

STATE OF SOUTH DAKOTA)	DIVISION OF THE SECRETARY
	SS:	
COUNTY OF HUGHES)	S.D. DEPT. OF EDUCATION
In re: certification application of)	DSE 2015-02
FRANK HOWARD SUMMERS)	
)	SETTLEMENT AGREEMENT
)	

This Settlement Agreement is hereby entered into by the South Dakota Department of Education (“Department”) and Frank Howard Summers (“Summers”) regarding Summers’ application for initial certification in South Dakota.

The parties agree as follows:

1. This Agreement shall be effective from the date it is signed by both parties.
2. The parties agree to the Stipulated Findings of Fact and Conclusions of Law attached hereto as Exhibit A.
3. Summers will be issued a one-year certificate for grades 5-12 social sciences, effective July 1, 2014, and expiring June 30, 2015.
4. In order to be eligible to retain and renew this certificate at any time, Summers must meet the following conditions:
 - a. He has not been charged with and will not be charged with a violation of any state, federal, tribal, county, or municipal law or ordinance not already referenced in Exhibit A.
 - b. He has not committed and will not commit any violations of the code of ethics not already referenced in Exhibit A.
 - c. There are no licensure actions, final or pending, against Summers’ teaching certificate in any jurisdiction, other than those referenced in Exhibit A.

d. He will regularly attend Alcoholics Anonymous meetings or another suitable support program for recovery from alcoholism and provide written documentation of attendance to the Department upon request.

e. He will not consume any beverage containing alcohol.

f. He shall submit to random urinalysis. The Department shall determine when urinalysis shall be conducted and may inform Summers with limited advance notice. Summers shall be responsible for the cost of the urinalysis.

g. He shall submit reports to the Department every six months describing his compliance with the terms and conditions of this Agreement and will provide such additional documentation as the Department may require to monitor compliance with this Agreement.

h. He will immediately provide notice of any citation or arrest for any violation of state, federal, tribal, county, or municipal law or ordinance and will provide a copy of any charging documents.

i. He will meet all other requirements for certification. Nothing in this paragraph is intended to abrogate or avoid any other applicable licensing requirement.

5. The conditions referenced in paragraph 4(d), 4(e), 4(f), and 4(g) shall remain in effect for four years from the date this Agreement is signed by both parties. The remaining conditions of this Agreement shall remain in effect for the entire duration of any certificate (including renewals) issued to Summers by the Department.

6. If Summers violates any of the conditions listed in paragraph 4, then the Department may consider the Stipulated Findings and Conclusions in Exhibit A and all other relevant facts in determining whether to revoke, suspend, or non-renew the certificate.

7. Any notice or communication required from Summers pursuant to this Agreement shall be in writing and mailed via first class mail to the following:

Ferne Haddock
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501

8. Summers fully and forever discharges the State of South Dakota, and its officers, assigns, agents, and employees, from any and all liability whatsoever, including punitive damages, losses, costs, attorney's fees, or expenses of any nature, whether joint and several, on all claims, actions, and demands whatsoever that now exist or may hereafter accrue, and including all claims, actions, and demands whatsoever based on matters now unknown, as well as known, and unanticipated as well as anticipated, in any manner whatsoever, directly or indirectly, resulting or to result of any matter related to the above-captioned action or this Settlement Agreement.

9. Summers agrees that by entering into this Agreement, he has waived all rights to appeal any matter addressed in this Agreement and Order.

10. Each party to this agreement shall bear their own costs and attorney's fees.

11. The terms of this Agreement may be modified only by a subsequent written agreement signed by the parties.

12. Each undersigned representative of the parties to this Agreement certifies that he or she is fully authorized to enter into this Agreement and each of the terms and conditions hereof, and to execute and legally bind such party to it.

13. This Agreement shall constitute the entire agreement between the parties. This Agreement supersedes any other written or oral agreement between the parties. If any term of provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions shall be stricken from this

Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement.

14. Under the requirements of SDCL ch. 1-27 and 1-26-2, this Settlement Agreement and attached exhibit are public documents.

15. Summers acknowledges that counsel for the Department does not represent his interests and has not provided him with legal advice. Summers further acknowledges that he had the opportunity to retain an attorney in this matter to review this agreement before signing and voluntarily chose not to do so.

Dated this 27 day of April, 2015.


Frank Howard Summers

State of South Dakota
County of Lyman

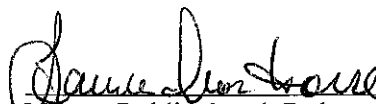
On this 27th day of April, 2015, before me, the undersigned officer, personally appeared Frank Howard Summers, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

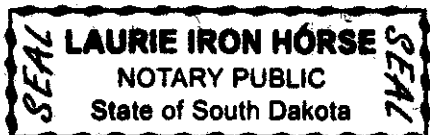
In witness whereof, I set my hand and official seal.

My commission expires:

12/14/2016

(Seal)


Notary Public-South Dakota



Dated this 4 day of May, 2015.

Dr. Melody Schopp
Dr. Melody Schopp
Secretary
South Dakota Department of Education

State of South Dakota
County of Hughes

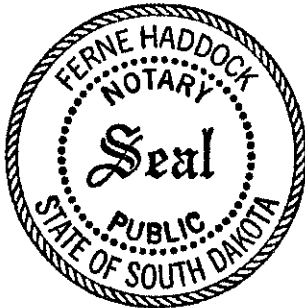
On this 4th day of MAY, 2015, before me, the undersigned officer, personally appeared Dr. Melody Schopp, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

In witness whereof, I set my hand and official seal.

My commission expires:

01/16/2015

(Seal)



Ferne Haddock
Notary Public-South Dakota

EXHIBIT A—STIPULATED FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On or about November 1, 1995, in Jackson County, Oregon, Summers was charged with Attempted Assault in the Fourth Degree (ORS 163.160, Class B Misdemeanor), Harassment (ORS 166.065, Class B Misdemeanor), and Disorderly Conduct (ORS 166.025, Class B Misdemeanor). On or about December 4, 1995, Summers pled guilty to and was convicted of Disorderly Conduct. Imposition of sentence was suspended for two years and Summers was placed on probation with conditions. The remaining two charges were dismissed.

2. On or about May 6, 1997, in the municipal court of Ashland, Oregon, Summers pled guilty to and was convicted of Criminal Trespass in the Second Degree .

3. On or about June 20, 2001, in Jackson County, Oregon, Summers pled guilty to Driving Under the Influence of Intoxicants (“DUII”) (ORS 813.010, Class A Misdemeanor). Imposition of sentence was suspended for two years and Summers was placed on probation with conditions.

4. On or about November 21, 2001, in Jackson County, Oregon, Summers was issued an Order to Show Cause for allegedly violating his probation sentence for DUII, in that he failed to provide verification of alcohol treatment, failed to pay evaluation fees to Jackson County Community Justice in the amount of \$100.00, failed to pay Home Detention fees to Jackson County Community Justice in the amount of \$450.00, and failed to advise of current address. This charge was dismissed on or about March 11, 2002.

5. On or about December 6, 2004, in the City of Eugene, Lane County, Oregon, Summers was charged with two counts of Harassment (Code of Eugene, OR, 4.726(1)(a)(2)) and one count of Criminal Trespass in the Second Degree (Code of Eugene, OR, 4.807). On or about May 19, 2005, Summers pled no contest to second-degree Criminal Trespass (Code of Eugene, OR, 4.807). A diversion agreement was entered into between Summers and the Court. Summers

complied with all aspects and terms of the diversion agreement. The Court withdrew Summers' plea and dismissed the complaint on November 30, 2005.

6. On or about June 5, 2008, in Linn County, Oregon, Summers was charged with DUII (ORS 813.010(4), Class A misdemeanor). On or about July 23, 2008, Summers was convicted of contempt of court for appearing under the influence of alcohol at his arraignment for the above-referenced DUII charges. Summers was sentenced to one day in jail for contempt. On or about September 10, 2008, Summers pled guilty and was convicted of DUII (ORS 813.010(4), Class A Misdemeanor). Imposition of sentence was suspended and Summers was placed on probation with conditions for 36 months.

7. On or about January 5, 2009, in Linn County, Oregon, a warrant citation was issued for Summers on a motion to revoke probation, an order to show cause, and an order to appear for an alleged probation violation. The motion alleged that Summers had failed to participate in or complete treatment as required by the terms of his probation for DUII.

8. On or about February 17, 2009, a motion to revoke probation was filed against Summers alleging that Summers had consumed or possessed alcohol during his probationary period and failed to participate in or complete treatment as required by the terms of his probation for DUII.

9. On or about March 18, 2009, Summers was convicted of violating the terms of the probation sentence for DUII. Summers violated his probation by consuming alcohol during his probationary period and failing to participate in or complete treatment. Probation was continued, but modified by ordering Summers to serve five days in the Linn County jail.

10. On or about April 23, 2009, in Linn County, Oregon, a warrant citation was issued for Summers on a motion to revoke probation, an order to show cause, and an order to appear for an alleged probation violation. The motion alleged that Summers had violated his probation by

possessing or consuming alcohol. On or about July 17, 2009, Summers was convicted of violating the terms of his probation sentence for DUII by consuming alcohol during his probationary period. Probation was continued, but modified by ordering Summers to serve 120 hours in the Linn County jail.

11. On or about July 9, 2012, in Klamath County, Oregon, Summers was convicted of DUII (ORS 813.010, Class A misdemeanor). Summers was sentenced to 30 days in jail, fined \$2,000.00, and placed on probation for 18 months.

12. On or about July 9, 2012, in Klamath County, Oregon, Summers was convicted of Assault in the Fourth Degree (ORS 163.160, Class B Misdemeanor).

13. Summers' criminal conduct and convictions referenced herein violate ARSD 24:08:03:02(7) and (8).

14. On March 3, 2010, a public reprimand was issued to Summers by the Oregon Teacher Standards and Practices Commission ("OTSPC") stemming from charges of gross neglect of duty due to Summers' criminal conduct referenced in paragraphs 1-6 herein. Summers' Oregon teacher's license was also placed on probation for a period of four years with conditions.

15. On February 20, 2014, a public reprimand was issued to Summers by the OTSPC stemming from charges of gross neglect due to Summers' criminal conduct referenced in paragraphs 11-12 herein and for Summers' failure to comply with the probation imposed by the OTSPC referenced in paragraph 14 herein. Summers did not comply with his probationary conditions in that he failed to present the OTSPC with a six-month status report and consumed alcohol during his probationary period. Summers' Oregon teacher's license was placed on probation for a further four years with conditions.