

**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 Johannes Albert Heller, a member of the Ontario College of Teachers.

PANEL:            Annilee Jarvis, OCT, Chair  
                      Danny Anckle  
                      Irene Dembek, OCT

BETWEEN:	)	Eli Mogil,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Daniela DeBartolo,
	)	Litigation Paraprofessional
- and -	)	
	)	
JOHANNES ALBERT HELLER	)	Johannes Albert Heller
(CERTIFICATE #275452)	)	was not present or represented
	)	
	)	
	)	Julie Maciura,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
	)	
	)	Heard: August 25, 2011

**DECISION, REASONS FOR DECISION AND ORDERS**

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on August 25, 2011 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated June 1, 2011 was served on Johannes Albert Heller, requesting his presence on June 21, 2011 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for August 25, 2011.

Johannes Albert Heller was not in attendance.

## **THE ALLEGATIONS**

The allegations against Johannes Albert Heller in the *Notice of Hearing*, (Exhibit 1) dated June 1, 2011 are as follows:

**IT IS ALLEGED** that Johannes Albert Heller 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 abused a student physically contrary to Ontario Regulation 437/97, subsection 1(7.1);
- (c) he abused a student psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7.2);
- (d) he abused a student sexually, contrary to Ontario Regulation 437/97, subsection 1(7.3);
- (e) he failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically section 264(1)(c) thereof or the Regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);
- (f) 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);
- (g) he contravened a law, the contravention of which has caused or may cause a student who is under the Member’s professional supervision to be put at or to remain at risk contrary to Ontario Regulation 437/97, subsection 1(17);
- (h) 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);

- (i) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19);
- (j) he engaged in sexual abuse of a student or students of the nature defined in sections 1 and 40 (1.1) of the *Act*.

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced a *Statement of Uncontested Facts and Plea of No Contest* (Exhibit 3), which provides as follows:

### **STATEMENT OF UNCONTESTED FACTS**

1. At all material times, the Member was 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. The Member was employed by the Thames Valley District School Board (the “Board”) at all times material hereto and was a teacher at [XXX] School (the “School”), in Belleville, Ontario.
3. Between January 1, 2008 and September 30, 2008, the Member:
  - (a) sexually assaulted “A”, a young male under the age of sixteen (16) years;
  - (b) sexually exploited and sexually interfered with “A”;
  - (c) permitted “A” to be on the premises to engage in sexual activity;
  - (d) indecently exposed himself to “A”, and communicated with “A” to obtain sexual services.
4. From and including August 1, 2008 until September 30, 2008, the Member made child pornography and accessed child pornography.

5. On or about January 4, 2009, the Member was charged by London Police with twenty seven (27) counts of sexual assault, sexual touching and sexual activity. These counts were reduced to four (4) when the charges came on for hearing on December 15, 2010.

6. On December 15, 2010, the Member entered a guilty plea and was found guilty of the following:

(a) Count #1

THAT he, between the 1<sup>st</sup> day of June 2008 and the 30<sup>th</sup> day of September in the year 2008 at the City of London in the said region did, with a part of his body, for a sexual purpose, directly touch the body of [“A”], a person under the age of sixteen years, contrary to section 151 of the *Criminal Code of Canada*;

(b) Count #2

THAT he, between the 1<sup>st</sup> day of June in the year 2008 and the 30<sup>th</sup> day of September in the year 2008, at the City of London in the said region did, without lawful excuse, make child pornography in the form of a videotape, contrary to Section 163.1, subsection (2) of the *Criminal Code of Canada*;

(c) Count #3

THAT he, between the 11<sup>th</sup> day of January in the year 1993 and the 10<sup>th</sup> day of January in the year 1997, at the City of London in the said region and elsewhere in the Province of Ontario did, being a person in a position of trust or authority towards a young person, for a sexual purpose, invite, counsel or incite that young person, namely [XXX], to touch his own body, contrary to Section 153, subsection (1), clause (b) of the *Criminal Code of Canada*.

(d) THAT he, between the 1<sup>st</sup> day of January in the year 1990 and the 10<sup>th</sup> day of January in the year 1997 at the City of London in the said region and

elsewhere in the Province of Ontario did, commit a sexual assault on [XXX], [XXX], contrary to Section 271 subsection (1) of the *Criminal Code of Canada*.

7. On February 18, 2011, the Member was sentenced by the Honourable Mr. Justice P. Hockin to a total of six (6) years in a penitentiary, namely 3 years respecting Count 1, and one (1) year respecting Count 2 to be served concurrently to Count 1. With respect to the other two charges, the Member was sentenced to 3-years respecting Count 3 to be served consecutively to the 3 year term relating to Counts 1 and 2, and a 3-year term respecting Count 4 to be served concurrently to the 3 year term relating to Count 3. The Member was also made subject to other sentencing conditions, including a firearms order for ten (10) years, and the provision of a [XXX]. Mr. Justice Hockin also strongly recommended that the Member receive counselling and treatment in a Sexual Offender programme, as asked for by the Member.

8. Attached as **Exhibit “B”**, **Exhibit “C”** and **Exhibit “D”**, respectively, are a certified copy of the Certificate of Conviction, the transcript of the Reasons for Judgment dated December 22, 2010 and the transcript of the Reasons for Sentencing of the Honourable Mr. Justice P. Hockin.

9. The Member’s employment with the Board was terminated on January 25, 2011.

#### **PLEA OF NO CONTEST**

10. 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 9 above (the “Uncontested Facts”).

11. The Member hereby acknowledges that the Uncontested Facts referred to in paragraphs 3 and 4 above constitute conduct which is professional misconduct and pleads no contest to the allegations of professional misconduct against him, being more particularly breaches of *Ontario Regulation 437/97*, subsections 1(5), 1(7.1), 1(7.2), 1(7.3) 1(15), 1(16), 1(17), 1(18) and 1(19). The Member also acknowledges that he engaged in sexual abuse of a student of a nature defined in Sections 1 and 40 (1.1) of the *Act*.

12. By this document the Member states that he:

- (a) understands fully the nature of the allegations against him;
- (b) understands that by signing this document he is consenting to the evidence as set out in the Uncontested Facts being presented to the Discipline Committee;
- (c) understands that by pleading no contest to the allegations, he is waiving the right to require the College to prove the case against him and the right to have a hearing;
- (d) understands that depending on the penalty ordered by the Discipline Committee, the decision of the Committee and a summary of its reasons, including reference to his name, may be published in the official publication of the College;
- (e) understands that any agreement between him and counsel for the College with respect to the penalty proposed in this document does not bind the Discipline Committee;

- (f) understands and acknowledges that he is executing this Agreement voluntarily, unequivocally, and without the advice of legal counsel.

13. The Member provides this plea of no contest pursuant to Rule 3.02 of the Rules of Civil Procedure of the Discipline Committee under protection of the *Evidence Act*, R.S.O. 1990, chapter E. 23, for the purpose of this proceeding under the *Ontario 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 proceeding.

14. 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**

15. 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:

- (a) directs the Registrar of the Ontario College of Teachers to immediately revoke the Certificate of Qualification and Registration of the Member, which Certificate the Member is to immediately surrender to the Registrar; and
- (b) 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*.

## **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 Johannes Albert Heller committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7.1), 1(7.2), 1(7.3) 1(15), 1(16), 1(17), 1(18) and 1(19). The Committee also finds that he engaged in sexual abuse of a student of a nature defined in Sections 1 and 40 (1.1) of the *Act*.

## **REASONS FOR DECISION**

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 9 (the “uncontested facts”) of the *Statement of Uncontested Facts, and Plea of No Contest* (Exhibit 3). He acknowledged that the uncontested facts referred to in paragraphs 3 and 4 above constitute conduct that is professional misconduct and pleaded no contest to the allegations of professional misconduct. The Member also acknowledged that he engaged in sexual abuse of a student of a nature defined in sections 1 and 40 (1.1) of the *Act*. The Committee accepted the Member’s plea of no contest and the facts in the *Statement of Uncontested Facts and Plea of No Contest*.

It is uncontested that the Member was charged, entered a guilty plea and was convicted of four counts of sexual misconduct: sexual assault, sexual exploitation, sexual interference and making child pornography. He was sentenced to six years in a penitentiary.

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 finds that the Member's convictions on four counts of sexual misconduct constitute acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7.1), 1(7.2), 1(7.3), 1(15), 1(16), 1(17), 1(18),1(19) and that he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1) of the *Act*.

## **PENALTY**

The Committee makes the following order as to penalty:

1. The Registrar is directed to revoke the Certificate of Qualification and Registration of the Member; and
2. The Committee directs that there be publication of the findings and Order of the Committee in summary form, with the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

## **REASONS FOR PENALTY DECISION**

The Committee finds that the member who is convicted of sexual assault, and accessing and making child pornography is not suitable to be in a position of trust and authority over children. He has entirely failed in that trust and is considered by the courts of Ontario to have broken laws that protect the young and is incarcerated as a result of these

convictions. This Member should not be permitted to teach in Ontario. Therefore, his Certificate of Qualification and Registration must be revoked.

Between January 1, 2008 and September 30, 2008, the Member:

- a) sexually assaulted a young male under the age of sixteen (16) years;
- b) sexually exploited and sexually interfered with a young male;
- c) permitted a young male to be on the premises to engage in sexual activity;
- d) indecently exposed himself to the young man, and communicated with him to obtain sexual services.

In addition, the Member made child pornography in the form of a video tape, and accessed child pornography.

The Member's disgraceful conduct is an abuse of his position of trust as a teacher and authority figure. The Member has brought the profession into disrepute and has lost the trust of the public. Although the young male was not a student of the Member, the Committee affirms that the pattern of grooming behaviour evident through the use of drugs, alcohol and pornography represents a threat to students who may be in the Member's care. The fact that he used his position of trust in order to create a pattern of abuse, control and sexual exploitation of a young male requires that he receive the maximum penalty, revocation of his certificate of qualification and registration.

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 heinous behaviour and will ensure that this type of misconduct is dealt with severely.

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

Date: August 31, 2011

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Annilee Jarvis, OCT  
Chair, Discipline Panel

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Danny Anckle  
Member, Discipline Panel

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Irene Dembek, OCT  
Member, Discipline Panel