

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL**

IN THE MATTER charges of academic dishonesty filed on December 13, 2011;

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;

BETWEEN:

THE UNIVERSITY OF TORONTO

– AND –

O [REDACTED] [REDACTED] O [REDACTED]

Hearing Date: April 10, 2012

Members of the Panel:

Mr. William McDowell, Barrister and Solicitor, Chair

Professor Annette Sanger, Faculty of Music

Mr. Shakir Rahim, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers

Mr. O [REDACTED] [REDACTED] O [REDACTED], the Student, self-represented

In Attendance:

Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs

Mr. Jason Marin, Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances

[1] Pursuant to the Code of Behaviour on Academic Matters, 1995 ("the Code"), O [REDACTED] O [REDACTED] ("the student") was charged with:

1. On or about June 14, 2011, you knowingly represented as your own an idea or expression of an idea or work of another in connection with an essay titled "Assignment 2" which you submitted for academic credit in PHL340H5 ("Essay"), contrary to section B.I.1.(d) of the *Code*.

2. In the alternative, on or about June 14, 2011, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code, in connection with the Essay which you submitted for academic credit in PHL340H5, contrary to section B.I.3.(b) of the *Code*.

[2] The parties proposed that the matter be disposed of by way of an Agreed Statement of Facts ("the ASF") and a joint submission as to penalty. In the result, Mr. O [REDACTED] agreed to enter a plea of guilty to Charge 1; the University agreed to withdraw Charge 2.

[3] It is not necessary to review the ASF in great detail given the broad agreement reached between the parties. Mr. O [REDACTED] agreed that he had first registered at the University of Toronto at Mississauga in the Fall term of 2003. He has to date earned 23.0 credits and a cumulative grade point average of 1.89. As will be reviewed below, he has had a number of prior brushes with the academic discipline system at the University. The Agreed Statement of Facts is attached to these reasons as Schedule A.

[4] In overview, Mr. O [REDACTED] submitted an essay as Assignment 2 in a philosophy course, PHL340H5. He also submitted the essay to an authenticity verification program, Turnitin.com, as the course instructor required. Turnitin.com produced an “originality report” which indicated an 18% overall similarity index, with 12% of the similarity being an internet source: www.iep.utm.edu (“the IEP website”).

[5] A comparison of the essay with the IEP website indicated that numerous ideas and phrases were produced verbatim or nearly verbatim from the internet source. Further, a Google search revealed that certain phrases and ideas were copied from an internet website, namely, a Wikipedia site on functionalism (“Philosophy of Mind”).

[6] Mr. O [REDACTED] met with the course instructors on June 24, 2011 to discuss their concerns with the essay. On June 26, 2011 Mr. O [REDACTED] sent an email to instructor Kevin Connolly with a copy to the instructor, Adrian Prettyman, asking if it was still possible to submit his paper on Turnitin.com, and attaching another paper with the following explanation:

“Attached is the paper that I attempted to submit to Adrienne on the 16th, only to realize after I submitted the draft I use to take notes to understand the topic, which explains the lack of references, and disjointed paragraphs / style ... I submitted the wrong draft due to clouded judgement from a personal crisis ...”

[7] Mr. O [REDACTED] subsequently admitted at the meeting with the Dean’s Designate for Academic Integrity on September 14, 2011 that the Essay

was plagiarised. In the formal admissions and acknowledgements in the Agreed Statement of Facts, Mr. O [REDACTED] admitted that he had knowingly:

- (a) represented in the Essay the ideas of another person, and the work of another person as his own; and
- (b) committed plagiarism in the Essay contrary to s. B.I.1(d) of the Code.

[8] The Tribunal consequently accepted the plea to Charge 1, and agreed to the dismissal of Charge 2.

Penalty

[9] The parties also agreed on a proposed penalty, namely that the following sanctions be imposed:

- (a) A final grade of 0 in PHL40H5 in the 2011 Summer term;
- (b) A suspension from the University to commence April 10, 2012, and to end April 9, 2015.

[10] Part of the resolution requires that Mr. O [REDACTED] also undertook to complete a course of workshops through the St. George Campus College Writing Centre's Academic Skills Workshops ("the Undertaking"). This will require him to take six workshops comprising six hours of instruction:

1. Understanding the assignment
2. Library research

3. Thesis statements
4. Organizing an essay
5. Using sources
6. Revising the essay

[11] Mr. O [REDACTED] will not be eligible to graduate from the University until he fulfills the undertaking. The University may rely on the undertaking to deny him the ability to graduate until it is fulfilled.

[12] Further additional facts were submitted in support of the joint submission on penalty. The Agreed Statement of Additional Facts for Sanction is attached as Schedule B to these reasons. The Agreed Statement of Facts dealt with two other instances in which Mr. O [REDACTED] had admitted plagiarism:

(a) First Instance of Plagiarism – PHL341H5 – April 2006

[13] In April 2006 Mr. O [REDACTED] submitted an essay for academic credit in PHL341H5 worth 40% of the final grade. This essay was taken almost in its entirety from an internet source. Mr. O [REDACTED] admitted at a Dean's meeting that he committed plagiarism in the PHL341 essay contrary to section B.I.1(d) of the Code. He explained that his mother had been in a serious car accident in 2003 for which she received ongoing care from family members, including him. The Dean's Designate imposed a sanction of a reduction by 80% of his final mark in PHL341H5.

(b) Second Instance of Plagiarism – PHL315H5 – June 2008

[14] On June 24, 2008, Mr. O [REDACTED] submitted an essay for academic credit in PHL315H5F worth 50% of the final grade. Much of this essay was taken from internet sources, with the use of paraphrasing and synonyms. Mr. O [REDACTED] subsequently claimed that he had submitted this essay in error as a draft. He then sought to submit a revised essay on July 27, 2008. The revised essay was itself plagiarised and contained concocted footnotes.

[15] Mr. O [REDACTED] once again admitted at a Dean's meeting that he had committed the offence of plagiarism in the PHL315H5F June 24th essay and in the subsequent essay submitted on July 27th contrary to s. B.I.1(d) of the Code. He explained that this time he had been involved in two car accidents, one in March 2007 and one in October 2007. The Dean's Designate imposed a sanction of a final grade of 0 in PHL315H5F, together with a suspension from attending the University for 12 months from September 1, 2009 to August 31, 2010, together with an annotation on his transcript from 24 months from June 18, 2009 to June 17, 2011.

(c) The Present Instance of Plagiarism - PHL340H5 – June 2011

[16] At the Dean's meeting to discuss the offence which brings Mr. O [REDACTED] before the Tribunal on this instance, Mr. O [REDACTED] furnished a letter from a physician, Dr. Ajisafe, dated September 12, 2011. The letter described that Mr. O [REDACTED] began to exhibit symptoms of panic attacks in 2009

following a traumatic (but otherwise undescribed) experience which he had suffered in the United Kingdom. Somewhat unusually, Dr. Ajisafe quoted the diagnosis of a unnamed psychiatrist who was said to have diagnosed Mr. O [REDACTED] as follows:

DSM/IV/TR Diagnosis:

Axis 1: Generalized Anxiety Disorder

Axis 4: Economic Problems

Axis 5: GAF functioning between 50% to 80%

[17] Dr. Ajisafe went on to observe the following:

The Psychiatrist has assessed that the psychosocial stressor which impacted Mr. O [REDACTED] tends to produce confusion, memory loss and lower concentration, reducing recall and impairing the ability to relate one item to another. The Psychiatrist also acknowledged that it is not a perpetual condition, that mainly occurs to Mr. O [REDACTED] when under significant anxiety, and panic attacks.

[18] The physician suggested that given the patient's recent psychiatric history, and his current medical, "he is can [sic] sometimes behave differently and this may be the cause of his academic misconduct." He then shared some views concerning sanction:

Mr. O [REDACTED] has expressed profound guilt for the misconduct. He continues to take measures to address his condition by continuously taking positive steps such as cognitive behavioural therapy sessions with a Psychiatrist. However, both the Psychiatrist, and myself, are concerned that derailing Mr. O [REDACTED] from graduating will significantly exacerbate his symptoms and worsen his illness.

[19] Ms. Harmer, counsel for the University, advised that she had accepted the submission of this medical report given that the matter was otherwise resolved. Quite understandably, she had taken no steps to determine the authenticity of the report, nor to seek the underlying clinical notes and records. The University did not rely upon the diagnosis contained in the report and we take it from Ms. Harmer's submissions that she regarded Dr. Ajisafe's report with some skepticism.

Discussion

[20] As members of the University Tribunal, we are frequently in the position of receiving joint submissions with respect to penalty. This is a good thing. Resolution is to be promoted. We are mindful that while the University retains excellent counsel to prosecute these matters, this comes at a cost. Joint submissions also provide certainty for students who find themselves before the Tribunal, sometimes facing significant penalties, but having to get on with their lives whatever the result. Joint submissions allow students to plan for the future.

[21] The Tribunal operates on the basis that (as in criminal cases) it is not required to accept a proposed joint submission. Having said that, a joint submission should not be rejected unless it is contrary to the public interest in that the proposed penalty would bring the administration of justice into dispute. If departing from a joint submission, a Court or

tribunal must explain and justify its departure from the joint submission. See *Regina v. E(R.W.)* 2007 ONCA 461 (CanLII).

[22] The panel accepted the joint submission in this case, but it did so with some reluctance. In the first place, the Undertaking (to complete the series of courses) forms the centrepiece of the joint position on penalty. It seemed to the panel unfortunate that the Undertaking was offered to Mr. O [REDACTED] after his third recorded involvement in an incident of plagiarism. We do not know whether undertakings of this sort were available in 2003 when Mr. O [REDACTED] was first discovered to have plagiarised a piece of academic work, but that would have been the logical time for the University to have imposed the undertaking. To encourage Mr. O [REDACTED] to complete a remedial course following his third admission of dishonesty rang somewhat hollow with the panel.

[23] Second, some of the facts agreed to by the University and the student left the panel with misgivings. As noted, University counsel was careful to state that the University accepted that the report of Dr. Ajisafe might be submitted in support of the joint position on penalty, but that it did not accept all of the facts in the report. Counsel took the position that questions of this sort were effectively moot given that agreement had been reached on penalty. We accept this position, but only up to a point. It is of course not for the panel to look behind the agreement that has been achieved between the prosecution and the student. At the same time, the

facts which the panel was asked to accept included Mr. O [REDACTED]'s exquisite bad luck in relation to motor vehicle accidents, coupled with a poorly supported medical/psychiatric explanation. These left the panel with considerable unease. The University took a halfway position that it did not accept the truth of every mitigating circumstance relied upon by Mr. O [REDACTED]. It simply accepted that these explanations had been offered in mitigation at the material time. While this way of proceeding is the result of negotiation, it runs the risk of confusing the panel.

- [24] Other panels of the Tribunal have expressed misgivings about “undertakings” to complete remedial courses, as Ms. Harmer candidly acknowledged. For example, in the *University and Y.K.* (November 25, 2011; Case 631), the panel said the following:

The panel would, however, like to stress that while an undertaking can be a very useful tool in penalty and rehabilitation, and the parties are to be commended for working together to agree to rehabilitation or mediation, the use and contents of the undertaking should not be used as an excuse for the behaviour set out in the Agreed Statement of Facts. If students do not have the requisite knowledge and skill to comply with basic requirements of academic life in the university, it is preferable that these deficiencies be addressed before, and not as a result of, repeated academic offences. [emphasis added]

- [25] We agree with this view. Further, we rely as did the panel in *University v. M [REDACTED] A [REDACTED]* (February 29, 2012; Case 661) on the decision in *University of Toronto v. S.B.* (November 24, 2007; Case 488) on the following statement:

It hardly needs to be said that the credibility and academic mission of the university, and the degrees which it awards to its students, can be greatly harmed by the commission of offences such as plagiarism and concoction.

- [26] In this case, we believe that the student's conduct lies in the far outfield of conduct which can be punished by a suspension. A penalty of expulsion would not have been out of line for Mr. O [REDACTED].
- [27] That said, we accept the joint submission and impose the penalty set out at paragraphs 9 to 12, above.

ADDENDUM

Motion for a Ban on Publication

- [28] Mr. O [REDACTED] submitted, apparently with no notice to University counsel, that there should be no publication of these reasons, nor should there be any initials attached to the record of our decision. He submitted that it would harm his psychiatric care and recovery if there were to be publication of any identifying features, or of the reasons themselves. He also submitted that his family company had endowed a scholarship, and this should have some bearing on the matter.

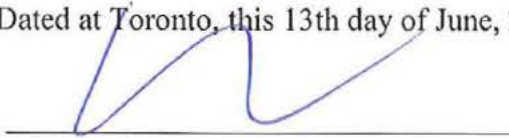
[29] University counsel strenuously resisted this position, both on the basis that the question of publication was governed by the Joint Submission on Penalty by paragraph 3:

3. The Parties further submit that it is appropriate for the Tribunal to report this case to the Provost by publication of a notice of the decision of the Tribunal, and the sanction or sanctions imposed in the University newspapers, with the name of the student withheld.

[30] We believe, with respect, that Mr. O [REDACTED]'s submission concerning the generosity of the O [REDACTED] donation to the University was in the circumstances abhorrent. Ms. Harmer submitted that all students who find themselves before university tribunals should be treated with equal dignity and respect. We agree with her.

[31] We dismiss the motion for non-publication.

Dated at Toronto, this 13th day of June, 2012



William McDowell, Chair

SCHEDULE A

THE UNIVERSITY TRIBUNAL OF THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty filed on December 13, 2011,

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

NO. 2

BETWEEN:

THE UNIVERSITY OF TORONTO
AND
THE UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO

- AND - Mr. O [redacted] O [redacted]
This Exhibit is produced by

O [redacted] O [redacted] O [redacted] O [redacted] Discipline Counsel
this 10 day of April, 2012.

AGREED STATEMENT OF FACTS

Jason Moran

1. This hearing arises out of charges of academic misconduct filed by the Provost of the University of Toronto (the "Provost") under the *Code of Behaviour on Academic Matters* ("Code"). For the purpose of this hearing, the Provost and O [redacted] O [redacted] have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD"). The Provost and Mr. O [redacted] agree that:

- (a) each document contained in the JBD may be admitted into evidence at the Tribunal for all purposes, including for the truth of the document's contents, without further need to prove the document; and
- (b) if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. Mr. O [REDACTED] received notice of this hearing.

A. Charges and guilty plea

3. Mr. O [REDACTED] admits that he received a copy of the charges filed by the Provost. The charges are included in the JBD at Tab 1.

4. Mr. O [REDACTED] waives the reading of the charges filed against him, and pleads guilty to Charge 1.

5. The Provost agrees that if the Tribunal convicts Mr. O [REDACTED] on charge 1, the Provost will withdraw Charge 2.

6. Mr. O [REDACTED] first registered at the University of Toronto Mississauga in the 2003 Fall term. At all material times, Mr. O [REDACTED] was a registered student at the University. He has earned 23.0 credits, and a cumulative grade point average of 1.89. A copy of Mr. O [REDACTED]'s academic record is included in the JBD at Tab 2.

B. PHL340H5

7. In the 2011 Summer term, Mr. O [REDACTED] enrolled in PHL340H5 – Issues in Philosophy of Mind, which was taught by Professors Kevin Connolly and Adrienne Prettyman (“Course”). A copy of the syllabus for the Course (“Syllabus”) is included in the JBD at Tab 3.

8. Mr. O [REDACTED] admits that he received a copy of the Syllabus. The Syllabus stated that students were required to submit their course essays to Turnitin.com “for a review of textual similarity and detection of possible plagiarism”. Students were asked to be familiar with the document “How Not to Plagiarize”. A copy of that document as posted on the University of Toronto website is included in the JBD at Tab 4.

9. The academic requirements for the Course included an essay that was due on June 14, 2011, worth 30% of the final mark in the Course. On June 16, Mr. O [REDACTED] submitted an essay titled "Assignment 2" in partial completion of the Course requirements ("Essay"). A copy of the Essay is included in the JBD at Tab 5.

10. Mr. O [REDACTED] submitted the Essay to Turnitin.com, as required. Turnitin produced an originality report which indicated an 18% overall similarity index, with 12% of the similarity being with an internet source: www.iep.utm.edu ("IEP Website"). A copy of the Originality Report is included in the JBD at Tab 6. A copy of the IEP Website is included in the JBD at Tab 7.

11. The Essay submitted to Turnitin.com contained two footnotes, neither of which cited the IEP Website. It did not have a bibliography. Mr. O [REDACTED] also subsequently submitted a hard copy of the Essay. This version of the Essay contained a bibliography listing the two sources cited in the footnotes. A copy of the version of the Essay submitted in hard copy with the bibliography is included in the JBD at Tab 8.

12. A comparison of the Essay with the IEP Website indicates that numerous ideas and phrases were reproduced verbatim or nearly verbatim from this internet source. A Google search also revealed that certain phrases and ideas were copied from an internet website at [en.wikipedia.org/wiki/Functionalism_\(philosophy_of_mind\)](http://en.wikipedia.org/wiki/Functionalism_(philosophy_of_mind)) ("Wikipedia Source"). A copy of the Wikipedia Source is included in the JBD at Tab 9.

13. None of these reproduced passages were identified through the use of quotation marks or any other method of indicating that they were verbatim or nearly verbatim quotes.

14. A colour coded copy of the Essay indicating in yellow the passages taken from the IEP Website, and in green those passages taken from the Wikipedia

Source, is included in the JBD at Tab 10. A colour coded copy of the IEP Website is included in the JBD at Tab 11.

15. Mr. O [REDACTED] met with his course instructors on June 24, 2011 to discuss their concerns with the Essay. On June 26, 2011, Mr. O [REDACTED] sent an email to Kevin Connolly with a copy to Adrienne Prettyman asking if it was still possible to submit his paper on turnitin.com, and attaching a paper with the following explanation:

"Attached is the paper that I attempted to submit to Adrienne on the 16th, only to realize after I submitted the draft I use to take notes to understand the topic, which explains the lack of references, and disjointed paragraphs / style. ... I submitted the wrong draft due to clouded judgement from a personal crisis ..."

A copy of the email sent by Mr. O [REDACTED] to his course instructors on June 26, 2011 is included in the JBD at Tab 12.

16. The paper attached to Mr. O [REDACTED]'s June 26, 2011 email was untitled, but contained Mr. O [REDACTED]'s name and student number, and the date of June 16, 2011 ("June 26, 2011 Essay"). A copy of the June 26, 2011 Essay is included in the JBD at Tab 13.

C. *The meeting with the Dean's Designate*

17. Mr. O [REDACTED] met with the Dean's Designate for Academic Integrity on September 14, 2011, to discuss the offence of plagiarism in the Essay. In the course of that meeting Mr. O [REDACTED] gave the following explanations:

(a) The Essay as submitted to Turnitin.com and in hard copy was " a draft – poor language, incoherent sentences. It was not a finished essay."

(b) The process he used to write essays was not good for preventing academic offences. He created "a patchwork of reading sources and then put it in [his] own words."

18. Mr. O [REDACTED] admitted at the Dean's Meeting that the Essay was plagiarized.

D. Admissions and acknowledgments

19. Mr. O [REDACTED] admits that he knowingly:

- (a) represented in the Essay the ideas of another person, the expression of the ideas of another person, and the work of another person as his own; and
- (b) committed plagiarism in the Essay contrary to section B.I.1(d) of the *Code*.

20. Mr. O [REDACTED] acknowledges that:

- (a) the Provost of the University of Toronto has advised Mr. O [REDACTED] of his right to obtain legal counsel and that Mr. O [REDACTED] has done so; and
- (b) he is signing this ASF freely and voluntarily, knowing of the potential consequences he faces, and does so with the advice of counsel.

Signed on April 10, 2012.

[REDACTED SIGNATURE]

Signed on April 10, 2012.



Lily Harmer
Assistant Discipline Counsel
University of Toronto

SCHEDULE B

THE UNIVERSITY TRIBUNAL OF THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty filed on December 13, 2011,

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

NO. 4

BETWEEN:

THE UNIVERSITY OF TORONTO
AND
THE UNIVERSITY OF TORONTO

- AND -

Mr. O [REDACTED] O [REDACTED]

this exhibit is pro

O [REDACTED] O [REDACTED] the Discipline Counsel
this 10 day of April 2012

AGREED STATEMENT OF ADDITIONAL FACTS FOR SANCTION
Jason Mon

PHL340 June 2011

1. At the Dean's meeting on September 14, 2011 to discuss the allegations in PHL340, Mr. O [REDACTED] provided a letter from Dr. Ajisafe dated September 12, 2011. This letter described that Mr. O [REDACTED] started to exhibit symptoms of panic attacks in 2009 following an experience he suffered in the UK. Dr. Ajisafe stated that he had started Mr. O [REDACTED] on Ativan on June 1, 2011. A copy of this letter is attached at Tab A.

PHL341 – April 2006

2. In April 2006, Mr. O [REDACTED] submitted an essay for academic credit in PHL341H5, which was worth 40% of the final grade ("PHL341 Essay"). Students in the course were required to familiarize themselves with the *Code of Behaviour*

on *Academic Matters* ("Code") in order to avoid accusations of plagiarism or academic misconduct.

3. The PHL341 Essay was taken almost in its entirety from an internet source.

4. Mr. O [REDACTED] admitted at a Dean's meeting that he committed plagiarism in the PHL341 Essay, contrary to section B.I.1(d) of the Code. He explained that his mother had been in a serious car accident in 2003 for which she received ongoing care from family members, including Mr. O [REDACTED].

5. The Dean's Designate imposed a sanction of a reduction of 80% to his final mark in PHL341H5.

PHL315H5F – June 2008

6. On June 24, 2008, Mr. O [REDACTED] submitted an essay for academic credit in PHL315H5F which was worth 50% of the final grade ("PHL315 June 24 Essay"). Much of the PHL315 June 24 Essay was taken from internet sources, with the use of paraphrasing and synonyms.

7. Mr. O [REDACTED] subsequently claimed that he had submitted the PHL315 June 24 Essay in error as a draft. He then attempted to re-submit a revised essay in PHL315H5F on or about July 27, 2008 ("PHL315 July 27 Essay"). The PHL315 July 27 Essay was itself plagiarized and contained concocted footnotes.

8. Mr. O [REDACTED] admitted at a Dean's meeting that he committed the offence of plagiarism in the PHL315 June 24 Essay and the PHL315 July 27 Essay, contrary to section B.I.1(d) of the Code. He explained that he had been involved in two car accidents, one in March 2007 and one in October 2007.

9. The Dean's Designate imposed a sanction of a final grade of zero in PHL315H5F, a suspension from attending the university for 12 months from

September 1, 2009 to August 31, 2010, and an annotation on his transcript for 24 months, from June 18, 2009 to June 17, 2011.

10. Mr. C [REDACTED] acknowledges that he has signed this statement freely and voluntarily, knowing of the potential consequences he faces, and after he obtained legal advice.

Signed on April 10, 2012.

[REDACTED SIGNATURE]

Signed on April 10, 2012.



Lily Harmer
Assistant Discipline Counsel
University of Toronto