BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION STATE OF OREGON

In the Matter of the Teaching License of:)	
)	STIPULATION OF FACTS, WAIVER
JAMES MICHAEL McLENNAN.)	SURRENDER OF LICENSE and
)	ORDER OF REVOCATION

The Teacher Standards and Practices Commission (Commission) issued a Notice of Opportunity for Hearing on December 2, 2005, to James Michael McLennan, charging Mr. McLennan with misconduct and proposing to suspend or revoke Mr. McLennan's teaching license or to otherwise impose discipline. Mr. McLennan requested a hearing.

After review of the matters alleged, Mr. McLennan and the Commission have agreed that their respective interests, together with the public interest, are best served by a stipulation to certain facts and the surrender of Mr. McLennan's teaching license under OAR 584-050-0027.

In entering into this stipulation, Mr. McLennan waives his right to a hearing to contest the charges, and he understands that the Commission will accept the surrender of his license and revoke said license.

STIPULATION

Mr. McLennan does not admit the charges in the notice. However, he acknowledges and stipulates that there is sufficient evidence in the record for the Commission to make the Findings of Fact, Conclusions of Law and Order set forth below, and he stipulates that the Commission may do so.

McLennan agrees to surrender his teaching license and understands that the Commission will revoke his license. Mr. McLennan may apply for reinstatement of licensure pursuant to OAR 584-050-0015(4).

This stipulation and proposed order is contingent upon approval and adoption by the full Commission. If the Commission does not approve this stipulation and order, it is understood that any waiver of rights by Mr. McLennan is thereafter revoked. It is further understood in such event that the statements contained in this stipulation may not be used by either the Commission or Mr. McLennan in any subsequent contested case hearing.

IT IS SO STIPULATED:

Teacher Standards and Practices Commission

4-14-06 Date 4-20-06

FINDINGS OF FACT

- Mr. McLennan has been licensed by the Commission since 1992. The 1. Commission issued a Standard Teaching License with a Standard Music Endorsement to Mr. McLennan on March 16, 2001, valid until March 15, 2006.
- 2. On September 1, 1992, the David Douglas School District hired Mr. McLennan as a music teacher in the District. At the time of his resignation, Mr. McLennan taught instrumental music in Grades 9-12. Mr. McLennan resigned his employment with the District effective June 14, 2002.
- On June 2, 2002, U.S. Customs agents served a warrant to search Mr. McLennan's 3. residence. Mr. McLennan lived alone in his residence at the time of the search. A search of his home on that date resulted in the discovery of computer disk containing child pornography.
- 4. On April 4, 2005, Mr. McLennan entered a conditional pled guilty in the US District Court to Possession of Child Pornography, 18 USC § 2252(a)(5)(B), defined as:

Any person who * * * knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer.

Mr. McLennan appealed the Court's ruling on certain motions to the Ninth Circuit. The Court sentenced Mr. McLennan to twelve months incarceration and three years of supervised probation which will be binding and enforceable if the Ninth Circuit affirms the Court's rulings.

CONCLUSIONS OF LAW

During the 2001-2002 school year, Mr. McLennan possessed child pornography, a crime under 18 USC § 2252A(a)(5)(B). Engaging in criminal behavior constitutes gross unfitness pursuant to OAR 584-020-0040(5)(e). Mr. McLennan was convicted of the federal crime of child pornography under 18 USC § 2252(A)(a)(5)(B). His conviction constitutes gross unfitness under OAR 584-020-0040(5)(c). The Commission's authority to impose discipline in this matter is based upon ORS 342.175.

ORDER

The Commission hereby accepts the surrender of James Michael McLennan's Standard Teaching License and revokes said license.

PAGE 3 - STIPULATION OF FACTS, WAIVER, SURRENDER OF LICENSE AND ORDER OF REVOCATION (JAMES MICHAEL McLENNAN) ros/GEN256252