

STATE OF SOUTH DAKOTA) OFFICE OF THE SECRETARY
) ss.
 COUNTY OF HUGHES) SOUTH DAKOTA DEPT. OF EDUCATION

Case No. TR 2011-11

IN THE MATTER OF) ORDER REVOKING
 NICOLAS LEE JASTORFF'S) NICOLAS LEE JASTORFF'S
 TEACHING CERTIFICATE) SOUTH DAKOTA TEACHER CERTIFICATE

Pursuant to the authority granted to the Secretary of the South Dakota Department of Education by SDCL 13-43-28.1 and 13-42-9, following receipt of a Complaint for the Revocation or Suspension of a Teacher's Certificate dated June 9, 2011, from the Professional Teachers Practices and Standards Commission, and after review of the entire record of the hearing before the Commission, the Secretary of Education hereby issues the following:

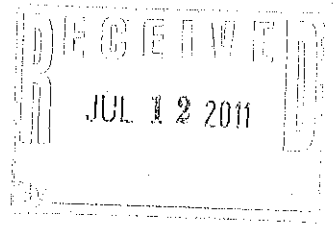
IT IS HEREBY ORDERED that after review of the entire record of the hearing before the Professional Teachers Practices and Standards Commission, the attached Findings of Fact and Conclusions of Law of the Commission dated June 9, 2011, are hereby affirmed and adopted by the Secretary and incorporated into this Order by this reference as if set forth in full.

IT IS FURTHER ORDERED that based upon a review of the entire record of the hearing before the Professional Teachers Practices and Standards Commission, there is clear and convincing evidence that Nicolas Lee Jastorff violated the South Dakota Code of Ethics for Teachers established under SDCL 13-43-25, namely ARSD 24:08:03:01(5), (7), (9) and (10).

IT IS FURTHER ORDERED that pursuant to SDCL 13-42-9 and 13-42-10, the Teacher Certificate No. 69997-0 issued to Nicolas Lee Jastorff on June 3, 2008, is hereby immediately, permanently revoked.

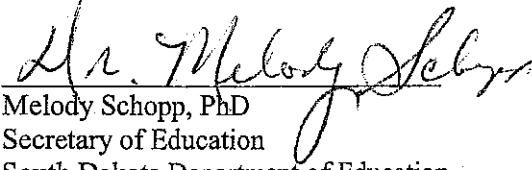
IT IS FURTHER ORDERED that notification of Nicolas Lee Jastorff's permanent revocation be placed on the NASDTEC registry and be placed in his permanent certification file within the South Dakota Department of Education. This Order does not restrict the Secretary of Education from forwarding this file to anyone that has the authority to receive the file, if requested in writing.

IT IS FURTHER ORDERED that pursuant to SDCL 13-42-15, Nicolas Lee Jastorff has **ten (10) days** after receipt of this notice to surrender his original South Dakota Teacher certificate No. 69997-0 to Ferne Haddock, South Dakota Department of Education, at 800 Governors Drive, Pierre, SD 57501. As stated in SDCL 13-42-15.1, failure to surrender the certificate may be subject to a civil penalty.



This constitutes final agency action.

Dated this 30 day of June, 2011


Melody Schopp, PhD
Secretary of Education
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501

STATE OF SOUTH DAKOTA) SOUTH DAKOTA PROFESSIONAL
) ss: TEACHERS PRACTICES AND
COUNTY OF HUGHES) STANDARDS COMMISSION

RECEIVED
JUL 12 2011

Sioux Falls School District
201 E. 38th Street
Sioux Falls, SD 57105-5898

PTPSC 2011-11

COMPLAINANT,

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

v.

Nicolas Lee Jastorff



RESPONDENT.

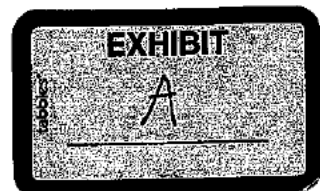
A hearing was held pursuant to the provisions of SDCL 13-43-28 before the South Dakota Professional Teachers Practices and Standards Commission on June 8, 2011 at 1:00 p.m. at Conference Room 5, MacKay Building (State Library), 800 Governors Drive, Pierre, South Dakota. Notice of this hearing was previously provided to the parties.

The following South Dakota Professional Teachers Practices and Standards Commission (Commission) members were present: Patricia Benson, Nancy Decker, Joseph Harrison, Bev Kopren, Lisa McNeely and Aaron Weaver. Paul E. Bachand, counsel for the Commission, and Ferne Haddock, Executive Secretary for the Commission were also present. The Sioux Falls School District appeared through its attorney, Sue Simons. Nicolas Lee Jastorff did not appear at the hearing, having executed a Voluntary Surrender of Certificate for Revocation.

Based upon the Voluntary Surrender of Certificate for Revocation and the evidence presented by the Sioux Falls School District, the Commission makes the following Findings of Fact and Conclusions of Law.

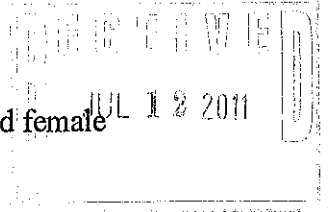
FINDINGS OF FACT

1. Respondent is the holder of a valid South Dakota Teacher's Certificate No.69997-0, issued on June 3, 2008 and expiring on July 1, 2013.
2. On January 3, 2011, the Sioux Falls School District filed a complaint against Jastorff with the Commission.



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3. The complaint alleged that Jastorff violated sections of the South Dakota Code of Professional Ethics for Teachers.
4. The complaint was served on Jastorff on or about January 6, 2011.
5. An amended notice of hearing was served on Jastorff on or about April 19, 2011. The notice of hearing advised Jastorff that a hearing had been set for Wednesday, June 8, 2011 at 1 p.m. at Conference Room 5, McKay Building (State Library), 800 Governors Drive, Pierre, South Dakota.
6. On June 6, 2011, Jastorff did not appear at the hearing having executed a Voluntary Surrender of Certificate for Revocation. A copy of the Voluntary Surrender of Certificate for Revocation is attached hereto as Exhibit A.
7. Pursuant to the Voluntary Surrender of Certificate for Revocation, Jastorff voluntarily agreed to a permanent revocation of his South Dakota teaching certificate.
8. On or about November 12, 2010, Steve Albrecht, the Principal of Patrick Henry Middle School, received information regarding a text message a 13 year old female middle school student (Student 1) received from Jastorff. In that message, Jastorff threatened suicide with a gun.
9. On November 15, 2010, Student 1's parent provided phone records from the student's cell phone.
10. The phone records documented over 100 text messages between Jastorff and Student 1 between November 11 and 12 as well as others from an earlier date.
11. On November 15, 2010, Jastorff informed Albrecht and Assistant Superintendent Simons that he had not maintained a professional teacher/student relationship with Student 1.
12. Some of the text messages between Jastorff and Student 1 were of a sexual nature.
13. On November 11, 2010, Jastorff sent Student 1 a text message stating, "Yeah ... I think I want to be with you ... just need to be positive ...sorry babe...I know u want to know now...?"
14. Shortly after the text message referred to in the previous paragraph, Jastorff sent another text message to Student 1 stating: "I really wanna see you tho . . . And kiss you and...go up your shirt and have you straddling me while we make out....delete!"
15. Jastorff made arrangements to meet Student 1 and he subsequently met her on the afternoon of Friday, November 12, 2010.



16. Jastorff exchanged sexually explicit text messages with another 13 year old female Patrick Henry Middle School student (Student 2).
17. On November 11, 2010, Jastorff indicated in a text message to Student 2 that he wanted: "Your boobs bending over . . . finger in your pussy . . ."
18. Shortly after the text message referred to in the previous paragraph, Jastorff sent two separate text messages to Student 2 asking her to send him a sexually explicit video of her.
19. On or about between February to May 2010 and August to early November 2010, Jastorff kissed Student 2 almost daily before and after school in a specific room at Patrick Henry Middle School, where they could not be seen.
20. On or about between February to May 2010 and August to early November 2010, Jastorff touched Student 2's bare breasts and digitally penetrate her. This activity occurred on multiple occasions and took place in a classroom at Patrick Henry Middle School.
21. During the summer of 2010, Jastorff engaged in sexual contact with Student 2 at her residence.
22. During the summer of 2010, Jastorff, on multiple occasions, engaged in sexual contact with Student 2 at Jastorff's residence.
23. On or about an approximate four day period around November 11, 2010, Jastorff sent approximately 685 text messages to Student 1 and approximately 609 text messages to Student 2.
24. During these text messages, Jastorff informed both students that he loved them and he told them on several occasions to delete the messages.
25. On or about November 15, 2010, Jastorff resigned from his position with the Sioux Falls School District.
26. On December 13, 2010, the Lincoln County Grand Jury Indicted Jastorff on 10 counts of 4th Degree Rape in violation of SDCL 22-22-1(5).
27. On December 22, 2010, the Minnehaha County Grand Jury Indicted Jastorff on 25 counts of 4th Degree Rape in violation of SDCL 22-22-1(5), 2 counts of Solicitation of a Minor in violation of SDCL 22-24A-5(1) and 2 counts of Sexual Contact with a Child Under 16 in violation of SDCL 22-22-7.

(10) Not engage in or be a party to any sexual activity with students including sexual intercourse, sexual contact, sexual photography, or illicit sexual communication. JUL 12 2011

37. Clear and convincing evidence exists that Jastorff violated ARSD 24:08:03:01(5), (7), (9) and (10).
38. Jastorff violated the South Dakota Code of Professional Ethics for Teachers, ARSD 24:08:03:01(5), (7), (9) and (10), by engaging in sexual contact with two 13 year old students on multiple occasions and by exchanging sexually explicit text messages with those students.
39. Any conclusion of law improperly denoted as a finding of fact is hereby incorporated as a conclusion of law.

Based upon the foregoing findings and conclusions, it is hereby

ORDERED that this matter be referred to the Secretary of the South Dakota Department of Education for proceedings to revoke the teaching certificate of Jastorff as provided for in SDCL 13-43-28. 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 9th day of June, 2011.

PROFESSIONAL TEACHERS PRACTICES
AND STANDARDS COMMISSION

By 
Aaron Weaver, Chair
800 Governors Drive
Pierre, SD 57501-2291