

UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION

IN THE MATTER OF charges of academic dishonesty filed on May 18, 2010;

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 -

S [REDACTED] A [REDACTED]

REASONS FOR DECISION

Hearing Date: July 15, 2010

Members of the Panel:

Ms. Julie Hannaford, Barrister and Solicitor, Chair
Professor Maydianne Andrade, Associate Professor of Evolutionary Biology at the University of Toronto Scarborough
Mr. Robert Chu, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers
Mr. Phil Downes, Phil Downes, Barrister

In Attendance:

Professor Grant Allen, Vice-Dean, Undergraduate, for the Faculty of Applied Science and Engineering and Professor in the Department of Chemical Engineering and Applied Chemistry
Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances, Office of the Governing Council

1. Mr. A [REDACTED] first registered as a student at the University of Toronto in the Faculty of Applied Science and Engineering in Fall 2005.
2. In Winter 2010 Mr. A [REDACTED] enrolled in FCS395H1S: Sensuality and the French. This course was taught by Professor David Clandfield ("Course").
3. One of the Course assignments was to complete a final essay, worth 30% of the final grade in the Course. The instructions given to the students about the essay included a clear warning that "All sources must be clearly referenced and you must not represent as your own ideas those you have acquired from another source or individual".
4. The Essay Instructions further stated that direct quotes must be inside quotation marks, with longer quotes indented, and the source clearly indicated. Students were also referred to additional web resources for style and citation information.
5. Mr. A [REDACTED] admits that he received a copy of the Essay Instructions.
6. Before the essay was due to be handed in, Professor Clandfield provided further notice about proper referencing and citation. In a lecture on March 24, 2010, he showed a slide entitled "Important Notice about the Essays" ("Reminder Notice"). This Notice contained further reminders to his students that all resources must be referenced clearly and unambiguously, that any direct citation of a text must be within quotation marks or longer quotes indented, and that "Failure to observe these rules is an academic offence and must be reported by the instructor to the Chair of the Department".
7. Mr. A [REDACTED] admits that he was present in class on March 24, 2010, and that he received this Reminder Notice.

8. Mr. A [REDACTED] submitted his essay for academic credit on April 6, 2010, in partial completion of the Course requirements ("Essay").

9. The essay contained instances of verbatim, nearly verbatim and very closely paraphrased excerpts from a source that were not properly cited at all.

10. Mr. A [REDACTED] 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 Chapter 4 of *In the Garden of the Sun King. Studies in the Park of Versailles under Louis XIV* by Robert W. Berger, 1985 (the "Source").

11. Mr. A [REDACTED] 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 Source in his Essay. He also admits that he ought to have done so.

12. In addition, Mr. A [REDACTED] concocted references – on page 3 of his essay, he references to the work of M. Martin, and to M. Mosser and G. Teysot. These references were concocted.

13. Mr. A [REDACTED] admits that, in the Essay, he knowingly represented the work and expressions of others as his own.

14. Mr. A [REDACTED] admits that he knowingly concocted certain references that he included in the Essay to conceal his acts of plagiarism. For example, on page 3 of the Essay, Mr. A [REDACTED] admits that the references he provided to the work of M. Martin, and to M. Mosser and G. Teysot were concocted. Mr. A [REDACTED] actually plagiarized the passages from the Source.

Finding of the Panel in respect of the charges

15. The Panel considered the evidence provided in the Joint Book of Documents together with the facts that were presented jointly by the University and Mr. A [REDACTED]. The facts, including the Exhibits, led the panel to unhesitatingly accept Mr. A [REDACTED]'s admissions and his plea of guilty. The panel found that Mr. A [REDACTED] was guilty of Charges 1 and 2.

16. Charge number 3, which was filed in the alternative, was withdrawn by the Provost.

Penalty

17. Mr. A [REDACTED] committed two previous academic offences. In Fall 2005, he plagiarized an assignment worth 15% of the course grade in APS 111 by copying the work of another student. He met with the dean's designate on February 2, 2006 to discuss this offence, at which time he apologized, asked for another chance, and promised never to do anything like this again. He received a mark of zero for the assignment, with the remaining portion of his term work to count as his mark in APS111. No official notation of the decision was made on his academic record.

18. In Fall 2009, Mr. A [REDACTED] plagiarized an assignment in AER 525H1, by using solutions from a solution manual from a previous year to complete a course assignment. Mr. A [REDACTED] had been previously warned by the course instructor that all his submissions must be his own work. This warning occurred after he had copied solutions in an earlier assignment in the course. He met with the Dean's Designate on January 7, 2010. He received a mark of 45 in the course, with a copy of the sanction letter placed in his student file until graduation and his name added to the student offence database. No official recording of the decision was placed on his academic record.

19. In addition to submitting a plea to the offences with which he was charged, Mr. A [REDACTED] engaged in discussions with the University around the issue of mitigating the problems that caused him to plagiarize.

20. As a result of these discussions, Mr. A [REDACTED] proposed and the University agreed, that he provide an Undertaking related to work on how to write properly referenced essays and theses. The Undertaking is set out as follows in its entirety.

University of Toronto and S [REDACTED] A [REDACTED] ([REDACTED])
Undertaking

1. Mr. A [REDACTED] undertakes to complete the workshops described below through the University of Toronto St. George Campus College Writing Centres Academic Skills Workshops ("Undertaking").

2. Mr. A [REDACTED] will fulfill the Undertaking by taking the following 6 workshops, which amount to 6 hours of instruction:

- (A) Understanding the Assignment
- (B) Library Research
- (C) Thesis Statements
- (D) Organizing an Essay
- (E) Using Sources
- (F) Revising the Essay

3. Mr. A [REDACTED] agrees to complete the workshops in the term in which he is next registered for a course at the University.

4. In the event that these workshops are not available at the time Mr. A [REDACTED] attempts to complete them, the University will, acting reasonably, propose an alternate and equivalent program that Mr. A [REDACTED] shall complete to fulfill the Undertaking.

5. Mr. A [REDACTED] acknowledges that the Provost of the University of Toronto intends to seek a sanction which includes a 3 year suspension and a 4 year notation before the University Tribunal. Mr. A [REDACTED] further acknowledges that the

Provost takes this position, in part, in reliance on Mr. A [REDACTED]'s Undertaking, and, without it, the Provost would not seek a sanction before the University Tribunal that included a suspension of only 3 years and a notation of only 4 years.

6. Mr. A [REDACTED] agrees and accepts that he will not be eligible to graduate from the University until he fulfills the Undertaking and the University may rely on this Undertaking to deny him the ability to graduate until it is fulfilled.

7. Mr. A [REDACTED] 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.

21. This undertaking was signed by the University and by Mr. A [REDACTED]. It formed the basis for the University's submission that the appropriate penalty should be a three year suspension – running from July 15, 2010 to July 15, 2013, together with a notation on Mr. A [REDACTED]'s transcript and record for a period of four years – from July 15, 2010 to July 15, 2014, or graduation from the university (whichever is earlier).

22. There was no dispute but that the three year suspension, in these circumstances, is certainly on the very light end of the penalty spectrum, especially where there exists three offences, all for a similar kind of plagiarizing.

23. Where the University and Mr. A [REDACTED] joined issue was only on the question of when the period of suspension should terminate. Mr. A [REDACTED] submitted that the suspension should end on or about April 21, 2013, rather than July 15, 2013. If the suspension ends in April, as submitted by Mr. A [REDACTED], he would be eligible to graduate a full six months earlier than if the suspension terminated in July. For Mr. A [REDACTED], this ability to graduate six months earlier would have significant economic value, as it would permit him to enter the workforce earlier, with a degree. Moreover, such a disposition would be more in line with the principle that multiple offences should attract a series of penalties that “step” rather than “jump”.

24. Mr. A [REDACTED] submitted several testimonials to his work ethic (from employers), and he submitted evidence that his most recent offence stemmed from severe stress. It was submitted that these mitigating factors should also be considered when determining the actual length of the suspension.

25. Mr. A [REDACTED] has certainly co-operated with the University in addressing this most recent offence. In agreeing to the statement of fact put before the tribunal, he has allowed this matter to be addressed and his offence to be redressed much more speedily than if he had put the University to the proof of the offence. At the heart of the submissions of Mr. A [REDACTED] is that his guilty plea and his ready acceptance of the undertaking should permit the Tribunal to impose a suspension that terminates in time for him to graduate six months earlier than if the suspensions ran its full course.

26. The University submits that a three year suspension is one that is already on the low end of the continuum. This is Mr. A [REDACTED]'s third offence – one that occurred literally months after he had been sanctioned for plagiarizing an assignment in AER 525H1, and this third offence occurred in the same term that Mr. A [REDACTED] had a meeting with the Dean to address his second offence (in AER 525H1). Submitting another plagiarized essay, hard on the heels of being sanctioned for plagiarism in the term before, is most egregious. Most importantly, it raises serious questions about Mr. A [REDACTED]'s commitment to reforming his approach to citation and recognition of the work of others. Finally, the University submits that this three year suspension for a third offence, especially where the third offence is so close in time to the second offence, is in and of itself the basis for hewing to the full term, rather than a shortened term as requested by the student.

27. The panel considered the very compelling submissions of Mr. A [REDACTED]'s counsel about the importance of Mr. A [REDACTED] being able to graduate six months earlier if his suspension terminated on April 21, 2013. The panel considered how Mr. A [REDACTED] had co operated extensively with the University in addressing this

third offence, and certainly received the letters about Mr. A [REDACTED]'s stress and its effect on his commission of his third offence. After due consideration of these factors, though, the panel was left with the concomitant obligation to reflect on how all these factors were taken into consideration when the University acceded to accepting an undertaking from Mr. A [REDACTED] and therefore seeking only a three year suspension (amongst other penalties).

28. First, the concept of a student providing an undertaking as part of a reduced penalty scheme still remains a new concept. It is an enlightened form of sanction, and yet, at the same time, it is still largely experimental – there can be no way of knowing if these undertakings (which have been given in other cases) actually have the rehabilitative effect they are hoped to have. It is clear, however, that this form of sanction is more actively supportive of rehabilitation than other forms of punishment. Even though such undertakings involve a "leap of faith" on behalf of the University, it is still important to recognize that the penalty that includes an undertaking recognizes that the University and the student are joined in an effort to prevent further commissions of similar offences.

29. The three year suspension is, however, a baseline suspension. Other cases on penalty clearly seem to indicate that a two year suspension is a threshold penalty for plagiarism. In this case, there have been no less than three similar offences, and it must be recognized that the imposition of a three year suspension is in and of itself an extremely light penalty, rationalized as it is by the provision of the undertaking.

30. It was the view of the panel that the integrity of the "undertaking" process – one that involves a real, active commitment to rehabilitation by the student and the University conjoined with a much lighter penalty – should not be vulnerable to the type of "fine tuning" that is being requested by Mr. A [REDACTED] in these circumstances. The integrity of this novel form of sanction is very important, given that it is a novel sanction. It should not be the subject matter of further dilution, where it is based entirely on the advancement of a graduation date. The

panel recognized that Mr. A [REDACTED]'s counsel advanced a very compelling and able argument about how a penalty should "step" rather than "jump". But, this is a unique penalty situation – one where the University has worked with the student to actually reduce the penalty to its lowest threshold in exchange for work by Mr. A [REDACTED] to rehabilitate his writing and citation methods. The panel also recognized Mr. Downes' able argument about the cachet of a university degree and its importance to Mr. A [REDACTED]. But, that cachet is based on the University conferring degrees backed by honesty and integrity and academic excellence. The panel is confident that the penalty fashioned by the University together with Mr. A [REDACTED], will ensure that Mr. A [REDACTED] adheres to the principles that are at the heart of the degrees conferred by the University of Toronto, but the panel remained firmly of the view that the suspension should run its full course, and not be diluted by considerations that are entirely unrelated to the reformatory nature of the penalty itself. In this disposition, the panel hopes that the efforts of the University in fashioning penalties that promote rehabilitation and deterrence will continue apace.

Dated at Toronto, this 13th day of May, 2011.



Julie Hannaford, Co-Chair