

**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  
Donald Arthur Curtis, a member of the Ontario College of  
Teachers.

PANEL: Ted Coulson, Chair  
Normand Fortin  
Nancy Hutcheson

|                             |   |                                  |
|-----------------------------|---|----------------------------------|
| BETWEEN:                    | ) |                                  |
|                             | ) |                                  |
|                             | ) | Carole Jenkins,                  |
|                             | ) | McCarthy Tétrault,               |
|                             | ) | for Ontario College of Teachers, |
| ONTARIO COLLEGE OF TEACHERS | ) | assisted by Trevor Evans,        |
|                             | ) | Senior Law Clerk                 |
| - and -                     | ) |                                  |
|                             | ) |                                  |
| DONALD ARTHUR CURTIS        | ) | Maurice Green,                   |
| (CERTIFICATE #286873)       | ) | Green & Chercover,               |
|                             | ) | for Donald Arthur Curtis,        |
|                             | ) |                                  |
|                             | ) |                                  |
|                             | ) | Johanna Braden,                  |
|                             | ) | Stockwoods,                      |
|                             | ) | Independent Legal Counsel        |
|                             | ) |                                  |
|                             | ) | Heard: May 31, 2005              |

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

This matter came on for hearing before a panel of the Discipline Committee (the  
“Committee”) on May 31, 2005 at the Ontario College of Teachers (“the College”) at  
Toronto.

A *Notice of Hearing*, dated March 23, 2004 was served on Donald Arthur Curtis, requesting attendance before the Discipline Committee of the Ontario College of Teachers on April 26, 2004 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for May 31, 2005.

Donald Arthur Curtis was in attendance at the hearing.

### **The Allegations**

The allegations against Donald Arthur Curtis in the *Notice of Hearing*, (*Exhibit 1*) dated March 23, 2004 are as follows:

**IT IS ALLEGED** that Donald Arthur Curtis is guilty of professional misconduct as defined in section 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 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 laws, 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 contravened a law, the contravention of which has caused students under the Member's professional supervision to be put a or to remain at risk contrary to Ontario Regulation 437/97 subsection 1(17);
- (e) 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
- (f) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).

### **Agreed Statement of Facts**

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced as *Exhibit 2, an Agreed Statement of Fact and Guilty Plea. (ASF – Exhibit 2)*

The *Agreed Statement of Facts and Guilty Plea* provides as follows:

1. Donald Arthur P. Curtis (the “Member”) is a member of the Ontario College of Teachers. Attached is a copy of the Ontario College of Teachers Registered Member Information of the Member. (*ASF – Exhibit 2, Tab A*)
2. At all material times the Member was employed by the Halton District School Board as an occasional teacher. The Member had previously been employed by the Peel District School Board as a teacher.
3. Between the approximate dates of 24 March 2002 and 24 March 2003, the Member had in his possession child pornography, specifically graphic computer images.
4. On or about 26 January 2005, the Member pleaded guilty before Madam Justice K. L. Hawke, in the Ontario Court of Justice in Brampton, to a charge that during a one year period ending on or about the 24<sup>th</sup> day of March, 2003, at the City of Mississauga, he did have in his possession child pornography to wit: graphic computer images contrary to section 163.1(4) of the Criminal Code of Canada.

5. In addition, on 26 January 2005, the Member pleaded guilty to a breach of one of the terms of his recognisance into which he had entered in connection with the charge of possession of child pornography referred to above, specifically that he was not to have contact with minors except under certain conditions, notwithstanding which he accepted a position of employment in a music store where he was in contact with young people in a manner that did not match the terms of the recognisance.

6. On or about 31 January 2005, the Member was sentenced by Madam Justice Hawke to a term of incarceration for 141 days, which was suspended, and which was followed by a period of probation for three years. In addition, there was an order that:

- a) the Member [XXX] the police;
- b) the Member forfeit of all the items seized by the police;
- c) the Member [XXX]; and
- d) the Member be prohibited from seeking, obtaining or continuing any employment whether the employment is remunerated or not, becoming or being a volunteer in a capacity that involves being in a position of trust or authority for persons under the age of 14 years, for a period of three years, pursuant to section 161.1(b) of the Criminal Code of Canada.

7. The Probation Order included conditions that the Member:

- a) seek treatment at the Bellwood Health Services Center and provide proof upon request to his probation officer that he was seeking that treatment and

if that treatment was not available or became inappropriate, he was to seek alternative treatment as directed by his probation officer; and

b) for the first twelve months of the probation, not to be with any young person under the age of 14 unless there was another adult present.

8. A further charge against the Member that he attempted on or about 24 March 2003, to possess child pornography, was withdrawn.

9. Attached is a certified copy of Information No. 004116 issued by the Ontario Court of Justice on 1 April 2003, showing the details of the charges against the Member, his plea of guilt to count number two and the details of his sentencing. *(ASF – Exhibit 2, Tab B)*

10. Attached is a transcript of the proceedings in the matter of Regina vs Curtis in the Ontario Court of Justice at Brampton, before the Honourable Madam Justice K. L. Hawke on 26 January 2005, at Brampton. *(ASF – Exhibit 2, Tab C)*

11. Attached is a transcript of the proceedings in the matter of Regina vs Curtis in the Ontario Court of Justice, at Brampton, on 31 January 2005, when the Member was sentenced by the Madam Justice Hawke. *(ASF – Exhibit 2, Tab D)*

12. Attached is a copy of the résumé of the Member. *(ASF – Exhibit 2, Tab E)*

13. The Member has been seen at Bellwood Health Services Inc. and a copy of the report of Rob Hawkings, program development specialist of that institution, dated 21 September 2004, is attached. *(ASF – Exhibit 2, Tab F)*

14. Attached and marked collectively is a series of letters dated between 23 June 2003 and 17 April 2005, with reference to the character of the Member. (*ASF – Exhibit 2, Tab G*)

15. By this document the Member, accepts as true the facts referred to in paragraphs 3 to 7 above. By this document, the Member pleads guilty to the allegations that the facts referred to in paragraphs 3 to 7 above relating to the conduct of the Member is conduct which is disgraceful, dishonourable and unprofessional. The Member hereby pleads guilty to the allegations of professional misconduct against him being more particularly breaches of Ontario Regulation 437/97, 1 (14), (15), (16), (17) and (18).

16. By this document, the Member states that:

- (a) he understands fully the nature of the allegations made against him;
- (b) he understands that by pleading guilty he is waiving his right to require the College to prove the case against him and the right to have a hearing; and
- (c) he states that this plea of guilt was made voluntarily, unequivocally and with the benefit of independent legal counsel

17. In light of the facts and circumstances stated above, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.

18. The Parties have not agreed upon either the nature of the penalty to be imposed or upon publication. Submissions will be made to the Discipline Committee on both of those issues.

### **Member's Plea**

The Member accepts as true the facts referred to in paragraphs 3 to 7 above. The Member pleads guilty to the allegations that the facts referred to in paragraphs 3 to 5 above relating to the conduct of the Member constitute professional misconduct and hereby pleads guilty to the allegations of professional misconduct against him being more particularly breaches of Ontario Regulation 437/97, 1 (14), (15), (16), (17) and (18).

### **Submissions as to Penalty**

Counsel for the College submitted that the appropriate penalty would be revocation of the Member's certificate of qualification and registration, as well as publication in summary of the order and findings with the Member's name.

Counsel's reasons to support a decision of revocation are as follows:

1. The Member possessed a great number of graphic pictures of children, some in sexual poses, including 1200 images of child pornography, 1570 images of child nudity and 315 images of child erotica.
2. The Member breached one of the terms of his recognizance, specifically that he was not to have contact with minors except under certain conditions.
3. The Member has pleaded guilty to the possession of child pornography contrary to the Criminal Code of Canada.
4. The Member is subject to a period of probation for three years. In addition, there is an order that:

- a) Prohibits the Member from seeking, obtaining or continuing any employment whether the employment is remunerated or not, becoming or being a volunteer in a capacity that involves being in a position of trust or authority for persons under the age of 14 years, for a period of three years, pursuant to the Criminal Code of Canada.
- b) The Member seek treatment at the Bellwood Health Services Center and provide proof upon request to his probation officer that he was seeking that treatment and if that treatment was not available or became inappropriate, he was to seek alternative treatment as directed by his probation officer;
- c) For the first twelve months of the probation, the Member is not to be with any young person under the age of 14 years unless there is another adult present.

With regard to publication, Counsel for the College submitted that there are no special circumstances to be considered and therefore the order and findings should be published with the Member's name.

Counsel for the Member argued that revocation is not automatic and the Committee must examine the underlying facts of each case and individualize the penalty. He suggested that the appropriate penalty would be a suspension of the Member's certificate of qualification and registration for a period of two years. The Member would also provide proof to the Registrar that the Member has completed suitable treatment and psychiatric assessment to allow him to be in a position of trust with minors.

Counsel for the Member stated that there was no accusation or evidence of the Member having engaged in any inappropriate behaviour with any student, that he is

not a danger to students. Counsel submitted that the Member has completed counselling, with regard to his sexual addiction, at the Bellwood Health Services Centre. He also stated that the Member felt remorse for his actions.

Counsel for the Member suggested that publication be without the Member's name. This would allow the Member to get on with his life and not again expose the Member to significant embarrassment and media attention, more than that which has already occurred, as a result of the criminal proceedings against him.

### **Decision as to Finding**

Having examined the Exhibits filed, and based on the guilty plea, the *Agreed Statement of Facts and Guilty Plea*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Donald Arthur Curtis committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(14), 1(15), 1(16), 1 (17) and 1(18).

### **Penalty Decision**

The Committee considered the submissions of both Counsel for the Member and Counsel for the College and makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke immediately the Member's certificate of qualification and registration, which certificate the Member is to surrender immediately to the Registrar of the Ontario College of Teachers; and

2. Pursuant to Section 30 (5) (3) of the *Ontario College of Teachers Act*, the findings and order of the Committee shall be published in summary, with the Member's full name, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

### **Reasons for Decision**

The Committee relied on the *Agreed Statement of Facts and Guilty Plea* and accepted the argument of Counsel for the College that the behaviour of the Member was disgraceful and dishonourable.

The Committee accepted the evidence contained in the *Agreed Statement of Facts and Guilty Plea* of the Member's criminal conviction for possessing child pornography, as well as the evidence that the Member had breached an Order of Recognizance prohibiting his contact with minors unless an adult was present. The Committee was concerned with the breach of the order by the Member and considered this an aggravating factor when making its decision. The Committee was also concerned that there was no forensic evidence suggesting that the Member would not reoffend.

The Committee agreed with arguments by the Counsel for the College that a member possessing this number and type of images of child pornography is not suitable to be in a position of trust and authority over children and should not be permitted to hold himself out as a teacher in Ontario or elsewhere, and therefore should have his Certificate of Qualification and Registration revoked.

The Committee was not persuaded that embarrassment to the Member constituted a compelling reason not to publish the Member's name and concluded that the seriousness of the offence was a compelling reason to publish the Member's name within the summary of the decision in *Professionally Speaking/Pour parler profession*.

Dated: June 3, 2005

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Ted Coulson  
Chair, Discipline Panel

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Normand Fortin  
Member, Discipline Panel

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Nancy Hutcheson  
Member, Discipline Panel