

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO
TRIAL DIVISION**

IN THE MATTER OF charges of academic dishonesty made on December 4, 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

B E T W E E N:

UNIVERSITY OF TORONTO

- AND -

B ■■■ S ■■■

REASONS FOR DECISION

Hearing Date: Friday, July 12, 2013

Members of the Panel:

Paul B. Schabas, Barrister and Solicitor, Chair

Professor Pascal van Lieshout, University of Toronto Mississauga, Department of Speech-Language Pathology

Mr. Adam Found, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers

Mr. B ■■■ S ■■■, the Student

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

Ms. Serene Tan, Instructor: GGR208H5S: People and Places

Ms. Rana Nouri, Witness for the Student

Ms. Rohina Gul, Witness for the Student

In Attendance:

Ms. Lucy Gaspari, Manager, Academic Integrity and Affairs, University of Toronto Mississauga

Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Introduction

- 1) A panel of the Trial Division of the University Tribunal convened to hear this matter on Friday, July 12, 2013. For the reasons which follow, the panel has concluded that Mr. S ■■■ is guilty of charge one, and dismisses charges two and three.

The Charges and Particulars

The charges, and the particulars of those charges, are as follows:

1. On or about August 16, 2012, you knowingly represented the ideas, or the expressions of the ideas of another as your own work in an essay that you submitted in the University of Toronto course GGR208 ("Course"), contrary to Section B.I.1(d) of the Code.
2. On or about August 16, 2012, you knowingly submitted an essay containing purported references to sources that had been concocted, contrary to section B.I.1(f) of the Code.
3. In the alternative, by submitting the essay in the Course, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind, contrary to section B.I.3(b) of the Code.

Particulars

4. At all material times you were a student at the University of Toronto Mississauga.
5. In Winter 2012, you enrolled in the Course, which was called People and Places, and which was taught by Serena Tan.
6. As one of the requirements of the Course, you were required to submit a research essay, which was worth 20% of the final grade.

7. On August 12, 2012, you submitted an essay titled "Peoples Republic of China" (Essay").
8. You submitted the Essay to obtain academic credit.
9. You submitted the Essay knowing that it contained verbatim or nearly verbatim passages from other sources which were not placed in quotation marks or properly attributed to their original sources. You knew that the Essay contained ideas or expressions of ideas which were not your own. You did not include these sources you used in your bibliography.
10. You submitted the Essay knowing that it contained references to sources that were concocted or/and that you did not consult. You did so in order to obtain an academic advantage and for the purpose of attempting to conceal your plagiarism.
11. You knowingly submitted the Essay with the intention that the University of Toronto rely on it as containing your own ideas in considering the appropriate academic credit to be assigned to the work.

The Evidence for the University

- 2) The University called two witnesses.
- 3) The first witness was Serene Tan, the instructor in course GGR 208 H5S: People and Places, taught at UT Mississauga, in the summer session 2012. Ms. Tan holds a PhD from York University and is currently a Policy Associate at the Mowat Centre. Prior to the summer of 2012, she had taught a course at New College and had previously taught courses at York University.
- 4) Ms. Tan described the course as being about populations, migration, and globalization. She identified the course syllabus, which included a section on evaluation and a section on academic integrity. The evaluation included two

assignments each worth 20% of the total mark. Otherwise evaluation was through a mid-term in-class test, final exam and class participation.

- 5) The syllabus also contained a second dealing with academic integrity, which included a reminder to students to be familiar with, and adhere to, both the *Code of Student Conduct* and the *Code of Behaviour on Academic Matters, 1995*. Students were also referred to a document "How Not to Plagiarize," by M. Proctor. Students were also advised that papers would be submitted to www.turnitin.com for the purpose of detecting plagiarism. Ms. Tan also indicated that in her first lecture she normally reminds students that they are not to cheat. She noted that this particular course was a second year course so she also expected students to be familiar with the requirements of academic honesty. Ms. Tan readily conceded that she included the section on academic integrity in the syllabus because it is required by the Department.
- 6) This case dealt with the second assignment, a research essay. Ms. Tan reviewed the assignment sheet noting that it asked students to write a 2,000 word essay on a country of the student's choice, looking at demographics or migration issues, analyzing something that she had covered in class in more detail. The grading and assessment scheme provided to students clearly directed them to "include citations where applicable. References should be properly cited and should include scholarly and credible sources (peer reviewed articles or books.)"
- 7) Mr. S■■■ chose to write his essay on the People's Republic of China, looking at two contemporary issues: China's one-child policy, and poverty.
- 8) Ms. Tan explained that she read the paper twice and initially gave it a mark of 14 out of 20. Following the marking, she checked the results on turnitin.com. She explained that turnitin.com looks for similarities. She noted that Mr. S■■■'s essay had a "51%" similarity index. This concerned her as she normally expects to see a result between 1% and 9%. As she put it "anything over two digits would cause her to take a closer look." 51% indicates a remarkably high similarity to other works, she said.

- 9) While the turnitin.com information is interesting, the University made it clear that it was placing no reliance on that information in proving the charges. Rather, evidence of the results from turnitin.com was only led to explain why Ms. Tan took further steps. The Panel also places no reliance on the turnitin.com results.
- 10) Ms. Tan then conducted her own investigation. She explained that she took highlighted passages from the turnitin.com results and put them in a Google search, which led her to identify three documents which were remarkably similar to portions of Mr. S■■■■'s paper. As she put it "the text in Mr. S■■■■'s paper is very similar to the sources she found, and words and numbers appear in a very similar order."
- 11) In particular, Ms. Tan printed out sources entitled "Poverty in China" (Source #1), an excerpt from "The Effect of China's One-Child Family Policy after 25 Years" (Source #2, an article from *The New England Journal of Medicine*), and "Issues and Trends in China's Population (Throughout History and Today)" (Source #3).
- 12) Ms. Tan reviewed with us the similarities she identified and concluded that there was an unacceptable degree of similarity between Mr. S■■■■'s paper and the sources. Only one of the sources (Source #3) was cited in Mr. S■■■■'s footnotes, and there were no quotation marks around words that appeared to be taken from the sources.
- 13) In cross-examination by Mr. S■■■■, it was suggested to Ms. Tan that she told the class that all she wanted to see was where students got their material from, in a bibliography. Ms. Tan conceded that this was "possible", but did not recall telling students that quotation marks were unnecessary, as Mr. S■■■■ suggested. There was also some cross-examination on the fact that the first source printed out by Ms. Tan when the matter came to light, entitled "Poverty in China", could not be found again at the same url on the internet. However, Ms. Tan had a copy of Source #1 printed shortly after this came to light, and the same content now appears verbatim on *Wikipedia*.

- 14) The University also called Ms. Betty-Ann Campbell, a law clerk at Paliare Roland, the law firm representing the University. Ms. Campbell assists in preparing disclosure and otherwise supports counsel to the University on these matters.
- 15) She explained that she too did Google searches using passages from Mr. S■■■■'s paper and identified additional similarities between the paper and the article in the *New England Journal of Medicine* and the other sources identified by Ms. Tan. In cross-examination, she acknowledged that *Wikipedia* is a commonly used website, containing shared content, which Mr. S■■■■ suggested is "inherently unreliable".
- 16) With the exception of the opening paragraph of Mr. S■■■■'s essay, each paragraph of the essay bears a very close similarity to the three sources identified by Ms. Tan.

The Evidence for the Defence

- 17) Mr. S■■■■ called two witnesses prior to testifying on his own behalf. The first witness was a neighbour who gave very brief evidence to the effect that Mr. S■■■■ is of good character. Aside from telling the Panel that she had given Mr. S■■■■ \$1,500.00 for safekeeping which he then gave back to her, she gave no specific evidence and simply asserted that Mr. S■■■■ helped her, that she had no problems with him, and thinks he is a good person.
- 18) The second witness, Ms. Rohina Gul, was also a neighbour who described Mr. S■■■■ as a good person, often helping his mother who took care of Ms. Gul's child. She also said that Mr. S■■■■ took good care of her car when she was away.
- 19) Ms. Gul also gave evidence regarding Mr. S■■■■'s conduct in preparing the essay. Because of the noise of children at home, Ms. Gul let Mr. S■■■■ work at her home, where she was studying for medical exams. She recalls Mr. S■■■■ making notes about an assignment about China and population including making a chart with pencil. She was shown notes which Mr. S■■■■ subsequently testified were the notes he made in preparation for the paper, and said that she remembered seeing those notes. She recalls that Mr. S■■■■ was not happy doing this work, finding it dry and boring. Ms. Gul also said that she recognized some of the topics of the articles that

Mr. S■■■■ put before her and which he subsequently testified were his source materials. As she put it, this was "probably your research".

- 20) In cross-examination, Ms. Gul agreed that she doesn't have a specific recollection of seeing any of the particular articles, she just recalls Mr. S■■■■ doing an essay about the one-child policy and rising HIV rates. Nor could she state with certainty that the handwritten notes were the very notes made by Mr. S■■■■. In re-examination by Mr. S■■■■, she was asked to describe her degree of certainty that the notes and articles were those used by Mr. S■■■■ in 2012, "on a scale of one to ten". With respect to both exhibits, she answered "eight out of ten".
- 21) Mr. S■■■■ testified on his own behalf. He identified the notes (Exhibit 12) shown to Ms. Gul as the notes he used to prepare his paper, and identified the research papers contained in the bundle (Exhibit 13) as the articles he used when preparing his essay. Those articles were highlighted. Exhibit 13 included a copy of Ms. Tan's Source #3, but did not include the other two sources.
- 22) Mr. S■■■■ then took the Panel at length and in detail through his paper and the footnotes in order to show that the footnotes properly supported what he had written. He noted that many of the similarities in the text referred to dates, common facts and statistics which would show up in any review of similarities between one document and another. He described many of the phrases used in the text which it was alleged overlapped or were taken verbatim from other sources to be simply common phrases.
- 23) Mr. S■■■■ also complained that the first time he got copies of Ms. Tan's three sources was in the disclosure received from Mr. Centa. He complained that Ms. Tan's first source, which is described in an internet hyperlink in Ms. Tan's letter to the Chair of the Geography Department dated September 4, 2012, is no longer accessible at that hyperlink. However, as noted by Ms. Tan, that source appears verbatim today on the internet on *Wikipedia*.
- 24) Mr. S■■■■ also said that he had no motive to plagiarize. He noted that the course was pass/fail, and that he could "easily" have passed the course without even

writing this assignment. However he introduced little evidence to support this assertion, noting only that he had received a 70 percent on the first mid-term, and that he would have been entitled to a participation mark.

- 25) Mr. S■■■■'s misconduct, however, was effectively disclosed in cross-examination.
- 26) First, the bundle of sources, or articles, that Mr. S■■■■ identified as the materials he used when preparing the paper, were printed from the internet in late June 2013, in preparation for this hearing. This is clear from the dates on Exhibit 13. To give just one example, the first page of Exhibit 13 is a download from a website and the date 6/25/2013 appears on the bottom right-hand corner. Another example of the printing dates is contained at the bottom of one of the articles which has the words "This content downloaded...on 25 June 2013...". When this was put to Mr. S■■■■, he attempted to explain that his computer crashed in February 2013 and all of his documents were "washed away", so he had to download them again. He argued that if he was fabricating, he would have hidden those dates on the print-out.
- 27) However, Mr. S■■■■'s explanation here is not credible. First, his response to Mr. Centa's questions on this issue were inconsistent with his initial statement that the sources were the very documents which he had used in preparing his paper. Indeed, the bundle of articles were also the documents that he asked Ms. Gul to confirm that he had worked from last summer. His story changed on cross-examination, stating that he worked from "soft copies" when he was doing his research, looking at PDF's which he was able to highlight on his computer. As he said, "I did not have to print it out when I was writing my paper". This, of course, is inconsistent with the evidence of Ms. Gul as put to her by Mr. S■■■■. Mr. S■■■■'s response to questioning on these issues was to accuse Mr. Centa of "playing with words", or he simply did not answer the questions put to him, such as refusing to respond to the suggestion that the blue highlighting he had placed on Exhibit 13 had only been put there in June 2013 in preparation for this hearing.

- 28) The second way in which Mr. S■■■■'s story fell apart was in the juxtaposition of passages from his paper and the three sources identified by Ms. Tan – two of which (Source #2 and Source #3) Mr. S■■■■ said he didn't rely on at all in his paper.
- 29) One example of extraordinary similarity is that the four sections of Mr. S■■■■'s paper dealing with China's one-child policy cited exactly the same sources as were included in the *New England Journal of Medicine* article (Source #2). Further, in comparing similar paragraphs from the two documents, footnotes appeared in similar places at the conclusion of sentences which contained similar wording. Most revealing, however, was the identical citation of one particular source. This occurred in footnote 10 of Mr. S■■■■'s paper which contained the following reference: "World Bank Health Nutrition and Population Division. Development data. (Accessed August 26, 2005 at <http://www.worldbank.org/hnpstats>.)" This is identical to footnote 28 of the *New England Journal of Medicine* article, right down to the "Accessed August 26, 2005" reference. Mr. S■■■■ gave no explanation for the use of this identical footnote. Clearly he did not access the World Bank source on August 26, 2005, and the only reasonable inference is that the source was lifted from the *New England Journal of Medicine* article, along with the other footnotes.
- 30) In cross-examination, Mr. S■■■■ refused to concede the extraordinary similarities in wording, ideas, and sentence order. He claimed that it wasn't surprising to see similarities because he had read very widely in the field and was very familiar with it. However when confronted with some of the more striking similarities, he simply refused to answer questions. We were asked to compare, for example, the following passages:

**From the New England Journal of
Medicine**

"Several options for the future have been suggested. One possibility is that everyone could be allowed to have up to two children, with a space of at least five years between them.¹ It has been predicted that this option would yield a total fertility rate of 1.7 during the next two decades, which would help to normalize the sex ratio, reduce the 4:2:1 phenomenon, and be acceptable to the majority of people.

But the government feels that vigilance is still essential. It is feared that any wavering in implementation of the policy may compromise the goal of keeping the population below 1.4 billion by 2010, which in turn could threaten economic growth and stability....

Therefore, in 2002 it was announced that there would be no fundamental policy changes but that certain aspects of policy implementation would be relaxed.² For example, couples are to be allowed choice in contraceptive methods as part of so-called client-centered family-planning services. These changes have now been introduced in 800 counties (out of a total of 3000), and more are planned. Furthermore, couples no longer need to obtain permission to have a first child, a move that spells the end of the very unpopular system of local birth quotas, which meant that couples were forced to

**From Mr. S's Paper
"Future of One Child policy"**

Chinese government is considering several options for the future of one child policy. One of the options under consideration is to allow up to two children, with a space of at least five years between them.¹ Predictions state that this option may lead to a fertility rate of 1.7 during the next two decades. This would help normalize the sex ratio, reduce the 4:2:1 phenomenon and would receive general acceptance from the majority population. However, the government feels that vigilance is crucial. The government is worried that any wavering in the implementation of the policy may hamper the goal of keeping the target population which could threaten economic growth and stability.

As a result in 2002 government announced its intention of not making any fundamental policy changes, however, some aspects of policy implementation may be relaxed.² Some policy relaxation would include client centered family planning services that would give choice in contraceptive methods. Furthermore, couples would not have to obtain permission to have their first child, a move from the very unpopular system of local birth quotas, which meant that couples would have to delay their pregnancy if local quota was exceeded. These changes reflect Chinese government's efforts to adopt a cautious and gradual

¹ Greenhalgh S, Bongaarts J. Fertility policy in China: future options. Science 1987;235:1167-1172

² No relaxation of Chinese one couple, one child policy. People's Daily Beijing. September 2, 2002. (Accessed August 16, 2012, at http://English.peopledaily.com.cn/200209/01/eng20020901_102440.shtml.)

¹ Greenhalgh S, Bongaarts J. Fertility policy in China: future options. Science 1987;235:1167-1172

² No relaxation of Chinese one couple, one child policy. People's Daily Beijing. September 2, 2002. (Accessed August 16, 2012, at http://English.peopledaily.com.cn/200209/01/eng20020901_102440.shtml.)

delay pregnancy if the local quota was exceeded. These changes, together with declining fertility aspirations, have reduced (though not eliminated) the tensions associated with the government's efforts to control population growth and have allowed the government to adopt a cautious and gradual approach to relaxing the one-child policy."

approach to relaxing one child policy."

- 31) The similarities in both text and citation of sources is unmistakable, and was even more striking in the sections of Mr. S■■■■'s paper dealing with poverty in China. Here, Mr. S■■■■'s sources are identical to those contained on the *Wikipedia* entry (which is also Source #1 printed out by Ms. Tan when the plagiarism first came to light).
- 32) Mr. S■■■■'s only explanation was to argue that this is "the language you're going to use if you're using the source documents...those are plain words...there's nothing special about them". He also asserted that anyone who is writing about those topics would use those sources.
- 33) A cursory comparison of the *New England Journal of Medicine* article and the *Wikipedia* article with the essay submitted by Mr. S■■■■ demonstrates that the ideas and sentences are extremely similar, placed in the same order and in very similar language, with identical footnotes. Even Mr. S■■■■'s introduction, titled "Background" is strikingly similar to Ms. Tan's Source #3. While at least there Mr. S■■■■ provided a footnote to that source, the language he used is strikingly similar. There is simply no reasonable explanation for the similarities other than Mr. S■■■■ simply lifting whole sections from these documents, making minor changes to the texts so that sentences would not be identical, and passing them off as his own work. Mr. S■■■■ admitted that he knew he was not to use anyone else's work and pass it off as his own without any attribution. He also agreed that he knew that if he was going to use verbatim or nearly verbatim language from sources, he must put those words in quotation marks and cite them. It is clear that he violated these rules

which were known to him, especially as a senior student in the fourth year of his studies.

Conclusion on Charge One

- 34) In our view, Mr. S■■■ is guilty of the first charge against him, that he “knowingly represented the ideas, or the expressions of the ideas of another as your own work in an essay that you submitted to the University of Toronto..., contrary to Section B.I.1(D) of the Code of Behaviour on Academic Matters.” The panel is mindful of the fact that the onus of proof in these cases is on the prosecutor, who “must show on clear and convincing evidence that the accused has committed the alleged offense.” Mr. Centa has also noted that while the charge uses the word “knowingly”, the term “knowing” is deemed to have been met “if the person ought reasonably to have known” that they were committing an offense under the code.
- 35) We conclude the first charge has been clearly and convincingly established. Indeed, the evidence is so strong, and Mr. S■■■’s explanations either non-existent or so unconvincing, that if actual knowledge was required we would infer that he had it. Mr. S■■■’s explanation that he only used the underlying sources is incapable of belief. In particular, the “arrow through the heart”, to use Mr. Centa’s words, is contained in Mr. S■■■’s footnote 10 containing the reference to having accessed a document on August 26, 2005, which is exactly how it appears in the *New England Journal of Medicine* article. In short, Mr. S■■■ deliberately plagiarized by stringing together passages and footnotes from three different sources, two of which were not attributed in his paper.
- 36) In reaching this conclusion, we have also considered, and rejected, Mr. S■■■’s closing submissions, much of which repeated his evidence. He asked us to give weight to his witnesses; however, his witnesses did not help his case. The first witnesses’ evidence gave only the barest of good character evidence, while Ms. Gul’s evidence actually undermined Mr. S■■■’s story. By having Ms. Gul state that she believed Mr. S■■■ had source documents with him, she contradicted Mr. S■■■’s subsequent explanation, given in cross-examination, that he only had soft copies of

the documents when preparing the essay. Mr. S■■■■ was reduced to asserting that he had notes showing that he had done research, but even the notes contained no independent verification. Finally, while we are mindful that *Wikipedia* can be changed over time and is not, as Mr. S■■■■ submitted, a reliable source which could have been created after he wrote the paper, the document printed out by Ms. Tan when she first suspected plagiarism is identical to the *Wikipedia* entry printed out by Ms. Campbell in preparation for the hearing. In our view, the reliability of *Wikipedia* is not an issue here. What is important is the fact that Mr. S■■■■'s paper tracks, almost verbatim, a source found by Ms. Tan in the summer of 2012, and which continues to appear on the Internet in a *Wikipedia* entry.

Charges Two and Three

- 37) As to the second charge, Mr. Centa submits that this is made out by use of footnote 10, which is identical to footnote 28 in the *New England Journal of Medicine* article. Mr. Centa submits that by representing in his paper that he relied on a source which was clearly not reviewed by Mr. S■■■■, he has breached subsection B.I.1(f) of the Code which makes it an offence to "submit any academic work containing a purported statement of fact or reference to a source which has been concocted." However, charge two asserts that Mr. S■■■■ "knowingly submitted an essay containing purported references to sources that had been concocted" which is particularized to also include "sources...that you did not consult". The word "concocted" connotes making something up that does not otherwise exist.
- 38) In our view, the charge as phrased alleges that Mr. S■■■■ made up sources that did not exist. However, whether the source existed or not, clearly Mr. S■■■■ did not review it as he could not have accessed it in 2005. Given the wording of Subsection B.i.1(f) of the Code, which specifically addresses "concocting" a reference, we are not satisfied that this subsection makes it an offence to cite something without having looked at it, which is as far as the evidence takes us. By copying the footnote, this is an example of the plagiarism covered by charge one. Accordingly, while in no way condoning Mr. S■■■■'s conduct, we are not satisfied

that charge two has been established, or should properly be found against him in light of our findings on charge one.

39) Mr. Centa stated at the outset that if a finding of guilt was made on charge one and/or charge two, it would not be necessary to deal with charge three.

Accordingly, we find Mr. S [REDACTED] guilty on charge number one and dismiss charges two and three. We remain seized of the matter in order to address penalty at a hearing to be scheduled through the Office of the Governing Council.

Dated at Toronto, this 8th day of August, 2013



Paul Schabas, Co-Chair