UNIVERSITYOF TORONTO
UNIVERSITYTRIBUNAL
TRIAL DIVISION

IN THE MATTER OF charges of academic dishonesty made on May 14, 2010;

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 UNIVERSITYOF TORONTO

– AND –

Y O

Hearing Date: July 22, 2010

Members of the Panel:

Mr. Ronald G. Slaght, Barrister and Solicitor, Chair
Professor Gabriele D'Eleuterio, Institute for Aerospace Studies, Faculty Panel Member
Ms. Denise Cooney, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. Betty-Ann Campbell, Law Clerk, Paliare Roland Barristers

In Attendance:

Professor John Browne, Dean's Designate, Faculty of Arts and Science
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances, Office of the Governing Council

Not in Attendance:

Ms. Y O , the Student

RULING ON THE NOTICE OF HEARING AND THE ISSUE OF SERVICE:

[1] The Panel has now considered the matter, The Provost's submissions, and reviewed the materials provided to us by the University. In the circumstances present here we are satisfied that the University has met it's obligation to provide notice or reasonable notice to Ms. O .

[2] There are a number of factors that lead us to that conclusion, none of which, taken on their own, might be sufficient, but in combination we are satisfied that Ms. O likely did have actual notice of this proceeding or that we can make a finding that we are satisfied she had reasonable opportunities to do so.

[3] Briefly, these factors include the e-mail which was sent to her, pursuant to the University's policy, which is certainly some evidence that she ought to have known that she could receive the Notice materials by e-mail, and that they were sent by e-mail.

[4] There is also the evidence of the courier package, which in itself may not be without its warts, including some issue as to whether there is a real signature there, but it was delivered to the address that she put in her ROSI materials, and there is evidence in the package that somebody put a name there signifying receipt by her.

[5] As well we think it of some significance that she did register for summer courses and then those disappeared from the landscape, some indication that she was around and did know that, as somebody said, something was afoot.

[6] Also, in these cases my view is that something can be taken from the history of attempts to correspond and contact a student over time, which, if, when one looks at the numbers of them here, if Ms. O had wished to engage with the university, she certainly had many opportunities to do so, which leads us to the conclusion she may well have been purposefully not responding to any number of these attempts to provide her with notice.

[7] So, on that aspect we are satisfied. We are also satisfied that the content of the Notice complies with both the Code and with the SPPA requirements.

[8] The third element of notice is whether the length of time that the University was intending to provide, one month between Notice and the hearing, is sufficient. In this case that becomes something of a non-issue, because obviously there was no response from her whatsoever, and therefore there is nothing for us to draw in the way of any inference that she did not have enough time. Whatever position the University might have taken, if she'd come here tonight and said, 'I've only been provided with one month's notice,' this Panel would in all likelihood have given her an adjournment. But in these circumstances that's not an issue.

[9] So taking it all together, we are satisfied that the University has met its notice requirements, and we can proceed to the merits, in the absence of Ms. O .

FINDING OF GUILT:

[10] The Panel is satisfied that the University has made out its case and that Ms. O has committed the offences set out in Charges 1 and 2, found in the Code at paragraph (b)(1)(1), (d), and (f) respectively. There is abundant evidence. On Charge 1 particularly we have the evidence of Professor Poole, who has given direct evidence that Ms. O 's paper is mostly a duplication, but in some cases a paraphrase, of what we find to be somewhat surprising but nonetheless the case of Professor Poole's very own paper. So we have direct evidence from this witness identifying both the plagiarism and the plagiarized source.

[11] Similarly with respect to Charge number 2, Professor Poole has given evidence, and we can read for ourselves in a comparative sense, that a passage, for example, on page 5 of Ms. O 's paper is a direct lifting of a passage on page 21 of Professor Poole's paper and credited by her to a Joungwon, A.K., rather than Professor Poole. This makes out the case of a false reference. Again, the evidence for that is the direct evidence of Professor Poole.

[12] We also have other evidence from Ms. Campbell that shows there was a consistent substitution of words found in Professor Poole's paper with synonyms for those words found in a piece of software, Microsoft Thesaurus, which Ms. Campbell was able to lay before us, and from which we draw the inference that Ms. O substituted synonyms for words in Professor Poole's paper in an effort to make the paper read differently than the original source from which it was plagiarized.

[13] So without elaboration, we are satisfied on that basis that these charges are made out, Charge number 3 will be withdrawn, and Ms. O will stand convicted of charges 1 and 2.

SANCTION/ORDER:

[14] The Panel is satisfied that the appropriate sanction in this case is the one that has been contended for by University counsel. We will impose the following sanctions:

i. Ms. O shall receive a final grade of zero in the course EAS 333H1: Modernism and Colonial Korea;

ii. Ms. O shall be suspended from the University from July 22, 2010, until July 21, 2012;

iii. the sanction shall be recorded on Ms. O 's academic record and transcript from the date of the Order until July 21, 2012;

iv. This case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanction imposed in the University newspapers, with Ms. O 's name withheld.

[15] In some ways, as we said in our reasons on the merits, this is a strange case, but the principles that have emerged from the cases over the years are certainly clear, that a commission of a first offence of plagiarism usually carries with it a suspension of at least two years. In this case there is nothing in these facts that would lead us to impose a sanction of less than that. It might have been arguable that a sanction of more than that could have resulted, but at the same time we have no evidence from Ms. O .

[16] There is certainly no evidence of mitigation, no evidence of character, no explanation from the student as to how she expected this act of plagiarism to go uncovered. And we also know from Professor Poole that she, both orally and in her syllabus, reviewed what plagiarism is, its consequences in this course, so there's no doubt that the student had full warning about this, although the circumstances remain bizarre, plagiarism from the work of the very Professor teaching the course.

[17] So taking everything together, we believe that the two-year sanction is certainly appropriate in this case, and that is the penalty we now impose.

Dated at Toronto, this 5th day of November.

Ronald G. Slaght, Co-Chair