

In the matter of an employer's notice pursuant to Sections 35 and 36 of *The Registered Teachers Act*, 2015 and Matthew James Tumbach, Teacher Certificate #[XXXXXXX].

**Saskatchewan Professional Teachers Regulatory Board (SPTRB)**

**Consensual Complaint Resolution Agreement**

This agreement is made pursuant to clause 36(2)(b)(i) of *The Registered Teachers Act*, 2015 and the related bylaws and procedures.

Between:

**MATTHEW JAMES TUMBACH #[XXXXXXX]**

and

**THE PROFESSIONAL CONDUCT COMMITTEE OF THE SPTRB**

## 1. HISTORY OF COMPLAINT, BACKGROUND AND RELEVANT FACTS

- 1.1 The Registered Teacher held Saskatchewan teacher's certificate number [XXXXXXX] and was registered with the Saskatchewan Professional Teachers Regulatory Board ("SPTRB") to teach in Saskatchewan during the relevant times related to the allegations regarding his professional conduct. For the remainder of this agreement M.T. will be referred to as "the Registered Teacher".
- 1.2 On June 22, 2020 the SPTRB received an Employer's Notice from [School Division XXXXX].
- 1.3 The Registered Teacher was employed as a teacher by [School Division XXXXX] in, Saskatchewan during the time of the alleged professional misconduct.
- 1.3.1 The concerns alleged professional misconduct contrary to section 33 of *the Registered Teachers Act*.

*33 Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, constitutes professional misconduct within the meaning of this Act if:*

- (a) it is harmful to the best interests of students or other members of the public;*
- (b) it tends to harm the standing of the profession;*
- (c) it is a breach of this Act or the bylaws;*

and as defined in section 2.01 of the SPTRB Regulatory Bylaws:

*(2) Without restricting the generality of section 33 of the Act, the following conduct on the part of a registered teacher is misconduct:*

- (a) conduct which is harmful to the best interest of pupils or affects the ability of a registered teacher to teach;*
- (d) sexually abusive conduct that violates a person's sexual integrity, whether consensual or not which includes sexual exploitation;*
- (e) an act or omission that, in the circumstances, would reasonably be regarded by the profession as disgraceful, dishonourable or unprofessional;*

and failure to uphold the Standards of Professional Conduct as set out in Schedule J of the SPTRB Regulatory bylaws:

- 1. Registered Teachers base their relationship with learners on mutual trust and respect.*
- 2. Registered Teachers have regard for the safety and academic, physical, emotional and spiritual well-being of learners.*
- 3. Registered Teachers act with honesty and integrity.*
- 5. Registered Teachers uphold public trust and confidence in the education profession.*

1.4 Facts were found to substantiate non-compliance with *The Registered Teachers Act, 2015* and the bylaws as set out in Section 1.6 as follows:

1.4.1 The Registered Teacher was an intern at the school from September to December 2009 and a teacher at the school January 2011 to August 2017.

1.4.2 Student A was a student at the school where the Registered Teacher taught from 2008 to 2013. Student A graduated from the school in June 2013.

1.4.3 The Registered Teacher taught Student A during Student A's grade 11 year (2010-2011).

1.4.4 During the period of February to June 2011 the Registered Teacher and Student A would often meet in the Registered Teacher's office before school for tea. During tea, the Registered Teacher and Student A would discuss Student A's school and home life and developed a trusting relationship.

1.4.5 During the period of February to June 2011 the Registered Teacher and Student A also conversed via Facebook.

1.4.6 In December 2011, prior to Student A leaving the province to complete a semester of school, the Registered Teacher and Student A exchanged cell phone numbers and conversed via text message.

1.4.7 Facebook and text communication continued on and off into 2014.

1.4.8 On at least one occasion in December 2011 Student A attended the Registered Teacher's home and stayed inside the home with the Registered Teacher for 2-3 hours.

1.4.9 On at least one occasion during January to June 2012 Student A attended the Registered Teacher's home.

1.4.10 Upon Student A returning to the province and the school in Fall 2012, the Registered Teacher and Student A again began conversing, socializing and having tea together in the Registered Teacher's office which continued throughout the 2012-2013 school year.

1.4.11 In October 2014 Student A invited the Registered Teacher to a local bar. The Registered Teacher accepted the invitation and after a few drinks both returned to the Registered Teacher's home and had sexual intercourse.

1.4.12 Shortly after Student A's allegations were brought to his attention by his employer, the Registered Teacher resigned from his teaching position and voluntarily surrendered his Saskatchewan Teachers' Certificate to the Saskatchewan Professional Teachers Regulatory Board (SPTRB) in June 2020.

1.5 Facts were found to substantiate non-compliance with *The Registered Teachers Act, 2015* and the bylaws as set out in Section 1.6 via:

1.5.1 The Registered Teacher's written response and interview statements.

1.5.2 Interview statements of Student A and other relevant parties.

1.5.3 Information and data gathered from the school division.

1.6 This agreement relates to non-compliance with *The Registered Teachers Act, 2015* and the bylaws and raises issues regarding professional misconduct as defined in the Act:

*33 Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, constitutes professional misconduct within the meaning of this Act if:*

*(a) it is harmful to the best interests of students or other members of the public;*

*(b) it tends to harm the standing of the profession;*

*(c) it is a breach of this Act or the bylaws;*

1.6.1 and as defined in the SPTRB Regulatory Bylaws:

*2.01(2) Without restricting the generality of section 33 of the Act, the following conduct on the part of a registered teacher is misconduct:*

*(a) conduct which is harmful to the best interest of pupils or affects the ability of a registered teacher to teach;*

*(d) sexually abusive conduct that violates a person's sexual integrity, whether consensual or not which includes sexual exploitation;*

*(e) an act or omission that, in the circumstances, would reasonably be regarded by the profession as disgraceful, dishonourable or unprofessional;*

1.6.2 and as set out in the Standards of Professional Conduct, Schedule J of the SPTRB Regulatory Bylaws:

*1. Registered Teachers base their relationship with learners on mutual trust and respect.*

*2. Registered Teachers have regard for the safety and academic, physical, emotional and spiritual well-being of learners.*

*3. Registered Teachers act with honesty and integrity.*

*5. Registered Teachers uphold public trust and confidence in the education profession.*

## **2. ISSUES FOR RESOLUTION**

2.1 The Registered Teacher is willing to enter into this agreement to ensure professional conduct. The Registered Teacher acknowledges that he is guilty of the facts and conduct stated in Section 1.4 and that he violated the sections of the Act and bylaws and failed to meet the Standards of Conduct stated in Section 1.6 of the agreement.

### **3. TERMS, CONDITIONS, RESTRICTIONS AND PENALTY**

- 3.1 This agreement takes effect on the date of signing and will remain in effect until such time as the agreement is completed.
- 3.2 The Registered Teacher will receive and accept a reprimand.
- 3.3 The PCC recognizes that the Registered Teacher voluntarily surrendered his Saskatchewan teaching certificate in June 2020.
- 3.4 The Registered Teacher agrees not to apply for his Saskatchewan teaching certificate for a period of ten (10) years from the date of signing of the agreement.
- 3.5 The Registered Teacher agrees not to teach Pre-Kindergarten to Grade 12 anywhere in Saskatchewan while he does not hold a Saskatchewan teaching certificate.

### **4. COMPLIANCE WITH AGREEMENT AND STATUS OF COMPLIANCE**

- 4.1 Upon this agreement taking effect and for so long as the Registered Teacher complies with this agreement, the Professional Conduct Committee will take no further action with respect to the complaint and the conduct described in Part 1.
- 4.2 A breach of the agreement will result in the Registered Teacher being referred back to the Professional Conduct Committee for review and further action that may include referral to the Discipline Committee. This agreement may be filed in a subsequent discipline hearing as proof of the facts and admission of guilt.
- 4.3 A breach by the Registered Teacher of this agreement may be professional misconduct. The Registered Teacher acknowledges and understands that if the PCC has reason to believe that the Registered Teacher has breached the agreement, the PCC may initiate a hearing before the Discipline Committee.

### **5. TRANSPARENCY AND NOTIFICATION**

- 5.1 Notification of this agreement shall be in accordance with subsection 36(5) of *The Registered Teachers Act 2015*, SPTRB Bylaws and policies that may exist from time to time.
- 5.2 The existence of the Consensual Complaint Resolution Agreement with the Registered Teacher shall be recorded on the Register.
- 5.3 The Professional Conduct Committee and the Registrar of the SPTRB shall receive and keep a signed copy of the agreement for their records.
- 5.4 The SPTRB shall notify Canadian teaching regulatory bodies and any other regulatory body deemed appropriate.
- 5.5 The Consensual Complaint Resolution Agreement shall be published on the SPTRB website.

**6. CONCLUSION OF TERMS, CONDITIONS, RESTRICTIONS AND PENALTY**

- 6.1 The PCC reserves the right to negotiate an extension of the terms, conditions and restrictions of this agreement, if the facts warrant it.
- 6.2 Once the Registrar is satisfied that the Registered Teacher has completed all the terms, conditions and restrictions he shall inform the PCC and the Registered Teacher that:
  - 6.2.1 the Registered Teacher’s compliance with the agreement has been satisfactory;
  - 6.2.2 the Registered Teacher no longer has terms, conditions and restrictions on her certificate or registration.

**7. SIGNATURES**

- 7.1 The Registered Teacher acknowledges that he has voluntarily entered into this agreement and is aware of her rights and responsibilities. The Registered Teacher is aware of her right to legal counsel and has chosen to exercise that right. The Registered Teacher accepts this Consensual Complaint Resolution Agreement:

original signed  
MATTHEW JAMES TUMBACH  
REGISTERED TEACHER

Date: December 13, 2020

original signed  
Witness

Date: December 13, 2020

**8. APPROVAL BY PROFESSIONAL CONDUCT COMMITTEE**

- 8.1 The Professional Conduct Committee of the SPTRB approves this Consensual Complaint Resolution Agreement:

original signed  
Chair  
SPTRB Professional Conduct Committee

Date: December 11, 2020

original signed  
Witness

Date: December 11, 2020