


STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

SOUTH DAKOTA PROFESSIONAL
ADMINISTRATORS PRACTICES
AND STANDARDS COMMISSION

DEBORAH BARNETT, Deputy Secretary)
South Dakota Department of Education,)
700 Governors Drive)
Pierre, SD 57501)
Complainant,)
vs.)
BRADY HASTINGS,)
)
Respondent.)

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
and ORDER**

Case PAPSC 2009-1

This matter came on for hearing pursuant to the provisions of SDCL 13-43-48 and 13-43-49 before the South Dakota Professional Administrators Practices and Standards Commission on July 23, 2009 at the South Dakota State Capitol, 500 E. Capitol Avenue, Pierre, South Dakota, as previously scheduled and duly and formally noticed for hearing.

The following members of the South Dakota Professional Administrators Practices and Standards Commission (PAPSC) were present: Kelly Glodt, David Peters, Mike Taplett, Barry Eikamp and Rick Hohn. Paul E. Bachand, counsel for the PAPSC, and Lisa Lomheim, Executive Secretary for the PAPSC were also present. The complainant was represented by Deputy South Dakota Attorney General Robert Mayer, who appeared on behalf of Deborah Barnett, Deputy Secretary of the South Dakota Department of Education. Respondent Brady Hastings failed to appear at the date and time set for hearing.

Based upon the evidence presented and the Respondent's failure to appear, the South Dakota PAPSC hereby makes the following Findings of Fact and Conclusions of Law.

FINDINGS of FACT

1. Respondent is the holder of a valid South Dakota Certificate No. 62467 issued on May 22, 2006, expiring on July 1, 2011.
2. Respondent's certificate permits him to act as a principal.
3. On or about May 8, 2009 Deborah Barnett, Deputy Secretary of the South Dakota Department of Education, filed a complaint against Respondent with the PAPSC.
4. The complaint alleged that Respondent violated the South Dakota Code of Ethics for Professional Administrators.
5. The complaint was served on Respondent on or about May 15, 2009.

6. A notice of hearing was served on Respondent advising him that a hearing had been set for Thursday, July 23, 2009 at 10 a.m. Central Daylight Time at the South Dakota State Capitol in Pierre, South Dakota.
7. Deborah Barnett, by and through her counsel, Deputy Attorney General Robert Mayer appeared at the time and place set for hearing.
8. Respondent Brady Hastings did not appear at the time and place set for hearing.
9. On or about between May 16, 2005 and July 20, 2005, Respondent did willfully and knowingly steal, misapply and permit to be misapplied, embezzled and converted to his own use, and the use of another, monies, funds and assets exceeding the sum of \$1,000 belonging to the Crow Creek Sioux Tribal Schools.
10. The acts committed by Respondent on or about between May 16, 2005 and July 20, 2005, constitute a violation of 18 USC §1163.
11. Respondent was hired by the Crow Creek Tribal Schools as a teacher on May 9, 2001. From that time until May 2007, Respondent was an employee of the Crow Creek Tribal Schools, a governmental agency of the Crow Creek Sioux Tribe.
12. On May 16, 2005, an invoice was created and written to Scott Raue, the chief executive officer and/or superintendent of the Crow Creek Tribal Schools and an agent of the Crow Creek Sioux Tribe, from Respondent requesting a lump sum payment to Respondent for the Title X Project Coordinator fee. From this invoice, a Crow Creek Tribal Schools requisition form for the payment of a Title X Project Coordinator fee of \$25,000 signed by Scott Raue and Respondent was made. This requisition form was used to generate a Crow Creek Tribal Schools purchase order with the description of services "Title X Project Coordinator FY'04-'05". This purchase order was dated June 21, 2005 and is in the amount of \$25,000. Based in part upon this purchase order, Crow Creek Tribal Schools check No. 036131 payable to Respondent in the amount of \$26,535 was generated on June 30, 2005. The check was signed by Scott Raue and endorsed by Respondent.
13. On or about July 8, 2005 Respondent negotiated this check by placing \$18,935 into his own bank account at Wells Fargo Bank. He placed \$6,500 of this money into Patsy Hawk's Wells Fargo Bank account and gave Patsy Hawk \$1,100 in cash.
14. On or about July 18, 2005 at Scott Raue's request, Respondent gave \$5,000 of this money to Scott Raue through check No. 5386 drawn on Respondent's Wells Fargo Bank account. This money was deposited into Scott Raue's personal bank account on July 20, 2005.
15. The Crow Creek Sioux Tribal Schools is an agency of and corporation of the Crow Creek Sioux Tribe and is an Indian tribal organization. The funds involved in this matter were funds of an Indian tribal organization.

16. Both Respondent and Scott Raue knew that this money was not authorized to be spent in this manner and that they were not entitled to receive this money. Specifically, Respondent knew that he had not completed the work to receive this money and that a payment of \$5,000 to Scott Raue was not authorized. Respondent willfully conducted these transactions.
17. On or about January 23, 2009 Respondent was convicted of the offense of embezzlement and theft from an Indian tribal organization in violation of 18 USC §1163, constituting a felony offense.
18. Respondent failed to enforce and obey local, state and national rules and laws in the performance of his duties.
19. Respondent did not exemplify high moral standards.
20. Respondent engaged in or became a party to fraud, embezzlement, deceit, moral turpitude, gross immorality and the use of misleading or false statements.
21. Respondent did not fulfill his professional responsibilities with honesty and integrity.
22. Any finding of fact improperly denoted as a conclusion of law is hereby incorporated as a finding of fact.

Based upon the foregoing findings of fact, the Commission hereby issues the following conclusions of law:

CONCLUSIONS of LAW

23. The South Dakota PAPSC has jurisdiction over this matter pursuant to SDCL 13-43-48 and 13-43-49, SDCL 1-26 and the administrative rules of South Dakota Ch. 24:11:03:01.
24. The burden of proof in this matter is clear and convincing evidence as provided by In Re: Setliff, 2002 SD 58, 645 N.W.2d 601, 605.
25. The South Dakota Code of Ethics for Professional Administrators provides at ARSD 24:11:03:01 that professional administrators shall comply with the following code of ethics:
 - (2) enforce and obey local, state and regional rules and laws in the performance of their duties;
 - (3) Exemplify high moral standards by not engaging in or becoming a party to such actions as fraud, embezzlement, deceit, moral turpitude, gross immorality, illegal drugs, or use of misleading or false statements;
 - (7) Fulfill professional responsibilities with honesty and integrity.

26. South Dakota Codified Laws provide at 13-42-10:
The secretary of the Department of Education may revoke the certificate of any teacher or administrator, or refuse to issue a certificate to an applicant, for such period of time as the secretary considers advisable, if such person has been convicted of any crime involving moral turpitude, including traffic in either controlled substances or marijuana, or both.... Proof of such conviction and sentence shall consist of a duly certified copy of the court record.
27. Clear and convincing evidence exists that Respondent violated ARSD 24:11:03:01 (2), (3) and (7).
28. Respondent's conviction of a crime in federal court in the District of South Dakota violates SDCL 13-42-10.
29. Any conclusion of law improperly denoted as a finding of fact is hereby incorporated as a conclusion of law.

Based upon the foregoing, it is hereby


ORDERED that this matter be referred to the Secretary of the South Dakota Department of Education for proceedings to revoke the certificates of Respondent as provided for in SDCL 13-43-28. It is further

ORDERED that the written complaint shall be filed with the Secretary of the Department of Education. It is further

ORDERED that a copy of the Findings of Fact, Conclusions of Law and Order be sent to parties herein. It is further

ORDERED that a copy of the Findings of Fact, Conclusions of Law and Order be provided to the Secretary of the South Dakota Department of Education for placement on the NASDTEC clearing house and that it remain with the Department's permanent certification file.

Dated this 16 day of August 2009.



Rick Hohn, Chairman
South Dakota Professional Administrators
Practices and Standards Commission
700 Governors Drive
Pierre, SD 57501-2291