

**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 Giovanni Salvatore Lonardi, a member of the Ontario College of Teachers.

PANEL: Danny Anckle, Chair
 Rosemary Fontaine
 John Wells

BETWEEN:)	
	)	David Leonard,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
GIOVANNI SALVATORE LONARDI	)	William Markle and
(CERTIFICATE #183333)	)	Stephanie Carey,
	)	Markle May Phibbs,
	)	for Giovanni Salvatore Lonardi
)	
	)	Chris Wirth,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: December 6, 2007

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on December 6, 2007 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated March 28, 2006 was served on Giovanni Salvatore Lonardi, requesting attendance before the Discipline Committee of the Ontario College of Teachers on April 24, 2006 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for December 6, 2007.

The hearing took place on December 6, 2007 at which time the Committee rendered its decision orally and reserved its reasons for decision. These are those reasons.

Giovanni Salvatore Lonardi was in attendance at the hearing.

THE ALLEGATIONS

The allegations against Giovanni Salvatore Lonardi in the *Notice of Hearing (Exhibit 1)* dated March 28, 2006, are as follows:

IT IS ALLEGED that Giovanni Salvatore Lonardi is guilty of professional misconduct as defined in Section 30(2) of the Act, in that:

- a) he failed to strive at all times to achieve and maintain the highest degree of professional competence and to uphold the honour, dignity and ethical standards of the teaching profession contrary to section 13 of the *Regulation Made Under the Teaching Profession Act*, made pursuant to section 12 of the *Teaching Profession Act* R.S.O. 1980, chapter 495, as amended (the “*TPA Regulation*”);

- b) he failed to regard as his first duty the effective education of his pupils and the maintenance of a high degree of professional competence in his teaching contrary to section 14(a) of the *TPA Regulation*;
- c) he failed to show consistent justice and consideration in all his relations with pupils contrary to section 14(d) of the *TPA Regulation*;
- d) he failed to concern himself with the welfare of his pupils while they were under his care contrary to section 14(f) of the *TPA Regulation*; and
- e) he failed to comply with section 264(1)(c) of the *Education Act*.

On December 6, 2007, College counsel advised the Committee that the College sought to withdraw the allegations contained in (a) through (d) above. The Committee authorizes the College to withdraw these allegations and will not inquire into them further and will proceed only with the allegation that the Member failed to comply with section 264(1)(c) of the *Education Act*.

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 Facts, Plea of No Contest and Joint Submission on Penalty (ASF – Exhibit 2)*.

The *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* provides as follows:

1. Giovanni Salvatore Lonardi (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, the Member was employed by the Dufferin-Peel Catholic District School Board and/or its predecessors (the “Board”) as a teacher.
3. Between the approximate dates of 1986 and 1993, the Member was a [REDACTED] teacher at [REDACTED].
4. During the 1988-1989 academic year, [REDACTED], whose date of birth is [REDACTED], was a female student of the school and was a [REDACTED]. The Member was also acquainted with [REDACTED] through his involvement in [REDACTED], and was a [REDACTED].
5. Subsequent to [REDACTED] being in [REDACTED], the Member acted inappropriately towards [REDACTED] in that he engaged in correspondence with [REDACTED] which included references to a relationship which would have been outside the boundaries of students and teachers.

PLEA OF NO CONTEST

6. By this document, the Member does not contest the truth of the facts and exhibits referred to in paragraphs 1 to 5 above (the “uncontested facts”).
7. The Member does not contest that the uncontested facts referred to in paragraph 5 above constitute conduct which is unprofessional and pleads no contest to the allegations of professional misconduct against him being more particularly that he failed to comply with Section 264(1) (c) of the *Education Act*.
8. By this document, through his counsel, he Member states that:

- (a) he understands fully the nature of the allegations against him;
- (b) he understands that by pleading no contest to the allegations against him, he is waiving the right to require the College to prove the case against him, and the right to have a hearing;
- (c) he voluntarily decided to plead no contest to the allegations; and
- (d) he states that this plea of no contest was made voluntarily, unequivocally and with the benefit of legal counsel.

JOINT SUBMISSION ON PENALTY

9. In light of the admitted facts and circumstances, 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 directs:

- (a) the Member to attend before the Committee, immediately following the hearing of this matter, to be reprimanded, and the fact that a reprimand was delivered be recorded on the public register of the Ontario College of Teachers; and
- (b) that the findings and order be published in summary form, in the official publication of the College.

10. The parties have not agreed whether or not the publication referred to in paragraph 9(b) above shall include the name of the member and submissions will be made to the Committee on this issue.

11. By this document, the Member acknowledges his 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, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Giovanni Salvatore Lonardi committed acts of professional misconduct, being more particularly that he failed to comply with Section 264(1) (c) of the *Education Act*.

REASONS FOR DECISION

The Member did not contest that the uncontested facts referred to in paragraph 5 of the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* constitute conduct which is unprofessional and pleaded no contest to the allegations of professional misconduct against him being more particularly that he failed to comply with Section 264(1) (c) of the *Education Act*.

The Committee accepted the Member's plea of no contest and the evidence contained in the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*.

FURTHER SUBMISSIONS ON PENALTY

College Counsel submitted that publication of the decision was appropriate and serves as a general deterrent. Furthermore, publication with the Member's name facilitates openness and transparency of the discipline process. This would serve to strengthen the general deterrent aspect in that members would expect their name to be published if they have engaged in unprofessional conduct.

Counsel for the Member submitted that publication of the Member's name was not needed since specific deterrence was satisfied by the plea of no contest and the reprimand. He also stated that the conduct under examination occurred a long time ago and the Member has since received successful performance evaluations. Counsel further indicated that there was no suggestion that the misconduct outlined in the *Notice of Hearing* has been repeated by the Member.

Counsel for the Member submitted a letter from the student who requested that the Member's name not be published because of the possible negative impact on herself and the lives of her family members. (Exhibit 3)

PENALTY DECISION

The Committee accepts the Joint Submission on Penalty and makes the following order as to penalty:

1. The Member is to appear before the Committee immediately following the completion of the hearing of this matter, to be reprimanded and the fact of the reprimand will be recorded on the Register of the Ontario College of Teachers.

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, without the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

In making its decision, the Committee took into consideration that this was an isolated incident which occurred a long time ago and that the Member had pleaded no contest to professional misconduct and had agreed to be reprimanded. The Committee considered the submissions of both parties that the misconduct was of a minor nature and agreed that a reprimand was an appropriate penalty and serves as a specific deterrent to the Member to not engage in similar misconduct in the future.

The Committee accepts the submissions of the parties to publish the findings and order of the Committee, in summary, in *Professionally Speaking/Pour parler profession*. This serves as a general deterrent to the profession and informs the public that appropriate behaviour is required by members of the College.

The Committee determined that publication of the member's name was unnecessary for the following reasons:

- there was no evidence before the Committee of any previous or subsequent misconduct;
- the misconduct was an isolated incident that occurred a long time ago; and

- publication of the name might identify the student and be detrimental to her family.

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

Dated: January 10, 2008

Rosemary Fontaine
Member, Discipline Panel

John Wells
Member, Discipline Panel

MINORITY DECISION (DANNY ANCKLE)

I have had the benefit of reading the majority decision in this matter. I concur with the finding of the majority that the Member be found guilty of professional misconduct. I also concur with the penalty order of reprimand. Further, I concur that the findings and order of the Committee be published in *Professionally Speaking/Pour parler profession*. However I do not agree that publication be without the name of the Member.

To assure the transparency of the process, in an open hearing, the College has a duty to report to the public. In order to protect and serve the public interest, the Member's name should be published unless there are good reasons to not include the Member's name.

That the misconduct occurred a long time ago and that the student, who is now an adult, might be impacted are not sufficient compelling reasons to withhold the name of the Member. The need to publish the Member's name and thereby inform the public outweighs the potential impact to Member and the student, who is now an adult.

Publication of the findings and order without the Member's name amounts to suppression of information and raises questions in the minds of the public regarding the transparency of the process. Publication of the Member's name sends a strong message to the profession and alerts the public that misconduct of any nature will not be tolerated by the College.

Dated: January 10, 2008

Danny Anckle
Chair, Discipline Panel