

**BEFORE THE KANSAS STATE BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the Professional License
of Amanda Berens

15-PPC-39
OAH No. 16 ED0008

FINAL ORDER

NOW, on this 18th day of May, 2016, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board). Appearing for the Board are Chairman, Jim McNiece, and members, John Bacon, Kathy Busch, Carolyn Wims-Campbell, Sally Cauble, Deena Horst, Jim Porter, Steve Roberts, Janet Waugh, and Ken Willard.

WHEREUPON an evidentiary hearing was held before the Professional Practices Commission (Commission) on March 29, 2016. Amanda Berens appeared in person. The Kansas State Department of Education (KSDE) appeared by and through its attorney, Kelli M. Broers. After hearing the evidence, the Commission voted 7 – 0 to recommend that Ms. Berens' application to renew her teaching license be denied.

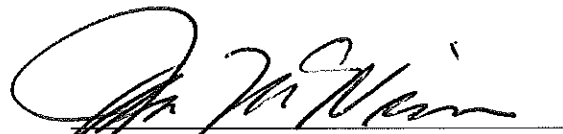
WHEREUPON the Board reviewed the Initial Order of the Commission and after considering the presentation by Linda Sieck, Chairman of the Commission, who was available to answer the Board's questions and being otherwise duly advised in the premises, the Board adopted the Commission's findings of fact and 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 Ms. Berens' application to renew her license is denied.

This Final Order is made and entered this 18th day of May, 2016.

Kansas State Board of Education


BY: Jim McNiece, Chairman
Signed June 14, 2016

NOTICE TO LICENSEE

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, 2016, a true and correct copy of the above and foregoing was filed with the Secretary for the Kansas State Board of Education and one (1) copy was mailed by certified mail, return receipt requested, to:

Amanda Berens
2614 SE Indiana
Topeka, Kansas 66605

And via interoffice mail to:

Kelli Broers
Assistant General Counsel
900 SW Jackson Street, Ste. 102
Topeka, Kansas 66612



Peggy Hill, Secretary
Kansas State Board of Education

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION

In the Matter of
the Professional License
of Amanda Berens

Case No. 15-PPC-39

OAH No. 16ED0008

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 application of Amanda Berens for renewal of her professional teaching license.

The hearing was held on March 29, 2016. Appearing for the Commission were chairperson, Linda Sieck, and members, Dorsey Burgess, Bradley Nicks, Jessica Snyder, Justin Henry, John McKinney, and Ginger Riddle.

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

Findings of Fact

1. Ms. Berens has been licensed as a teacher in Kansas since 2007.
2. Prior to her current employment with USD 450, she was employed with USD 501.
3. On November 18, 2012, Ms. Berens was hired as a seasonal team member at Target in Topeka, Kansas.
4. Beginning on November 24, 2012, Ms. Berens began stealing cash out of her register drawer. On November 24, 2012, she stole \$742.00. On the following dates,

she stole the following amounts: November 25, 2012 - \$673.00; December 1, 2012 - \$281.00; December 5, 2012 - \$1,364.00; December 7, 2012 - \$863.00; December 8, 2012 - \$286.00; December 11, 2012 - \$768.00; and December 15, 2012 - \$1,360.00. Ms. Berens' thefts were caught on video recording and live CCTV surveillance.

5. On December 18, 2012, the senior investigator for Target conducted an interview with Ms. Berens. During the interview, she admitted to stealing \$6,000.00 in cash from November 25, 2012 through December 15, 2012. Ms. Berens read and willingly signed an Admission Statement. Thereafter, the Topeka Police Department was contacted. The police officer obtained information from Ms. Berens and escorted her to her locker, where she returned \$1,400.00 of the admitted \$6,000.00 to the investigator. The amount verified by Target that Ms. Berens stole was \$6,337.00.

6. On December 28, 2012, Ms. Berens was charged in the District Court of Shawnee County, Kansas, Case No. 12-CR-2702 with Theft by Deception in violation of K.S.A. 21-5801, a Level 9 Nonperson Felony, for theft of money at Target. That charge was later amended to three counts of Computer Crime: Computer Trespass in violation of K.S.A. 21-5839(a)(5), a Class A Nonperson Misdemeanor.

7. On August 1, 2013, Ms. Berens entered into a diversion agreement wherein she accepted responsibility for the commission of the crimes of Computer Crime: Computer Trespass (3 counts) on, about or between November 24, 2012 and December 15, 2012. Additionally, she agreed to pay Target \$4,937.00 in restitution. Ms. Berens' diversion is scheduled for 36 months and will terminate on August 1, 2016, if she meets all the terms of the agreement.

8. On March 25, 2015, Ms. Berens submitted her application to renew her license in which she disclosed that she had entered into a diversion agreement after being charged with a felony or any crime involving theft, drugs, or a child. She, however, failed to provide any supporting documents.

9. On September 15, 2015, the KSDE filed its complaint against Ms. Berens seeking denial of her application based on the above-referenced criminal conduct.

10. On October 6, 2015, Ms. Berens filed her request for hearing on the complaint.

Conclusions of Law
and
Discussion

1. 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)."

2. 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: 1) "conviction of any misdemeanor involving theft;" 2) "entry into a criminal diversion agreement after being charged with any offense or act described in this section [in this case, theft];" and 3) "obtaining, or attempting to obtain, a license by fraudulent means or through misrepresentation of material facts."

3. 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).

4. K.A.R. 91-22-1a(g)(1) provides factors relevant to a determination as to rehabilitation. (*See also* K.S.A. 72-1397(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.

5. Ms. Berens was approximately 32 years old at the time of the offense.

6. Ms. Berens was a licensed professional and, at the time, was employed as a teacher for USD 501.

7. While Ms. Berens claims that the acts were not premeditated, within days of being hired, she repeatedly stole large sums of money from the registers during her shifts.

8. Ms. Berens claimed that she stole the money due to the fact that her husband was out of work and they needed money for bills. However, the amount she stole appeared to far exceed the amount she testified was needed for their past due bills.

9. Ms. Berens failed to offer any evidence of rehabilitation since the time of the offense.

10. Ms. Berens testified that she recognizes the wrongfulness of her conduct and expressed remorse. However, the Commission is also not convinced Ms. Berens would not engage in similar conduct.

11. Educators are expected to be role models for the students. The Commission finds that Ms. Berens' actions in this matter call in to question her character and fitness to be in a position of public trust as a licensed teacher.

On a vote of 7-0, the Commission finds that there is sufficient and just cause to deny Ms. Berens' application to renew her professional teaching license.


IT IS THEREFORE RECOMMENDED by the Professional Practices Commission to the Kansas State Board of Education that the application of Amanda Berens be denied.

This Initial Order of the Professional Practices Commission is not a Final Order and is required to be reviewed by the Kansas State Board of Education in accordance with the provisions of the Kansas Administrative Procedure Act.

The applicant may submit to the Kansas State Board of Education for its consideration as a part of its review of the Initial Order, a written brief citing legal authority as to why the above recommendation should not be accepted. The legal brief

must be filed with the Secretary of the Professional Practices Commission, Kansas State Department of Education, 900 SW Jackson Street, Topeka, Kansas 66612, within ten days after service of the Initial Order for transmittal to the Kansas State Board of Education.

This Initial Order is made and entered this 11 day of April, 2016.



Linda Sieck, Chairperson
Professional Practices Commission

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of April, 2016, a true and correct copy of the above and foregoing Initial Order was deposited in the U.S. Mail, postage paid, addressed to:

Amanda Berens
2614 SE Indiana
Topeka, KS 66605

and via interoffice mail to:

Kelli Broers, Attorney
Kansas State Department of Education
900 SW Jackson, Ste. 102
Topeka, KS 66612
Telephone: 785-296-3204

Theresa Cote
Staff Person