

THE UNIVERSITY OF TORONTO
THE UNIVERSITY TRIBUNAL

IN THE MATTER of charges of academic dishonesty made on February 4, 2009;

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

E L

Members of the Panel:

- Ms. Jane Pepino, Barrister and Solicitor, Chair
- Professor Ron Smyth, Faculty Member
- Ms. Elena Kuzmin, Student Member

Appearances:

- Ms. Lily Harmer, Assistant Discipline Counsel, for the University
- Mr. Lwam Ghebrehariat, Legal Case Worker, Downtown Legal Services
- Dr. Tamara Jones, Academic Integrity Officer, Office of Student Academic Integrity
- Professor Lenard Whiting, University of Toronto Scarborough, Humanities
- Ms. Maggie Man, Translator

In Attendance:

Mr. E L, the Student

Ms. Mae-Yu Tan, Assistant Secretary of the Governing Council, Governing Council

This hearing was held August 19, 2009, regarding the following charges:

1. On or about April 7, 2008, you knowingly represented as your own an idea or expression of an idea, and/or work of another in an essay that you submitted to fulfil the course requirements of VPMB95H(20081) contrary to Section B.1.1(d) of the *Code*.
2. In the alternative, on or about April 7, 2008, 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 essay you submitted for academic credit in VPMB95H(20081) contrary to Section B.1.3(b) of the *Code*.

The Evidence and the Hearing

1. The University established, through filing of Exhibits 1 (Notice of Hearing) and 2 (Charges), that the Student had been properly served, and through Downtown Legal Services, made aware of the particulars of the charges. Additional information with respect to exchanges between the Student and the University was set out in the book of documents, marked as Exhibit 3.
2. The Student commenced the hearing represented by Downtown Legal Services, but, approximately 5 minutes into cross-examination of the University's first witness, Mr. L indicated he wished to discharge his representation, on the grounds that "he (the representative from Downtown Legal Services) was not asking the questions I told him to". An adjournment was granted so that the Student and the representative from Downtown Legal Services could discuss the matter further, and to permit the representative from Downtown Legal Services to consult with a superior and obtain direction.
3. Upon recommencement, the representative from Downtown Legal Services withdrew from his representation of Mr. L , and continued to sit in the body of the courtroom as an observer, and with the permission of Mr. L . Mr. L then continued to represent himself.
4. Through the evidence of Professor Leonard Whiting, the University established that the course in question was a choir course, at the first year level, in the winter term, 2008. Although Mr. L already held a Bachelor of Arts, awarded in June, 2002, he has taken courses since graduation.
5. Professor Whiting assigned an essay for 25% of the value of the course mark. It was to be approximately 1500 words, and to summarize a number of chapters in a text entitled "Writing About Music".
6. Through a detailed analysis of the Student's term paper (Exhibit 3, Tab 3) and cross referencing of that term paper (analysis at Tab 4) with other papers and abstracts available on the Internet (Tabs 5 and 6), the University established that the term paper was taken, almost entirely verbatim, without quotes, attribution or indications of reference, from other materials.

7. The University also established that the Student, particularly having completed a degree, would have been told on various occasions that plagiarism was an academic offense, and been taught what constituted plagiarism. Particularly, in this case, the text (Exhibit 3, Tab 3), of which certain chapters were to be summarized, contained at page 46, explicit information about the use of footnotes, noting that omission of footnotes "even if it is done carelessly or without intention to deceive, constitutes plagiarism, the use of the words of others without giving them credit;". Further in the chapter (page 55) a section on plagiarism is included (pages 55, 56 and 57).
8. The University established that the paper (due April 4th) was filed April 7th, marked by a Grading Assistant who returned it to the professor noting her "shock that a paper would be submitted that was so word for word," and noting "the lack of citations, footnotes, essay formatting, and the like".
9. The University detailed further attempts to connect with the Student, which finally occurred by email dated May 13th (Exhibit 3, Tab 9). In that email, the Student writes "as long as I understand, a Student should not use other thesis or parts of different thesis (without mention) and combine it to be his own thesis. The point is, it create an issue of stealing other people's ideas and use it as their own effort" (*sic*).
10. When the Student testified, he offered the defence that he had asked an individual he described as a "teaching assistant" about the essay, and she had told him it was "okay to copy".
11. When asked whether he thought it was "okay for 25% of the course work, to simply copy out of a book", the Student answered "I did copy the work, I just didn't know how much until today". In response to the question why he used direct quotes from material from the Internet, without quotations or attribution, his defence was that he believed such use to be inappropriate "only if I use it for my own argument". In acknowledging that he did "use the book and the Internet" he agreed with the proposition put to him that it was his belief it was not plagiarism because he had copied from a textbook, stating "I used words from textbook, and I asked the T.A. about it".
12. Having considered the evidence outlined above, and having heard submissions from counsel for the University and from Mr. L in his own defence, the Members of the Panel found Mr. L guilty.

Oral Reasons were delivered at the conclusion of the hearing, as follows:

1. Mr. L , you have been charged that for the purposes of obtaining academic credit or another academic advantage, you knowingly plagiarized your assignment or ought reasonably to have known that you had plagiarized your assignment, and on that charge we find you guilty.

2. We believe that you knew, or you ought reasonably to have known, that what you did was plagiarism, and although there are a number of reasons for that belief, the one that we will highlight is the defence that you offer that you asked or checked with the classroom assistant.
3. We note parenthetically that you "checked with the classroom assistant" after almost two decades in this university, during which time your evidence was that you had assiduously avoided, or not managed to read, check on web sites, make inquiries, take any advice or follow-up on what might be plagiarism and we find that constitutes a state bordering on wilful ignorance.
4. Yet, in light of that position in which you had, by your testimony, left yourself, this time you checked with the classroom assistant. It is our finding that you did so because either you were concerned that copying was wrong or, you knew it was wrong. The sole defence you have proffered is that because of advice from a classroom assistant you were exempt from the Code. We do not agree. We find you guilty.

The Panel then heard submissions on penalty and decided as follows:

1. The Panel ordered the following:
 - (a) Assignment of a grade of zero for the course.
 - (b) A suspension from the University for a period of three years. Although several of the cases cited by Counsel for the University indicated that, for a first conviction, a suspension of two years had been the sanction, it was the decision of the Panel that three years was more appropriate in this circumstance. First, the Student showed no remorse or understanding of the seriousness of the charges. He demonstrated a pattern of evasiveness and non-responsiveness in the course of the University's attempts to process these charges in a fair and evenhanded way. Finally, since the Student already had received a Bachelor Degree, the specific deterrence represented by a suspension of two years on a student, prior to graduation, had no equivalency for someone who had already graduated.
 - (c) The sanction be recorded for a period of four years on the Student's record and transcripts. For the same reason, it was the decision of the Panel that the sanction be recorded for a period of four years on the Student's record and transcripts, recognizing that a graduate would have had a significantly greater opportunity to understand the nature and seriousness of plagiarism than, perhaps, a first or second year undergraduate.
 - (d) Pursuant to Section C.2.2(e), a denial of privileges, being the use of "utoronto" as the Student's email address.

- (e) A report of the decision and sanction to the Provost for publication by the University, with the Student's name withheld.

I certify that this is the decision of the Panel

Jan 7 / 2010
Date

N. Jane Pepino
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