

**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 Mark Wentworth, a member whose certificate is expired, of the Ontario College of Teachers.

PANEL: Gabrielle Blais, Chair
 Brent Hamelin
 Hanno Weinberger

BETWEEN:)	
)	
	)	Caroline Zayid and Erica Richler
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson
	)	Law Clerk
)	
- and -)	
)	
MARK WENTWORTH	)	Mark Wentworth was not present,
(CERTIFICATE #424900)	)	nor was he represented
)	
)	
	)	Paul Le Vay,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: June 15, 2009

DECISION AND REASONS FOR DECISION

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on June 15, 2009 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated February 24, 2009 was served on Mark Wentworth (“the Member”), requesting attendance before the Discipline Committee of the Ontario College of Teachers on April 14, 2009 to set a date for a hearing, and specifying the allegations. The hearing was subsequently set for June 15, 2009.

The Member did not appear, nor was he represented. Counsel for the College submitted an Affidavit of Jennifer Robinson, Law Clerk at McCarthy Tétrault, sworn June 3, 2009 (*Exhibit 2*) detailing written communications she had with the Member, with respect to disclosure of documents and regarding the date of the hearing. The Committee was satisfied that the Member was served with the *Notice of Hearing* and all disclosure documents and was aware of the time and date of the hearing (*Exhibit 2*). The Committee therefore proceeded to hear the matter in the absence of the Member.

THE ALLEGATIONS

The allegations against the Member in the *Notice of Hearing*, (*Exhibit 1*) dated February 24, 2009 are as follows:

IT IS ALLEGED that Mark Wentworth is guilty of professional misconduct as defined in section 30(2) of the of the *Ontario College of Teachers Act, 1996* (the “*Act*”) and/or is incompetent as defined in section 30(3) of 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 released or disclosed information about a student to a person other than the student or the student’s parent or guardian, contrary to Ontario Regulation 437/97, subsection 1(6);

- c) he abused a student or students physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- d) he practised or purported to practise the profession while under the influence of a substance or while adversely affected by a dysfunction which the Member knew or ought to have known impaired his ability to practice and in respect of which the Member had failed to follow a treatment which had been recommended, ordered or prescribed, contrary to Ontario Regulation 437/97, subsection 1(8);
- e) he failed to comply with the *Act* and the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically section 264(1)(c) thereof or the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);
- f) 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);
- g) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and/or
- h) 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.

PARTICULARS OF THESE ALLEGATIONS AS SET OUT IN THE NOTICE OF HEARING ARE AS FOLLOWS:

1. Mark Wentworth (the “Member”) was, at all material times, a member of the Ontario College of Teachers.
2. At all material times, the Member was employed by the Thames Valley District School Board (the “Board”) and taught at the Elementary level pursuant to contract teaching positions at a number of schools of the Board, namely C.C. Carrothers Public School, Aberdeen Public School, Arthur Stringer Public School and Summer’s Corners Public School.
3. Between 2001 and 2007, the Member acted inappropriately and unprofessionally on several occasions, including but not limited to:
 - (a) on or about June 9, 2003, while on assignment at Arthur Stringer Public School, yelled at his students – “You shut your mouth, you shut your mouth, I’m not in the mood for this today, you keep going so I won’t have to touch you”, or words to that effect;
 - (b) during a parent-teacher conference, discussed a specific challenging student in his class with the parent of a different student;
 - (c) on or about June 11, 2003, crumpled a note he received from the Principal requesting a meeting with the Member, and threw the note angrily in the direction of the school secretary prior to storming out of the office; and
 - (d) during the 2003/2004 academic year, answered cell phone calls from bill collectors during school hours.
4. The Member failed to report to his assignment at Summer’s Corner Public School following a lengthy absence, and/or failed to provide medical evidence as to his ability to return to teaching.

5. The Member's employment with the Board was terminated on March 20, 2007.

MEMBER'S PLEA

As the Member was not present, nor represented by counsel, the Committee proceeded on the basis that the Member denied the allegations set out in the *Notice of Hearing*. The Chair, on behalf of the Member, entered a plea of not guilty to the allegations.

THE EVIDENCE

The College called five witnesses, four of whom were employees of the Thames Valley District School Board, namely Debra Farquhar ("Farquhar"), Heather Carradine ("Carradine"), [XXX] and Michael Sereda ("Sereda"). The fifth witness was [XXX] of Homewood Health Centre. As outlined below, the evidence of certain of these witnesses was heard, and certain exhibits admitted, in the absence of the public pursuant to section 32(7) of the *Act* as they involved personal information about the Member of such a nature that the desirability of avoiding disclosure of it outweighed the desirability of adhering to the principle that hearings be open to the public. In keeping with this ruling, this evidence is not detailed in these reasons. However, the Committee considered this evidence in reaching its decision.

Counsel for the College entered into evidence the following document:

Registered Member Information

The Member's certificate of qualification expired on November 22, 2005. Nevertheless he remains the subject to the jurisdiction of this Committee pursuant to section 14(5) of the *Act*.

Evidence of Debra Farquhar

Farquhar was principal of Arthur Stringer Public School where the Member was on staff from January 2002 to June 2004. The Member received satisfactory performance appraisals on February 6, 2002 and April 5, 2002. However at the start of the new school year in September 2002, the principal noted concerns over a lack of preparation, organization and classroom readiness. She also noted concerns over a lack of classroom routines and during her daily visits observed a chaotic learning environment. Throughout that school year, the principal observed a continual deterioration in the Member's performance, including lack of planning, lateness arriving to class, physical appearance, moodiness and inability to control the classroom. She observed that by the third term students were controlling the class, were talking back and being argumentative and the Member's only response was to yell back. Ms. Farquhar gave the Member a series of verbal warnings about his unprofessional behaviour, followed by a written reprimand dated June 15, 2003 (Exhibit 12), in which she specifically indicates the Member used the following in addressing the students in his classroom "you shut your mouth, you shut your mouth, I'm not in the mood for this today, you keep going so I won't have to touch you". Further, the reprimand spoke to an incident in which the Member, on receiving a note regarding cell phone use in the classroom, crumpled the note and threw it on the secretary's desk.

Ms. Farquhar testified that the Member's behaviour was appropriate during term 1 of the September 2003 school year. He was organized, he had excellent teaching partners and he accepted support. There were still times however that he did not know how to deal with students with challenges and he still had issues with assessment and evaluation. In

the period approaching March break in 2004, Farquhar noticed that the situation was deteriorating. The Member's class was out of control, there was a lack of organization, no effort was made in daily lesson planning and the Member talked to the class in inappropriate ways, including sharing personal problems. He became sarcastic and demeaning to students. Farquhar met with the Member and recommended he access Employee Assistance Plan ("EAP"). After a meeting on June 4, 2004 with the Superintendent of Education, the Federation representative, the principal and the Member, the Member received a letter from the Superintendent dated June 9, 2004 (Exhibit 21), outlining conditions for his return to work and maintaining his employment with the board. The Member then began a leave of absence.

Evidence of Heather Carradine

Ms. Carradine was the secretary at Arthur Stringer Public School. She testified that she noticed a change in physical appearance of the Member over the period of his employment there. He exhibited impulsive, erratic behaviour and mood swings. She witnessed the Member removing a note from the principal from his mailbox, crumpling it up, throwing it in her direction and heard him say "I don't need this right now." She also testified to receiving daily phone calls from companies asking to speak to the Member.

Evidence of [XXX]

[XXX]

Evidence of [XXX]

[XXX]

Evidence of Michael Sereda

Mr. Sereda was the Superintendent of Education, Human Resources Services of the board at the time when the incidents occurred. He summarized the events that led to the Member's termination on March 20, 2007. The Member was off work from June 7, 2004 until January 7, 2005. The Member returned to work at a new school, Summer's Corners. In late June of 2005, the principal at Summer's Corners had concerns about the Member's behaviour. Following a lengthy absence, the Member failed to report to his assignment at Summer's Corners and did not provide evidence to support his continued absence. It was determined that the Member had abandoned his position and he was terminated for cause. [XXX]

SUBMISSIONS OF COLLEGE COUNSEL

Portions of College counsel submissions relating to the evidence heard in the absence of the public were also heard in closed session. College counsel stated that under section 14(5) of the Act, the Committee had the responsibility to address issues resulting from the period during which the Member held a valid certificate. College Counsel argued that the allegations against the Member can be supported based on the evidence presented in both the open and closed portions of this hearing. Furthermore, she stated that the Member could have had a successful career but because he was under the influence of a substance, he was not able to function in the classroom. Several parties indicated to the Member that he needed help and therefore he should have known or ought to have known that his ability to practise was impaired.

College counsel asked the Committee to make a finding of professional misconduct and had no position on publication with or without a name. Because the Member's certificate had expired, she indicated that the Committee could not revoke, suspend or put terms on

the Member's certificate but could provide guidance to the Registrar to ensure proper assessment, monitoring and follow-up, prior to the Member's reinstatement.

DECISION

(i) Onus and Standard of Proof

The College bears the onus of proving the allegations in accordance with the civil standard of proof, being the balance of probabilities using clear, cogent and convincing evidence.

(ii) Decision

Having considered the evidence and onus and standard of proof, the Committee finds the Member committed acts of professional misconduct and is incompetent. In particular, the Committee finds that the Member committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(8), 1(14), 1(15), 1(18), 1(19) and he displayed a lack of judgment and a disregard for the welfare of his students of a nature or extent that demonstrates that the Member is unfit to carry out his professional responsibilities.

REASONS FOR DECISION

Evidence was presented which demonstrated that on a number of occasions the Member abused students verbally, psychologically and emotionally contrary to Ontario Regulation 437/97, subsection 1(7). He yelled at students as a method of classroom control, was demeaning and sarcastic at times, had students answer his cell phone in class to avoid

speaking with creditors directly and encouraged his students to lie regarding the nature of a school trip. These behaviours were observed by the principal, Debra Farquhar and by both staff and students as outlined in letters and reports submitted in evidence by the principal.

The Member has a documented history of substance abuse. There is sufficient evidence that his employer brought this to his attention and acted with diligence to present opportunities for treatment. The details of the treatment confirm in the Committee's opinion, that the Member was aware of his dysfunction and ought to have known that it impaired his ability to practice. The fact that the Member was aware of his substance abuse, continued to teach while under the influence, and failed to complete the treatment which was recommended, is behaviour contrary to Ontario Regulation 437/97, subsection 1(8).

The Member displayed a disregard for the welfare of his students of a nature or extent that demonstrates that he is unfit to carry out his professional responsibilities. For instance, he encouraged them to lie about the nature of a school trip, he expected them to answer his cell phone calls in class from creditors, and ultimately he failed to report for duty.

The Member was not consistently prepared for class, had incomplete short term and long term plans, struggled with assessment and evaluation of his students, often appeared dishevelled, and made inappropriate comments about three of his students' parents. He yelled at students as a method of classroom control, was demeaning and sarcastic at times, had students answer his cell phone in class to avoid speaking with creditors directly, and encouraged his students to lie regarding the nature of a school trip. By this

overall behaviour, the Member failed to maintain the standards of the profession, committed acts that would be regarded by members as disgraceful and unprofessional, and engaged in conduct unbecoming a member contrary to Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1(18) and 1(19).

The Committee did not receive any direct evidence to support a finding of professional misconduct under subsection 1(6) as alleged in paragraph (b) of the *Notice of Hearing* and consequently no finding of professional misconduct is made in that regard.

Penalty

Because the Member does not currently hold a certificate, the Committee is unable to assess a penalty that would involve revocation, suspension or placing terms on the Member's certificate. The Committee however is prepared to provide the following guidance to the Registrar in the event that the Member applies for reinstatement.

The Committee recommends that the Member provide evidence from an appropriate medical professional and/or addiction specialist indicating that the Member is under their supervision and being monitored on a regular basis and is fit to return to the classroom. Written medical reports regarding the Member's progress with respect to the substance abuse condition should be provided to the Registrar at six month intervals for a period of three years after the Member's reinstatement. The Committee also recommends that copies of any formal teacher performance appraisals completed by the employer during the first three years of return to work be submitted to the Registrar. The Member should authorize his employer to immediately notify the Registrar of any incidents relating to substance abuse by the Member.

Dated: September 30, 2009

Gabrielle Blais
Chair, Discipline Panel

Brent Hamelin
Member, Discipline Panel

Hanno Weinberger
Member, Discipline Panel