

**UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO**

IN THE MATTER of charges of academic dishonesty made on March 9, 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

B E T W E E N:

UNIVERSITY OF TORONTO

- and -

A [REDACTED] M [REDACTED] and N [REDACTED] B [REDACTED]

REASONS FOR DECISION

Hearing Date: September 29, 2014

Panel Members:

Mr. Paul Schabas, Barrister and Solicitor, Chair

Professor Gabriele D'Eleuterio, Faculty of Applied Science and Engineering, Faculty Panel Member

Mr. Christopher Tsui, Student Panel Member

Appearances:

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

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

Mr. Nathan Innocente, Teaching Assistant SOC307: Crime and Delinquency, University of Toronto, Mississauga

Ms. Julie Waters, Academic Counsellor, Sociology, University of Toronto, Mississauga

Dr. Kathy Gruspier, Instructor: FSC239: Introduction to Forensic Science, University of Toronto Mississauga

In Attendance:

Ms. Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

1. The Trial Division of the University Tribunal convened to hear these matters on September 29, 2014 at 5:45PM.

Proceeding in the Absence of the Students

2. Neither student was present at 5:45. At 6PM, when the front doors of Simcoe Hall became locked, Ms. Harmer arranged for someone to wait by the doors and a note was later left on the door providing phone numbers to seek entry to the building, should either student attend.
3. Following submissions from Ms. Harmer, and the tendering of correspondence and the Order of Ms. David dated July 7, 2014, the Tribunal decided to proceed with the matter in the absence of the students.
4. The matter had originally been scheduled to proceed on July 7, 2014, but was adjourned on that date peremptory to Ms. M [REDACTED] after she requested an adjournment, claiming that the hearing date had only very recently been brought to her attention. Ms. M [REDACTED] communicated with counsel for the Provost by email, and email notifications were sent to her in late August at the email address she used in July, advising her of this date.
5. With respect to Ms. B [REDACTED], the Provost's office has not heard from her since 2010. However, notification of this date for hearing was provided. Emails were sent to her last known email address which she had used in 2010, and did not bounce back. A letter was delivered to her last known address and was received by a "P. B [REDACTED]", and a voice message was left on the last phone number she provided, where the person to whom the phone belonged identified herself in her recorded answer as "N [REDACTED]".
6. Accordingly, having regard to the recent contact with Ms. M [REDACTED] and the various ways in which Ms. B [REDACTED] was notified of the hearing date, the Notices which advise the students that the matter may proceed in their absence, as well as Rules 14(c) and 17, the Tribunal agreed to proceed in the absence of the students.

Hearing both matters together

7. The University brought a motion to join the two matters so they could be heard together. As the Notices, set out below, indicate, the two matters involve the same incidents, same courses and same students. Indeed, the allegation is that the two students committed academic misconduct together. In the circumstances, therefore, having regard to the criteria in Rule 30, the Tribunal was satisfied that it would be more efficient, and that no prejudice would be caused to the students, if it heard the matters together.

M [REDACTED] Particulars

8. The charges made against Ms. M [REDACTED], together with the particulars, are as follows:

- 1) On or about February 26, 2009, you did knowingly represent as your own any idea or expression of an idea or work of another in connection with academic work with respect to the submission of an essay entitled "The Forensic Controversy of Bitemark Identifications" in FSC239Y5Y, contrary to section B.I.1.(d) of the Code.
- 2) On or about February 26, 2009, you did knowingly use or possess an unauthorized aid or aids or obtain unauthorized assistance in connection with academic work, with respect to the submission of an essay entitled "The Forensic Controversy of Bitemark Identifications" in FSC239Y5Y, contrary to section B.I.1.(b) of the Code.
- 3) In the alternative to paragraphs 1 and 2 above, on or about February 26, 2009, you did knowingly engage 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, in connection with the submission of an essay entitled "The Forensic Controversy of Bitemark Identifications" in FSC239Y5Y, contrary to section B.I.3.(b) of the Code.
- 4) On or about March 19, 2009, you did knowingly represent as your own any idea or expression of an idea or work of another in connection with academic work with respect to the submission of an Annotated Bibliography in SOC307H5S, contrary to section B.I.1.(d) of the Code.
- 5) On or about March 19, 2009, you did knowingly use or possess an unauthorized aid or aids or obtain unauthorized assistance in connection with academic work, with respect to the submission of an Annotated Bibliography in SOC307H5S, contrary to section B.I.1.(b) of the Code.
- 6) In the alternative to paragraphs 4 and 5 above, on or about March 19, 2009, you did knowingly engage 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, in connection with the submission of an Annotated Bibliography in SCO307H5S, contrary to section B.I.3.(b) of the Code.
- 7) On or about March 26, 2009, you did knowingly represent as your own any idea or expression of an idea or work of another in connection with academic work with respect to the submission of an essay entitled "Academic Dishonesty" in SOC307H5S, contrary to section B.I.1.(d) of the Code.

- 8) On or about March 26, 2009, you did knowingly use or possess an unauthorized aid or aids or obtain unauthorized assistance in connection with academic work, with respect to the submission of an essay entitled "Academic Dishonesty" in SOC307H5S, contrary to section B.I.1.(b) of the Code.
- 9) In the alternative to paragraphs 7 and 8 above, on or about March 26, 2009, you did knowingly engage 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, in connection with the submission of an essay entitled "Academic Dishonesty" in SOC307H5S, contrary to section B.I.3.(b) of the Code.

Particulars of the offences charged

- 10) You were at all material times enrolled as a student at the University.
- 11) On or about February 26, 2009, you submitted an essay entitled "The Forensic Controversy of Bitemark Identifications" to fulfill the course requirements in FSC239Y5Y ("FSC Essay").
- 12) Much of the text in your FSC Essay is copied verbatim from and/or is very similar to the text of an essay submitted in the previous year in the same course by N [REDACTED] B [REDACTED], another student, without attribution or acknowledgement.
- 13) You represented Ms. B [REDACTED] work as your own without attribution and/or you used Ms. B [REDACTED] essay as an unauthorized aid when writing your FSC Essay, and/or you obtained unauthorized assistance from Ms. B [REDACTED] in writing your FSC Essay.
- 14) On or about March 19, 2009, you submitted an Annotated Bibliography to fulfill the course requirements in SOC307H5S.
- 15) Much of the text in this Annotated Bibliography is copied verbatim from and/or is very similar to the text of an Annotated Bibliography submitted in the same term in the same course by N [REDACTED] B [REDACTED], another student, without attribution or acknowledgement.
- 16) You represented Ms. B [REDACTED] work as your own without attribution and/or you used Ms. B [REDACTED] Annotated Bibliography as an unauthorized aid when writing your essay, and/or you obtained unauthorized assistance from Ms. B [REDACTED] in writing your annotated bibliography.
- 17) On or about March 26, 2009, you submitted an essay entitled "Academic Dishonesty" to fulfill the course requirements in SOC307H5S ("SOC Essay").
- 18) Much of the text in your SOC Essay is copied verbatim from and/or is very similar to the text of an essay submitted in the same term in the same course by N [REDACTED] B [REDACTED], another student, without attribution or acknowledgement.

- 19) You represented Ms. B [REDACTED] work as your own without attribution and/or you used Ms. B [REDACTED] essay as an unauthorized aid when writing your SOC Essay, and/or you obtained unauthorized assistance from Ms. B [REDACTED] in writing your SOC Essay.

B [REDACTED] Particulars

9. The charges made against Ms B [REDACTED], together with the particulars, are as follows:

- 1) On or about February 26, 2009, you did knowingly aid or assist another student, A [REDACTED] M [REDACTED], to use or possess an unauthorized aid or aids or obtain unauthorized assistance in connection with academic work, with respect to the submission of an essay entitled "The Forensic Controversy of Bitemark Identifications" in FSC239Y5Y, contrary to section B.I.1.(b) of the Code.
- 2) In the alternative to paragraph 1 above, on or about February 26, 2009, you did knowingly engage 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, in connection with the submission of an essay by A [REDACTED] M [REDACTED] entitled "The Forensic Controversy of Bitemark Identifications" in FSC239Y5Y, contrary to section B.I.3.(b) of the Code.
- 3) On or about March 19, 2009, you did knowingly represent as your own any idea or expression of an idea or work of another in connection with academic work with respect to the submission of an Annotated Bibliography in SOC307H5S, contrary to section B.I.1.(d) of the Code.
- 4) On or about March 19, 2009, you did knowingly use or possess an unauthorized aid or aids or obtain unauthorized assistance in connection with academic work, with respect to the submission of an Annotated Bibliography in SOC307H5S, contrary to section B.I.1.(b) of the Code.
- 5) In the alternative to paragraphs 3 and 4 above, on or about March 19, 2009, you did knowingly engage 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, in connection with the submission of an Annotated Bibliography in SCO307H5S, contrary to section B.I.3.(b) of the Code.
- 6) On or about March 26, 2009, you did knowingly represent as your own any idea or expression of an idea or work of another in connection with academic work with respect to the submission of an essay entitled "Academic Misconduct" in SOC307H5S, contrary to section B.I.1.(d) of the Code.
- 7) On or about March 26, 2009, you did knowingly use or possess an unauthorized aid or aids or obtain unauthorized assistance in connection with academic work,

with respect to the submission of an essay entitled "Academic Misconduct" in SOC307H5S, contrary to section B.I.1.(b) of the Code.

- 8) In the alternative to paragraphs 6 and 7 above, on or about March 26, 2009, you did knowingly engage 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, in connection with the submission of an essay entitled "Academic Misconduct" in SOC307H5S, contrary to section B.I.3.(b) of the Code.

Particulars of the offences charged

- 9) You were at all material times enrolled as a student at the University.
- 10) On or about February 24, 2008, you submitted an essay entitled "The Forensic Controversy of Bitemark Identifications" to fulfill the course requirements in FSC239Y5Y ("B [REDACTED] FSC Essay").
- 11) On or about February 26, 2009, you aided and assisted A [REDACTED] M [REDACTED] to submit an essay entitled "The Forensic Controversy of Bitemark Identifications" to fulfill the course requirements in FSC239Y5Y ("Mielczarek's FSC Essay").
- 12) Much of the text in Ms. M [REDACTED]'s FSC Essay is copied verbatim from and/or is very similar to the text of your B [REDACTED] FSC Essay, without attribution or acknowledgement.
- 13) You aided and assisted Ms. M [REDACTED] to represent your work as her own without attribution and/or to use your essay as an unauthorized aid when writing her M [REDACTED] FSC Essay, and/or provided Ms. M [REDACTED] with unauthorized assistance in writing her M [REDACTED] FSC Essay.
- 14) On or about March 19, 2009, you submitted an Annotated Bibliography to fulfill the course requirements in SOC307H5S.
- 15) Much of the text in this Annotated Bibliography is copied verbatim from and/or is very similar to the text of an Annotated Bibliography submitted in the same term in the same course by A [REDACTED] M [REDACTED], another student, without attribution or acknowledgement.
- 16) You represented Ms. M [REDACTED]'s work as your own without attribution and/or you used Ms. M [REDACTED]'s Annotated Bibliography as an unauthorized aid when writing your essay, and/or you obtained unauthorized assistance from Ms. M [REDACTED] in writing your annotated bibliography.
- 17) On or about March 26, 2009, you submitted an essay entitled "Academic Misconduct" to fulfill the course requirements in SOC307H5S ("SOC Essay").

- 18) Much of the text in your SOC Essay is copied verbatim from and/or is very similar to the text of an essay submitted in the same term in the same course by A [REDACTED] M [REDACTED], another student, without attribution or acknowledgement.
- 19) You represented Ms. M [REDACTED]'s work as your own without attribution and/or you used Ms. M [REDACTED]'s essay as an unauthorized aid when writing your SOC Essay, and/or you obtained unauthorized assistance from Ms. M [REDACTED] in writing your SOC Essay.

Summary of the Evidence

10. The charges arose from assignments the students did in two courses. In FSC239Y5Y, Introduction to Forensic Science, it was alleged that Ms. M [REDACTED], handed in a paper on Bitemark Identification that was substantially similar to the paper Ms. B [REDACTED] had submitted one year earlier. In SOC307H5S, Crime & Delinquency, the students handed in annotated bibliographies that were in many places identical, and essays that had very significant similarities. Ironically, the topic of the bibliographies was academic misconduct.

FSC 239

11. Dr. Kathy Gruspier, who taught the FSC239 course, testified that one of the objectives of her course is to help students develop research and writing skills. The students were warned about plagiarism and what constituted plagiarism. They were also requested to submit their papers to turnitin.com. Although students could opt out of the turnitin.com process, Dr. Gruspier has never had a student do so.
12. Dr. Gruspier said that the turnitin.com report on Ms. M [REDACTED]'s paper showed a 37% match with Ms. B [REDACTED] paper handed in the previous year. This is a very high similarity, as most results are very low, under 10% and many below 1%. Dr. Gruspier reviewed both papers with the panel, and highlighted the very strong similarities between them. While sentences were adjusted, and words changed in various places, the works were strikingly similar. Indeed, in several places the papers had the same unusual mistakes, such as the same wrong date for an entry in the bibliography, a quotation mark at the beginning of the same sentence that has no close quote anywhere, and several identical spelling mistakes involving the same words, including the following: "rectify" or as the students spelled it "rectify", "comparison" versus "comparsion", "version" or "verison". Other unusual similarities were the reversing of the names of two authors of a cited work, and the phrase "Certainty V Probability." Ms. M [REDACTED] did not cite or in any way attribute any of her work to the paper by Ms. B [REDACTED].

SOC 307

13. Nathan Innocente, a Ph.D. candidate, was the Teaching Assistant in SOC307 and was responsible for marking student papers. The course itself was taught by Professor Garry Gray. He explained that one of the assignments involved the students first preparing an annotated bibliography which was handed in for evaluation, followed by a paper on the same topic. The students could choose from a list of topics, and M [REDACTED] and B [REDACTED] both chose the topic of cheating at university. There were no defined set of sources, and students were expected to do their own research using abstracts or wherever they chose to locate sources. All students were expected to work individually.
14. A review of the annotated bibliographies showed that the two students cited the same 17 sources (only 15 were required). Mr. Innocente said it was highly unlikely that two students would coincidentally cite the identical 17 sources. Further, they cited them in the same way, making the same citation errors, such as abbreviating "Press" to the letter "P", shortening titles of articles in exactly the same way, reversing names of authors, and in one case both cited an article that was not written by the author they listed.
15. When Mr. Innocente marked the students' papers he noticed strong similarities between the two papers, and the striking similarities in the annotated bibliography described above. The papers were highlighted to show similarities in ideas, some identical passages, similar structure and similar headings.
16. The tribunal also heard from Julie Waters, an academic counsellor in the Sociology Department at UTM. She attended a Dean's Designate meeting with Ms. M [REDACTED] and took notes. The meeting itself was conducted by Professor Scott Graham, and was attended as well by Professor Gray. Ms. Waters was called because Prof Graham had passed away and Prof. Gray was no longer at U of T. While Ms. Waters told us that Ms. M [REDACTED] admitted to working together with Ms. B [REDACTED], and therefore signed a form admitting guilt, this evidence was not compelling. Notes of the meeting were not typed or completed because, according to Ms. Waters, M [REDACTED] admitted guilt. On the other hand, Ms. Waters also told us that a meeting was held with B [REDACTED] who did not admit anything, and although those notes had been typed up they were not provided to us. Overall, the tribunal did not find Ms. Waters evidence to be helpful or compelling, and we place no weight on it.
17. We also heard briefly from Lucy Gaspini, Manager of Academic Integrity and Affairs at the University of Toronto Mississauga, who also gave evidence of the Dean's Designate meetings and provided us with the students' academic record.

Findings

18. The Tribunal is satisfied that Ms. M [REDACTED] submitted work that was not her own in FSC239, contrary to section B.I.1.(d) of the Code. The similarities between her paper and the paper submitted by Ms. B [REDACTED] the previous year are unmistakeable and cannot reasonably be explained as coincidental. The evidence goes well beyond meeting the civil burden of proof, and is overwhelming. In short, Ms. M [REDACTED] knowingly copied Ms. B [REDACTED] work and represented it as her own in order to obtain academic credit.
19. Similarly, both students copied one another's work and passed it off as their own in SOC307. It is clear that they must have worked together in preparing annotated bibliographies that not only contained identical sources – which is highly unusual in itself – but identical errors and anomalies in citation. The papers also demonstrated close similarities that cannot be explained other than that the students improperly worked together to produce essentially the same paper. This constitutes the same kind of academic misconduct, contrary to section B.I.1.(d) of the Code, and is clearly established on the preponderance of the evidence.
20. While it might have been raised that the students did not appreciate they were to work independently, there is no basis for such a finding on the evidence. First, Mr. Innocent testified that he made it clear that the students were expected to work independently. Second, unless told otherwise, students know or ought to know that they are to research and write papers independently of one another. Third, section B of the Code makes clear that the term “knowing” includes the student “ought reasonably to have known”. Fourth, these students were not new to the University or academic rules, as disclosed by their transcripts, and there was evidence of the emphasis placed on educating students about what constitutes plagiarism, including in these courses. In short, the Tribunal is satisfied that the students ought to have known that they were not to work together or copy one another's work.
21. This leaves only the question of whether Ms. B [REDACTED], whose paper in FSC 239 was copied by Ms. M [REDACTED] the following year, committed academic misconduct with respect to that course. Ms. Harmer argues that the students were not naïve, and that their actions in SOC307 – which they were taking at the same time as Ms. M [REDACTED] was submitting the Bitemarks paper in FSC 239 – were so similar that they must have been done in concert with one another, and thus Ms. B [REDACTED] is guilty of improperly providing Ms. M [REDACTED] with an aid.
22. Although we have no information as to how or why her paper was provided to Ms. M [REDACTED], or whether Ms. B [REDACTED] was aware that Ms. M [REDACTED] had plagiarized it, it

is our conclusion, on a balance of probabilities, that Ms. B [REDACTED] knew or ought reasonably to have known that her paper would be used improperly by Ms. M [REDACTED]. While the facts involved in the academic misconduct in the two courses are different, they occurred at the same time, when the students were working together – and actively copying each other's work. In our view, then, Ms. B [REDACTED] aided Ms. M [REDACTED]'s offence and is a party to it under B.ii.1.(a)(ii) of the Code.

Conclusion

23. While the students are charged with a variety of breaches of the Code, each course raises one specific delict, or incident, of misconduct by each student. We therefore find as follows:

- (a) Ms. M [REDACTED] is guilty of knowingly representing as her own the work of another in FSC 239, and Ms. B [REDACTED] is guilty of aiding Ms. M [REDACTED] in the commission of this offence; and,
- (b) In SOC307, Ms. M [REDACTED] and Ms. B [REDACTED] are each guilty of improperly collaborating with each other and representing as their own, work that was prepared by both of them.

24. Following release of these Reasons, the Tribunal's office will arrange a date for a hearing to consider penalty.

Dated at Toronto, this 8th day of December, 2014.



Paul Schabas, Co-Chair