

BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION
OF THE STATE OF OREGON

In the Matter of the Teaching License of:) FINAL ORDER
)
MARK PAUL ALLEN) Office of Administrative
) Hearings Case No. 122096

On October 6, 2005, Administrative Law Judge John Mann issued a Proposed Order in this case.

The Teacher Standards and Practices Commission adopts the Findings of Fact, Conclusions of Law and sanction contained in the attached Proposed Order.

ORDER

The Commission adopts the Proposed Order denying Mark Paul Allen's application for reinstatement of his revoked teaching license.

Dated this 7th day of November 2005.

TEACHER STANDARDS AND PRACTICES COMMISSION

By: Victoria Chamberlain
Victoria Chamberlain, Executive Director

NOTICE: If you are dissatisfied with this Order you may not appeal it until you have asked the agency to rehear the case or to reconsider the Order. To obtain agency rehearing or reconsideration you must file a petition for rehearing or reconsideration pursuant to OAR 584-019-0045 within 60 days from the day this Order was served on you. If this Order was personally delivered to you, the date of service is the day you received the Order. If this Order was mailed to you, the date of service was the day it was *mailed*, not the day you received it. If you do not file a petition for rehearing or reconsideration within the time limits provided, you will lose your opportunity for rehearing or reconsideration and you will lose your right to appeal to the Oregon Court of Appeals.

If, after you have filed a petition for rehearing or reconsideration, the agency issues an Order that you are dissatisfied with, you have a right to appeal that Order to the Oregon Court of Appeals pursuant to ORS 183.482.

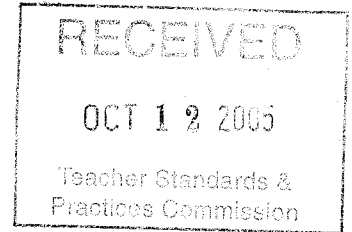
If, 60 days after you have filed a petition for rehearing or reconsideration, the agency has not issued an Order, your petition will be considered denied and at that time you will have the right to appeal the original Order to the Oregon Court of Appeals pursuant to ORS 183.480 and ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days from the day that your petition for rehearing or reconsideration is deemed denied. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
TEACHER STANDARDS AND PRACTICES COMMISSION**

IN THE MATTER OF:

MARK PAUL ALLEN

) **PROPOSED ORDER**
)
) OAH No. 122096



HISTORY OF THE CASE

On May 5, 2005, the Executive Director of the Teacher Standards and Practices Commission (TSPC) issued a Notice to Mark Paul Allen notifying him of her intent to recommend to the TSPC that Mr. Allen's application for reinstatement be denied. On May 13, 2005, Mr. Allen requested a hearing.

On June 7, 2005, the TSPC referred the hearing request to the Office of Administrative Hearings (OAH). Administrative Law Judge (ALJ) John Mann was assigned to preside at hearing.

A hearing was held on August 16, 2005, in Salem, Oregon. Mark Paul Allen appeared without counsel and testified on his own behalf. The TSPC was represented by Assistant Attorney General Joe Gordon McKeever. Testifying on behalf of Mr. Allen were Gary Wiese, retired Band Director of Coquille High School; John Kinnee, Superintendent of Coquille School District; and Patrick Royal, Principal of Coquille High School. Victoria Chamberlin, Executive Director of the TSPC, testified on behalf of the TSPC. The record was held open until August 23, 2005, to allow the TSPC to submit additional evidence. The record closed on August 23, 2005.

ISSUE

Whether Mr. Allen's application for reinstatement of his revoked teaching license should be approved. OAR 584-050-0015

EVIDENTIARY RULING

Exhibits A1 through A13, offered by the TSPC, were admitted into the record. Exhibit R1, offered by Mr. Allen, was admitted into the record.

The record was held open until August 23, 2005 to allow the TSPC to submit additional documents consisting of letters of recommendation for Mr. Allen. Those documents were received by the ALJ within the time allowed and were admitted into the record as Exhibit A14. The record closed on August 23, 2005.

FINDINGS OF FACT

1. From July of 1984 until March of 2004, Mark Paul Allen held a Standard Oregon Teaching License with an endorsement in music. From 1993 through March of 2004, Mr. Allen was employed by the Coos Bay School District. (Ex. A9.)
2. From 1998 through September of 2000, Mr. Allen served as District Treasurer for the South Coast Chapter of the Oregon Music Education Association (OMEA). While serving in that capacity, Mr. Allen misappropriated approximately \$14,000 for his personal use. (Ex. A1 at 2.) Mr. Allen used that money for his hobby in restoring classic automobiles and on expenses associated with a troubled romantic relationship. (Ex. A10 at 1-2.) On August 2, 2002, pursuant to Mr. Allen's stipulation, the TSPC suspended Mr. Allen's teaching license for five months for misappropriating funds from the OMEA. In addition, the TSPC placed Mr. Allen on probation for three years following the suspension. Terms of the probation required Mr. Allen to comply with all standards for competent and ethical performance under OAR 584 Division 020, to seek appropriate therapy, counseling, or treatment, and to give consent to his treatment provider to contact the TSPC to verify treatment. (Ex. A1.) TSPC reinstated Mr. Allen's teaching license on December 9, 2002. (Ex. A9 at 1.)
3. In the summer of 2003, Mr. Allen was employed as a high school band instructor at Marshfield High School (Marshfield.) (Ex. A9.) On August 14, 2003, the owners of a local music store spoke to Dale Inskeep, the Assistant Principal at Marshfield. The owners told Mr. Inskeep that the parents of a former Marshfield student ("the parents") had agreed to purchase a saxophone from Mr. Allen. The saxophone was the property of the school and had been loaned to the student while he attended Marshfield. (Ex. A6.)
4. On August 15, 2003, Mr. Inskeep spoke to the parents of the former Marshfield student. The parents confirmed that they had purchased a saxophone from Mr. Allen. The parents told Mr. Inskeep that they agreed to pay Mr. Allen \$1,100 for the instrument and had already given Mr. Allen a money order for \$800. The money order was made payable to Mr. Allen. The parents also confirmed that the saxophone was the same instrument the student had borrowed from the school. (Ex. A6 at 1-2.)
5. Later on August 15, 2003, Mr. Allen called Mr. Inskeep and stated that he was unaware of any school policy with regard to selling band instruments. Mr. Allen asked if he could get the saxophone back from the parents, return the money order, "and then run it through proper channels." Mr. Allen admitted that he had the parents pay in the form of a money order made payable to him. (Ex. A6 at 2.)
6. On August 18, 2003, Marshfield received a written memorandum from Mr. Allen, dated August 15, 2003, with detailed information regarding the alleged sale of the school's saxophone. In the memorandum Mr. Allen stated that he had a conversation with the parents regarding their desire to purchase a saxophone. According to the memorandum, the parents told Mr. Allen about a price quote from a local music store. Mr. Allen wrote that he told them that they could get a better price and should consider buying a used instrument and should also look at other music stores and on the internet. The memorandum states that Mr. Allen told the parents

that the student could use the instrument from the school until he got a new one or until he left for college in September. (Ex. A4.)

7. In his August 15, 2003 memorandum, Mr. Allen also discussed his August 15, 2003 phone call with Mr. Inskeep. Mr. Allen wrote that Mr. Inskeep told him that the parents claimed that they were buying a saxophone from Mr. Allen. Mr. Allen wrote that he told Mr. Inskeep that he "was aware of no such sale." (Ex. A4 at 2.) Mr. Allen also wrote:

"[Mr. Inskeep] asked about a money order that was made out to me. I don't know of any money order that I have received for any instrument. He asked if I had the money order. No money order." (Ex. A4 at 2.)

8. In his August 15, 2003 memorandum, Mr. Allen wrote a number of questions. Question number 4 read "Why does [Mr. Inskeep] think I received money for a sax? A money order?" (Ex. A4 at 3.)

9. Mr. Allen's August 15, 2003 memorandum does not state that he was attempting to assist the parents in the purchase of a saxophone. The memorandum states "I did not receive any money from the [parents] for the use, sale or rental of any instrument." (Ex. A4 at 1.)

10. On January 14, 2004, pursuant to a subpoena, Sterling Savings Bank provided the TSPC with a copy of a money order payable to Mr. Allen in the amount of \$800. The bank noted that the money order was purchased by one of the parents. The money order appears to bear the signature of the student's mother. The money order was cashed and was endorsed by Mr. Allen. Sterling Savings Bank noted that the money order cleared the vendor's account on August 13, 2003. (Ex. A8.)

11. On February 26, 2004, Lester Simons, a local music store owner, prepared a letter for Mr. Allen to explain his knowledge with regard to the alleged sale of the saxophone. Mr. Simons noted that Mr. Allen had approached him sometime between May and July of 2003 and asked about the availability of a Yanagisawa brand saxophone for a former student. Mr. Allen told Mr. Simons that the parents had only \$1,100 to spend. Mr. Simons told Mr. Allen that he could sell the parents a saxophone at his cost, but that \$1,100 was not enough to cover those costs. Mr. Simons notes that he was later contacted by the parents who told him that they had found a saxophone on the internet for \$200 more than the cost that Mr. Simons would charge. Mr. Simons advised the parents to purchase the instrument from the internet so that they could get it before their son went to college. The parents then told Mr. Simons that they had already given Mr. Allen the \$1,100 they had to spend on the instrument. Mr. Simons was surprised that Mr. Allen had taken money from the parents. Mr. Simons wrote that Mr. Allen returned the money when the parents decided to purchase the saxophone from the internet. (Ex. R1.)

12. On March 5, 2004, Mr. Allen entered into a stipulation with the Teacher Standards and Practices Commission (TSPC) whereby he agreed to surrender his teaching license based on the allegation that he had attempted to sell the school's saxophone. Mr. Allen did not admit to the allegations, but stipulated that there was sufficient evidence in the record to support the charges against him. (Ex. A9.)

13. Based on Mr. Allen's stipulation, the TSPC issued a Stipulation, Surrender of License and Order of Revocation (Stipulated Order.) The Stipulated Order concluded that Mr. Allen's conduct constituted gross unfitness in violation of OAR 584-020-0040(5)(e). It also concluded that Mr. Allen's statement to Marshfield's principal that he had not received the money order from the parents of a former student was false and constituted gross neglect of duty in violation of OAR 584-020-0040(4)(c). The Stipulated Order also concluded that both violations constituted violations of the terms of Mr. Allen's probation which required him to comply with all professional standards under OAR 584 Division 020. The Stipulated Order states that Mr. Allen had the right to apply for reinstatement "after at least one year from the date of this Order." (Ex. A9.)

14. On February 23, 2005, Mr. Allen submitted a sworn affidavit to the TSPC seeking reinstatement of his teaching license. In the affidavit, Mr. Allen admits to his conduct in embezzling funds from the OMEA and expresses his remorse. Mr. Allen attributes his conduct to a number of factors, including mental and physical health problems. Mr. Allen notes that he has sought medical treatment and psychological counseling to attempt to improve his health since 2002. (Ex. A10 at 1-3.)

15. With regard to the allegations set forth in the Stipulated Order, Mr. Allen's affidavit states "[T]hat it is of a circumstantial situation and should not be viewed as a literal offense." Mr. Allen wrote that the allegations "arose out of misunderstandings but was not intentional in any way." Mr. Allen attributes the misunderstanding to some confusion regarding the "check-out sheets" that the school used when loaning instruments to students. Mr. Allen concedes that he made "the mistake of not informing my principal or other school officials of my desire to assist a student purchase a musical instrument." He also conceded that he was responsible for "the loss of verifying records" (i.e., the check out sheet for the saxophone), but denies attempting to sell the band instrument. (Ex. A10.) Mr. Allen now contends that he was not guilty of the offenses that led to his license being revoked, but entered into the Stipulated Order on the advice of his attorney and union representative because he thought that he would be found guilty of the allegations and that the allegations would be made public. (Test. of Allen.)

16. On May 20, 2005, Mr. Allen was seen by Cheryl A. Gifford, PhD. Dr. Gifford conducted a clinical interview with Mr. Allen and a written Personal Assessment Inventory. Dr. Gifford's report states:

"In the summer of 2003, Mr. Allen states that he attempted to purchase a saxophone from a music store of the exact kind that a student had been using so that he would have an instrument to continue using as he went on to college."

"The school somehow got the idea that Mr. Allen was trying to sell to the student the same instrument, owned by the school that the student had been using during the school year. The school further believed that Mr. Allen was pocketing the money in this exchange." (Ex. A12 at 2.)

In a section of the report labeled "Reccomendations," Dr. Gifford wrote:

"Mr. Allen maintains that he was not involved in any fraudulent or dishonest activity, but was foolish to try and find an instrument for his student without discussing it with his administration given his probationary status. He avers that he was trying to find an instrument similar to the student had been using and therein lay the confusion about whose instrument was being sold, the school's one or one from Mr. Simon's store."

* * * * *

"Mr. Allen is not guilt [sic] of fraud or dishonesty, but a lack of foresight, and a failure to protect his own interests. I continue to find that Mr. Allen is highly unlikely to engage in fraudulent or dishonest activity or other inappropriate behavior now or in the future." (Ex. A12 at 4.)

17. During the 2004-2005 school year, Mr. Allen was employed by the Coquille School District. Mr. Allen worked as a teacher's aide at Coquille High School. The School District hired a retired band teacher to serve as the "Teacher of Record" in the class. However, the retired teacher could work only a limited number of hours due to restrictions under the Public Employee Retirement System. Therefore, when the retired band teacher was unable to work, the school district hired substitute teachers to teach in the band class. (Test. of Wiese.) Throughout the school year, Mr. Allen was the one consistent presence in the band class. (Test. of Royal.) The retired band teacher considered Mr. Allen to be a talented band teacher and essentially allowed him to teach the class as a co-instructor. (Test. of Wiese.) Officials of the Coquille School District believe that Mr. Allen is an extremely talented band instructor and do not believe that he engaged in any acts of dishonesty during the 2004-2005 school year. (Test. of Royal; Test. of Kinnee.) The Coquille School District would like to hire Mr. Allen as a full-time band teacher and is willing to do so even if Mr. Allen's license is reinstated with a restriction that he teach only for that District. (Test. of Kinnee.)

18. At the hearing in this matter, Mr. Allen admitted that he received a money order from the parents for \$800. Mr. Allen asserts that he had agreed to arrange the purchase of a saxophone to the parents from a local music store at a substantially discounted price. Mr. Allen claims that Mr. Simons had quoted a price of \$2,200 for a saxophone. He contends that he told the parents he would sell it to them for \$1,100 but did not tell them that he was paying for half of the actual cost of the instrument because he believed that the parents would not have accepted his gift. Mr. Allen testified that at the time he accepted the \$800 payment from the parents, Mr. Allen had not yet made a specific agreement with Mr. Simons to purchase a saxophone. (Test. of Allen.)

19. Mr. Allen now acknowledges that he lied in his August 15, 2003 memorandum to Marshfield. He contends that he did so because he was afraid that he could lose his job because of the previous suspension of his teacher's license. (Test. of Allen.)

CONCLUSIONS OF LAW

Mr. Allen's application to reinstate his revoked teacher's license should be denied.

OPINION

On March 2, 2005, the Teacher Standards and Practices Commission and Mark Paul Allen agreed to a Stipulation, Surrender of License and Order of Revocation based on allegations that Mr. Allen had attempted to sell a saxophone which belonged to the Coos Bay School District and that Mr. Allen had been dishonest with District officials who were investigating the allegation. Mr. Allen denied wrongdoing, but conceded that the record was sufficient to support the allegations. On February 23, 2005, Mr Allen submitted an affidavit to the TSPC seeking to have his teaching license reinstated. The TSPC has denied that request.

ORS 342.175 sets forth the statutory basis for reinstating a previously revoked license. That statute provides, in relevant part:

(3) Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection (4) of this section, any person whose license or registration has been suspended or revoked or whose privilege to apply for a license or registration has been revoked may apply to the commission for reinstatement of the license or registration after one year from the date of the suspension or revocation. The commission may require an applicant for reinstatement to furnish evidence satisfactory to the commission of good moral character, mental and physical health and such other evidence as the commission may consider necessary to establish the applicant's fitness. The commission may impose a probationary period and such conditions as it considers necessary upon approving an application for reinstatement.

* * * * *

The TSPC has adopted administrative rules consistent with ORS 342.175 which apply to the reinstatement of a surrendered or revoked license. OAR 584-050-0015 provides, in relevant part:

(1) General. A suspended, revoked or surrendered license or registration may be reinstated if the applicant is otherwise qualified, meets recent educational experience requirements in effect at the time of reinstatement, and complies with the remaining applicable provisions of this rule. Licenses or registrations that are revoked, suspended, or surrendered shall be reinstated for the same period of time as an application for a new or renewed license or registration of that type.

* * * * *

(4) Revoked Licenses, Registration or Privilege to Apply. Any revocation for conviction for crimes listed in ORS 342.143(3) is permanent and the license or registration is not subject to reinstatement. Application for reinstatement of a license or registration revoked for any reason other than those cited in ORS 342.143(3) may be submitted at any time more than one year after the license, registration or privilege to apply has been revoked. The application shall be

supported by a personal affidavit, together with requisite and additional documentation, sufficient to establish convincingly that the educator possesses all of the qualifications required for renewal or reinstatement of a license or registration of that type. The burden shall be on the educator to establish fitness for reinstatement. The Executive Director shall consider the application documents and shall make a recommendation to the Commission in Executive Session. The Director shall mail a copy of the recommendation to the educator and shall advise the educator that he or she may elect to treat the recommendation as a denial and immediately request a hearing or the educator may elect not to request a hearing until the Commission takes action on the recommendation of the Executive Director. Before taking action on the Director's recommendation, the Commission Chair or the Chair of the Discipline Committee of the Commission may schedule an informal meeting between the educator and one or more Commissioners or between the educator and the Discipline Committee meeting in executive session. The decision to schedule or not to schedule an informal meeting is entirely discretionary. If the application for reinstatement is denied or conditionally reinstated, the educator shall be entitled to a contested case hearing under ORS 342.175 to 342.190.

Under the above rule, Mr. Allen has the burden to establish his fitness for reinstatement. Mr. Allen has not met that burden. The record in this case established that Mr. Allen has given a number of misleading and contradictory explanations with regard to his conduct in the summer of 2003. The first explanation was in a phone conversation with Dale Inskeep, Marshfield High School's Assistant Principal, on August 15, 2003. During that conversation, Mr. Allen appears to have admitted his conduct and then suggested that he return the money order to the parents and "then run it through proper channels."

The second explanation came three days later. On August 18, 2003, Marshfield received a memorandum from Mr. Allen, dated August 15, 2003, in which he denied any attempt to arrange for the sale of a saxophone to the former student. Mr. Allen wrote, "I did not receive any money from the [parents] for the use, sale or rental of *any* instrument." (Emphasis added.) He also denied having received a money order from the parents, writing, "[Mr. Inskeep] asked about a money order that was made out to me. I don't know of any money order that I have received for any instrument. He asked if I had the money order. No money order."

At the hearing, Mr. Allen contended that Mr. Inskeep's recollection of their phone conversation was incorrect. However, Mr. Allen also now concedes that his memorandum, in which he offered his version of that phone call, contained a number of deliberately false and misleading statements. Mr. Allen offered no persuasive evidence that Mr. Inskeep had a motivation to lie when he drafted the memorandum detailing the August 15, 2003 phone call with Mr. Allen. Given Mr. Allen's admitted dishonesty, Mr. Inskeep's version of the phone call is more reliable.

A letter from a local music dealer, Lester Simons, written in February of 2004, offers another version of Mr. Allen's involvement with the parents. In that letter, Mr. Simons indicates that Mr. Allen received a quote for the cost of a saxophone and that Mr. Simons had agreed to

sell one to the parents at Mr. Simons' cost. The letter does not mention that Mr. Allen had ever suggested to Mr. Simons that Mr. Allen would be purchasing the instrument on behalf of the parents. Only after Mr. Simons advised the parents to purchase another instrument from the internet did he learn that Mr. Allen had taken money from the parents for the purchase.

In his affidavit seeking reinstatement of his teaching license, Mr. Allen denies attempting to sell the school's saxophone. He attributes the allegations to "misunderstandings" and to a problem with documentation. The affidavit alludes to Mr. Allen's actions in attempting "to assist a student purchase a musical instrument" but does not clearly set forth exactly what Mr. Allen did to assist in this purchase. The only error that Mr. Allen concedes with regard to the incident is "the mistake of not informing my principal or other school officials of my desire to assist a student purchase a musical instrument." He also conceded that he was responsible for "the loss of verifying records" to document that he loaned the saxophone to the student. He does not address the fact that he lied to Marshfield in his memorandum dated August 15, 2003.

On May 20, 2005, Mr. Allen was seen by Cheryl A. Gifford, PhD. Dr. Gifford concluded that Mr. Allen is "highly unlikely" to engage in dishonest conduct in the future. This conclusion appears to be based, in part, on Dr. Gifford's acceptance of Mr. Allen's denials of *any* improper conduct in connection with the attempted sale of the saxophone. Dr. Gifford notes that Mr. Allen told her "that he was not involved in any fraudulent or dishonest activity." Based on a clinical interview with Mr. Allen, Dr. Gifford concluded that Mr. Allen was not guilty of dishonesty, but only to "a lack of foresight, and a failure to protect his own interests." Dr. Gifford attributes the revocation of Mr. Allen's license largely to confusion and misunderstanding, and not on any deliberately deceptive conduct by Mr. Allen.

Dr. Gifford's conclusions were not supported by evidence produced at the hearing. In fact, Mr. Allen was guilty of dishonest conduct. Mr. Inskeep was investigating a serious allegation that Mr. Allen may have been attempting to sell school property. Mr. Allen now maintains that he had a perfectly innocent explanation for his conduct. However, Mr. Allen chose not to give that explanation, but to deliberately give false and misleading information to Mr. Inskeep. Had Mr. Allen been successful, the school district would likely never have learned the truth about Mr. Allen's conduct. To the extent that Mr. Allen's difficulties were caused by misunderstandings, they were exacerbated by Mr. Allen's deliberate choice to lie to Mr. Inskeep about his involvement with the student. It is reasonable to infer that Dr. Gifford's opinion was likely influenced by Mr. Allen's failure to inform her of the fact that he lied to Mr. Inskeep in August of 2003.

At the hearing in this matter, Mr. Allen gave yet another explanation for his actions. He testified that he received a quote for a saxophone from Mr. Simons for \$2,200 and intended to sell the instrument to the parents for half of that amount. Mr. Allen contended that he did not inform the parents of the true cost of the instrument because he did not believe they would have accepted his financial contribution.

Mr. Allen now concedes that he lied in his August 15, 2003 memorandum. The statement that he was not involved in the sale of any instrument to the parents was false. His strongly worded denials of having received any money order from the parents was also false. Mr. Allen had received a money order from the parents for \$800 and had cashed it on August 13, 2003, two

days before the date of the memorandum. Mr. Allen's only explanation for lying in that memorandum was that he was afraid.

At the hearing, Mr. Allen contended that he did not have the opportunity to explain his actions to the School District prior to the agreed upon revocation of his teaching license. That contention is also false. Mr. Allen took the time to draft the memorandum on August 15, 2003 in which he explicitly addressed the allegations. In that letter, Mr. Allen denied any wrongdoing and falsely denied receiving a money order from the parents. It is notable that the letter does not make any attempt to explain that Mr. Allen was attempting to assist the student in purchasing an instrument from a private dealer. If, as Mr. Allen now contends, his actions were entirely proper it would make little sense for him not to attempt to explain his actions to the principal in that letter. Instead, Mr. Allen chose to mislead the principal and to flatly deny any involvement in the sale of a saxophone to the student. His deliberate and self-serving choice to lie to school officials formed part of the basis for the revocation of Mr. Allen's teaching license in 2004.

Mr. Allen did provide a letter from a private music dealer which is consistent with his claim that he was seeking to purchase a saxophone in the summer of 2003. He has also consistently denied ever intending to sell the school's saxophone to a student. It is possible that there is an innocent explanation for Mr. Allen's actions in connection with the attempted sale of the saxophone. However, by failing to give a full and truthful explanation of his conduct to school officials in August of 2003, Mr. Allen demonstrated that he cannot be trusted to tell the truth when confronted with serious allegations.

Mr. Allen does not appear to be willing to accept responsibility for the events that led to the revocation of his teaching license. His affidavit minimizes his conduct and does not offer what he now contends is the true nature of his actions with regard to the sale of a saxophone to a former student. In addition, the affidavit gives no explanation for Mr. Allen's failure to be truthful with school officials investigating the incident. Dr. Gifford's report suggests that as late as May of 2005, Mr. Allen gave self-serving explanations for the revocation of his license and failed to disclose his dishonest responses to school officials investigating the matter.

It is noteworthy that officials of the Coquille School District support Mr. Allen's request to reinstate his license. The officials offered glowing testimony concerning Mr. Allen's skill as a music teacher. The record establishes that Mr. Allen is viewed as an excellent teacher. The officials also testified that they believed Mr. Allen to be trustworthy. However, Mr. Allen's admitted past conduct calls into question the ability of any school official to accurately gauge Mr. Allen's honesty. It is possible that Mr. Allen has been entirely truthful with the Coquille School District. But because of Mr. Allen's past dishonesty, and his failure to accept responsibility for his deception, his employers can never be entirely sure of Mr. Allen's honesty. Should Mr. Allen be accused of wrongdoing in the future, the School District will have no way of knowing whether or not Mr. Allen will be truthful and cooperative in any investigation.

Mr. Allen's teaching license was revoked in March of 2004. When imposing that sanction, the TSPC was entitled to consider, among other factors, the likelihood of a recurrence of similar conduct, the educator's past performance, and the educator's state of mind at the time of the misconduct and afterwards. OAR 584-020-0045. Although those factors do not directly apply to a reinstatement, consideration of those factors is helpful in determining whether Mr. Allen has met

his burden to establish his fitness for reinstatement, including evidence of good moral character. Mr. Allen's record of discipline reflects poorly on his trustworthiness. He has not demonstrated that he has accepted responsibility for his conduct. Without such acceptance, it cannot be determined that Mr. Allen would not engage in similar conduct in the future. His state of mind when confronted with negative allegations was to lie, again reflecting poorly on his trustworthiness.

Mr. Allen had the burden of proving his fitness for reinstatement. He has not met that burden. Therefore, his application for reinstatement should be denied.

ORDER

I propose the Teacher Standards and Practices Commission issue the following order:

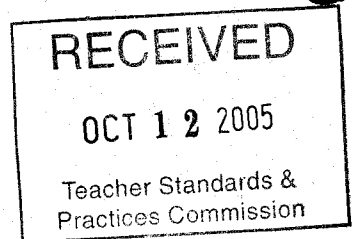
Mark Paul Allen's application for reinstatement of his revoked teacher's license is denied.

John Mann

Administrative Law Judge
Office of Administrative Hearings

ISSUANCE AND MAILING DATE:

October 6, 2005



EXCEPTIONS

The proposed order is the Administrative Law Judge's recommendation to the Teacher Standards and Practices Commission. If you disagree with any part of this proposed order, you may file written objections, called "exceptions," to the proposed order and present written argument in support of your exceptions. Written argument and exceptions must be filed **within fourteen (14) days after mailing of the proposed order** with the:

Teacher Standards and Practices Commission
465 Commercial Street, NE
Salem, Oregon 97301

The Commission need not allow oral argument. The Executive Director may permit oral argument in those cases in which the Director believes oral argument may be appropriate or helpful to the Commissioners in making a final determination. If oral argument is allowed, the Commission will inform you of the time and place for presenting oral argument.

**APPENDIX A
LIST OF EXHIBITS CITED**

- Ex. A1: Stipulation of Facts, Order of Suspension and Order of Probation dated August 2, 2002.
- Ex. A4: Statement of Mark Paul Allen dated August 15, 2003.
- Ex. A6: Memorandum from Dale Inskip, Dean/Assistant Principal, Marshfield High School dated August 18, 2003.
- Ex. A8: Letter from Craig Moore, Sterling Savings Bank and attached money order dated January 14, 2004.
- Ex. A9: Stipulation, Surrender of License and Order of Revocation dated March 5, 2004.
- Ex. A10: Affidavit of Mr. Allen dated February 23, 2005.
- Ex. A12: Psychological Assessment of Mark P. Allen by Cheryl A. Gifford, Ph.D. dated May 27, 2005.
- Ex. R1: Letter from Lester Simons, L-S Music, dated February 26, 2004.

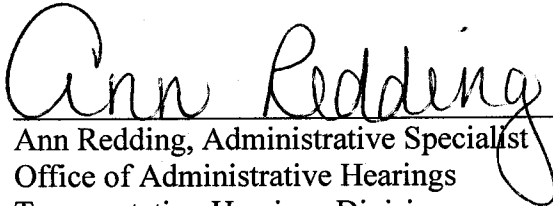
CERTIFICATE OF SERVICE

I certify that on October 6, 2005, I served the attached Proposed Order by mailing in a sealed envelope, with first class certified postage prepaid, a copy thereof addressed as follows:

MARK PAUL ALLEN
1285 S 8TH ST
COOS BAY OR 97420

VICTORIA CHAMBERLAIN
EXECUTIVE DIRECTOR
TEACHERS STANDARDS AND PRACTICES
465 COMMERCIAL ST NE
SALEM OR 97301

JOE GORDON McKEEVER
ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
1162 COURT ST NE
SALEM OR 97301-4096


Ann Redding, Administrative Specialist
Office of Administrative Hearings
Transportation Hearings Division