

**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 Andrea Roseanne Davidson, a member of the Ontario College of Teachers.

PANEL: Mel Greif, Chair
 Annilee Jarvis
 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 -)	
)	
ANDREA ROSEANNE DAVIDSON	)	Howard Goldblatt and ,
(CERTIFICATE #296740)	)	Amanda Wojcik,
	)	Sack Goldblatt Mitchell LLP,
	)	for Andrea Roseanne Davidson
)	
	)	Johanna Braden,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: November 5, 2008

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on November 5, 2008 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated June 17, 2008 was served on Andrea Roseanne Davidson, requesting her attendance before the Discipline Committee of the Ontario College of Teachers on July 8, 2008 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for November 5, 2008. Andrea Roseanne Davidson was in attendance at the hearing.

THE ALLEGATIONS

The allegations against Andrea Roseanne Davidson in the *Notice of Hearing, (Exhibit 1)* dated June 17, 2008 are as follows:

IT IS ALLEGED that Andrea Roseanne Davidson is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act, 1996* (the “Act”), in that:

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) she 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) she 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) she 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) she engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).

Counsel for the College advised the Committee that an agreement had been reached and introduced an *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty (ASF – Exhibit 2)*, which provides as follows:

AGREED STATEMENT OF FACTS

1. Andrea Roseanne Davidson (the “Member”) is a member of the Ontario College of Teachers. Attached hereto and marked as **Exhibit “A”** is a copy of the Ontario College of Teachers Registered Member Information respecting the Member.
2. At all material times prior to 3 December 2007, the Member was employed as an elementary school teacher by the Durham District School Board (“the Board”).
3. On or about 14 November 2007, the Member pleaded guilty in the Ontario Court of Justice to, and was found guilty of, charges that she:
 1. on or about 12 February 2007 at the City of Newmarket did by deceit, falsehood or other fraudulent means, defraud S.V. of merchandise of a value not exceeding \$5,000 contrary to Section 380(1)(b) of the *Criminal Code* (Canada);
 2. on or about 12 February 2007 at the City of Newmarket did possess a credit card in the name of S.V., knowing the said credit card had been obtained by the commission in Canada of an offence contrary to Section 342(1)(c)(i) of the *Criminal Code* (Canada);

3. on or about 20 March 2007 at the Township of Brock did possess a video camcorder and a cordless phone of a value not exceeding \$5,000, knowing the said property had been obtained by an offence punishable by indictment contrary to Section 355(b) of the *Criminal Code* (Canada);
 4. on or about 12 February 2007 at the City of Newmarket did use a credit card in the name of S.V., knowing the said credit card had been obtained by the commission in Canada of an offence contrary to Section 342(1)(c)(i) of the *Criminal Code* (Canada); and
 5. on or about 12 February 2007 at the Township of Uxbridge did steal a credit card, the property of S.V., contrary to Section 342(1)(a) of the *Criminal Code* (Canada).
4. On or about 30 January 2008, the Member was given a conditional discharge, placed on probation for a period of twelve (12) months, ordered to perform community service and ordered to attend counselling.
 5. A certified copy of the Information issued on 17 April 2007, against the Member showing the details of the Plea of Guilt and of Sentencing referred to below is attached as **Exhibit “B”**. Also attached, as **Exhibit “C”**, is a certified copy of the Probation order dated 30 January 2008.
 6. Transcripts of the court proceedings on 14 November 2007 and 30 January 2008 in the Ontario court of Justice are attached and marked as **Exhibit “D”** and **Exhibit “E”** respectively.
 7. On or about 3 December 2007, the Member was dismissed by the Board.

PLEA OF NO CONTEST

8. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and Exhibits referred to in paragraphs 1 to 7 above (“the Admitted Facts”). The Member hereby acknowledges that the facts referred to in paragraphs 3, 4 and 5 above, constitute professional misconduct and pleads no contest to the allegations of professional misconduct against her, being more particularly breaches of Ontario Regulation 437/97 1(5), (14), (15), (16), (18) and (19).

9. By this document, the Member states that:

1. she understands fully the nature of the allegations against her;
2. she understands that by signing this document, she is consenting to the evidence and Exhibits as set out in paragraphs 1 to 7 above, being presented to the Discipline Committee at the hearing of this matter;
3. she understands that by pleading no contest to the allegations, she is waiving the right to require the College to prove the case against her and the right to have a full hearing on these issues; and
4. she understands and acknowledges that she is executing this Agreement voluntarily, unequivocally and with the advice of legal counsel.

10. The Member provides this plea of no contest pursuant to rule 3.02 of the *Rules of Procedure* of the Discipline Committee under protection of the *Evidence Act*, R.S.O. 1990, Ch. E23 for the purpose of this proceeding under the *College of Teachers Act*, 1996, Chapter 12 and for no other purpose. The Member’s plea of no contest does not

constitute an admission by the Member as to the facts or findings in any other civil, criminal or administrative proceedings.

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

JOINT SUBMISSION ON PENALTY

12. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that the Committee:

1. directs that the Member appear before the Committee immediately following the hearing of this matter to receive a reprimand, which reprimand is to be recorded on the Register of the Ontario College of Teachers;
2. directs the Registrar of the Ontario College of Teachers to suspend the Certificate of Qualification and Registration of the Member for the period of time commencing on 5 November 2008 and ending on 30 June 2009, and the fact of the suspension be recorded on the public register of the College; and
3. directs that there be publication of the findings and Order of the Committee in summary form, including the Member's name, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

13. By this document, the Member acknowledges her understanding that any agreement between the College and the Member with respect to the penalty proposed in this document does not bind the Discipline Committee.

DECISION

Having examined the Exhibits filed, and based on the plea of no contest, the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*, and the submissions made by counsel for the Member and counsel for the College, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Andrea Roseanne Davidson committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(14), 1(15), 1(16), 1(18 – dishonourable and unprofessional) and 1(19) as set out in the *Notice of Hearing*.

REASONS FOR DECISION

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 7 (“the admitted facts”) of the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty* (ASF - Exhibit 2). She acknowledges that the admitted facts referred to in paragraphs 3, 4 & 5 constitute professional misconduct and pleaded no contest to the allegations of professional misconduct against her, specifically breaches of Ontario Regulation 437/97 subsections 1(5), 1(14), 1(15), 1(16), 1(18) and 1(19). The Committee accepted the Member’s plea of no contest and the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty*.

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.

The Committee accepts the specific findings of fact contained in Exhibit 2 that at a trial on or about November 14, 2007, the Member pleaded guilty in the Ontario Court of Justice to, and was found guilty of, 5 separate charges as detailed in the *Agreed Statement of Facts*. Further, on or about 30 January 2008, the Member was given a conditional discharge, placed on probation for a period of twelve (12) months, ordered to perform community service and ordered to attend counselling.

The Member has not appealed either the conviction or the sentence which was imposed on her.

The Member stole cash and a credit card from a colleague at school and used them to fraudulently purchase items, including jewellery and electronics which were found in her possession. She also attempted to purchase tools and gasoline but the credit card was denied. Upon investigation by the police some of the stolen goods were found in her home. All the fraudulently obtained goods were recovered.

The Member's actions constitute professional misconduct. She failed to maintain the standards of the profession by stealing from a colleague. This is a fundamental betrayal of trust. This action also contravened the *Education Act* that expects teachers to inculcate societal norms and serve as role models. The Member's actions were serious, fraudulent

and deceitful toward her colleague. This conduct was dishonourable and unprofessional and unbecoming a Member.

PENALTY DECISION

The Committee makes the following order as to penalty:

1. The Member is directed to appear before the Committee immediately following the hearing of this matter to receive a reprimand, which reprimand is to be recorded on the Register of the Ontario College of Teachers;
2. The Registrar of the Ontario College of Teachers is directed to suspend the Certificate of Qualification and Registration of the Member for the period of time commencing on 5 November 2008 and ending on 30 June 2009, and the fact of the suspension be recorded on the public register of the College; and
3. 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, without the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

The Committee determined that a reprimand was appropriate, given the nature of the offence. The reprimand served as a specific deterrent for the Member and as an opportunity for counselling by her peers to ensure her understanding of suitable ethical behaviour.

The Member contravened a law, the contravention of which is relevant to her suitability to hold a certificate of qualification and registration. The Committee deemed that

suspension was the appropriate penalty in this case rather than revocation. The Member fully understands the enormity of her transgression, the goods were recovered, she pleaded guilty in criminal court, and she is determined to continue on her path of rehabilitation. The Member was certified as a teacher in 1998 and taught with the Board without incident until 2007. The parties agreed that the events described were uncharacteristic and isolated. The Member promptly admitted her actions and full restitution was made. Suspension offers a time for counselling and reflection, and exploration of ethical issues. The length of the suspension is significant. The Committee noted the arguments of both counsel, as well as the criminal court judge's remarks regarding mitigating factors which may have precipitated the Member's actions. This suspension balances the need for specific and general deterrence and sends a message that misconduct of this nature will result in a serious penalty.

The Committee ordered that the findings and order of the Committee be published in summary, without the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*. The *Agreed Statement of Facts* included publication with the Member's name. Prior to ordering publication without the name of the Member, the Committee gave counsel the opportunity to make further submissions with respect to publication, but they declined to do so. Publication of the findings and order, in summary will serve to inform the public and acts as a general deterrent to the profession. Publication demonstrates that serious misconduct will not be tolerated. The Committee finds that the reprimand and suspension provide sufficient deterrence to the

Member. Not publishing the Member's name allows for a possible re-entry to the teaching profession.

The Committee is satisfied that the penalty is appropriate in the circumstances and it serves and protects the public interest.

Date: November 5, 2008

Mel Greif
Chair, Discipline Panel

Annilee Jarvis
Member, Discipline Panel

Jacques Tremblay
Member, Discipline Panel