

STATE OF SOUTH DAKOTA )  
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:ss  
COUNTY OF HUGHES )

OFFICE OF THE SECRETARY  
DEPARTMENT OF EDUCATION

Professional Administrators Practices )  
and Standards Commission )  
700 Governors Drive )  
Pierre, SD 57501 )  
COMPLAINANT, )  
v. )  
Scott Raue – [REDACTED] )  
[REDACTED] )  
[REDACTED] )  
RESPONDENT. )

ORDER REVOKING  
RESPONDENT'S SOUTH DAKOTA  
CERTIFICATION

Case No. TR 2010-3

Pursuant to the authority granted to the Secretary by SDCL 13-43-49, 13-42-9 and 13-42-10, and based on the Complaint filed by the Professional Administrators Practices and Standards Commission seeking a permanent revocation of the Respondent's South Dakota certification; following a duly and properly noticed hearing by the Professional Administrators Practices and Standards Commission, whereby Findings of Fact and Conclusion of Law and Order were issued, which are hereby incorporated in this decision as if fully set out herein;

THE SECRETARY of the South Dakota Department of Education, after review of the record of the hearing in the above referenced case, has, on this date, entered this Final Decision in the matter.

IT IS HEREBY ORDERED that the Teacher/Administrator Certificate No. 48047-01, issued to Scott Raue on 1-13-1998 and expired on 7-1-2003 be permanently revoked for violation of the South Dakota Code of Ethics for Administrators, namely ARSD 24:11:03:01 (2), (3) and (7) and violation of SDCL 13-42-9, and 13-42-10. The revocation is permanent.

IT IS FURTHER ORDERED that the conditions as set out in the Professional Administrators Practices and Standards Order dated August 10, 2009, shall also be incorporated into this Final Decision and must be satisfied in their entirety.

IT IS HEREBY ORDERED that Scott Raue be permanently denied all future South Dakota certification within the South Dakota Department of Education due to violations of the South Dakota Code of Ethics for Administrators,

IT IS FURTHER ORDERED that information regarding the revocation of Scott Raue's South Dakota certification be placed on the NASDTEC registry.

Pursuant to SDCL 13-42-15, Scott Raue has ten (10) days after receipt of this notice to surrender his original South Dakota Teacher certificate No. 48047-01 to the Lisa Lomheim, Legal Assistant, South Dakota Department of Education, at 700 Governors Drive, Pierre, SD 57501.

If either party is aggrieved by this Order, that party has the right to appeal to the courts within thirty (30) days of receipt of this Order, pursuant to state law. This constitutes final administrative action.

Dated this 2nd day of September 2009.

A handwritten signature in cursive script that reads "Tom Oster". The signature is written in black ink and is positioned above a horizontal line.

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Tom Oster, Secretary  
South Dakota Department of Education  
700 Governors Drive  
Pierre, SD 57501

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. )

SCOTT A. RAUE, )

Respondent. )

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

Case PAPSC 2009-2

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 Scott A. Raue, having previously executed a default agreement, did not appear at this 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. On or about May 15, 2009 Deborah Barnett, Deputy Secretary of the South Dakota Department of Education, filed a complaint against Respondent with the PAPSC.
2. The complaint alleged that Respondent violated the South Dakota Code of Ethics for Professional Administrators.
3. The complaint was served on Respondent on or about June 2, 2009.
4. 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.

5. Deborah Barnett, by and through her counsel, Deputy Attorney General Robert Mayer appeared at the time and place set for hearing.
6. Respondent Scott A. Raue executed a default agreement and did not appear at the time and place set for hearing.
7. On June 30, 2009, Respondent executed a Default Agreement, a copy of which is attached as Exhibit A and incorporated herein by reference. Pursuant to the agreement, Respondent waived the notice of hearing requirement and agreed not to apply for or hold any position of teacher, substitute teacher, superintendent, CEO or any other non-certified educator position or any position in any school district within the state of South Dakota or any other state or province.
8. On or about between January 10, 2005 and September 23, 2005, Respondent, as an agent of the Crow Creek Sioux Tribe and Crow Creek Tribal Schools, accepted and agreed to accept with intent to be influenced and rewarded in connection with business in a series of transactions of the Crow Creek tribal schools, Crow Creek Sioux Tribe and Kutz Construction, involving a value of \$5,000 or more.
9. The acts committed by Respondent on or about between January 10, 2005 and September 23, 2005, constitute a violation of 18 USC §666(a)(1)(B).
10. Respondent was the chief executive officer and/or superintendent of the Crow Creek Tribal Schools and an agent of the Crow Creek Sioux Tribe from 2000 until June 2006. As such he was the agent authorized to act on behalf of the Crow Creek Tribal Schools to hire and pay contractors and subcontractors to perform work on the school.
11. Royal Edwin Kutz is a construction contractor living in Highmore, South Dakota, and owns and operates Kutz Construction of Highmore.
12. During 2003, 2004, 2005 and 2006, Kutz performed work at the direction of Respondent for the Crow Creek schools and was paid more than two million dollars at Respondent's approval.
13. In each of these years the Crow Creek Tribal Schools received more than \$10,000 in federal funds under the United States Department of Interior assistance to the Crow Creek Tribal Schools.
14. Between January 10, 2005 and September 23, 2005, at Highmore, South Dakota, Royal Edwin Kutz corruptly gave Respondent cash to influence him to continue hiring Kutz Construction and to reward him for past work done. Typically, Respondent would call and tell Kutz how much money he wanted in cash. Kutz would obtain the cash and place it at a pre-designed location within a shed for Respondent to pick up. Often Respondent would acknowledge that he had received the cash. Kutz's construction business and series of business transactions with the Crow Creek Tribal Schools during this time period involved more than a \$5,000 value.

15. Respondent corruptly received this cash intending to be influenced to continue hiring Kutz Construction and as a reward for past business with Kutz Construction. The payments made to Respondent by Kutz Construction were more than \$30,000 but less than \$70,000.
16. At the time Kutz Construction made these cash payments to Respondent, Respondent realized that it was wrong to receive such payments.
17. On or about April 7, 2009 Respondent pled guilty to a violation of 18 USC §666(a)(1)(B), which constitutes 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

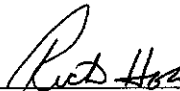
ORDERED that this matter be referred to the Secretary of the South Dakota Department of Education for proceedings to revoke the certificates of Respondent as provided for in SDCL 13-43-28. It is further

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 10 day of August 2009.

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