



professional services and continued practice of law while suspended demonstrates a lack of good moral character; and

4. The recency of your conduct and disbarment by the Nebraska Supreme Court in March, 2011 indicate a lack of good moral character at this time for being an educator in the K-12 schools of Nebraska.”

Petitioner filed an appeal to the State Board of Education of this denial on September 24, 2013. An Answer was filed by the Respondent, Scott Swisher, Ed.D., Deputy Commissioner of Education, on October 9, 2013. Petitioner is appealing the Respondent’s decision pursuant to the provisions of Title 92, Chapters 21 and 61, Nebraska Administrative Code (NAC), and requests that the Board grant him a Nebraska Teaching Certificate.

A hearing was held on December 18, 2013 at 9:00 a.m. in a conference room of the Nebraska Department of Education in the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The parties were issued written notice of the hearing. The Petitioner appeared on his own behalf and offered testimony under oath. Respondent was represented by Brian L. Halstead, Assistant Commissioner/General Counsel, who cross-examined the Petitioner. The proceeding was recorded by Precision Reporting, Inc., Lincoln, Nebraska. The parties jointly offered Exhibits 1 through 8 and Petitioner offered Exhibit 9, all of which were received without objection. The Exhibits are as follows:

1. The NBOE case file;
2. Title 92, NAC Chapter 61;
3. Title 92, NAC Chapter 21;
4. Copy of Nebraska Supreme Court decision re Peter Thew;
5. Petitioner’s application for a Nebraska Educator’s Certificate with attachments;

6. Letter to Peter Thew from Kevin Peters, Ed.D.;
7. Letter to Dr. Scott Swisher from Peter Thew and attachments which include several letters of support;
8. Letter to Peter Thew from Scott Swisher, Ed.D. and copy of domestic return receipt; and
9. Copies of three final orders in Case Nos. 94035, 05-07 and 05-03 before the Nebraska State Board of Education.

Having considered the sworn testimony of the witness and the exhibits, the Hearing Officer makes the following proposed findings of fact, recommended conclusions of law and recommended decision. A copy of the transcript of the hearing accompanies this document.

#### PROPOSED FINDINGS OF FACT

1. Petitioner is 38 years old and graduated with a Bachelors Degree in Biological Sciences in May of 1998, a Juris Doctorate in May of 2002 and Masters Degree in Science Teaching in May 2013, all from the University of Nebraska at Lincoln.
2. Petitioner passed the bar exam in 2002 and obtained a Colorado bar license, then by reciprocity a Nebraska bar license. Petitioner worked for the University of Nebraska Office of Research until June 2004, when he went into a solo private law practice. Petitioner was a solo practitioner until September 16, 2009, when he was temporarily suspended from the practice of law by the Nebraska Supreme Court. Petitioner filed an Answer to amended formal charges on January 3, 2011. Petitioner admitted at that time that the charges against him were true and stated that he was not currently fit to practice law. The Nebraska Supreme Court then ruled on March 4, 2011 to disbar Petitioner from the practice of law in the State of Nebraska. In its opinion, the court stated Petitioner claimed his depression ought to be considered as a mitigating factor, but that

the referee found that Petitioner had not established that his depression was a factor in his misconduct or that treatment would substantially reduce the risk of further misconduct. The court noted that “even though Thew stipulated to the fact that he knowingly made false statements to his clients, he continued to claim that he had not lied.” The court recited and found as facts misconduct in eleven cases handled by Petitioner, summarized and found as follows:

A. Petitioner had represented a client in a divorce case which went to trial in August 2007, with a decree entered from which Petitioner filed a notice of appeal on his client’s behalf on October 5, 2007. The client retained new counsel and even though the new counsel requested the case file several times, Petitioner did not respond to the request until March 6, 2008, when he stated he would not release the file until his outstanding bill for legal fees were paid. He had not provided a billing statement and when a grievance was filed with Counsel for Discipline on May 22, 2008, and notice was sent Petitioner the same day with directions to file a written response, Petitioner, admitting he had received the notice, did not respond. A second notice was sent June 24, 2008 and Petitioner again failed to respond. On July 15, 2008 Counsel for Discipline upgraded the grievance to a formal grievance and directed Petitioner to file an appropriate written response within 15 working days, which notice was sent by certified mail and signed for on July 16, 2008. Petitioner then called the Counsel for Discipline on July 17, 2008 and claimed to have sent a response the previous week and claimed to have sent billing statements in October and November of 2007 showing that his client owed additional fees beyond the original retainer. When Counsel for Discipline asked on December 30, 2008 for a complete accounting for Petitioner’s trust account from September 14, 2006 to the present, Petitioner failed to provide the requested information and the referee found by clear and convincing evidence that Petitioner had violated his oath of office as an attorney including misconduct of the provisions of the Nebraska

Rules of Professional Conduct on communications, fees, safekeeping property and misconduct;

B. Petitioner was appointed a successor guardian and conservator for a woman on December 20, 2005 and between his appointment and his removal on April 29, 2008 from such roles, the county court issued several orders to show cause why Petitioner should not be removed as guardian/conservator due to his failure to file appropriate documents. During such time Petitioner failed to pay a medical bill for his client and failed to reimburse Medicare for its subrogation claim and failed to appear at court hearings. After his removal as guardian/conservator in April 29, 2008, Petitioner did not file an accounting with the court to determine who would receive the funds held in the client's guardianship account, but finally closed the account on September 2, 2008. He was found by clear and convincing evidence to have violated provisions of the Nebraska Rules of Professional Conduct regarding safekeeping of property, misconduct, competence and diligence;

C. Petitioner was appointed temporary guardian and conservator for a client, which appointment was made permanent on January 31, 2006. Petitioner failed to notify the client's bank of his position as guardian and conservator until months later, failed to timely file an inventory of the client's assets, and after an order to show cause, he filed an inventory on June 6, 2006, but failed to list the accurate account balance, underestimating it by over \$3,000, and failed to timely pay the client's bills for an assisted living center until after an order to show cause. Petitioner waited three months to deposit a check from a buyer of the client's car and failed to keep promises to reimburse the client's son for expenses incurred in selling the car and to set aside money in a pre-paid funeral account and then, after client's death, did not pay the funeral expenses and failed to timely file an annual accounting. After an order to show cause directing Petitioner to file required reports and three continuances, Petitioner filed an annual accounting on September

28, 2007, after which in April of 2008 the court again issued an order to show cause directing him to appear in court for which he failed to appear. After directing Petitioner to personally appear in court in July 2008 to show why he should not be held in contempt, the Petitioner requested a continuance and moved to allow him to pay the client's remaining funds into the court, saying he had been unable to contact the client's heirs, even though he had addresses of all four of the client's adult children. Petitioner was ordered on July 29, 2008 to pay the client's funds into the court, but he did not do so until December 31 of 2008 after being informed that he was under investigation regarding his neglect of the client's case. He was found by clear and convincing evidence to have violated his oath of office and the Rules of Professional Conduct on competence, diligence, safekeeping property, misconduct and candor toward the tribunal. Petitioner in his testimony at the hearing on the present case denied that he provided false information to a court, but the finding in the court opinion is to the contrary, finding that he did provide false information to a court in this particular guardianship case as to his inability to contact the deceased client's heirs;

D. A client hired Petitioner in March 2008 to file a suit to recover a bill on architectural services in the amount of over \$12,000. Petitioner failed to timely file suit yet assured the client that the case was proceeding in a timely manner, stated that the suit had been filed and even stated that a judgment had been entered for the full amount, knowing these statements were false at the time he made them. On January 26, 2009, the client requested in Petitioner's office a copy of the judgment. Petitioner stated that the file was at his home and then the next day gave the client a document that Petitioner claimed was a copy of the order of judgment, even though he knew the suit had not been filed and that no judgment had been entered when he delivered the document. Petitioner filed suit on the client's behalf on January 29, 2009

and settled the case to the client's satisfaction. However, the referee still found by clear and convincing evidence that Petitioner had violated the provisions of the Rules of Professional Conduct for competence, diligence, communications and misconduct;

E. In March 2008, Petitioner was hired to recover on a loan for a client and did obtain a default judgment on September 19, 2008. In late October 2008, Petitioner led the client to believe that garnishment proceedings were being pursued to recover on the judgment, when he had not begun any garnishment proceedings. When the client contacted the clerk of the court and learned no garnishment proceedings had been commenced, Petitioner falsely stated that he had filed the garnishment proceedings in district court rather than county court. Petitioner knew the statement was false when he made it and he then filed a garnishment proceeding on March 18, 2009. The client then terminated Petitioner as her lawyer on March 20, 2009. Petitioner was found by clear and convincing evidence that he had violated the Nebraska Rules of Professional Conduct for competence, diligence, communications and misconduct.

F. In June 2006, Petitioner was retained in a personal injury action and even though he sent the client a draft complaint in September 2006, which his client approved, he did not file the complaint until May 16, 2007. In the spring of 2008, Petitioner told the client that the trial was scheduled for May 28, 2008 and met with the client. Then a few days before the scheduled trial date, Petitioner called the client and said the trial had been continued and re-scheduled for December 10<sup>th</sup>, even though Petitioner knew that there had been no trial scheduled in the first place. Petitioner failed to perfect service of summons on the defendants in the case, so on November 26, 2008, the case was dismissed by the county court. Petitioner failed to inform the client that the case had been dismissed, but instead stated that trial would be continued to January 7, 2009, knowing that this statement was false when he made it. On January 6, 2009, Petitioner

called the client and informed him the case was dismissed because the parties had not been properly notified. In February, 2009, Petitioner told the client that he had re-filed the case, which was a false statement. Petitioner did not re-file the case until June 16, 2009. Petitioner was found by clear and convincing evidence to have violated the Nebraska Rules of Professional Conduct involving competence, diligence, communications, fees and misconduct.

G. In May 2008, Petitioner was hired to represent a client on several criminal and civil matters with a written fee agreement that provided for an hourly rate as well as a \$40,000 non-refundable deposit, which Petitioner received. Petitioner never provided client with a periodic billing statement nor did he respond the Council for Discipline's request for a billing statement. Petitioner was charged with and admitted violating rules of professional conduct on fees, safeguarding property and misconduct.

H. In February 2006, a client hired Petitioner to represent him on a breach of settlement agreement, upon which Petitioner filed suit on May 9, 2006, but then failed to prosecute the case. The court had issued a progression order on December 10, 2007, stating that the case would be dismissed unless cause was shown by January 10, 2008. On January 2, 2008, Petitioner filed a motion to set the case for trial but no trial notice was ever filed, and on December 3, 2008, the court issued another progression order directing that the case would be dismissed unless cause was shown by January 5, 2009. On January 5, 2009, Petitioner filed a motion to set case for trial stating that all discovery had been completed, though he knew that wasn't true and that the Defendant had objected and served several interrogatories and requests for production of documents to the Petitioner to which the Petitioner had failed to submit responses. On July 22, 2009, opposing counsel filed a motion to compel on the discovery requests. Petitioner failed to keep the client apprised of the status of the case and on more than one occasion falsely claimed that

the case had been set for trial only to claim later that the trial had been continued at the request of opposing counsel. Petitioner's license to practice law was suspended on September 17, 2009, but Petitioner failed to notify the client of such and did not turn over the file so client could seek other counsel. On October 13, 2009, the client filed a grievance and in Petitioner's response, he admitted that he had lied when he told the client the case had been set for trial. Petitioner was charged with and admitted violating professional rules of conduct regarding diligence, communications, fees, misconduct and terminating representation.

I. Petitioner was hired to file an eviction notice in February 2006, and he obtained a default restitution judgment in March 2006 and a monetary judgment in April 2006. He initiated garnishment proceedings and received \$1,407.02 between May 16, 2006 and March 30, 2007 from the garnishee's employer. Petitioner failed to provide the client with an accounting of all funds received through the garnishment action and failed to remit all of the funds that the client was entitled to receive. In March 2009, the client provided Petitioner with the name of garnishee's current employer. Petitioner filed a praecipe and garnishment affidavit on March 18, 2009 and failed to follow up with the garnishment. Petitioner did not do any more work on the case, did not take steps to terminate the relationship, failed to notify the client when his license was suspended, and failed to turn the case file over so the client could obtain other counsel. A notice of grievance was mailed to Petitioner on November 17, 2009 by certified mail to which he signed a receipt on December 2, 2009, but he failed to file a response and again failed to file a response after January 20, 2010 when he received a follow up letter directing him to file a response. Petitioner was charged with and admitted violating professional rules of conduct on diligence, communications, safekeeping property and declining or terminating representation and misconduct.

J. In 2006, Petitioner represented a client in a personal injury case. Petitioner filed

suit in county court on or about January 12, 2009. The case was settled with the defendant's insurance company and the client was appointed conservator for her son so that she could receive the settlement for the son's personal injury damages from the insurance company. The insurance company mailed Petitioner a check for over \$18,000 for attorney's fees, as well as a check payable to the client and Petitioner for over \$24,000. The client was required to deposit the insurance settlement check into a certificate of deposit and file notice with the county court. Petitioner failed to notify client that he had received the settlement check and he failed to take any other steps to confirm that the settlement proceeds were deposited into a certificate of deposit for the son's benefit. The county court issued an order to show cause to the client for failure to file a certificate of proof of possession of certificate of deposit for her son's benefit and she was unable to contact or locate Petitioner to find out why the insurance company had not delivered the settlement funds. The client appeared at the show cause hearing on March 16, 2010, and was informed that the Petitioner's license had been suspended and that it was her responsibility to locate and deposit the settlement funds. Upon her investigation she learned that the check for over \$24,000 made payable to her and Petitioner had been sent to Petitioner shortly after the settlement had been reached, but the check had never been deposited, though the check for over \$18,000 for Petitioner's fee had been deposited. The insurance company reissued the settlement check to the client. Petitioner was charged with and admitted violating the rules of professional conduct for diligence, communications, safeguarding property, declining or terminating representation and misconduct.

K. In 2006, a client hired Petitioner to represent her on an intellectual property application to secure trademark protection for her ideas and the client gave him a check for \$1,900 advance payment on August 11, 2006. Petitioner informed the client that it would take between

six months and two years to complete the registration for her ideas and when she had not heard from him by August 2007 she called and was told by Petitioner that he was still working on her case but had not heard from the trademark office. Client waited another year, and in August 2008 was told by Petitioner that he had still not heard from the trademark office regarding her application for trademark protection. Petitioner told the client that she could begin marketing her ideas while she waited to hear from the trademark office. Petitioner failed to tell the client that his law license was suspended in September 2009, and she did not receive her file from Petitioner. Petitioner was charged with and admitted violating rules of professional conduct regarding diligence, communications, safekeeping property, declining or terminating representation and misconduct.

3. The Supreme Court found that the Petitioner's behavior demonstrated a pattern of neglect and deceit, that his responses to clients were not only negligent and lax, but that he lied numerous times and created false documents to hide the fact that he had procrastinated. The court found that Petitioner admitted that he failed to notify his clients of his temporary suspension and that he failed to provide his clients with their files so that they could seek other counsel. Though Petitioner sought mitigation on the basis of depression, the court refused such mitigation and found the record reflected that Petitioner's problems were due in part to poor management of his private legal practice, that he did not have sufficient experience to handle some of his cases and that he did not seek assistance when he realized he did not have the necessary information or skills. Petitioner's misconduct not only included his false and misleading statements to clients to hide the fact that he had procrastinated and failure to notify his clients of suspension and failure to safeguard his clients interests, but also the court found his misconduct continued during the investigation by the counsel for discipline, including ignoring letters sent by counsel for discipline.

The court disbarred Petitioner on March 4, 2011.

4. The Petitioner admitted at the hearing that there are no corrections to the facts in the Supreme Court's Opinion admitted as Exhibit 4.

5. While Petitioner testified that his false statements to clients were an outcome of a mental disability, namely diagnosed depression, the Supreme Court was asked to consider this as a mitigating factor and did not do so, on the basis of the referee's finding that depression was not established as a factor in his misconduct and treatment was not established as likely to substantially reduce the risk of further misconduct.

6. Contained in Exhibit 7 is a letter from Birgit Schlechte, a mental health and substance abuse therapist. The letter is dated August 15, 2013, and states that Petitioner's diagnosis as of September 3, 2009 and October 20, 2009 was of an adjustment disorder with depressed mood and major depressive disorder (recurrent and mild), and that Petitioner was seen for 28 sessions of individual mental health counseling by Ms. Schlechte between September 3, 2009 and August 18, 2011. The letter indicates that Petitioner has developed treatment goals to decrease his level of depression and manage stress more effectively and that he achieved these two goals with all of their objectives. The letter indicates when Petitioner terminated therapy that he had learned several coping skills to deal with his depression by learning how to identify distorted thinking patterns that contributed to a depressed mood, ways to stop unwanted thoughts, how to implement alternative interpretations of events, and learning stress avoiding strategies and relaxation techniques and de-stressing methods. The letter also indicates that Petitioner had learned and engaged in multiple strategies that helped him structure his time, including setting priorities and goals regarding his difficulties with procrastination. Ms. Schlechte said it is her professional opinion that there is no reason to reject Petitioner's application for a teaching

certificate on moral grounds and that she believes that he will do everything necessary to become an outstanding teacher and can apply himself fully without falling back into his behavior patterns like procrastination, that are connected to his depressed mood.

7. Petitioner testified that he has not been employed in full time work since his suspension from the practice of law, but has taken occasional odd jobs as a handyman, being involved in church activities and coaching youth sports, including wrestling, football, soccer and baseball and the pursuit of a masters in teaching science. Petitioner has support groups, including his wife, siblings, mother, friends, former co-workers at the University and people in youth sports organizations, that he used to help hold him accountable in his behavior.

8. There is no factual basis for the allegation that Petitioner continued the practice of law while suspended, or that he continued to accept clients after his suspension.

9. Petitioner submitted eleven letters of recommendation, which are contained in Exhibit 7. These letters include the following opinions and representations from educators, colleagues and friends as follows:

A. Letter from Bryan Penas, science teacher at Lincoln High School in Lincoln, Nebraska, dated August 26, 2013, indicating that Petitioner was a practicum student and student teacher with him during the 2012-2013 school year at Lincoln High School and in his opinion Petitioner made excellent growth with the skills of being classroom teacher and showed professionalism and teaching skills that allowed Penas to recommend him to potential employers without hesitation. He stated that Petitioner has the ability to make professional and supportive connections with students, including students of highly diverse backgrounds and special needs.

B. Letter from James Rynearson, Master Science Teacher, University of Nebraska, dated April 22, 2013, in which he states that he was Petitioner's secondary science methods

instructor in the summer of 2012, as well as his practicum supervisor in fall of 2012. He believes Petitioner works hard at forming relationships with students and possesses many qualities that will aid him in teaching, such as his ability to communicate, common knowledge of the subject material, organization, hard worker and attention to detail. He believes that the Petitioner has the potential to be a very good science teacher.

C. Letter from Jon Pedersen, Ph.D., Associate Dean for Research, College of Education and Human Sciences at the University of Nebraska - Lincoln, dated August 27, 2013, in which he states that he has known the Petitioner for 16 months as a student and advisee and believes his character and commitment to education and science is above reproach. He believes the Petitioner provides a clear attention to detail and depth of understanding about the topic under study and a compassion for students involved in the study and states that there is nothing in his personal or profession interactions with Petitioner that would lead him to believe at this point that he would not be able to be part of the teaching profession and conduct himself in the highest professional manner.

D. Letter from Elizabeth B. Lewis, Ph.D., Coordinator, Master of Arts, University of Nebraska – Lincoln dated August 21, 2013, stating that Petitioner was certified in secondary biology through their 14-month Master of Arts with an emphasis in science teaching, that she was one of Petitioner’s program instructors for three of his education courses and his student teaching supervisor, and that from her interactions and observations, Petitioner has demonstrated respect for students, staff and faculty and conducted himself professionally in the classroom and is someone she would trust with adolescents and their academic development.

E. Letter from Peggy J. Pilgner, Ed.D., Professor of Practice, retired and science education consultant, dated August 17, 2013. She writes that she is aware of the circumstances

surrounding the loss of his license to practice law and believes that since that time he has undergone treatment to allow him to cope with and manage the demands of being a husband, father, student and teacher; that his work for her in the masters level courses was excellent, that he completed a rigorous program to earn a Masters Degree in Science Teaching, which required good management skills to successfully complete all of the course work and practicum requirements in fourteen months; that in her professional opinion the Petitioner possesses the skills and talents to be a successful secondary science teacher and her opinion that Petitioner has demonstrated that he has overcome to the problems that lead to the loss of law license.

F. An undated letter of support from Dan Carpenter, Ph.D., Assistant Professor – Science Education at Texas Tech University, who states that he teaches graduate college at Texas Tech and is actively involved in research on high school science teacher instructional improvement in school improvement models, and that he also taught high school science in Lincoln, Nebraska for 18 years. He states that he has known and worked with Petitioner for the past 20 years, including when they were undergraduate students and taught undergraduate biology lab together. He has complete trust in Petitioner, including entrusting him to watch and care for his children, believes he has a high character and that his difficult and trying times over his professional experience in law does not define his character or moral aptitude.

G. Letter from Corey L. Stull, Attorney at Law, dated August 13, 2013. Mr. Stull wrote that he has known the Petitioner for many years and had the opportunity to work along side him in a case that they handled together. He observed a strong work ethic and was impressed with Petitioner's gift with working with a disabled client and his desire to make sure she understood the work they were doing on her case. He believes Petitioner to be a man of integrity and to have demonstrated a strong moral compass. He believes the difficulties in Petitioner's practice were

very uncharacteristic of Petitioner and that Petitioner has taken the steps necessary to remedy the difficulties he once had.

H. Letter from William V. Glider, Ph.D., Professor of Practice, UNL School of Biological Sciences, dated August 23, 2013. He writes that Petitioner was a student of his in general biology lecture in spring of 1995 and then was hired by him as a student lab preparation assistant. He states that the Petitioner carried out those duties efficiently with a minimum of supervision and never complained about having to come in on weekends or evenings to complete projects. He states that over the past 15 years he and Petitioner have maintained a friendship. He notes that he saw Petitioner transition into the private law practice and becoming more and more unhappy with his life as a lawyer. He believes Petitioner to be a top notch teacher. He states that Petitioner has been working with them on the Building Accepting Campus Communities Project with a grant from the Department of Education and from this he sees Petitioner's tremendous potential as a teacher. He also stated that in the fall of 2012 he hired Petitioner to work for him as a graduate student lecture teaching assistant in general biology and does not have any question about his character, moral fitness or ability to be in his classroom.

I. Letter from Blake Edwards dated August 14, 2013, where he states that Petitioner is a friend of his over the past few years and has coached his children and has had Petitioner help his sons with science fair projects. He believes Petitioner is an excellent coach and teacher to whom his children may look up to as a role model.

J. Letter dated August 12, 2013 from Laura Edwards, who states that she has known Petitioner for the last five years, during which time he coached her children in several sports and assisted them in science fair projects. She believes him to be honest, hardworking and passionate about education and sportsmanship.

K. Letter from Emily Duncan, undated, stating her opinion that Petitioner is a wonderful man, husband, father, teacher and coach and that she knew him as a coach and director at a Lincoln Warrior Wrestling club. She found Petitioner able to motivate young wrestlers and believes he would be a good teacher.

10. Petitioner has not had any other disciplinary or other factual issues reflecting negatively on moral character since the spring of 2010.

#### RECOMMENDED CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 79-808 (1) (Reissue 2008) provides that “The Board shall establish, adopt and promulgate appropriate rules, regulations and procedures governing the issuance, renewal, conversion, revival, cancellation, suspension, and revocation of certificates and permits to teach, provide special services, and administer, based upon... (f) moral, mental and physical fitness for teaching, all in accordance with sound educational practices.”

2. Title 92 NAC 21 § 005.01J provides that applicant for a teaching certificate be of good moral character .

3. Title 92 NAC 21 § 009.03 provides that within 20 calendar days of the receipt of the notice of Commissioner’s denial of the certificate that the applicant may appeal the Commissioner’s decision to Board of Education pursuant to Title 92 NAC 61. If the Board finds the requirements in this or related chapters have been improperly applied to the applicant, and that that applicant has good moral character and possesses a moral fitness for teaching, then the Board may direct the Commissioner to issue a certificate to the applicant.

4. Title 92 NAC 21 § 009.04, although specifically involving a denial upon criminal convictions, does list factors for the Board to take into account in determining moral character and moral fitness to teach, including: 009.04B the applicant’s age at the time of the conduct; 009.04C

the recency of the conduct; 009.04D the applicants positive social contribution since the conduct; and 009.04E the reliability of the information concerning the conduct.

5. A teacher in a public school system is regarded by the public and pupils in the light of an exemplar, whose words and actions are likely to be followed by the children coming under his or her care and protection. A teacher's actions set an example for others to follow, and as such affects the teacher's ability to teach. *Clark vs. Board of Ed., Sch. Dist. of Omaha*, 215 Neb. 250, 338 N.W.2d 272, 275 (1983).

#### RECOMMENDED DECISION

Petitioner has complied with the procedural requirements in this case and is properly before the State Board of Education for determination.

Petitioner was disbarred from the practice of law in the State of Nebraska on March 4, 2011, for violation of seven different disciplinary rules in matters involving eleven different clients, including behavior that demonstrated a pattern of neglect and deceit, including lying numerous times to clients and creating false documents to hide the fact that he had procrastinated. The Nebraska Supreme Court refused to consider his diagnosis of depression as a mitigating factor and instead said the record reflects that his problems were due in part to poor management and also insufficient experience to handle some of his cases and the failure to seek assistance when he realized he did not have the necessary information or skills. As recently as January 3, 2011, Petitioner admitted the charges against him and stated that he was not currently fit to practice law. His business conduct not only included deceit and negligence in handling of client affairs, but he also ignored letters sent by the Council for Discipline.

Petitioner argues that his conduct was an outcome of his mental disability and mental health issues, so after two years of mental health counseling he has overcome his depression and

has the tools and support groups to avoid the misconduct in the future. Petitioner argues that the conduct occurred in 2009 and before, and therefore is not recent.

However, his conduct was extensive and occurred over a period from 2005 through to at least the end of 2009 and appears to have continued possibly into the spring of 2010 with the failure to notify a client and turn over files to a client to continue pursuit of the client's legal matter. Therefore it is only four years ago since the end of this conduct. While the Petitioner argues that the conduct was the result and outcome of his depression, which has now been successfully dealt with, the Nebraska Supreme Court was not convinced that depression was a mitigating factor in its ruling and instead focused upon the negligence and deceit of Petitioner.

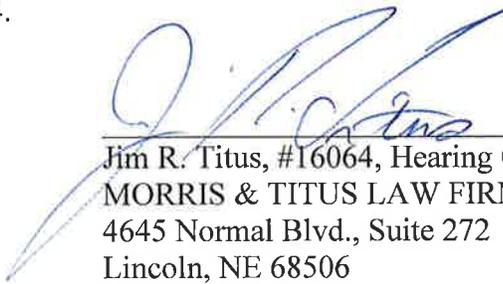
The Petitioner argues that in Dr. Swisher's letter dated September 3, 2013, the allegations of him engaging in fraud was incorrect as there has been no determination of fraud in either the civil or criminal definitions of the term. While the Petitioner has not been found to have committed fraud in the legal sense, the term can also mean deceit deliberately practiced in order to secure an unfair gain. It was unclear the sense in which Dr. Swisher meant to use the term, but it is clear from the record that Petitioner did lie to clients in order to hide his negligence or lack of experience and to maintain representation of such individuals. However, the allegations in Dr. Swisher's letter that Petitioner continued to accept clients and to practice law while suspended is not supported by the evidence.

Petitioner also argued that the denial is not consistent with the prior decisions of the Board in cases accepted for consideration as Exhibit 9. All three cases involved teachers who already had certificates of teaching. In a case from 1994, a physical education teacher had his certificate revoked for one year for using a school district van to transport his daughter to college and billing its use to the school and for theft of money during a fund raiser of a parent organization related to

the school. He was also required to complete a program of psychiatric counseling for clinical depression prior to seeking reinstatement. In two cases from 2005, the Board revoked for one year the teaching certificate of both individuals and required successful alcohol counseling after the individuals had reported to work under the influence of alcohol. Neither case rises to the level of several years of deceit and negligence in a professional practice like that for which the Petitioner was disbarred from the practice of law. Such previous cases are not binding precedent upon the Board, though they may be considered by the Board for purposes of consistency in decision-making. However, in the facts of Petitioner's case, having had his professional license in another profession revoked for deceit and other misconduct occurring over several years, it differs greatly from these cases of one or two incidents by existing certificate holders. Petitioner's efforts to change his life are commendable, including pursuing a Masters Degree in science teaching, seeking and completing counseling, active coaching in youth sports and awareness of the need for a support group. But, Petitioner has also not held full-time employment or faced the similar stresses, deadlines and responsibilities present during his original misconduct. The short time since the misconduct and the revocation of his license to practice to law, together with his activities since disbarment, do not demonstrate that he now possesses a good moral character and moral fitness for teaching necessary to qualify him for the privilege of teaching. This is not to say that Petitioner cannot reach and demonstrate facts necessary to satisfy the requirements of good moral character and moral fitness for teaching in the future. It appears however, that Petitioner requires the passage of more time without similar misconduct in order to demonstrate such standard. Petitioner may certainly reapply for a certificate to teach when he believes that sufficient time has elapsed and he can further demonstrate that he had good moral character and possesses the moral fitness for teaching.

The Hearing Officer therefore recommends, based upon the evidence in the record, that the Board of Education at this time reaffirm the Deputy Commissioner of Education's denial of Petitioner's application for a teaching certificate.

Dated this 22 day of January, 2014.



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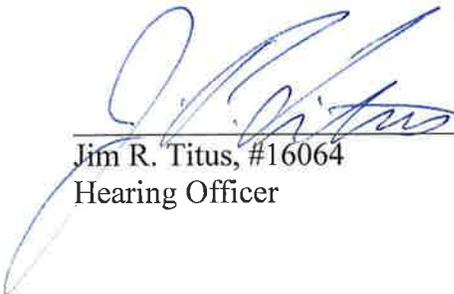
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CERTIFICATE OF SERVICE

The undersigned, Jim R. Titus, hereby certifies that the original of the foregoing with attached transcript was hand delivered to Leslie S. Donley, Assistant Attorney General, Nebraska Department of Justice, 2115 State Capitol, Lincoln, Nebraska on January 22, 2014, and a true and correct copy of the foregoing document was served by first-class United States mail, postage prepaid on January 22, 2014 to the following parties:

Brian L. Halstead  
Assistant Commissioner/General Counsel  
Nebraska Department of Education  
301 Centennial Mall South, 6<sup>th</sup> Floor  
P.O. Box 94933  
Lincoln, NE 68509-4933

Peter Thew  
3521 M Street  
Lincoln, NE 68510



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Jim R. Titus, #16064  
Hearing Officer

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

1			
2	PETER THEW,	)	NDE Case No. 13 - 15
3		)	
4	Petitioner,	)	<u>REQUESTED TRANSCRIPT</u>
5	vs.	)	VOLUME I - TESTIMONY
6		)	(Pages 1 - 41, incl.)
7	SCOTT SWISHER, Ed.D.	)	
8	DEPUTY COMMISSIONER	)	VOLUME I - EXHIBITS
9	OF EDUCATION,	)	(Exhibits 1 - 9, incl.)
10		)	
11	Respondent.	)	

**ORIGINAL**

Proceedings had before JIM R. TITUS, HEARING OFFICER, at Lincoln, Nebraska, on **December 18, 2013.**

A P P E A R A N C E S

For the Petitioner: Pro se

For the Respondent: **MR. BRIAN L. HALSTEAD**  
Assistant Commissioner/  
General Counsel  
NE Department of Education  
301 Centennial Mall South  
Sixth Floor  
P.O. Box 94933  
Lincoln, NE 68509-4933

## I N D E X

<u>WITNESSES:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
PETER THEW	9	14	30	

<u>EXHIBITS:</u>	<u>Marked</u>	<u>Offered</u>	<u>Ruled On</u>	<u>Found</u>
1. Pleadings	4	6	6	ATT
2. NE Department of Education Rule 61	4	6	6	ATT
3. NE Department of Education Rule 21	4	6	6	ATT
4. Copy of Nebraska Supreme Court Decision RE: Peter Thew (3/4/11)	4	6	6	ATT
5. Application for a Nebraska Educator's Certificate and Attachments	4	6	6	ATT
6. Letter to Peter Thew from Kevin Peters, Ed.D. (8/7/13)	4	6	6	ATT
7. Letter to Dr. Scott Swisher from Peter Thew (8/27/13) and Attachments	4	6	6	ATT
8. Letter to Peter Thew from Scott Swisher, Ed.D. (9/3/13) and Copy of Domestic Return Receipt	4	6	6	ATT
9. Final Orders RE: Case Nos. 94035, 05-07, and 05-03	37	37	37	ATT

ATT - Attached

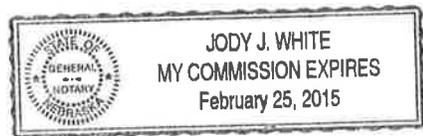
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C E R T I F I C A T E

I, Jody J. White, Registered Merit Reporter,  
do hereby certify that the within and following  
transcript contains all the evidence requested to  
be transcribed by me from the proceedings had in  
the foregoing cause; that said transcript is a  
correct and complete transcription of the  
proceedings requested to be transcribed from the  
record made at the time of said proceedings.

Dated this 20th day of December, 2013.

*Jody J. White*  
\_\_\_\_\_  
General Notary Public



1 (At 9:06 a.m. on December 18, 2013, at  
2 301 Centennial Mall South, Sixth Floor, Conference  
3 Room A, Lincoln, Nebraska, before JIM R. TITUS,  
4 HEARING OFFICER, with Mr. Brian L. Halstead  
5 appearing as counsel for the Nebraska Department of  
6 Education, the following proceedings were had:)

7 (Exhibit Nos. 1 through 8 were  
8 marked for identification.)

9 HEARING OFFICER: We'll now convene  
10 the hearing in the matter captioned Peter Thew  
11 versus Scott Swisher, Deputy Commissioner of  
12 Education, Nebraska Department of Education,  
13 Case 13-15. Let the record show that Peter Thew  
14 is present, representing himself and the  
15 Department is represented by Brian Halstead -- or  
16 the Commissioner of Education is represented by  
17 Brian Halstead.

18 And both parties have received notice of this  
19 hearing, and, to my knowledge, neither party has  
20 requested that the Court Rules of Evidence apply  
21 to this hearing. Any witnesses will be sworn in  
22 by me, and exhibits have been marked.

23 Any preliminary matters?

24 MR. HALSTEAD: I believe, Mr. Titus,  
25 before the hearing started this morning, Mr. Thew

1 and I agreed on eight separate exhibits that could  
2 be jointly offered and received by you and the  
3 State Board of Education in this matter.

4 Exhibit No. 1 would be all of the pleadings  
5 that have been filed in this matter to date;  
6 Exhibit No. 2 being Title 92, Nebraska  
7 Administrative Code, Chapter 61, the rules and  
8 regulations for hearings before the State Board of  
9 Education. Title 92, Nebraska Administrative  
10 Code, Chapter 21, the regulations for issuance of  
11 certificates to teach is Exhibit No. 3. Exhibit  
12 No. 4 is a copy of the Nebraska Supreme Court  
13 decision in State ex rel. Counsel for Discipline  
14 versus Peter Thew, 281 Nebraska 171.

15 Exhibit No. 5 is the application and  
16 materials Mr. Thew submitted to the Nebraska  
17 Department of Education for a teaching  
18 certificate. Exhibit No. 6 is a letter of intent  
19 to deny his application from Kevin Peters dated  
20 August 7th, 2013. Exhibit No. 7 is a letter from  
21 the petitioner to Dr. Swisher including a number  
22 of other letters of reference as part of his  
23 administrative review -- or request for an  
24 administrative review by Dr. Swisher. And then  
25 Exhibit No. 8 is a September 3rd, 2013, denial

1 letter by Dr. Swisher denying Mr. Thew's  
2 application for a Nebraska teaching certificate;  
3 so I think collectively we would offer for your  
4 consideration Exhibits 1 through 8.

5 HEARING OFFICER: Is that correct,  
6 Mr. Thew?

7 MR. THEW: Yeah. I have no objection.

8 HEARING OFFICER: Exhibits 1 through 8  
9 are received.

10 (Exhibit Nos. 1 through 8 are  
11 made a part of this Requested  
12 Transcript and may be found  
13 attached hereto.)

14 HEARING OFFICER: Okay. Do you wish  
15 to make opening statements?

16 MR. HALSTEAD: I -- I'd waive an  
17 opening statement.

18 MR. THEW: I'll waive opening.

19 HEARING OFFICER: Okay. Then,  
20 generally, you start with the petitioner, but in  
21 these hearings we generally start with the  
22 Department because they're making the denial and  
23 their basis for the denial; so we'll --

24 MR. HALSTEAD: I --

25 HEARING OFFICER: -- let you --

1 MR. HALSTEAD: I don't have any other  
2 evidence other than the exhibits that have been  
3 offered. The Commissioner's determination was  
4 that Mr. Thew lacked the good moral character  
5 requirement in Rule 21 in order to be issued a  
6 Nebraska teaching certificate, and that's the only  
7 legal issue that's presented in this case; so --

8 HEARING OFFICER: Okay. Mr. Thew,  
9 your case.

10 MR. THEW: Can we go off the record  
11 for just a second?

12 HEARING OFFICER: Yes. Go ahead.

13 (At this time an off-the-record  
14 discussion was had.)

15 MR. HALSTEAD: Mr. Titus, what we  
16 would stipulate to is the -- the basis of  
17 Dr. Swisher's decision to deny Mr. Thew's  
18 application for good moral character is the  
19 Nebraska Supreme Court decision in State ex rel.  
20 Bar Association versus Mr. Thew, and that was the  
21 only factors he considered besides whatever  
22 information Mr. Thew submitted as part of his  
23 application or his administrative review request.  
24 That was the only information Dr. Swisher utilized  
25 in making his decision.

*PETER THEW - Direct*

1 HEARING OFFICER: So it's that,  
2 though, but also the materials submitted --

3 MR. HALSTEAD: Yeah.

4 HEARING OFFICER: -- by Mr. Thew?

5 MR. HALSTEAD: Everything Mr. Thew  
6 submitted.

7 MR. THEW: Right. It's the materials  
8 that have been submitted into evidence --

9 MR. HALSTEAD: Right. That's it.

10 MR. THEW: -- marked as Exhibits 4  
11 through 8.

12 MR. HALSTEAD: He made no other  
13 independent reach out for facts or information.  
14 He based it solely on the record that was  
15 submitted to him by Mr. Thew and the Supreme  
16 Court's decision that's Exhibit No. 4 before you  
17 today.

18 HEARING OFFICER: Okay. That's fine.  
19 Do you have any further evidence or witnesses  
20 or --

21 MR. THEW: I mean, I'd -- I'd like to  
22 call myself.

23 HEARING OFFICER: Very -- very well.  
24 And like I often tell people, I mean, I don't  
25 expect for you to do it in a question-and-answer

*PETER THEW - Direct*

1 format. I mean, that would be a little strange.  
2 If you do it in a narrative fashion, if  
3 Mr. Halstead objects, you know, starts grunting,  
4 or something to indicate an objection, just stop,  
5 and let's hear the objection before we move on.

6 MR. THEW: Okay.

7 HEARING OFFICER: Okay. And I guess  
8 I'll have you raise your right hand.

9 MR. THEW: (Complies.)

10 **PETER THEW,**

11 called as a witness on his own behalf,  
12 having been first duly sworn,  
13 testified as follows:

14 HEARING OFFICER: Okay.

15 **DIRECT EXAMINATION**

16 THE WITNESS: I'd first like to  
17 address the issues raised by the intent to deny.  
18 Dr. Swisher listed four reasons. The first reason  
19 is a combined reason of failing to provide legal  
20 services which I don't disagree with. But the  
21 second part as far as engaging in fraud over an  
22 extended period of time when contacted by these  
23 clients, I do object to the -- the determination  
24 of engaging in fraud.

25 I think it's important to note that the  
discipline case under the nature of the case is an

*PETER THEW - Direct*

1 attorney discipline. There's no criminal action.  
2 There was no criminal action. I have no criminal  
3 record. And so that's my concern with the use of  
4 "fraud" in that statement.

5 Number two, I was temporarily suspended by  
6 the Supreme Court for -- from the practice of law,  
7 but I did not accept clients after that time. I  
8 did not work as an attorney after that time, and I  
9 did not practice law after the time which I was  
10 suspended.

11 Number three, I was diagnosed with depression  
12 and did begin medical treatment in 2009, but I did  
13 not continue to practice law while suspended; so  
14 although there's a factual basis to the first part  
15 of number three, the overall reason for denial in  
16 number three is, you know, without merit.

17 And then as far as number four, the recency  
18 of my conduct, the conduct at issue in the Supreme  
19 Court case was 2009 and earlier. It is a bit  
20 confusing. I sometimes get confused myself  
21 because I was temporarily suspended in '09. The  
22 hearing was in 2010, and the opinion was issued in  
23 2011, but I think as far as -- for clarity, the --  
24 the conduct was prior to 2009.

25 So those are the -- the issues and concerns I

*PETER THEW - Direct*

1 have as far as the notice of the intent -- or the  
2 issuance of the intent to deny.

3 HEARING OFFICER: Actually, that was  
4 the denial letter, Exhibit 8 --

5 THE WITNESS: I'm sorry.

6 HEARING OFFICER: -- correct?

7 THE WITNESS: It is. Sorry.

8 MR. HALSTEAD: Correct.

9 THE WITNESS: It is in -- in reference  
10 to Exhibit 8. Prior to receiving the denial, I  
11 did receive an intent to deny which has been  
12 marked as Exhibit 5. Upon receiving that intent  
13 to deny -- I'm sorry. That's Exhibit 6. After  
14 receiving the intent to deny, I did submit  
15 information, including a letter from myself and  
16 then several letters from people that I've known,  
17 people that I've worked with, people who I've  
18 worked with their children stating to the fact as  
19 far as my moral character.

20 The intent to deny, which is six, stated that  
21 it was based on moral character. All these people  
22 I've known for various lengths of time. All these  
23 people are aware of my prior history, including  
24 the disbarment and my mental health issues, and  
25 all these people wrote letters in support saying I

*PETER THEW - Direct*

1 was of good moral character. These letters  
2 include Dr. Tilgner, Dr. Lewis, Dr. Pedersen, and  
3 Mr. Rynearson, all of whom are faculty members at  
4 the University, all of whom were formerly high  
5 school teachers, all of whom observed me either in  
6 a practicum setting or a student teaching setting.  
7 Also included in that is a letter from Bryan Penas  
8 who was my supervising teacher during the time of  
9 my student teaching. All these people wrote  
10 letters supporting me, attesting to my fitness to  
11 be issued a teaching certificate and my good moral  
12 character.

13 There's also a letter in here from Birgit  
14 Schlechte who is the therapist who I did treatment  
15 with. Ms. Schlechte wrote a letter at my request  
16 detailing the diagnosis and the treatment that I  
17 went through, the issue -- regarding the fact that  
18 during the time of my disbarment and prior to  
19 that, the issues related to depression that I had.  
20 That depression was untreated. Through therapy  
21 and a medication plan, I have had treatment with  
22 depression, have developed a long-term plan, and  
23 have not had any issues with depression since  
24 terminating therapy, completing therapy.

25 HEARING OFFICER: And when was that?

PETER THEW - Direct

1 THE WITNESS: That was --

2 HEARING OFFICER: Is that in the  
3 letter or --

4 THE WITNESS: It -- it is. I think it  
5 was 2011. Yeah. August 2011. It's in that first  
6 page of the letter from Ms. Schlechte.

7 HEARING OFFICER: Okay. I found it.  
8 Anything else or --

9 THE WITNESS: I -- I think that the  
10 fact that I've completed therapy, haven't had any  
11 issues since therapy's been completed, completed a  
12 master's program at the University which is an  
13 accredited program by the Department of  
14 Education -- I completed student teaching. I  
15 completed a practicum program. I graduated with a  
16 master's degree in science teaching. And all  
17 these are within the guidelines of the Nebraska  
18 Department of Education's requirements. I'd ask  
19 that -- that's more argument; so . . .

20 HEARING OFFICER: Okay.

21 THE WITNESS: I'm --

22 HEARING OFFICER: Do you have any  
23 further facts to bring to my attention?

24 THE WITNESS: That would be -- I'd  
25 just ask that you take notice of the exhibits.

*PETER THEW - Cross (Halstead)*

1 HEARING OFFICER: Okay. Mr. Halstead,  
2 do you have cross-exam?

3 MR. HALSTEAD: Sure.

4 CROSS-EXAMINATION

5 BY MR. HALSTEAD:

6 Q. Mr. Thew, where were you born?

7 A. Moline, Illinois.

8 Q. Okay. And how long have you lived in  
9 Lincoln, Nebraska?

10 A. Since August '93.

11 Q. Okay. What's your educational background?

12 A. I have a bachelor's degree in biological  
13 science, and then I have a law degree, and I have  
14 a master's in science teaching.

15 Q. Okay. And when did you get your  
16 bachelor's degree?

17 A. '98, 1998.

18 Q. Okay. And was that from UNL?

19 A. Yes, it was.

20 Q. Okay. And when you were getting your  
21 bachelor's degree in science, what was it you were  
22 hoping to do with that bachelor's degree?

23 A. Initially I thought about practicing --  
24 going for a medical degree.

25 Q. Okay.

*PETER THEW - Cross (Halstead)*

1           A.    And then partway through, my brother  
2 completed medical school and residency and kind of  
3 talked me out of that route.

4           Q.    Okay.  So when you graduated with your  
5 bachelor's degree, what did you want to do next?

6           A.    I had no clue.

7           Q.    So what did you do next?

8           A.    I then went to graduate school for a year.

9           Q.    Okay.  And the graduate school was related  
10 to what subject?

11          A.    It was in parasitology.

12          Q.    And, for the record, what is that?

13          A.    It's the study of parasites --

14          Q.    Okay.

15          A.    -- and their interactions with their hosts  
16 and organisms.

17          Q.    Okay.  And you did that for how long?

18          A.    One year.

19          Q.    Okay.  And then what did you do?

20          A.    During that time I decided to apply for  
21 law school.

22          Q.    Okay.  And were you admitted to law  
23 school?

24          A.    Yes.

25          Q.    Okay.  And was that at the University of

*PETER THEW - Cross (Halstead)*

1 Nebraska?

2 A. That's where I attended, yeah.

3 Q. Okay. And did you graduate from the  
4 University of Nebraska Law School?

5 A. I did.

6 Q. Okay. And that's reflected in the record;  
7 correct?

8 A. It is.

9 Q. Okay. And I take it -- when you graduated  
10 from law school, did you take the bar exam?

11 A. I did.

12 Q. And did you pass the bar exam?

13 A. I did.

14 Q. Okay. And after passing the bar exam,  
15 what did you do?

16 A. I worked at the University of Nebraska in  
17 their research office.

18 Q. And could you give us some details as to  
19 what the research office at the University does or  
20 what you did?

21 A. Yeah. I was a -- well, at the -- when I  
22 was hired, I was a contracts coordinator, and I  
23 helped at that time review standard template  
24 contracts that were signed by the University to  
25 make sure they were completed and get them to the

*PETER THEW - Cross (Halstead)*

1 correct people.

2 Q. So were you working in a role as an  
3 attorney in that job?

4 A. Not initially.

5 Q. Okay. Did that subsequently change?

6 A. I -- I guess I was never officially an  
7 attorney, but sometimes my supervisor considered  
8 me an attorney, and when I was initially hired, I  
9 took the bar exam in Colorado, and so I was  
10 licensed in Colorado, not Nebraska. And so  
11 initially I didn't do anything as far as legal,  
12 but then once I was licensed in Nebraska -- I got  
13 reciprocal admission -- there were a couple times  
14 that he asked me to negotiate some contracts.

15 Q. Okay. Why did you take the bar exam in  
16 Colorado?

17 A. At that time my wife and I were  
18 considering going to Colorado. A friend of mine  
19 had a job with a firm out there and thought he  
20 could get me a job, and then the dot-com crash  
21 hit, and I took what job I could find.

22 Q. Okay. So you motioned in to be a member  
23 of the Nebraska Bar Association based on your  
24 passing the Colorado bar?

25 A. Yes.

*PETER THEW - Cross (Halstead)*

1 Q. Okay. When did you leave the University  
2 of Nebraska as an employer approximately?

3 A. I believe it was 2000 -- 2004. No.

4 Q. Well, let me help you out.

5 A. Yeah. I believe -- I believe it was 2004.

6 Q. The Supreme Court decision says that you  
7 were -- you left June of 2004 from the University  
8 Office of Research when you went into solo private  
9 practice; is that accurate?

10 A. I think I submitted my resignation in  
11 2004, but nine months later was when the -- when  
12 the employment ceased. I know it was June because  
13 it was after Father's Day weekend that I submitted  
14 my resignation; so --

15 Q. Okay.

16 A. The year I'm not positive of. I could  
17 tell you the month.

18 Q. Do you have a dispute with the facts that  
19 the Supreme Court says about you --

20 A. I'll -- I'll --

21 Q. -- today?

22 A. Yeah. I mean -- yeah. I -- I guess I  
23 didn't actually work in the office after 2004, but  
24 I wasn't actually off contract with them until  
25 ninety days after the resignation; so --

*PETER THEW - Cross (Halstead)*

1 Q. Okay.

2 A. -- I have no objection --

3 Q. Okay. So did you set up a -- a law  
4 practice yourself?

5 A. Yes.

6 Q. And was that by yourself or were you  
7 working with any other attorneys?

8 A. The practice was by myself. I did office  
9 share.

10 Q. Okay. Who did you office share with?

11 A. Susan Kirchmann.

12 Q. Okay. And your private practice -- what  
13 was your focus in your private practice?

14 A. That was part of the problem. There  
15 wasn't a lot of focus.

16 Q. Well, what kind of legal work did you take  
17 on in your private practice?

18 A. Initially started with mostly civil work  
19 and corporations, business issues. Then started  
20 to take on some civil litigation. As time  
21 progressed, I took on criminal cases.

22 Q. Okay. The -- the Supreme Court decision  
23 sets forth a number of clients that you've had and  
24 the -- the facts and issues those clients  
25 experienced with your representation of them.

*PETER THEW - Cross (Halstead)*

1 You're familiar with that?

2 A. Yeah.

3 Q. Okay. Is there anything in the Supreme  
4 Court opinion about your clients they name and the  
5 specific facts or relationship they set forth that  
6 you think needs to be corrected today?

7 A. No.

8 Q. Okay. And I -- I believe -- and it --  
9 would it be fair to say for several of the clients  
10 you didn't tell them the truth about the status of  
11 their case when they either inquired or asked?

12 A. Yes.

13 Q. Okay. And I believe somewhere in here  
14 (indicating) you even may have provided false  
15 information to a court about a filing or the  
16 status of a case.

17 A. No.

18 Q. Okay. Let me see if I can find that one.  
19 Okay. Eventually there were ethics complaints  
20 filed against you with the Counsel for  
21 Discipline's office; correct?

22 A. Yes.

23 Q. Okay. And as part of the proceedings in  
24 that matter, the issue was presented to the  
25 Nebraska Supreme Court about whether you should be

*PETER THEW - Cross (Halstead)*

1 suspended temporarily from the practice of law;  
2 correct?

3 A. Yes.

4 Q. And ultimately the Supreme Court did order  
5 that you be suspended from the practice of law;  
6 correct?

7 A. Correct.

8 Q. Did the order from the Supreme Court to  
9 you suspending you from the practice require you  
10 to notify your clients of that suspension?

11 A. Yes.

12 Q. Did you notify your clients of your  
13 suspension?

14 A. I believe I notified my clients, but there  
15 may be clients that I didn't notify. I mean --

16 Q. Okay.

17 A. -- that was part of the time during the  
18 depression where some things were done and weren't  
19 done --

20 Q. Okay.

21 A. -- fully.

22 Q. Okay. So some of your clients may not  
23 have known that you had been suspended from the  
24 practice of law?

25 A. Correct.

*PETER THEW - Cross (Halstead)*

1 Q. Okay. When did you enroll at the  
2 University for your master's degree?

3 A. May of 2012.

4 Q. Okay. So this would have been about a  
5 year after you had been disbarred by the Supreme  
6 Court?

7 A. After the decision?

8 Q. Right.

9 A. Yeah.

10 Q. Okay. 'Cause the decision, I think, is  
11 dated March of 2011. Does that seem --

12 A. That sounds about right.

13 Q. Okay. So it was in the following year  
14 that you enrolled at the University for your  
15 master's degree?

16 A. Yes.

17 Q. Okay. And the master's degree is in what?

18 A. Science teaching.

19 Q. And that's what you have recently  
20 completed here in 2013?

21 A. Correct.

22 Q. Okay. What is your hope or desire to  
23 teach with that teaching certificate?

24 A. High school science.

25 Q. Okay. Is there a particular area or

*PETER THEW - Cross (Halstead)*

1 school or district that you'd like to work for?

2 A. I mean, ideally, I'd like to work for  
3 Lincoln High, but . . .

4 Q. Okay. Have you applied for a job with the  
5 Lincoln Public Schools?

6 A. I started an application, but upon  
7 receiving the notice of intent to deny, I withdrew  
8 my application.

9 Q. Okay. And what have you been doing since  
10 you got your master's degree?

11 A. Working on trying to get my certification.

12 Q. Are you currently employed?

13 A. No.

14 Q. Are you still married?

15 A. Yes.

16 Q. Okay. So your wife -- do you have  
17 children?

18 A. Yes.

19 Q. How many children?

20 A. Three.

21 Q. How old are your kids?

22 A. Eleven, seven, and seventeen months.

23 Q. Okay. When you were suspended from the  
24 practice of law, did you take up any employment at  
25 that time?

*PETER THEW - Cross (Halstead)*

1           A.    I've done like odd jobs, handyman-type  
2 stuff, but, other than that, no.

3           Q.    Okay.

4           A.    During most of that time, just tried to  
5 focus on treatment.

6           Q.    Okay. Have you been employed at any time  
7 since your suspension from the practice of law?

8           A.    Just temporary, like handyman-type stuff.

9           Q.    Okay. Have you been involved in any  
10 community activities, support organizations?

11          A.    I mean, we're involved with our church.  
12 I'm involved with youth sports.

13          Q.    When you say, "youth sports," is there a  
14 particular organization for youth sports?

15          A.    Well, I coach teams in different  
16 organizations, and then I'm the club director and  
17 head coach for a wrestling club.

18          Q.    Okay. So what are the organizations in  
19 which you're coaching or you're the club head,  
20 sponsor?

21          A.    I -- since, I guess, when?

22          Q.    Well, at any time in this.

23          A.    I've coached for the "Y." I've coached  
24 football, soccer, and baseball.

25          Q.    Okay.

*PETER THEW - Cross (Halstead)*

1           A.    I've coached for Lincoln Saltdogs or  
2 Lincoln Junior Saltdogs.

3           Q.    Okay.

4           A.    I can't remember exactly how the -- but  
5 it's the youth baseball. I've coached baseball  
6 for them. I've coached for Lincoln Parks &  
7 Recreation, youth football and Lincoln Warriors  
8 Wrestling Club. I'm the club director and coach.

9           Q.    Okay.

10          A.    And that's it.

11          Q.    Are your children involved in some of  
12 these activities?

13          A.    Yes.

14          Q.    Okay. Any other organizations or  
15 activities in the community where you volunteer or  
16 provide services to others?

17          A.    No.

18          Q.    Okay. You mentioned you terminated  
19 therapy in 2011.

20          A.    Right.

21          Q.    Have you seen or had any follow-up  
22 treatment, therapy, or support?

23          A.    No, not at -- in the long-term plan that  
24 was developed, it was if I felt -- I didn't make  
25 contact with my therapist. Kind of when all this

*PETER THEW - Cross (Halstead)*

1 started, I just wanted to touch base and get the  
2 letter from her but then, also, just to, you know,  
3 kind of let her know what was going on and tell  
4 her that I was following through with the -- the  
5 plan we developed and that even in a situation  
6 that's stressful like this that I'm doing well.

7 Q. Okay. And can you generally describe for  
8 us what -- the plan that was developed for you to  
9 follow to deal with your adjustment disorder with  
10 depressed mood and -- and -- the diagnosis that  
11 they had?

12 A. Sure. The biggest thing is keeping an  
13 open and active support network with friends and  
14 family, not just one group, and making sure that  
15 those groups know and communicate about what's  
16 going on in my life so that if they see any  
17 changes they can talk to me about them and, also,  
18 to be self-aware of what's going on.

19 And with the procrastination and with the  
20 issues that I had, one of the problems with the  
21 depression was to get into a cycle of thinking and  
22 just then thinking about all the different options  
23 that I could have done and how things could have  
24 been different and just get myself in a cycle and  
25 kind of spiral into depression that way and so

*PETER THEW - Cross (Halstead)*

1 really to look at what's going on, accept, you  
2 know, what's happened, and not focus on what has  
3 happened but focus on what I need to do going  
4 forward and make a decision and -- and follow that  
5 course of action; so . . .

6 Q. So who would be some of the people who are  
7 part of your support group that you -- or who are  
8 assisting in this?

9 A. Sure. Well, obviously, my wife, my  
10 mother, and siblings. I have some close friends  
11 who are also in there.

12 Q. Okay.

13 A. I don't know if you need names or . . .

14 Q. Well, I -- I don't want to pry too deeply,  
15 but at the same time I'm trying to get a feel  
16 for --

17 A. And then some people who I worked with  
18 down at the University. I keep them because --  
19 not having a job, I keep them as kind of the  
20 professional part. And then, also, some of the  
21 people at the -- on -- involved in the youth  
22 sports organizations.

23 Q. All right. I know the Supreme Court  
24 focused on the fact that when you were asked why  
25 you made the false statements to clients you

*PETER THEW - Cross (Halstead)*

1 couldn't come up with an explanation for that. I  
2 mean, I note that in the opinion and -- and  
3 everything else. Do you have a better answer  
4 today than what you could give in 2010?

5 A. You know, having looked at it and gone  
6 through the treatment, I mean, really, I see it as  
7 it -- it was part of my depression. I was ill at  
8 the time. I had a mental disability as far as a  
9 mental health issue, and I think the best way I  
10 could relate it is it's kind of like alcohol.  
11 Alcohol doesn't make you lie. It doesn't make you  
12 do dumb things, but, in the same respect, if -- if  
13 you're an alcoholic and you consume alcohol, those  
14 things are often an outcome.

15 And so the -- the key is to find ways to  
16 avoid putting yourself in those situations, and so  
17 I think it's -- it was kind of a self-preservation  
18 mode that I went into during the depression, and  
19 it really -- it goes back to the whole cycle of  
20 thinking and trying to figure ways to -- things I  
21 could have done and, essentially, trying to  
22 espouse those things I could have done even though  
23 I didn't actually do them.

24 Q. Okay. Do you think -- well, let me ask it  
25 this way. Obviously, Commissioner Swisher felt

*PETER THEW - Cross (Halstead)*

1 that your lying to several of your clients as an  
2 attorney was fraud, and I know you don't -- you  
3 disagreed with his use of the word "fraud" in  
4 that; so could you explain to me how lying to  
5 people isn't fraud?

6 A. Fraud has a specific legal meaning of  
7 taking money from someone under false pretenses.

8 Q. Weren't your clients paying for your  
9 services, though?

10 A. They did pay for my services, yes.

11 Q. And lying to them about what you hadn't  
12 done --

13 A. They didn't -- they didn't pay for that.

14 Q. Well, I -- I don't think any client pays  
15 for their attorney to lie to them, but you don't  
16 believe that's fraud?

17 A. No. That was -- I mean, it wasn't  
18 right --

19 Q. Okay.

20 A. -- but it -- it -- no, it's not fraud.

21 Q. Okay. Do you think lying to them  
22 represents good moral character?

23 A. No.

24 Q. Okay.

25 MR. HALSTEAD: I don't think I have

*PETER THEW - Redirect*

1 any more questions. Thank you very much.

2 HEARING OFFICER: Do you have any  
3 further facts you want to present?

4 MR. THEW: Can I have just a minute?

5 HEARING OFFICER: Yes, you may.

6 (At this time a brief recess was  
7 taken.)

8 REDIRECT EXAMINATION

9 THE WITNESS: I -- I'd just like to  
10 discuss the fact that as far as the depression  
11 I -- I was diagnosed with the -- with the adjusted  
12 disorder with depressed mood; major depressive  
13 disorder, recurrent, mild. As Ms. Schlechte's  
14 letter indicates, this was something that I have  
15 undergone treatment for. The pattern, behavior  
16 when I was an attorney that led to disbarment is  
17 something that was connected to the depression,  
18 and based on her statement as a medical  
19 professional, she believes there's no reason that  
20 history will repeat itself. I received the  
21 treatment for that. It's not something that does  
22 continue to control my life. That's all I have.

23 HEARING OFFICER: Any --

24 MR. HALSTEAD: Nothing --

25 HEARING OFFICER: -- questions?

1 MR. HALSTEAD: I don't have anything  
2 further.

3 HEARING OFFICER: Do you have any  
4 further evidence? I mean, are you --

5 MR. THEW: No.

6 HEARING OFFICER: Do you still want to  
7 call Dr. Swisher?

8 MR. THEW: No. I think with the  
9 stipulation, that's . . .

10 HEARING OFFICER: Do you wish to make  
11 closing arguments?

12 MR. THEW: Yeah. I -- I think that  
13 the Department's in agreement with me that the --  
14 all -- that all the requirements are met as far as  
15 the technical requirements for the teaching  
16 certificate. The one issue seems to be the issue  
17 as far as moral character. Dr. Swisher is basing  
18 this on the Supreme Court case record.  
19 Dr. Swisher has never met with me, has not spoken  
20 with me, has not interacted with me on a personal  
21 basis.

22 There's letters referenced from people who  
23 have worked with me on a personal basis, letters  
24 from people who have known me for twenty years.  
25 They talk about knowing me prior to when I had the

1 depression, during the time I was depressed, and  
2 since then. It's a medical issue that I have  
3 dealt with. It's a medical issue that I have  
4 resolved.

5 I looked through the prior cases of the  
6 Board, and I couldn't find anything kind of on  
7 point, especially not with -- with people who are  
8 applying. Probably the -- the closest cases I  
9 could find -- there was one -- it's a little bit  
10 old. It was from '94, but -- the Commissioner  
11 versus Richard Bonham. It was regarding someone  
12 who had their license. Mr. Bonham had some issues  
13 with depression. The Commission addressed --  
14 there were some other conduct issues too, and one  
15 of the issues that was brought by the Commission  
16 was, in order to get reinstated, he needed to deal  
17 with his depression. And one of the stipulations  
18 was he had to complete the program of counseling  
19 for his depression prior to seeking reinstatement.  
20 He was suspended for one year.

21 The only other thing that's kind of -- that I  
22 could find that's similar -- it's -- it's not  
23 mental health, but it's kind of along the same  
24 lines -- was some people with some substance abuse  
25 issues. It's the -- sorry. I'll back up.

1 Mr. Bonham's case is 94035. There's some people  
2 with some substance abuse issues, Cathy Clare  
3 which is 05-07. Again, it was a one-year  
4 suspension and requirement that she provide  
5 evidence of successful alcohol counseling prior to  
6 reinstatement. And Marcia Miller was 05-03. And,  
7 again, it was required that she present evidence  
8 of having participated in alcohol counseling prior  
9 to seeking reinstatement.

10 The issue is an issue as far as moral  
11 character. It's -- it's not a criminal issue. I  
12 have no criminal record. Many of the things  
13 regarding -- that are being brought up as far as  
14 the moral character are things that happened  
15 during the time that I was suffering from  
16 depression, a medical condition that I had, I  
17 recognized, and I have gotten treatment for.  
18 Prior to this time it was undiagnosed. I didn't  
19 have any history of it. Never been treated for  
20 any type of mental health issues.

21 So having said that, it's a -- it's a past  
22 medical condition, as stated by Ms. Schlechte.  
23 It's not, in her professional opinion, likely to  
24 cause problems in the future. I completed six  
25 months of student teaching. I didn't have any

1 complaints. I didn't have any issues. I  
2 completed that at Lincoln High School. I did a  
3 practicum experience at Lincoln North Star. Both  
4 of those were run through the University, and all  
5 through my program at the University, I didn't  
6 have any issues. There were no problems related  
7 to moral character, related to my mental health,  
8 related to any problems.

9 So, based on that, I think that the reasons  
10 for the denial of the Commissioner should be  
11 overturned and I should be issued a teaching  
12 certificate -- initial teaching certificate.

13 HEARING OFFICER: I was wondering --  
14 these cases -- I mean, these aren't court records.  
15 If you -- if you're wanting me to consider these,  
16 I think they need to be marked as exhibits.

17 MR. THEW: Are they --

18 MR. HALSTEAD: I don't have a problem  
19 with --

20 MR. THEW: I guess I assumed -- I  
21 assumed they were part of the official record  
22 since they were -- but maybe not because they're  
23 not court records. Do you --

24 MR. HALSTEAD: I don't have any  
25 objection to the cases he cited. I actually

1 can -- I'll -- I'll comment on those. I don't  
2 have any problem if you want to consider those  
3 cases as part of it. They --

4 HEARING OFFICER: It sounds like --

5 MR. HALSTEAD: They are --

6 HEARING OFFICER: -- he's asking me to  
7 consider them, and I think if I do, I --

8 MR. HALSTEAD: I don't have any --

9 HEARING OFFICER: -- need to have them  
10 part of the record.

11 MR. HALSTEAD: Mark it just for the  
12 fact that they can be in the record as  
13 considerations. I'm not going to submit to you  
14 they are binding precedent because those cases all  
15 deal with educators who got their certificates  
16 revoked. They were already members of the  
17 profession who got their certificates revoked for  
18 their conduct and those things, but they all did  
19 involve the very elements he described in them; so  
20 I'm not -- they are cases you can look at. I'm  
21 not going to object to that.

22 HEARING OFFICER: Well, I just -- if  
23 he's asking me to consider and look at them, I  
24 think I need them as part of the record.

25 MR. HALSTEAD: I'm not going to object

1 to them if you want them in the record for your  
2 consideration as to their applicability to his  
3 situation.

4 MR. THEW: And I apologize. I --

5 MR. HALSTEAD: No, no.

6 MR. THEW: I thought they were  
7 something that could be considered since it was --

8 MR. HALSTEAD: I -- why don't we just  
9 mark them collectively as Exhibit No. 9 just as  
10 a --

11 HEARING OFFICER: That would be fine.

12 MR. HALSTEAD: -- just for your  
13 review. I don't think they are offered as facts  
14 of this case or anything --

15 MR. THEW: No.

16 MR. HALSTEAD: -- so --

17 MR. THEW: They're not offered as  
18 facts. They're just offered as prior precedent.  
19 As Mr. Halstead said, they are from people who had  
20 licenses.

21 MR. HALSTEAD: So, in that regard,  
22 I have -- I have no objection if you want to  
23 review those to see if there's any legal precedent  
24 in there or they give any guidance. I'm not  
25 objecting. The Board's decisions are all

1 something the Board collectively knows, just like  
2 the Nebraska Supreme Court knows about all of its  
3 decisions when they --

4 HEARING OFFICER: Yeah. I mean,  
5 they're not binding precedent, but I -- you know,  
6 I guess since you're bringing them up, I will at  
7 least review them and consider their usefulness.

8 Let's go off the record a moment and have  
9 them marked as Exhibit 9.

10 (Exhibit No. 9 was marked for  
11 identification.)

12 HEARING OFFICER: So, Mr. Thew, you  
13 are offering Exhibit No. 9?

14 MR. THEW: That is correct.

15 HEARING OFFICER: Is there any  
16 objection?

17 MR. HALSTEAD: Just for consideration  
18 as to its relevance and/or applicability to the  
19 facts, I have no objection if the Hearing Officer  
20 wants to review those for any legal precedence or  
21 legal application to this case.

22 HEARING OFFICER: Okay. Then I will  
23 receive Exhibit No. 9 which is -- for the record,  
24 includes the final order from Case No. 94035, Case  
25 No. 05-07 and 05-03 from Before the State Board of

1 Education.

2 (Exhibit No. 9 is made a part of  
3 this Requested Transcript and  
4 may be found attached hereto.)

5 HEARING OFFICER: Any -- any further  
6 argument?

7 MR. THEW: No.

8 HEARING OFFICER: Mr. Halstead?

9 MR. HALSTEAD: Very simply, the basis  
10 for the Commissioner to deny Mr. Thew's  
11 application was that he did not believe he met the  
12 requirement of good moral character that's  
13 required of all people who apply for a  
14 certificate. I believe the Supreme Court decision  
15 that's in the record contains all of the facts  
16 that were related that Dr. Swisher relied upon.

17 The reality is Mr. Thew lied to numerous of  
18 his clients that he represented. It was over an  
19 extended period of time. It was not a single  
20 incident. The fact that the Nebraska Supreme  
21 Court disbarred Mr. Thew which is the harshest  
22 sanction that can be imposed in the legal  
23 profession to anyone practicing it, the fact that  
24 his conduct involved clients being lied to or  
25 provided false information, we think, are all

1 relative to good moral character. I understand  
2 Mr. Thew and I may quibble about whether lying  
3 multiple times constitutes fraud or not, but the  
4 fact of the matter is, I think when you look at  
5 it -- and he's admitted -- he lied to people when  
6 he shouldn't have.

7 He -- his recency of the conduct is still  
8 near. He was disbarred in March of 2011. I  
9 always find it interesting when I look at the  
10 Supreme Court and the manner in which they handle  
11 things with attorney discipline. I've used this  
12 on the other side when we're dealing with teachers  
13 or administrators and their review as to whether  
14 they should be disciplined, but the bar and the  
15 Supreme Court sets forth six different criteria  
16 when it's reviewing a case: number one, the nature  
17 of the offense; number two, the need for deterring  
18 others; number three, the maintenance of the  
19 reputation of the profession as a whole; four, the  
20 protection of the public; five, the attitude of  
21 the offender; and, six, the offender's present or  
22 future fitness to continue in the practice of the  
23 profession.

24 And I always find it remarkable that it's  
25 only when you get to five and six that you're

1 actually looking to criteria about the individual.  
2 The first four are all about protecting the  
3 reputation of the profession, and that's key  
4 because the profession exists in education to  
5 serve all, largely in the public sector but also  
6 private schools. The education profession is  
7 recognized as being a profession just like the --  
8 law, medicine, and other recognized professions.

9 And in this case the extensive lies that  
10 Mr. Thew told and the recency of them, I think,  
11 wholly supports the Commissioner's denial at this  
12 time for lack of good moral character. I think,  
13 just for the record, the fact is that the review  
14 the Board has is if the requirements have been  
15 improperly applied to Mr. Thew. It is not a "Oh,  
16 we're going to decide this on our own." The focus  
17 is, Did Dr. Swisher misapply good moral character  
18 based on the facts that were before him? And I  
19 think -- at this point I don't think that burden  
20 has been met.

21 That does not mean that Mr. Thew can't apply  
22 in the future again for his certificate because a  
23 denial doesn't have a period where you have to  
24 wait. He actually could apply tomorrow if he  
25 wanted to pay the fee and everything. I think the

1 Commissioner would applaud Mr. Thew for all of the  
2 things he's trying to do in his life and in his  
3 world and the strategies he's taken, but I think  
4 the Commissioner would say, "It's too soon to say  
5 you're fit to be a teacher and honored in this  
6 profession when the legal profession imposed the  
7 harshest sanction on you for your lies to  
8 clients." That would be my summary.

9 HEARING OFFICER: Mr. Thew, anything  
10 further?

11 MR. THEW: No.

12 HEARING OFFICER: Okay. Then after  
13 the conclusion of this hearing, I will prepare  
14 recommendations -- recommended findings of fact,  
15 conclusion of law, and a decision, you know, for  
16 the Board's consideration, and then the Board of  
17 Education actually makes the decision. So with  
18 that, we'll conclude this hearing. Thank you.

19 (The proceedings concluded at 9:57 a.m.)  
20  
21  
22  
23  
24  
25



**BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA**

<b>PETER THEW,</b>	)	<b>CASE NO. NDE 13-15</b>
	)	
<b>Petitioner,</b>	)	
	)	<b>WITNESS AND EXHIBIT LIST</b>
<b>vs.</b>	)	
	)	
<b>SCOTT SWISHER</b>	)	
<b>(Deputy Commissioner of Education)</b>	)	
<b>Respondent,</b>	)	

COMES NOW the Petitioner, Peter Thew, in accordance the order of the hearing officer, submits the following witness and exhibit list:

**Exhibit List**

- Application for initial teaching certificate filed by Petitioner
- Letter of Intent to Deny Petitioner from Nebraska Department of Education
- Letter of Denial to Petitioner from Nebraska Department of Education
- Letters Submitted by Petitioner in response to intent to deny  
(Schlechte, Penas, Lewis, Rynearson, Pedersen, Tilgner, Carpenter, Stull,  
Glider, B. Edwards, L. Edwards, and Duncan)

Any exhibit listed by Respondent

**List of Potential Witnesses**

- Dr. Scott Swisher, Respondent
- Dr. Kevin Peters
- Dr. William Glider
- Dr. Beth Lewis
- Mr. Corey Stull

Mr. Bill Chapin

Petitioner

Any witnesses listed by Respondent

DATED this 3<sup>rd</sup> day of December, 2013.

Peter Thew, Petitioner

By:   
Peter Thew  
3521 M Street  
Lincoln, NE 68510  
(402) 742-7106  
Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing was served upon Brian Halstead, attorney for the respondent, whose address is 301 Centennial Mall South, Sixth Floor, Lincoln, Nebraska 68509, and Jim Titus, whose address is 4645 Normal Blvd. #272, Lincoln, Nebraska 68506, Hearing Officer, by first class mail, on the 3<sup>rd</sup> day of December, 2013.

  
Peter Thew

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

Peter Thew,	)	NDE Case No. 13 – 15
3521 M Street	)	
Lincoln, NE 68510,	)	
Petitioner,	)	
	)	
vs.	)	NOTICE OF HEARING
	)	
Scott Swisher, Ed.D.	)	
DEPUTY COMMISSIONER	)	
OF EDUCATION,	)	
Respondent.	)	

On November 19, 2013, I held a telephonic planning conference with respondent's counsel and petitioner. They shared their views with me respecting the progression of this case. With those views in mind, I have determined that this case shall be set for hearing as follows:

Date: December 18, 2013

Time: 9:00 a.m. – 2:00 p.m.

Location: Conference Room A  
Nebraska Department of Education  
Nebraska State Office Building  
301 Centennial Mall South, 6<sup>th</sup> Floor  
Lincoln, NE 68508

Recording: Certified Court Reporter

In addition, the parties shall, on or before December 3, 2013, exchange copies of exhibits they intend to offer at hearing and a list of witnesses, including name, address and occupation.

SO ORDERED on November 20, 2013.

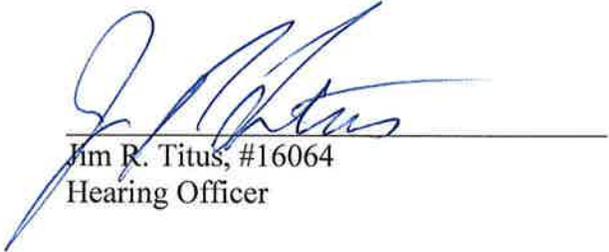
  
\_\_\_\_\_  
Jim R. Titus, #16064, Hearing Officer  
MORRIS & TITUS LAW FIRM, PC, LLO  
4645 Normal Blvd., Suite 272  
Lincoln, NE 68506  
(402) 434-5200 – phone  
(402) 434-5209 – fax  
[jtitus@morristituslaw.com](mailto:jtitus@morristituslaw.com)

CERTIFICATE OF SERVICE

I certify that on November 20, 2013, I served a true and correct copy of the foregoing notice of hearing by first-class United States mail, postage prepaid, on the following parties:

Brian L. Halstead  
Assistant Commissioner/General Counsel  
Nebraska Department of Education  
301 Centennial Mall South, 6<sup>th</sup> Floor  
P.O. Box 94933  
Lincoln, NE 68509-4933

Peter Thew  
3521 M Street  
Lincoln, NE 68510

  
\_\_\_\_\_  
Jim R. Titus, #16064  
Hearing Officer

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

Peter Thew )  
3521 M Street )  
Lincoln, NE 68510, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
Scott Swisher, Ed.D. )  
Deputy Commissioner of Education )  
P.O. Box 94933 )  
Lincoln, NE 68509-4933, )  
 )  
Respondent. )

NDE Case No. 13-15

**ASSIGNMENT OF CASE  
TO HEARING OFFICER**

Pursuant to Title 92, *Nebraska Administrative Code*, Chapter 61, the State Board of Education ("State Board") hereby appoints Jim R. Titus as the Board's hearing officer in this case. The hearing officer shall conduct the hearing and submit proposed findings of fact, recommended conclusions of law, and a recommended decision to the State Board.

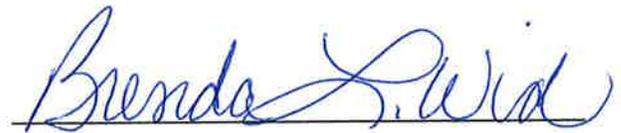
DATED this 8<sup>th</sup> day of November, 2013.

STATE BOARD OF EDUCATION

BY:   
Patricia Timm, President

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Assignment of Case to Hearing Officer was served upon Peter Thew, 3521 M Street, Lincoln, Nebraska, 68510, via United States Mail, first class postage prepaid; and upon Brian L. Halstead, Assistant Commissioner/General Counsel, Nebraska Department of Education, 301 Centennial Mall South, Sixth Floor, Lincoln, Nebraska, via interoffice mail, all on this 8<sup>th</sup> day of November, 2013.



49-1025-30

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

Peter Thew  
3521 M Street  
Lincoln, NE 68510

Case No. 13-15

Petitioner,

ANSWER

v.

Scott Swisher, Ed.D.  
Deputy Commissioner of Education  
P.O. Box 94933  
Lincoln, NE 68509

Respondent.

COMES NOW the Respondent, Scott Swisher, and for his answer to the Petition of the  
Petitioner, admits, denies, and alleges as follows:

1. Admits paragraphs 1, 2, 3, 4, 5, & 6 in the Petition.
2. Denies paragraphs 7 & 8 in the Petition.

WHEREFORE, the Respondent requests that the State Board of Education appoint a  
hearing officer to hold a hearing on this matter, make a recommendation to the Board, and the  
Board take such action as may be warranted by the evidence at such hearing.



Scott Swisher, Ed.D.  
Deputy Commissioner of Education

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Answer was mailed to the parties of record through  
regular United States mail, postage prepaid, this 9<sup>th</sup> day of October 2013.



Brian L. Halstead, #18077  
Attorney for Respondent

02	FILED	BW
OCT 9 2013		
NEBRASKA DEPARTMENT OF EDUCATION		
0301 State of Education		

**BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA**

<b>PETER THEW,</b>	)	CASE NO. <u>13-15</u>
	)	
<b>Petitioner,</b>	)	
	)	<b>PETITION</b>
<b>vs.</b>	)	
	)	
<b>SCOTT SWISHER</b>	)	
<b>(Deputy Commissioner of Education)</b>	)	
<b>Respondent,</b>	)	

COMES NOW the Petitioner, Peter Thew, in accordance with Title 92, Chapter 61 of the Nebraska Administrative Code, states as follows:

1. Petitioner filed an application for a Nebraska standard teaching certificate, on or about April 23, 2013, which petitioner incorporates into this petition by reference herein.
2. Petitioner received an intent to deny on or about August 8, 2013.
3. Petitioner filed supporting documentation in appeal of the intent to deny on or about August 27, which petitioner incorporates into this petition by reference herein.
4. Petitioner received a denial of his application on or about September 5, 2013.
5. Petitioner appeals the denial by Respondent of the application for a Nebraska standard teaching certificate and failure to issue Petitioner a Nebraska standard teaching certificate.
6. Petitioner requests that the Board order the Respondent to issue Petitioner a Nebraska standard teaching certificate.

<span style="font-size: 1.5em; color: blue;">01</span> <b>FILED</b> <span style="font-size: 1.5em; color: blue;">BW</span>
<b>SEP 24 2013</b>
<b>NEBRASKA DEPARTMENT OF EDUCATION</b> 7.4-71

7. Petitioner states that the letter of denial dated September 3, 2013 states four reasons for denial, a copy of which is attached hereto, marked Exhibit "A", and by this reference made part hereof. Further there is no factual basis to support several of the stated determination.
8. Petitioner states that he is of good moral as evidenced by the application and supporting material submitted by the Petitioner.

**WHEREFORE**, the Petitioner prays that the State Board of Education issue a teacher certificate to Petitioner, and for such further and other relief as the Board may deem just and equitable.

DATED this 24<sup>th</sup> day of September, 2013.

Peter Thew, Petitioner

By:   
Peter Thew  
3521 M Street  
Lincoln, NE 68510  
(402) 742-7106  
Petitioner

I, Peter Thew, state that I have read the contents of the foregoing petition and that to the best of my knowledge, information and belief such content are true and there is a reasonable cause for filing said petition.

  
Peter Thew, Petitioner

September 24, 2013



**Roger D. Breed, Ed.D., Commissioner**  
**Scott Swisher, Ed.D., Deputy Commissioner**

301 Centennial Mall South    Tel: (402) 471-2295  
PO Box 94987    Fax: (402) 471-0117  
Lincoln, NE 68509-4987    Web: [www.education.ne.gov](http://www.education.ne.gov)

September 3, 2013

Mr. Peter Thew  
3521 M Street  
Lincoln, NE 68510

Re: Application for a Nebraska Certificate

Dear Mr. Thew:

On April 23, 2013, you filed an application for a Nebraska standard teaching certificate and disclosed information about being disbarred from the practice of law in Nebraska in 2011 by the Nebraska Supreme Court. On August 7 the Director of the Teacher Certification Office sent you a letter notifying you of an Intent to Deny your application for the reason that applicants for a certificate be of good moral character. I am in receipt of your letter and enclosures requesting my review of your application. Pursuant to Neb. Rev. Stat. Section 79-808 and Title 92, Nebraska Administrative Code, Chapter 21, it is my responsibility to consider your fitness for issuance of a Nebraska certificate.

In reviewing the information surrounding your disbarment, I have determined the following: 1) You failed to provide legal services to numerous clients and engaged in fraud over an extended period of time when contacted by these clients; 2) You were temporarily suspended from the practice of law by the Nebraska Supreme Court, yet continued to accept clients and work as an attorney without notifying these clients that you were not authorized to practice law at the time; 3) Although you were diagnosed with depression and sought medical treatment to address your personal situation in 2009, your conduct of misrepresenting the truth about your professional services and continued practice of law while suspended demonstrates a lack of good moral character; and 4) The recency of your conduct and disbarment by the Nebraska Supreme Court in March 2011 indicate a lack of good moral character at this time for being an educator in the K-12 schools of Nebraska.

Therefore, I am denying your application for a Nebraska teaching certificate. Section 009.03 of 92 NAC 21 provides that you may appeal my denial of your application to the State Board of Education within twenty (20) calendar days of receipt of this letter. A copy of Title 92, *Nebraska Administrative Code*, Chapter 61, is included.

Respectfully,

  
Scott Swisher, Ed.D.  
Deputy Commissioner of Education

xc: Kevin Peters, Ed.D.

03.04.14 State Board of Education

Exhibit A

7.4-73

*To lead and support the preparation of all Nebraskans for learning, earning, and living.*

NEBRASKA DEPARTMENT  
OF EDUCATION

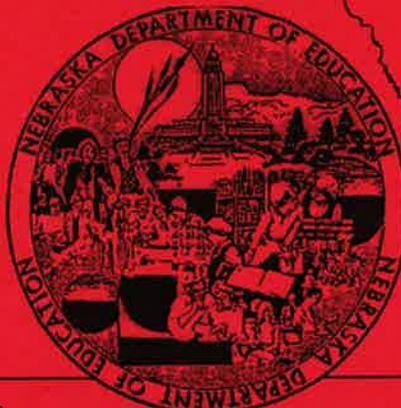
# RULE 61

RULES OF PRACTICE AND PROCEDURE FOR HEARINGS IN  
CONTESTED CASES BEFORE THE DEPARTMENT

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,  
CHAPTER 61

EFFECTIVE DATE  
OCTOBER 1, 1997  
(REVISED)

State of Nebraska  
Department of Education  
301 Centennial Mall South  
Lincoln, Nebraska 68509



12/18/13  
EXHIBIT NO. 2  
74-74  
JODY WHITE, RMR

NEBRASKA DEPARTMENT  
OF EDUCATION

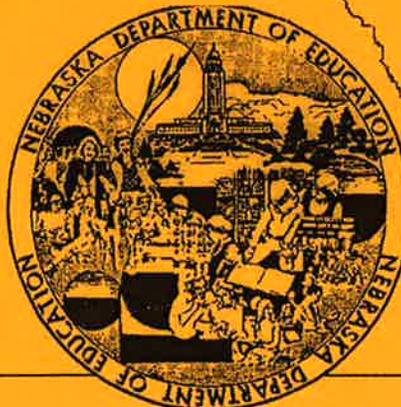
# RULE 21

REGULATIONS FOR THE ISSUANCE OF CERTIFICATES AND PERMITS  
TO TEACH, PROVIDE SPECIAL SERVICES, AND ADMINISTER IN  
NEBRASKA SCHOOLS

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,  
CHAPTER 21

EFFECTIVE DATE  
DECEMBER 11, 2011  
(REVISED)

State of Nebraska  
Department of Education  
301 Centennial Mall South  
Lincoln, Nebraska 68509



281 Neb. 171 (Neb. 2011), S-09-567, State ex rel. Counsel for Discipline of Nebraska Supreme Court v. Thew

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281 Neb. 171 (Neb. 2011)

794 N.W.2d 412

STATE of Nebraska ex rel. COUNSEL FOR DISCIPLINE OF the NEBRASKA SUPREME COURT, relator,

v.

Peter T. THEW, respondent.

Nos. S-09-567, S-09-820, S-10-380.

Supreme Court of Nebraska.

March 4, 2011

[794 N.W.2d 413] [Copyrighted Material Omitted]

[794 N.W.2d 414] [Copyrighted Material Omitted]

[794 N.W.2d 415] *Syllabus by the Court*

1. **Disciplinary Proceedings.** A proceeding to discipline an attorney is a trial de novo on the record.

2. **Disciplinary Proceedings.** The basic issues in a disciplinary proceeding against a lawyer are whether discipline should be imposed and, if so, the type of discipline under the circumstances.

3. **Disciplinary Proceedings.** With respect to the imposition of attorney discipline in an individual case, the Nebraska Supreme Court evaluates each attorney discipline case in light of its particular facts and circumstances.

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4. **Disciplinary Proceedings.** To determine whether and to what extent discipline should be imposed in a lawyer discipline proceeding, the Nebraska Supreme Court considers the following factors: (1) the nature of the offense, (2) the need for deterring others, (3) the maintenance of the reputation of the bar as a whole, (4) the protection of the public, (5) the attitude of the offender generally, and (6) the offender's present or future fitness to continue in the practice of law.

5. **Disciplinary Proceedings.** The determination of an appropriate penalty to be imposed on an attorney in a disciplinary proceeding requires the consideration of any aggravating or mitigating factors.

6. **Disciplinary Proceedings.** Cumulative acts of attorney misconduct are distinguishable from isolated incidents, therefore justifying more serious sanctions.

Kent L. Frobish, Assistant Counsel for Discipline, for relator.

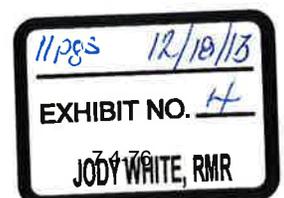
Robert Wm. Chapin, Jr., of Chapin Law Office, Lincoln, for respondent in Nos. S-09-567 and S-09-820.

Peter T. Thew, pro se.

CONNOLLY, GERRARD, STEPHAN, and McCORMACK, JJ., and IRWIN, Judge.

PER CURIAM.

I. NATURE OF CASE



This case involves attorney disciplinary charges brought against Peter T. Thew in three separate cases. Amended formal charges were filed against Thew in case No. S-09-567 on June 16, 2009, in case No. S-09-820 on December 23, 2009, and in case No. S-10-380 on May 18, 2010. We consolidated these three cases. Because Thew has admitted to all of the charges, [794 N.W.2d 416] the only issue now addressed by this court is the appropriate sanction.

## II. BACKGROUND

Thew graduated from the University of Nebraska College of Law in May 2002. Thew worked for a University of Nebraska office of research until June 2004, when he went into solo private practice. Beyond one semester of civil clinic during law school, Thew had no experience working in a law office. He was a solo practitioner until September 16, 2009, when he was temporarily suspended.

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### 1. CASES NOS. S-09-567 AND S-09-820

Amended formal charges were filed against Thew in case No. S-09-567 on June 16, 2009, and Thew responded to the charges on August 13. The application for temporary suspension was filed on August 18 and was assigned case No. S-09-820. Thew filed an objection to the temporary suspension and requested a hearing. On August 27, this court consolidated the two cases for review and appointed a referee. On September 16, this court entered an order temporarily suspending Thew from the practice of law. The hearing on the amended formal charges in the consolidated cases was held on January 12, 2010.

Thew and the relator entered into a stipulation where Thew admitted all the charges against him. During the hearing, Thew was asked why he made the decisions that he did, and he responded:

I mean, I don't really know for sure why I did it, but the best I can explain is the fact that upon all these events happening, I've realized that I have some issues as far as some health issues with depression and that I've had these issues for some time and just haven't dealt with them and have pushed them aside and put on a good facade as far as passing off that, you know, things were fine.

Thew was asked, " And so after neglecting the cases and procrastinating on the cases, your— when confronted by your clients, you just told them untrue statements to cover yourself; is that right?" Thew responded, " I wouldn't— I wouldn't— putting it in those terms, no.... I think at times I did make statements that were untrue, but I don't think that, you know, when I fell behind I would just tell them things that weren't true."

Although Thew claimed that his depression ought to be considered as a mitigating factor, the referee found that Thew had not established that his depression was a factor in his misconduct, or that treatment would substantially reduce the risk of further misconduct. Even though Thew stipulated to the fact that he knowingly made false statements to his clients, he continued to claim that he had not lied. The referee found that his clients had not suffered lasting harm but did note that Thew's pattern of dishonesty was troubling. Nevertheless, the

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referee recommended a suspension of 120 days, retroactive to the date of Thew's temporary

suspension, as well as 2 years of probation. The relator objected, arguing that the sanction was too lenient.

The following recitation of facts is taken from the referee's report in cases Nos. S-09-567 and S-09-820.

(a) Lorin Wiederstein

Thew represented Lorin Wiederstein in a divorce case and was paid an advance fee of \$2,500. The divorce trial was held on August 7, 2007, and a decree was entered. Thew filed a notice of appeal on Wiederstein's behalf on October 5. At no point in time did Thew provide Wiederstein with a billing statement, nor did he request further payment. Wiederstein retained new counsel, who requested the case file several times. Thew did not respond to the requests until March 6, 2008,

**[794 N.W.2d 417]** when he stated that he would not release the file until his outstanding bill for legal fees was paid. However, Thew still did not provide a billing statement.

Wiederstein filed a grievance against Thew with the Counsel for Discipline on May 22, 2008. Notice of the grievance was sent to Thew the same day, with directions to file a written response. Thew admitted that he received the notice, but he did not respond. A second notice was sent June 24, and once again, Thew failed to respond. On July 15, the Counsel for Discipline upgraded Wiederstein's grievance to a formal grievance and directed Thew to file an appropriate written response within 15 working days. Notice was sent to Thew by certified mail, and his secretary signed for the letter on July 16.

Thew called the Counsel for Discipline on July 17, 2008, and stated that he had sent his response the previous week. Thew's response to the Counsel for Discipline was dated July 11, 2008, but there was not a postmark from the U.S. Postal Service. The letter was instead metered by a private postage meter which did not record a date. In the letter, Thew did not address his failure to respond to requests for the case file. Instead, Thew claimed to have sent billing statements on October 16 and November 27, 2007, showing that Wiederstein owed additional fees. Thew enclosed the billing statements that

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he claimed to have sent to Wiederstein, claiming a balance owed of \$4,437.16. Wiederstein claimed that he never received a billing statement.

The Counsel for Discipline sent a letter to Thew's attorney on December 30, 2008, requesting a complete accounting for Thew's trust account from September 14, 2006, to the present. Thew failed to provide the requested information. The referee found by clear and convincing evidence that Thew had violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: Neb. Ct. R. of Prof. Cond. §§ 3-501.4 (communications), 3-501.5 (fees), 3-501.15 (safekeeping property), and 3-508.4 (misconduct).

(b) Luana Gray Conservatorship

Thew was appointed successor guardian and conservator for Luana Gray on December 20, 2005. Between Thew's appointment and his removal on April 29, 2008, the county court issued several orders to show cause why Thew should not be removed as guardian and conservator due to his failure to file appropriate documents. During this time, Thew also failed to pay a medical bill

and failed to reimburse Medicare for its subrogation claim. Although Thew claimed that he sent a check in payment to Medicare, the check was never cashed. Thew did not make additional inquiry as to why the check had not been cashed.

Following the issuance of a second order to show cause after Thew failed to appear at a hearing on March 11, 2008, Thew again failed to file the required documents, and he failed to appear in court. The county court removed him as guardian and conservator. Although his authority to act was revoked on April 29, Thew did not file an accounting with the court to determine who should receive the funds held in Gray's guardianship account. Thew finally closed Gray's guardianship account on September 2, and a successor guardian and conservator was appointed.

The referee found by clear and convincing evidence that Thew violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: §§ 3-501.15 (safekeeping property) and 3-508.4 (misconduct),

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and Neb. Ct. R. of Prof. Cond. §§ 3-501.1 (competence) and 3-501.3 (diligence).

**[794 N.W.2d 418]** (c) Marilyn Hawley Conservatorship

Thew was appointed temporary guardian and conservator for Marilyn Hawley after two of her children requested a guardian and conservator. The appointment was made permanent on January 31, 2006. Hawley maintained a checking account with Wells Fargo Bank, and monthly bank statements were mailed to Hawley's former residence. Hawley's Social Security benefits were directly deposited into her checking account.

By April 2006, Thew had made arrangements for Hawley's Social Security benefits to be sent directly to the assisted living center where she resided. However, Thew did not notify Wells Fargo Bank to change the mailing address of the bank statements, nor did he notify the bank of his position as guardian and conservator until July 2006. On April 4, 2006, the county court authorized Thew to pay \$1,066.25 for attorney fees related to the guardian and conservatorship proceedings. Although there was more than enough money in Hawley's bank account, Thew did not pay the claim until September 14.

On May 9, 2006, the court issued an order to show cause to Thew because he had not timely filed an inventory of Hawley's assets. Thew filed an inventory on June 6, but he failed to list the account number, and he inaccurately stated the account balance, indicating there was \$31.09 in the account, when there was actually \$3,202.37. Thew also failed to timely pay Hawley's bills for the assisted living center. On June 13, the administrator of the center sent a letter to Thew demanding payment of Hawley's bill. Thew did not pay the bill, and Hawley's daughter sent a letter to the court stating that Thew had been neglecting to pay Hawley's bills. The court issued an order to show cause on July 17 directing Thew to appear on August 8. Thew requested a continuance on July 26, which the court granted.

Thew paid the bill at the assisted living center on July 27, 2006. After that payment was made, Hawley's daughter sent a letter to the court stating that she was now satisfied. On

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August 22, the court made a journal entry stating that Thew was to continue as guardian.

Thew received a check from the buyer of Hawley's car in November 2006, but he did not deposit the check until February 2007. Thew did not reimburse Hawley's son for expenses he incurred selling the car, even though he promised to do so. Hawley's son asked Thew to set aside money in a prepaid funeral account, but Thew never opened such an account. Hawley passed away on February 1, 2007, and a statement for the funeral expenses was faxed to Thew the next day. Although there were sufficient funds in Hawley's account, Thew did not pay the funeral expenses, he failed to notify the court of Hawley's death, and he failed to timely file an annual accounting.

The court issued an order to show cause directing Thew to file the required reports regarding Hawley and scheduled a hearing, which was continued three times. Thew filed an annual account and statement of assets on September 28, 2007. On April 2, 2008, the court issued an order to show cause directing Thew to appear in court on May 6, and Thew failed to appear. On May 12, the court issued a second notice of the order to show cause and set a hearing date for June 17. The second notice was sent by certified mail to Thew's business address, but Thew failed to claim the letter, and it was returned to the court.

The court issued a final order to show cause directing Thew to personally appear in court on July 1, 2008, to show cause why he should not be held in contempt. The final order was served on Thew by the [794 N.W.2d 419] Lancaster County sheriff's office on June 10. On July 1, the hearing was continued to August 5. On July 24, Thew filed a motion to allow him to pay Hawley's remaining funds into the court. Thew stated that he was unable to contact Hawley's heirs, but he had the addresses of all four of Hawley's adult children. Thew did not send a copy of the motion to any of her children.

On July 29, 2008, the court issued an order directing Thew to pay Hawley's funds into the court. Thew did not pay those funds into the court until December 31, after he was informed that he was under investigation regarding his neglect

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of Hawley's case. The referee found by clear and convincing evidence that Thew had violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: §§ 3-501.1 (competence), 3-501.3 (diligence), 3-501.15 (safekeeping property), and 3-508.4 (misconduct), and Neb. Ct. R. of Prof. Cond. § 3-503.3 (candor toward the tribunal).

(d) Curt Olson

Curt Olson hired Thew in March 2008 to file suit to recover on a bill for architectural services in the amount of \$12,115.81. Thew failed to timely file suit, despite assuring Olson that the case was proceeding in a timely manner. Thew also stated to Olson that suit had been filed, and he stated that a judgment had been entered for \$12,115.81. Thew knew these statements were false at the time he made them.

Olson asked for a copy of the judgment, and Thew assured Olson that he would provide him with a copy. On or about January 26, 2009, Olson went to Thew's office to request a copy in person. Thew stated that the file was at his home. The next day, Thew gave Olson a document that Thew claimed was a copy of the order for judgment. Thew knew that suit had not been filed and that no judgment had been entered when he delivered the document.

Thew finally filed suit on Olson's behalf on January 29, 2009, and the case was eventually settled to Olson's satisfaction. The referee found by clear and convincing evidence that Thew had violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: §§ 3-501.1 (competence), 3-501.3 (diligence), 3-501.4 (communications), and 3-508.4 (misconduct).

(e) Laura Swoboda

Laura Swoboda hired Thew in March 2008 to recover on a loan she had made in the amount of \$12,500 plus interest. On April 8, 2008, Thew filed a complaint, and a default judgment was entered in Swoboda's favor in the amount of \$17,620.86, plus costs, on September 19. Thew advised Swoboda to wait 30

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days after the judgment to attempt to collect it by garnishment or other means.

Beginning in late October 2008, Thew led Swoboda to believe that garnishment proceedings in the county court were being pursued in an attempt to recover on the judgment. In fact, Thew had not begun garnishment proceedings. Swoboda contacted the clerk of the Lancaster County Court on March 17, 2009, and learned that no garnishment proceedings had been commenced. Swoboda called Thew, who falsely stated that he had filed the garnishment proceedings in district court. Thew knew the statement was false when he made it. Thew filed garnishment proceedings on March 18. Swoboda terminated Thew as her lawyer and filed a grievance against him with the Counsel for Discipline on March 20.

The referee found by clear and convincing evidence that Thew violated his oath of [794 N.W.2d 420] office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: §§ 3-501.1 (competence), 3-501.3 (diligence), 3-501.4 (communications), and 3-508.4 (misconduct).

(f) Allan Brock

Allan Brock and his adult son were injured in a motor vehicle collision on August 19, 2005, in Johnson County, Nebraska. In June 2006, Brock retained Thew to represent him in his personal injury claim against the other driver and his own insurance carrier. Thew also agreed to represent Brock's son. Thew agreed to a contingency fee agreement, but he did not present a written contingency fee agreement as required by § 3-501.5(c).

On September 21, 2006, Thew sent Brock a draft complaint he had prepared, which Brock approved. Thew did not file the complaint until May 16, 2007. In the spring of 2008, Thew told Brock and his wife that a trial was scheduled for May 28, 2008. In anticipation of the trial, Brock, his wife, and his son met with Thew. A few days before the scheduled trial date, Thew called Brock's wife and told her that the trial was continued, and had been rescheduled for December 10. Thew knew no trial had been scheduled.

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Thew failed to perfect service on the defendants in the case, so on November 26, 2008, the case was dismissed by the county court. Thew failed to inform Brock that the case had been dismissed. Instead, he stated that the trial would be continued to January 7, 2009. Thew knew this statement was false when he made it. On January 6, Thew called Brock's wife and informed her that the

case was dismissed because the parties had not been properly notified. In February 2009, Thew told Brock that he had refiled the case, but that statement was false, and Thew knew as much when he made it. Thew did not refile the case until June 16.

In April, May, and June 2009, Brock, his wife, and his son attempted to contact Thew about the status of the case, but Thew failed to return their calls. The referee found by clear and convincing evidence that Thew violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: §§ 3-501.1 (competence), 3-501.3 (diligence), 3-501.4 (communications), 3-501.5 (fees), and 3-508.4 (misconduct).

## 2. CASE NO. S-10-380

While cases Nos. S-09-567 and S-09-820 were pending before this court, amended formal charges were filed against Thew on May 18, 2010, and we eventually consolidated the three cases. Thew did not respond to the charges, and the relator moved for a judgment on the pleadings. In his answer filed on January 3, 2011, Thew requested that we consider the same mitigating factors in case No. S-10-380 as we did in cases Nos. S-09-567 and S-09-820. Thew also admitted the charges against him, stated that he was not seeking reinstatement, and stated that he was not currently fit to practice law. The following recitation of facts is taken from the amended formal charges.

### (a) Patrick Doyle

On May 14, 2008, Patrick Doyle hired Thew to represent him on several criminal and civil matters. Thew and Doyle executed a written fee agreement which provided that Doyle would pay Thew \$185 per hour for his services, as well as \$40,000 as a " ' non refundable deposit.' " Thew received the

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deposit, but he never provided Doyle with a periodic billing statement, nor did he respond to relator's requests for a billing statement. The record is unclear as to when or why Doyle's relationship with Thew ended.

**[794 N.W.2d 421]** The relator charged Thew with violating §§ 3-501.5 (fees), 3-501.15 (safekeeping property), and 3-508.4 (misconduct).

### (b) Kristan Yoder

On or about February 23, 2006, Kristan Yoder hired Thew to represent him on a breach of settlement agreement. Thew filed suit on May 9, but then failed to prosecute the case. The district court issued a progression order on December 10, 2007, stating that the case would be dismissed unless cause was shown by January 10, 2008. On January 2, Thew filed a motion to set the case for trial. No trial notice was ever filed, however, and on December 3, the court issued another progression order directing that the case would be dismissed unless cause was shown by January 5, 2009. On January 5, Thew filed a motion to set the case for trial, stating that all discovery had been completed. The defendant in the case objected and served several interrogatories and requests for production of documents on Thew. Thew failed to submit responses, and on July 22, opposing counsel filed a motion to compel on the discovery requests.

During this time, Thew failed to keep Yoder apprised of the status of his case. On more than one occasion, Thew falsely claimed that the case had been set for trial, only to claim later that the

trial had been continued at the request of opposing counsel. Yoder made repeated requests for a billing statement, but Thew never provided one. Yoder paid Thew \$3,850, but Thew never accounted for the time spent on Yoder's case.

Thew's license to practice law was suspended on September 17, 2009, but Thew failed to notify Yoder of such, and Thew did not turn over the file so that Yoder could seek other counsel. Yoder filed a grievance on October 13, and Thew responded, admitting that he had lied when he told Yoder the case had been set for trial. The Counsel for Discipline requested that Thew produce a complete copy of the file, a complete accounting of the time he had put into the case, and a

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complete accounting of all payments received. The record does not indicate that Thew ever provided the information.

The relator charged Thew with violating §§ 3-501.3 (diligence), 3-501.4 (communications), 3-501.5 (fees), and 3-508.4 (misconduct), and Neb. Ct. R. of Prof. Cond. § 3-501.16 (declining or terminating representation).

(c) Cory Althouse

Cory Althouse hired Thew in February 2006 to file an eviction notice. Thew filed suit in Lancaster County Court on February 27. A default judgment for restitution was entered on March 13, and a monetary judgment for rent and damages in the amount of \$2,705 was entered on April 10. On April 25, Thew initiated garnishment proceedings to collect the judgment, and he received \$1,407.02 from the garnishee's employer between May 16, 2006, and March 30, 2007. Thew failed to provide Althouse with an accounting of all funds received through the garnishment action, and he failed to remit all of the funds that Althouse was entitled to receive.

In March 2009, Althouse provided Thew with the name of the garnishee's current employer. Thew filed a praecipe and garnishment affidavit on March 18, 2009. Thew chose to serve the papers by certified mail, but he failed to follow up with the garnishment. Thew did not do any more work on the case, but he did not take steps to terminate the relationship. Thew failed to notify Althouse when his license was suspended, and he failed to turn over the case file so that Althouse could retain other counsel. Althouse filed a grievance [794 N.W.2d 422] against Thew on November 16. Notice of the grievance was mailed to Thew on November 17 by certified mail, and Thew signed the receipt on December 2. Thew was directed to file an appropriate response to the grievance within 15 working days, which he failed to do. On January 20, 2010, the Counsel for Discipline sent a followup letter directing him to file a response, but Thew failed to respond.

The relator charged Thew with violating §§ 3-501.3 (diligence), 3-501.4 (communications), 3-501.15 (safekeeping property), 3-501.16 (declining or terminating representation), and 3-508.4 (misconduct).

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(d) Melissa Anderson

In 2006, Thew represented Melissa Anderson in a personal injury case after her son was bitten by a dog. Thew filed suit in Lancaster County Court, and on or about January 12, 2009, the case was settled with the defendant's insurance company. Anderson was appointed conservator for her son so that she could receive the settlement from the insurance company.

The insurance company mailed Thew a check for over \$18,000, as well as a check payable to Anderson and Thew for \$24,323.94. Anderson was to deposit the insurance settlement check into a certificate of deposit and file notice thereof with the county court. Thew failed to notify Anderson that he had received the settlement check, and he failed to take any other steps to confirm that the settlement proceeds were deposited into a certificate of deposit for the son's benefit. The county court issued an order to show cause to Anderson for failure to file a certificate of proof of possession of a certificate of deposit for her son's benefit. Anderson was unable to contact or locate Thew to find out why the insurance company had not delivered the settlement funds. Anderson appeared at the show cause hearing on March 16, 2010, and was informed that Thew's license had been suspended and that it was her responsibility to locate and deposit the settlement funds.

Upon investigation, Anderson learned that the check for \$24,323.94, made payable to her and Thew, had been sent to Thew shortly after the settlement had been reached. The check had never been deposited, although the check for Thew's fee had been. The insurance company reissued the settlement check to Anderson.

The relator charged Thew with violating §§ 3-501.3 (diligence), 3-501.4 (communications), 3-501.15 (safekeeping property), 3-501.16 (declining or terminating representation), and 3-508.4 (misconduct).

(e) Marvel Nevels

In 2006, Marvel Nevels contacted Thew about representing her on an intellectual property case. Her initial consultation with Thew took place on January 12, 2006, at which time she paid Thew \$50. Thew agreed to prepare and file all documents

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necessary to secure trademark protection for Nevels' ideas, but he requested an advance payment first. Nevels gave Thew a check for \$1,900 on August 11, and the check cleared Nevels' account on September 14.

Thew informed Nevels that it would take between 6 months and 2 years to complete the registration for her ideas. Nevels had not heard from Thew by August 2007, and she called his office to speak with him. Thew stated that he was still working on her case, but that he had not heard from the trademark office.

Nevels waited another year and heard nothing from Thew, so in August 2008, she made an unannounced visit to Thew's office. At that meeting, Thew stated that he still had not heard from the trademark office regarding her application for trademark protection. Thew did tell Nevels that she could begin marketing her ideas [794 N.W.2d 423] while she waited to hear from the trademark office. Nevels heard that Thew's law license had been suspended, although Thew never notified her of that fact. Since giving Thew an advance payment, Nevels did not receive any written correspondence from Thew, she was not notified by Thew of his suspension, and she had not received her file from Thew.

The relator charged Thew with violating §§ 3-501.3 (diligence), 3-501.4 (communications), 3-501.15 (safekeeping property), 3-501.16 (declining or terminating representation), and 3-508.4 (misconduct).

Given the new charges, the relator recommends disbarment.

### III. ANALYSIS

As an initial matter, we note that Thew's conduct took place after September 1, 2005, and therefore is governed by the Nebraska Rules of Professional Conduct.<sup>[1]</sup>

A proceeding to discipline an attorney is a trial de novo on the record.<sup>[2]</sup> The basic issues in a disciplinary proceeding

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against a lawyer are whether discipline should be imposed and, if so, the type of discipline under the circumstances.<sup>[3]</sup> Neb. Ct. R. § 3-304 provides that the following may be considered as discipline for attorney misconduct:

(A) Misconduct shall be grounds for: (1) Disbarment by the Court; or (2) Suspension by the Court; or (3) Probation by the Court in lieu of or subsequent to suspension, on such terms as the Court may designate; or (4) Censure and reprimand by the Court; or (5) Temporary suspension by the Court; or (6) Private reprimand by the Committee on Inquiry or Disciplinary Review Board. (B) The Court may, in its discretion, impose one or more of the disciplinary sanctions set forth above.

With respect to the imposition of attorney discipline in an individual case, we evaluate each attorney discipline case in light of its particular facts and circumstances.<sup>[4]</sup>

After the first two cases were heard, the referee had recommended a suspension of 120 days, and probation for 2 years after Thew is reinstated. However, in light of the most recent allegations, the recommendation is disbarment.

To determine whether and to what extent discipline should be imposed in a lawyer discipline proceeding, this court considers the following factors: (1) the nature of the offense, (2) the need for deterring others, (3) the maintenance of the reputation of the bar as a whole, (4) the protection of the public, (5) the attitude of the offender generally, and (6) the offender's present or future fitness to continue in the practice of law.<sup>[5]</sup> The determination of an appropriate penalty to be imposed on an attorney in a disciplinary proceeding requires the consideration of any aggravating or mitigating factors.<sup>[6]</sup>

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Between these three cases, we find by clear and convincing evidence that **[794 N.W.2d 424]** Thew violated seven different disciplinary rules. Cumulative acts of attorney misconduct are distinguishable from isolated incidents, therefore justifying more serious sanctions.<sup>[7]</sup> Thew's behavior demonstrates a pattern of neglect and deceit that we find troubling.

While Thew's responses to his clients were negligent and lax, he also lied numerous times, and he also created false documents to hide the fact that he had procrastinated. Thew admits that he failed to notify his clients of his temporary suspension and that he failed to provide his clients with their files so that they could seek other counsel. Although there are letters in the record from other attorneys attesting to Thew's competence, the record reflects that Thew's problems were due in part to poor management of his private legal practice. The record also demonstrates that he did not have sufficient experience to handle some of his cases and that he did not seek assistance when he realized he did not have the necessary information or skills.

In Thew's answer to the most recent charges, he states that " he is not seeking reinstatement at this time and does not contend he is fit to practice law at this time." The Counsel for Discipline recommends that Thew be disbarred. We recently disbarred an attorney for neglecting his clients, failing to properly terminate representation, and failing to cooperate with the Counsel for Discipline.<sup>[8]</sup> Ordinarily, cumulative acts of misconduct and repeated disregard for requests for information from the Counsel for Discipline will lead to disbarment.<sup>[9]</sup> Given Thew's repeated acts of neglect and deceit, we find that Thew should be disbarred, effective immediately.

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#### IV. CONCLUSION

Thew committed a series of ethical breaches over several years, affecting a number of clients. Thew failed to provide competent counsel, and made false and misleading statements to hide the fact that he procrastinated. Thew also failed to notify his clients of his suspension and failed to safeguard his clients' interests. Thew's misconduct continued during the investigation by the Counsel for Discipline, and Thew ignored the letters sent by the Counsel for Discipline. Accordingly, we find that Thew should be disbarred and hereby order him disbarred from the practice of law in the State of Nebraska, effective immediately. Thew shall forthwith comply with all terms of Neb. Ct. R. § 3-316, and upon failure to do so, he shall be subject to punishment for contempt of this court. Accordingly, Thew is directed to pay costs and expenses in accordance with Neb.Rev.Stat. §§ 7-114 and 7-115 (Reissue 2007) and Neb. Ct. R. §§ 3-310(P) and 3-323 within 60 days after an order imposing costs and expenses, if any, is entered by the court.

#### JUDGMENT OF DISBARMENT.

HEAVICAN, C.J., and WRIGHT and MILLER-LERMAN, JJ., not participating.

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Notes:

[1] *State ex rel. Counsel for Dis. v. Switzer*, 275 Neb. 881, 750 N.W.2d 681 (2008).

[2] *State ex rel. Counsel for Dis. v. Tarvin*, 279 Neb. 399, 777 N.W.2d 841 (2010).

[3] *Id.*

[4] *Id.*

[5] *Id.*

[6] *State ex rel. Counsel for Dis. v. Wright*, 277 Neb. 709, 764 N.W.2d 874 (2009).

[7] *State ex rel. Counsel for Dis. v. Wintroub*, 277 Neb. 787, 765 N.W.2d 482 (2009).

[8] *State ex rel. Counsel for Dis. v. Samuelson*, 280 Neb. 125, 783 N.W.2d 779 (2010).

[9] *State ex rel. Counsel for Dis. v. Sutton*, 269 Neb. 640, 694 N.W.2d 647 (2005).

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# NEBRASKA DEP Teacher Certification

3736

4/23/2013

THEW, PETER

APPLICATION FOR A NEBRASKA EDUCATOR'S CERTIFICATE

NDE 20-000

APPLICATION ID 2013009010

APPLICATION SUBMISSION DATE 04/23/2013

**PERSONAL INFORMATION**

Applicant Name	THEW / PETER, TIMOTHY	Birth Date	01/27/1975
Address 1	3521 M STREET	Home Phone	
Address 2		Daytime Phone	(402)440-4875
City/State/Zip	LINCOLN, NE 68510	Fax Number	
Email Address	pthew2002@yahoo.com	Former Name	

**PURPOSE OF APPLICATION AND NON-REFUNDABLE FEES**

Form Type	FIRST TIME NEBRASKA APPLICANT
Certificate Type	TEACHING STANDARD
Application Type	ALL SCHOOL CERTIFICATE
Application Fee	\$55.00

**FINGERPRINT REQUIREMENT**

I HAVE NOT HELD A NEBRASKA CERTIFICATE SO I AM SUBMITTING A RECORD OF MY RESIDENCES DURING THE FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF MY APPLICATION

**ACADEMIC - INSTITUTIONS ATTENDED**

Code	State	Institution Name	Month/Year	Hours	Degree
181464	NE	UNIVERSITY OF NEBRASKA AT LINCOLN	5/1/1998	139	BACCALAUREATE
181464	NE	UNIVERSITY OF NEBRASKA AT LINCOLN	5/1/1999	19	
181464	NE	UNIVERSITY OF NEBRASKA AT LINCOLN	5/1/2002	105	DOCTORATE
181464	NE	UNIVERSITY OF NEBRASKA AT LINCOLN	8/1/2013	48	MASTERS

**AREAS FOR WHICH YOU HAVE COMPLETED AN APPROVED PROGRAM**

Code	Endorsement	Grade Level(s)
1301	NATURAL SCIENCE	7-12
1303	BIOLOGY	7-12

**TEACHING/ADMINISTRATIVE EXPERIENCE IN THE PAST FIVE YEARS**

Number of Yrs	Name	City	State	From Date	To Date

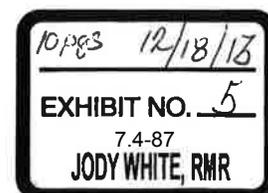
**RECORD OF RESIDENCE(S) - FIVE YEAR CONTINUOUS (IF NECESSARY)**

Address 1	Address 2	City	State	Zip	From Date	To Date
3521 M STREET		LINCOLN	NE	68510	01/01/2008	04/01/2013

**PERSONAL AND PROFESSIONAL FITNESS**

- 1) HAVE YOU EVER HAD A PROFESSIONAL LICENSE, CERTIFICATE, PERMIT CREDENTIAL OR OTHER DOCUMENT AUTHORIZING THE PRACTICE OF A PROFESSION SUSPENDED, REVOKED, VOIDED, DENIED, REJECTED OR VOLUNTARILY SURRENDERED? - YES

NEBRASKA BAR ASSOCIATION, LICENSE REVOKED 2010



- 2) ARE YOU CURRENTLY THE SUBJECT OF ANY INQUIRY OR INVESTIGATION BY ANY LAW ENFORCEMENT AGENCY, PROSECUTOR'S OFFICE, GOVERNMENTAL BODY, OR LICENSING AGENCY ? - NO
  
- 3) IS ANY ACTION CURRENTLY PENDING AGAINST YOU BY ANY LAW ENFORCEMENT AGENCY, PROSECUTOR'S OFFICE, GOVERNMENTAL BODY, OR LICENSING AGENCY - NO
  
- 4) HAVE YOU EVER BEEN FOUND GUILTY OF A FELONY OR MISDEMEANOR OR ENTERED A PLEA OF GUILTY OR NO CONTEST TO A FELONY OR MISDEMEANOR? MINOR TRAFFIC INFRACTIONS AND MISDEMEANOR CONVICTIONS FOR DRIVING UNDER THE INFLUENCE OR MINOR IN POSSESSION OF ALCOHOL NEED NOT BE REPORTED - NO
  
- 5) IS AN ORDER OR DETERMINATION CURRENTLY IN EFFECT BY A COURT OR ANY OTHER GOVERNMENTAL BODY WHICH FINDS YOU TO BE ANY OF THE FOLLOWING; A MENTALLY ILL AND DANGEROUS PERSON; MENTALLY INCOMPETENT TO STAND TRIAL; ACQUITTED OF CRIMINAL CHARGES BECAUSE OF INSANITY; AN INCOMPACITATED PERSON IN NEED OF A GUARDIAN; OR UNABLE TO MANAGE YOUR PROPERTY DUE TO MENTAL ILLNESS, MENTAL DEFICIENCY, CHRONIC USE OF DRUGS OR CHRONIC INTOXICATION? - NO
  
- 6) ARE YOU CURRENTLY AN INPATIENT OR RESIDENT IN A MENTAL HEALTH FACILITY DUE TO A DETERMINATION BY A QUALIFIED MENTAL HEALTH PROFESSIONAL? - NO
  
- 7) ARE YOU A US CITIZEN? - YES

I declare that the information furnished herein is true, correct, and complete to the best of my knowledge. I hereby grant the permission and authorize the Nebraska Department of Education to verify all responses with any mental health facility or governmental agency and to obtain and review all records maintained by any criminal justice agency, including a criminal history record information check, regarding any of my criminal charges or convictions, and to contact previous employers for information regarding the term of my employment. I hereby release, discharge, and exonerate the Nebraska Department of Education, its employees, and any person so furnishing information from any and all liability of every nature and kind arising out of the furnishing of such records and information. I understand that any material submitted in connection with this application will become the property of the State of Nebraska, will be considered a public record and will not be returned. I understand that inaccurate information submitted in support of an application shall be cause for denial or revocation of such certificate.

\_\_\_\_\_, 20\_\_\_\_ Signature of Applicant

Application Submission Date: 04/23/2013

Applicant: PETER TIMOTHY THEW

<input checked="" type="radio"/> Yes <input type="radio"/> No	1 HAVE YOU EVER HAD A PROFESSIONAL LICENSE, CERTIFICATE, PERMIT CREDENTIAL OR OTHER DOCUMENT AUTHORIZING THE PRACTICE OF A PROFESSION SUSPENDED, REVOKED, VOIDED, DENIED, REJECTED OR VOLUNTARILY SURRENDERED ?	Explain Self Reporting
<input type="radio"/> Yes <input checked="" type="radio"/> No	2 ARE YOU CURRENTLY THE SUBJECT OF ANY INQUIRY OR INVESTIGATION BY ANY LAW ENFORCEMENT AGENCY, PROSECUTOR'S OFFICE, GOVERNMENTAL BODY, OR LICENSING AGENCY ?	Explain Self Reporting
<input type="radio"/> Yes <input checked="" type="radio"/> No	3 IS ANY ACTION CURRENTLY PENDING AGAINST YOU BY ANY LAW ENFORCEMENT AGENCY, PROSECUTOR'S OFFICE, GOVERNMENTAL BODY, OR LICENSING AGENCY ?	Explain Self Reporting
<input type="radio"/> Yes <input checked="" type="radio"/> No	4 HAVE YOU EVER BEEN FOUND GUILTY OF A FELONY OR MISDEMEANOR OR ENTERED A PLEA OF GUILTY OR NO CONTEST TO A FELONY OR MISDEMEANOR IN ANY CRIMINAL, DRUG, OR JUVENILE COURT? MINOR TRAFFIC INFRACTIONS AND MISDEMEANORS CONVICTIONS FOR DRIVING UNDER THE INFLUENCE OR MINOR IN POSSESSION OF ALCOHOL NEED NOT BE REPORTED	Explain Self Reporting
<input type="radio"/> Yes <input checked="" type="radio"/> No	5 IS AN ORDER OR DETERMINATION CURRENTLY IN EFFECT BY A COURT OR ANY OTHER GOVERNMENTAL BODY WHICH FINDS YOU TO BE ANY OF THE FOLLOWING; A METALLY ILL AND DANGEROUS PERSON; MENTALLY INCOMPETENT TO STAND TRIAL; ACQUITTED OF CRIMINAL CHARGES BECAUSE OF INSANITY; AN INCAPACITATED PERSON IN NEED OF A GUARDIAN; OR UNABLE TO MANGE YOUR PROPERTY DUE TO MENTAL ILLNESS, MENTAL DEFICIENCY, CHRONIC USE OF DRUGS OR CHRONIC INTOXICATION ?	Explain Self Reporting
<input type="radio"/> Yes <input checked="" type="radio"/> No	6 ARE YOU CURRENTLY AN INPATIENT OF RESIDENT IN A MENTAL HEALTH FACILITY DUE TO A DETERMINATION BY A QUALIFIED MENTAL HEALTH PROFESSIONAL ?	Explain Self Reporting
<input checked="" type="radio"/> Yes <input type="radio"/> No	7 ARE YOU A US CITIZEN ?	

Peter Timothy Thew



Office of the Registrar  
University of Nebraska at Kearney  
Kearney, NE 68849

D

NAME

-3736

01/27/1975

Student ID Number

Birth Date

**Beginning of Postgraduate Record**

Fall 2009

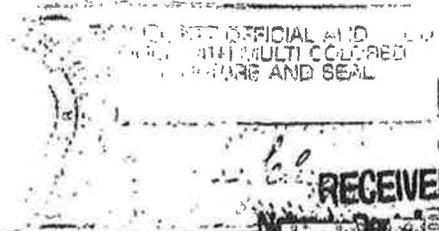
TE 401 Context of Education 6.00 D 6.00

	<u>AHRS</u>	<u>EHRS</u>	<u>QHRS</u>	<u>QPTS</u>	<u>GPA</u>
Term	6.00	6.00	6.00	6.00	1.000
Cumulative	6.00	6.00	6.00	6.00	1.000

**Postgraduate Career Totals**

	<u>AHRS</u>	<u>EHRS</u>	<u>QHRS</u>	<u>QPTS</u>	<u>GPA</u>
Cumulative	6.00	6.00	6.00	6.00	1.000
Enrollment	6.00	6.00	6.00	6.00	1.000
Transfer	0.00	0.00	0.00	0.00	
Combined	6.00	6.00	6.00	6.00	1.000

End of UNK Official Transcript as of 07/22/2013



Send to: Nebraska Department of Education  
Teacher Certification  
301 Centennial Mall South  
Lincoln, NE 68509

JUL 25 2013

-3736

D

Official UNL Undergraduate Academic Record

Name: Peter Timothy Thew
Student ID: 42774104

Institution Info: University of Nebraska - Lincoln
Birthdate: 01/27/\*\*\*\*
Print Date: 07/24/2013

Degrees Awarded

Degree: Bachelor of Science
Confer Date: 05/09/1998
Degree GPA: 2.837
Major: Biological Sciences
Minor: History

Degree: Juris Doctor
Confer Date: 05/11/2002
Major: Law

Academic Program History

Program: Arts & Sciences Undergraduate
08/23/1993: Active in Program
Pre-Medicine Course of Study

Program: Arts & Sciences Undergraduate
01/08/1996: Active in Program
Biological Sciences Major

Program: Arts & Sciences Undergraduate
01/12/1998: Active in Program
Biological Sciences Major
History Minor

Program: Arts & Sciences Undergraduate
05/09/1998: Completed Program
Biological Sciences Major
History Minor

Beginning of Undergraduate Record

Table with columns: Course, Description, Grade, QPTS, GPA. Includes Fall 1993 courses like CHEM 109, ENGL 101, HIST 101, MATH 103.

Table with columns: Course, Description, Grade, QPTS, GPA. Includes Spring 1994 courses like ENGL 150, ENTO 109, GEOG 140, POLS 100, RACS 108K.

Summary table with columns: Term, AHRS, EHRS, QHRS, QPTS, GPA. Shows cumulative totals for Fall 1994.

Table of Fall 1994 courses: CHEM 109, HIST 100, HIST 303, MATH 103, POLS 100 with grades and QPTS/GPA.

Summary table for Fall 1994 with columns: Term, AHRS, EHRS, QHRS, QPTS, GPA.

Academic Standing: Dismissed-Reinstated

Table of Spring 1995 courses: BIOS 101, BIOS 101L, CHEM 110, MATH 106 with grades and QPTS/GPA.

Summary table for Spring 1995 with columns: Term, AHRS, EHRS, QHRS, QPTS, GPA.

Table of Summer 1995 courses: PHIL 213, PSYC 181 with grades and QPTS/GPA.

Summary table for Summer 1995 with columns: Term, AHRS, EHRS, QHRS, QPTS, GPA.

Table of Fall 1995 courses: BIOS 241, CHEM 221, GERM 101, HIST 201 with grades and QPTS/GPA.

Summary table for Fall 1995 with columns: Term, AHRS, EHRS, QHRS, QPTS, GPA.

Table of Spring 1996 courses: BIOS 213, BIOS 373, CHEM 251, CHEM 253, GERM 102 with grades and QPTS/GPA.

Summary table for Spring 1996 with columns: Term, AHRS, EHRS, QHRS, QPTS, GPA.



Send to: Nebraska Department of Education
Teacher Certification
301 Centennial Mall South
Lincoln, NE 68509



5

Official UNL Undergraduate Academic Record

Name: Peter Timothy Thew  
Student ID: 42774104

Fall 1996					
BIOS 230	ECOL OF GREAT PLAINS	A	3.00	12.00	
BIOS 418	ADVANCED GENETICS	D+	(3.00)		
<i>Repeated-Excluded</i>					
GERM 102	BEGINNING GERMAN	B+	5.00	17.50	
HIST 397	SP TOPICS IN HISTORY	B+	3.00	10.50	
<i>Censorshp&amp;Dissidence: Euro</i>					

	AHRS	EHRS	QHRS	QPTS	GPA
Term	14.00	11.00	11.00	40.00	3.636
Cumulative	112.00	88.00	84.00	225.50	2.684

Spring 1997					
BIOS 388	COMP ANAT-VERTEBRATE	B	4.00	12.00	
CHEM 252	ORGANIC CHEMISTRY	N	(3.00)		
GERM 201	SECOND YEAR GERMAN	B	3.00	9.00	
PHYS 141	ELEM GEN PHYSICS I	C+	5.00	12.50	

	AHRS	EHRS	QHRS	QPTS	GPA
Term	15.00	12.00	12.00	33.50	2.791
Cumulative	127.00	100.00	96.00	259.00	2.697

Summer 1997					
PHYS 142	ELEM GEN PHYSICS II	A	5.00	20.00	
POLS 350	ADMIN OF JUSTICE	B	3.00	9.00	

	AHRS	EHRS	QHRS	QPTS	GPA
Term	8.00	8.00	8.00	29.00	3.625
Cumulative	135.00	108.00	104.00	288.00	2.769

Fall 1997					
BIOS 418	ADVANCED GENETICS	B	3.00	9.00	
BIOS 462	ANIMAL BEHAVIOR	C	3.00	6.00	
CHEM 252	ORGANIC CHEMISTRY	C+	3.00	7.50	
CHEM 254	ORGANIC CHEM LAB	B+	1.00	3.50	
EDPS 459	STATISTICAL METHODS	B+	3.00	10.50	
GERM 202	SECOND YEAR GERMAN	B	3.00	9.00	
MUNM 387	HIST OF AMER JAZZ	B+	3.00	10.50	

	AHRS	EHRS	QHRS	QPTS	GPA
Term	19.00	19.00	19.00	56.00	2.947
Cumulative	154.00	127.00	123.00	344.00	2.796

Spring 1998					
BIOS 112	INTRO TO ZOOLOGY	B+	4.00	14.00	
BIOS 385	PARASITOLOGY	B	4.00	12.00	
HIST 371	MODERN MEXICO	B	3.00	9.00	
HLTH 255N	STRESS&TENSION REDUC	A	1.00	4.00	

	AHRS	EHRS	QHRS	QPTS	GPA
Term	12.00	12.00	12.00	39.00	3.250
Cumulative	166.00	139.00	135.00	383.00	2.837

Undergraduate Career Totals					
Cumulative	AHRS	EHRS	QHRS	QPTS	GPA
Enrollment	166.00	139.00	135.00	383.00	2.837
Transfer	0.00	0.00			
Combined	166.00	139.00	135.00	383.00	2.837

End of Official UNL Undergraduate Academic Record



6

Official UNL Graduate Academic Record

Name: Peter Timothy Thew  
Student ID: 42774104

Institution Info: University of Nebraska - Lincoln  
Birthdate: 01/27/\*\*\*\*  
Print Date: 07/24/2013

Degrees Awarded

Degree: Bachelor of Science  
Confer Date: 05/09/1998  
Degree GPA: 2.837  
Major: Biological Sciences  
Minor: History

Degree: Juris Doctor  
Confer Date: 05/11/2002  
Major: Law

Thesis & Dissertation Titles

Master of Arts in Teaching, Learning and Teacher Education:  
Option III - No Thesis Required

Academic Program History

Program: Graduate - Teacher Cert  
08/24/1998: Active In Program  
Post-Baccalaureate Course of Study (PBAC-ICER)

Program: Graduate - Teacher Cert  
05/08/1999: Discontinued  
Post-Baccalaureate Course of Study (PBAC-ICER)

Program: Graduate - Other  
08/30/2010: Active in Program  
Post-Baccalaureate Course of Study (PBAC-NDEG)

Program: Graduate - Other  
12/18/2010: Discontinued  
Post-Baccalaureate Course of Study (PBAC-NDEG)

Program: Graduate - Other  
01/10/2011: Active in Program  
Post-Baccalaureate Course of Study (PBAC-NDEG)

Program: Graduate  
05/14/2012: Active in Program  
Teaching, Learning and Teacher Education  
Major (TEAC-MA)

Beginning of Graduate Record

Send to: Nebraska Department of Education  
Teacher Certification  
301 Centennial Mall South  
Lincoln, NE 68509

Fall 1998			
BIOS 312	FUND OF MICROBIOLOGY	C	3.00
BIOS 898	INDEPENDENT RESEARCH	A	1.00
EDPS 297	PROF PRACT EXPR II	W	(1.00)
ENTO 805	VETERINARY ENTOMOLGY	B+	2.00
HIST 872	REVL 20TH C LAT AMER	B	3.00
POLS 885	CONTEMP POLITCL THRY	B	3.00

	AHRS	EHRS
Term	13.00	12.00
Cumulative	13.00	12.00

Spring 1999			
BIOS 898	INDEPENDENT RESEARCH	A	3.00
POLS 426	AMER PUBLIC POLICY	B	3.00

	AHRS	EHRS
Term	6.00	6.00
Cumulative	19.00	18.00

Spring 2011			
BIOS 898	INDEPENDENT RESEARCH	A	2.00

	AHRS	EHRS
Term	2.00	2.00
Cumulative	21.00	20.00

Summer 2012			
SPED 801B	EXCPT LRNR SEC CLSRM	A	3.00
TEAC 800	INQUIRY: TCHNG&LRNG	A	3.00
TEAC 813M	TCH ENGL LANG LEARNR	A	3.00
TEAC 851V	LEARN & TCH: SEC SCI	A	3.00
TEAC 861	ED PLURALSTC SOCIETY	A	3.00
TEAC 894V	PRO PRACT: SEC SCI	A	1.00

	AHRS	EHRS
Term	16.00	16.00
Cumulative	37.00	36.00

Fall 2012			
ASTR 103X	DESCRIPTIVE ASTRON	B-	3.00
EDPS 991	SMNR: ED PSY&MEASURE	A	3.00
	<i>Human Development Learning</i>		
TEAC 801	CURRICULUM INQUIRY	B+	3.00
TEAC 842E	SP TOPC:MTHD SCI TCH	A-	3.00
	<i>History &amp; Nature of Science</i>		
TEAC 852V	CURR PRINC: SEC SCI	B	3.00
TEAC 894V	PRO PRACT: SEC SCI	A	1.00

	AHRS	EHRS
Term	16.00	16.00
Cumulative	53.00	52.00

Spring 2013			
GEOL 361	SOILS ENVIRO & WATER	D	3.00
TEAC 803B	STU TCH SEM:SECD EDU	B-	3.00
TEAC 880A	SURVY INSTRCTNL TECH	B+	3.00
TEAC 897V	STUDENT TCH SEC SCI	P	4.00



Official UNL Graduate Academic Record

Name: Peter Timothy Thew  
 Student ID: 42774104

	AHRS	EHRS
Term	13.00	13.00
Cumulative	66.00	65.00

Summer 2013

TEAC 889 MASTERS SEMINAR A 3.00

	AHRS	EHRS
Term	3.00	3.00
Cumulative	69.00	68.00

Graduate Career Totals

	AHRS	EHRS
Cumulative	69.00	68.00
Enrollment	69.00	68.00
Transfer	0.00	0.00
Combined	69.00	68.00

End of Official UNL Graduate Academic Record



Official UNL Law Academic Record

Name: **Peter Timothy Thew**  
 Student ID: **42774104**

Institution Info: **University of Nebraska - Lincoln**  
 Birthdate: **01/27\*\*\*\***  
 Print Date: **07/24/2013**

**Degrees Awarded**

Degree: **Bachelor of Science**  
 Confer Date: **05/09/1998**  
 Degree GPA: **2.837**  
 Major: **Biological Sciences**  
 Minor: **History**

Degree: **Juris Doctor**  
 Confer Date: **05/11/2002**  
 Major: **Law**

**Academic Program History**

Program: **College of Law**  
 08/23/1999: **Active in Program**  
**Law Major**

Program: **College of Law**  
 05/11/2002: **Completed Program**  
**Law Major**

**Beginning of Law Record**

Fall 1999					
LAW	CRS	CONTRACTS	Grade	QHS	GPA
LAW 501	CONTRACTS		B	6.00	18.00
LAW 503	TORTS		C	3.00	6.00
LAW 511	INTRO LAW-LEGAL PROC		C	3.00	6.00
LAW 513	LEGAL RSH & WRITING		B	3.00	9.00
LAW 516	CIVIL PROCEDURE I		B	3.00	9.00
	CIVIL PROCEDURE				

Term	AHRS	EHRS	QHRS	QPTS	GPA
Term	18.00	18.00	18.00	48.00	2.666
Cumulative	18.00	18.00	18.00	48.00	2.666

Spring 2000					
LAW	CRS	PROPERTY	Grade	QHS	GPA
LAW 504	TORTS		C	3.00	6.00
LAW 506	PROPERTY		B	6.00	18.00
LAW 508	CRIMINAL LAW		C	3.00	6.00
LAW 514	LEGAL RSH & WRITING		B	3.00	9.00
LAW 517	CIVIL PROCEDURE II		B	3.00	9.00

Term	AHRS	EHRS	QHRS	QPTS	GPA
Term	18.00	18.00	18.00	48.00	2.666
Cumulative	36.00	36.00	36.00	96.00	2.666

Summer 2000					
LAW	CRS	WILLS AND TRUSTS	Grade	QHS	GPA
LAW 639	WILLS AND TRUSTS		A	3.00	12.00
LAW 790	LEGAL PROFESSION		B+	3.00	10.50

Term	AHRS	EHRS	QHRS	QPTS	GPA
Term	6.00	6.00	6.00	22.50	3.750
Cumulative	42.00	42.00	42.00	118.50	2.821

Fall 2000					
LAW	CRS	CONSTITUTIONAL LAW I	Grade	QHS	GPA
LAW 609	CONSTITUTIONAL LAW I		C+	3.00	7.50
LAW 633	ADMINISTRATIVE LAW		B	3.00	9.00
LAW 645	UNFAIR COMPETITION		B	3.00	9.00
LAW 646	EVIDENCE		C+	3.00	7.50
LAW 741	PRETRIAL LITIGATION		C+	3.00	7.50

Term	AHRS	EHRS	QHRS	QPTS	GPA
Term	15.00	15.00	15.00	40.50	2.700
Cumulative	57.00	57.00	57.00	159.00	2.789

Spring 2001					
LAW	CRS	IMMIGRATION LAW	Grade	QHS	GPA
LAW 624	IMMIGRATION LAW		C+	3.00	7.50
LAW 632	CORPORATIONS		B+	3.00	10.50
LAW 679	ENVR LAW&ANLYS SMNR		A	3.00	12.00
LAW 754	FEDERAL JURISDICTION		B	3.00	9.00
LAW 761	TRIAL ADVOCACY		B+	3.00	10.50

Term	AHRS	EHRS	QHRS	QPTS	GPA
Term	15.00	15.00	15.00	49.50	3.300
Cumulative	72.00	72.00	72.00	208.50	2.885

Summer 2001					
LAW	CRS	ENVIRONMENTAL LAW	Grade	QHS	GPA
LAW 641	ENVIRONMENTAL LAW		A	3.00	12.00
LAW 798A	CLINICAL PRACT-CIVIL		A	3.00	12.00
LAW 798B	CLINICAL PRACT-CIVIL		A	3.00	12.00

Term	AHRS	EHRS	QHRS	QPTS	GPA
Term	9.00	9.00	9.00	36.00	4.000
Cumulative	81.00	81.00	81.00	244.50	3.018

Fall 2001					
LAW	CRS	INDIV INCOME TAX I	Grade	QHS	GPA
LAW 637	INDIV INCOME TAX I		B+	4.00	14.00
LAW 696	CLIENT INTRVIEW&CNLS		B	3.00	9.00
LAW 709	ARBITRATION		C	2.00	4.00
LAW 796	NATIVE AMERICAN LAW		B	3.00	9.00

Term	AHRS	EHRS	QHRS	QPTS	GPA
Term	12.00	12.00	12.00	36.00	3.000
Cumulative	93.00	93.00	93.00	280.50	3.016

Spring 2002					
LAW	CRS	RSH: SELECT FIELD I	Grade	QHS	GPA
LAW 669	RSH: SELECT FIELD I		A	3.00	12.00
LAW 670	RSH: SELECT FIELD II		A	3.00	12.00
LAW 711	COPYRIGHT LAW		B+	3.00	10.50
LAW 740	NEGOTIATIONS		B	3.00	9.00

Term	AHRS	EHRS	QHRS	QPTS	GPA
Term	12.00	12.00	12.00	43.50	3.625
Cumulative	105.00	105.00	105.00	324.00	3.085

Send to: **Nebraska Department of Education**  
**Teacher Certification**  
**301 Centennial Mall South**  
**Lincoln, NE 68509**



Official UNL Law Academic Record

Name: Peter Timothy Thew  
Student ID: 42774104

Law Career Totals

Cumulative	AHRS	EHRS	QHRS	QETS	GPA
Enrollment	105.00	105.00	105.00	324.00	3.085
Transfer	0.00	0.00			
Combined	105.00	105.00	105.00	324.00	3.085

End of Official UNL Law Academic Record





**Roger D. Breed, Ed.D., Commissioner**  
**Scott Swisher, Ed.D., Deputy Commissioner**

301 Centennial Mall South    Tel: (402) 471-2295  
PO Box 94987    Fax: (402) 471-0117  
Lincoln, NE 68509-4987    Web: [www.education.ne.gov](http://www.education.ne.gov)

**CERTIFIED MAIL**

August 7, 2013

Mr. Peter Thew  
3521 M Street  
Lincoln, NE 68510

RE: NOTICE OF INTENT TO DENY

Dear Mr. Thew:

This is notice of intent to deny your application filed on April 23, 2013, for a Nebraska standard teaching certificate. Your application included information about a 2010 Nebraska State Bar license revocation. Title 92, *Nebraska Administrative Code*, Chapter 21, Section 005.01J requires that applicants be of good moral character.

Enclosed is a copy of Section 009 of Rule 21. A complete rule can be found online at [http://www.education.ne.gov/Legal/webrulespdf/CLEAN\\_RULE%2021\\_%202011.pdf](http://www.education.ne.gov/Legal/webrulespdf/CLEAN_RULE%2021_%202011.pdf). Section 009.02 provides that you may request within twenty (20) days a review of this decision by writing the Office of the Commissioner of Education. Contact must be made to the Commissioner's Office, not the Teacher Certification Office. To request an administrative review, you must write to:

Commissioner of Education  
P.O. Box 94933  
Lincoln, NE 68509-4987

Sincerely,

Kevin Peters, Ed.D.  
Teacher Certification Office

Enclosure





Dr. Scott Swisher  
Commissioner of Education  
301 Centennial Mall South  
Lincoln, NE 68509

August 27, 2013

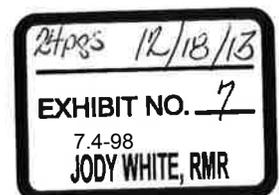
**RE:** Appeal of Intent to Deny

Dear Dr. Swisher:

This letter is an appeal of the intent to deny my request of a teaching certificate. Please consider this letter, the enclosed letters of support and recommendation, my application and supporting material for my appeal of that decision. I have attached and enclosed letters of support from my cooperating teacher, my supervising professors, my faculty advisor, parents of youth I have coached and people who have known me in personal and professional capacities. I hope you will take time to review these letters. These are people who have seen me in the classroom and seen me interact with youth and students on numerous occasions.

Prior to being suspended from the practice of law I was a solo attorney. Initially upon starting my practice I worked hard for my clients and was very efficient. I was always well prepared for meetings and court appearances and worked to complete things as soon as possible. I was sometimes frustrated by other attorneys who would be late with documents or appointments and did not understand how they could always do that. Over the years though that changed, I became the attorney that so frustrated me.

I changed to the point that I had a hard time getting any work done at all and I could not figure out why. I was overwhelmed and frustrated with my lack of ability to do my work,



but I felt that I just needed to continue on to 'work through this hard spot.' I fell behind on almost all of my cases, including cases of friends and even my own family. The further behind I got the less work I did. I kept thinking that if I had more time I could work through this and things would be okay again. I thought that with extra time I could undo the mistakes I was making in not getting work done.

I then made some of the biggest mistakes in my life; I lied to my clients, friends, colleagues and family. I started to tell people that I was doing what I knew I could and should do, but I had not done it and was not doing it. I told them all I was working on cases and completing documents that were not done and I had not worked on, because I thought if I just had a little time I would get them done and knew I could. I did not improve in the amount of work I did and I did even less as I thought about what I had done and where I had fallen. It was only when all of this came back on top of me that I realized I had a larger problem. Initially when the problems surfaced I continued my same thought process of just needing more time. I realized that I had not been feeling or think the same since my youngest son was hospitalized suddenly at three weeks old. He recovered quickly, but I struggled. Shortly after this my mother was in a serious auto accident. She broke her neck and was in the ICU for a week. She came to live with me and my family for six weeks as she recovered from this accident. I felt things were changing, but did not think it was with me. The final thing that really sent me deep into depression was the sudden death of my secretary, Whitney Morris. She suffered a brain aneurism and lost consciousness; she never recovered and passed away four days later. While I struggled with things before Whitney's

death, after her death I struggled to the point of almost losing everything, including my family. It was not until having discussions with my wife and my mother that I realized I had a problem I could not handle and I needed help.

Asking for help was one of the hardest things I have done in my life. I was not a person who asked for help, I always felt I could do things on my own and solve my own problems. It took the support of my family and friends to ask for help and accept that help. I sought professional help to see what I could do. I was diagnosed as having depression and initially I did not truly understand what this meant. I worked with my therapist and doctor to develop a course of treatment which included therapy, counseling and medication. I worked on my treatment plan until we had reached the goals that were set.

I completed the medication plan in February of 2010, my therapy and counseling I completed in August of 2011. After completing my treatment plan I worked with my therapist to develop a long term plan and we then terminated therapy in 2011.

Through the last parts of my treatment and upon completion I started to think about what I wanted to do with my life after I had taken care of my treatment. I was not certain what I wanted to do, but I knew that I wanted to do something to help people and make my community a better place. I talked with my therapist, my family and friends about what I should do. I had been involved with youth sports so initially I started there.

With youth sports I started coaching teams my kids were involved with. I started with football, and at first I just coached how to play football. It was part way through this first season that I had the opportunity to help the players on my team learn from the mistakes

I had made. I talked with the players about making mistakes. I explained that we make mistakes and the important thing is once we make the mistake we need to recognize that mistake. This was a key part that I missed when I made mistakes. If you recognize the mistakes you make you can learn from them, but if you don't recognize them you won't see what you need to change. I began to focus on coaching not just football but talking to the players about being better citizens and people. I used my own life and mistakes to emphasize the point that you can make mistakes, even big mistakes, but you can still make a decision to have a positive impact on people. I made the focus of my coaching about becoming a better citizen and learning the sport. I really found a love for working with kids and helping them to learn and become better citizens that I continued to expand the sports I coach to include soccer, wrestling, baseball, and football. I coach youth of all ages for 3 years old to eighth grade and have even taken on the role of club director for the youth wrestling program I coach for.

Through continued discussions and my enjoyment of working with youth I decided to pursue a teaching career. I felt this would give me the opportunity to work with youth and have a positive impact on my community. I applied to the University of Nebraska Mast program. The program provided the teaching and education instruction to prepare me for the classroom as well as a group to discuss teaching with. I was concerned at first about applying and going through the program as the mistakes I made in the past. The mistakes I made were not easy to overlook and they are not always the easiest to discuss. I was admitted to the program and began classes in May of 2012. I enjoyed the classes and learned

a lot through them. I used some of the things I learned in my coaching. I talked with my players now about learning and how we learn. I talked about mistakes and being able to recognize mistakes so that we can learn from them. I now talk to players about after they recognize a mistake think about why they made the mistake. Then think about what outcome they want and what they can change next time they are in that position to avoid the same mistake.

When I began practicum work in my program I was again concerned about my past mistakes. I was concerned that students would find out and it would be hard to keep a good learning environment. I decided that whenever the issue would come up I would talk about making mistakes and learning from them much as I do with my players. I was nervous the first time it came up, but I did as I had planned and the students were understanding and seemed appreciative of the fact that I was honest with them about my mistakes. I would often discuss the process of making mistakes and learning with the students and encourage them to look at mistakes as an opportunity to learn and grow.

I completed my program this August and student taught for the spring semester. I learned a lot through my classes and interactions with the students. I have developed even more of a passion for working with youth and teaching students about science. I continue to look for ways to help students become better citizens and have enjoyed the concepts and applications of cross discipline education as this seems to work well with that goal. The thing I have enjoyed most about my education program is having the opportunity to work

with students and help them to realize how they can improve themselves after they have made a mistake.

I realized that I have made mistakes, and I am still learning from those mistakes. I offer no excuses for what I did, I should not have done it. I can only hope to move forward with my life and work to improve myself and continue to work to ensure that I never make that mistake again. I have learned to look at myself much more and have a much better awareness of my life. I also have learned to accept my mistakes and admit to when I make them not try to fix them and pretend I did not make them. The mistakes I have made have led me to become a better person today than I was before I made those mistakes, but I wish I had become a better person without making those mistakes.

I truly have a passion for educating students and have enjoyed every aspect of my teaching program. The time I spent in the classroom confirmed to me that teaching science is a passion and calling. I hope that you will approve my application for a teaching certificate so that I can share that passion with students.

Sincerely,



Pete Thew

Enclosures

# Lutheran Family Services of Nebraska, Inc.

2900 "O" Street, Suite 200 • Lincoln, NE 68510  
(402) 435-2910 • Fax (402) 435-2949 • www.LFSneb.org

August 15, 2013

Department of Education  
301 Centennial Mall South  
Lincoln, NE 68509

CONFIDENTIAL

Re: **Peter Thew**                      SS#:                      -3736                      DOB: 1/27/75

Dear Sir or Madam:

The purpose of this letter is to inform you about Peter Thew's past mental health counseling at Lutheran Family Services. It was requested by my former client, Mr. Thew.

Mr. Thew was seen for 28 sessions of individual mental health counseling by therapist Birgit Schlechte, LPC, PLADC, at Lutheran Family Services in Lincoln between 9/3/2009 and 8/18/2011. Mr. Thew was absolutely dependable in coming to his sessions and was very engaged in his therapy. This became obvious in his consequent use of learned knowledge and application of coping skills.

Mr. Thew's diagnosis was as follows (as of 9/3/09 and 10/20/09):

Axis I:	309.0	Adjustment Disorder with Depressed Mood	
	R/O 296.31	Major Depressive Disorder, Recurrent, Mild	
Axis II:	V 71.09	No Diagnosis	
Axis III:	None reported.		
Axis IV:	None		
Axis V:	GAF (by supervising practitioner): 60	GAF (at discharge): 74	

Mr. Thew developed following treatment goals on 9/10/09: 1. Decrease level of depression, and 2. Manage stress more effectively. Objectives for these goals included, among others, "Learn how thoughts affect mood/emotions", "Journal about level of depression, factors influencing it, etc.", "Identify contributing stressors", "Learn stress management skills: relaxation techniques and other de-stressing methods", and "Learn ways to avoid procrastination". Mr. Thew achieved these two goals with all their objectives.

When Mr. Thew terminated therapy, he had learned several coping skills to deal with his depression - by learning how to identify distorted thinking patterns that contribute to his

depressed mood, ways to stop unwanted thoughts, and how to implement alternative interpretations of events. We also had established a base line for his level of depression and we had identified influencing factors in his daily pattern. In addition, Mr. Thew had learned a number of stress avoiding strategies as well as relaxation techniques and de-stressing methods. Regarding his difficulties with procrastination, Mr. Thew had learned and engaged in multiple strategies that helped him to structure his time, including the setting of priorities and goals. Mr. Thew was willing to return to counseling whenever he found it necessary.

It is my professional opinion that there is no reason to reject Mr. Thew's application for a teaching certificate/license on moral grounds. Having worked with Mr. Thew for three years, I can surely say that he will do everything necessary to become an outstanding teacher in the field. Mr. Thew is capable and willing to apply himself fully to this chosen profession without falling back into behavior patterns like procrastination that are connected to his depressed mood. There is no reason to believe that history will repeat itself.

If you have any questions, please do not hesitate to contact me at Lutheran Family Services, (402) 435-2910.

Sincerely,



Birgit Schlechte, LPC, LADC  
Mental Health and Substance Abuse Therapist

Nebraska Dept of Education  
301 Centennial Mall  
Lincoln, NE 68509

August 26, 2013

To the Commissioner of Education:

I am writing this letter in support of Pete Thew receiving his Nebraska Teaching Certificate. Pete Thew was a practicum student and student teacher with me during the 2012-2013 school year at Lincoln High School, where I have been teaching for 5 years. I had the pleasure of working with Pete for the entire school year and was able to observe his positive influence on students during that time.

During the year that Pete and I worked together, Pete made excellent growth with the skills of being a classroom teacher; skills such as assessment, classroom management and lesson planning. Pete is also very mature for someone beginning his career as a teacher and that was reflected in his professionalism. His professionalism and teaching skills at the completion of the year allowed me to recommend him to potential employers without hesitation.

However, what sets Pete apart is his ability to make professional and supportive connections with students. Lincoln High School is a school with students of highly diverse backgrounds and special needs. Pete was able to effectively make connections with students. I saw Pete develop relationships and mentor students born in other countries that still struggled with conversational English. I saw Pete develop relationships with students with special needs, assist them at being more effective in the classroom and help get them "hooked into" school by encouraging them to begin and continue school activities outside the classroom.

While working with Pete I got to know some of his activities outside the classroom. I know that Pete is a dedicated father and very active in their lives. I also know that Pete is involved in the development of the community's youth through coaching.

Due to my observations of Pete for that school year, I recommend, without reservation, that Pete Thew be awarded a Nebraska Teacher Certificate.

Sincerely,



Bryan Penas  
Science Teacher  
Lincoln High School  
Lincoln, NE 68510

April 22, 2013

To Whom It May Concern:

I was Peter Thew's Secondary Science methods instructor in the summer of 2012 as well as practicum supervisor from the University of Nebraska in the fall of 2012. I have known Peter for the past year and have had a chance to observe him both in class and in the classroom. I was very impressed when Peter requested to be placed at Lincoln High School because he felt he wanted the challenge of teaching in a more diverse school. Peter's desire to improve his teaching was evident by continual seeking input from his cooperating teacher and other science teachers in the department. Peter also works hard at forming relationships with students getting to know them as individuals. Peter possesses many qualities that will aid him in teaching such as his ability to communicate, knowledge of the subject material, organization, a hard worker, and an attention to detail.

I had the opportunity to see Peter in the classroom two times during his practicum. Peter continues to grow in confidence each time I have visited. His willingness to do the best job possible is enhanced by his willingness to listen to input from his cooperating teachers and incorporate it into his teaching.

In Peter's final evaluation his cooperating teacher wrote, "Works well with a diverse population of students. Finds interests of students and connects with them, builds strong and meaningful relationships with students". This evaluation along with my classroom observations tells me that Peter has the potential to be a very good science teacher.



James Rynearson  
Master Science Teacher, Center for Science, Mathematics & Computer Education  
University of Nebraska  
114D Henzlik Hall  
402.472.0579 w      402-419-6523 c  
iryneason2@unl.edu

August 27, 2013

To Whom It May Concern:

I am writing this letter in support of Peter Thew who is a recent graduate of our Master of Arts with a focus on science teaching (MA-st). I have known Peter for 16 months as a student and advisee. Peter and I have had the opportunity to work together over the past 16 months in various capacities.

During the time that I have known Peter, I believe his character and commitment to education and science is above reproach. He has demonstrated to me on a personal and professional basis his desire to be a teacher of science always understanding that the student comes before the content. He has always been an individual who has followed through and was able to complete the necessary tasks in order to accomplish his goal of being a science teacher. I especially was impressed by his capstone work, which focused on his use of assessment strategies including timely feedback on students' achievement levels. He provided clear attention to detail and a depth of understanding about the topic under study and a compassion for the students involved in the study.

Peter and I have had the opportunity to also discuss his past and the hurdles—both professionally and personally—that he has had to overcome. Having had close family members that have experienced these same challenges I believe I have a different perspective on the nature of the commitment that Peter has put forth to amend and

resolve these concerns. There has been nothing in my personal or professional interactions with Peter that would lead me to believe at this point that he would not be able to be part of the teaching profession and conduct himself in the highest professional manner.

I hope that the information that I have provided assists in your decision regarding Peter's pending licensure. I would be happy to provide additional information as needed.

Sincerely,



Jon Pedersen, Ph.D. □  
Associate Dean for Research □  
College of Education and Human Sciences □  
University of Nebraska-Lincoln □  
1650 N 35th □ Home Economics 105C  
□ Lincoln, NE 68583-0800 □  
402-472-4124 (o) □  
402-470-7360 (c) □ (402) 472-2837 (FAX) □

August 21, 2013

Dear Deputy Commissioner Swisher:

I am writing to recommend Mr. Peter Thew to be endorsed as a secondary science teacher in the state of Nebraska. Peter was certified in secondary biology through our 14-month Master of Arts with emphasis in science teaching (MAst) program at the University of Nebraska-Lincoln upon completion of his student teaching in May 2013. I was one of Peter's program instructors for three of his education courses. As MAst program coordinator and his student teaching supervisor, I also observed Peter teaching biology lessons at Lincoln High School in Lincoln, Nebraska, under his cooperating teacher, Mr. Bryan Penas.

Through Peter's practicum and student teaching he was exposed to a wide range of diverse learners at Lincoln High School. Peter has made three aspects of his teaching high priorities: (1) relationship building to better understand students of diverse abilities and backgrounds and their concerns and questions to help them highly achieve; (2) bridging academic content knowledge with everyday understandings so that students can find relevance in the core science concepts they are studying; and (3) professional conduct with students and colleagues. Peter feels that it is important to demonstrate his commitment to professionalism by example and that one should always look for ways to improve the learning environment. In my interactions with, and observations of, Peter, he has demonstrated respect for students, staff and faculty, and conducted himself professionally in the classroom; he is someone I trust with adolescents and their academic development.

Peter interacts well with people, both students and teachers alike and is strongest in his verbal communication; he will converse well with parents and administrators and will be a calm presence when student-related issues arise that require problem-solving. I anticipate that Peter will be an accessible teacher who will encourage his students to both like and understand science.

If I can be of further assistance to you, please do not hesitate to contact me.

Sincerely,



Elizabeth B. Lewis, Ph.D.  
Coordinator, Master of Arts with emphasis in science teaching (MAst) Program  
Department of Teaching, Learning, and Teacher Education  
University of Nebraska-Lincoln, Lincoln, NE 68588  
Email: [elewis3@unl.edu](mailto:elewis3@unl.edu)  
Cell: (402) 617-4884

118 Henzlik Hall / P.O. Box 880355 / Lincoln, NE 68588-0355 / (402) 472-2231 / FAX (402) 472-2837

105 Frost Street POB 118  
Daykin, NE 68338  
August 17, 2013

Commissioner of Education  
Nebraska Department of Education  
301 Centennial Mall South  
Lincoln, NE 68509

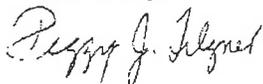
RE: Peter Thew's denial of teaching certification

I am writing in support of Peter Thew's appeal concerning the denial of a Nebraska Teaching Certificate on the grounds that he does not possess moral fitness for teaching.

I am aware of the circumstance surrounding the loss of his license to practice law. Since that time, Peter has undergone treatment that allows him to cope with and manage the demands of being a husband, father, student and a teacher. His work for me in the master's level courses was excellent. He worked well in the practicum and student teaching setting as part of a rigorous program to have students earn an M.A. degree in science teaching as well as completing the necessary coursework for teacher certification in science. This program requires good time management skills if one is to successfully complete all the coursework and practicum requirements in 14 months. Peter was able to do this.

It is my professional opinion that Peter Thew possesses the skills and talents to be a successful secondary science teacher. It seems to me that his ability to successfully complete the MAST program and maintain a healthy family life demonstrates that Peter has overcome the problems that led to the loss of his law license and therefore should be permitted to have a Nebraska Teaching Certificate.

Respectfully,



Peggy J. Tilgner, EdD  
Professor of Practice, Ret.  
Science Education Consultant



TEXAS TECH UNIVERSITY  
College of Education

To: Whom it may concern

From: Dan Carpenter, PhD  
Assistant Professor – Science Education  
Texas Tech University

RE: Letter of Support for Pete Thew

Dear Sir or Madam,

My name is Dan Carpenter. I am an Assistant Professor at Texas Tech University in Lubbock Texas. I teach in the graduate college at Texas Tech and am actively involved in research on high school science teacher instructional improvement and school improvement models. I also taught high school science in Lincoln Nebraska for eighteen years and know the education community in southeast Nebraska very well. I am writing this letter in support of Pete Thew, who recently graduated from the University of Nebraska-Lincoln with a Master of Arts in Science Teaching and who is seeking teacher certification in science education.

I have had the pleasure of knowing and working with Pete for the past twenty years. He and I attended the University of Nebraska-Lincoln as undergraduate students and taught undergraduate biology lab together. Pete has also coached youth athletics, working for the junior wrestling club at Lincoln High School and YMCA youth soccer.

Pete has a BS degree in biology and a law degree. He expressed the desire in 2012 to obtain a science-education teaching certificate. Myself and several of his peers encouraged him to go back to school and obtain the proper education for science education certification, as we felt Pete would make a great science educator. Pete graduated this past spring with a Master of Arts in Science Teaching.

I can say with confidence that Pete has always been a good teacher and student. Pete has worked in youth education, in and out of the classroom, as a student teacher, and as a youth coach. He has always been the type of person to work hard to be the best at what he does. Pete's science aptitude is very high. He is a fantastic problem solver, works very well as an individual and as part of the team of teachers. Pete has shown that he is committed to quality education, the learning cycle and pedagogical design and it's applications for his students in the many levels of his involvement.

Pete has participated in numerous activities in and out of student teaching to assist in community science education. In the classroom, Pete has shown great knowledge and ability to apply pedagogical principles and strategies to his students in and out of the classroom setting. From a behavior management standpoint, Pete has shown that he does very well, interacting with and providing a classroom that has high expectations for student achievement, but also provide an environment for students to take chances and have success.

On a personal note, Pete and I have gotten to know each other very well as parents. Pete is an exceptional parent and a person of high moral character. I have placed trust in Pete on numerous occasions to watch and care for my children as our families have grown close. I have

Box 41071 | Lubbock, Texas | 79409-1071 | T 806-834-6660 | F 806-742-2179

An EEO/Affirmative Action Institute

met few people in my life that I put complete trust in to uphold the highest values and moral character like I have with Pete. I can think of no other honor than to put trust in a person to uphold the highest moral character around my own children.

It is to these ends I speak in support of Pete Thew. He is a person who experienced some very difficult and trying times over his professional experiences in law, but that does not define his character or moral aptitude. Moreover, over the last twenty years in education, I have interacted with few people with as high a character as Pete Thew. I am convinced Pete will be a high achiever in and out of the classroom as a science educator. It is with great honor and wishful hopes that I write in support of Pete for his teaching certification in science education. If I can be of assistance in helping you frame your ideas about Pete, please feel free to contact me directly at 402-617-9849 or e-mail at [daniel.carpenter@ttu.edu](mailto:daniel.carpenter@ttu.edu).

Sincerely



Dan Carpenter, PhD  
Assistant Professor-Science Education  
Texas Tech University

Box 41071 | Lubbock, Texas | 79409-1071 | T 806-834-6660 | F 806-742-2179

An EEO/Affirmative Action Institute

# Corey L. Stull

15100 Old Cheney Road  
Walton, NE 68461

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August 13, 2013

Nebraska Department of Education  
301 Centennial Mall South  
P.O. Box 94987  
Lincoln, NE 68509-4887

To Whom It May Concern,

This letter is written in support of Peter Thew and his appeal of the denial of his teacher certification. I have practiced law in Lincoln for the last sixteen years and I have had the pleasure of knowing Mr. Thew for many of those years. I also had the opportunity to work alongside of him in a case that we handled together. While working with Mr. Thew I had the chance to observe his strong work ethic and his interaction with our client. The client was a teenager confined to a wheelchair because of the accident that was the subject of her lawsuit, so her situation was a very serious and difficult one. I was very impressed with Mr. Thew's gift for working with the client and his desire make sure that she understood the work we were doing in her case. That gift of communication and care for the individual with whom he is working is not one that many people possess. It is a gift that I believe will help Mr. Thew be a very successful teacher.

I have known Mr. Thew to be a man of integrity and someone that I always felt that I could trust that he would uphold his end of the work we did together. As lawyers, we are frequently faced with many decisions that require strong morals. Mr. Thew always demonstrated a strong moral compass in my work and friendship with him. In my interactions with him he always made the right decisions based upon those morals.

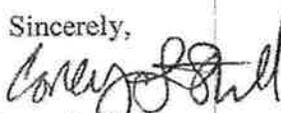
I am also familiar with a time in which Mr. Thew had some difficulties in his practice of law. I can say from personal experience that the practice of law is very stressful and that all lawyers handle that stress differently. I know that he did not address that situation head on like he is with this current appeal. I can say that the things that occurred with Mr. Thew during those difficult times are very uncharacteristic of the Peter Thew that I knew from my opportunity to know him through his work and on a personal level. I know that Mr. Thew has taken the steps necessary to remedy the difficulties that he once had and that he is now back on the firm footing of the individual he previously was prior to those difficulties. I am very happy to see that he is addressing

this current appeal in a wholly different manner than he did when the issues arose for him during his practice of law.

Mr. Thew is also the type of person that I would want my children to have as a teacher. He is very patient and has many other attributes that lend themselves to being a successful educator. It is my sincere hope that you will issue Mr. Thew his teacher certification as I know that he will have a positive impact on the lives of many students if he is given the opportunity to teach.

Should you have any questions or if I may be of assistance in this process please do not hesitate to contact me at (402) 304-8258.

Sincerely,



Corey L. Stull

August 23, 2013

Dr. Scott Swisher  
Commissioner of Education  
301 Centennial Mall South  
Lincoln, NE 68509

Dear Commissioner Swisher:

I am writing this letter in support of Peter (Pete) Thew's application for teacher certification. Pete was a student of mine in General Biology lecture (Bio. Sci. 101) Spring Semester 1995 at the University of Nebraska-Lincoln (UNL). Due to the large size of my lecture section (190 students), I generally do not get to know many of the students very well unless they make a special effort to interact with me. This was the case with Pete, throughout the semester he asked me very thoughtful questions both in class and via e-mail. As a result of these interactions with Pete, when he applied for a position as a student lab preparation assistant in the General Biology Laboratory Program, I hired him. At the time this 1 credit hour lab course enrolled 1300 students annually and employed 20 graduate and 15 undergraduate teaching assistants. Pete worked under my supervision in this position for four semesters. His duties included assisting the lab coordinator in the weekly preparation of lab materials, the set-up and break-down of the lab exercises, the repair of equipment, specimen dissection, etc. He carried out these duties efficiently and with a minimum amount of supervision on my part. In addition, he never complained about having to come in on weekends or evenings to complete projects such as the set-up of lab practical. He established an excellent rapport with the student employees as well as the other members of the faculty and staff involved with the General Biology Program. Certainly one of Pete's strong points is his ability to work and communicate well with people. While employed as a lab assistant in the General Biology Program, Pete also worked nearly full-time, in a local electroplating company. Even with all of these time commitments, he maintained his usual good sense of humor and showed few signs of stress. Since I worked closely with Pete in his capacity as lab prep assistant I got to know him personally and professionally. Over the past 15 years Pete and I have maintained this relationship.

Throughout his undergraduate years Pete tossed around a variety of careers in the biological sciences including graduate school. Although he found biological research to be rewarding, he decided that it was not something he would like to pursue as a career. Pete thrives on interactions with people and found the life of a research biologist to be too isolating. To complicate his career decision, Pete got married in his junior year. Pete and I spent many hours discussing possible careers that he might be interested in pursuing. He finally decided to apply to law school in hopes of practicing law in an area in which he could use his background in biology. Pete did exceptionally well in law school and after graduation in 2002 "took a job as Contract Coordinator in the UNL Office of Research. Many of the contracts he oversaw dealt with grants awarded to researchers in biological sciences. After two years Pete transitioned into private law practice in hopes of having more time to spend with his growing family. Over the next five years, I saw Pete become more and more unhappy with his life as a lawyer. He was spending many stressful hours away from his family defending clients rather acting as a mentor and teacher to his children. Pete was no longer the happy, positive person that I was accustomed to interacting with. To make matters worse, Pete was also confronted with some medical issues which distracted him from his law practice. When working with children in Juvenile Court cases Pete often times noticed that the only positive impact was from teachers helping these children. He often would talk about how he should have gone into teaching to be able to have that positive impact on their lives. I feel that this realization of impact that he could have as a teacher has greatly influenced his desire to teach. Pete is also very involved in coaching youth sports and mentoring children involved with those teams. All of the teams that he is involved with draw participants from the Lincoln High School enrollment area. His interactions with some of the children who are from diverse socioeconomic background, has instilled a desire in him to teach at a school such as Lincoln High School and to work with children of diverse backgrounds.

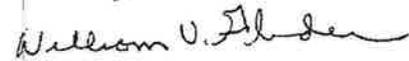
As a result, Pete decided to focus on making a career change into teaching secondary science. I was very pleased to hear of his decision. I spent three (3) years as a high school biology teacher at a large high school in the suburbs of Rochester, New York so I am familiar with the positives and negatives of becoming a secondary science teacher. Even after pointing out all of the negatives Pete has maintained his strong interest in becoming a science teacher. This thrills me because we need top notch teachers like Pete to improve our public education system.

Pete has been working with me on the Building Accepting Campus Communities Project. This is a one million dollar federal grant from the Department of Education whose goal is the design, develop, and refine an interactive, web-based professional development program to provide post-secondary faculty and administrators with just-in time- online technical support in accommodating students with disabilities in post-secondary education. Pete has been helping me design introductory biology laboratory exercises to accommodate blind students. This past summer, Pete worked with Amin Makawy, an outstanding student who now attends graduate school. It was during this experience that I saw Pete's tremendous potential as a teacher. Not only did he come up with innovative methods to teach Amin but his positive attitude, incredible communication skills, leadership.

In the Fall of 2012 I hired Pete to work for me as a graduate student lecture teaching assistant in Bios 101 (General Biology). The enrollment in my two sections was 450 students. This position included grading of weekly study questions, meeting with students, and the day-to-day operation of the classes. Though I have known Pete for a long time I would not have hired him if I had any questions about his character, moral fitness or ability to be in my classroom. Pete worked for me at the same time he was taking classes for his teaching degree and throughout the semester he and I had several discussions on the teaching methods we were using and ways he might be able to implement them in a high school science class. The thought and preparation Pete put into this position I feel reflects upon his fitness and character to teach in a high school setting.

In summary, Pete Thew has an exceptional potential for teaching high school science. He possesses the intellectual ability, analytical skills, leadership skills and self-motivation required to successfully complete the program and to become a highly successful member of the teaching profession. If you have any questions or I can be of any other assistance in this matter please do not hesitate to contact me.

Sincerely,



William V. Glider, Ph.D.  
Professor of Practice  
UNL School of Biological Sciences

Blake Edwards

PO BOX 83314

Lincoln, NE 68501

402-450-9674

August 14, 2013

Dear Sirs,

Pete Thew has become a friend of mine over the past few years. He has coached my two sons, now ages 9 and 10, since the oldest started in Kindergarten. Pete and his family are good, honest people who I enjoy having my children around.

Pete has coached my sons in wrestling, flag football, and baseball. He is a great role model, mentor and teacher for children of all ages and I would be overjoyed if he were to be in the classroom as the teacher of one of them in the future. Pete has helped both of them in doing Science Fair projects when I and their mother have been busy with work and would not have been able to let them do such a project if it were not for him. He is an excellent coach and teacher to whom my boys look up to very much.

If you would like to discuss this any further, please feel free to call me at the number listed above.

Thank you,

A handwritten signature in black ink that reads "Blake Edwards". The signature is written in a cursive style with a long horizontal line extending to the right.

Blake Edwards

Laura Edwards

1936 Sawyer St

Lincoln, NE 68505

[laura@mckinsure.com](mailto:laura@mckinsure.com)

402-466-2800 (work, 830am-5pm M-F)

August 12, 2013

To Whom it May Concern:

I have known Pete Thew for the last five years. During this time he has coached my two sons, Oliver and Montgomery, in several sports, including baseball, wrestling and football. He has also assisted them in Science Fair projects and other school events.

I have been in Pete's home and feel he is not only an excellent father, but someone that my children can look up to as a role model in life. He is honest, hard working, passionate about education and teaches sportsmanship above all else in athletics.

I feel Pete would be an excellent teacher and mentor for children in the educational system. At no time would I ever be concerned for my children in his care. He is a good man, and someone any parent would be happy to have as a teacher for their children.

I would be more than happy to speak to anyone regarding this issue. Please feel free to email or call me at the contact information above.

Thank you for your time,



Laura Edwards

To whom it may concern,

Pete Thew is a wonderful man, husband, father, teacher and coach. His dedication to our future generation would be lucky to have such a fantastic teacher in him. Pete not only embraced and learned from his past he learned from it. As humans we all have things that change our lives in some ways that we never thought, and in his case I think the change of carrier path was perfect for him.

For me Pete is first a coach and director of the Lincoln Warrior Wrestling Club and with out him we would have been disbanded. Pete stepped up and we had a really good first season last year. They say the first year of a marriage is hard. Try running a Club and go to school and maintain a family and student teach. Pete did it and did it well. As the treasurer of the wrestling club and Mr. Thew's right hand, I have to say you couldn't find a better teacher or dedicated person. Young wrestlers take a lot of hand holding and Pete always knows how to motivate them to be not only better on the mat but in the class room and with family and friends as well.

My oldest son did not have such a good transition to high school. Had it not been for Pete I don't know what I would have done. Pete took the time to talk him. My son needed someone in the school environment to care and take the time because we all know that..."mom and dad do not know anything".

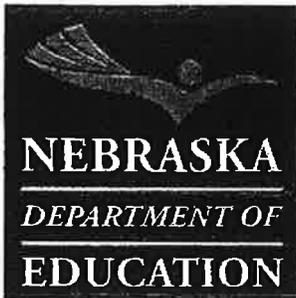
Any school and child would be lucky to have a teacher in Pete Thew. My hopes are that you would do the right thing and grant him the certificate to teach our youth. It is my opinion as a mother, college, and a friend he IS an amazing teacher.

I thank you for your kind attention!

Sincerely,



Emily Duncan



Roger D. Breed, Ed.D., Commissioner  
Scott Swisher, Ed.D., Deputy Commissioner

301 Centennial Mall South    Tel: (402) 471-2295  
PO Box 94987    Fax: (402) 471-0117  
Lincoln, NE 68509-4987    Web: www.education.ne.gov

September 3, 2013

Mr. Peter Thew  
3521 M Street  
Lincoln, NE 68510

Re: Application for a Nebraska Certificate

Dear Mr. Thew:

On April 23, 2013, you filed an application for a Nebraska standard teaching certificate and disclosed information about being disbarred from the practice of law in Nebraska in 2011 by the Nebraska Supreme Court. On August 7 the Director of the Teacher Certification Office sent you a letter notifying you of an Intent to Deny your application for the reason that applicants for a certificate be of good moral character. I am in receipt of your letter and enclosures requesting my review of your application. Pursuant to Neb. Rev. Stat. Section 79-808 and Title 92, *Nebraska Administrative Code*, Chapter 21, it is my responsibility to consider your fitness for issuance of a Nebraska certificate.

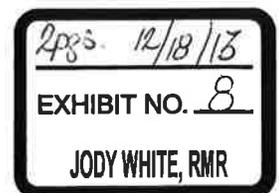
In reviewing the information surrounding your disbarment, I have determined the following: 1) You failed to provide legal services to numerous clients and engaged in fraud over an extended period of time when contacted by these clients; 2) You were temporarily suspended from the practice of law by the Nebraska Supreme Court, yet continued to accept clients and work as an attorney without notifying these clients that you were not authorized to practice law at the time; 3) Although you were diagnosed with depression and sought medical treatment to address your personal situation in 2009; your conduct of misrepresenting the truth about your professional services and continued practice of law while suspended demonstrates a lack of good moral character; and 4) The recency of your conduct and disbarment by the Nebraska Supreme Court in March 2011 indicate a lack of good moral character at this time for being an educator in the K-12 schools of Nebraska.

Therefore, I am denying your application for a Nebraska teaching certificate. Section 009.03 of 92 NAC 21 provides that you may appeal my denial of your application to the State Board of Education within twenty (20) calendar days of receipt of this letter. A copy of Title 92, *Nebraska Administrative Code*, Chapter 61, is included.

Respectfully,

  
Scott Swisher, Ed.D.  
Deputy Commissioner of Education

xc: Kevin Peters, Ed.D.





First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

*General Counsel's Office  
Nebraska Department of Education  
P. O. Box 94933  
Lincoln, NE 68509-4933*



**SENDER: COMPLETE THIS SECTION**

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *TC-d*

1. Article Addressed to:

*Peter Thew  
3521 M Street  
Lincoln NE 68510*

2. Article Number-  
(Transfer from service label)

*7011 2970 0004 0330 6012*

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*X Peter Thew*

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

*9/5*

D. Is delivery address different from Item 1?  Yes

If YES, enter delivery address below:  No

*Restrict  
Deliver*

3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee)

*Yes*



February 14, 1995. The Respondent filed an Answer to the Petition on March 6, 1995. A hearing was conducted by the Commission on May 20, 1995, at which time evidence was adduced and the case submitted to the Commission for a decision. The Commission adopted Findings of Fact, Conclusions of Law, and a Recommendation that was filed with the State Board of Education on June 26, 1995.

Upon due consideration of the entire record, the Board makes the following Findings of Fact, Conclusions of Law, and Order:

#### FINDINGS OF FACT

1. The Petitioner is the Commissioner of Education for the State of Nebraska; the Respondent holds a Nebraska public school certificate, number 1758, Type 1, Rank B, Level 7, endorsed in Principal K-6, Physical Education 7-12, English 7-12, and Superintendent K-12, with an expiration date of August 31, 2000.
2. A Petition and Notice to File Answer were filed with the Commission on February 13, 1995, and served upon the Respondent on February 14, 1995, by certified mail. The Respondent filed an Answer to the Petition on March 6, 1995. On May 20, 1995, evidence was adduced and the case was submitted to the Commission.
3. In August of 1994, the Respondent used a school district van to transport the Respondent's daughter to the University of Nebraska-Lincoln and billed the use of the van to Meadows Elementary School.
4. On or about September 12, 1994, the Respondent admitted to a theft of money during a fundraiser from a parent organization related to Meadows Elementary School.

#### CONCLUSIONS OF LAW

1. The State Board of Education has jurisdiction in this case and all proceedings have been in accordance with applicable Constitutional, Statutory, and Regulatory Requirements.
2. The Petitioner has proven that the Respondent violated Title 92, Nebraska Administrative Code, Chapter 27, Section 004.02E (effective date: December

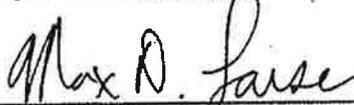
25, 1989) which states, "the educator: Shall not exploit professional relationships with students, colleagues, parents, school patrons, or school board members for personal gain or private advantage"; Section 004.04B (same effective date) which states, "the educator: Shall not use institutional privileges for private gain or to promote political candidates, political issues, or partisan political activities"; and Section 004.04E (same effective date), which states, "the educator: Shall not commit any act of moral turpitude, or commit any felony under the laws of the United States or any state or territory".

ORDER

IT IS THEREFORE ORDERED:

1. The State Board of Education adopts the Findings of Fact and Conclusions of Law as indicated above.
2. The Nebraska public school certificate presently held by the Respondent, number 1758, Type 1, Rank B, Level 7, endorsed in Principal K-6, Physical Education K-12, English 7-12, and Superintendent K-12, with an expiration date of August 31, 2000, shall be revoked until September 1, 1996.
3. The Respondent shall successfully complete a program of psychiatric counseling for his clinical depression prior to seeking reinstatement.
4. The Commissioner of Education shall provide a copy of this order to the Respondent, Petitioner's attorney, and the Commission.

FOR THE BOARD:



Vice-President, State Board of Education

**Board Members Voting in Favor of this Order:**

**Larsen, Milder, Nolte, Loschen, McCallister**

**Board Members Voting Against this Order:**

**Endacott, Wilmot**

**Board Members Abstaining:**

**None**

**Board Members Absent:**

**Thompson**



independent review of the entire record, the State Board finds, concludes, and orders as follows:

1. The State Board has jurisdiction in this case pursuant to Neb. Rev. Stat. Section 79-866 (Reissue 2003);

2. The Petitioner is Douglas D. Christensen, Commissioner of Education, 301 Centennial Mall South, P.O. Box 94933, Lincoln, NE 68509. The Respondent holds two Nebraska public school certificates: (1) number .-9413, a standard teaching certificate endorsed in Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2008; and (2) a substitute teaching certificate endorsed in Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2006;

3. The Respondent was employed as a teacher by the Lincoln Public Schools until her resignation was accepted by the Lincoln School Board with an effective date of January 14, 2005;

4. While employed as a teacher with the Lincoln Public Schools, the Respondent, on or about November 4, 2004, reported to work under the influence of alcohol;

5. The Respondent has violated Neb. Rev. Stat. § 79-866(2) (Reissue 2003) and Title 92, Nebraska Administrative Code, Chapter 27, Section 004.04F (effective date: November 12, 2003) ("the educator . . . shall, with reasonable diligence, attend to the duties of his or her professional position"); and Section 005.02B2 (effective date: November 12, 2003) ("the educator . . . shall adhere to and enforce written and dated administrative policy of the school which has been communicated to the teacher . . .");

6. By a preponderance of the evidence, just cause exists pursuant to Neb. Rev. Stat. Section 79-866 (2) (Reissue 2003) to revoke each of the Respondent's certificates for a period of one (1) year;

8. The Respondent shall present evidence of successful alcohol counseling prior to the reinstatement of any teaching certificates; and

7. The public school certificates of Cathy Clare, number .9413, a standard teaching certificate endorsed in Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2008, and a substitute teaching certificate endorsed in Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2006, shall each be revoked for a period of one (1) year beginning this date.

Dated this 8<sup>th</sup> day of June, 2005.

STATE BOARD OF EDUCATION

BY:   
Fred Meyer, President  
State Board of Education

The vote by the State Board of Education to approve the Final Order in Case No. 05-07, on June 8, 2005, was 7 in favor, \_\_\_\_\_ against, \_\_\_\_\_ abstaining, and 1 absent. Individual State Board members voted as follows:

IN FAVOR: F. Meyer, K. Imes, K. Peterson, A. Mactier, J. Scheer, P. Timm, J. Higgins

AGAINST: \_\_\_\_\_

ABSTAINING: \_\_\_\_\_

ABSENT: C. Woods Harris

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Final Order was served upon Cathy Clare, 835 So. 11th St., Lincoln, NE, 68508, via certified United States mail, return receipt requested; Rick Wade, 605 So. 14<sup>th</sup> Street, Suite 100, Lincoln, NE 68508, via certified United States mail, return receipt requested; and Brian Halstead, General Counsel, Nebraska Department of Education, 301 Centennial Mall South, Lincoln, NE 68509, via interoffice mail, all on this 8th day of June, 2005.

Brenda L. Wid

49-307-21

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA



Douglas D. Christensen	)	NDE Case No. 05-03
Commissioner of Education	)	
301 Centennial Mall South, 6th Floor	)	
P.O. Box 94933	)	
Lincoln, NE 68509,	)	
	)	
Petitioner,	)	<b>FINAL ORDER</b>
	)	
v.	)	
	)	
Marcia Miller	)	
2909 Londonshire Ct.	)	
Lincoln, NE 68516,	)	
	)	
Respondent.	)	

This matter came before the State Board of Education ("State Board"), Lincoln, Nebraska, on February 4, 2005, upon the recommendation of the Nebraska Professional Practices Commission ("NPPC") that the public school certificate of the Respondent, Marcia Miller, be revoked for a period of one (1) year. The parties were notified of the State Board's consideration in this matter. Appearing before the State Board was Brian Halstead, General Counsel, who presented a statement on behalf of the Commissioner, and Kathi Vontz, NPPC Clerk, who prepared a written summary statement of the NPPC's report and recommendation. The Respondent did not appear, but was represented by attorney, Scott Norby.

The record of the NPPC proceeding, containing the "Findings of Fact, Conclusions of Law, and Recommendation of the Commission," all of the pleadings, exhibits, and a written transcript of the NPPC hearing, was received by the State Board into evidence as "Exhibit 1." The Notice of Disposition and the certified return receipt were received into evidence as

"Exhibit 2." Upon its independent review of the entire record, the State Board finds, concludes, and orders as follows:

1. The State Board has jurisdiction in this case pursuant to Neb. Rev. Stat. Section 79-866 (Reissue 2003);

2. The Petitioner is Douglas D. Christensen, Commissioner of Education, 301 Centennial Mall South, P.O. Box 94933, Lincoln, NE 68509. The Respondent holds a Nebraska standard teaching certificate number -5160, endorsed in Social Science 7-12, with an expiration date of August 31, 2006;

3. The Respondent was employed as a teacher by the Lincoln Public Schools until her resignation was accepted by the school board on or about October 12, 2004;

4. On or about August 18, 2004, the Respondent reported to work under the influence of alcohol;

5. The Respondent has violated Title 92, Nebraska Administrative Code, Chapter 27, Section 005.02B2 (effective date: November 12, 2003), which states, "[e]ach teacher and special services provider shall adhere to and enforce written and dated administrative policy of the school which has been communicated to the teacher or special services provider";

5. By a preponderance of the evidence, just cause exists pursuant to Neb. Rev. Stat. Section 79-866(2) (Reissue 2003) to revoke the Respondent's certificate for a period of one (1) year;

6. The public school certificate of Marcia Miller, Nebraska public school certificate number -5160, endorsed in Social Science 7-12, with an expiration date of August 31, 2006, shall be revoked for a period of one (1) year beginning this date; and

7. It is further ordered that Respondent shall present evidence of having participated in alcohol counseling prior to seeking reinstatement.

Dated this 4<sup>th</sup> day of February, 2005.

STATE BOARD OF EDUCATION

BY: Fred Meyer  
Fred Meyer, President  
State Board of Education

The vote by the State Board of Education to approve the Final Order in Case No. 05-03, on February 4, 2005, was 7 in favor, 0 against, 1 abstaining, and 0 absent. Individual State Board members voted as follows:

IN FAVOR: Peterson, Scheer, Woods Harris, Timm, Meyer, Imes, Higgins

AGAINST: \_\_\_\_\_

ABSTAINING: Mactier

ABSENT: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Final Order was served upon Marcia Miller, 2909 Londonshire Ct., Lincoln, NE 68516, via certified United States mail, return receipt requested; Rick Wade, 605 South 14<sup>th</sup> Street, Suite 100, Lincoln, NE 68508, via certified United States mail, return receipt requested; and Brian Halstead, General Counsel, Nebraska Department of Education, 301 Centennial Mall South, Lincoln, NE 68509, via interoffice mail, all on this 4<sup>th</sup> day of February, 2005.

  
\_\_\_\_\_

49-279-21