

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on February 15, 2012.

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 -

Y [REDACTED] L [REDACTED]

Date of Hearing: October 22, 2012

Panel:

Mr. Bernard Fishbein, Barrister and Solicitor, Chair

Professor Andrea Litvack, Factor-Inwentash Faculty of Social Work, Faculty Panel Member

Mr. Adam Found, Student Panel Member

Appearances:

Ms. Lily Harmer, Counsel for the University of Toronto, Paliare Roland Barristers

Dr. Tom Fairgrieve, Department of Computer Science

In Attendance:

Professor John Carter, Dean's Designate for Academic Integrity, Faculty of Applied Science and Engineering

Ms. Betty-Ann Campbell, Law Clerk, Paliare Roland Barristers

Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Not in Attendance:

Mr. Y [REDACTED] L [REDACTED], the Student

REASONS FOR DECISION

1. The hearing of the Trial Division of the University Tribunal (“the Tribunal”) was convened on October 22, 2012 to consider charges under the *Code of Behaviour on Academic Matters, 1995* (“the Code”) against the student. The notice of hearing indicated that the hearing would commence at 1:45 p.m.. By 2:05 p.m. neither the student nor anyone on his behalf had appeared and the hearing commenced.

Whether the Hearing Should Proceed

2. Discipline Counsel for the University presented the panel of the Tribunal with the affidavit of Betty Ann Campbell, a law clerk in the office of counsel. As well, Ms. Campbell was present at the hearing in the event that there were any questions or *viva voce* evidence that was necessary arising from her affidavit. There were none.

3. Counsel reviewed the University’s Policy on Official Correspondence with Students (“the Policy”) which requires students to maintain current contact information (current and valid postal addresses as well as addresses for University-issued electronic mail accounts) in their ROSI records and to update their records when this information changes. The policy further provides that:

“Students are expected to monitor and retrieve their mail, including electronic messaging account(s) issued to them by the University, on a frequent and consistent basis. Students have the responsibility to recognize that certain communications may

be time critical. Students have the right to forward their University-issued mail account to another electronic mail service provider address but remain responsible for ensuring that all University or electronic message communication sent to the officially University-issued account is received and read.”

4. The student had been provided with a disclosure package (a summary of the anticipated evidence of the University’s witnesses, the University’s disclosure brief and the policy) which had been delivered by courier to 65 L [REDACTED], Suite [REDACTED], Toronto (“the Lilian Street address”) which was listed in the student’s ROSI contact information. The Disclosure package was accepted by an individual who identified herself as “A [REDACTED]”. Another University of Toronto student named A [REDACTED] S [REDACTED] also listed the L [REDACTED] Address in her ROSI contact information. Ms. S [REDACTED] was the individual who the student intended to accompany him to the academic offence meeting held on January 13, 2012 but had been advised that she would not be permitted to attend as she may have been involved in the offences. Ms. S [REDACTED] had also posted messages from the student on her Facebook page.

5. In any event, the student had been sent an e-mail to the e-mail address listed in his ROSI contact information suggesting possible hearing dates. The student failed to respond. As a result, an e-mail was sent to the Office of the Governing Council requesting a hearing be scheduled for October 22, 2012 at 1:45 p.m.. A copy of that e-mail was sent to the student. That e-mail was acknowledged by the Office of the

Governing Council also with a copy to the student. On September 7, 2012, the Office of the Governing Council sent the student a Notice of Hearing both by e-mail and by courier to the L [REDACTED] Street address. The e-mail was successfully delivered to the e-mail address – no transmission failure notifications were received and the courier package was delivered to the L [REDACTED] Address – it was not returned as undeliverable. A slightly revised Notice of Hearing was again, sent by e-mail and courier on October 15, 2012. Again, the e-mail was successfully delivered, in that no transmission failure notifications were received. However, that courier delivery was returned as undeliverable. In addition, counsel telephoned the student's telephone number listed in his ROSI contact information and left a voicemail requesting the student to return her call. The student did not do so.

6. In the circumstances, the University submitted that the hearing should still proceed. The *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22 (the "SPPA") applies to proceedings before the Tribunal. Section 6 of the SPPA requires parties to a proceeding to be given reasonable notice of the hearing, including not only a statement of the time, place and purpose of the hearing but a statement that if the party notified does not attend the hearing, the Tribunal may proceed in the party's absence and the party will not be entitled to any further notice of the proceeding. Such a statement was contained in the University's Notice of Hearing sent to the Student. Also, the SPPA allows in section 7 that when the notice of a proceeding has been in accordance with the SPPA and the party does not attend the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice of the proceeding. Moreover, the Rules

of Practice and Procedure of the Tribunal (“the Rules”) allow charges, notices of hearing, disclosure to be served on a student both by courier to the student’s mailing address contained in ROSI or by e-mailing a copy to the student’s e-mail address contained in ROSI (see section 9 (b) and (c) of the Rules). Section 17 of the Rules also provide where a notice of a hearing has been given in accordance with the Rules and the person fails to attend at the hearing, the panel may proceed in the absence of that person.

7. Accordingly, it was the unanimous ruling of the panel that compliance with both the SPPA and the Rules had been established by the University and the hearing should proceed in the absence of the student.

The Alleged Misconduct

8. Essentially, the charges related to the unusual set of circumstances where it was alleged that the student himself was the provider and seller of solutions to assignments to other students who submitted them as their own work for credit. It was alleged that this has been done for a number of assignments, in CSC 310, CSC 263 and CSC 108.

9. The panel heard the evidence of Dr. Tom Fairgrieve who had been teaching at the University since January of 2000 and was the Academic Offence Coordinator for the Computer Science Department.

10. Dr. Fairgrieve testified that the investigation that led to these charges first started when he received an e-mail from Professor Robert Clarke of Birmingham City University in the United Kingdom who was conducting research into “Contract cheating” (where students pay others to do assignments for them). Professor Clarke advised Dr. Fairgrieve that an assignment for CSC 263 was posted on Freelancer.com which is a website that solicits bids to complete work that was posted. Dr. Fairgrieve checked the website and found that not only that assignment but assignments for CSC 310 and 108 were posted as well.

11. The postings disclosed who had posted them (who the bid for the work had to be made to) and by cross-checking against ROSI records, it matched the student. Dr. Fairgrieve then had an e-mail under an alias sent to the student inquiring about obtaining work for one of the assignments and the student responded stipulating the price and a subsequent e-mail stipulating a deadline, but the transaction could not be completed by that deadline.

12. Dr. Fairgrieve continued to monitor the Freelancer.com website. Ultimately, he found a number of University CSC assignments posted:

CSC 310 – Theory Assignment No. 2

CSC 310 – Practical Assignment No. 1

CSC 310 – Theory Assignment No. 3

CSC 310 – Practical Assignments No. 2

CSC 263 – Homework Assignment No. 3

CSC 263 – Homework Assignment No. 4

CSC 108 – Assignment No. 3

13. The Freelancer.com website had not only directed Dr. Fairgrieve to the student's name but also to a company, Complete Tutoring. Dr. Fairgrieve also went to the company's website which showed it provided an assignment service. Its "Contact Us" page disclosed a location on L [REDACTED] (only the location not the address was shown) and an e-mail address that resembled, but was not identical, to the student's.

14. In his monitoring of the Freelancer.com website, Dr. Fairgrieve noticed two more University CSC assignments posted. Dr. Fairgrieve then created an alias g-mail account of his own and completed a transaction with Complete Tutoring to obtain responses to those assignments. When he received these responses from Complete Tutoring, Dr. Fairgrieve forwarded them to Professor Neal, the Instructor of CSC 310, and advised Professor Neal that he had purchased this solution over the internet and asked him to monitor whether any student handed in that solution (or a very similar one).

15. A student, S [REDACTED] S [REDACTED] ("S [REDACTED]") did. As a result, Professor Neal met with S [REDACTED] and ultimately, so did Dr. Fairgrieve. S [REDACTED] ultimately provided Dr. Fairgrieve the copies of the e-mails between her and the student acquiring the solution to the CSC 310 assignment. Further investigating also disclosed that the Facebook page of the student also confirmed that she operated Complete Tutoring.

16. The University also submitted a sworn affidavit of S [REDACTED] confirming she had purchased the solutions to assignment in CSC 310 from Complete Tutoring and had

handed in that solution as her own work. S [REDACTED] confirmed the e-mails between her and the student forwarding the solution to the assignment in stages and her payment (at each stage) for it. S [REDACTED] admitted all this in a meeting with the Dean's Designate and, for her part, received zero credit in the course and a one year suspension. The University urged the panel to admit that affidavit pursuant to section 61 of the Tribunal's Rules of Procedure as S [REDACTED] was not in the country and not available for the hearing.

17. The panel then heard from Professor John Carter, the Dean's Designate for Academic Integrity for the Faculty of Applied Science and Engineering. Professor Carter testified to his meeting with the student (and Dr. Fairgrieve) on January 13, 2012. As required under the Code, the student was advised that it was a formal meeting where notes would be taken, that he was entitled to be represented by counsel and what he said could be used against him and form the basis of charges of academic misconduct under the Code. Essentially, the student admitted to the offence of assisting in plagiarism and being a party to the offence of plagiarism – i.e. admitted to providing solutions to other students to hand in as their own work in the completion of the assignments for money. Professor Carter advised the student that he would not impose sanction as he was entitled to do under the Code. Rather because the matter was, in Professor Carter's view, such an egregious offence that warranted greater sanction than he could impose under the Code, he would therefore, refer the matter to the Provost and to the University Tribunal. That was confirmed in a letter to the student dated January 16, 2012. Professor Carter also testified notwithstanding the letter indicated that the student claimed "not to know that

your clients were students”, the letter was inaccurate in that regard – by the end of the interview, the student was no longer maintaining that position.

18. The University reviewed the evidence before us and argued that it established that the offences of the use of unauthorized aid or assistance in connection with academic work, or the representation of work of another as one’s own work (“plagiarism”) contrary to sections B. 1. (1) (b) or (d) of the Code had been made out. Equally, the University argued that it had established that the student was a party to those offences in that the student had done things for the purpose of aiding or assisting another student to commit the offences contrary to section B (ii) (1) a (ii) of the Code.

19. In these circumstances, the panel had no difficulty in unanimously concluding that the University had established that the student was a party to the offence of academic plagiarism contrary to sections B. 1. (1) (b) (d) of the Code and section B (ii) (1) a (ii) of the Code. There could be no doubt that the student had sold at least to S [REDACTED] (and likely other students) material S [REDACTED] had presented as her own academic work. In the view of our conclusion in this regard, the University withdrew the other charges against the student.

20. We note that this would have been our conclusion regardless of admitting the affidavit of S [REDACTED]. The evidence of Dr. Fairgrieve and Professor Clarke and the admissions of the student (against his interest) would have been sufficient for us to reach this conclusion. However, we were prepared to admit the affidavit of S [REDACTED] in accordance with section 61 of the Tribunal’s Rules of Procedure. S [REDACTED] was out of

the country and unavailable and, in our view, having chosen not to attend at the hearing or to participate in the process, the student could not be considered to be objecting to the admissibility of that evidence.

21. The panel then heard the University's submissions with respect to penalty. The University urged that the panel impose the greatest sanction available to it under the Code, namely, the recommendation of expulsion of the student. As well, since the Tribunal can only recommend expulsion which recommendation might not be accepted, the University urged that we also impose a five-year suspension.

22. Again, the panel had no difficulty in unanimously accepting the submissions of the University and recommending expulsion of the student. Plagiarism has been described as the most serious and egregious of academic offences at the University. However, it is rare for the University and the Code to be able to reach the actual provider of the plagiarism as opposed to an individual student submitting it. Here the student was running a commercial company and providing academic content to students to masquerade as their own work in exchange for money. In the best of circumstances (if that phrase is appropriate to these kinds of circumstances), plagiarism is difficult to detect and probably would have not been detected by the University in these circumstances if not for the "tip" from Professor Clarke directing Dr. Fairgrieve to Freelancer.com. There was no evidence of any mitigating circumstances in favour of the student. Although, he did admit the offence to Professor Clarke at their meeting, the student did not attend or cooperate with the University in these proceedings in any way requiring the University to

prosecute them as if no such admission had been made. In fact, if this is not a case that warrants expulsion, this panel has difficulty conceiving of any case that would. Accordingly, the panel has no difficulty in unanimously recommending the expulsion of the student. In any event, and in the interim, the panel imposes a five-year suspension on the student.

DATED at Toronto, December 6, 2012.

A handwritten signature in black ink, appearing to be 'Bn' with a stylized flourish.

Bernard Fishbein,
Co-Chair