

**DECISION OF THE INVESTIGATION COMMITTEE
OF THE ONTARIO COLLEGE OF TEACHERS
IN THE MATTER OF**

**A COMPLAINT SUBMITTED BY THE REGISTRAR
REGARDING TODD FRANCIS THOMSON**

PANEL: Harry Mulvale, Elizabeth Papadopoulos, Patrick Slack

On June 19, 2003, the British Columbia College of Teachers (the "B.C. College") notified the Ontario College of Teachers (the "College") that the membership of Todd Francis Thomson in the B.C. College and his B.C. College certificate of qualification to teach in British Columbia were cancelled.

Mr. Thomson is also a member of this College whose certificate of qualification and registration is suspended for non-payment of fees.

On July 30, 2003, in response to correspondence from the College, the B.C. College provided a Case Summary. The Case Summary revealed that in a letter dated February 18, 2001, the member had reported to the B.C. College, pursuant to section 17.1 of the *Criminal Records Review Act*, that he had been charged with an offence under section 163.1 of the *Criminal Code of Canada*.

Section 163.1 of the *Criminal Code of Canada* concerns child pornography. Subsection 163.1(4) makes it an offence to possess child pornography. The *Criminal Records Review Act* is legislation of the Province of British Columbia. Subsection 17(1) provides that if a registered member is charged with or convicted of a relevant offence subsequent to a criminal record check, the registered member must promptly report the charge or conviction to the member's governing body and provide to the governing body a criminal record check authorization for a further criminal record check. A registered member is defined under section 1 as a person who is registered by a governing body under any of the Acts referred to in schedule 2; a relevant offence is defined under section 1 to include a provision of the *Criminal Code of Canada* referred to in schedule 1. Teachers are registered under the *Teaching Profession Act* in schedule 2; Child Pornography is among the listed reportable offences in schedule 1.

On August 14, 2003, the Manager of Investigations confirmed that the B.C. College member was also a member of the Ontario College of Teachers. The Manager also confirmed that section 2 of *Professional Misconduct Regulation 437/97*, passed pursuant to the *Ontario College of Teachers Act, 1996* provides that a finding of professional misconduct against a member by a governing authority of the teaching profession in a jurisdiction other than Ontario that is based on facts that would, in the opinion of the Discipline Committee, constitute professional misconduct as defined in section 1 of the regulation, is defined as professional misconduct for the purposes of subsection 30(2) of the Act.

The B.C. College Case Summary revealed that the member reported to the B.C. College the offence "...related to an allegation of pictures being found on my computer when in Toronto for repairs." A B.C. College investigation subsequently revealed that the member pleaded guilty in Ontario on September 18, 2001 to a charge of possession of child pornography and was given a six-month conditional sentence with two years probation. He was also directed not to be in the presence of persons under the age of 18 years without supervision.

At a subsequent disciplinary hearing at the B.C. College on March 3, 2003, at which the member was cited to attend, the member failed to appear. The Disciplinary Hearing Committee found that the member was guilty of professional misconduct and conduct unbecoming a member, and on June 13, 2003, cancelled his certificate of qualification and terminated his membership in the B.C. College.

On September 19, 2003, the complaint against the member was assessed as suitable for the College's Dispute Resolution Program. On the same date, the parties indicated that they were amenable to participating in dispute resolution.

In October 2003, the parties entered into a Memorandum of Agreement (the "MOA").

Allegations

As the complainant, the Registrar alleges that on March 3, 2003, the British Columbia College of Teachers found Todd Francis Thomson guilty of professional misconduct and conduct unbecoming a member after the member had pleaded guilty to the criminal offence of possession and child pornography and on June 13, 2003, cancelled his certificate of qualification and terminated his membership in the B.C. College.

Documents Considered by the Committee

- Request for Ratification
- The Registrar's Request to Initiate an Investigation dated September 8, 2003
- The Registrar's Memorandum initiating a complaint
- The letter of notification from the B.C. College of cancellation of the member's certificate
- Memorandum from the Manager of Investigations to the Registrar concerning a NASDTEC match, dated August 14, 2003
- Letter from Shirley Nakata to the College investigator, dated July 30, 2003, enclosing a case summary dated August 22, 2003
- Letter from Shirley Nakata to the College investigator, dated September 11, 2003, enclosing a copy of the Reasons for Decision of the B.C. Hearing sub-Committee dated March 4, 2003
- Letter of Notification of the member dated September 18, 2003
- Section 163 of *The Criminal Code of Canada*

- *The Criminal Records Review Act*
- Letter from the member to the Registrar dated October 6, 2003 and two reports of non-publication
- Letter from the member to the Registrar dated October 7, 2003
- Memorandum of Agreement signed by the parties
- Letter from the Registrar to the member dated October 22, 2003

Decision of the Committee

On November 27, 2003, a panel of the Investigation Committee considered this complaint and, in accordance with the provisions of 26(5)(d) of the *Ontario College of Teachers Act, 1996*, the Investigation Committee ratified the attached Memorandum of Agreement. This is based on the opinion of the committee that the terms of this Agreement resolve the complaint in the public interest.

Harry Mulvale

Elizabeth Papadopoulos

Patrick Slack