

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF the *University of Toronto Act*, 1971, S.O. 1971, c. 56 as amended S.O. 1978, c. 88

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters*, 1995;

BETWEEN:

THE UNIVERSITY OF TORONTO

- and -

MS. J.H.(L.) Y.

Members of the Panel:

- Mr. Raj Anand, Chair
- Professor Sarah King, Faculty Panel Member
- Ms. Melany Bleue, Student Panel Member

Appearances:

- Ms. Lily Harmer, Assistant Discipline Counsel for the University
- Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity
- Mr. Mike Hamilton, Representative for the Student
- Ms. J.H.(L.) Y., the Student

Preliminary

- [1] The Trial Division of the University Tribunal was convened on July 25, 2007 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters*, 1995 (the "Code") laid against the Student by letter dated January 15, 2007 from Professor Edith Hillan, Vice-Provost, Academic.

Notice of Hearing and Charges

- [2] The Notice of Hearing was dated July 4, 2007.

[3] The charges are as follows:

1. On or about August 3, 2006, you knowingly represented as your own, an idea or expression of an idea, and/or work of another in connection with a form of academic work, namely, "Arts and Politics in Italy", a research paper that you submitted to fulfill the course requirements of FAH339H1, contrary to Section B.i.1(d) of the *Code of Behaviour on Academic Matters, 1995* (the *Code*).
2. In the alternative, on or about August 3, 2006, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, in a research paper entitled "Arts and Politics in Italy" submitted to fulfill course requirements in FAH339H1, contrary to Section B.i.3(b) of the *Code*.

[4] Particulars of the charges are as follows:

1. You were at all material times a student in FAH339H1: Art and Politics in Italy 1480-1527, taught by Professor Carson during the summer of 2006.
2. On or about August 3, 2006, you submitted a research paper to Professor Carson entitled "Arts and Politics in Italy", which paper had been purchased from an essay service called masterpapers.com.
3. You did not write the paper which you submitted for credit entitled "Arts and Politics in Italy".
4. The paper entitled "Arts and Politics in Italy" which you submitted contained excerpts and passages that were copied without attribution from a number of internet sources.

Agreed Statement of Facts

- [5] After reading the charges into evidence, the Student pleaded guilty to charge #1. The University withdrew charge #2.
- [6] The panel was provided with an Agreed Statement of Facts, signed by the Student and Counsel for the University. In summary, the Student admitted that she did not write the research paper entitled "Arts and Politics in Italy", but rather purchased the paper from a third party who, in turn, had copied the paper in its entirety from online sources that were not referenced. The Agreed Statement of Facts is attached at Appendix 1.
- [7] Counsel for the University led the panel through the Agreed Statement of Facts, drawing its attention to the course outline for FAH339H1, especially to the section dealing with plagiarism, which informed students that plagiarism is an offence under the *Code*, that penalties for such misconduct range from a zero in a course to suspension or expulsion from the University, and

then directed students to a University of Toronto website wherein more information about writing and plagiarism could be found.

- [8] The panel sought information on how the offence had been detected. Counsel for the University and counsel for the Student jointly submitted that the plagiarism was detected at the time of marking. It was at the Dean's meeting that the Student admitted to having purchased the plagiarized paper.

Decision of the Tribunal

- [9] Based on the Agreed Statement of Facts and the Student's guilty plea, the Tribunal accepted the plea and made the finding of guilt.

Sanction and Reasons

- [10] The University presented to the panel a Supplementary Agreed Statement of Facts and a Joint Submission on Penalty. The Supplementary Agreed Statement of Facts, attached at Appendix 2, provided agreed facts pertinent to the issue of sanction, specifically that the Student had committed a prior plagiarism offence in MUS110H taken in the 2002 Fall Session. At that time, the Dean's designate for the Faculty of Arts and Science, Professor D.W. Smith, imposed the following penalty:
- a. A grade of zero for the plagiarized paper, worth 30% of the final grade
 - b. A further reduction of 30% for the final grade in the course
 - c. A notation on the Student's transcript for a period of two years, which read "Censured for Academic Misconduct".
- [11] In the sanction letter to the Student, dated May 26, 2003, Professor Smith provided guidance on how to avoid plagiarism in the future and warned that a second offence would be dealt with more severely.
- [12] The Joint Submission on Penalty, attached at Appendix 3, submitted that the appropriate penalty in the circumstance is as follows:
- 1. that the Student be suspended from attendance at the University of Toronto for a period of three years, from June 1, 2007 to May 31, 2010;
 - 2. assignment of a grade of zero in FAH339 for the 2006 Summer term; and
 - 3. notation be placed on the Student's transcript for a period of three years from the date of the hearing to the effect that the Student was suspended from the University for academic misconduct
 - 4. That a report of the decision be made to the Provost for publication in the University's newspaper with the Student's name withheld

- [13] In reviewing the sanctions available to the panel, discipline counsel compared the severity of the penalty proposed in the Joint Submission against the previous sanction imposed by the Dean for the 2002 plagiarism offence. Discipline counsel submitted that the relatively lenient sanctions imposed by the Dean had not had the desired effect on the Student, in light of the fact that she had committed a second offence. For this reason, the penalty for the second infraction called for a more severe sanction. However, the cooperative attitude of the Student throughout the judicial process, as evidenced by the joint submissions, suggested that the Student could yet be rehabilitated and should, therefore, be given the opportunity to return to the University community.
- [14] The University placed a Book of Authorities before the panel so that it might have an opportunity to review several decisions of other panels of the University Tribunal in similar cases. In particular, the panel reviewed the criteria for sanction first proposed by the late and former Mr. Justice Sopinka in the matter of the appeal of Mr. C. (November 5, 1976). According to these guidelines, the Tribunal should consider the following six criteria when deciding on an appropriate sanction:
- a) the character of the person charged;
 - b) the likelihood of a repetition of the offence;
 - c) the nature of the offence committed;
 - d) any extenuating circumstances surrounding the commission of the offence;
 - e) the detriment to the University occasioned by the offence;
 - f) the need to deter others from committing a similar offence.
- [15] In its submissions on penalty, the University reminded the panel that the Student was not new to the University environment nor was she unfamiliar with disciplinary practices. In spite of her knowledge and past experience, the Student had engaged in academic misconduct a second time. Discipline counsel contrasted the repetitive nature of the Student's behaviour with her willingness to cooperate with University officials on both occasions. Discipline counsel acknowledged that it was difficult to assess the likelihood of a further repetition of misconduct, but reasoned that a more severe sanction on this occasion would deter the Student from committing future offences.
- [16] With respect to the nature of the offence, discipline counsel spoke of the endemic nature of plagiarism and the difficulties associated with detecting purchased papers. Given the gravity of these problems, counsel argued that they need to be addressed in a serious manner.
- [17] The University concluded its submissions on penalty by reminding the panel that academic misconduct must be dealt with seriously. There must be serious consequences for committing offences, both to rehabilitate the Student and to prevent other members of the community from even contemplating the possibility of cheating.

- [18] The panel asked discipline counsel why expulsion had not been sought by the University, since the Student had purchased the plagiarized paper. Ms. Harmer acknowledged that the Provost's Guidelines, contained in Appendix C of the *Code*, do recommend expulsion for purchased papers, but that the principle of consistency must inform the Tribunal when it imposes sanctions. Ms. Harmer noted that while some cases similar to this one did result in expulsion, the majority did not. In this particular case, a three year suspension is on the lower end of the sanction spectrum for a purchased essay, but not for plagiarism as a broad category. That is, for plagiarism broadly speaking, the proposed sanction is actually at the higher end.
- [19] The panel questioned why the case was being prosecuted as both an instance of essay purchasing and plagiarism, since, by purchasing the essay, it was clear that the Student had not written the paper and, therefore, could not be said to have plagiarized. Discipline counsel referred the panel to Section B.i.1.d of the *Code*, which states that to commit plagiarism is: "to represent as one's own any idea or expression of an idea or work of another ...". Ms. Harmer argued that it is the representational act that is crucial to the commission of plagiarism, regardless of whether the paper that is submitted for credit is the result of cutting and pasting sources or purchasing the final product.
- [20] The panel asked discipline counsel how she had come to learn of the first offence, given that the notation on the Student's academic record had expired prior to the commission of the second offence. Ms. Harmer responded that files are maintained for students who have been sanctioned at the decanal level and that no promise is made to expunge the file once the notation sanction expires.
- [21] Following the submissions of discipline counsel, Mr. Hamilton was invited to provide closing comments on behalf of the Student. Mr. Hamilton stressed the amount of care that had gone into the agreed statements presented to the panel. While acknowledging that the Tribunal is not bound by the *Joint Statement on Penalty*, he reminded the panel of the deference criminal courts show to such statements and provided the panel with a copy of *R v. Cerasuolo*, which states:
- "This court has repeatedly held that trial judges should not reject joint submissions unless the joint submission is contrary to the public interest and the sentence would bring the administration of justice into disrepute ... This is a high threshold and is intended to foster confidence in an accused, who has given up his right to a trial, that the joint submission he obtained in return for a plea of guilty will be respected by the sentencing judge."
- [22] In response to these submissions, the Chair commented that the 'bringing of justice into disrepute' is a rather drastic criterion and that in the context of this Tribunal it may be more appropriate to judge *Joint Submissions on Penalty* in terms of an 'acceptable range'. Counsel for the Student conceded that the Tribunal typically employs the 'acceptable range' criterion in determining the appropriateness of a proposed sanction.
- [23] In acknowledging that it is impossible for the parties, when negotiating agreements, to anticipate all the questions that may arise for the panel, the Chair questioned what would prevent the parties from submitting character evidence along with the *Joint Statement on Penalty*. In response, counsel for the defence informed the panel that he had prepared a booklet containing an up-to-date transcript as well as letters attesting to the Student's good character.

Since discipline counsel had had an opportunity to review these documents prior to the hearing and did not then find them objectionable, no objection was raised to having them entered into evidence.

[24] The letters, one from the Student's sister and the other from a friend of the Student, described some life difficulties that the Student had been experiencing at the time the offence was committed. The transcript revealed academic improvement following this time of stress. Counsel for the Student argued that these documents were evidence of the impact of stress on the Student's behaviour and concluded that the probability of reoffending is quite low.

[25] Following the parties' submissions on penalty, the panel recessed to deliberate. The panel then accepted the *Joint Submission on Penalty* as falling within an acceptable range in the present circumstances. The panel therefore imposed the following sanctions:

1. that the Student be suspended from attendance at the University of Toronto for a period of three years, from June 1, 2007 to May 31, 2010;
2. assignment of a grade of zero in FAH339 for the 2006 Summer term; and
3. notation be placed on the Student's transcript for a period of three years from the date of the hearing to the effect that the Student was suspended from the University for academic misconduct
4. That a report of the decision be made to the Provost for publication in the University's newspaper with the Student's name withheld

DATED at Toronto this 15 day of May, 2009


Raj Anand, Tribunal Co-Chair

APPENDIX 1

UNIVERSITY OF TORONTO

and

J ■ H ■ Y ■

AGREED STATEMENT OF FACTS

1. The University of Toronto admitted J ■ H ■ Y ■ to its Bachelor of Arts and Science program at the St. George campus in the Fall of 2002. A copy of Ms. Y ■'s academic record as of November 28, 2006 is attached to the Agreed Statement of Facts at **Tab A**.
2. In the Summer of 2006, Ms. Y ■ was enrolled in three half courses, including FAH339 -- Art and Politics in Italy 1480-1527 ("Art and Politics"). The University has alleged that Ms. Y ■ committed an academic offence in Art and Politics.
3. Art and Politics, a third year course offered by the Department of Fine Art and taught by Professor Rebekah Carson, examined the interaction between art and politics in Italy during the period 1480 to 1527. A copy of the course outline for Art and Politics is attached to this Agreed Statement of Facts at **Tab B**.
4. Students were required to submit a research paper worth 35% of the final mark in Art and Politics.

5. On or about August 3, 2006, Ms. Y■■■■ submitted a paper entitled "*Art and Politics in Italy*". A copy of the paper Ms. Y■■■■ submitted is attached to this Agreed Statement of facts at **Tab C**.
6. Ms. Y■■■■ did not write *Art and Politics in Italy*. Instead, she purchased the paper from a third party. In addition, the paper itself was copied in its entirety from online sources that were not referenced or otherwise acknowledged. The relevant pages from the websites are attached to this Agreed Statement of Facts at **Tab D**.
7. Attached to this Agreed Statement of Facts at **Tab E** is a copy of *Art and Politics in Italy*, which has been highlighted in yellow. The words that are highlighted were taken verbatim from the websites.
8. Ms. Y■■■■ admits that she did no meaningful academic work in respect of *Art and Politics in Italy*. Specifically, Ms. Y■■■■ admits that on or about August 3, 2006, she knowingly represented as her own, an idea, an expression of an idea, and the work of another in *Art and Politics in Italy* which she submitted to fulfill the course requirements of Art and Politics in Italy 1480-1527, contrary to s. B.I.1(d) of the Code.
9. Ms. Y■■■■ admits that she is guilty of charge #1 contained in the Charges filed by the University on January 15, 2007 ("Charges"), a copy of which is attached to this Agreed Statement of Facts at **Tab F**.
10. When she appears before the University Tribunal, Ms. Y■■■■ will plead guilty to charge #1 of the Charges.

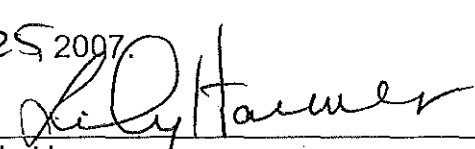
11. Ms. Y [REDACTED] acknowledges that the University of Toronto has advised her to obtain independent legal advice before signing this Agreed Statement of Facts and that she has either done so or deliberately waived that right.

Signed in Toronto on July 25, 2007

J [REDACTED] H [REDACTED] Y [REDACTED]


Witness

Signed in Toronto on July 25 2007.


Lily Harmer
Assistant Discipline Counsel,
University of Toronto

APPENDIX 2

UNIVERSITY OF TORONTO

and

J ■ H ■ Y ■

SUPPLEMENTARY AGREED STATEMENT OF FACTS

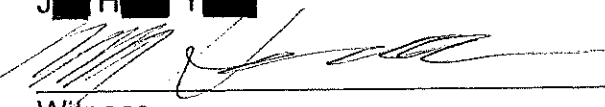
1. Ms. Y ■ committed a prior plagiarism offence under the Code of Behaviour on Academic Matters in 2002.
2. Ms. Y ■ enrolled in MUS110H – Introduction to Music and Culture – in the Fall 2002 session. She submitted an essay worth 30% of the final course grade.
3. On May 22, 2003, Ms. Y ■ admitted that she had committed the academic offence of plagiarism in her essay. Ms. Y ■ admitted that, except for one passage, the essay had been plagiarized in its entirety from several internet sources, without acknowledgment.
4. On May 26, 2003, Professor D.W. Smith, Dean's Designate for Academic Behaviour at the University of Toronto, wrote to Ms. Y ■ and imposed the following penalty:
 - a. a grade of zero for the paper;
 - b. a further reduction of 30% for her final grade for the course;
 - c. a notation on her transcript for a two year period to read "Censured for Academic Misconduct".

A copy of Professor Smith's letter is attached to this Agreed Statement of Facts at **Tab A**.

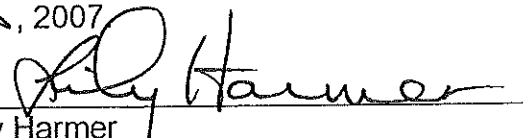
5. Ms. Y [REDACTED] acknowledges that the University of Toronto has advised her to obtain independent legal advice before signing this Agreed Statement of Facts and that she has either done so or deliberately waived that right.

Signed in Toronto on July 25, 2007

J [REDACTED] H [REDACTED] Y [REDACTED]


Witness

Signed in Toronto on July 25, 2007


Lily Harmer
Assistant Discipline Counsel,
University of Toronto

APPENDIX 3

UNIVERSITY OF TORONTO

and

J■■ H■■ Y■■

JOINT SUBMISSION ON PENALTY

1. The University of Toronto and J■■ H■■ Y■■ submit to the Tribunal that the appropriate penalty in all of the circumstances is:
 - a. Ms. Y■■ be suspended from attendance at the University of Toronto for a period of three years, from June 1, 2007 to and including May 31, 2010;
 - b. assignment of a grade of zero in FAH339 for the 2006 Summer term; and
 - c. notation on Ms. Y■■'s transcript for a period of three years from the date of this hearing to the effect that she was sanctioned for academic misconduct.
2. The University of Toronto and Ms. Y■■ submit that the Tribunal should report this case to the Provost who may publish a notice of the decision of the Tribunal and the sanction or sanctions imposed with Ms. Y■■'s name withheld.

3. Ms. Y [REDACTED] acknowledges that the University of Toronto has advised her to retain independent legal counsel before signing this Joint Submission on Penalty and that she has either done so or deliberately waived that right.

Signed in Toronto on July 25, 2007

J [REDACTED] H [REDACTED] Y [REDACTED]

Witness

Signed in Toronto on , 2007.

Lily Harmer
Assistant Discipline Counsel,
University of Toronto