

**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 Michael Edward Corrigan, a member of the Ontario College of Teachers.

PANEL: John Tucker, Chair
 Dean Favero
 Jacques Tremblay

BETWEEN:)	
	)	David Leonard,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
MICHAEL EDWARD CORRIGAN)	)	Michael Edward Corrigan was not
(CERTIFICATE #360608)	)	present, nor was he represented
)	
	)	Johanna Braden,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: November 5, 2007

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on November 5, 2007 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated May 28, 2007 (Exhibit 1) was served on Michael Edward Corrigan (the “Member”), providing him with notice that the Discipline Committee of the Ontario College of Teachers would meet on June 5, 2007 to set a date for a hearing, and specifying the charges. The Member did not attend on June 5, 2007. The Discipline Committee set November 5, 2007 as the date for the hearing on the merits.

The College tendered an *Affidavit of Audley Trevor Evans* sworn October 31, 2007 (Exhibit 2) setting out the efforts by the College to ensure that the Member had proper notice of the hearing. The Committee was satisfied by the details outlined in Mr. Evans’ Affidavit that the Member had proper notice of the date, time and place of the hearing.

The matter was scheduled to commence at 9:00 a.m. The Member did not appear at the hearing, nor was he represented by counsel. The Committee commenced the proceedings at 10:30 a.m. in the Member’s absence.

THE ALLEGATIONS

The allegations against Michael Edward Corrigan in the *Notice of Hearing*, (Exhibit 1) dated May 28, 2007 are as follows:

IT IS ALLEGED that Michael Edward Corrigan is guilty of professional misconduct as defined in section 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 *Act* and the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically section 264(1)(c) thereof or the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);
- (c) he contravened a law, the contravention of which is relevant to the Member's suitability to hold a Certificate of Qualification and Registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (d) he committed acts 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
- (e) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. Michael Edward Corrigan (the "Member") is a member of the Ontario College of Teachers.
2. At all material times, the Member was employed by the Lambton Kent District School Board (the "Board") as a teacher in the Continuing Education Department of the Board.
3. At all material times, the Member owned and/or maintained a residence and an adjacent shed ("the Member's premises") which are located in the Town of Plympton-Wyoming, Ontario.
4. On or about 6 July 2006, the Member was engaged either in the growing and or cultivation of several marijuana plants at various locations on the Member's premises, or the Member was assisting in the growing and or cultivation of those marijuana plants, all of which were in his possession or under his control.

5. Further, on or about 6 July 2006, the Member had in his possession or control, at the Member's premises, approximately 100 grams of marijuana and marijuana plant material.
6. The marijuana plants, marijuana plant material and marijuana referred to in paragraphs 4 and 5 were in the Member's possession or control either for his personal use or for the purposes of trafficking, and had a total estimated street value of \$24,000.00.
7. On or about 7 July 2006, the Member was arrested and the following charges were laid against him:
 - (a) that he on or about 7 July 2006, at the Town of Plympton-Wyoming, did unlawfully possess a controlled substance to wit: cannabis marijuana that is for the purpose of trafficking, contrary to Section 5(2) of the *Controlled Drugs and Substances Act*; and
 - (b) that he did on or about 7 July 2006, at the Town of Plympton-Wyoming, unlawfully produce a controlled substance to wit: cannabis marijuana, contrary to Section 7(1) of the *Controlled Drugs and Substances Act*.
8. The charge referred to at paragraph 7(a) is presently before the court and the charge referred to at paragraph 7(b) was withdrawn on or about 18 September 2006.

MEMBER'S PLEA

As the Member was not present, nor represented by Counsel, the Committee proceeded on the basis that the Member denied the allegations set out in the *Notice of Hearing*. The Chair, on behalf of the Member, entered a plea of not guilty to the allegations.

THE EVIDENCE

Counsel for the College entered into evidence the following additional documents:

Registered Member Information

Michael Edward Corrigan is a member of the Ontario College of Teachers as shown on the *Registered Member Information*. (Exhibit 3)

Brief of Court Documents – Her Majesty the Queen – and- Michael Edward Corrigan (Exhibit 4)

A *Brief of Court Documents* with respect to the criminal proceedings against the Member was submitted into evidence. This *Brief* consisted of:

- A. Certified copy of Information dated July 19, 2006
 - B. Certified copy of Probation Order dated June 5 2007
 - C. Transcript of Proceedings before of the Honourable Mr. Justice G.M.Hornblower on June 5, 2007 at Sarnia showing:
 - (a) Reasons for Judgment and
 - (b) Reasons on Sentencing.
1. These Court Documents verify that on June 5, 2007 the Member was convicted of one count of possession of a controlled substance, contrary to Section 4(1) of the *Controlled Drugs and Substances Act*;
 2. On June 5, 2007, the Member was fined \$500 and put on probation for a period of 12 months. In addition, he was to abstain from the purchase/possession/consumption of drugs except in accordance with a medical prescription.

DECISION

(i) Onus and Standard of Proof

The College bears the onus of proving the allegations in accordance with the standard of proof set out in *Re Bernstein and College of Physicians and Surgeons of Ontario* (1977) 15 O.R. (2d) 477. The standard of proof applied by the Committee, in accordance with the *Bernstein* decision, was a balance of probabilities with the qualification that the proof must be “clear and convincing” and based upon “cogent evidence” accepted by the Committee. The Committee also recognized that the more serious the allegation to be proved, the more cogent must be the evidence. The Committee considered the allegations in this case to be serious and assessed the evidence on that basis.

(ii) Decision

Having considered the evidence, onus and standard of proof, and the submissions made by Counsel for the College, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Michael Edward Corrigan committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(16) and 1(19). The Committee makes no finding of professional misconduct with respect to subsections 1(14), 1(15) and 1(18) of Ontario Regulation 437/97.

REASONS FOR DECISION

Rules 13.05 and 13.06 of the *Rules of Procedure of the Discipline Committee of the Ontario College of Teachers* allow the Committee to accept as proof that an offence was committed by a person, where there is a finding of guilt and conviction in a Canadian

court, provided that there is no evidence to the contrary and that no appeal has been granted.

In absence of evidence to the contrary, the Committee accepts the specific findings of fact contained in the *Brief of Court Documents* (Exhibit 4) that on June 5, 2007 the Member was convicted of one count of possession of a controlled substance, contrary to Section 4(1) of the *Controlled Drugs and Substances Act*; and that he was fined \$500 and put on probation for a period of 12 months. In addition, he was to abstain from the purchase/possession/consumption of drugs except in accordance with a medical prescription.

There was no evidence presented of an Appeal by the Member of his conviction and/or sentence and the time for doing so has expired.

The Committee finds that the Member's conviction of possession of marijuana constitutes acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(16) and 1(19).

PENALTY DECISION

The Committee makes the following order as to penalty:

The Registrar is directed to suspend the Member's Certificate for a period of twelve months, commencing on November 5, 2007 and the fact of the suspension is to be recorded on the register of the College.

(b) The Member will receive a written reprimand following the completion of the hearing and the fact of the reprimand recorded on the public register.

(c) If the Member:

i. appears in person before the Committee prior to March 15, 2008 to be reprimanded, and

ii. enrolls in and completes, at his own expense, prior to March 15, 2008, a course of instruction, pre-approved by the Registrar, regarding ethics in the profession,

six months of the suspension referred to in paragraph (a) shall be suspended.

(d) The findings and order of the Committee, including the Member's full name, will be published in summary, in the official publication of the College,

Professionally Speaking/Pour parler profession.

REASONS FOR PENALTY DECISION

The Member was convicted of possession of a controlled substance, contrary to the *Controlled Drugs and Substances Act*. The Member contravened a criminal law and his conduct constitutes a serious error in judgment and is unbecoming a member.

The reprimand allows the Committee to communicate to the Member that his conduct was unacceptable. This censure by members of the profession and the public provides an opportunity for remediation and guidance.

The Committee determined that a 12-month suspension of the Member's certificate is appropriate to reinforce the seriousness of the incident. The suspension sends a message to the Member and the profession that possession of a controlled substance will not be tolerated.

Recognizing the rehabilitative element of penalty, the Committee has provided the Member with the opportunity to reduce the suspension by completing a course in ethics and being present for an oral reprimand.

The Member should be reminded of the ethics of the profession and reflect on them. The ethics course recommended will be rehabilitative and will help him understand the motivation for his misconduct, the impact on the profession and why he should not engage in similar behaviour in the future. Pre-approval of the ethics course by the Registrar supports transparency.

The Committee realizes the value of reprimanding a Member in person. As the Member did not attend the hearing, the Committee provided a written reprimand.

The Committee recognizes the importance of the ethics course and an oral reprimand and has agreed that six months of the suspension will be removed if the Member successfully completes such a course and attends to be reprimanded.

Publication of the findings and order of the Committee, in summary, with the name of the Member, in *Professionally Speaking/Pour parler profession* provides both a specific deterrent to the Member and a general deterrent to the profession while advising and serving the public interest. It also reassures the public that the College will not tolerate such behaviour and will ensure that this type of misconduct is dealt with appropriately.

In conclusion, the Committee is confident that the penalty serves the interests of the public, the profession and the Member.

Dated: November 7, 2007

John Tucker
Chair, Discipline Panel

Dean Favero
Member, Discipline Panel

Jacques Tremblay
Member, Discipline Panel