

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on August 29, 2018

AND IN THE MATTER OF the *University of Toronto Code of Behaviour on Academic Affairs*, 1995 (the "Code")

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] N [REDACTED]

Date of Hearing: December 12, 2018

Members of the Panel:

Mr. Bernard Fishbein, Chair
Professor Margaret MacNeill, Faculty Panel Member
Ms. Julie Farmer, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland, Barristers
Mr. Hatim Kheir, Law-Student, Legal Representative for the Student, Downtown Legal Services
Mr. A [REDACTED] N [REDACTED], the Student

In Attendance:

Professor Charmaine Williams, Acting Vice-Dean School of Graduate Studies,
University of Toronto

Hearing Secretary:

Krista Osbourne, Administrative Clerk & Hearing Secretary, Appeals, Discipline and
Faculty Grievances, University of Toronto

1. This panel of the University Tribunal ("the Tribunal") convened on December 12, 2018 to deal with this charges against A [REDACTED] N [REDACTED] ("the Student") under the *University of Toronto Code of Behaviour on Academic Affairs*, 1995 (the "Code"):

1. On or about April 20, 2018, you knowingly represented as your own an idea or expression of an idea or work of another in an assignment you submitted in CHL3003Y, contrary to section B.I.1(d) of the Code.
2. In the alternative, on or about April 20, 2018, you knowingly obtained unauthorized assistance in connection with an assignment that you submitted in CHL3003Y, contrary to section B.I.1(b) of the Code.
3. In the further alternative, on or about April 20, 2018, 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 an assignment you submitted in CHL3003Y, contrary to section B.I.3(b) of the Code.
4. On or about April 26, 2018, you knowingly represented as your own an idea or expression of an idea or work of another in a paper you submitted in CHL3001Y, contrary to section B.I.1(d) of the Code.
5. In the alternative, on or about April 26, 2018, you knowingly obtained unauthorized assistance in connection with a paper that you submitted in CHL3001Y, contrary to section B.I.1(b) of the Code.
6. In the further alternative, on or about April 26, 2018, 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 a paper you submitted in CHL3001Y, contrary to section B.I.3(b) of the Code.

Particulars of the offences charged are as follows:

1. At all material times you were a student enrolled at the University of Toronto School of Graduate Studies in the Master of Health Science program.

CHL3003

2. In Fall 2017 and Winter 2018, you enrolled in CHL3003Y (Empirical Approaches in Bioethics) ("CHL3003") which was taught by Dr. Daniel Buchman and Dr. Nancy Ondrusek.
3. On or about April 20, 2018, you submitted your final assignment in CHL3003, entitled "Empirical Study Design", which was worth 50% of your final grade (the "CHL3003 Assignment").
4. You submitted the CHL3003 Assignment:
 - (a) to obtain academic credit;
 - (b) knowing that it contained ideas, expressions of ideas or work which were not your own, but were the ideas, expressions of ideas or work of others, including the authors of:
 - (i) "Moral distress in critical care nurses: a phenomenological study", by Kwisoon Choe, Youngmi Kang and Youngrye Park, published in *Journal of Advanced Nursing* 71(7), 1684-1693; and
 - (ii) "Nursing profession in Iran: An overview of opportunities and challenges", by Zahra Farsi, Nahid Dehghan-Nayeri, Reza Negarandeh and Soheila Broomand, published in *Japan Journal of Nursing Science* (2010) 7, 9-18;(collectively, the "CHL3003 Sources"); and
 - (c) knowing that you did not properly reference the ideas, expressions of ideas or work that you drew from the CHL3003 Sources.
5. You knowingly obtained unauthorized assistance from the CHL3003 Sources.
6. You knowingly submitted the CHL3003 Assignment with the intention that the University of Toronto rely on it as containing your own ideas or work in considering the appropriate academic credit to be assigned to your work.

CHL3001

7. In Winter 2018, you enrolled in CHL3001Y (Core Topics in Bioethics) ("CHL3001") which was taught by Dr. Eoin Connolly and Dr. Rosalind Abdool.
8. On or about April 26, 2018, you submitted your final paper in CHL3001, entitled "Should surrogates be allowed to be paid for carrying a fetus?", which was worth 50% of your final grade in CHL3001 (the "CHL3001 Paper").
9. You submitted the CHL3001 Paper:
 - (a) to obtain academic credit;
 - (b) knowing that it contained ideas, expressions of ideas or work which were not your own, but were the ideas, expressions of ideas or work of others, including the authors of:
 - (i) "Reasonable Regulation of Surrogate Motherhood", by Bonnie Steinbock (online at <https://www.thehastingscenter.org/reasonable-regulation-of-surrogate-motherhood/>);
 - (ii) "A new model for professionalised surrogacy proposed", by Thomas Manch (online at <https://www.stuff.co.nz/life-style/parenting/baby/96272303/a-new-model-for-professionalised-surrogacy-proposed>);
 - (iii) "Childless couples win the right to pay surrogate mothers", by Martin Beckford and Tim Ross (online at <https://www.telegraph.co.uk/news/health/children/8190131/Childless-couples-win-the-right-to-pay-surrogate-mothers.html>); and
 - (iv) "The ethics of surrogacy: women's reproductive labour", by Anton van Niekerk and Liezl van Zyl, published in *Journal of medical ethics*, 1995; 21: 345-349(collectively, the "CHL3001 Sources"); and
 - (c) knowing that you did not properly reference the ideas, expressions of ideas or work that you drew from the CHL3001 Sources.
10. You knowingly obtained unauthorized assistance from the CHL3001 Sources.

11. You knowingly submitted the CHL3001 Paper with the intention that the University of Toronto rely on it as containing your own ideas or work in considering the appropriate academic credit to be assigned to your work.

2. Prior to the Tribunal convening, the parties had entered into an Agreed Statement of Facts as follows:

1. This matter arises out of charges of academic misconduct filed on August 29, 2018 (the "Charges") by the Provost of the University of Toronto (the "Provost") under the *Code of Behaviour on Academic Matters* ("Code"). The Provost and A [REDACTED] N [REDACTED] (the "Student") have prepared this Agreed Statement of Facts ("ASF") and a Joint Book of Documents ("JBD"). The Provost and the Student agree that:
 - (a) each document contained in the JBD may be admitted into evidence 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.

A. Charges

2. The Student admits that he received a copy of the Charges, which are included in the JBD at **Tab 1**.
3. The Student admits that he received a copy of the Notice of Hearing and that he has received reasonable notice of the hearing on December 12, 2018 at 9:00 am. A copy of the Notice of Hearing is included in the JBD at **Tab 2**.
4. The Student waives the reading of the Charges filed against him and pleads guilty to all charges.
5. The Provost agrees that if the Tribunal convicts the Student on charges #1 and #4 of the Charges, the Provost will withdraw charges #2, #3, #5 and #6 of the Charges.
6. At all material times, the Student was a registered student at the University of Toronto School of Graduate Studies ("SGS") in the

Master of Health Science program. A copy of the Student's current academic record is included in the JBD at **Tab 3**.

B. CHL3003Y

7. In Fall 2017, the Student enrolled in CHL3003Y (Empirical Approaches in Bioethics) ("CHL3003"), which was taught by Dr. Daniel Z. Buchman and Dr. Nancy Ondrusek. A copy of the course syllabus for CHL3003 is included in the JBD at **Tab 4**.
8. The Student was aware of the University's expectations respecting academic integrity, and in particular, the need to avoid plagiarism and to reference appropriately any sources used in the assignments that he submitted in CHL3003 (including through the use of quotations and in-text citations).
9. Students in CHL3003 were required to submit an empirical study design assignment, worth 50% of their final grades, by April 13, 2018.
10. The Student sought and obtained an extension for the submission of his empirical study design assignment.
11. On April 20, 2018, the Student submitted his empirical study design assignment, entitled "Moral distress among critical care nurses of Bangladesh: a pilot study" (the "CHL3003 Assignment"). A copy of the CHL3003 Assignment, with highlighting and annotations, is included in the JBD at **Tab 5**.
12. Upon review, Dr. Buchman and Dr. Ondrusek determined that there were passages in the CHL3003 Assignment that were taken verbatim or nearly verbatim from two sources without appropriate attribution:
 - (a) "Moral distress in critical care nurses: a phenomenological study" by K. Choe, Y. Kang and Y. Park (the "Choe Paper"), a highlighted and annotated copy of which is included in the JBD at **Tab 5A**; and
 - (b) "Nursing profession in Iran: An overview of opportunities and challenges" by Z. Farsi, N. Dehghan-Nayeri, R. Negarandeh and S. Broomand (the "Farsi Paper"), a highlighted and annotated copy of which is included in the JBD at **Tab 5B**(collectively, the "CHL3003 Sources").
13. The Farsi Paper was cited in the list of references in the CHL3003 Assignment but was not referenced appropriately in

the text of the assignment (including through the use of quotations and in-text citations). The Choe Paper was not cited in the CHL3003 Assignment at all.

14. The highlighting and annotations in the CHL3003 Assignment at Tab 5 of the JBD indicate the text that was taken verbatim or nearly verbatim from the CHL3003 Sources at Tabs 5A and 5B of the JBD. The highlighting in the CHL3003 Assignment at Tab 5 of the JBD corresponds to the highlighting in the CHL3003 Sources at Tabs 5A and 5B of the JBD.
15. On May 15, 2018, the Student met with Dr. Buchman and Dr. Ondrusek to discuss the alleged academic misconduct in the CHL3003 Assignment.

C. CHL3001Y

16. In Fall 2017, the Student also enrolled in CHL3001Y (Core Topics in Bioethics) ("CHL3001"), which was taught by Dr. Eoin Connolly and Dr. Rosalind Abdool. A copy of the course syllabus for CHL3001 is included in the JBD at **Tab 6**.
17. The Student was aware of the University's expectations respecting academic integrity, and in particular, the need to avoid plagiarism and to reference appropriately any sources used in the assignments that he submitted in CHL3001 (including through the use of quotations and in-text citations).
18. In addition, the course syllabus for CHL3001 provided as follows with respect to plagiarism (on page 17):

Reminder about plagiarism:

Plagiarism is a serious academic offence.

Please review the document "How Not to Plagiarize" that is available at:

<http://www.writing.utoronto.ca/advice/using-sources/how-not-to-plagiarize>

19. Students in CHL3001 were required to submit a final paper, worth 50% of their final grades, by April 20, 2018. Copies of the instructions and the grading rubric for the final paper, which were provided to students, are included in the JBD at **Tabs 7 and 8**, respectively.
20. Students were cautioned about the importance of referencing materials correctly in the final paper a number of times. On page 16 of the course syllabus (at Tab 6 of the JBD), students were told to "reference material correctly" in the final paper. This

caution also appeared in the instructions for the final paper (at Tab 7 of the JBD) and students' proficiency with referencing sources was included as part of the grading rubric for the final paper (at Tab 8 of the JBD). Before the deadline, students were also reminded orally in class to cite and reference material properly due to the importance of academic integrity.

21. The Student sought and obtained an extension for the submission of his final paper.

22. On April 26, 2018, the Student submitted his final paper entitled "Should surrogates be allowed to be paid for carrying a fetus?" (the "CHL3001 Paper"). Although students were required to submit their final papers electronically to Turnitin.com (which is a service that compares the submitted work with works contained in the Turnitin.com database and available online), because the deadline to submit assignments through the software had expired, the Student emailed a copy of the CHL3001 Paper to Dr. Connolly and Dr. Abdool. A copy of the CHL3001 Paper that the Student submitted, with highlighting and notations, is included in the JBD at **Tab 9**.

23. Upon review, Dr. Connolly and Dr. Abdool determined that there were passages in the CHL3001 Paper that were taken verbatim or nearly verbatim from four sources without attribution:

- (a) "Reasonable Regulation of Surrogate Motherhood" by Bonnie Steinbock, a highlighted and annotated copy of which is included in the JBD at **Tab 9A**;
- (b) "A new model for professionalised surrogacy proposed" by Thomas Manch, a highlighted and annotated copy of which is included in the JBD at **Tab 9B**;
- (c) "Childless couples win the right to pay surrogate mothers" by Martin Beckford and Tim Ross, a highlighted and annotated copy of which is included in the JBD at **Tab 9C**; and
- (d) "The ethics of surrogacy: women's reproductive labour" by Anton van Niekerk and Liezl van Zyl, a highlighted and annotated copy of which is included in the JBD at **Tab 9D**

(collectively, the "CHL3001 Sources").

24. The CHL3001 Sources were cited in the list of references in the CHL3001 Paper but they were not referenced appropriately in

the text of the paper (including through the use of quotations and in-text citations).

25. The highlighting and annotations in the CHL3001 Paper at Tab 9 of the JBD indicate the text that was taken verbatim or nearly verbatim from the CHL3001 Sources at Tabs 9A to 9D of the JBD. The highlighting in the CHL3001 Paper at Tab 9 of the JBD corresponds to the highlighting in the CHL3001 Sources at Tabs 9A to 9D of the JBD.
26. On May 15, 2018, the Student met with Dr. Connolly and Dr. Abdool to discuss the alleged academic misconduct in the CHL3001 Paper.

D. Dean's Meeting

27. On June 13, 2018, the Student met with Charmaine Williams, Acting Vice-Dean, Students at SGS, together with Dr. Ondrusek and Dr. Abdool, to discuss the allegations of academic misconduct in CHL3003 and CHL3001. Vice-Dean Williams gave the Student the warning that is required to be given under the *Code*. During the meeting, the Student explained that he had struggled since starting at the University because his previous degree did not involve writing papers. While writing the two assignments in issue, his cousin went to the hospital suddenly and his mother was waiting to hear back about her own medical issues (she has since been diagnosed with breast cancer). He knew he could request additional extensions on his assignments, but decided instead to hand in what he had written because his mother had asked him to return home. The Student admitted to committing plagiarism in both the CHL3003 Assignment and the CHL3001 Paper.
28. A copy of the meeting notes prepared by a note taker at SGS who was present at the meeting is included in the JBD at **Tab 10**. The parties agree that the meeting notes accurately reflect the discussions that occurred during the meeting.

E. Admissions and Acknowledgements

29. With respect to the CHL3003 Assignment, the Student admits that he knowingly:
- (a) included verbatim or nearly verbatim passages from the CHL3003 Sources without appropriate attribution;

- (b) represented the ideas, expression of ideas or work of another, including the authors of the CHL3003 Sources, as his own; and
- (c) committed plagiarism, contrary to section B.I.1(d) of the *Code*;

30. With respect to the CHL3001 Paper, the Student admits that he knowingly:

- (a) included verbatim or nearly verbatim passages from the CHL3001 Sources without appropriate attribution;
- (b) represented the ideas, expression of ideas or work of another, including the authors of the CHL3001 Sources, as his own; and
- (c) committed plagiarism, contrary to section B.I.1(d) of the *Code*;

31. The Student acknowledges that:

- (a) the Provost has advised him of his right to obtain legal counsel and that he has done so; and
- (b) he is signing this ASF freely and voluntarily, knowing of the potential consequences he faces.

3. In view of the Agreed Statement of Facts and the admissions, the Tribunal unanimously finds the Student has violated Section B.1.1(d) of the Code, with respect to both the courses in CHL3001Y and CHL3003Y. In accordance with its agreement, the University then withdrew its charges with respect to other violations of the Code.

4. The parties then presented the Tribunal with an Agreed Statement of Facts on Penalty:

1. This matter arises out of charges of academic misconduct filed on August 29, 2018 (the "Charges") by the Provost of the University of Toronto (the "Provost") under the *Code of Behaviour on Academic Matters* ("Code"). For the purpose of the penalty phase of this hearing, the Provost and A [REDACTED] N [REDACTED] (the "Student") have prepared this

Agreed Statement of Facts on Penalty ("ASF on Penalty"). The Provost and the Student agree that:

- (a) each document attached to this ASF on Penalty may be admitted into evidence 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.

A. Prior Offence – CHL3005

- 2. The Student has one prior academic offence.
- 3. In Fall 2017, the Student enrolled in CHL3005HF ("CHL3005") (Legal Approaches to Bioethics, September-December 2017), which was taught by Maria McDonald. A copy of the course syllabus for CHL3005 is attached at **Tab 1**.
- 4. On or about October 20, 2017, the Student submitted a short paper entitled "Assignment-1", which was worth 25% of his final grade (the "First Assignment"). Students were expected to complete the short paper independently and to use appropriate citations and references when relying on outside sources.
- 5. In accordance with the course policy, the Student submitted the First Assignment to Turnitin.com, which is an online database that compares the submitted work with the works contained in the Turnitin.com database and online. The Turnitin.com report for the First Assignment indicated a 34% similarity index with sources in its database and online. A copy of the Turnitin.com report for the First Assignment, with highlighting and handwritten notations, is attached at **Tab 2**.
- 6. On review, Ms. McDonald determined that there were several passages in the First Assignment that were taken verbatim or nearly verbatim from three online sources without appropriate attribution. Copies of these online sources, with highlighting, are attached at **Tabs 2A, 2B and 2C**. The highlighting in the First Assignment at Tab 2 corresponds to the highlighting in the online sources at Tabs 2A, 2B and 2C.
- 7. Ms. McDonald spoke to the Student following the First Assignment to discuss proper citation practices. She asked the Student to rewrite the First Assignment and pay particular attention to avoiding plagiarism, which the Student submitted

on December 17, 2017. A copy of the Turnitin.com report for the Student's resubmission is attached at **Tab 3**. There were no further allegations of plagiarism in respect of the First Assignment and the Student was not sanctioned for any alleged academic misconduct in connection with the First Assignment.

8. On or about December 18, 2017, the Student submitted a long paper entitled "Final Assignment-N [REDACTED]", which was worth 55% of his final grade (the "Final Assignment"). Students were expected to complete the long paper independently and to use appropriate citations and references when relying on outside sources.
9. In accordance with the course policy, the Student submitted the Final Assignment to Turnitin.com. The Turnitin.com report for the Final Assignment indicated a 41% similarity index with sources in its database and online. A copy of the Turnitin.com report for the Final Assignment, with highlighting and handwritten notations, is attached at **Tab 4**.
10. On review, Ms. McDonald determined that there were several passages in the Final Assignment that were taken verbatim or nearly verbatim from four online sources without appropriate attribution. Copies of these online sources, with highlighting and handwritten notations, are attached at **Tabs 4A, 4B, 4C and 4D**. The highlighting in the Final Assignment at Tab 4 corresponds to the highlighting in the sources at Tabs 4A, 4B, 4C and 4D.
11. On January 17, 2018, Ms. McDonald met with the Student to discuss the alleged academic misconduct in the Final Assignment.

(3) Dean's Designate Meeting

12. On March 20, 2018, the Student met with Professor Luc De Nil, Dean's Designate for Academic Offences, to discuss the allegations of academic misconduct in CHL3005. Professor De Nil gave the Student the warning that is required to be given under the *Code*.
13. At the meeting with Professor De Nil, the Student admitted to committing plagiarism in the Final Assignment. A copy of the meeting notes prepared by a note taker at SGS who was present at the meeting is included at **Tab 5**. The parties agree that the meeting notes accurately reflect the discussions that occurred during the meeting.

14. On March 22, 2018, Professor De Nil wrote to the Student imposing the following sanctions in connection with the offence committed in CHL3005:

- (a) a grade of zero for the assignment in question;
- (b) an annotation on the Student's transcript of "Sanctioned for Academic Misconduct under the *Code of Behaviour on Academic Matters*, effective March 20, 2018" for one year after the Student's convocation date, withdrawal, or program termination.

15. Professor De Nil also wrote:

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

A copy of Professor De Nil's letter is attached at **Tab 6**.

B. Acknowledgements

16. The Student acknowledges that:

- (a) the Provost has advised him of his right to obtain legal counsel and that he has done so; and
- (b) he is signing this ASF on Penalty freely and voluntarily, knowing of the potential consequences he faces.

5. After filing the Agreed Statement of Facts on Penalty the parties filed a Joint Submission on Penalty:

1. For the purposes of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the Provost of the University of Toronto (the "Provost") and A [REDACTED] N [REDACTED] (the "Student") have prepared this Joint Submission on Penalty ("JSP").
2. The Provost and the Student submit that, in all the circumstance of his case, it is appropriate that the University Tribunal impose the following sanctions on the Student:
 - (a) a final grade of zero in the course CHL3003Y;

- (b) a final grade of zero in the course CHL3001Y;
 - (c) a suspension from the University of Toronto from the date of the Tribunal's order until August 31, 2021; and
 - (d) a notation of the sanction on his academic record and transcript from the date of the Tribunal's order until one year after the Student's graduation, withdrawal or program termination; and
3. The parties agree that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University of Toronto newspapers, with the name of the Student withheld.

Acknowledgements

4. The Student acknowledges that:
- (a) the Provost has advised him of his right to obtain legal counsel, and he has done so; and
 - (b) he is signing this JSP freely and voluntarily, knowing of the potential consequences he faces and knowing that the Tribunal is not bound by this JSP and has the discretion to impose a different penalty, including one that is more severe than the JSP recommends.

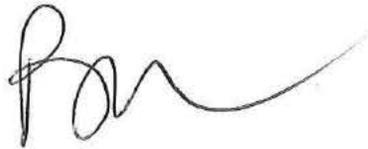
6. The panel, after deliberating, unanimously accepted the joint submission on Penalty, finding it to be consistent with previous Tribunal decisions referred to by the University, and fully justifiable in these circumstances. Given the high standard established by previous Tribunal decisions to depart from an agreed upon joint submission on penalty the panel saw no reason to do so in this case - the agreed upon penalty, in our view, struck an appropriate balance between the seriousness of the offence, and the prior misconduct of the Student (albeit not as serious at these charges) and the fact that the Student now appeared to recognize this and be remorseful by both agreeing to the facts of the misconduct and the degree of penalty

to be imposed. In view of the fact that the joint submission on Penalty was accepted, it was unnecessary for the panel to hear any evidence from the Student who wished to testify only if this panel rejected the joint submission on Penalty and wished to impose a greater penalty – which is not the case.

7. Accordingly, this panel of the Tribunal imposes the following sanctions on the Student:

- (a) a final grade of zero in the course CHL3003Y;
- (b) a final grade of zero in the course CHL3001Y;
- (c) a suspension from the University of Toronto from the date of the Tribunal's order until August 31, 2021; and
- (d) a notation of the sanction on his academic record and transcript from the date of the Tribunal's order until one year after the Student's graduation, withdrawal or program termination; and
- (e) The parties agree that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University of Toronto newspapers, with the name of the Student withheld.

Dated at Toronto this 22nd day of January 2019



Mr. Bernard Fishbein, Co-Chair