



## Before the Education Practices Commission of the State of Florida

DR. ERIC J. SMITH as the  
Commissioner of Education,

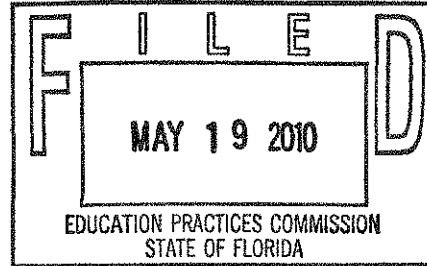
Petitioner,

vs.

VICTORIA BARKWELL,

Respondent.

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EPC CASE N<sup>o</sup>: 10-0002-RA

Index N<sup>o</sup> 10-156-AS

PPS N<sup>o</sup> 078-3308-S

### **Final Order**

Respondent, Victoria Barkwell, holds Florida educator's certificate no. 698268. Petitioner has filed an Administrative Complaint seeking suspension, revocation, permanent revocation or other disciplinary action against the certificate.

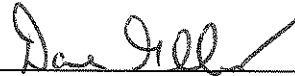
Petitioner and Respondent have entered into a Settlement Agreement for resolution of this cause. The Settlement Agreement and the Administrative Complaint are attached to and made a part of this Final Order.

An Administrator Panel of the Education Practices Commission met on May 14, 2010 in Tallahassee, Florida. The Commission accepts the Settlement Agreement as the appropriate resolution of this cause.

It is therefore ORDERED that the Settlement Agreement is hereby ACCEPTED and Respondent shall comply with its terms and conditions.

This Order becomes effective upon filing.

DONE AND ORDERED, this 14 day of MAY, 2010.



\_\_\_\_\_  
DANE GILBERT, Presiding Officer

COPIES FURNISHED TO:

Bureau of Professional Practices  
Bureau of Teacher Certification  
*Florida Administrative Law Reports*  
Superintendent  
Brevard County Schools  
2700 Judge Fran Jamieson Way  
Viera, FL 32940-6699  
Assistant Superintendent  
Human Resources  
Brevard County Schools  
2700 Judge Fran Jamieson Way  
Viera, FL 32940-6699  
Probation Office  
DOE counsel for PPS  
Daniel Biggins  
Assistant Attorney General

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

UNLESS WAIVED, A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE EDUCATION PRACTICES COMMISSION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Order was mailed to Victoria Barkwell,  
[REDACTED]; and Steven G. Casanova,  
[REDACTED] this 19<sup>th</sup> day  
of May, 2010 by Certified U.S. Mail.

  
DON SHIELDS  
Education Practices Commission

STATE OF FLORIDA  
EDUCATION PRACTICES COMMISSION

DR. ERIC J. SMITH, as  
Commissioner of Education

Petitioner,

vs.

CASE NO. 078-3308

VICTORIA BARKWELL,

Respondent.

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SETTLEMENT AGREEMENT

Petitioner and Respondent hereby stipulate and agree as follows:

1. **Certification.** Respondent holds Florida Educator's Certificate Number 698268 issued by the Department of Education covering the areas of Elementary Education, School Principal, Specific Learning Disabilities, and Gifted which is valid through June 30, 2013.
2. **Employment.** At all times pertinent hereto, Respondent was employed as a Principal at Palm Bay Elementary School in the Brevard County School District.
3. **Allegations.** Respondent neither admits nor denies, but elects not to contest the allegations set forth in Petitioner's Administrative Complaint, which are incorporated herein by reference.
4. **Suspension.** Respondent agrees to accept a three (3) year suspension of her Florida educator's certificate, commencing upon issuance of the Final Order entered by the Education Practices Commission (EPC) accepting this Settlement Agreement. (Suspension means that Respondent may not teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for the duration of the suspension period.) However, if applicable, Respondent may renew the certificate.
5. **Violation.** In the event Respondent fails to comply with each condition set forth herein, she agrees that the Petitioner shall be authorized to file an Administrative Complaint or a Notice of Violation with the EPC seeking sanctions against her Florida educator's certificate up to and including permanent revocation of her Florida educator's certificate and a permanent bar from re-application for a Florida educator's certificate, based upon the violation of the terms of this Settlement Agreement.

6. **Costs and Fees.** Respondent agrees that any costs associated with the fulfillment of the terms of this Settlement Agreement shall be her sole responsibility. These costs include, but are not limited to, those associated with the Recovery Network Program (RNP) and Probation, if applicable. The probation monitoring fee shall be held in abeyance if Respondent is not employed as an educator pursuant to the terms of the Probation.

7. **Force and Effect.** This Settlement Agreement constitutes an offer of settlement of disputed issues of material fact until accepted and executed by all parties. The Settlement Agreement is void and has no force or effect unless executed by all parties and accepted by the EPC. If the Settlement Agreement is not accepted and executed by all parties, the terms herein shall be inadmissible in any subsequent formal or informal administrative hearing or in any other legal action between the parties.

8. **Notice of "Three Strikes" Provision.** Respondent is hereby put on notice that Section 1012.795(6)(b), Florida Statutes (2004), provides for permanent revocation of an educator's certificate under certain circumstances when the educator's certificate has been sanctioned by the Education Practices Commission on two (2) previous occasions.

9. **Waiver of Rights.** Respondent understands provisions of this Settlement Agreement, their legal effect, and her rights under Florida law to a formal hearing before a duly designated administrative law judge of the Division of Administrative Hearings (DOAH) or an informal hearing before the EPC. Respondent specifically waives her right to both a formal and an informal hearing, except she may appear before the EPC in order to urge the adoption of this Settlement Agreement. Respondent further acknowledges that she is under no duress, coercion or undue influence to execute this Settlement Agreement and that she has had the opportunity to receive the advice of legal counsel prior to signing this Settlement Agreement.

10. **Approval.** When fully executed, this Settlement Agreement shall be submitted to the EPC with the joint request by the parties that the EPC accept and adopt the terms of this Settlement Agreement as the basis for its Final Order in this proceeding. The parties understand that the EPC has the discretion to reject this Settlement Agreement and order a full evidentiary hearing on the allegations of the Administrative Complaint if, in the exercise of its discretion, it deems such action to be appropriate.

11. **Notice.** Respondent waives all statutory and regulatory provisions concerning notice of hearing and agrees that this Settlement Agreement may be presented to the EPC for consideration at its next available scheduled meeting, provided that Respondent is given reasonable advanced notice of time, place and date of said meeting.

(SIGNATURES AND NOTARIZATION ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement on this  
28<sup>th</sup> day of December, 2009.

*Dr. Victoria Barkwell O'Bannon*  
VICTORIA BARKWELL

STATE OF FLORIDA  
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of  
December, 2009, by VICTORIA O'BANNON  
who is \_\_\_\_\_ personally known or produced FL DBIV LIC \_\_\_\_\_  
as identification [type of identification produced].

*Patricia A Long*  
NOTARY PUBLIC  
My commission expires: 2.18.2013



*Margaret O'Sullivan Parker*  
MARGARET O'SULLIVAN PARKER  
Deputy General Counsel  
Suite 1244, Turlington Building  
325 West Gaines Street  
Tallahassee, Florida 32399-0400  
Telephone (850) 245-0443  
Facsimile (850) 245-9425

ATTORNEY FOR PETITIONER

ATTORNEY FOR RESPONDENT

**STATE OF FLORIDA  
EDUCATION PRACTICES COMMISSION**

**DR. ERIC J. SMITH, as  
Commissioner of Education,**

**Petitioner,**

vs.

**CASE NO. 078-3308**

**VICTORIA BARKWELL,**

**Respondent.**

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**ADMINISTRATIVE COMPLAINT**

Petitioner, Dr. Eric J. Smith, as Commissioner of Education, files this Administrative Complaint against VICTORIA BARKWELL. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's educator's certificate pursuant to Sections 1012.315, 1012.795, and 1012.796, Florida Statutes, and pursuant to Rule 6B-1.006, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida, said sanctions specifically set forth in Sections 1012.795(1) and 1012.796(7), Florida Statutes.

The Petitioner alleges:

**JURISDICTION**

1. The Respondent holds Florida Educator's Certificate 698268, covering the areas of Elementary Education, School Principal, Specific Learning Disabilities, and Gifted, which is valid through June 30, 2013.
2. At all times pertinent hereto, the Respondent was employed as a Principal at Palm Bay Elementary School in the Brevard County School District.

**MATERIAL ALLEGATIONS**

3 On or about February 16, 2008, the Respondent entered a Target store, returned items bought on a prior date, placed a vacuum cleaner on the bottom of her cart and exited the store passing all points of sale with no attempt to pay for the item. The Respondent was charged with Petit Theft. The Respondent enrolled in a pretrial intervention program to resolve this charge.

4 On or about August 29, 2008, the Respondent committed a retail theft at a store. After the Respondent passing all points of sale without attempting to pay for items of merchandise,

the store's loss prevention officer attempted to stop the Respondent, but the Respondent bit the officer on his chest and fled the scene. The Respondent was charged with Petit Theft and Resisting Recovery of Merchandise. The Respondent pled nolo contendere to these offenses, and adjudication was withheld.

5. In or around January 2008 through in or around August 2008, the Respondent fraudulently charged multiple purchases to her deceased husband's credit card in an approximate total amount of \$45,485.35. The Respondent was charged with: Count I Scheme to Defraud; Count II Grand Theft; and Count III Petit Theft. The Respondent entered into a Deferred Prosecution Agreement to resolve these charges..

The Petitioner charges:

**STATUTE VIOLATIONS**

**COUNT 1:** The Respondent is in violation of Section 1012.795(1)(d), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude as defined by rule of the State Board of Education.

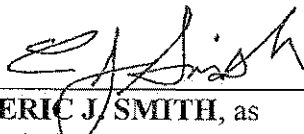
**COUNT 2:** The Respondent is in violation of Section 1012.795(1)(g), Florida Statutes, in that Respondent has been found guilty of personal conduct which seriously reduces her effectiveness as an employee of the school board.

**(SIGNATURE ON FOLLOWING PAGE)**



**WHEREFORE**, based on the reasons set forth herein and in accordance with the Explanation of Rights and Election of Rights forms attached to and made a part of this Administrative Complaint, Petitioner respectfully recommends that the Education Practices Commission impose an appropriate sanction against the Respondent's educator's certificate pursuant to the authority provided in Sections 1012.795(1) and 1012.796(7), Florida Statutes. The sanctions imposed by the Education Practices Commission may include, but are not limited to, any one or a combination of the following: issuing the Respondent a written reprimand; placing the Respondent on probation for any period of time; restricting the Respondent's authorized scope of practice; assessing the Respondent an administrative fine; directing the Respondent to enroll in the Recovery Network Program; suspending the Respondent's educator's certificate for a period of time not to exceed five years; revoking the Respondent's educator's certificate for a period of time up to 10 years or permanently; determining the Respondent to be ineligible for certification; or barring the Respondent from reapplying for an educator's certificate for a period of time up to 10 years or permanently.

EXECUTED on this 2<sup>nd</sup> day of September, 2009.

  
\_\_\_\_\_  
DR. ERIC J. SMITH, as  
Commissioner of Education  
State of Florida