

**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
Rand John Peter Martin, a member of the Ontario College of
Teachers.

PANEL: Brent Hamelin, Chair
 Rosemary Fontaine
 Mel Greif

BETWEEN:	)	David Leonard,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson,
	)	Law Clerk
- and -)	
)	
)	
RAND JOHN PETER MARTIN	)	Rand John Peter Martin was present,
(CERTIFICATE # 177114)	)	and acted on his own behalf
)	
	)	Christopher Wirth,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: June 10, 2008
)	

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on June 10, 2008 at the Ontario College of Teachers (“the College”) at Toronto.

A Notice of Hearing dated October 18, 2007, filed as Exhibit 1, was served on Rand John Peter Martin (the “Member”), providing him with notice that the Discipline Committee of the Ontario College of Teachers would meet on December 6, 2007 to set a date for a hearing, and specifying the charges. The Discipline Committee subsequently set June 10, 2008 as the date for the hearing on the merits.

Rand John Peter Martin was in attendance at the hearing.

THE ALLEGATIONS

IT IS ALLEGED that Rand John Peter Martin is incompetent as defined in section 30(3) of the *Ontario College of Teachers Act*, in that he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of his students of a nature or extent that demonstrates that the Member is either unfit to carry out his professional responsibilities or that the Member’s certificate should be made subject to terms, conditions or limitations.

Counsel for the College advised the Committee that an agreement had been reached on the facts 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. Rand John Peter Martin (“Mr. Martin”) 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 Mr. Martin, whose current status is '*Suspended – non-payment of fees*'.

2. At all material times Mr. Martin was employed by the Near North District School Board ("the Board") and taught at a school of the Board in North Bay, Ontario.

3. The Member's teaching performance was assessed on two occasions during the 2004/2005 academic year, namely in April 2005 and June 2005. The Summative Reports are marked as **Exhibits "B"** and **"C"**, respectively.

4. As indicated in the above Summative Reports, the Member's performance was deemed to be unsatisfactory in the areas of classroom management skills, student engagement, preparation, and the tracking and assessment of student progress and development.

5. The Member was advised that following the above two unsatisfactory Teacher Performance Appraisals he was 'on review', and a further performance assessment would be conducted.

6. By letter dated January 25, 2006, marked as **Exhibit "D"**, the Member tendered his resignation. The Member's resignation was accepted by the Board.

PLEA OF NO CONTEST

7. By this document, Mr. Martin admits, for the purposes of this proceeding only, the truth of the facts and exhibits referred to in paragraphs 1 through 6 above (“the Admitted Facts”). Mr. Martin hereby pleads no contest to the allegation of incompetence in that he displayed a lack of knowledge, skill or judgment that demonstrates that he is unfit to carry out his professional responsibilities or that his Certificate should be made subject to terms, conditions or limitations, as defined in Section 30(3) of the *Ontario College of Teachers Act, 1996*.

8. Mr. Martin states that:

- (a) he understands fully the nature of the allegations against him;
- (b) he understands that by signing this document he is consenting to the evidence as set out in the Admitted Facts being presented to the Discipline Committee;
- (c) he 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; and
- (d) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally and without the advice of legal counsel.

9. Mr. Martin 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, chapter E. 23*, for the purpose of this proceeding under the *College of Teachers Act*

1996, chapter 12, and for no other purpose. Mr. Martin's plea of no contest does not constitute an admission by him as to the facts or findings in any other civil, criminal or administrative proceeding.

10. In light of the Admitted Facts, the Ontario College of Teachers and Mr. Martin submit that the Discipline Committee find Mr. Martin to be incompetent in that he displayed a lack of knowledge, skill or judgment that demonstrates that he is unfit to carry out his professional responsibilities or that his Certificate should be made subject to terms, conditions or limitations, as defined in Section 30(3) of the *Ontario College of Teachers Act, 1996*.

JOINT SUBMISSION ON PENALTY

11. In light of the Admitted Facts and circumstances, the Ontario College of Teachers and Mr. Martin jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that the Committee direct the Registrar of the Ontario College of Teachers to immediately impose the following terms, conditions or limitations on the Member's Certificate of Qualification and Registration;

- (a) the Member shall, prior to returning to any teaching position for which a Certificate of Qualification and Registration is required:
 - (i) attend at his own expense at an accredited Additional Basic Qualifications course approved by the Registrar, which covers

lesson planning, instructional strategies and assessment of student learning, and shall, within thirty (30) days of his completion of the course, provide evidence to the Registrar in writing, of his successful completion of same;

- (ii) attend at his own expense at an accredited Additional Basic Qualifications course approved by the Registrar, which covers Special Education Part I, and shall, within thirty (30) days of his completion of the course, provide evidence to the Registrar in writing, of his successful completion of same
 - (iii) attend at his own expense at a course on classroom management, approved by the Registrar, and shall, within thirty (30) days of his completion of the course provide evidence to the Registrar, in writing, of his successful completion of same.
- (b) the Member shall advise the Registrar within ten (10) days following his return to teaching duties of the date of such return, the name of his employer and the nature of said employment; and
- (c) the Member shall provide to the Registrar, within eighteen (18) months following the date of his return to any teaching duties, two (2) consecutive satisfactory teacher performance appraisals. The Member shall request of his principal or school board (employer) that two (2) teacher performance appraisals be conducted within that eighteen (18) month period.

12. By this document, Mr. Martin 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.

FURTHER EVIDENCE PRESENTED

The College called Kelly Brown (“Brown”) of the Near North District School Board as a witness.

Evidence of Brown

Brown is Superintendent of Program and Schools for the Near North District School Board. Brown testified that he had been principal of Northern Secondary School in 2002 where the Member taught a .5 assignment in the second semester. At the time, Brown conducted a teacher performance appraisal of the Member which is summarized in an observations report dated June 6, 2002 (Exhibit 4). Brown made observations of the Member’s grade 9 applied geography class on three separate occasions in May of 2002. Brown noted concerns about student engagement, instructional strategies, and general classroom management issues. A final meeting took place at the end of the year where concerns were reviewed and next steps summarized. As a final comment in his report, Brown indicates that the Member should have a subsequent performance appraisal done early in his next teaching assignment.

Brown next conducted two teacher performance appraisals of the Member in 2005 while he was principal of Widdifield Secondary School. These appraisals were conducted in

the second semester as the Member was on a .5 contract from February to June of that year. Between these appraisals, an improvement plan was implemented. The improvement plan outlined supports to be provided to the Member should he wish to access them. Brown was questioned regarding the improvement plan (Exhibit 3) following the April 2005 TPA.

After the June 2005 TPA, Brown indicated that he continued to have concerns with respect to the Member's teaching skills as outlined in the observation report of June 2002 and the teacher performance appraisals, specifically instructional strategies, classroom management and relationships with students.

Decision

(i) Onus and Standard of Proof

The College bears the onus of proving the allegations in accordance with the standard of proof set out in *Re Bernstein and College of Physicians and Surgeons of Ontario* (1977) 15 O.R. (2d) 477. The standard of proof applied by the Committee, in accordance with the *Bernstein* decision, was a balance of probabilities with the qualification that the proof must be "clear and convincing" and based upon "cogent evidence" accepted by the Committee. The Committee also recognized that the more serious the allegations to be proved, the more cogent must be the evidence. The Committee considered the allegations in this case to be serious and assessed the evidence on that basis.

(ii) Decision

Having considered the evidence, onus and standard of proof, and based on the Member's 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 College and by the Member, the Committee finds Rand John Peter Martin is incompetent as defined in section 30(3) of the *Act*, in that he displayed a lack of skill that demonstrates that the Member's certificate should be made subject to terms, conditions and limitations.

REASONS FOR DECISION

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 6 (the "admitted facts") of the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty* (ASF - Exhibit 2). He acknowledges that the admitted facts referred to in paragraphs 4 and 5 of Exhibit 2 is evidence of his incompetence and pleaded no contest to these allegations of incompetence. The Committee accepted the Member's plea of no contest and the facts contained in the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty*.

Brown's testimony confirmed for the Committee the need for the Member to remediate his skills prior to any return to the profession.

PENALTY DECISION

The Committee makes the following order as to penalty:

The Registrar of the Ontario College of Teachers is to impose immediately the following terms, conditions or limitations on the Member's Certificate of Qualification and Registration;

- (a) the Member shall, prior to returning to any teaching position for which a Certificate of Qualification and Registration is required:
 - (i) attend at his own expense at an accredited Additional Basic Qualifications course approved by the Registrar, which covers lesson planning, instructional strategies and assessment of student learning, and shall, within thirty (30) days of his completion of the course, provide evidence to the Registrar in writing, of his successful completion of same;
 - (ii) attend at his own expense at an accredited Additional Basic Qualifications course approved by the Registrar, which covers Special Education Part I, and shall, within thirty (30) days of his completion of the course, provide evidence to the Registrar in writing, of his successful completion of same
 - (iii) attend at his own expense at a course on classroom management, approved by the Registrar, and shall, within thirty (30) days of his completion of the course provide evidence to the Registrar, in writing, of his successful completion of same.

- (b) the Member shall advise the Registrar within ten (10) days following his return to teaching duties of the date of such return, the name of his employer and the nature of said employment; and
- (c) the Member shall provide to the Registrar, within eighteen (18) months following the date of his return to any teaching duties, two (2) consecutive satisfactory teacher performance appraisals. The Member shall request of his principal or school board (employer) that two (2) teacher performance appraisals be conducted within that eighteen (18) month period.

REASONS FOR PENALTY DECISION

The public interest is served by requiring that, prior to returning to a teaching position, the Member shall undertake remediation in teaching practice by completing accredited Additional Basic Qualifications courses. The courses are Special Education Part 1, a course which covers lesson planning, instructional strategies and assessment of student learning and a course on classroom management. This will assist the Member in acquiring the necessary skills to effectively resume teaching responsibilities.

Further, the Member is required to submit two consecutive satisfactory teacher performance appraisals to the Registrar within 18 months following his return to any teaching duties. This allows for monitoring of the Member's progress and aims to ensure that the Member transfers theory to practice.

Adherence to this order will remediate the Member should he wish to return to teaching and will allow him to display the competencies and skills expected by the profession and the public.

Date: June 10, 2008

Brent Hamelin
Chair, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel

Mel Greif
Member, Discipline Panel