BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the Suspension	)	
	)	
of the Educator Certificate of	)	**ORDER OF SUSPENSION**
	)	
Richard A. NeSmith,	)	**(BREACH OF CONTRACT)**
	)	
Certificate 164526	)	

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on December 10, 2014. On October 16, 2014, the South Carolina Department of Education (SCDE) sent Dr. Richard A. NeSmith notice of his right to a hearing regarding the possible suspension of his South Carolina educator certificate, by regular and certified mail, return receipt requested, delivery restricted to addressee. Dr. NeSmith received the notice on October 22, 2014 as evidenced by the signed postal receipt. Dr. NeSmith did not contact SCDE to request a hearing and is in default.

After considering the evidence presented, the State Board voted to suspend Dr. NeSmith's educator certificate for a period of one year, commencing on December 10, 2014, and ending on December 9, 2015.

FINDINGS OF FACT

This case concerns a formal complaint by the Orangeburg Consolidated School District 4 (District) seeking the suspension of the educator certificate of Dr. Richard A. NeSmith for unprofessional conduct as a result of his breach of contract with the District. The State Board has jurisdiction in this matter, pursuant to S.C. Code Ann. § 59-25-150 (2004) and S.C. Code Ann § 59-25-530 (2004).

Dr. NeSmith holds a valid South Carolina educator certificate and has over twelve years of teaching experience. On April 10, 2014, Dr. NeSmith signed a Contractual Agreement with the District for the 2014-2015 school year to work as a teacher at the Branchville High School (School). On July 25, 2014, Dr. NeSmith sent a letter of resignation to the District requesting to work part time so that he could maintain a position at Strayer University in the afternoons and evenings. On August 5, 2014, Dr. NeSmith requested release from his contract with the District.

On August 5, 2014, the District sent a letter to Dr. NeSmith informing him that his position had been posted to find a replacement, but that he was contractually obligated to fulfill his duties to the School until a replacement was found. Dr. NeSmith did not return to teach at the District. On August 27, 2014, the District informed Dr. NeSmith that he was being terminated effective August 11, 2014 for failure to report to work. On October 6, 2014, the District informed the SCDE that on September 16, 2014, the District Board of Trustees had voted to recommend the suspension of Dr. NeSmith's South Carolina teaching credentials for breach of contract.

On October 16, 2014, the SCDE sent Dr. NeSmith notice of his right to a hearing regarding the possible suspension of his South Carolina educator certificate, by regular and certified mail, return receipt requested, delivery restricted to addressee. Dr. NeSmith received the notice on October 22, 2014 as evidenced by a signed postal receipt. Dr. NeSmith did not contact SCDE to request a hearing and is in default.

After considering the evidence presented, the State Board voted to suspend Dr. NeSmith's educator certificate for a period of one year, commencing on December 10, 2014, and ending on December 9, 2015.

CONCLUSIONS OF LAW

"The State Board of Education may, for just cause, either revoke or suspend the certificate of any person." S.C. Code Ann. § 59-25-150 (2004). Just cause includes, *inter alia*, "unprofessional conduct" and "willful violation of the rules and regulations of the State Board of Education." S.C. Code Ann. § 59-25-160 (3) and (4) (2004). Pursuant to 24 S.C. Code Regs. 43-58 (2) and (14) (2011), the State Board of Education has the legal authority, *inter alia*, to suspend a certificate for "willful neglect of duty" and "failure to comply with the provisions of a contract without the written consent of the local school board." The State Board finds that the evidence presented demonstrates that Dr. NeSmith breached his contract and engaged in unprofessional conduct, willfully neglected his duty, and failed to comply with the provisions of his contract without the written consent of the Orangeburg Consolidated School District 4. The evidence presented further supports the State Board's determination that just cause exists to suspend the educator certificate of Dr. Richard A. NeSmith, certificate 164526, for a period of one year, commencing on December 10, 2014, and ending on December 9, 2015.

If Dr. NeSmith wishes to have his educator certificate reinstated at the end of the suspension period, he shall make a written request to the SCDE's Office of Educator Services and shall meet all certification requirements in effect at the time he requests reinstatement. Dr. NeSmith shall also pay an applicable reinstatement fee. The suspension of Dr. NeSmith's educator certificate 164526 shall be reported to the NASDTEC Clearinghouse and all South Carolina school districts within thirty days from the date of this order."

AND IT IS SO ORDERED.

South Carolina State Board of Education

By: _____

Barry F. Bolen, Chair

Columbia, South Carolina

December 10, 2014