

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on January 27, 2006,

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

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

B E T W E E N:

THE UNIVERSITY OF TORONTO

- and –

The Student

Members of the panel:

- Mr. Ron Slaght, Chair
- Professor Melanie Woodin, Faculty Panel Member
- Coralie D’Souza, Student Panel Member

Appearances:

- Mr. Robert Centa for the University of Toronto
- Ms Betty-Ann Campbell, assisting Mr. Centa
- Professor Roger Beck, Dean’s Designate for Academic Discipline at the University of Toronto at Mississauga
- The Student did not appear.

PRELIMINARY

[1] The Trial Division of the University Tribunal was convened on May 3, 2006 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the “Code”). The Notice of Hearing is dated April 24, 2006.

[2] Thirty minutes after the time at which the hearing was scheduled to begin, the student had still failed to appear. The University proposed to proceed in the Student’s absence and the Tribunal heard submissions.

[3] Mr. Centa presented the panel with a Motion Record containing the affidavits of Mr. Andrew Graham, the instructor in the course in which the alleged offences occurred, Ms Lucy Gaspini, Executive Assistant in the Office of the Dean at the University of Toronto at Mississauga, and Ms Betty-Ann Campbell, a Law Clerk in the firm Paliare Roland Rosenberg Rothstein representing the University. Each of the affidavits describes variously efforts to communicate with the student, to advise her of the seriousness of the charges and the proceedings of the Tribunal, to provide her with disclosure, and to provide her with notice of the hearing.

[4] The Tribunal heard that, in the University's submission, it is the Student's responsibility to maintain up-to-date and accurate contact information in the University's records and that the information on file with the University had been used in attempts to communicate with the Student.

[5] Moreover, Mr. Centa reported, the University had undertaken an investigation into the Student's whereabouts which included hiring a private investigation service to locate the Student. The private investigator confirmed to the best of his knowledge that the address on file with the University was in fact the Student's current address.

[6] The panel worried that the Notice of Hearing was dated only a week before the hearing. In response, the panel considered arguments from Mr. Centa outlining the history of attempts made by the University to provide the Student with appropriate notice including the details of correspondence with the Student going back as far as April 19, 2005, (sent by registered mail or delivered by hand) that clearly indicated a disciplinary process was underway and that a hearing in the near future was possible. The panel also considered evidence brought by the University that the student had received this correspondence.

[7] After considering the University's proposal, the panel was satisfied that the provisions in the *Code* and in the *Statutory Powers Procedures Act* had been met and that the University could proceed with the hearing in the Student's absence.

[8] In arriving at this decision, the panel wished to highlight the importance of the historical record of correspondence and attempted correspondence, the registered letters for which the student had signed (containing, among other things, the *Code* and Charges and notice that a hearing was to be held), and that the student's address in the University's computer system was confirmed by the report of the private investigator.

[9] The panel judged that they had two questions to answer:

- (1) As to the first, the panel is satisfied that delivery of the documents, including the Notice of Hearing, to the Student's address is reasonable notice of hearing in the circumstances and that it would come to the student's attention.
- (2) As to the second, that the official Notice of Hearing is dated April 24 is a challenge presenting some difficulties, and ideally the Notice would and should be given much earlier than one week before the hearing. However, having regard to the history and the Student's failure to respond to letters and documents that are known to have been received, the panel is prepared to accept that sufficient and reasonable notice was provided to the Student in all the circumstances.

THE HEARING ON THE FACTS

[10] The charges are as follows:

1. Contrary to section B.I.1(d) of the *Code of Behaviour on Academic Matters* (the “*Code*”), on or about March 28, 2005, 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, your essay entitled “The Role of Religion in Daily Life: Examining the Impact of Religion in the Ancient Egyptian, Greek, and Roman Worlds” (“*Essay*”), which you submitted to fulfill the course requirements of CLA 160Y.
2. Contrary to section B.I.1(f) of the *Code*, on or about March 28, 2005, you knowingly submitted academic work, the *Essay*, which contained references to a source or sources which had been concocted.
3. In the alternative, contrary to Section B.I.3(b) of the *Code*, on or about February 6, 2004, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind by submitting the *Essay*, which you submitted to fulfill course requirements in CLA 160Y.
4. Pursuant to Section B of the *Code*, you are deemed to have committed an offence knowingly if you ought reasonably to have known that you:
 - a. represented as your own, an idea or expression of an idea, and/ or work of another in connection with a form of academic work;
 - b. submitted academic work that contained a reference to a source which had been concocted; or
 - c. engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit.

[11] Particulars of the charges are as follows:

1. You were, at all material times, a student in CLA 160Y, which was taught by Dr. Andrew Graham.
2. On or about March 28, 2005, you submitted the *Essay* to fulfill partially the course requirements of CLA 160Y.
3. The *Essay* contained verbatim passages from various internet sources and you did not properly attribute these passages.
4. The *Essay* contained references to *Maenads*, *Martyrs*, *Matrons*, *Monastics: A Sourcebook on Women’s Religion in the Greco-Roman World* by Ross S. Kraemer. These references were concocted.

[12] The University called two witnesses, Mr. Andrew Graham, the Student's Instructor in CLA 160Y, and Ms Marcia Christine Cassis, the Student's Teaching Assistant in CLA 160Y.

[13] Mr. Graham's testimony concerned Exhibits 3 through 7: an essay purporting to come from the Student with the Student's name and student ID number on the title page; and four sets of printed documents taken from the internet from which, the University alleged, the Student copied and pasted into her essay without attribution.

[14] The Panel was presented with a copy of Exhibit #3 (the essay purporting to be from the Student) that had been coloured to facilitate comparison with the internet documents.

[15] Mr. Centa led Mr. Graham through the coloured document and asked him to compare the coloured passages with passages from the internet documents. Mr. Graham agreed that the coloured passages in the former had been copied verbatim or nearly verbatim from passages in the latter.

[16] Mr. Graham also offered testimony on the circumstances of the essay's delivery to him and on the information regarding proper citation and plagiarism that he had provided to the class. Mr. Graham also noted that the instructions for the assignment in question had explicitly forbade the use of internet sources and that the footnotes in the essay had been concocted.

[17] Ms Cassis offered testimony on the Student's performance in the class and on the circumstances surrounding her delivery of a letter informing the Student of allegations of academic misconduct. Ms Cassis testified that she had given the letter directly to the Student.

[18] At the conclusion of the *viva voce* evidence, the University argued in its submissions that in all of the circumstances, given the means of delivery, the presence of the Student's name on the paper, the presence of the Student's ID number on the paper and the Student's reaction when confronted, it is reasonable to conclude that the paper in question is the Student's.

[19] The concocted references to books, Mr. Centa argued, indicate an attempt on the Student's part to conceal her efforts.

[20] Further, the University argued, the highlighted passages which were reproduced verbatim or nearly verbatim in the essay from internet sources with no quotes or indentations, together with concocted footnotes, combine to meet the test for plagiarism.

[21] Recalling the details in the course calendar, Mr. Graham's instructions to the class and the information he provided on proper citation and plagiarism, Mr. Centa argued that the Student had been warned about plagiarism both generally and specifically, and knew or ought to have known what it was and how to avoid it. The University requested that the panel accordingly find the Student guilty of Charges #1 and #2.

[22] After deliberation, the panel was satisfied that the paper in question was in fact the Student's and was submitted by the student or in her name with the intent that it be considered and graded in the normal way.

[23] The Panel was also satisfied that large passages from the essay were copied from unattributed sources on the internet and that the University had proved counts #1 and #2 of the Charges.

THE HEARING – PENALTY PHASE

[24] The remainder of the hearing considered the appropriate penalty in the circumstances.

[25] The University called Professor Roger Beck, Dean's Designate for Academic Discipline at UTM, who gave evidence in concert with Exhibit #9 on the number of cases of academic misconduct handled at the divisional level.

[26] The University submitted that the appropriate penalty in the circumstances is:

- (1) That the Student receive a 0 in the course CLA160Y;
- (2) That the Student be suspended from the University for a period of two years; and
- (3) That the Student's academic record and transcript include a notation recording the suspension for a period of two years.

[27] In addition, the University requests that a report of the decision be made to the Provost for publication in the University's newspapers with the Student's name withheld.

[28] The panel asked the University to explain why a two-year suspension was appropriate.

[29] The University noted that a two-year suspension for a first-time first-year offender was unusual, but that not only had the student not admitted the offence at the divisional level, she had also failed to engage in the disciplinary process altogether. She had thereby shown disrespect for the University and the process and put the University to considerable expense and effort.

[30] The University placed a Book of Authorities before the panel so that they 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:

- (1) the character of the person charged;
- (2) the likelihood of a repetition of the offence;
- (3) the nature of the offence committed;
- (4) any extenuating circumstances surrounding the commission of the offence;
- (5) the detriment to the university occasioned by the offence;
- (6) the need to deter others from committing a similar offence.

[31] In addition, the University highlighted the importance, in its opinion, of students showing insight and remorse as part of the University's efforts to rehabilitate academic relationships. A guilty plea, Mr. Centa noted, is fundamental to this process.

CONCLUSION

[32] Following its deliberations, the panel was satisfied that the sanction requested by the University was appropriate in the circumstances and accordingly imposed the penalty noted above.

[33] The Panel offered the following additional reasons:

- (1) We are satisfied on the evidence of plagiarism and concoction, and with a regard for the cases from the Book of Authorities before us, that a two-year suspension and a two-year notation are appropriate.
- (2) We place considerable weight on our finding that the Student intentionally, knowingly, concocted the whole paper and took efforts to disguise the fact.
- (3) In addition, the Student failed to respond at all to the notice of the charges and to the various indications that she could intervene helpfully in the proceedings at any point along the way if she were only to engage in the process. If the Student had read the *Code* she would see that at the divisional level there was a maximum penalty of a one-year suspension that could have been imposed but which would require some acknowledgement by her that the values of the University had been invaded by her conduct. She did not avail herself of any of that process. We believe that, when considering the appropriateness of the penalty in this case, it is fair and relevant to take into account that the Student had chosen not to engage in the disciplinary process and as a consequence a matter that might have been disposed of at an earlier stage has come before the Tribunal.
- (4) Finally, there is no evidence before us from the Student which we might otherwise have taken into account in mitigation.

DATED at Toronto

June, 2006

Chair