

**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 Brent Edward Byer, a member of the Ontario College of Teachers.

PANEL: Normand Fortin, Chair  
Janet Ouellette  
Anne Vinet-Roy

BETWEEN: )  
)  
)  
ONTARIO COLLEGE OF TEACHERS ) Nadine Carpenter,  
) Dispute Resolution Administrator,  
) for Ontario College of Teachers  
)  
- and - )  
)  
BRENT EDWARD BYER ) Maurice Green,  
(CERTIFICATE #218896) ) Green & Chercover,  
) for Brent Edward Byer  
)  
) Johanna Braden,  
) Stockwoods,  
) Independent Legal Counsel  
)  
) Heard: April 27, 2005

**REASONS FOR DECISION, DECISION AND ORDER (S)**

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on April 27, 2005 at the Ontario College of Teachers (the “College”) at Toronto.

Brent Edward Byer was in attendance at the hearing.

A *Notice of Hearing* dated January 27, 2005 was served on Brent Edward Byer, requesting attendance before the Discipline Committee of the Ontario College of Teachers on March 31, 2005 to hold a hearing, and specifying the charges. The hearing date was subsequently set for April 27, 2005.

### The Allegations

The Allegations in the *Notice of Hearing* dated January 27, 2005 are as follows:

**IT IS ALLEGED** that Brent Edward Byer is guilty of professional misconduct as defined in subsection 30(2) of the *Ontario College of Teachers Act, 1996* (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 committed an act or omission that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18); and
- (c) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

### **PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:**

1. Brent Edward Byer (the “Member”) is a member of the Ontario College of Teachers (Registry number 218896).
2. At all material times, the Member was employed by the Toronto District School Board as a teacher at Birchmount Collegiate Institute (the “school”).

3. In March 2000, the Member acted inappropriately in that, when asked, he admitted to [REDACTED], an 18-year-old female student at the school, that he was a bouncer at For Your Eyes Only, a strip club and discussed with her, the business of a strip club, including her previous experience stripping.

#### Publication Ban

On April 27, 2005, the Committee made an order that there be no publication of any information that may disclose the identity of the student involved in this matter.

#### Member's Plea

The Member Brent Edward Byer admits that the matters referred to in paragraph 3 of the *Notice of Hearing* constitute professional misconduct and pleads guilty to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(18) and 1(19) of the Act.

#### 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)*, which provides as follows:

The parties agree to resolve the matter as follows:

1. The parties agree and understand that the terms of this *MOA* constitute a proposed settlement of this matter and that the terms are subject to ratification by the Discipline Committee of the College. Accordingly, this *MOA* is not considered final and binding on the parties until such time as it is ratified by the Discipline Committee.

2. The parties agree and undertake that if the Discipline Committee ratifies this *MOA*, there shall be no appeal, by either party, to any forum, of any or all of the terms of this *MOA*, or from any decision of the Discipline Committee on any issue and that there shall be no application for judicial review of the terms of the *MOA*.
3. The parties agree and undertake to take no further action with respect to the complaint provided that the terms of this *MOA* are complied with.
4. The Member agrees and understands that for the purpose of considering this matter, the Discipline Committee will be provided with a copy of this *MOA* and it will be marked as an Exhibit at the hearing and will, together with the *Notice of Hearing*, constitute the evidence against the member and the evidence upon which the guilty plea will be accepted, the finding of guilt will be made, and the penalty will be imposed.
5. By this document, the member pleads guilty to professional misconduct as alleged in the *Notice of Hearing*, issued January 27, 2005, and attached as Appendix "A", and in so doing, accepts as true the particulars of the allegations set out therein. The Member admits that he engaged in the conduct described in the *Notice of Hearing* and that said conduct is professional misconduct as alleged.
6. The Member agrees that he voluntarily admitted the allegations against him.
7. The Member understands the nature of the allegations that have been made against him and understands that by admitting the allegations, he is waiving the right to require the College to prove the case against him and the right to a hearing.
8. The Member agrees and understands that upon ratification of this *MOA*, the Discipline Committee shall find him guilty of professional misconduct and shall order that he be admonished, in person, in accordance with subsection 30(5) of the

*Ontario College of Teachers Act, 1996.*

9. The Member agrees and understands that within 90 calendar days of ratification of this *MOA*, he shall complete a course of instruction, pre-approved by the Registrar, regarding maintaining appropriate boundaries with students.
10. The Member agrees and understands that the cost of the course of instruction shall be borne solely by him.
11. The Member agrees that within 120 calendar days of ratification of this *MOA*, he shall provide the Registrar with written confirmation of successful completion of the course.
12. 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*, will include the following information:  
On April 27, 2005, Brent Byer pleaded guilty to professional misconduct.  
Admonishment.
13. The Member agrees and understands that the notation on the public register will remain for one year following the ratification of this *MOA*.
14. The Member agrees and understands that upon ratification of this *MOA* by the Discipline Committee, the College will provide the Member's employer, the Toronto District School Board, with the Discipline Committee's Decision and Reasons, including this *MOA*, pursuant to section 43.4 of the *Ontario College of Teachers Act, 1996*.
15. The parties agree and understand that 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 defense, that the College failed to investigate or dispose of the complaint in a timely manner with respect to that period between the resolution of the complaint herein and the time 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 fulfill its statutory mandate.
19. The Member agrees and understands that:
  - (a) if the Discipline Committee requests any modifications to this *MOA*, the Dispute Resolution Administrator, will consult the parties as to whether the modifications are acceptable. If the parties accept the modifications, they will sign and date the revised *MOA* and return it to the College, within ten business days from the date of the discussion with the Dispute Resolution Administrator. The revised *MOA* is considered final and binding once the Discipline Committee has ratified it; and
  - (b) if the Discipline Committee does not ratify the *MOA*, or the parties do not accept all of the modifications, the matter will proceed through the hearing process at the College and will be considered by another panel of the Discipline Committee without prejudice. The second panel of the Discipline Committee will not be provided with nor will it consider this *MOA*.

### Decision

Having examined the Exhibits filed, and based on the *Memorandum of Agreement*, the guilty plea therein, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Brent Edward Byer committed acts of professional misconduct as alleged, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(18) and 1(19).

### Penalty

The *Memorandum of Agreement* contains a joint submission as to penalty as set out above.

### Submissions as to Publication

Submissions with respect to publication were made to the Committee. Counsel for the Member submitted that publication of the findings and order of the Committee be published in summary, without the Member's name, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

Counsel for the College took no position with respect to publication.

### Penalty Decision

The Committee accepts the joint submission as to penalty as set out in the *Memorandum of Agreement* and accordingly:

- (a) requires the Member to appear before the Committee to be admonished, and directs that the fact of the admonishment be recorded on the Register of the College for one (1) year from the date of this Order;
- (b) requires that within 90 calendar days from the date of this Order, the Member enrol in and complete, at his own expense, a course of instruction, pre-approved by the Registrar, on maintaining appropriate boundaries with students; and
- (c) requires that within 120 calendar days from the date of this Order, the Member provide the Registrar with written confirmation of successful completion of the said course of instruction on maintaining appropriate boundaries with students.

The Committee further orders that pursuant to Section 30 (5) (3) of the *Ontario College of Teachers Act*, direct that the findings and Order of the Committee be published in summary, without the name of the Member nor any references to the school board or the specifics related to the conversation at issue, in the official publication of the College, *Professionally Speaking/ Pour parler profession*. The Committee has concluded that this type of publication satisfies the need to provide a general deterrent to other members of the profession while not further punishing the Member.

#### Reasons for Decision and Order

Brent Edward has co-operated with the College, and by agreeing to the facts and a proposed penalty, has accepted responsibility for his actions. The Committee is satisfied that it is appropriate in the circumstances, that the Member successfully complete a course of instruction, approved by the Registrar, on maintaining appropriate

boundaries with students and that the taking of such course will serve to remediate the Member.

The Committee concludes that the penalty is reasonable, serves the purpose of general deterrence and protects the public interest.

Date: April 27, 2005

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Normand Fortin  
Chair, Discipline Panel

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Janet Ouellette  
Member, Discipline Panel

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Anne Vinet-Roy  
Member, Discipline Panel