

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL**

IN THE MATTER OF charges of academic dishonesty made on April 25, 2018

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

B E T W E E N:

UNIVERSITY OF TORONTO

and

A [REDACTED] D [REDACTED]

REASONS FOR DECISION

Hearing Date: September 18, 2018

Members of the Panel:

Mr. Paul Michell, Chair
Dr. Chris Koenig-Woodyard, Faculty Panel Member
Ms. Elizabeth Frangos, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel for the University, Paliare Roland Barristers
Mr. Denna Jalili, Downtown Legal Services, for the Student

In Attendance:

Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Ms. Lucy Gaspini, Director, Academic Success and Integrity, Office of the Vice-Principal
Academic and Dean, University of Toronto Mississauga
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council
Mr. Hatim Kheir, Downtown Legal Services, Observer
Ms. Jodi Zhang, Downtown Legal Services, Observer
Mr. Gianluca De Gasperi Delpino, Downtown Legal Services, Observer

Ms. A [REDACTED] D [REDACTED], Student

8. The Course required students to submit two assignments, worth 20% and 30% of the final grade, respectively. Assignments were to be submitted to Turnitin for the purpose of detecting plagiarism. The Course syllabus also indicated that students would need to submit their assignments to Turnitin.

9. On May 22, 2017, the Student submitted her first assignment to Turnitin. The Turnitin report for the first assignment reported an 88% similarity index with a student paper that had previously been submitted to York University in 2016. Professor May obtained a copy of the York student paper. They are substantially similar, and it is clear that large portions of the first assignment were derived from the York student paper.

10. On May 23, 2017, the Student sent an email to Professor May indicating that she had dropped the Course because of the first assignment she had submitted to Turnitin, and asked to meet with him.

11. On May 24, 2017, the Student met with Professor May to discuss the first assignment.

12. The matter was subsequently referred to the Office of the Dean. Given the outstanding allegation of academic misconduct, the Student was not permitted to drop the Course.

13. On October 19, 2017, the Student met with Professor Richard Green, the Dean's Designate for Academic Offences, to discuss the allegation of academic misconduct in the Course. Professor Green gave the Student the warning required by the *Code*.

14. The Student advised Professor Green that she had anxiety and depression. She indicated that she had received academic accommodations, but when they expired she panicked. She initially claimed that she had found the first assignment online, and submitted it. When she saw

the Turnitin report, she panicked and tried to delete it, but could not. She denied that she had purchased the first assignment, but said that she had found it on an English website called “Essay Hero.” She first said that she had a subscription to the website, but later said she had used a friend’s subscription to the website.

15. At the meeting, the Student admitted committing plagiarism in the first assignment, and signed a form admitting to the offence of plagiarism.

16. Essay Hero offers essay writing services for a fee.

17. The Student admits that she knowingly:

- included verbatim or nearly verbatim text and ideas in the first assignment that were taken from the York student paper;
- failed to attribute that text and ideas appropriately;
- represented in the first assignment the ideas of another person, the expression of the ideas of another person, or the work of another person as her own;
- committed plagiarism, contrary to section B.I.1(d) of the *Code*; and
- purchased the first assignment from the “Essay Hero” website.

18. Based on the agreed facts, the Student’s admissions, and the documents in the joint book, we found the Student guilty of the first charge. The Provost withdrew the second and third charges.

C. Sanction

19. The parties made a joint submission seeking to have the Panel impose the following sanctions on the Student:

- (a) a final grade of zero in the course WGS354H5 in Summer 2017;
- (b) a suspension from the University for five years from the date the Tribunal makes its order, until September 17, 2023; and
- (c) a notation of the sanction on the Student's academic record and transcript from the day the Tribunal makes its order until graduation.

20. The parties also agreed that the case shall be reported to the Provost for publication of a notice of the decision and the sanction imposed in the University newspapers, with the Student's name withheld.

21. The parties submitted an agreed statement of facts on penalty and a joint book of authorities.

22. The agreed statement of facts on penalty addressed two issues. First, it outlined the circumstances in which the Student had committed a prior purchased essay plagiarism offence. Second, it set out some facts which the Student sought to rely on in mitigation.

23. The purchased essay offence that we found the Student guilty of is not her first academic offence at the University. In 2014, the Student admitted to having purchased an essay from a former University student and submitting it for a course at the University. As a penalty for the first offence, the Dean's Designate for Academic Offences had recommended that the Student receive a zero grade on the assignment and a nine-month annotation on her transcript. However, Professor Kelly Hannah-Moffat, Vice-Dean Undergraduate, did not accept the recommendation. She imposed a more severe sanction: a zero grade in the course (not just on the assignment), a 12 month suspension from the University, and an 18 month transcript annotation. She advised the

Student in writing that the first offence was “extremely serious”, and that any subsequent allegations of offence would be referred to the Tribunal.

24. The parties also agreed that the Student wanted to advance certain personal circumstances before us to be taken into account in evaluating the joint submission on penalty. When asked about this at the hearing, Ms. Lie advised that the Provost did not oppose the description of the Student’s personal circumstances in the agreed statement of facts on penalty, but pointed out that the Student sought to refer to information that was not contained in the evidence. We agreed with that objection, but we note that the joint book of documents contained recent letters from two physicians describing the Student’s depression and social anxiety disorders.

25. After deliberation, we advised that we accepted the joint submission on penalty and imposed that penalty. We signed an order to that effect and advised that our reasons for decision would follow. Our reasons are set out below.

26. We accept the parties’ description of the approach that the Tribunal should take in the face of a joint submission on penalty. As I noted in *Z.Z.* [Case No. 918; August 23, 2017] at paras. 20-22, it is clear from recent decisions of the Discipline Appeals Board, particularly *M.A.* [Case No. 837; December 22, 2016] and *S.F.* [Case No. 690; October 20, 2014] that the Tribunal should accept joint submissions on penalty unless exceptional circumstances apply.

27. In our view, no such exceptional circumstances apply here. We do not find the penalty agreed to in the joint submission to be unreasonable in the circumstances. We also appreciate that for serious offences such as purchased essay plagiarism, the Provost must be in a position to be able to offer students the opportunity to accept a penalty that is less severe than a recommendation of expulsion in order to secure their cooperation in the discipline process. The

Tribunal should not handcuff the Provost and students by imposing an exacting standard of review of joint submissions on penalty.

28. Ms. Lie organized her submissions in support of the joint submission on penalty around the familiar *Mr. C* [Case No. 1976/77-3; November 5, 2976] factors, and we have done the same.

29. ***Nature of offence/general deterrence/harm to University.*** In considering purchased essay plagiarism cases, it is common to group consideration of the nature of the offence, general deterrence, and harm to the University together: see *S.C., N.R.H.* and *M.K.K.* [Case Nos. 596, 597, 598; November 23, 2011], and discussion in *Z.Z.* at paras. 23-27. Purchased essay plagiarism is widely viewed as a very serious academic offence. It is very harmful to the University and a serious sanction is required to deter others from engaging in it.

30. Many cases have confirmed that in purchased essay cases, the presumptive penalty is a recommendation of expulsion: *e.g.*, *Z.Z.* at para. 34. That presumption is, of course, subject to being displaced by mitigating factors.

31. We also note (as we did in *Z.Z.* at para. 26) that Appendix “C” to the *Code* indicates that the Provost will generally seek a recommendation of expulsion in purchased essay cases.

32. ***Character of the Student.*** We have little direct evidence about the Student’s character. The Provost asked us to infer from the circumstances that the Student has taken the process seriously. First, she has participated and cooperated fully in the discipline process. She attended the hearing, and agreed to statements of fact and a joint submission on penalty. Second, she admitted guilt promptly and also admitted purchasing the first assignment at issue here. Third, as set out below, the Student has faced trying personal circumstances.

33. In our view, these considerations suggest that the Student has taken some responsibility for her actions.

34. ***Specific deterrence.*** The fact that this was not the Student's first academic offence (and in particular, that her previous offence also concerned purchased essay plagiarism) is a serious concern for the Tribunal. But for the mitigating factors discussed below, we may have been inclined to view a five-year suspension as inadequate.

35. ***Extenuating circumstances.*** Two categories of extenuating circumstances apply here.

36. First, the Student cooperated extensively. She was the one who initiated contact with her professor. After some initial equivocation, she admitted guilt at the meeting with the Dean's Designate. She also admitted purchasing the first assignment, agreed to statements of fact, and attended the hearing before us.

37. The Provost placed particular emphasis on the fact that without the Student's confession that she had purchased the first assignment, it would have been challenging for the Provost to have proven anything other than plagiarism, a point made in *S.H.* [Case No. 574; November 16, 2010] at para. 7.

38. Second, as noted above, there was evidence before us of the Student's medical challenges and difficult personal circumstances. Although the connection between them and this offence was vague, in our view they support the reasonableness of the penalty we have imposed. See *A.G.* [Case No. 935; August 21, 2018] at para. 33, and *Y.A.T.* [Case No. 783; July 21, 2015] at para. 27.

39. Taken together, these factors persuaded us that a severe sanction short of recommending expulsion was appropriate in the circumstances of this case.

40. For these reasons, the Tribunal accepted the parties' submissions, and signed an order at the hearing imposing the sanction sought by the parties in their joint submission on penalty, as set out in paragraph 19 above.

Dated at Toronto, this 26th day of September, 2018.



Paul Michell, Chair