

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on March 22, 2012,

AND IN THE MATTER OF the *University of Toronto Code of Behavior on Academic Matters, 1995,*

AND IN THE MATTER OF the *University of Toronto Act, 1971, S.O. 1971, c. 45 as amended S.O. 1978, c. 88*

BETWEEN:

THE UNIVERSITY OF TORONTO

-and -

P [REDACTED] T [REDACTED]

Date of Hearing: September 26, 2012

Tribunal Members:

Ms. Wendy Matheson, Barrister and Solicitor, Chair

Professor Louis Florence, Department of Management, University of Toronto Mississauga,
Faculty Panel Member

Ms. Eleni Patsakos, Student Panel Member

Appearances:

Mr. Robert A. Centa, Assistant Discipline Counsel for the University, Paliare Roland Barristers

Mr. Jeremy Burgess, Legal Case Worker for the Student, Downtown Legal Services

In Attendance:

Mr. P [REDACTED] T [REDACTED], the Student

Ms. Lucy Gaspini, Manager Academic Affairs, University of Toronto Mississauga

Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Charges and Hearing:

1. The Trial Division of the Tribunal held a hearing on September 26, 2012 to consider certain charges brought by the University of Toronto against P [REDACTED] T [REDACTED] (the Student) under the *Code of Behaviour on Academic Matters, 1995* (the Code). At the outset of the hearing the University withdrew certain of the charges. Those that remained were as follows:
 - 3) On or about April 13, 2011, the Student 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 the Student submitted for academic credit in CCT356H5 – Online Advertising and Marketing (“Online Advertising”), contrary to section B.I.3(b) of the Code.
 - 4) On April 16, 2011, the Student knowingly possessed an unauthorized aid during the final examination in CCT205H5 – Digital Innovation and Cultural Transformation (“Digital Innovation”), contrary to section B.I.1(b) of the Code.
 - 5) In the alternative, on April 16, 2011, the Student 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 the final examination in Digital Innovation, contrary to section B.I.3(b) of the Code.
 - 6) On or about August 15, 2011, the Student knowingly represented as his own an idea or expression of an idea, and/or the work of another in an essay that he submitted for academic credit in CCT316H5 – Communication and Advertising (“Communication and Advertising”), contrary to section B.I.1(d) of the Code.
 - 7) In the alternative, on or about August 15, 2011, the Student 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 he submitted for academic credit in Communication and Advertising, contrary to section B.I.3(b) of the Code.
2. The Student attended the hearing, was represented by counsel, and pled guilty to the above charges. The University indicated that if the plea of guilty to charges 3, 4 and 6 was accepted, charges 5 and 7 would be withdrawn in that they were in the alternative.

Agreed Statement of Facts & Finding on Charges

3. At the outset of the hearing, the Tribunal was advised that the University had entered into an Agreed Statement of Facts with the Student. That Agreed Statement is attached as Appendix A to this decision. The Tribunal also received into evidence, on consent, a Joint Book of Documents referred to in the Agreed Statement of Facts.

4. As set out in more detail in the Agreed Statement of Facts, the circumstances giving rise to the charges involved three different incidents, in three different courses, as set out below.

Online Advertising assignment

5. In the winter 2011 term, the Student enrolled in Online Advertising. In relation to an assignment in that course, the Student first submitted a PDF document on or prior to the deadline of February 26, 2011. After inquiry by the professor, the Student told the professor that he had mistakenly uploaded the wrong file when he submitted the PDF. On April 13, 2011, the Student sent an email to the professor to that effect, and indicated that he had now uploaded the file he had intended to upload all along, a second PDF. The Student also suggested that the professor could check the creation date, which would be before the original deadline of February 26, 2011. However, when the professor examined the second PDF, although the creation date was February 26, 2011, the metadata revealed that it had first been saved on April 13, 2011, the date the Student sent the above email.
6. When confronted with this information, the Student admitted that he had created the second PDF document on April 13, 2011, and reset the system clock on his computer knowing it would appear that it was created on or about February 26, 2011. The Student initially did not admit to having committed an academic offence, but now admits, with respect to his conduct relating to the second PDF, that he 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 academic advantage, contrary to Section B.I.3(b) of the Code.

Digital Innovation exam

7. In the winter 2011 term, the Student enrolled in Digital Innovation. The final exam for that course was conducted on April 16, 2011. No aids were permitted during the exam. Despite this prohibition, the Student had an iPhone in his possession, which was confiscated from him during the exam after the Student denied having it more than once. However, when the Student met with the Dean's designate, he admitted to having committed an academic offence by knowingly possessing an unauthorized aid, contrary to s. B.I.1(b) of the Code. The Student made that admission once again at this hearing.

Communication and Advertising assignment

8. In the summer 2011 term, the Student enrolled in Communication and Advertising. On August 15, 2011, the Student submitted an essay in partial completion of the course requirements. There were passages in the essay that were reproduced verbatim or nearly verbatim from secondary sources. With respect to the essay, the Student admits that he knowingly:
 - (a) included verbatim and nearly verbatim excerpts from various secondary sources;

- (b) failed to attribute those verbatim and nearly verbatim excerpts appropriately using quotation marks or other appropriate referencing methods;
 - (c) represented the ideas of another person, the expression of the ideas of another person, and the work of another person as his own;
 - (d) committed plagiarism contrary to section B.I.1(d) of the *Code*; and
 - (e) engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit, contrary to section B.I.3(b) of the *Code*.
9. After reviewing the facts contained in the Agreed Statement of Facts and Joint Book of Documents, the Tribunal deliberated and concluded that the facts demonstrate that the charges 3, 4 and 6 above were proved, and agreed to accept the guilty pleas in respect of those charges. Given that finding, the University withdrew charges 5 and 7, and those charges are therefore not the subject of a finding of academic dishonesty by this Tribunal.

Penalty

10. The parties submitted a Joint Submission on Penalty, which proposed that the Student be given a final grade of zero in the courses Online Advertising and Communications and Advertising, a final grade of 50 in the course Digital Innovation, a three-year suspension from the University from the date of Tribunal's order and a notation of the sanction on the Student's academic record and transcript for three years from the date of the Tribunal's order. It was also proposed that this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed in the University newspapers, with the name of the student withheld.
11. With respect to the iPhone charge in particular, the University noted that the phone had not actually been used, and the Student had admitted misconduct at an early stage. In those circumstances the University submitted that the grade of 50, rather than zero, was appropriate. As well, although all academic conduct is serious, the University noted that this charge was at the less serious end of the spectrum, particularly where the student had not actually used the phone to attempt to obtain any academic advantage.
12. With respect to the three year suspension and notation, the University submitted that a three-year suspension is appropriate given that in the case there were a total of three events giving rise to academic discipline.
13. Counsel to the Student, in agreeing to the proposed penalty, submitted that the Student understands the seriousness of his misconduct, and this penalty will unquestionably affect his path in life. He also noted, with respect the iPhone charge, that the course was the last course the Student needs to complete his degree requirements, there would be an undue financial burden if he had to register for a full term to repeat that course. Taking into account his early admission of misconduct on this charge and the fact that the phone had not been used, he joined in the University's submission that a failing grade of zero was not called for in the circumstances.

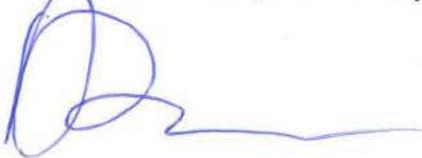
14. In support of the joint submission, the parties asked the Tribunal to take into account the fact that the Student admitted some of the charges at an early stage in the process and cooperated with the University, including by the agreement on the facts in the Agreement Statement of Facts, by pleading guilty and by the Joint Submission on Penalty. As well, the Student had no prior discipline history.
15. While the Tribunal has taken these mitigating factors into account, absent the joint submission the Tribunal would have considered a more serious penalty. In the course of the submissions, the Tribunal was advised that given the passing grade of 50 discussed above, the Student has all the credits he needs to graduate. The effect of this penalty will be to delay graduation, but he need not do any further course work and demonstrate that he has learned from this experience. However, the Tribunal recognizes that there is a high threshold that must be met for the Tribunal to reject a joint submission. To meet that threshold, the Tribunal would have to be of the view that accepting the joint submission would be contrary to the public interest or bring the administration of justice into disrepute (*University of Toronto and M.S.* dated April 29, 2009, para. 17). The Tribunal concluded that this is not such a case.
16. The Tribunal therefore accepted the joint submission on penalty.

Decision of the Tribunal

17. The Tribunal has ordered that Mr. T [REDACTED]:
 - (a) shall receive a final grade of zero in the courses CCT 356 and CCT 316;
 - (b) shall receive a final grade of 50% in the course CCT 205;
 - (c) shall be suspended from the University from the date of this order until September 25, 2015; and
 - (d) the sanction shall be recorded on his academic record and transcript from the date of this order until September 25, 2015.
18. The Tribunal has further ordered that this case be reported to the Provost for publication of a notice of the Tribunal's decision and the sanction imposed, with the name of the student withheld.

All of which is ordered as of September 26, 2012.

Dated at Toronto, this 24th day of October, 2012.



Wendy Matheson, Chair

APPENDIX A

THE UNIVERSITY TRIBUNAL

IN THE MATTER OF charges of academic dishonesty filed on March 22, 2012,

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 am. S.O. 1978, c. 88*

BETWEEN:

THE UNIVERSITY OF TORONTO

– AND –

P [REDACTED] T [REDACTED] ([REDACTED])

AGREED STATEMENT OF FACTS

1. This hearing arises out of charges of academic misconduct filed by the Provost of the University of Toronto (the "Provost") under the *Code of Behaviour on Academic Matters* ("Code"). For the purposes of this hearing, the Provost and P [REDACTED] T [REDACTED] ("Mr. T [REDACTED]") have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD"). The Provost and Mr. T [REDACTED] agree that:

- (a) each document contained in the JBD may be admitted into evidence before the Tribunal for all purposes, including for the truth of the document's contents, without further need to prove the document; and
- (b) if a document in the JBD indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

A. Notice of hearing, charges and guilty plea

2. Mr. T [REDACTED] admits that on August 15, 2012, he received a notice of hearing for September 26, 2012, and that he received reasonable notice of the hearing. The notice of hearing and revised notice of hearing are included in the JBD at Tab 1.

3. Mr. T [REDACTED] admits that he received a copy of the charges filed by the Provost, which are found in the JBD at Tab 2. Mr. T [REDACTED] waives the reading of the charges filed against him, and hereby pleads guilty to charges #3, 4, 5, 6 and 7.

4. The Provost agrees to withdraw charges #1 and 2. The Provost will also withdraw charges 5 and 7 if the Tribunal panel finds that Mr. T [REDACTED] has committed acts of academic misconduct.

5. At all material times, Mr. T [REDACTED] was a registered student at the University of Toronto. A true copy of his academic record, dated September 17, 2012, is found in the JBD at Tab 3.

B. CCT 356- Online Marketing

6. In the Winter 2011 term, Mr. T [REDACTED] enrolled in CCT 356 – Online Advertising and Marketing, which was taught by Michael Jones (“Online Marketing”). A copy of the course syllabus for Online Marketing is found in the JBD at Tab 4. Mr. T [REDACTED] admits that he received a copy of the syllabus for Online Marketing.

7. The academic requirements for Online Marketing included an Online Ad Design project, which was worth 15% of the final grade. The Online Ad Design assignment was due on March 1, 2011, and the requirements for the assignment are included in the JBD at Tab 5.

8. On or about February 26, 2011, prior to the deadline for the assignment, Mr. T [REDACTED] uploaded a 12-page .PDF document titled “Skyfe-Design PDF Brochure” (“First PDF”). The First PDF was described by Mr. T [REDACTED] as being interactive, or one which contained embedded internal links that would take a reader to a different part of the document if the reader clicked on the link.

9. When he reviewed the First PDF, Mr. Jones was surprised to see that it was an interactive file. He knew that interactive PDFs were a significant component of the course CCT 305, which Mr. T [REDACTED] had previously taken in 2009, but were not part of Online Marketing. Mr. Jones was suspicious that Mr. T [REDACTED] had re-submitted an assignment that he had submitted previously for academic credit in CCT 305. Mr. Jones was also troubled by the fact that when he reviewed the metadata for the file, it revealed that the First PDF was created and

last modified on March 31, 2009, which was almost two years before Mr. T [REDACTED] submitted it for academic credit in Online Marketing.

10. Mr. Jones sent Mr. T [REDACTED] a number of e-mail messages asking whether or not he had previously submitted the First PDF for academic credit in CCT 305. Mr. T [REDACTED] denied having done so. Nevertheless, Mr. Jones asked that Mr. T [REDACTED] meet with him on April 14, 2011, to discuss whether or not Mr. T [REDACTED] had committed an academic offence.

11. On April 13, 2011, Mr. T [REDACTED] sent an e-mail to Mr. Jones indicating that he had discovered that he had mistakenly uploaded the wrong file when he submitted the PDF. He indicated that he had now uploaded the file he had intended to upload all along ("Second PDF"). Mr. T [REDACTED] suggested that Mr. Jones could check the creation date, knowing that it would appear to be February 26, 2011, which was before the March 1, 2011, deadline for submitting the Online Ad Design project.

12. When Mr. Jones examined the Second PDF, he first observed that it was a four-page document, with a creation date and a last modified date of February 26, 2011, one hour apart. However, a more detailed examination of the metadata revealed that the Second PDF was first saved at 00:55:44 a.m. on April 13, 2011. This proved that the document was created on April 13, 2011, which was after the due date for the Online Ad Design project, and was the same date that Mr. T [REDACTED] had advised Mr. Jones that he had inadvertently uploaded the wrong assignment.

13. When confronted with this information, Mr. T [REDACTED] admitted that he had created the Second PDF document on April 13. He stated that:

- (a) he had completed an assignment to submit in completion of the Online Ad Design project;
- (b) on February 26, 2011, he accidentally uploaded the First PDF, which was a 2009 assignment from CCT 305 because he was confused by similar file names;
- (c) sometime later, he deleted the assignment he had completed, but accidentally not submitted for CCT 356;

- (d) on April 13, he realized that he had uploaded the wrong assignment on February 26, 2012, and that he had deleted his actual assignment so that he had nothing to show to Mr. Jones;
- (e) on April 13, 2011, he created the Second PDF, which was a reconstructed version of his actual assignment;
- (f) he reset the system clock on the computer knowing that it would appear that the Second PDF was created on or about February 26, 2011.

14. On August 17, 2011, Mr. T [REDACTED] met with the Dean's Designate for Academic Integrity at the University of Toronto Mississauga. During that meeting, Mr. T [REDACTED] did not admit to having committed an academic offence in respect of the submission of the First PDF or the Second PDF. A copy of the admission forms that Mr. T [REDACTED] signed on that day is included in the JBD at Tab 6.

15. Mr. T [REDACTED] admits that, with respect to his conduct relating to the Second PDF, he 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 academic advantage, contrary to section B.1.3(b) of the *Code*.

C. CCT 205 - Digital Innovation

16. In the Winter 2011 term, Mr. T [REDACTED] enrolled in CCT 205– Digital Innovation and Cultural Transformation, which was taught by Christopher Jones (“Digital Innovation”).

17. A copy of the course syllabus for Digital Innovation (“Digital Innovation Syllabus”) is included in the JBD at Tab 7. Mr. T [REDACTED] admits that he received a copy of the Digital Innovation Syllabus.

18. The academic requirements for Digital Innovation included a final exam, worth 25% of the grade, which was to be written on April 16, 2011 (“Exam”). No aids were permitted during the Exam. The cover of the Exam question book stated as follows:

The University of Toronto Mississauga and you, as a student, share a commitment to academic integrity. You are reminded that you may be charged with an academic offence for possessing any unauthorized aids during the writing of an exam, including but not limited to any electronic devices with storage, such as cell phones, pagers, personal digital assistants (PDAs), iPods, and MP3 players. Unauthorized calculators and notes are also not permitted. Do not have any of these items in your possession in the area of your desk. Please turn the electronics off and put all unauthorized aids with your belongings at the front of the room before the examination begins. If any of these items are kept with you during the writing of your exam, you may be charged with an academic offence. A typical penalty may cause you to fail the course.

19. During the examination, an invigilator became concerned that Mr. T [REDACTED] might have an unauthorized aid in his possession. The invigilator recorded the interaction in an incident report as follows:

At 1:03 while scanning students' T-cards, CPO observed bulge, in student's pocket. On my inquiring, he identified it as his wallet, when I asked for the object to be produced, he objected, "It's nothing." When I insisted (twice more) that the object be produced, the student handed over a case containing his iPhone. When I asked if the student hadn't heard me repeatedly insist their personal electronic communications devices should not be brought to desks, student did not respond.

20. Mr. T [REDACTED] signed a written acknowledgment that he had an iPhone confiscated from him during the final examination. A copy of that written acknowledgment is located in the JBD at Tab 8.

21. On August 17, 2011, Mr. T [REDACTED] met with the Dean's Designate for Academic Integrity at the University of Toronto Mississauga. During that meeting, Mr. T [REDACTED] admitted to having committed an academic offence in the Exam by knowingly possessing an unauthorized aid, contrary to s. B.I1(b) of the *Code*. A copy of the admission form that Mr. T [REDACTED] signed on that day is included in the JBD at Tab 9.

22. Mr. T [REDACTED] admits that, contrary to s. B.I.1(b) of the *Code* he knowingly possessed an iPhone, which was unauthorized aid, during the Exam.

D. CCT 316 - Advertising

23. In the Summer 2011 term, Mr. T [REDACTED] enrolled in CCT 316 – Communications and Advertising, which was taught by Jeff Heydon (“Advertising”).

24. A copy of the course syllabus for Advertising (“Advertising Syllabus”) is included in the JBD at Tab 10. Mr. T [REDACTED] admits that he received a copy of the Advertising Syllabus. The Advertising Syllabus stated, in part, as follows:

Academic Integrity

From the Code of Behaviour on Academic Matters:

“It shall be an offence for a student knowingly:

(d) to represent as one’s own any idea or expression of an idea or work of another in any academic examination or term test or in connection with any other form of academic work, i.e. to commit plagiarism”

Wherever in the Code an offence is described as depending on “knowing”, the offence shall likewise be deemed to have been committed if the person ought reasonably to have know [sic].

Honesty and fairness are considered fundamental to the University’s mission, and, as a result, all those who violate those principles are dealt with as if they were damaging the integrity of the University itself. When students are suspected of cheating or a similar academic offence, they are typically surprised at how formal and seriously the matter is dealt with and how severe the consequences can be if it is determined that cheating did occur. The University of Toronto treats academic offences very seriously. Students should note that copying, plagiarizing, or other forms of academic misconduct will not be tolerated. Any student caught engaging in such activities will be subject to academic discipline ranging from a mark of zero on the assignment, test or examination to dismissal from the University as outlined in the UTM calendar. Any student abetting or otherwise assisting in such misconduct will also be subject to academic penalties.

Students are assumed to be informed about plagiarism and are expected to read the handout, How Not to Plagiarize (<http://www.writing.utoronto.ca/advice/using-sources/how-not-to-plagiarize>) written by Margaret Proctor. It is a valuable and succinct source of information on topic. You are also supposed to be familiar, and considered as being familiar, wit [sic] the *Code of Behaviour on Academic Matters* (see UTM Calendar: Codes and Policies... and *Code of Student Conduct*

...which spell out your rights, your duties and provide all the details on grading regulations and academic offenses at the University of Toronto.

Normally, students will be required to submit their course essays electronically to Turnitin.com for review of textual similarity and detection of possible plagiarism. In doing so, students will also essays to be included as source documents in the Turnitin.com database, where they will be used solely for the purpose of detecting plagiarism. Turnitin.com services are described on the Turnitin.com website.

25. The academic requirements for Advertising included a final paper, worth 40% of the grade, which was due on August 15, 2011.
26. On August 15, 2011, Mr. T [REDACTED] submitted an essay titled "Anti-Marijuana PSA Video by the American Medical Association" ("Essay") in partial completion of the course requirements in Advertising. A copy of the Essay is included in the JBD at Tab 11. Mr. T [REDACTED] submitted the Essay via Turnitin.com, as he was required to do.
27. The Turnitin Originality Report produced a Similarity Index of 19%, which was sufficiently high to concern Mr. Heydon. Mr. Heydon compared Mr. T [REDACTED]'s Essay to a number of sources available on the Internet and concluded that several of the passages in the Essay were reproduced verbatim or nearly verbatim from secondary sources. Although he identified the source of the copied passages, Mr. T [REDACTED] had not indicated through the use of quotation marks that the passages in question were verbatim or nearly verbatim quotes.
28. The Originality Report, an annotated version of the Essay, and a copy of the secondary sources are included in the JBD at Tab 12.
29. With respect to the Essay, Mr. T [REDACTED] admits that he knowingly:
 - (a) included verbatim and nearly verbatim excerpts from various secondary sources;
 - (b) failed to attribute those verbatim and nearly verbatim excerpts appropriately using quotation marks or other appropriate referencing methods; and
 - (c) represented the ideas of another person, the expression of the ideas of another person, and the work of another person as his own;

- (d) committed plagiarism contrary to section B.I.1(d) of the *Code*; and
- (e) engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit, contrary to section B.I.3(b) of the *Code*.

30. Mr. T [REDACTED] acknowledges that he is signing this ASF freely and voluntarily, knowing of the potential consequences he faces, and does so having obtained the advice of legal counsel.

Signed on September 26, 2012.

[REDACTED SIGNATURE]

Signed on September 26, 2012.

Robert A. Centa

Robert A. Centa
Assistant Discipline Counsel
University of Toronto

NO. 1

THE UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO
AND

..... MR. P [REDACTED] T [REDACTED]
This Exhibit is produced by

the UNIVERSITY

this 26 day of SEPTEMBER, 2012.

[Signature]
.....