

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on March 11, 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 am. S.O. 1978, c. 88

B E T W E E N:

THE UNIVERSITY OF TORONTO (the “University”)- AND-
A [REDACTED] A [REDACTED]-R [REDACTED] (“the Student”)

REASONS FOR DECISION

Dates of Hearing: Wednesday, June 1, 2016 and Wednesday, June 29, 2016

Members of the Panel:

Mr. Jeffrey S. Leon, Barrister and Solicitor, Chair
Professor Andrea Litvack, Faculty Panel Member
Mr. David Kleinman, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Mr. A [REDACTED] A [REDACTED]-R [REDACTED], the Student, appeared via Skype on June 1, 2016, and in person on June 29, 2016
Mr. Alex Redinger, Law Student for Mr. A [REDACTED]-R [REDACTED], Downtown Legal Services, (June 29, 2016)

In Attendance

Ms. Emma Thacker, Associate Director, Graduate Affairs, School of Graduate Studies (June 1, 2016)
Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies (June 29, 2016)
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances (June 1, 2016)
Ms. Krista Osbourne, Administrative Assistance, Appeals, Discipline and Faculty Grievances (June 29, 2016)

Preliminary Matters

1. The Trial Division of the University Tribunal was convened on Wednesday, June 1, 2016 to consider two charges brought by the University of Toronto against the Student under the *Code of Behaviour on Academic Matters, 1995* (the "Code").
2. The Panel received evidence by way of an Agreed Statement of Facts and after hearing submissions by Counsel for the University and by the Student, the Panel found the Student guilty of a charge under the Code as set out below. The Panel then received evidence by way of Agreed Statement of Facts for Sanction and heard *viva voce* evidence from the Student on which he was cross-examined. Submissions by Counsel for the University and by the Student followed. The Panel adjourned to consider its decision. For reasons set out below, the Panel adjourned the hearing and set June 29, 2016 at 2:00 PM for the completion of the hearing on a pre-emptory basis in order to give the Student an opportunity to retain counsel and tender additional evidence on Sanctions.

The Charges

3. The Student was charged with the following offences:
 - (i) In or about May, 2015, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in an essay titled "Coal Gasification Literature Review" ("Essay"), which you submitted for academic credit in ESS1114H Directed Readings in Environmental Science in the Winter 2015 Session (the "Course"), contrary to section B.I.1(d) of the *Code*.
 - (ii) In the alternative, in or about May, 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*.

The Facts

4. The parties entered into an Agreed Statement of Facts (Exhibit "1"). That Agreed Statement set out the facts as follows.
5. At all material times the Student was a registered student at the University of Toronto in the Graduate Department of Physical and Environmental Sciences. The Student first registered at the University of Toronto at Scarborough in the Fall of 2009, receiving an Honours Bachelor of Science Degree in November 2013. In 2014 Winter, he enrolled in the Master of Environmental Science Program on a part-time basis
6. Having earned three credits at the end of the 2015 winter term, the Student requested withdrawal from the Masters of Environmental Science Program in September 2015 but was precluded from doing so because of a provision in the *Code* that prevents withdrawal from a course from the time of an alleged offence until the final disposition of the accusation.
7. In Winter 2015 Mr. A [REDACTED]-F [REDACTED] enrolled in EES1114H: Directed Readings in Environmental Science (the "Course"), which was taught by Professor Nasser Ashgriz.
8. The Course required students to submit an independent research paper which was worth 100% of the Course mark. The Student was supervised in the independent research paper by Professor Ashgriz. Students were required to identify an area of interest, find a supervisor, complete a research proposal and carry out the proposed research over a minimum four-month period, and submit a final written research report with an oral presentation to an examination committee.
9. The Student submitted a Request Form and his research proposal on Coal Slurry Gasification on January 2015. It was approved in March 2015. The Student submitted his independent research paper titled "Coal Gasification Literature Review" to Professor Ashgriz in May, 2015 (the "Paper") (Exhibit "2", Tab 7). Upon review, the Graduate Chair of the Student's department identified at least fifteen different instances where the Paper copied directly from internet and textbook sources without attribution. A copy

of the Paper highlighted to indicate the copied text was filed as Exhibit "2", Tab 8, along with copies of the copied sources highlighted to identify the copied sections (Exhibit "2", Tab 8(a) to 8(h)).

10. The Paper had a bibliography at the end and the figures in the Paper had citations. The plagiarism here involved the extensive copying of passages from sources with some wording changes but without any citation or attribution whatsoever.

11. The Student did not attend a proposed meeting with the Dean's Designate for the School of Graduate Studies. At the hearing, the Student indicated that he could not find any notice of that meeting in his records.

12. The Student admitted that he committed plagiarism in respect of the Paper. The Student further admitted that he submitted the Paper:

- (i) to obtain academic credit;
- (ii) knowing that it contained verbatim or nearly verbatim passages from numerous internet and textbook sources, without attribution to those sources;
- (iii) knowing that it contained ideas or expressions of ideas which were not his own; and
- (iv) with the intention that the University rely on it as containing his own ideas in considering the appropriate academic credit to be assigned to his work.

13. The Student confirmed that he had been given the opportunity to obtain independent legal advice before signing the Agreed Statement of Facts and declined to do so.

14. In his submissions, the Student confirmed these admissions and expressed remorse for his conduct.

Decision

15. The Panel found the Student guilty of Charge 1 as set out above. Counsel for the University withdrew the second charge.

Penalty

16. The parties filed an Agreed Statement of Facts for Sanction (Exhibit "3"). The Student gave *viva voce* evidence on which he was cross-examined. The Panel also received oral submissions from Counsel on behalf of the University and from the Student.

17. Counsel for the University requested the following sanctions:

- (i) a final grade of zero in EES1114H in the Winter 2015 term;
- (ii) a four-year suspension from the University to commence June 1, 2016, and to end May 31, 2020;
- (iii) a notation of the sanction on the Student's academic record and transcript to remain for one year following the date on which the Student graduates from the University or withdraws or is terminated from the Masters of Environmental Science program at the University; and
- (iv) that the Tribunal recommend that the case 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.

18. The following facts related to prior offences by the Student were set out in the Agreed Statement of Facts for Sanction.

19. On April 9, 2015, the Student admitted guilt at a Dean's meeting to the offence of plagiarism in two assignments, each worth 25%, in ESS 1100H. He was assigned a grade of zero (FZ) for the course and a notation on his academic record indicating academic misconduct to remain for one year after his

convocation date, withdrawal or program termination. In a letter dated April 14, 2015 from Luc De Nil, Dean's Designate to the Student, the official results of the Dean's meeting were conveyed. The following statement appeared at the end of the letter:

"While I trust that you have learned from this experience, I must warn you that if you commit another offense while you are a student at the University of Toronto, it will be treated much more severely."

20. Counsel for the University noted that the related current offence was committed through the submission of the Paper in the immediately following month, May 2015.

21. The Student was sworn in on June 1, 2016. He testified that during the relevant period he was dealing with a family emergency. He indicated that he took full responsibility for his conduct. He was sorry and he promised never to engage in this type of conduct again. The Student testified that he has twelve brothers and sisters and comes from a low income family. One of his siblings had a serious accident in which he suffered a severe leg injury. He was treated at the Hospital for Sick Children in Toronto and then at Bloorview. The Student was the primary person responsible as family caregiver for his brother, and was working to provide financial help for the family. He testified that he was stressed out during this period and that it was a particularly difficult time for him. He further testified that he had been an "A" student and that his marks had suffered during this period.

22. On cross-examination the Student acknowledged that he had been asked to get hospital records from the Hospital for Sick Children, but said that he had been unable to do so in the time available prior to the hearing. In response to a request from Counsel to the University, he had sent a series of pictures of his brother's injuries initially said to be from the 2015 accident. However, on being advised by Counsel that these pictures in fact had been taken at an earlier point in time in Jordan, he acknowledged that he had, in error, sent pictures from a previous 2011 accident (the photographs were marked as Exhibit 4). Notwithstanding the request from Counsel, he was unable to access and send the correct 2015 photographs because he was working remotely from an employment-related Conference at the Central

Lake Conservation Authority outside of Oshawa. He was unable to take the time off from the Conference to attend the hearing in Toronto on June 1, 2016.

23. The Student submitted that the penalty being sought by the University was too harsh. He further stated that he did not want to defer the hearing and that he was most anxious to resume his studies. He acknowledged that while he got some As, his GPA was 2.98.

24. The Panel heard submissions from both Counsel for the University and the Student. After preliminary deliberations, the Panel reconvened the hearing and asked the Student whether he wanted another opportunity to retain counsel and/or to obtain further evidence to submit on sanction. In doing so, the Panel emphasized that it took no issue with the conduct of the University and its Counsel in terms of giving notice of this hearing, in terms of providing the Student with the opportunity to obtain counsel and in terms of giving the Student every opportunity to adduce all proper evidence. Indeed, the University and its Counsel took great pains to ensure that the Student was treated with fairness in every respect.

25. However, the potential sanctions facing the Student were significant. The Student made an eleventh hour request for the opportunity to consult with counsel and to attempt to secure additional evidence. On that basis, the Panel was of the view that justice would best be served by allowing for a short adjournment in order to give the Student yet another opportunity to further present his case on sanction.

26. The Panel adjourned the hearing to 2:00 PM on June 29, 2016 with the hearing to proceed on a pre-emptory basis. The Panel also required the Student to provide Counsel to the University (either directly or through his counsel should he retain counsel) with all the documentation intended to be relied in support of submissions on sanction by June 22, 2016. The Chair of the Panel further indicated that he would be available to deal with any issues by way of case conference should the need arise.

Continuation of Hearing on Sanction

27. The hearing reconvened on June 29, 2016. Counsel for the University advised that she had reached an agreement with the Student, who was now represented by Counsel. The Panel was

presented with a Joint Submission on Penalty. The Joint Submission reflected the same penalty sought by the University on June 1, 2016, with the dates in (ii) amended to June 29, 2016 and June 28, 2020 (see paragraph 17).

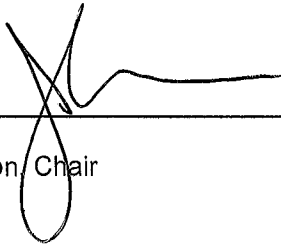
28. Both Counsel reminded the Panel of the high threshold for rejecting joint submissions. Counsel for the Student submitted that his client recognizes the seriousness of the offence and acknowledges that such plagiarism undermines the integrity of the University. Counsel stated that his client apologized for his conduct and expressed sincere remorse. From the outset, he had admitted the offence and took responsibility for it. Counsel submitted that this was an aberration in the Student's conduct which took place at a time when the Student was distracted due to his brother's injury and at a time when he was supporting his family both financially and in terms of caregiving. Counsel acknowledged that the penalty was sufficient to remind students of the seriousness of plagiarism and the importance of taking care in using proper citation of sources. The proposed sanction would be impactful in that it would send a message that plagiarism will not be tolerated by the University. He further submitted that there were extenuating circumstances and that while the Student took responsibility for his action, it was uncharacteristic and that the Student would be unlikely to offend again.

29. The Panel accepted the Joint Submission on Penalty and ordered as follows:

- (i) a final grade of zero in EES1114H in the Winter 2015 term;
- (ii) a four-year suspension from the University to commence June 29, 2016, and to end June 28, 2020;
- (iii) a notation of the sanction on the Student's academic record and transcript to remain for one year following the date on which the Student graduates from the University or withdraws or is terminated from the Masters of Environmental Science program at the University; and

- (iv) that the Tribunal recommend that the case 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.

Dated at Toronto, this 19th day of July, 2016



Mr. Jeffrey S. Leon, Chair