

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on August 3, 2016,

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 -

J [REDACTED] R [REDACTED]

REASONS FOR DECISION

Hearing Date: December 7, 2016

Members of the Panel:

Mr. Shaun Laubman, Lawyer, Chair
Professor Pascal van Lieshout, Faculty Panel Member
Mr. David Kleinman, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto
Mississauga
Mr. Lawrence Williams, Teaching Assistant for SOC219, University of Toronto
Mississauga

In Attendance:

Ms. Tracey Gameiro, Associate Director, Office of the Appeals, Discipline and Faculty
Grievances, University of Toronto
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Not in Attendance:

Ms. J [REDACTED] R [REDACTED], the Student

1. The Trial Division of the University Tribunal heard this matter on December 7, 2016. As discussed below, J [REDACTED] R [REDACTED] (the "Student") did not attend the hearing.
2. The Student was charged as follows:
 - a. On or about February 2, 2015, you knowingly obtained unauthorized assistance in connection with a "Learning How to Fear" Paper ("Essay") that you submitted for academic credit in SOC219H5 (the "Course"), contrary to section B.I.1.(b) of the Code.
 - b. On or about February 2, 2015, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in connection with the Essay that you submitted for academic credit in the "Course", contrary to section B.I.1(d) of the Code.
 - c. In the alternative, on or about February 2, 2015, 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 in connection with the Essay, which you submitted for academic credit in the Course, contrary to section B.I.3(b) of the Code.

Decision to Proceed with the Hearing in the Student's Absence

3. Neither the Student nor any representative on her behalf appeared at the hearing. The Panel waited nearly half-an-hour past the scheduled commencement time before beginning the proceeding.
4. Ms. Harmer requested that the Panel proceed with the hearing in the Student's absence and presented evidence in support of that submission.
5. The affidavit of Virginia Fletcher, a law clerk at Paliare Roland Rosenberg Rothstein LLP, was tendered and admitted into evidence. Ms. Fletcher's affidavit

detailed communications with the Student regarding the charges and scheduling the hearing, including:

- a. on August 24, 2016, the Student was properly served with a Notice of Hearing. The hearing date was originally set for October 13, 2016;
- b. on August 29, 2016, the Student responded from her UToronto email account to advise that she was out of the country. The Student requested a hearing date “closer to December” when she would be back in Canada;
- c. on September 6, 2016, the Student again emailed from her UToronto email account and asked Ms. Harmer to schedule the hearing for early December;
- d. when Ms. Harmer proposed either December 5th or December 7th as alternative hearing dates, the Student responded by email on September 12, 2016 and confirmed that she could attend a hearing on December 7, 2016 at 5:45 pm;
- e. as a result of the Student’s request for an adjournment and her confirmation that she was available on December 7, 2016, the hearing was adjourned to that date. The Student was properly served with a revised Notice of Hearing on September 13, 2016; and
- f. in the week leading up to the Hearing Date, Ms. Harmer and the University provided several reminders of the December 7th hearing date to the Student. In addition to sending multiple reminder emails to the Student’s UToronto email account, Ms. Harmer called and left a message with the Student’s father on December 1, 2016 asking for the Student to contact her. Despite these efforts, there is no evidence that the Student made any effort to communicate with discipline counsel or the University after she confirmed her availability for the hearing date back on September 12, 2016.

6. Based on the evidence presented, the Panel was satisfied that the University had discharged its obligation to provide proper Notice to the Student regarding the charges against her and the hearing scheduled for December 7, 2016. Therefore, the Panel determined that it would proceed with the hearing in the Student's absence.

The University's Evidence

7. The University called two witnesses. The first witness was Lawrence Williams, a teaching assistant for SOC219H5 in the semester that the Student was enrolled in the Course.
8. Mr. Williams was responsible for grading the Student's assignments in the Course. The assignment at issue was an Essay worth 20% of the final grade for the Course. The Essay was to be between 500-750 words in length and was to be submitted for marking in electronic form as a Word document.
9. Mr. Williams described how he initially gave the Student's Essay a grade of 85, which he said was very high for the course.
10. However, in the course of reviewing the Student's Essay, Mr. Williams noticed a line down the left side of the page. When he clicked on the line, a host of track changes were revealed in the Word document. The track changes were extensive in the short, four paragraph Essay.
11. The Panel was presented with evidence of hard copy print outs of the Student's Essay, including versions showing the track changes. The Panel was also shown evidence of the electronic version of the Essay, similar to the one that was marked by Mr. Williams.
12. When the track changes were revealed, an editor's name was provided for each of the changes. In every instance, the editor's name was someone other than the Student. For the purposes of these reasons, the editor's name will be shortened to "T.P.".

13. Seeing that the author of the paper, or at least the extensive changes to the paper, appeared to be someone other than the Student, Mr. Williams testified how he did an internet search for T.P.. As he discovered, T.P. is a former University of Toronto student who advertises editing and writing services, including for university assignments. The Panel was presented with evidence of T.P.'s marketing material.
14. The University's second witness was Lucy Gaspini, the Manager of Academic Integrity at the University of Toronto Mississauga Campus.
15. Ms. Gaspini testified how there had been no Dean's meeting held with the Student. Apparently, the Student only sporadically responded to the University's efforts to communicate with her to set up a meeting.

Decision of the Tribunal

16. The Panel deliberated and after considering the evidence presented by the University and Ms. Harmer's submissions, it unanimously determined that the Student was guilty of unauthorized assistance, contrary to section B.I.1(b) of the *Code of Behaviour on Academic Matters*.
17. The uncontradicted evidence presented by the University easily satisfied the burden of proof that the Student enlisted the unauthorized assistance of T.P. in preparing her Essay and then submitted it for academic credit in the Course.
18. In light of the finding of guilt on charge one and since Ms. Harmer advised during her closing submissions that the University would not be seeking any additional penalty if the Panel found the Student guilty of multiple charges as opposed to only one, the Panel determined that it was unnecessary to make any finding on the remaining charges against the Student.
19. Accordingly, the Student was found guilty of one count of unauthorized assistance, contrary to section B.I.1(b) of the *Code of Behaviour on Academic Matters*.

The Penalty

20. The Student had no prior convictions.

21. In light of the Student's failure to attend the hearing, no mitigating circumstances were presented for the Panel to consider at the penalty stage.

22. Ms. Harmer submitted that the following penalty was warranted:

- a. That the Student receive a final grade of zero in SOC219 in Winter 2015;
- b. That the Student be suspended from the University for a period of two years, commencing on December 7, 2016 and ending on December 6, 2018;
- c. That the sanction be recorded for a period of three years on the Student's academic record and transcript to the effect that she was sanctioned for academic misconduct, commencing on December 7, 2016 and ending on December 6, 2019; and
- d. That this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the student withheld.

23. Upon hearing Ms. Harmer's submissions, the Panel was satisfied that the proposed penalty was fair and reasonable. An Order finding the Student guilty of one count of unauthorized assistance and imposing the penalty set forth above was issued on December 7, 2016.

Dated at Toronto, this 17th day of January, 2017



Shaun Laubman, Co-Chair