

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the Professional License
of Troy Smith

16-PPC-20
OAH 17ED0001

FINAL ORDER

On this 14th day of February 2017, the Kansas State Board of Education (Board) considers the above-captioned matter. Appearing for the Board are Chairman, Jim Porter, and members, John Bacon, Kathy Busch, Sally Cauble, Deena Horst, Jim McNiece, Ann Mah, Steve Roberts, and Janet Waugh.

The Professional Practices Commission (Commission) reviewed this matter on September 23, 2016. Smith did not appear. The complaint was mailed to his last known address, which is sufficient service in Kansas. The Kansas State Department of Education appeared by and through its attorney, Kelli M. Broers. After hearing the evidence, the Commission voted 8 – 0 to recommend the Board revoke Smith’s license.

The Board reviewed the Commission’s Initial Order. After considering the presentation by Linda Sieck, Commission Chairman, who was available to answer the Board’s questions and being otherwise duly advised in the premises, the Board adopts the Commission’s findings of fact and conclusions of law by a vote of 9 – 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 ORDERED by the Kansas State Board of Education that on this 14th day of February 2017, Troy Smith’s teaching license is revoked.

Kansas State Board of Education



BY: Jim Porter, Chairman
Signed February 15th, 2017

NOTICE

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 17th day of February 2017, 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:

Troy Smith
731 North West Street
Buhler, Kansas 67522

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 BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the Professional License
of Troy Smith

16-PPC-20
OAH 17ED0001

INITIAL ORDER

The above-captioned case comes on for hearing before the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) for consideration of Troy Smith's professional teaching license.

The hearing on this matter convened on September 23, 2016. Appearing for the Commission were chairperson, Linda Sieck, and members, Dorsey Burgess, Vici Jennings, John McKinney, Sylvia Ramirez, Ginger Riddle, Maret Schrader, and Jessica Snider.

Kelli Broers appeared as counsel for KSDE.

Troy Smith appeared not.

FINDINGS OF FACT

1. Troy Smith currently holds a professional teaching license. He has been licensed in Kansas since 2003.
2. On January 5, 2016, Mr. Smith was charged with misdemeanor theft in the Municipal Court of Hutchinson, Kansas, Case No. MC 1600013, 2016-321.
3. Mr. Smith pleaded no contest and was found guilty of misdemeanor theft on March 4, 2016.
4. Based on his misconduct and criminal conviction, KSDE drafted a Complaint requesting the revocation of Mr. Smith's license. Using the address Mr. Smith provided to the municipal court, the agency mailed a copy of the Complaint to Mr. Smith on June 21, 2016, using certified mail. He did not claim the mailing and it was returned to KSDE.

5. KSDE attempted to mail a copy of the Complaint to Mr. Smith a second time using certified mail on September 8, 2016. This time, KSDE used the address on file with the agency. This mailing was returned as "return to sender" "unable to forward."

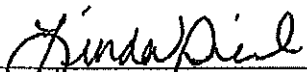
CONCLUSIONS OF LAW AND DISCUSSION

1. Under Kansas law, teaching and school administration are considered to be professions with all the similar rights, responsibilities, and privileges accorded other legally recognized professions. K.S.A. 72-8501. An educator is in a position of public trust.
2. The Kansas State Board of Education (State Board) is responsible for the general supervision of education, including the certification and licensure of teachers, in Kansas. K.S.A. 72-7513 and Kan. Const., Art. VI.
3. By order of the State Board, the Commission shall investigate and conduct hearings pertaining to allegations of misconduct. K.S.A. 72-8507; K.A.R. 91-22-1a(h).
4. The State Board may revoke a license for misconduct or other just cause including conviction of any crime involving theft. K.A.R. 91-22-1a(a)(3).
5. Mailing notice to a party's last known address is a permissible form of service. A written certificate of service is sufficient to presume service. Furthermore, service by mail is complete upon mailing. See K.S.A. 77-531.
6. Under Kansas law, the Complaint in this matter was served upon Mr. Smith. Mr. Smith did not answer or request a hearing. Consequently, the facts alleged in the Complaint are deemed admitted.
7. Mr. Smith's misconduct and criminal conviction are grounds for the revocation of his license.

THEREFORE the Professional Practices Commission recommends to the State Board,
by a vote of 8 - 0, that Mr. Smith's license be revoked.

This Initial Order is made and entered this September 23, 2016.

PROFESSIONAL PRACTICES COMMISSION



Linda Sieck, Chairperson
Order signed on December 5, 2016.

NOTICE TO LICENSEE/APPLICANT

This Order 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 State Board will review all issues. Notice of review with the specific date and time will be provided to the parties within 15 days of the review.

You may submit to the State Board for its consideration as 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 brief must be filed with the State Board Secretary at the address indicated below within ten calendar days after service of the Initial Order for transmittal to the State Board.

Any request for oral argument must also be made at that time.

Peggy Hill
Secretary, Kansas State Board of Education
900 SW Jackson Street, Suite 600
Topeka, Kansas 66612

Response briefs are due within ten calendar days after service of the legal brief upon the opposing party. Any reply brief is due five calendar days after service of any response brief upon the opposing party. Any response or reply briefs must also be filed with the State Board Secretary at the address indicated above.


CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December, 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:

Troy Smith
731 North West Street
Buhler, Kansas 67522

And via interoffice mail to:

Kelli Broers
Kansas State Department of Education
900 SW Jackson Street, Suite 102
Topeka, Kansas 66612



Gwen Kramer
Secretary, Professional Practices Commission