

**ONTARIO COLLEGE OF TEACHERS**

**DISCIPLINE COMMITTEE**

**REASONS FOR DECISIONS AND ORDERS**

*IN THE MATTER OF ONTARIO COLLEGE OF TEACHERS ACT, 1996, and the Regulation (Ontario Regulation 437/97) thereunder:*

**AND IN THE MATTER OF** discipline proceedings against Martin Lewis Hungerford.

The Discipline Committee held a hearing on September 28, 1999,

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**MARTIN LEWIS HUNGERFORD**  
Certificate #146819

**PRESENT:**

Members of the Panel

Kathleen McFadyen (Chair)

Jean Hanson

Larry Capstick

The Honourable Lloyd Houlden, Independent Counsel to the Panel

Caroline Zayid and Trevor Evans, McCarthy Tétrault, Counsel for the Prosecution

Cynthia Petersen, Sack Goldblatt Mitchell, Defense Counsel. Mr. Hungerford was present.

A Notice of Hearing, dated June 25, 1999 was served on Martin Lewis Hungerford, requesting attendance before the Discipline Committee of the Ontario College of Teachers on July 5, 1999 in order to set a date for hearing, and specifying the charges. The hearing was scheduled for September 27, 1999. It is alleged that Martin Lewis Hungerford is guilty of professional misconduct in that:

- a) he contravened a law, the contravention of which is relevant to his suitability to hold a certificate of qualification and registration contrary to Ontario Regulation 437/97, section 1, subsection (16);
- b) he failed to comply with the *Education Act*, Revised Statutes of Ontario 1990, c. E.2, as amended, or the regulations made under that Act, contrary to Ontario Regulation 37/97, section 1, subsection (15);
- c) he performed acts or omissions that, having regard to all of the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, section 1, subsection (18);  
and
- d) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, section 1, subsection (19).

The Notice of Hearing states that Martin Lewis Hungerford is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers (Exhibit 1).

On September 28, 1999, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Martin Lewis Hungerford was guilty of professional misconduct.

**EVIDENCE:**

Counsel for the Ontario College of Teachers referred to the charges set out in Exhibit 1, alleging that Martin Lewis Hungerford is guilty of professional misconduct in that his acts were contrary to the Professional Misconduct Regulation made under the Ontario College of Teachers Act and filed as Regulation 437/97 on December 4, 1997, in particular, sections 1, (15), (16), (18) and (19). Particulars of the alleged misconduct are set out in Exhibit 1 and they are to the effect that:

- 1) Martin Lewis Hungerford is a member of the Ontario College of Teachers
- 2) At all material times, Martin Lewis Hungerford was employed as a teacher at the Dr. Robert Thornton Public School, Whitby, by the Durham District School Board, formerly the Durham Board of Education.
- 3) On or about July 25, 1997, at his residence, Mr. Hungerford was in unlawful possession of crack cocaine for the purpose of trafficking.
- 4) The quantity of crack cocaine in Mr. Hungerford's possession on that date consisted of 15 individually wrapped pieces of crack cocaine. The form and quantity of the crack cocaine indicated that it was intended for trafficking.
- 5) Mr. Hungerford was known to persons involved in the drug subculture as "Teacher".

- 6) On June 9, 1999, Mr. Hungerford was found guilty of the charge of possession of a controlled substance, to wit: (cocaine (crack), for the purpose of trafficking, contrary to section 5(2) of the *Controlled Drugs and Substances Act*.

Counsel presented evidence that Martin Lewis Hungerford is a member of the Ontario College of Teachers, (Exhibit 1). At all material times, Martin Lewis Hungerford was employed by Durham District School Board, formerly the Durham Board of Education, as a teacher.

An Agreed Statement of Facts was filed as Exhibit 2. That statement had been signed by Martin Lewis Hungerford and witnessed by Caroline Zayid, McCarthy Tétrault, Counsel for the Prosecution.

#### **FINDINGS OF FACT:**

Based on the Agreed Statement of Facts, the panel finds the following facts:

- (1) On or about July 25, 1997, Mr. Hungerford was in unlawful possession of crack cocaine for the purpose of trafficking.
- (2) The form and quantity of the crack cocaine indicated that it was intended for trafficking.
- (3) At the time that criminal charges were laid with respect to the events of July 25, 1997, Mr. Hungerford was suspended from his employment by the Durham District School Board. Following his conviction, Martin Hungerford's employment with the Durham District School Board was terminated.

- (4) Mr. Hungerford has a criminal record which consists of the following:
- a) June 9, 1980 Break and Enter and Theft (two charges);
  - b) January 3, 1985 Theft
  - c) June 7, 1985 Theft
  - d) September 1, 1987 Possession of property obtained by crime
  - e) November 28, 1995 Possession of Narcotics; and
  - f) November 6, 1998 Breach of Recognizance.
- (5) Attached as Exhibits D through H hereto are copies of the Certificates of Conviction pertaining to the offences referred to as items a), b), c), d) and e).
- (6) The parties agreed that the facts set out in this Agreed Statement constitute professional misconduct.

Martin Lewis Hungerford was found guilty of possession for the purposes of trafficking under section 5(2) of the *Controlled Drugs and Substances Act* (Exhibit A and B) with sentencing on or after October 14, 1999 (Exhibit 2).

**REASONS:**

The Panel accepts, based upon the Agreed Statement of Facts that Martin Lewis Hungerford is guilty of professional misconduct.

**DECISIONS AND ORDERS:**

Accordingly, the Committee finds Martin Lewis Hungerford guilty of professional misconduct under section 1, subsections (15), (16), (18) and (19) of the Professional

Misconduct Regulation, as alleged, and directs the Registrar to revoke Martin Lewis Hungerford's Certificate of Qualification and Registration immediately.

The following statement was read by the Chair into the record:

"The Committee carefully considered requests by both sides for suspension, revocation for a set period of time and revocation.

Mr. Hungerford's history of criminal convictions over the past 19 years was of concern to the Committee. Mr. Hungerford demonstrated disregard for a court order which outlined parameters of behaviour while he was released on bail for this conduct. Mr. Hungerford was convicted of a breach of recognizance. This was a significant factor in our decision. We are not confident that the member would adhere to restrictions imposed by this Committee.

This Committee orders the Registrar to revoke Martin Lewis Hungerford's Certificate of Qualification and Registration immediately.

Pursuant to Section 30, subsection 5, part 3 of the Ontario College of Teachers Act, the Committee orders that the findings of this hearing, as well as the name of the member, be published in the official publication of the Ontario College of Teachers.

In response to the issue of reinstatement as raised by Counsel for the College under section 33, subsection 1, any member may apply for reinstatement."

**DATED AT TORONTO, THIS 28th DAY OF September, 1999  
BY ORDER OF THE DISCIPLINE COMMITTEE**

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Kathleen McFadyen, (Chair)

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Jean Hanson

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Larry Capstick