

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on March 4, 2013,

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 -

A [REDACTED] B [REDACTED]

REASONS FOR DECISION

Date of Hearing: June 27, 2013 and September 23, 2013

Panel:

Mr. F. Paul Morrison, Barrister and Solicitor, Chair
Professor Louis Florence, University of Toronto Mississauga, Department of Management, Faculty Panel Member
Mr. Oni Ornan, Student Panel Member

Appearances:

Mr. Robert Centa, Discipline Counsel for the University, Paliare Roland Barristers

In Attendance:

Mr. A [REDACTED] B [REDACTED], the Student attended on June 27, 2013 only
Ms. Sara Faherty, Assistant Dean Faculty of Law, University of Toronto
Professor Ian Lee, Associate Professor, Associate Dean (J.D. Program), University of Toronto
Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

REASONS FOR DECISION

Hearing:

1. The Trial Division of the Tribunal held a hearing on June 27, 2013, which continued on September 23, 2013, to consider the following charges brought by the University of Toronto against A [REDACTED] B [REDACTED] (the "Student") under the *Code of Behaviour on Academic Matters, 1995* (the "Code"):

Charges:

International Trade Regulation (LAW 285)

2. On or about December 19, 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 International Trade Regulation, contrary to section B.1.1(d) of the *Code*.
3. In the alternative, by submitting the essay in International Trade Regulation, 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.1.3(b) of the *Code*.

Environmental Law (LAW 239)

4. On or about December 18, 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 Environmental Law, contrary to section B.1.1(d) of the *Code*.

5. In the alternative, by submitting the essay in Environmental Law, 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.1.3(b) of the *Code*.

Sports Law (LAW 256)

6. On or about December 19, 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 Sports Law, contrary to section B.1.1(d) of the *Code*.
7. In the alternative, by submitting the essay in Sports Law, 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.1.3(b) of the *Code*.

Plea:

8. The Student attended the hearing on June 27, 2013 and entered a plea of guilty to all six charges listed above. Counsel for the University indicated that if a finding of guilt were entered with respect to the charges in paragraphs 2, 4 and 6

above, the University would withdraw the charges in paragraphs 3, 5 and 7 above.

9. The Student's plea of guilty was accepted by the Tribunal.

Agreed Statement of Facts and Finding on Charges:

10. At the outset of the hearing, the Tribunal was advised that the University had entered into an Agreed Statement of Facts with the Student. The Agreed Statement of Facts was marked as Exhibit 1 at the Hearing and is attached as Appendix A to this Decision. The Tribunal also received into evidence, on consent, a Joint Book of Documents, which was marked as Exhibit 2 at the Hearing.
11. As set out in more detail in the Agreed Statement of Facts, the circumstances giving rise to the charges involved multiple occasions on which the Student submitted an essay as part of his required work for completion of the course in question, which essay was plagiarized from the work of another person. This occurred in three different courses, summarized briefly as follows:
 - (a) In December 2012, the Student submitted an essay in partial completion of the requirements for a course in which he was enrolled, International Trade Regulation. Except for some minor wording changes, the essay submitted by the Student was identical to the essay submitted by another student in the previous academic year. As set out in paragraph 14 of the Agreed Statement of Facts, the Student admitted his plagiarism.

- (b) In December 2012, in partial completion of the requirements of a course in which he was enrolled, Environmental Law, the Student submitted a paper. This paper, except for some minor wording changes and certain omissions, was identical to a thesis submitted by another student. As set out at paragraph 19 of the Agreed Statement of Facts, the Student admitted his plagiarism.
 - (c) In December 2012, in partial completion of the requirements for a course in which he was enrolled, Sports Law, the Student submitted an essay. That essay, except for the introduction, the conclusion, some minor wording changes and certain omissions, was identical to an article published in a publicly available journal. As set out at paragraph 23 of the Agreed Statement of Facts, the Student admitted his plagiarism.
12. After reviewing the facts contained in the Agreed Statement of Facts and the Joint Book of Documents, including the Student's admissions and acknowledgments contained in the Agreed Statement of Facts, the Tribunal deliberated and concluded that the facts demonstrated that the charges to which the Student had entered a plea of guilty were proven. The Tribunal agreed to accept the guilty pleas. A finding of guilt was entered on Charges as listed in paragraphs 2, 4 and 6 above. Counsel for the University withdrew the Charges listed in paragraphs 3, 5 and 7 above.

Adjournment:

13. After the findings of guilt were entered, the Student requested that the Tribunal grant him an adjournment of the penalty phase of the Hearing, so as to enable the Student to retain counsel and to prepare for the sanction phase of the Hearing. Counsel for the University indicated that he was prepared to consent to the Student's adjournment request on certain conditions, to which the Student agreed.
14. After deliberating upon the request, the Tribunal granted the Student's request and adjourned the Hearing. In so doing, the Tribunal indicated to the Student that it was granting him a considerable indulgence in order to allow him to prepare for the penalty phase of his Hearing and the Tribunal urged the Student to take advantage of the granted adjournment.
15. The Hearing was subsequently scheduled to continue on September 23, 2013.
16. The adjournment of the Hearing and the conditions on which the adjournment was granted to the Student were confirmed by letter from the University to the Student dated July 4, 2013, which was subsequently marked as Exhibit 3 at the Hearing. The date of September 23, 2013 was confirmed by email to the Student, which email was marked as Exhibit 4 at the resumed Hearing.

Penalty:

17. As scheduled, the penalty phase of the Hearing proceeded on September 23, 2013. Despite the conditions on which his request for adjournment was granted, and despite subsequent communications from the University to the Student at his

acknowledged residence address and email address, the Student failed to appear.

18. After deliberation, being satisfied that the University had taken all requisite steps to communicate with the Student with respect to the continued Hearing, the Tribunal decided that it was appropriate to proceed with the penalty phase of the Hearing in the absence of the Student.
19. Counsel for the University filed a Book of Documents on Sanction, which was received by the Tribunal. Documents from the Book of Documents on Sanction were marked as Exhibits 3 and 4, confirming communication by the University with the Student for purposes of the penalty phase of the Hearing.
20. Affidavits contained in the Book of Documents on Sanction were marked as Exhibits 5, 6 and 7 in the course of the penalty phase of the Hearing.
21. Counsel for the University indicated that the University was seeking, as penalty, that a final grade of zero be recorded in each of the three courses in question; that the Student be suspended from the University for a period no greater than five years; and that the Tribunal recommend to the President of the University that he recommend to Governing Council that the Student be expelled from the University.
22. In support of the requested penalty, counsel for the University, in oral submissions, referred to evidence filed of several additional instances in which the Student misled or concealed the truth in connection with career-related job

applications, or in connection with other instances of communication with the University. In addition, it was noted that the Student sought an adjournment of the Hearing in order to retain counsel and prepare for the sanction phase of the Hearing, where after the Student ceased communications with the University, failed to respond to communications from the University, and breached the conditions on which his requested adjournment was granted.

23. In addition, in an application for summer employment with the [REDACTED] law firm, the Student failed to disclose his admitted plagiarism in three courses at the University, even though this summer employment took place during the summer of 2013, i.e., after the Student had entered pleas of guilty and been found guilty on three of the Charges, particularized above.
24. Other instances of misleading and untruthful conduct are contained in the Affidavit of Sara Faherty, Exhibit 6 at the Hearing.
25. Counsel for the University submitted that there was a likelihood that the Student would engage in similar offences if allowed to return as a Student at the University. He noted that there was no evidence from the Student as to mitigation; rather, in each of the three courses in question, his acts of plagiarism were apparently deliberate and calculated.
26. Counsel for the University emphasized that the requested penalty ought to be granted in order to reflect the principle of general deterrence, i.e., to demonstrate that blatant acts of plagiarism can result in the most serious penalty.

27. The Tribunal considered all of the evidence in the context of the factors that govern its decision, and considered the authorities contained in the Book of Authorities provided by counsel for the University.
28. The proven charges are very serious, particularly the Student's knowing, acknowledged, and admitted plagiarism in three different courses. The Tribunal further noted the failure of the Student to attend for the penalty phase of the Hearing, the Student's breaches of the conditions on which his requested adjournment was granted, the Student's failure to mitigate his conduct at all, and the need for general deterrence to be reflected in the penalty for such serious and deliberate offences.
29. The Tribunal, therefore, accepted the submissions of counsel for the University with respect to Penalty.

Decision of the Tribunal:

30. The Tribunal issued the following Order:
 1. Mr. B [REDACTED] is found guilty of three counts of the academic offence of plagiarism, contrary to section B.1.1(d) of the *Code of Behaviour on Academic Matters*;
 2. The sanction phase of the hearing may proceed in the absence of Mr. B [REDACTED], who received reasonable notice of the continuation of the hearing;
 3. The following sanctions shall be imposed on Mr. B [REDACTED]:

(a) he shall receive a final grade of zero in each of the course LAW 285, LAW 239 and LAW 256;

(b) he be suspended from the University commencing June 27, 2013, for a period not to exceed 5 years;

4. The Tribunal recommends to the President of the University that he recommend to the Governing Council that Mr. B [REDACTED] be expelled from the University;

5. 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, with the name of the student withheld.

DATED at Toronto this 13th day of January, 2013.



F. Paul Morrison, Chair

APPENDIX A

THE UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL

IN THE MATTER OF charges of academic dishonesty filed on March 4, 2013

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 am. S.O. 1978, c. 88*

BETWEEN:

THE UNIVERSITY OF TORONTO

– AND –

A [REDACTED] B [REDACTED] ([REDACTED])

AGREED STATEMENT OF FACTS

1. This hearing arises out of charges of academic misconduct filed by the Provost of the University of Toronto (the "Provost") under the *Code of Behaviour on Academic Matters* ("Code"). For the purpose of this hearing, the Provost and A [REDACTED] B [REDACTED] ("Mr. B [REDACTED]") have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD"). The Provost and Mr. B [REDACTED] agree that:

- (a) each document contained in the JBD may be admitted into evidence at 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. Mr. B [REDACTED] admits that he received a copy of the charges filed by the Provost. The charges are included in the JBD at Tab 1.

3. Mr. B [REDACTED] admits that he received the notice of hearing dated May 6, 2013, which is included in the JBD at Tab 2. He acknowledges that he received reasonable notice of the hearing.

4. Mr. B [REDACTED] waives the reading of the charges filed against him and pleads guilty to all 6 charges. The Provost agrees that if the Tribunal convicts Mr. B [REDACTED]:

- (a) on charge 1, the Provost will withdraw charge 2;
- (b) on charge 3, the Provost will withdraw charge 4; and
- (c) on charge 5, the Provost will withdraw charge 6.

5. In September 2012, Mr. B [REDACTED] was admitted as a transfer student from the University of Detroit Mercy into the second year of the J.D. program at the Faculty of Law at the University of Toronto. A copy of Mr. B [REDACTED]'s academic record dated June 21, 2013, is included in the JBD at Tab 3.

6. In Fall 2012, Mr. B [REDACTED] enrolled in International Trade Regulation (LAW 285), Environmental Law (LAW 239), and Sports Law (LAW 256). Copies of the course outlines for these three courses are included in the JBD at Tab 4.

7. The Faculty of Law requires that all academic work be submitted under a student's "Pseudoname" to ensure that work is evaluated without the professor knowing the author's identity. Mr. B [REDACTED]'s Pseudoname for academic year 2012 was "Waxwing".

A. *International Trade Regulation*

8. In Fall 2012, Mr. B [REDACTED] enrolled in International Trade Regulation (LAW 285), which was taught by Prof. Michael Trebilcock ("ITR"). The academic requirements for ITR included a 3750-word paper, which, in Mr. B [REDACTED]'s case, was worth 75% of the final grade.

9. On December 19, 2012, Mr. B [REDACTED] submitted an essay titled "Trade Strategy, Forum Shopping in International Trade" in partial completion of the requirements of ITR ("ITR Essay"). A copy of the ITR Essay is included in the JBD at Tab 5.

10. On January 16, 2013, Prof. Trebilcock wrote to Prof. Ian Lee to advise that he had uncovered a serious issue of plagiarism in Mr. B■■■■'s ITR Essay. The next day, Prof. Trebilcock advised that he had concluded that Mr. B■■■■'s paper contained "rampant copying" from a paper submitted the year before by a student named Y.S. A copy of the e-mail chain between Prof. Trebilcock and Prof. Lee is found in the JBD at Tab 6.

11. In the previous academic year, which was 2011-2012, a student named Y.S. had taken ITR. He had submitted an essay titled Precedential Value, Trade Strategy, and Forum Shopping in International Trade ("Y.S. Essay"). The Y.S. Essay was graded and left to be picked up in an unattended area of Prof. Trebilcock's office. Y.S. never picked up the Y.S. Essay.

12. In December 2012, Y.S. asked Prof. Trebilcock to supervise him in a directed research project in which Y.S. would elaborate on the Y.S. Essay. A copy of Y.S.'s e-mail message, and the Y.S. Essay that he attached to the message, is included in the JBD in Tab 7.

13. Mr. B■■■■ does not know Y.S. and did not receive the Y.S. Essay from Y.S.

14. Except for some minor wording changes, and the omission of Y.S.'s formal game theory model of parties' choice of forum, the ITR Essay is identical to the Y.S. Essay in all material respects. With respect to the ITR Essay, Mr. B■■■■ admits that he knowingly:

- (a) included verbatim and nearly verbatim excerpts from the Y.S. Essay;
- (b) failed to attribute those verbatim and nearly verbatim excerpts appropriately using quotation marks
- (c) represented the ideas and work of Y.S. as his own;
- (d) committed plagiarism contrary to section B.I.1(d) of the *Code*; and
- (e) engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit, contrary to section B.I.3(b) of the *Code*.

B. Environmental Law

15. In Fall 2012, Mr. B [REDACTED] enrolled in Environmental Law (LAW 239), which was taught by Prof. Andrew Green ("Environmental Law"). The academic requirements for Environmental Law included a 5000-word paper, which was worth 80% of the final grade.

16. On December 18, 2012, Mr. B [REDACTED] submitted an essay titled "Environmental Tribunal Reform" in partial completion of the requirements of Environmental Law ("Environmental Essay"). A copy of the Environmental Essay is included in the JBD at Tab 8.

17. On January 24, 2013, Prof. Green advised Prof. Lee that he had compared the Environmental Essay to an LL.M. thesis previously submitted by a student named M.L. Prof. Green suspected that Mr. B [REDACTED] had committed academic misconduct "given the striking similarity" between the Environmental Essay and M.L.'s thesis. A copy of Prof. Green's e-mail to Prof. Lee is found in the JBD at Tab 9.

18. A copy of M.L.'s thesis is found in the JBD at Tab 10. M.L.'s thesis was available in hard copy and on-line in .PDF format through the Bora Laskin Law Library.

19. Except for the introduction, the conclusion, some minor wording changes, and the omission of certain parts of the M.L.'s thesis, the Environmental Essay is identical to M.L.'s thesis in all material respects. With respect to the Environmental Essay, Mr. B [REDACTED] admits that he knowingly:

- (a) included verbatim and nearly verbatim excerpts from M.L.'s thesis;
- (b) failed to attribute those verbatim and nearly verbatim excerpts appropriately using quotation marks or any other method of attribution;
- (c) did not list M.L.'s thesis in his bibliography;
- (d) represented the ideas and work of M.L. as his own;
- (e) committed plagiarism contrary to section B.I.1(d) of the *Code*; and

- (f) engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit, contrary to section B.I.3(b) of the *Code*.

C. *Sports Law*

20. In Fall 2012, Mr. B [REDACTED] enrolled in Sports Law (LAW 256), which was taught by Gordon Kirke ("Sports Law"). The academic requirements for Sports Law included a 5250-word paper, which was worth 80% of the final grade.

21. On December 19, 2012, Mr. B [REDACTED] submitted an essay titled "A Canadian Legal Perspective to the Current N.H.L. Lockout" in partial completion of the requirements of Sports Law ("Sports Essay"). A copy of the Sports Essay is included in the JBD at Tab 11.

22. A copy of an article by Stephen F. Ross, "The NHL Labour Dispute and the Common Law, the *Competition Act*, and Public Policy", (2004) 37 U.B.C. L. Rev. 343 ("Ross Article") is found in the JBD at Tab 12. The Ross Article was available hard copy and on-line through the Bora Laskin Law Library.

23. Except for the introduction, the conclusion, some minor wording changes, and the omission of certain parts of the Ross Article, the Sports Essay is identical to the Ross Article in all material respects. With respect to the Sports Essay, Mr. B [REDACTED] admits that he knowingly:

- (a) included verbatim and nearly verbatim excerpts from the Ross Article;
- (b) failed to attribute those verbatim and nearly verbatim excerpts appropriately using quotation marks or any other method of attribution;
- (c) did not list the Ross Article in his bibliography;
- (d) represented the ideas and work of Ross as his own;
- (e) committed plagiarism contrary to section B.I.1(d) of the *Code*; and

- (f) engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit, contrary to section B.I.3(b) of the Code.

D. The meetings with the Dean's Designate

24. On January 22, 2013, Prof. Lee invited Mr. B█████ to discuss Prof. Trebilcock's concerns that Mr. B█████ had committed plagiarism in the ITR Essay. A copy of Prof. Lee's letter is included in the JBD at Tab 13.

25. On January 22, 2013, Mr. B█████ met with Prof. Lee and Sara Faherty, an Assistant Dean at the Faculty of Law, Mr. B█████ admits that Prof. Lee provided the warning that was required to be given to him under the Code.

26. Mr. B█████ stated that Prof. Trebilcock's concerns arose from a misunderstanding. Mr. B█████ stated that he had accidentally printed out and handed in the wrong document. He had, unintentionally, handed in Y.S.'s paper instead of his own. He explained that Y.S.'s paper had been given to him by a friend, Steve Hurst, who had dropped out of Osgoode Hall Law School. Mr. B█████ stated that while he had used Y.S.'s paper as a jumping off point, he had written his own paper.

27. Prof. Lee invited Mr. B█████ to return on January 24 along with any corroborating evidence that would support his version of events.

28. On January 24, 2013, Mr. B█████ met again with Prof. Lee and Assistant Dean Faherty. Mr. B█████ admits that Prof. Lee provided the warning that was required to be given to him under the Code. Prof. Lee handed Mr. B█████ a copy of a letter dated January 24, 2013, which indicated that Prof. Lee was also investigating Prof. Green's concerns regarding the paper submitted in Environmental Law. Prof. Lee indicated that Prof. Green believed that Mr. B█████'s paper had been copied from M.L.'s thesis.

29. Prof. Lee asked Mr. B█████ if he wanted to revise anything that he had said on January 22. Mr. B█████ stated that he had, in fact, intentionally handed in a modified version of the Y.S. Essay and that it did not happen by accident. He said that he knew what he was doing and he

had handed in a slightly altered version of the Y.S. Essay because he was not happy with the quality of his own work.

30. Mr. B [REDACTED] then indicated that he had done "the same thing" in Environmental Law.

31. Prof. Lee asked Mr. B [REDACTED] if there was anything he wanted to tell them about Sports Law. Mr. B [REDACTED] indicated that he had done "pretty much the same thing" in Sports Law.

32. Mr. B [REDACTED] admitted that he had committed the academic offence of plagiarism in each of the three courses.

33. On January 29, 2013, Assistant Dean Faherty wrote to Mr. B [REDACTED] to schedule a meeting to discuss whether or not the matter would be referred to the Provost. Mr. B [REDACTED] did not respond to this message, a copy of which is included in the JBD at Tab 14.

34. On January 31, 2013, Prof. Lee wrote to Mr. B [REDACTED] and invited him to a meeting on February 4, 2013, to discuss the matter. Mr. B [REDACTED] did not respond to this letter, a copy of which is included in the JBD at Tab 15.

E. Acknowledgments

35. Mr. B [REDACTED] acknowledges that:

- (a) the Provost has advised Mr. B [REDACTED] of his right to obtain legal counsel and that Mr. B [REDACTED] has either done so or waived his right to obtain counsel;
- (b) the Provost has made no representations or promises as to what sanction the Provost will seek in this case; and
- (c) he is signing this ASF freely and voluntarily, knowing of the potential consequences he faces, and does so either with the advice of counsel or having waived his right to obtain counsel.

Signed on June 27, 2013



A [redacted] B [redacted]

Signed on June 27, 2013

Robert A. Centa

Robert A. Centa
Assistant Discipline Counsel
University of Toronto

NO. 1

THE UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO
AND



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This Exhibit is produced by
the UNIVERSITY
this 27 day of JUNE, 2013
[Signature]