

IN THE MATTER OF THE TEACHERS ACT, SBC 2011 c. 19

AND

IN THE MATTER CONCERNING FRANCESCO GABRIEL CANACARI

CONSENT RESOLUTION AGREEMENT

BETWEEN:

THE COMMISSIONER, APPOINTED UNDER THE TEACHERS ACT (the "Commissioner")

AND:

FRANCESCO GABRIEL CANACARI ("Canacari")

BACKGROUND FACTS

- Canacari held a Professional Certificate, issued by the B.C. College of Teachers (the "College") under the *Teaching Profession Act* on August 14, 1991, valid from September 1, 1991, and continuing under the *Teachers Act* as of January 9, 2012.
- At all material times, Canacari was employed as a high school teacher by School District No. 61 (Greater Victoria) (the "District").
- On October 26, 2010, Canacari signed an agreement not to teach school-age children until the conclusion of these matters.
- 4. On December 21, 2011, the College issued a citation against Canacari.
- On July 2, 2015, the Director of Certification (the "Director") cancelled Canacari's certificate of qualification under section 33(2)(f) of the Teachers Act.

6. On May 2, 2016, the Commissioner considered this matter and determined to propose a consent resolution agreement to Canacari, in accordance with section 53(1)(a) of the Teachers Act.

MISCONDUCT

- 7. On August 9, 2013, Canacari was convicted (the "2013 Conviction") in the Provincial Court of British Columbia (Victoria Registry File No. 150354-3-K), after a trial, of the following three offences:
 - a. being in a dwelling house on May 19, 2010 without lawful excuse and with an intent to commit an indictable offence, contrary to section 349(1) of the Criminal Code;
 - b. engaging in conduct between May 16, 2010 and June 15, 2010 that caused a woman to fear for her safety, which is commonly referred to as "criminal harassment", contrary to section 264 of the Criminal Code ("Count 2"); and
 - c. being in a dwelling house between March 15, 2010 and May 10, 2010 without lawful excuse and with an intent to commit an indictable offence, contrary to section 349(1) of the Criminal Code.
- 8. The trial judge found in respect of Count 2 of the 2013 Conviction, that on May 17, 2010, Canacari asked a female student in the class he was teaching at a high school to send a text on her cell phone to the woman, which the student did. Canacari then told the student to erase the number and messages from her cell phone.
- On October 3, 2013, Canacari was sentenced in respect of the 2013 Conviction to:
 - a jail sentence of two months followed by two years of probation on count 1;
 - b. a concurrent jail sentence of two months on Count 2; and
 - another consecutive jail sentence of two months followed by two years of probation on count 3.

Canacari was permitted to serve the sentence in the community subject to his compliance with specified conditions (the "Conditional Sentence Order"), including that: he attend the forensic psychiatric clinic for forensic assessment, complete counseling with a psychotherapist and any other counseling recommended by the forensic psychiatric services, observe a 7 p.m. to 6 a.m. curfew, not have any contact with either woman or other specified persons who were witnesses at the trial, and not consume alcohol or non-prescription drugs.

10. Canacari appealed this conviction. The appeal was dismissed on November 6, 2015.

- 11. On May 5, 2015, Canacari pleaded guilty to the following three offences (the "2015 Conviction"):
 - a. causing a person to use a forged document on or about October 28, 2013, contrary to section 367(a) of the Criminal Code,
 - forgery on or about November 7, 2013, contrary to section 367(a) of the Criminal Code, and
 - forgery on or about November 18, 2013, contrary to section 367(a) of the Criminal Code.
- 12. On April 14, 2016, Canacari was sentenced in respect of the 2015 Conviction to a conditional sentence which included the following conditions:
 - a. a curfew for a period of three months requiring him to be at his residence between 6:00 p.m. and 6:00 a.m. each day and for the next six months to be at his residence between 11:00 p.m. and 6:00 a.m. each day,
 - b. a requirement to attend treatment at the Forensic Psychiatric Centre in Victoria, and
 - c. complete 150 hours of community work by December 15, 2016.

DISPOSITION

- 13. This Agreement is made under section 53 of the Teachers Act.
- 14. Canacari understands and acknowledges that this Agreement is not effective until executed by the Commissioner, and that the date of execution by the Commissioner will be the effective date of this Agreement (the "Effective Date").
- 15. Canacari admits that the facts set out in paragraphs 1 to 12 of this Agreement are true.
- 16. Canacari admits that the conduct described in paragraphs 7 to 12 of this Agreement constitutes conduct unbecoming a teacher and is contrary to Standard #2 of the Standards for the Education, Competence and Professional Conduct of Educators in British Columbia, Third and Fourth Editions. He further admits that the conduct set out in paragraph 8 constitutes professional misconduct and is contrary to Standards #1 and 2 of the Standards.
- 17. Canacari agrees that he will never apply for, and the Director will be required never to issue to him, a certificate of qualification, an independent school teaching certificate or a letter of permission under section 64(g) of the Teachers Act.

- 18. Canacari agrees not to make any statement orally or in writing which contradicts, disputes or calls into question the terms of this Agreement or the admissions made in it.
- 19. On the execution of this Agreement by the Commissioner on the Effective Date, no further action will be taken under sections 53 or 56 of the *Teachers Act* with respect to the matters contained in this Agreement, unless Canacari does not comply with one or more of the terms of this Agreement.

CONSEQUENCES OF THE AGREEMENT

- 20. The Director will record the terms of this Agreement on the Branch's online registry under section 79(d) of the *Teachers Act*.
- 21. Canacari acknowledges that this Agreement will be published in accordance with section 54 of the *Teachers Act*, which includes posting of the Agreement, in full, on the following website: www.bcteacherregulation.ca.
- 22. Notification of this Agreement will be made in accordance with section 55 of the *Teachers Act*.
- 23. Canacari acknowledges that he has voluntarily entered into this Agreement with the benefit of independent legal advice, and that he fully understands the terms and conditions set out in this Agreement.

Signed in Victoria B.C.

Signed in MMCW VFR, B.C. this 15 day of September, 2016.

Francesco Gabriel Canacar

Hon. Bruce M. Preston, Commissioner