

In the Matter of the Disciplinary Proceedings of:

The New York City Department of Education,)

Complainant)

vs.)

) §§.3020-a, 2590j Proceeding

) (SED No.: ____)

Theodore Smith,)

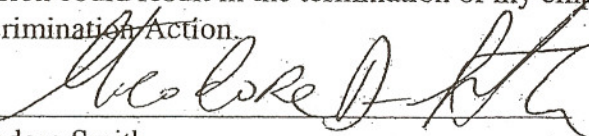
Respondent)

ACKNOWLEDGMENT AND WAIVER OF SETTLEMENT OFFER AND STATEMENT OF INTENT TO CONTINUE PROCEEDINGS

I, Theodore Smith, Respondent in the above-referenced action, hereby acknowledge that my attorneys, David M. Kearney and Neal Brickman, of the Law Offices of Neal Brickman, P.C., located at 317 Madison Avenue, New York, New York 10017, have communicated the following settlement offer ("the Offer") at the close of the Charging Party's case against me in the matter referenced above:

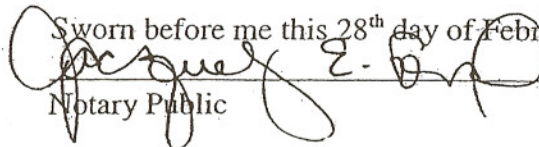
The Department of Education has stated that if Smith agrees to accept a rating of unsatisfactory ("U"), attend classroom management courses and to voluntarily dismiss the discrimination/retaliation/ and defamation litigation, in which he is the sole plaintiff, currently pending in the United States District Court for the Southern District of New York (06 CV 4613 (NRB)) (the "Discrimination Action") against the Department of Education and various individual defendants, the Department of Education will drop (i.e. discontinue) the Disciplinary Proceeding, he will be allowed to continue his employment at his full rate of pay, without suspension, fine or other penalty, he will be removed from the ineligibility list and will be permitted to attempt to find a new placement within the Department.

I understand that my attorneys have **STRONGLY ADVISED** me to accept this offer, in light of the fact that the Department has presented its case-in-chief, which included extensive testimony of third-party witnesses as well as documentary evidence and that, if any of the charges are resolved in favor of the Department, that finding will have devastating collateral estoppel effect on the Discrimination Action. Nevertheless, I reject the above-stated offer and affirmatively wish to continue in this proceeding against the advice of my attorneys. I understand that my decision could result in the termination of my employment and the eventual dismissal of the Discrimination Action.



Theodore Smith

Sworn before me this 28th day of February, 2007.



Notary Public

JACQUELYN E. FORD
Notary Public, State of New York
No. 01FO4851616
Qualified in Orange County
Commission Expires February 3, 20 10