers" provided by Respondent. When Ms. Tomko got home, she copied the columns of information onto cards. The front of the card with the "key phrase" as provided by Respondent, the reverse of the card held the "answer."

19. Respondent also gave Ms. Tomko a handout that included information regarding computing the distance between two cities. The information denoted in Respondent's handout contained real questions from the Florida teacher examination. These "live" questions were verbatim from the test and were sufficient to demonstrate Respondent had "collected" real information from the teacher examination in order to prompt his students with the correct answers.

20. In fact, Respondent told Ms. Tomko to call him immediately after the test to let him know of any difficult questions. Respondent represented that with information regarding difficult questions, he could better assist future applicants taking the exam. Presumably, this is how Respondent was able to assemble the information he provided to Ms. Tomko and to assure her that she would pass the math examination. Obviously, by collecting real questions from test participants Respondent would be able provide answers that would allow success on the exam.

21. According to Ms. Tomko during the tutoring session she attended, Respondent did not teach math strategies or formulas

for completing the math section of the examination. Instead, Respondent offered questions (identified by the key phrases) and answers that the participants were to memorize. For example, if the question included something about a "toy in box" the answer was "13 feet." Actual examples of the test questions (or key phrases) along with the answers provided by Respondent are omitted here as they are confidential as a matter of law. See § 1008.23, Fla. Stat. (2008). Nevertheless, the key phrases and answers provided by Respondent were, in fact, actual questions from the math section of the examination.

22. Respondent did not consider his assistance "cheating." Ms. Tomko, however, felt uncomfortable about memorizing the answers based upon the key phrases.

23. According to Ms. Tomko, whose testimony has been deemed credible, Respondent instructed her to take the computer and not the written version of the test. Respondent told Ms. Tomko to memorize the card information previously described and to not finish too quickly in order to avoid suspicion.

24. Ms. Tomko felt Respondent's words and behavior were contrary to her moral code and violated her responsibility as an educator to be a role model for students. Because she was offended, the evening after the Saturday tutor session with Respondent, Ms. Tomko contacted her mentor who then encouraged her to take the matter to their principal. The principal

reported the case to the Department of Education and the instant administrative action ensued.

25. The flash cards produced by Ms. Tomko contained real, "live" questions from the Florida Educational Certificate examination. All of the flash cards were constructed using the information from Respondent.

26. DOE is charged with the responsibility of maintaining the examination questions and answers in a secure manner. The questions and answers are confidential and are not to be made public. The development of the examination questions cost over \$300,000 and involved the efforts of DOE staff as well as private contractors who assist in the preparation of test questions. The examination is maintained in a locked vault with limited access to even DOE employees. Although test questions may be circulated indefinitely, different versions of the examination with different questions included are developed so that the same exact version is not repeatedly given. Nevertheless, by circulating the "key phrase" of a question with its answer, it would be possible for someone to circumvent the version differences among the exams since the questions themselves would remain the same.

27. Once the instant case was referred to the DOE, Respondent became aware that he was under investigation. Respondent resigned his position with the Palm Beach County

School District at the end of the 2006/2007 school year. Respondent's learning center was also closed near that time. Subsequently, Respondent left the country and currently resides in New Zealand.

28. Respondent's claims regarding the closure of his learning center, the loss of records pertaining to the tutoring efforts made on behalf of CTA members, and other conflicting stories pertinent to this case result in the inescapable conclusion that Respondent was not forthright regarding his learning center and the materials and information he personally supplied to persons taking the teacher certification examination.

29. In this case Respondent was charged with the following statutory violations:

COUNT 1: Respondent is in violation of Section 1008.24(1), Florida Statutes, in that Respondent knowingly and willfully violated test security rules adopted by the State Board of Education for mandatory tests administered by or through the State Board of Education or Commissioner of Education to students, educators, or applicants for certification or administered by school districts pursuant to s. 1008.22.

COUNT 2: Respondent is in violation of Section 1008.24(1)(a), Florida Statutes, in that Respondent gave examinees access to test questions prior to testing.

COUNT 3: Respondent is in violation of Section 1008.24(1)(b), Florida Statutes, in that Respondent copied, reproduced, or used

in any manner inconsistent with test security rules all or any portion of any secure test booklet.

COUNT 4: Respondent is in violation of Section 1008.24(1)(d), Florida Statutes, in that Respondent made answer keys available to examinees.

COUNT 5: Respondent is in violation of Section 1008.24(1)(g), Florida Statutes, in that Respondent participated in, directed, aided, counseled, assisted in, or encouraged any of the acts prohibited in this section.

COUNT 6: Respondent is in violation of Section 1012.795(1)(c), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude.

COUNT 7: Respondent is in violation of Section 1012.795(1)(i), Florida Statutes, in that Respondent has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

30. Additionally, Respondent was charged with the following rule violations:

COUNT 8: The allegations of misconduct set forth herein are in violation of Rule 6A-10.042(1)(b), Florida Administrative Code, in that Respondent revealed, copied or otherwise reproduced tests or individual test questions.

COUNT 9: The allegations of misconduct set forth herein are in violation of Rule 6A-10.042(1)(e), Florida Administrative Code, in that Respondent provided answer keys to examinees.

COUNT 10: The allegations of misconduct set forth herein are in violation of Rule 6A-

10.042(1)(f), Florida Administrative Code, in that Respondent has participated in, directed, aided, counseled, assisted in, or encouraged an activity which could result in the inaccurate measurement or reporting of examinees' achievement.

CONCLUSIONS OF LAW

31. The Division of Administrative Hearings has jurisdiction over the parties to, and the subject matter of, these proceedings. §§ 120.57(1), 1012.796(6), and 1012.796(7), Fla. Stat. (2008).

32. Section 1012.796(6), Florida Statutes (2008), provides:

(6) Upon the finding of probable cause, the commissioner shall file a formal complaint and prosecute the complaint pursuant to the provisions of chapter 120. An administrative law judge shall be assigned by the Division of Administrative Hearings of the Department of Management Services to hear the complaint if there are disputed issues of material fact. The administrative law judge shall make recommendations in accordance with the provisions of subsection (7) to the appropriate Education Practices Commission panel which shall conduct a formal review of such recommendations and other pertinent information and issue a final order. The commission shall consult with its legal counsel prior to issuance of a final order.

33. Section 1012.796(7), Florida Statutes (2008), provides:

(7) A panel of the commission shall enter a final order either dismissing the complaint

or imposing one or more of the following penalties:

(a) Denial of an application for a teaching certificate or for an administrative or supervisory endorsement on a teaching certificate. The denial may provide that the applicant may not reapply for certification, and that the department may refuse to consider that applicant's application, for a specified period of time or permanently.

(b) Revocation or suspension of a certificate.

(c) Imposition of an administrative fine not to exceed \$2,000 for each count or separate offense.

(d) Placement of the teacher, administrator, or supervisor on probation for a period of time and subject to such conditions as the commission may specify, including requiring the certified teacher, administrator, or supervisor to complete additional appropriate college courses or work with another certified educator, with the administrative costs of monitoring the probation assessed to the educator placed on probation. An educator who has been placed on probation shall, at a minimum:

1. Immediately notify the investigative office in the Department of Education upon employment or termination of employment in the state in any public or private position requiring a Florida educator's certificate.

2. Have his or her immediate supervisor submit annual performance reports to the investigative office in the Department of Education.

3. Pay to the commission within the first 6 months of each probation year the

administrative costs of monitoring probation assessed to the educator.

4. Violate no law and shall fully comply with all district school board policies, school rules, and State Board of Education rules.

5. Satisfactorily perform his or her assigned duties in a competent, professional manner.

6. Bear all costs of complying with the terms of a final order entered by the commission.

(e) Restriction of the authorized scope of practice of the teacher, administrator, or supervisor.

(f) Reprimand of the teacher, administrator, or supervisor in writing, with a copy to be placed in the certification file of such person.

(g) Imposition of an administrative sanction, upon a person whose teaching certificate has expired, for an act or acts committed while that person possessed a teaching certificate or an expired certificate subject to late renewal, which sanction bars that person from applying for a new certificate for a period of 10 years or less, or permanently.

(h) Refer the teacher, administrator, or supervisor to the recovery network program provided in s. 1012.798 under such terms and conditions as the commission may specify.

34. Section 1012.795, Florida Statutes (2006), provides in pertinent part:

(1) The Education Practices Commission may suspend the educator certificate of any person as defined in s. 1012.01(2) or (3)

for a period of time not to exceed 5 years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the holder may return to teaching as provided in subsection (4); may revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for a period of time not to exceed 10 years, with reinstatement subject to the provisions of subsection (4); may revoke permanently the educator certificate of any person thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; may suspend the educator certificate, upon order of the court, of any person found to have a delinquent child support obligation; or may impose any other penalty provided by law, provided it can be shown that the person:

- (a) Obtained or attempted to obtain an educator certificate by fraudulent means.
- (b) Has proved to be incompetent to teach or to perform duties as an employee of the public school system or to teach in or to operate a private school.
- (c) Has been guilty of gross immorality or an act involving moral turpitude.
- (d) Has had an educator certificate sanctioned by revocation, suspension, or surrender in another state.
- (e) Has been convicted of a misdemeanor, felony, or any other criminal charge, other than a minor traffic violation.

(f) Upon investigation, has been found guilty of personal conduct which seriously reduces that person's effectiveness as an employee of the district school board.

(g) Has breached a contract, as provided in s. 1012.33(2).

(h) Has been the subject of a court order directing the Education Practices Commission to suspend the certificate as a result of a delinquent child support obligation.

(i) Has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

(j) Has otherwise violated the provisions of law, the penalty for which is the revocation of the educator certificate.

(k) Has violated any order of the Education Practices Commission.

(l) Has been the subject of a court order or plea agreement in any jurisdiction which requires the certificateholder to surrender or otherwise relinquish his or her educator's certificate. A surrender or relinquishment shall be for permanent revocation of the certificate. A person may not surrender or otherwise relinquish his or her certificate prior to a finding of probable cause by the commissioner as provided in s. 1012.796.

35. A teacher may be disciplined if he or she "[h]as violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules." The Principles of Professional Conduct for the Education Profession in Florida are set out in Florida

Administrative Code Chapter 6B-1.006. That rule provides, in part:

(1) The following disciplinary rule shall constitute the Principles of Professional Conduct for the Education Profession in Florida.

(2) Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator's certificate, or the other penalties as provided by law.

* * *

(5) Obligation to the profession of education requires that the individual:

(a) Shall maintain honesty in all professional dealings.

36. Section 1008.24, Florida Statutes (2006), provides in

part:

(1) It is unlawful for anyone knowingly and willfully to violate test security rules adopted by the State Board of Education for mandatory tests administered by or through the State Board of Education or the Commissioner of Education to students, educators, or applicants for certification or administered by school districts pursuant to s. 1008.22, or, with respect to any such test, knowingly and willfully to:

(a) Give examinees access to test questions prior to testing;

(b) Copy, reproduce, or use in any manner inconsistent with test security rules all or any portion of any secure test booklet;

* * *

(d) Make answer keys available to examinees;

* * *

(g) Participate in, direct, aid, counsel, assist in, or encourage any of the acts prohibited in this section.

(2) Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A district school superintendent, a president of a public postsecondary educational institution, or a president of a nonpublic postsecondary educational institution shall cooperate with the Commissioner of Education in any investigation concerning the administration of a test administered pursuant to state statute or rule.

37. Section 1008.22, Florida Statutes (2006), pertains to the student assessment program for public schools commonly known as FCAT. The allegations of this case do not relate to that testing protocol. The allegations against this Respondent stem solely from providing persons inappropriate assistance in order to score well on the teacher certification examination administered by the state pursuant to Section 1012.056, Florida Statutes (2006).

38. In that regard, Florida Administrative Code Rule 6A-10.042 provides, in pertinent part:

(1) Tests implemented in accordance with the requirements of Sections 1004.93, 1008.22, 1008.29, 1008.30, 1012.55, and 1012.56, Florida Statutes, shall be maintained and administered in a secure manner such that the integrity of the tests shall be preserved.

(a) Test questions shall be preserved in a secure manner by individuals who are developing and validating the tests. Such individuals shall not reveal in any manner, verbally or in writing, the test questions under development.

(b) Tests or individual test questions shall not be revealed, copied, or otherwise reproduced by persons who are involved in the administration, proctoring, or scoring of any test.

(c) Examinees shall not be assisted in answering test questions by any means by persons administering or proctoring the administration of any test.

(d) Examinees' answers to questions shall not be interfered with in any way by persons administering, proctoring, or scoring the examinations.

(e) Examinees shall not be given answer keys by any person.

(f) Persons who are involved in administering or proctoring the tests or persons who teach or otherwise prepare examinees for the tests shall not participate in, direct, aid, counsel, assist in, or encourage any activity which could result in the inaccurate measurement or reporting of the examinees' achievement.

* * *

(4) Violations of test security provisions shall be subject to penalties provided in statute and State Board Rules.
(Emphasis Added.)

39. In this matter, Petitioner bears the burden of proof to establish that Respondent engaged in the conduct complained of by the Administrative Complaint. To that end, Petitioner

must establish by clear and convincing evidence the allegations against Respondent. See Department of Banking and Finance, Division of Securities and Investor Protection v. Osborne Stern and Company, 670 So. 2d 932 (Fla. 1996); and Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

40. Clear and convincing evidence "requires more proof than a 'preponderance of the evidence' but less than 'beyond and to the exclusion of a reasonable doubt.'" In re Graziano, 696 So. 2d 744, 753 (Fla. 1997). Evidence that is credible, denoted by precise facts and information that a witness distinctly remembers is sufficient to support the burden of clear and convincing evidence. See In re Davey, 645 So. 2d 398 (Fla. 1994) and Slomowitz v. Walker, 429 So. 2d 797 (Fla. 4th DCA 1983). In this matter it is concluded that Ms. Tomko reported clearly, precisely, and without hesitancy, the facts and circumstances of the tutoring session conducted by Respondent. Ms. Tomko was not confused in any manner, was concise in her recollection of the events, and fully disclosed the information that offended her in a timely manner to persons at her place of employment. In contrast, Respondent's version of the incidents and circumstances did not report information in a credible or concise manner. Moreover, Respondent's demeanor, confusion, and lack of candid response to questions posed to him in this cause suggest either his memory of the events is flawed or erroneous.

Additionally, Respondent's lack of candor has been deemed an indication of his knowing and willful participation in the activities complained of in this matter. Deceptions support the notion that the person was aware of the wrong being perpetrated.

41. As to the specific allegations of this case, it is concluded that Respondent gave Ms. Tomko access to test questions from the teacher certification examination in violation of Section 1008.24(1)(a), Florida Statutes (2008). It is further concluded that Respondent orchestrated a system whereby he could receive additional "live" questions from the examination by having educators taking the test report to him the questions that posed difficulty in violation of Florida Administrative Code Rule 6A-10.042(1)(b). It is concluded that by providing the "key phrase" of the questions with the correct answers, Respondent sought to encourage an activity that could result in the inaccurate measurement or reporting of examinees' achievement in violation of Section 1008.24(1)(g), Florida Statutes, and Florida Administrative Code Rules 6A-10.042(1)(e) and 6A-10.042(1)(f). Finally, by engaging in the conduct described Respondent failed to maintain honesty in all of his professional dealings in violation of the Principles of Professional Conduct for the Education Profession in Florida. Accordingly, it is concluded that violated Section 1012.795(1)(i), Florida Statutes (2006).

42. Respondent's argument that he did not engage in any conduct on school time, on school property, or with school equipment or students belies the plain and unambiguous meaning and language of the statutes and rules applicable to this proceeding. Respondent, as a Florida educator, is held to a high standard of conduct whether that conduct is in the classroom or in the community. Under Florida law the activities complained of constitute a misdemeanor of the first degree, punishable as provided by law. By virtue of a teacher's special role in mentoring and instructing students, teachers are held to a high moral standard. See Adams v. Professional Practices Council, 406 So. 2d 1170 (Fla. 1st DCA 1981). In this regard, it is reasonably expected that teachers demonstrate honesty in all professional dealings and not violate testing security protocols or assist others to do so in violation of law. In addition to the statutory and rule provisions previously cited within the formal charges against Respondent, Respondent abandoned a simple moral rule he would be expected to instill in his students: not to cheat or help others to do so. Accordingly, Petitioner has established by clear and convincing evidence that Respondent's teaching certificate should be disciplined for his conduct in this cause.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that Petitioner and the Education Practices Commission enter a Final Order that suspends Respondent's teaching certificate for a period not to exceed one year, imposes an administrative fine in an amount not less than \$2,000.00, and requires Respondent to take remedial instruction regarding the ethics applicable to educators in the State of Florida at his own expense before his certification can be reinstated.

DONE AND ENTERED this 19th day of June, 2009, in Tallahassee, Leon County, Florida.



J. D. PARRISH
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 19th day of June, 2009.

COPIES FURNISHED:

Kathleen M. Richards, Executive Director
Education Practices Commission
Department of Education
325 West Gaines Street, Room 224
Tallahassee, Florida 32399-0400

Deborah K. Kearney, General Counsel
Department of Education
Turlington Building, Suite 1244
325 West Gaines Street
Tallahassee, Florida 32399-0400

Marian Lambeth, Bureau Chief
Bureau of Professional Practices
Services
Department of Education
Turlington Building, Suite 224-E
325 West Gaines Street
Tallahassee, Florida 32399-0400

Joan Stewart, Esquire
Florida Education Association
300 East Park Avenue
Tallahassee, Florida 32301

Charles T. Whitelock, Esquire
Whitelock & Associates, P.A.
300 Southeast 13th Street
Fort Lauderdale, Florida 33316

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.