

**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 Thomas Gerard Nevins, a member of the Ontario College of Teachers.

PANEL: Hanno Weinberger, OCT, Chair
Darlene Mead, OCT
John Tucker

BETWEEN:	)	Caroline Zayid,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Daniela De Bartolo,
	)	Litigation Paraprofessional
- and -)	
)	
THOMAS GERARD NEVINS	)	Mandy Wojick,
(CERTIFICATE #482971)	)	Sack Goldblatt Mitchell LLP,
	)	for Thomas Gerard Nevins
)	
)	
	)	Rebecca Durcan
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
)	
	)	Heard: January 17, 2011

DECISION, REASONS FOR DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on January 17, 2011 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated March 26, 2010 was served on Thomas Gerard Nevins, requesting his presence on April 12, 2010 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for January 17, 2011.

Thomas Gerard Nevins was not in attendance.

THE ALLEGATIONS

The allegations against Thomas Gerard Nevins in the *Notice of Hearing*, (Exhibit 1) dated March 26, 2010, are as follows:

IT IS ALLEGED that Thomas Gerard Nevins is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) 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 or students physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) 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 thereunder, contrary to Ontario Regulation 437/97, subsection 1(15);
- (d) 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);
- (e) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (f) he engaged in sexual abuse of a student or students of a 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, Plea of No Contest and Joint Submission on Penalty* (Exhibit 3), which provides as follows:

STATEMENT OF UNCONTESTED FACTS

1. Thomas Gerard Nevins (the “Member”) was, at all material times, 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 Toronto District School Board as an occasional secondary school teacher at the [XXX] (the “School”).
3. Between 2006 and 2008, A and B were adult female students at the School. Both A and B were [XXX] at various times during those years. A ceased attending the School in [XXX] and B graduated from the School in [XXX].
4. Immediately after A and B left the School in 2008, the Member commenced and engaged in an inappropriate sexual relationship with A and B.
5. In addition, and as part of the relationship described in paragraph 4 above, while the parties have not agreed on specific facts, the Member acknowledges that he:

- (a) engaged in inappropriate telephone and electronic communications with A and B using e-mails, social network sites and/or webcam;
- (b) engaged in an exchange of inappropriate photographs;
- (c) made sexual comments to A and B;
- (d) between the approximate dates of February 2008 and March 2008:
 - (i) telephoned B on her cellular phone several times;
 - (ii) drove B in his car to a restaurant for lunch;
 - (iii) bought B lunch at a restaurant where he told B that he would have no further contact with her.

By way of example, printed copies of some exchanges between the Member and A on a social networking site between 22-26 May 2008 and 5 September 2008 are attached as **Exhibit “B”**.

6. On or about 30 October 2008 the Member submitted his resignation to the Board, effective 10 November 2008.

7. The Member voluntarily resigned his membership in the College on 17 November 2008.

PLEA OF NO CONTEST

8. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and the exhibits referred to in paragraphs 1 to 6 above (the “Uncontested Facts”).

9. The Member hereby acknowledges that the Uncontested Facts referred to in paragraph 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(15), 1(18) and 1(19). The Member also acknowledges 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*.

10. By this document the Member 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 Uncontested 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;
- (d) he 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) he understands that any agreement between his counsel and counsel for the College with respect to the penalty proposed in this document does not bind the Discipline Committee;
- (f) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally, and with the advice of legal counsel.

11. The Member 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 *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.

12. 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

13. 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 in the official publication of the College, *Professionally Speaking/Pour parler profession*. The parties have not agreed to whether or not the Member's name should be included and submissions will be made on that issue.

DECISION

Having considered the evidence, onus and standard of proof, and the submissions made by Counsel for the College and Counsel for the Member, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Thomas Gerard Nevins committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7), 1(15), 1(18) and 1(19); and further that the Member engaged in sexual abuse of a student or students 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 6 (the “uncontested facts”) of the *Statement of Uncontested Facts, Plea of No Contest, and Joint Submission on Penalty* (Exhibit 2). He acknowledged that the uncontested facts referred to in paragraph 4 above constitute conduct that is professional misconduct and pleaded no contest to the allegations of professional misconduct. The Committee accepted the Member’s plea of no contest and the facts in the *Statement of Uncontested Facts, Plea of No Contest, and Joint Submission on Penalty*.

The Committee finds that the Member engaged in an inappropriate sexual relationship with two female adults who [XXX]. Further he engaged in inappropriate telephone and electronic communications, and exchanged inappropriate photographs with both students, and made sexual comments to both students. In doing so, the Member committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(15), 1(18) and 1(19); and further that the Member

engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1) of the *Act*.

SUBMISSIONS ON PUBLICATION

The Committee received submissions from Counsel for the College and Counsel for the Member with respect to publication of the Member's name in *Professionally Speaking/Pour parler profession*.

Counsel for the College argued that the Member's name should be published. Counsel noted that publication was appropriate because the Member's behaviour culminated in sexual relationships with students. Counsel submitted that even though the Member engaged in sexual relationships with adult students, not minors, it is just as important to maintain professional boundaries. Counsel submitted that the Member's conduct was at the more severe end of the scale and was a very serious breach of trust, thus warranting publication of his name. She indicated that publication of the name is necessary in order to send a message to the profession as a whole that this type of conduct will be viewed most seriously and will not be tolerated.

Counsel for the Member submitted that the findings and order of the Committee should be published without the name of the Member in the official publication of the College. Counsel pointed out that the Member comes from a family of teachers and that he had expressed concern for his family members and the embarrassment it would cause them if the Committee ordered publication with his name. While counsel for the Member acknowledged that the allegations against the Member were serious, she also pointed out that the students were adults when the Member engaged in sexual relationships with

them. According to Member's counsel, this fact should be an important consideration in the Committee's decision regarding publication of the name.

PENALTY

The Committee makes the following order as to penalty:

1. The Registrar is directed to immediately 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 Member engaged in inappropriate behaviour which culminated in sexual relationships with two adult females who were [XXX]. The Member's conduct was at the more severe end of the scale and was a serious breach of trust. Despite the fact that following these events the Member submitted his resignation to the Board and to the College, the Member agreed that this breach of trust constitutes professional misconduct and therefore warrants revocation of his certificate.

The Committee orders publication of the findings and order with the name of the Member. The Committee considered the Member's request to withhold publication of his name. Member's counsel alleged that publication of his name would cause embarrassment to his family. However, as the Member's actions comprised a serious breach of trust, publication with name is warranted and appropriate. The Committee

determined that publication with the Member's name is necessary in order to provide general deterrence to the teaching profession and specific deterrence to the Member.

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

Date: February 16, 2011

Hanno Weinberger, OCT
Chair, Discipline Panel

Darlene Mead, OCT
Member, Discipline Panel

John Tucker
Member, Discipline Panel