. 1	BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION		
<b>4</b> 2	OF THE STATE OF OREGON		
3 4	In the Matter of the		
5	Teaching License of PUBLIC REPRIMAND AND		
6	ROBERT DAVIS MARKLAND ) ORDER OF PROBATION		
7 8	)		
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10	On September 24, 1996, the Teacher Standards and Practices Commission		
11	(Commission) issued a Notice of Opportunity for Hearing, proposing to suspend or		
12	revoke the teaching license of Robert Davis Markland (Markland) or otherwise impose		
13	discipline under ORS 342.177. On October 2, 1996, Markland requested a hearing,		
14	through his attorney, Paul Gamson and the Commission scheduled a hearing for		
15	March 17 and 18, 1997. An amended Notice of Opportunity for Hearing dated		
16	February 25, 1996 was provided to Markland's attorney. The hearing took place as		
17	scheduled with a hearing panel consisting of: Martin Morris, John Tenny and Susan		
18	Wilcoxen. Commissioner Paul Meyer served as hearing officer. Assistant Attorney		
19	General Joe McKeever represented the Commission. Paul Gamson, Smith, Gamson,		
20	Diamond & Olney, represented Mr. Markland. The hearing was conducted as a		
<b>2</b> 1	contested case matter and was mechanically tape recorded.		
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23	The panel heard testimony from the following witnesses who were called by the		
24	Commission: Dawn Dement, Linda Figiel, Detective Thomas Kipp, Carrie Lackas,		
<b>2</b> 5	Shirley Lackas, Karen Richey, Beth Schobel and Vic Marcheck.		
26			
27	The following witnesses testified on behalf of Mr. Markland: Lyle Charon, Karen		
28	Scourfield, Ann Davis, Donald Stearns, Alfred Hulbert, Valerie Wright and Robert		
29	Markland.		
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31 32	The following exhibits were offered by the Commission and received into evidence:		
33 34	TSPC 1 Application for teaching license, dated 10/26/93.		
35 36 37	TSPC 2 Decree of Dissolution and Marital Settlement Agreement, dated 3/1/95.		

1 2	TSPC 3	Deschutes County Sheriff's report and statement forms, dated 12/18/95.	
3 4 5	TSPC 4	Unsigned letter, dated 3/96.	
6 7	TSPC 5	Investigation report of Missouri State Highway Patrol, dated 4/11/96.	
8 9	TSPC 6	Investigation report of Missouri State Highway Patrol, dated 4/30/96.	
10 11	TSPC 7	Diversion Agreement and Order staying proceeding, dated 2/28/96.	
12 13	TSPC 8	Letter from Andrew Schob, M.S., dated 7/25/96.	
14 15	TSPC 9	Investigation report of Oregon State Police, dated 5/9/96.	
16 17	TSPC 10	Letter from Karen Richey, dated 6/18/96.	
18 19	TSPC 11	Report of Missouri State Highway Patrol, dated 8/21/96.	
20 21	TSPC 12	Report of Oregon State Police, dated 9/3/96.	
22 23	TSPC 13	Order to Dismiss, dated 9/20/96.	
24 25 26	TSPC 14	Excerpts from deposition of Robert Markland (pages $51$ and $52$ ; $49$ and $50$ ), dated $1/27/97$ .	
27 28 29	TSPC 15	Oregon Uniform Jury Instructions No. 14.01 (Burden of Proof) and No. 14.02 (Preponderance of the Evidence).	
30 31	TSPC 16	Oregon State Police Videotape of Robert Markland interview on 3/3/96.	
32 33	No exhibits w	vere offered by Mr. Markland.	
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35		FINDINGS OF FACT	
36	1. Mr. Ma	arkland and Carrie Lackas, a minor of 15 years of age, were on a canoe	
37		Missouri during the Summer of 1990. The preponderance of the	
38		ce does not support the charge that Mr. Markland furnished alcohol to	
39		Lackas or had sexual contact with her.	
40			
41		ari during the Summer of 1990. The preponderance of the evidence does	
42		pport the charge that Mr. Markland furnished alcohol to Carrie Lackas or	
43	_	XIIal contact with her	

- 3. Mr. Markland and Carrie Lackas were at an after-school activity at a school where Mr. Markland was employed as a teacher. The preponderance of the evidence does not support the charge that Mr. Markland had sexual intercourse with her.
- Carrie Lackas was in Fort Myers, Florida in August 1990 with Mr. Markland and his family on a vacation. The preponderance of the evidence does not support the charge that Mr. Markland had sexual intercourse with her.
- 5. Carrie Lackas did assist Mr. Markland in painting a residential building in
  Missouri. The preponderance of the evidence does not support the charge that
  Mr. Markland had sexual contact with Carrie Lackas.
- In November 1992, Carrie Lackas was in Oregon in Mr. Markland's home. The preponderance of the evidence does not support the charge that Mr. Markland furnished alcohol to her.
  - On December 17, 1995, Mr. Markland assaulted Brian Dement by grabbing Dement by the hair and throwing him to the ground in the area outside the residence of Mr. Markland's former wife in Bend, Oregon. As a result, Mr. Markland was arrested and charged with the crime of Assault in the Fourth Degree. Pursuant to plea negotiations, the charge was reduced to the crime of Harassment, a class B misdemeanor. On February 28, 1996, Mr. Markland entered a plea of guilty to the crime of Harassment in the Deschutes County District Court. Pursuant to plea negotiations, the court approved a diversion agreement in which Markland agreed to pay a diversion fee of \$50, and an assessment fee of \$545, restitution to Brian Dement in the sum of \$169 and to complete anger evaluation and counseling/treatment and the case was dismissed on September 20, 1996.

ULTIMATE FINDINGS OF FACT

The facts in Finding of Fact number 7 constitute a violation of Standards for Competent and Ethical Performance of Oregon Educators under OAR 584, Division 20.

ORDER 1. The Commission imposes a Public Reprimand on Robert Davis Markland and this Order shall serve as a reprimand. 2. The Commission places Markland on probation for a period of six months from the date of this order subject to the following conditions: a) Markland shall violate no law; and b) Markland shall comply with all Standards for Competent and Ethical Performance of Oregon Educators under OAR 584, Division 20. Violation of any terms of Markland's probation shall constitute a basis for the Commission to charge Markland with further violations of the Standards for Competent and Ethical Performance of Oregon Educators, after first providing Markland with notice and opportunity for hearing on the issue of whether he violated his probation. Dated this 22 day of May, 1997. TEACHER STANDARDS AND PRACTICES COMMISSION David V. Myton, Executive Secretary NOTICE OF APPEAL OR RIGHTS YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW MAY BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM THE SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE PROVISIONS OF ORS 183.482 TO THE OREGON COURT OF APPEALS. DVM/cs