

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on January 5, 2023,

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters*, 2019,

AND IN THE MATTER OF the *University of Toronto Act, 1971*, S.O. 1971, c. 56 as am. S.O. 1978, c. 88

B E T W E E N:

UNIVERSITY OF TORONTO

- and -

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REASONS FOR DECISION

Hearing Date: April 2, 2024, via Zoom

Panel Members:

Michelle S. Henry, Chair

Professor Paul Kingston, Faculty Panel Member

Ryan Cortez, Student Panel Member

Appearances:

Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Janet Song, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Arshia Hassani, Representative for the Student, Downtown Legal Services

Hearing Secretary:

Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

In Attendance:

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1. A hearing of the Trial Division of the University Tribunal convened on April 2, 2024, to consider academic charges brought by the University of Toronto (the “University”) against B■■■■ H■■■■ (the “Student”) under the *Code of Behaviour on Academic Matters, 2019* (the “Code”). The Student was informed of the charges by letter dated January 5, 2023, from the Provost (the “Charges”). The Student was also informed of the hearing by a Notice of Virtual Hearing with respect to the Charges dated January 3, 2024.

THE CHARGES

2. At all material times, the Student was enrolled at the School of Graduate Studies as a Doctor of Philosophy Candidate with the Centre for Comparative Literature. The University brought the following charges against the Student:

a. On or about August 20, 2021, the Student knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated, or made use of such forged, altered, or falsified document, namely an application which the Student submitted for a Senior Doctoral Fellowship in the Caribbean Studies Program, contrary to Section B.I.1(a) of the *Code*.

b. In the alternative, on or about August 20, 2021, the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, by submitting a forged, altered, or falsified document, namely an application which the Student submitted for a Senior Doctoral Fellowship in the Caribbean Studies Program, contrary to Section B.I.3(b) of the *Code*.

AGREED STATEMENT OF FACTS

3. The Hearing proceeded based on an Agreed Statement of Facts (“ASF”). The Panel also received a Joint Book of Documents (“JBD”) that is referred to in the ASF. The following is an abridged version of the ASF.

4. In Fall 2021, the Student started his fifth year of the doctoral program. The New College Senior Doctoral Fellowship Program provides a stipend and academic opportunities to six

successful doctoral student applicants. Senior Doctoral Fellowships are valued at \$1,500 each, for one full academic year (September 1 to May 30) in a specific academic program/area of study.

5. Senior Doctoral Fellows are expected to engage with students and the larger intellectual community at New College and give an academic seminar related to their research. They are provided access to the special library collections at New College, and are eligible for New College travel funds and to submit applications for other funding initiatives in collaboration with their host Program Director.

6. Applicants were required to submit a one-page cover letter outlining their qualifications for the New College Senior Doctoral Fellowship with a focus on their area of study. They were also required to submit a curriculum vitae, a one-page summary of their doctoral thesis and progress to date, and a letter of recommendation from their dissertation supervisor.

7. On August 20, 2021, the Student applied for the Senior Doctoral Fellowship in the Caribbean Studies Program. The Application included a cover letter dated August 20, 2021, in which the Student represented that,

- a. his PhD dissertation was well underway;
- b. an article titled “Boomerang effects: constellating anti/colonial Nachträglichkeit between Shakespeare, Freud & Césaire” was under review at *Diacritics*, a peer-reviewed academic journal at Cornell University and published by the Johns Hopkins University Press (“*Diacritics* Article”); and,
- c. that his comprehensive exams included a significant focus on Caribbean history and literature.

8. The Application also included a curriculum vitae that listed the *Diacritics* Article in the “Publication” section as “forthcoming (under review with *Diacritics*)”; and a two-page summary titled “Doctoral Thesis Summary & Progress to date (July 2021)”.

9. On May 4, 2022, the Student emailed an Associate Professor of History at the University of Toronto to invite the Professor to meet to discuss whether she would become a member of the Student’s dissertation committee.

10. On May 9, 2022, the Professor requested that the Student send her a copy of the *Diacritics* Article identified in the Application as being under consideration by *Diacritics*.

11. On the same day, the Student responded to the Professor's request for a copy of his article by explaining that there was in fact no actual *Diacritics* Article. He said that instead:

The *Diacritics* situation was quite particular - at the time of applying to the New College SDF Program, I was participating in the School in Criticism and Theory at Cornell, where *Diacritics* is housed. As part of that program, we were invited to "pitch" articles for an upcoming edition of the journal, and my pitch (basically an extended abstract) won this little internal competition meaning I was invited to submit the full paper for editing and publication.

The Student went on to explain that due to intervening circumstances he had not followed through.

12. In response to the Student's explanation, the Professor expressed concerns about the misrepresentations made in his Application which led her to decline any further involvement with his work.

13. In response, the Student acknowledged that he had both misrepresented the status of the *Diacritics* Article and overstated his prior involvement in Caribbean literature and critical theory in his Application. The Student apologized to the Professor.

14. On May 17, 2022, Professor John Ricco, Associate Director, Centre for Comparative Literature, contacted the editor of the *Diacritics* journal, and the managing editor, who advised him that they had no record of any submission from the Student either as a general submission or as a submission to an essay competition, and did not have and had never had an essay of his under review.

15. On May 28, 2022, the matter was referred to Professor Luc De Nil, the Dean's Designate for Academic Integrity.

16. On July 19, 2022, the Student attended a Dean's Designate meeting with Professor De Nil to discuss the allegations.

17. During the meeting, the Student:

- a. confirmed that he had never submitted a paper to the *Diacritics* journal;
 - b. acknowledged that he had been loose with the terminology he had used to describe the informal feedback he received about his proposed paper during the Essay Competition, and that it was his understanding that he would, in the future, write and submit the paper to the journal;
 - c. acknowledged that he understood the difference between a paper being “under review” as stated in the Application, and a not yet written paper that he had been invited to submit, and that it was inaccurate to describe a paper that had not yet been written as “under review”;
 - d. acknowledged that an Application referencing a paper “under review” would be received more positively; and
 - e. acknowledged that he had knowingly misrepresented the information contained in the Application.
18. The Student offered to pay a fine equal to the amount of the \$1,500 stipend he had received. The Student also promised not to make reference to the Fellowship on future documents.
19. As part of the ASF, the Student made the following admissions:
- a. contrary to the information he provided in his Application cover letter and his curriculum vitae, he did not write or submit the *Diacritics* Article to *Diacritics* for publication;
 - b. contrary to the representations he made to the Professor, he did not win the Essay Competition and was not invited by *Diacritics* to submit a full paper for editing and publication;
 - c. he did not submit any article to *Diacritics*, nor was any article he authored under review by that journal;

d. he knew or ought to have known that describing a paper that was not yet written and had not been submitted as “under review” for publication by a peer-reviewed journal was inaccurate and misleading;

e. he referred to the *Diacritics* Article in his Application as if it existed, had been submitted to a peer-reviewed journal, and that it was under review by that journal for publication, in order to enhance his prospects to be awarded the Fellowship; and

f. by claiming the *Diacritics* Article was under review in the Application for the Fellowship, he knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated, or made use of such forged, altered, or falsified document, contrary to section B.I.1(a) of the Code.

20. The Student acknowledged that he knew or ought to have known that he 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 Application, contrary to section B.I.3(b) of the Code.

FINDINGS ON CHARGES

21. Following deliberations and based on the ASF and the JBD, the Panel concluded that the first charge was proven on a balance of probabilities. The Panel accepted the guilty plea of the Student in respect of the charge.

22. The Panel was advised that if it returns a conviction on the first charge, the University will withdraw the alternative charge. Accordingly, the Panel makes no findings with respect to the alternative charge.

PENALTY

23. The University and the Student submitted a Joint Submission on Penalty (“JSP”) recommending the following penalty:

a. a suspension from the University for three years commencing on May 1, 2024; and

b. a notation of the offence on the Student's academic record and transcript until graduation.

24. The parties agree that it is appropriate for this case to be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the Student withheld.

25. Assistant Discipline Counsel provided submissions on the high threshold required for a Tribunal to deviate from a JSP. As set out in the Discipline Appeals Board decision in *University of Toronto and S.F.* (Case No. 690, October 20, 2014), only truly unreasonable or "unconscionable" joint submissions should be rejected (para. 22).

26. The Panel also heard submissions regarding the appropriateness of the penalty, reviewed relevant past decisions of the Tribunal submitted by the University, and considered the factors set out in *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976), namely: 1) the character of person charged; 2) the likelihood of repetition of the offence; 3) the nature of offence committed; 4) any extenuating circumstances surrounding the commission of the offence; 5) detriment to the University occasioned by the offence; and 6) the need to deter others from committing a similar offence.

27. With respect to his character, the University noted that the Student admitted guilt, had insight into his actions, expressed remorse and took responsibility for his actions. He participated and cooperated fully in the process, including participating in the ASF and JSP on Penalty.

28. With respect to the consideration of the likelihood of repetition of the offence, Assistant Discipline Counsel noted that it was not particularly relevant in the circumstances as the Student was nearing completion of his PhD.

29. Regarding general deterrence and the detriment to the University, the University stated that the need to deter was important in this case, as the Student's actions could have denied other worthy candidates from this special opportunity and leads to a diversion of funds. The University noted that the integrity of the University and its programs are also compromised when such offences occur, as they bring into questions the professional integrity of academia, and not just the University.

30. With respect to the request to defer the start date of the suspension, the University noted that the Student's thesis was nearing completion, and he needed some time to work with his dissertation committee. The University agreed that this request was reasonable in the circumstances.

31. The parties also noted that the Student had donated the amount obtained to the University.

32. Having regard to the above, and based on the review of the cases provided by Assistant Discipline Counsel, in the Panel's view, the joint submission in this case is reasonable. The Panel agrees that the recommended sanctions are appropriate.

DECISION OF THE PANEL

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

a. **THAT** the Student is guilty of one count of knowingly forging or in any other way altering or falsifying a document or evidence required by the University, or uttering, circulating or making use of such forged, altered or falsified document, contrary to Section B.I.1(a) of the Code;

b. **THAT** the following sanctions shall be imposed on the Student:

i. a suspension from the University for three years commencing on May 1, 2024;
and

ii. a notation of the sanction on the Student's academic record and transcript until graduation.

c. **THAT** this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the Student withheld.

34. An Order was signed after the hearing on April 2, 2024, by the Panel to this effect.

DATED at Toronto, July 23, 2024.

Original signed by:

Michelle S. Henry, Chair

On behalf of the Panel