

**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  
Sheryl Ann Gervais, a member of the Ontario College of Teachers.

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

BETWEEN:	)	
	)	
	)	Nadine Carpenter,
ONTARIO COLLEGE OF TEACHERS	)	Dispute Resolution Administrator,
	)	for Ontario College of Teachers
	)	
- and -	)	
	)	
SHERYL ANN GERVAIS	)	Sheryl Ann Gervais was not
(CERTIFICATE #127423)	)	present, nor was she represented
	)	
	)	Johanna Braden,
	)	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.

A *Notice of Hearing* dated July 28, 2004 was served on Sheryl Ann Gervais, requesting attendance before the Discipline Committee of the Ontario College of Teachers on September 21, 2004 to hold a hearing, and specifying the charges. The hearing date was subsequently set for April 27, 2005.

Sheryl Ann Gervais was not in attendance at the hearing.

### The Allegations

The allegations in the *Notice of Hearing* dated July 28, 2004 are as follows:

**IT IS ALLEGED** that Sheryl Ann Gervais is guilty of professional misconduct as defined in subsection 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, the regulations or the bylaws, contrary to Ontario Regulation 437/97, subsection 1(14);
- (c) she failed to comply with the *Education Act*, R.S.O. 1990, c. E.2 and specifically paragraph 264(1)(c) or the regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);
- (d) she contravened a law that is relevant to the Member’s suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (e) she 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
- (f) she engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

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

1. Sheryl Ann Gervais (the “Member”) is a member of the Ontario College of Teachers (Registry number 127423).
2. At all material times, the Member was employed as an elementary teacher by the Renfrew County Catholic District School Board (the “board”).
3. Between 1989 and 2001, the Member acted inappropriately and unprofessionally in that she:
  - (a) under false pretences borrowed money totalling more than \$1 million from various residents of Westneath, which she refused or neglected to pay back, permanently depriving the owners of that money; and
  - (b) contravened a law or laws which are relevant to her suitability to hold a certificate of qualification and registration.
4. In response to the events giving rise to this complaint, the board assigned the Member to administrative duties with pay.

Member’s Plea

The Member Sheryl Ann Gervais admits that the matters referred to in the *Notice of Hearing* dated July 28, 2004 constitute professional misconduct and pleads guilty to the allegations of professional misconduct against her, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1(16), 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. By this document, the Member pleads guilty to professional misconduct as alleged in the *Notice of Hearing*, issued on July 28, 2004, and attached as Appendix "A", and in so doing, accepts as true the particulars of the allegations set out therein. The Member admits that she engaged in the conduct described in the *Notice of Hearing* and that said conduct is professional misconduct as alleged.
5. The Member agrees that she voluntarily admitted the allegations against her.

6. The Member understands the nature of the allegations that have been made against her and understands that by admitting the allegations, she is waiving the right to require the College to prove the case against her and the right to a hearing.
7. The Member agrees and understands that once this *MOA* is ratified by the Discipline Committee, the Discipline Committee will find her guilty of professional misconduct and, pursuant to subsection 30(4) of the *Ontario College of Teachers Act, 1996*, will direct the Registrar to suspend her certificate of qualification and registration for a period of 14 months commencing upon ratification of this *MOA*.
8. The Member agrees and understands that upon ratification of this *MOA* by the Discipline Committee, she will immediately surrender her certificate of qualification and registration to the Registrar.
9. 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.
10. The Member agrees and understands that for the purpose of considering this matter, the Discipline Committee will be provided with a summary of the matter including the allegations contained in the Registrar's complaint and the *Notice of Hearing*.
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*, will include the following information:

On April 27, 2005, Sheryl Ann Gervais pleaded guilty to professional misconduct and the Discipline Committee directed the Registrar to suspend the Member's certificate of qualification and registration until June 27, 2006.

12. The Member agrees and undertakes to immediately inform the Registrar of any future criminal charges arising from incidents similar in nature to those giving rise to this complaint.
13. The Member agrees and understands that upon ratification of this MOA by the Discipline Committee, the College will publish the Member's name with a summary of the complaint and its resolution as contained in this MOA. Such publication will 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.
14. The Member agrees and understands that upon ratification of this MOA by the Discipline Committee, 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.
15. The Member agrees and understands that upon ratification of this MOA by the Discipline Committee, the College will provide notice of the suspension of the Member's certificate of qualification and registration to any Canadian school board, any Canadian teacher federation or affiliate, the Ontario Directors of Education and Heads of Private Schools, and the teacher licensing and governing bodies in Canada and elsewhere who are routinely notified by the College of such disciplinary action.
16. The Member agrees and understands that upon ratification of this MOA by the Discipline Committee, the College will provide the Member's former employer, the Renfrew County Catholic 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*.

17. 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;
18. The Member agrees and understands that this *MOA* is the entire agreement between herself 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*.
19. The Member agrees and understands that should she breach this *MOA* by seeking or engaging in employment where a certificate of qualification and registration is required, the College may provide a copy of this *MOA* to any employer, licensing body, or education authority who inquires about the Member's record with the College.
20. The Member agrees and understands that, in the event she breaches a term of this *MOA*, she 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.
21. The Member agrees and understands that, in the event she 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.
22. 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 Sheryl Ann Gervais committed acts of professional misconduct as alleged, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1(16), 1(18) and 1(19).

#### Penalty

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

### Penalty Decision

The Committee accepts the joint submission as to penalty as set out in the *Memorandum of Agreement* and accordingly directs the Registrar to suspend the Member's certificate of qualification and registration for 14 months from the date of April 27, 2005, which certificate the Member is to surrender immediately to the Registrar.

The Committee further orders that pursuant to Section 30 (5) (iii) of the *Ontario College of Teachers Act, 1996*, the findings and order of the Committee be published in summary, with the full name of the Member, in the official publication of the Ontario College of Teachers, *Professionally Speaking /Pour parler profession*.

The Committee accepts the Member's undertaking to immediately inform the Registrar of any future criminal charges arising from incidents similar in nature to those giving rise to this complaint.

### Reasons for Decision and Order

Sheryl Ann Gervais has co-operated with the College, and by agreeing to the facts and a proposed penalty, has accepted responsibility for her actions. The Committee is satisfied that the 14-month suspension of the Member's certificate of qualification and registration and the publication of the findings and Order of the Committee, as outlined

in the Memorandum of Agreement, serve the purpose of general deterrence and protect 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