

# THE UNIVERSITY TRIBUNAL OF THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty filed on July 3, 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 am. S.O. 1978, c. 88

BETWEEN:

THE UNIVERSITY OF TORONTO

– AND –

A [REDACTED] C [REDACTED]

## REASONS FOR DECISION

**Date of Hearing:** Wednesday, August 14, 2013

**Members of the Panel:**

Mr. Jeffrey Leon, Barrister and Solicitor, Chair

Professor Markus Bussmann, Faculty of Applied Science and Engineering, Faculty Panel Member

Ms. Susan Mazzatto, Student Panel Member

**Appearances:**

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

Ms. Amber Neumann, Legal Case Worker for The Student, Downtown Legal Services

**In Attendance:**

Mr. A [REDACTED] C [REDACTED] The Student

Dr. Kristi Gourlay, Manager and Academic Integrity Officer, Office of Student Academic Integrity Faculty of Arts and Science

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

1. The University Tribunal was convened on August 14, 2013 to hear two charges under the *Code of Behaviour Code of Behaviour on Academic Matters, 1995* (the "Code") laid against the Student by letter dated July 3, 2012 from Professor Edith M. Hillan, the Vice Provost Faculty and Academic Life, University of Toronto (the "Charges").
2. At the outset of the hearing, the Tribunal was advised that the matter would proceed on the basis of an agreed statement of facts dated August 14, 2013 (the "Agreed Statement of Facts").
3. The Student was present at the hearing. The Tribunal was also advised that if the Tribunal finds the Student, based on his admissions, guilty of academic misconduct as set out in Charge 1 of the Charges, then Charge 2 will be withdrawn.

### **The Charges**

4. The Charges against the Student are as follows:
  - (i) On or about April 16, 2012, you knowingly represented as your own an idea or expression of an idea or the work of another in connection with an essay titled "On Taxonomic Incommensurability and Truth-Claims about Science" which you submitted for academic credit in HPS350H1S ("Essay), contrary to section B.I.1(d) of the *Code*.
  - (ii) In the alternative, on or about April 16, 2012, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code*, in connection with

the Essay which you submitted for academic credit in HPS350H1S, contrary to section B.I.3(b) of the *Code*.

### **The Agreed Statement of Facts**

5. The Tribunal was advised that the Student was prepared to admit that he was guilty of academic misconduct as set out in Charge 1 of the Charges and he waived a formal reading of the Charges.

6. The Agreed Statement of Facts (Exhibit "2") was signed by counsel for the University and by the Student. The Student acknowledged that the facts set out in the Agreed Statements of Facts were true and that he executed the Agreed Statement of Facts voluntarily and with the advice of legal counsel.

7. The Agreed Statement of Facts set out the following:

- (i) At all material times, Mr. C■■■■ was a registered student at the University of Toronto. He first enrolled in Fall 2005. After the 2007 Winter term he was placed on an academic suspension for one year. Mr. C■■■■ was last enrolled in courses in the 2012 Winter term. At that time, he earned 17.50 credits, and a cumulative grade point average of 1.95. A copy of Mr. C■■■■'s academic record, dated August 7, 2013, is found in Exhibit "1", the Joint Book of Documents ("JBD") at Tab 3.
- (ii) In the Winter 2012 term Mr. C■■■■ enrolled in HPS350H1: Revolutions in Science, taught by Curtis Forbes ("Course"). The Course required the

submission of an essay worth 40% of the Course mark. A copy of the Course syllabus is found in the JBD at Tab 4.

- (iii) The Course syllabus contained a detailed plagiarism policy, and advised students that Turnitin.com would be used for all essays submitted in the Course.
- (iv) On or about April 17, 2012, Mr. C■■■■ submitted an essay in the Course entitled "On Taxonomic Incommensurability and Truth-Claims about Science" ("Essay"). A copy of the Essay is found in the JBD at Tab 5.
- (v) The Essay paraphrases extensively from at least three published articles available on the internet. No attribution is given in the Essay to indicate that the words used were taken from other sources, and were not Mr. C■■■■'s own words. A copy of the Essay highlighted to indicate where it copied the internet sources is found in the JBD at Tab 6. A copy of the internet sources is found in the JBD at Tab 7.
- (vi) Mr. C■■■■ admits that in submitting the Essay in HPS350H1 in April 2012 he knowingly submitted academic work in which he represented as his own an idea or expression of an idea or work of another, contrary to section B.I.1(d) of the *Code*.

### **Tribunal's Decision**

8. As noted, the Student pled guilty to the Charges. The Tribunal considered the facts as set out in the Agreed Statement of Facts. The Tribunal found that the facts

supported a finding of conduct contrary to Charge 1 and accepted the Student's plea of guilty. Upon so advising the parties, counsel for the University withdrew Charge 2 of the Charges.

### **Joint Submission on Sanction**

9. The parties submitted to the Tribunal an Agreed Statement of Facts on Sanction dated August 14, 2013 (Exhibit "3"). The parties also submitted to the Tribunal a Joint Submission on Penalty, also dated August 14, 2013 (Exhibit "4").

10. In the Joint Submission on Penalty, the Provost and the Student submitted that the appropriate penalty in all the circumstances should be as follows:

- (i) Assign a final grade of zero for HPS350H1;
- (ii) Suspend the Student from the University from August 5, 2013 until August 14, 2017;
- (iii) Place a notation on the Student's academic record and transcript for a period of five years from the date of the order, to August 14, 2018.
- (iv) This case shall be reported to the Provost to publish a notice of the Tribunal's decision and the sanctions imposed with the Student's name withheld.

11. The Student acknowledged that he had signed the Agreed Statement of Facts on Sanction and the Joint Statement on Penalty freely and voluntarily, knowing the potential consequences he faced, and that he did so with the benefit of legal counsel.

12. The Agreed Statement of Facts on Sanction set out the following facts relevant to penalty:

### **ENG202Y1**

13. In Fall 2006 and Winter 2007 Mr. C [REDACTED] was enrolled in ENG202Y1: Major British Writers. On March 7, 2007, he submitted an essay in the course, worth 23% of the final course mark. The essay was found to have been plagiarized from various websites, without attribution.

14. Mr. C [REDACTED] admitted that his essay in ENG202Y1 was plagiarized at a meeting with the Dean's Designate on June 4, 2007. He explained that his mother had been in a car accident and had suffered a stroke, and he was therefore responsible to care for his two younger siblings.

15. The Dean's Designate imposed what he described as a lenient sanction of a mark of zero for the essay, and a further reduction of 5 marks resulting in a mark in the course of 51; and a notation on the Student's transcript from April 1, 2007 to March 31, 2008.

16. Mr. C [REDACTED] received a letter from the Dean's Designate dated June 4, 2007, summarizing the meeting and the sanction imposed. This letter provided Mr. C [REDACTED] with information about options available to him if he found himself in the future in circumstances that made it impossible for him to meet course requirements. It further warned Mr. C [REDACTED] that a second offence would be treated more severely. A copy of the letter dated June 4, 2007 to Mr. C [REDACTED] from Professor D.W. Smith was attached as Tab A to the Agreed Statement of Facts on Sanction.

**POL380H**

17. In Summer 2010 Mr. C [REDACTED] was enrolled in POL380H1: Topics in I.P. Insurgency/Counterinsurgency. Mr. C [REDACTED] submitted an essay in this course worth 35% of the final course mark.

18. With the exception of a few word changes, Mr. C [REDACTED]'s essay in this course was taken from one unattributed article. All citations listed in Mr. C [REDACTED]'s essay were also copied from the same article.

19. Mr. C [REDACTED] attended a Dean's meeting on July 28, 2010, at which he admitted that his essay was plagiarized. He read a statement at the meeting in which he explained that his mother was ill with suicidal tendencies, that they had been evicted from their home in September of the previous year and he had moved into student housing, that he felt heavy domestic and emotional stress, and that his mother had locked him out of his apartment the night before the essay was due. Mr. C [REDACTED] acknowledged that he was aware of the options available to him to address such issues, and that he should have availed himself of them. He further acknowledged that he knew plagiarism was wrong and that he copied his paper in order to avoid a further academic suspension.

20. Mr. C [REDACTED] provided two doctor's notes to support his explanation. The Dean's meeting was adjourned to permit follow-up in relation to the doctor's notes. A copy of the doctor's notes was attached as Tab B to the Agreed Statement of Facts on Sanction.

21. Subsequent to the Dean's meeting, the Office of Student Academic Integrity ("OSAI") followed up with the doctor's office to confirm the authenticity of the medical

notes provided by Mr. C [REDACTED]. The doctor's office confirmed that one of the notes was not authentic.

22. A further Dean's meeting was convened on August 25, 2010. At that meeting Mr. C [REDACTED] read from another statement in which he said he accepted full responsibility for the "recent complication" of the forged medical note. He claimed that his thirteen-year old sister stole the doctor's note pad and wrote the note "out of fear for our situation" due to a concern that he would lose their student housing if he was sanctioned for academic misconduct with a suspension from the University.

23. Mr. C [REDACTED] made further claims such as having had to live on the street for two months, and working full time with a full course load, which when investigated by OSAI and discussed with him he agreed he had exaggerated. Mr. C [REDACTED] lived on the street for several days before being able to live in the vacated property of a family friend until the family was able to secure housing.

24. The Dean's Designate imposed a lenient sanction that he called a very rare, "once in a lifetime ticket" of a mark of zero in the course, a four-month suspension, and a notation until graduation. The reason given for the brevity of the period of suspension was the Dean's Designate's concern to avoid the possible loss of Mr. C [REDACTED]'s student housing from a longer suspension. Instead, the Dean's Designate informed Mr. C [REDACTED] that he wished to give him a chance to do something about his life, to try to think and reorganize his approach to his academic career. Mr. C [REDACTED] acknowledged that he understood that he was being given a once in a lifetime opportunity that he would not overlook.



25. Professor Sam Solecki, the Dean's Designate, sent Mr. C [REDACTED] a letter dated September 1, 2010 in which he summarized the meetings of July 28 and August 25, 2010, and their outcome. This letter set out the steps required to avoid plagiarism allegations when writing a paper, and warned Mr. C [REDACTED] that any further offence would likely be forwarded to the Tribunal for sanctioning, regardless of his personal circumstances. A copy of Professor Solecki's letter of September 1, 2010 was attached as Tab C to the Agreed Statement of Facts on Sanction.

26. After considering the Agreed Statement of Facts on Sanction, the Joint Submission on Penalty, the submissions of counsel for the University and counsel for the Student and the authorities provided by counsel for the University, as well as all other factors deemed relevant by the Tribunal, the Tribunal concluded that it would accept the recommended sanctions.

27. The Tribunal was mindful that, in general, a joint submission in this context should be accepted by the Tribunal unless to do so "would be contrary to the public interest or bring the administration of justice into disrepute if effect was given to the Joint Submission" (see *R. v. Tsicos*, 2006 CANLII 33849 (Ont. C.A. per Cronk, JA)). The sanctions set out in the Joint Submission, while lenient under the circumstances, fell within the reasonable range of sanctions for the conduct in issue. To accept these recommended sanctions does not bring the administration of justice into disrepute.

28. The factors to be considered when determining penalty by this Tribunal are well-established:

- (i) The character of the person charged;

- (ii) The likelihood of a repetition of the offence;
- (iii) The nature of the offence committed;
- (iv) Any extenuating circumstances surrounding the commission of the offence;
- (v) The detriment to the University occasioned by the offence;
- (vi) The need to deter others from committing a similar offence.

(See *In the matter of the University of Toronto Code of Behaviour, an appeal by Mr. C*, November 1976, page 12.)

29. The Student was in attendance at the hearing. Through counsel he acknowledged his guilt and the seriousness of his conduct.

30. The Tribunal was also mindful of the need to achieve a proper balance between emphasizing the absolute need for honest and ethical behaviour by students of the University community and the need, in appropriate circumstances, for a student to have some future prospect of resuming his academic studies at the University.

31. As this Tribunal has stated elsewhere:

It should be emphasized that acceptance of principles of honesty and integrity are fundamental to, and prerequisites for, acceptance as a student at the University. Dishonest conduct in the nature of plagiarism, concocting purported references in academic papers or other dishonest conduct is a serious offence and runs contrary to the very foundations upon which the University functions.

Disregard of these principles has the potential to seriously damage and undermine the University and its academic community and the relationship of trust that is foundational to the University's academic program. It is for these reasons that dishonest conduct of this nature must be dealt with severely and without exception. (See *In the matter of the University of Toronto Code of Behaviour and M.O.*, August 2012.)

32. The Tribunal trusts that the Student recognizes that the University has afforded him significant opportunities to continue with his academic studies. The Tribunal also trusts that the Student recognizes the importance of the principles of honesty and integrity, regardless of whether he has faced significant personal challenges while enrolled at the University. If he chooses to continue his academic studies, at this University or any other educational institution, it is hoped that he will have learned an important lesson and conduct himself in the future with honesty and integrity in all his dealings in the academic community.


### **Order**

33. At the conclusion of the hearing, the Panel conferred and made the following order:

- (i) THAT Mr. C [REDACTED] is found guilty of one count of the academic offence of plagiarism, contrary to section B.I.1(d) of the *Code of Behaviour on Academic Matters*;

- (ii) THAT the following sanctions shall be imposed on Mr. C [REDACTED]
- (a) He shall receive a final grade of 0 for HPS350H1 in the Winter 2012 term;
  - (b) He shall be suspended from the University for a period of four years from August 15, 2013 to August 14, 2017; and
  - (c) That a notation be placed on his academic record and transcript for a period of five years from the date of the order, to August 14, 2018.
- (iii) THAT 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, September 23, 2013.



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**Jeffrey S. Leen,**  
Co-Chair