

SCHOOL ACT
ALBERTA REGULATION 4/99
PRACTICE REVIEW OF TEACHERS REGULATION

- **PRACTICE REVIEW PANEL HEARING
REGARDING THE CONDUCT OF NICOLA MICOMONACO**

- **DECISION OF THE PANEL**

- **HEARING HELD ON NOVEMBER 25, 2003 AT
EDMONTON, ALBERTA**

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PANEL MEMBERS IN ATTENDANCE:

[REDACTED]
[REDACTED], Teacher member
[REDACTED], Teacher member
[REDACTED], Teacher member
[REDACTED] Teacher member
[REDACTED], Public member

LEGAL COUNSEL TO THE PANEL:

[REDACTED], Alberta Justice

REGISTRAR:

[REDACTED], Registrar (Director, Teacher Development and Certification Branch, Alberta Learning).

ADMINISTRATIVE ASSISTANT:

[REDACTED]
Teacher Development and Certification
Alberta Learning

TEACHER:

Nicola Micomonaco was not in attendance. The panel heard evidence that the notice of hearing was served on the teacher at his last known address as required under Section 29(b) (ii) of the *Regulation*. The hearing proceeded in the absence of the teacher.

EVIDENCE:

Through a comparison of the date of the birth, the Registrar presented evidence that Nicola Micomonaco who holds an Alberta interim professional teaching certificate [REDACTED] that expires on August 31, 2004 is the same individual whose Ontario teaching certificate was revoked on November 26, 2002, following a finding of professional misconduct by the Ontario College of Teachers.

REGISTRAR'S SUBMISSION:

The Registrar presented for the Panel's consideration the *Reasons for Decision, Decision and Findings* of the Ontario College of Teachers', December 22, 2002, Discipline Committee. The Registrar drew special attention to the findings of fact based on a statement of facts agreed to by Mr. Micomonaco and the Ontario College of Teachers. The Registrar noted that the agreed statement of facts show that Mr. Micomonaco:

- starting in 1992, sold to third parties computers and related equipment purchased under school board (board) purchase orders and paid for by the board;
- sold equipment the purchasers believed he was properly authorized to sell, thereby misleading purchasers;
- in other cases, misled purchasers to believe that he had made proper arrangements to purchase equipment on their behalf. The purchasers believed that their funds would be provided to the supplier(s);
- used his position with the board to purchase equipment without authorization of the board and used the funds of the board to purchase equipment but kept the funds paid by the purchasers for his own benefit;
- sold equipment to more than 89 persons the proceeds of which, some \$348,837.00, were unaccounted for to the board.
- admitted to wrongdoing and agreed to make restitution;
- resigned his position with the [REDACTED];
and,
- executed a promissory note to reimburse the board in the amount of \$348,837.

The Registrar pointed out to the Panel that the *Regulation* defines unprofessional conduct as conduct that is detrimental to the best interests of students, the public or teachers generally.

The Registrar took the position that Mr. Micomonaco's conduct was contrary to the best interests of students given that public monies that should have been used to support students learning instead was used for the personal benefit of the teacher. The Registrar pointed out that while the teacher agreed to make restitution, he did so only when his conduct had come to light.

The Registrar also expressed the view that Mr. Miconomanco's conduct is not in the best interests of the public or teachers generally. Teachers are in positions of public trust and the public also expects them to serve as role models for students. An individual who misappropriates funds targeted to student learning has acted in a manner that undermines the public trust and confidence of the public in the education system. Also, conduct of the kind in which Mr. Micomonaco engaged brings into disrepute the teaching profession and the trust that the public places in teachers to serve as suitable role models for students.

The Registrar recommended that:

- o under Section 19(1) of the *Regulation*, the Panel find Mr. Micomonaco's conduct to constitute unprofessional conduct; and,
- o under Section 20(1) (a) of the *Regulation*, the Panel recommend to the Minister of Learning that he suspend Mr. Micomonaco's Alberta interim professional teaching certificate that expires August 31, 2004 for an indefinite term, and further, that an application for re-issuance of an Alberta teaching certificate from Mr. Micomonaco not be considered for a period of at least a five years. Further, at minimum, the Registrar be directed to not consider an application for re-issuance of an Alberta teaching certificate to Mr. Micomonaco until such time as he presents documentary evidence of full restitution of funds to Ontario school authorities.


The Registrar noted that he recommended suspension of the individual's certificate on the grounds that the teacher's conduct had not directly imperiled students safety or well being. He further noted that disciplinary penalties imposed by Canadian teacher discipline bodies in respect to so called "white collar" misconduct on the part of teachers were often penalties of suspension rather than cancellation of the authority to teach.

PANEL'S FINDING:

The Panel found Mr. Micomonaco guilty of unprofessional conduct on the basis of the agreed statement facts and findings presented to the Ontario College of Teachers Disciplinary Committee.

PANEL'S RECOMMENDATION:

The Panel recommends to the Minister of Learning that he suspend for an indefinite term Nicola Micomonaco's interim Alberta teaching certificate and that no application for re-issuance of an Alberta teaching certificate be considered for five years, and then only, at minimum, if Mr. Micomonaco provides documentary proof of full restitution to his former school board.


Chair
Practice Review Panel

November 25, 2003