

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on September 15, 2008;

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 -

J. J

Hearing Date: December 2, 2009

Members of the Panel:

- Mr. Andrew Pinto, Barrister and Solicitor, Chair
- Professor Markus Bussman, Faculty Panel Member
- Mr. Adil D'Sousa, Student Panel Member

Appearances:

- Mr. Robert Centa, Assistant Discipline Counsel for the University, Paliare Roland Barristers
- Ms. Julie Wilkes, Student-at-Law for the Student, Downtown Legal Services

In Attendance:

- Professor John Britton, Office of Student Academic Integrity, Department of Arts and Science
- Mr. Christopher Lang, Director, Appeals Discipline and Faculty Grievances, Office of the Governing Council
- Mr. J J , the Student, not in attendance

Preliminary

[1] The Trial Division of the University Tribunal was convened on December 2, 2009 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "*Code*") laid against the Student by letter dated September 15, 2008 from Professor Edith Hillan, Vice-Provost, Academic.

[2] On November 26, 2009 the Student signed a Consent agreeing that the University had provided him with reasonable notice of the hearing being scheduled for December 2, 2009. He also agreed to be represented by a representative of Downtown Legal Services and that the hearing could proceed in his absence. Also on November 26, 2009, the Student and the University signed an Agreed Statement of Facts ("ASF") and an Agreed Statement of Facts and Joint Submission on Penalty ("JSP").

Notice of Hearing and Charges

[3] The *Notice of Hearing*, dated November 27, 2009, informed the Student that a hearing before the Trial Division of the University Tribunal was scheduled for Wednesday, December 2, 2009.

[4] The charges are as follows:

1. On or about June 20, 2008, you knowingly represented as your own, an idea or expression of an idea, and/or work of another in connection with a form of academic work, namely, your final essay assignment ("Essay"), which you submitted to fulfil the course requirements of POL33H, Politics and Morality (the "Course"), contrary to section B.I.1(d) of the *Code of Behaviour on Academic Conduct* (the "*Code*").
2. On or about June 20, 2008, you knowingly submitted academic work, the Essay, which contained references to a source or sources which had been concocted, contrary to section B.I.1(f) of the *Code*.
3. In the alternative, on or about June 20, 2008, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind by submitting the Essay, which you submitted to fulfil course requirements in the Course, contrary to Section B.I.3(b) of the *Code*.

[5] Particulars of the charges are as follows:

4. You were, at all material times, a student in the Course, which was taught by Professor Mihaela Mihai.
5. On or about June 20, 2008, you submitted the Essay to fulfil partially the Course requirements.
6. The Essay contained verbatim and nearly verbatim passages from various sources and you did not properly attribute these passages, using quotation marks and appropriate references.
7. The Essay contained references to academic work that did not accurately reflect the content of the referenced work. The references were concocted.

Agreed Statement of Facts

[6] The panel was provided with an ASF, signed by the Student and counsel for the University. In summary, the Student admitted that he committed the academic offence of plagiarism as set out in charge #1; and that he knowingly submitted academic work, the Essay, which contained references to a source or sources which had been concocted, as set out in charge 2. The ASF is attached as Appendix 1.

Decision of the Tribunal

[7] Based on the ASF, the Tribunal found the Student guilty of charges #1 and #2. The University withdrew charge #3.

Sanction and Reasons

[8] The University presented to the panel a JSP, signed by the Student, which submitted that the appropriate penalty is:

- a) A final grade of zero in the course POL330H1F;
- b) A suspension from the University from September 1, 2009, until December 31, 2013;
- c) A notation of the sanction on his academic record and transcript from the date of the Order until the later of December 31, 2015, or the date he graduates; and

- d) 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 in the University newspapers, with the name of the student withheld.

The JSP is attached as Appendix 2.

[9] In its submissions on penalty, the University reminded the panel of the courts' directives on joint submissions, namely that adjudicators should be loathe not to accept the joint submission and should do so only if the administration of justice would come into disrepute following acceptance of a joint submission. In that context, the University strongly encouraged the panel to accept the joint submission on penalty.

[10] The University explained that the sanctions sought in this case were determined in accordance with previous Tribunal decisions. Recognizing that the panel is not bound by precedent, discipline counsel underscored the necessity of consistency in the application of justice.

[11] The Student's representative did not take issue with the University counsel's submissions.

[12] The Tribunal accepted the Joint Submission on Penalty, including for the reason that it would not be contrary to the public interest, nor would it bring the administration of justice into disrepute. However, the Joint Submission on Penalty was not the sole consideration for the sanction imposed. The sanction decision was necessarily a reflection of the consensus view of the panel.

[13] The Tribunal noted that the student had voluntarily chosen not to register at the University since September 1st, 2008. As a consequence, the impact of the Tribunal's sanction, and suspension in particular, will be that the student cannot register for a course for five and a half years from September 2008. The Tribunal considered this sufficient specific and general deterrence in the circumstances of this case. The agreed-upon sanction also fell within the range of appropriate sanctions consistent with similar cases.

[14] By agreeing with the Statement of Facts on Penalty and by specifically acknowledging that he committed the academic offences as charged, the student had significantly cooperated with and facilitated the academic discipline process, which was properly taken into account by the Tribunal.

[15] Accordingly, the panel imposed the following sanctions:

- a) A final grade of zero in the course POL330H1F;
- b) A suspension from the University from September 1, 2009, until December 31, 2013;

- c) A notation of the sanction on his academic record and transcript from the date of the Order until the later of December 31, 2015, or the date he graduates; and
- d) This case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanction imposed in the University newspapers, with the name of the student withheld.

DATED at Toronto this 23rd day of April, 2010.



Andrew Pinto, Chair

APPENDIX 1

NO. 2

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

THE UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO
AND

J J

IN THE MATTER OF charges of academic dishonesty made on September 15, 2008 it is produced by

AND IN THE MATTER OF the University of Toronto Code of Behaviour on Academic Matters, 1995, this 2nd day of December, 2009.

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 -

J J

Agreed Statement of Facts

1. For the purposes of this hearing under the Code of Behaviour on Academic Matters ("Code"), the Provost of the University of Toronto (the "Provost") and J J ("Mr. J") have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD"). The Provost and Mr. J agree that:

- (a) each document contained in the JBD may be admitted into evidence before 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. This hearing arises out of charges of academic misconduct filed by the Provost under the Code. A copy of the charges, which were filed on September 15, 2008, is included in the JBD at Tab 1 ("Charges"). Mr. J acknowledges that he received a copy of the Charges.

3. Mr. J waives the reading of the Charges and hereby pleads guilty to charge #1 and #2 of the Charges.

4. The Notice of Hearing into the Charges is included in the JBD at Tab 2. Mr. J acknowledges that he has received reasonable notice of this hearing. Mr. J does not wish to attend the hearing before the Tribunal and requests that the hearing proceed in his absence.

5. Mr. J first registered as a student at the University of Toronto in the Faculty of Arts & Science, in Fall 2001. At all material times, Mr. J remained enrolled at the University. A copy of Mr. J's academic record dated November 25, 2009, is included in the JBD at Tab 3.

6. In Summer 2008, Mr. J enrolled in POL 330H1F – Politics and Morality – Faces of Justice: Liberalism and its Critics, which was taught by Mihaela Mihai, a Ph.D. candidate in Political Science ("Course"). A copy of the syllabus for the Course is included in the JBD at Tab 4. Mr. J admits that he received a copy of the syllabus for the Course.

7. Students in the Course were also given additional documents to assist them to complete their written assignments in an appropriate fashion. Students in Course received: How Not to Plagiarize, Standard Documentation Formats, and Writing Centres: How we work and how to work with us. Copies of these documents are included in the JBD at Tab 5.

8. One of the Course assignments was to complete a final essay, which was worth 40% of the final grade in the Course. A copy of the suggested essay topics for the final essay, which Mr. J admits that he received, is included in the JBD at Tab 6.

9. On June 20, 2008, Mr. J submitted his final essay for academic credit and in partial completion of the Course requirements ("Essay"). A copy of the Essay is included in the JBD at Tab 7.

10. Mr. J admits that he knew or ought to have known that he had included in the Essay verbatim, nearly verbatim, and/or too closely paraphrased excerpts from many sources, including, but not limited to:

- (a) Eric J. Mitnick, Individual Vulnerability and Cultural Transformation, *Michigan Law Review*, May 2003, 101, 6, Paul Godfrey 1635. An excerpt from which is found in the JBD at Tab 8;
- (b) Avigail Eiserberg and Jeff Spinner-Halev (eds.), *Minorities within Minorities: Equality, Rights and Diversity*. An excerpt from which is found in the JBD at Tab 9;
- (c) Seyla Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era*, An excerpt from which is found in the JBD at Tab 10;
- (d) Monique Deveaux, "A deliberative approach to conflicts of culture" in Avigail Eiserberg and Jeff Spinner-Halev (eds.), *Minorities within Minorities: Equality, Rights and Diversity*. An excerpt from which is found in the JBD at Tab 11.
- (e) Gurpreet Mahajan, "Can intra-group equality co-exist with cultural diversity? Re-examining multicultural frameworks of accommodation" in Avigail Eiserberg and Jeff Spinner-Halev (eds.), *Minorities within Minorities: Equality, Rights and Diversity*. An excerpt from which is found in the JBD at Tab 12;
- (f) Jacob T. Levy, "Sexual orientation and refuge" in Avigail Eiserberg and Jeff Spinner-Halev (eds.), *Minorities within Minorities: Equality, Rights and Diversity*. An excerpt from which is found in the JBD at Tab 13;
- (g) Jorge M. Valadez, *Deliberative Democracy, Political Legitimacy, and Self-Determination in Multicultural Societies* An excerpt from which is found in the JBD at Tab 14;
- (h) David Weinstock, in Avigail Eiserberg and Jeff Spinner-Halev (eds.), *Minorities within Minorities: Equality, Rights and Diversity*. An excerpt from which is found in the JBD at Tab 15 (collectively the "Sources").

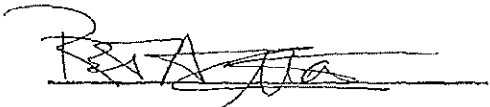
11. Mr. J admits that he knew that he did not use quotation marks or any other appropriate method to indicate that he had included lengthy verbatim or nearly verbatim passages from the Sources in his Essay. He also admits that he ought to have done so.

12. Mr. J admits that he knowingly failed to include some of the Sources in his list of references at the end of the Essay, and that he ought to have done so.
13. Mr. J admits that, in the Essay, he knowingly represented the work and expressions of others as his own.
14. Mr. J admits that he committed the academic offence of plagiarism as set out in charge #1 of the Charges, which are included in the JBD at Tab 1.
15. Mr. J admits that he knowingly concocted certain references that he included in the thesis to conceal his acts of plagiarism. For example, on pages 9 and 10 of the Essay, Mr. J admits that the references he provided to the work of Deveaux were concocted. Mr. J actually plagiarized the passages from the work of Deveaux found in the JBD at Tab 10, not Deveaux's 2000 book.
16. Mr. J admits that he knowingly committed the academic offence described in charge #2 of the Charges, which are included in the JBD at Tab 2.
17. Mr. J acknowledges that the Provost has advised him to obtain independent legal advice before signing this ASF. He acknowledges that has done so.

Signed on November 26, 2009.

J J

Signed in Toronto on November 26, 2009.



Robert A. Centa
Assistant Discipline Counsel
University of Toronto

APPENDIX 2

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on September 15, 2008,
AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters, 1995,*

NO. 4

AND IN THE MATTER OF the *University of Toronto Act, 1971, S. 50* as amended S.O. 1978, c. 88

THE UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO
AND

BETWEEN:

THE UNIVERSITY OF TORONTO

J J
.....
This Exhibit is produced by
University of Toronto
.....
this *2nd* day of *December*, 20*09*.
P.L.
.....

- and -

J J

Agreed Statement of Facts and Joint Submission on Penalty

1. For the purposes of the sanction phase of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the University of Toronto (the "University") and J J ("Mr. J") have prepared this Agreed Statement of Facts and Joint Submission on Penalty.
2. Mr. J acknowledges that he has admitted to committing three previous academic offences.
3. First, in September 2003, he admitted that he committed plagiarism in an essay that he submitted for academic credit in the course HPS 202H. The Dean's Designate in the Faculty of Arts & Science imposed a sanction of a final grade of zero in the course, and a two-year notation on his academic record and transcript.
4. Second, in March 2004, he admitted that he committed plagiarism in an essay that he submitted for academic credit in the course INI 115Y. The Provost acknowledges that the plagiarism committed was relatively minor. The Dean's Designate in the Faculty of Arts & Science imposed a written reprimand on Mr. J

5. Third, in April 2005, he admitted that he committed plagiarism in an essay that he submitted for academic credit in the course ECO 342Y1Y. The Dean's Designate in the Faculty of Arts & Science imposed a sanction of a final grade of zero in the course, a one-year suspension, and a notation on his academic record and transcript until he graduated from the University.

6. Mr. J has voluntarily chosen not to register in courses at the University since September 1, 2008. The Provost has taken his absence from the University into consideration in making this joint submission.


7. The Provost and Mr. J submit that the appropriate penalty in all the circumstances of the case is that the University Tribunal impose the following sanctions on Mr. J :

- a) a final grade of zero in the course POL330H1F
- b) a suspension from the University from September 1, 2009, until December 31, 2013;
- c) a notation of the sanction on his academic record and transcript from the date of the Order until the later of December 31, 2015, or the date he graduates.
- d) this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanction imposed in the University newspapers, with the name of the student withheld.

8. Mr. J acknowledges that the Provost of the University of Toronto has advised him to obtain independent legal advice before signing this document and that he has done so.

Signed in Levitt on November 26, 2009.

Signed in Toronto on November 26, 2009.


Robert A. Centa
Assistant Discipline Counsel