

**DISCIPLINE COMMITTEE
OF THE ONTARIO COLLEGE OF TEACHERS**

IN THE MATTER OF the *Ontario College of Teachers Act, 1996*, and the Regulation (Ontario Regulation 437/97) thereunder;

AND IN THE MATTER OF a discipline proceeding against Tony Mario Aquino, Member of the Ontario College of Teachers.

PANEL: Jacques Tremblay, Chair
Amin Saab
Tianna Travaglini-Babic

BETWEEN:)	
)	
	)	Nadine Carpenter,
ONTARIO COLLEGE OF TEACHERS	)	Dispute Resolution Administrator,
	)	for Ontario College of Teachers
)	
- and -	)	David Bloom,
	)	Cavalluzzo Hayes Shilton
TONY MARIO AQUINO	)	McIntyre & Cornish,
(CERTIFICATE #427770)	)	for Tony Mario Aquino
)	
	)	Martha Cook,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: February 14, 2007
)	

REASONS FOR DECISION, DECISION AND ORDER

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on February 14, 2007 at the Ontario College of Teachers (the “College”) at Toronto.

Tony Mario Aquino (the “Member”) was in attendance at the hearing.

A *Notice of Hearing* dated February 10, 2006 was served on the Member, requesting attendance before the Discipline Committee of the Ontario College of Teachers February 28, 2006 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for February 14, 2007.

THE ALLEGATIONS

The allegations in the *Notice of Hearing* dated February 10, 2006 are as follows:

IT IS ALLEGED that Tony Mario Aquino is guilty of professional misconduct as defined in subsection 30(2) of the *Ontario College of Teachers Act* (the “Act”), in that:

- (a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) he failed to comply with the Education Act, R.S.O. 1990, specifically paragraph 264(1)(c) or the regulations made under that Act contrary to Ontario Regulation 437/97, subsection 1(15); and
- (c) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

MEMORANDUM OF AGREEMENT

Counsel for the College advised the Committee that subject to ratification by the Committee, agreement had been reached on the facts and introduced a *Memorandum of Agreement (MOA)*, (Exhibit 3) which provides as follows:

Agreed Statement of Facts

1. At all material times the Member was employed by the Hamilton-Wentworth Catholic District School Board (the “Board”) as a [REDACTED] teacher at [REDACTED] School (the

“school”).

2. At all material times [] was a female student at the school. [] turned [] years of age in [] 2003.
3. Between spring of 2003 and November 2004, the Member engaged in a personal relationship with [], which involved:
 - (a) giving [] gifts;
 - (b) giving [] a card with an inappropriate inscription;
 - (c) the Member and [] talking on the telephone; and
 - (d) the Member meeting with [] off school property to discuss her personal problems.
4. Between spring of 2003 and November 2004, [] maintained contact with the Member after the Member was instructed by the Board to end the relationship.
5. As a result of the events giving rise to this complaint, the Board ordered that the Member:
 - (a) undergo assessments by a psychologist and a psychiatrist which resulted in satisfactory reports;
 - (b) complete a professional course reviewing the appropriate conduct that a professional teacher must adhere to;
 - (c) provide the Board with written confirmation of his successful completion of the course of instruction;
 - (d) participate in counselling regarding the acceptable behaviours and appropriate boundaries of the student/teacher relationship; and
 - (e) provide the Board with written confirmation of counselling.
6. The Board reported that the Member complied with the above directions.
7. By this document, the Member pleads guilty to professional misconduct as alleged in the Notice of Hearing, issued on February 10, 2006, and attached as Appendix “A”, and in so doing, accepts as true the particulars set out in this section of the *MOA*.
8. The Member voluntarily admits the above particulars against him and understands that by doing so, he is waiving the right to require the College to prove the case against him and the right to a hearing.

The parties hereby agree to the truth and accuracy of the facts that are hereinafter expressed and agree to the receipt of this document by the Discipline Committee.

Joint Submission on Resolution

In consideration of the action taken by the Board, the parties agree to resolve the matter as follows:

9. The Member agrees that upon ratification of this *MOA*, the Discipline Committee shall reprimand him, in person, with respect to the above particulars.
10. The parties acknowledge that the Member has successfully completed and provided the Registrar with written confirmation of the following:
 - (a) a course of instruction regarding the appropriate conduct a professional teacher must adhere to; and
 - (b) counselling by the Board's Employee Assistance Program regarding the appropriate behaviours and boundaries of the student-teacher relationship.
11. The Member agrees and understands that upon ratification of this *MOA*, a notation on the public register maintained by the Registrar, in accordance with section 23 of the *Ontario College of Teachers Act, 1996*, shall include the following information:

on February 14, 2007, Tony Mario Aquino pleaded guilty to professional misconduct. Reprimand.
12. The Member agrees and understands that upon ratification of this *MOA*, the College shall publish his name with a summary of the complaint and its resolution as contained in this *MOA*. Such publication shall be made in the College's official publication, *Professionally Speaking/Pour parler profession*, on the College web site, and in such other manner as deemed appropriate by the Registrar.
13. The Member agrees and understands that upon ratification of this *MOA*, the College will maintain a copy of the Decisions and Reasons of the Discipline Committee, including this *MOA*, in the College's Margaret Wilson Library. The Decision and Reasons will be available for review by the public.
14. The Member agrees and understands that for the purpose of considering this matter, the Discipline Committee shall be provided with this *MOA* and the Notice of Hearing, which will be marked as Exhibits and will constitute the evidence upon which the guilty plea will be accepted, the finding of guilt will be made, and the penalty will be imposed.
15. The parties agree and understand that, following ratification by the Discipline Committee, if any phrase or paragraph of this *MOA* is deemed null and void, the *MOA* shall be read as though the phrase or paragraph was stricken from the *MOA* and the amended *MOA* shall remain in force and effect.

16. The Member agrees and understands that this *MOA* is the entire agreement between himself and the College and that there have been no oral or written representations made by the College as an inducement or threat to enter into this *MOA*.
17. The Member agrees and understands that, in the event he breaches a term of this *MOA*, he is estopped from alleging, by way of defence, that the College failed to investigate or dispose of the complaint in a timely manner with respect to the period between the resolution of the complaint and the date that the College becomes aware of such a breach.
18. The Member agrees and understands that, in the event he breaches a term of this *MOA*, the College may provide the Investigation, Executive, Discipline or Fitness to Practise Committee with all the information necessary to fulfil its statutory mandate.
19. The parties agree and undertake that upon ratification of this *MOA*, there shall be no further action taken, no appeal to any forum, and no application for judicial review of the terms of the *MOA*.

DECISION

Having examined the Exhibits filed, and based on the *Memorandum of Agreement*, the plea of guilt, and the submissions made by counsel, the Committee accepts the plea of guilt and finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Tony Mario Aquino committed acts of professional misconduct as alleged, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(15), and 1(19) of the *Act*.

REASONS FOR DECISION

The Member engaged in a personal relationship with an [] year old female student at the school where he taught. The Member maintained contact with the student even after the Member was instructed by the Board to end the relationship. The Committee finds that by his failure to observe appropriate teacher/student boundaries the Member failed to

maintain the standards of the profession and failed to comply with the *Act*. By engaging in and maintaining this relationship, the Member's conduct was unbecoming a member. .

PENALTY DECISION

The Committee accepts the Joint Submission on Penalty and makes the following order as to penalty:

1. The Member is required to appear before the Committee to be reprimanded, and the fact of the reprimand will be recorded on the Register; and
2. The Committee further orders that pursuant to Section 30 (5) (3) of the Ontario College of Teachers Act, the findings and Order of the Committee be published in summary, with the name of the Member, in the official publication of the College, *Professionally Speaking/ Pour parler profession*.

REASONS FOR PENALTY DECISION

The Committee accepted the joint submission on penalty that the Member be reprimanded and that his name be published. The Committee recognized that the Member has already:

- (a) undergone assessments by a psychologist and a psychiatrist which resulted in satisfactory reports;
- (b) completed a professional course reviewing the appropriate conduct that a professional teacher must adhere to;
- (c) provided the Board with written confirmation of his successful completion of the course of instruction;
- (d) participated in counselling regarding the acceptable behaviours and appropriate boundaries of the student/teacher relationship; and
- (e) provided the Board with written confirmation of counselling.

Had the Member not completed these assessments, course and counselling, the Committee would have ordered that the Member successfully complete a course of instruction relating to appropriate student/teacher boundaries. The remedial steps taken by the Member serve to protect the public interest.

In these circumstances, the Committee finds that a penalty of reprimand is proportionate to the Member's misconduct.

The decision to publish the Member's name with details of the misconduct in *Professionally Speaking/Pour parler profession* serves as a specific deterrent to the Member and as a general deterrent to the profession.

Date: February 14, 2007

Jacques Tremblay
Chair, Discipline Panel

Amin Saab
Member, Discipline Panel

Tianna Travaglini-Babic
Member, Discipline Panel