

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION**

IN THE MATTER of the *University of Toronto Act, 1971*, S.O. 1971, c. 56, as amended;

AND IN THE MATTER of the *University of Toronto Code of Behaviour on Academic Matters, 1995*;

AND IN THE MATTER of disciplinary charges against The Student.

Members of the Panel:

Jane Pepino, C.M., Q.C., Chair
Daniel Brooks, Faculty Panel Member
Indra Muthu, Student Panel Member

Appearances:

Lily Harmer, for the University of Toronto
The Student, appearing on his own behalf

Witnesses:

Lorraine Bruce, PhD. Student, Teaching Assistant and Tutor, Department of Philosophy
Stephen Lam, Invigilator for Accessibility Services Examination Centre
Don Waterfall, Professor, Department of Philosophy
Ulrich Wortmann, Department of Geology

Advisers to Discipline Counsel:

Gregory Evans, Acting Vice-Dean, Faculty of Applied Science and Engineering
Will Bawden, Faculty of Applied Science and Engineering

BACKGROUND

[1] The Trial Division of the University Tribunal was convened on March 29, 2005 to consider charges brought under the *Code of Behaviour on Academic Matters, 1995* laid against The Student by letter dated September 14, 2005 and revised charges by letter dated January 20, 2005 from the Vice-Provost, Academic, Professor Edith Hillan.

- [2] The letter of January 20, 2005 contained the following two sets of charges:
1. On or about February 11, 2004, you did knowingly use or possess an unauthorized aid or aids or obtain unauthorized assistance in an academic examination, namely, the term test in PHL291H1S (the “Term Test”), contrary to Section B.I.1.(b) of the *Code of Behaviour on Academic Matters* (the “Code”).
 2. In the alternative, on or about February 11, 2004, you did knowingly intend to use or possess an unauthorized aid or aids or obtain unauthorized assistance in the Term Test, contrary to Section B.II.2. of the *Code*.
 3. In the further alternative, on or about February 11, 2004, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind during a Term Test to fulfill course requirements in PHL291H1S, contrary to Section B.I.3(b) of the *Code*.
 4. On or about February 12, 2004, you did knowingly submit a forged, altered or falsified document, namely an answer booklet for the Term Test, that you submitted to Professor Waterfall, contrary to Sections B.I.1.(a), B.I.3.(a) and B.I.3(b) of the *Code*.
 5. In the alternative, on or about February 12, 2004, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in a Term Test submitted to fulfill course requirements in PHL291H1S, contrary to Section B.I.3(b) of the *Code*.
 6. On or about April 17, 2004, you knowingly represented as your own, an idea or expression of an idea, and/or work of another in connection with a form of academic work, namely, “*The Challenger Disaster: Who Was Responsible?*”, an essay that you submitted to fulfill the course requirements of PHL291H1S, contrary to Section B.1.1(d) of the *Code*.
 7. In the alternative, on or about April 17, 2004, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in an essay submitted to fulfill course requirements in PHL291H1S, contrary to Section B.I.3(b) of the *Code*.
 8. Pursuant to Section B of the *Code*, you are deemed to have committed the offence knowingly if you ought reasonably to have known that:
 - a. you used or possessed an unauthorized aid or aids or obtained unauthorized assistance in any academic examination;

you intended to use or possess an unauthorized aid or aids or obtain unauthorized assistance in any academic examination;

- b. you engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit; and
- c. you submitted a forged, altered or falsified document; or

you represented as your own, an idea or expression of an idea, and/or work of another in connection with a form of academic work.

AND

1. On or about November 16, 2004, you knowingly represented as your own, an idea or expression of an idea, and/or work of another in connection with a form of academic work, namely, a report entitled “16th of October Excursion to the Niagara Escarpment Field Trip”, that you submitted to fulfill the course requirements of GLG216H1, contrary to Section B.1.1(d) of the *Code of Behaviour on Academic Matters* (the “Code”).
2. In the alternative, on or about November 16, 2004, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in a report entitled “16th of October Excursion to the Niagara Escarpment Field Trip” submitted to fulfill course requirements in GLG216H1, contrary to Section B.1.3(b) of the *Code*.
3. Pursuant to Section B of the *Code*, you are deemed to have committed the offence knowingly if you ought reasonably to have known that:
 - a. you represented as your own, an idea or expression of an idea, and/or work of another in connection with a form of academic work; or
 - b. you engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit.

[3] The Panel heard that the various charges related to four different incidents:

Incident 1: - Charges 1, 2 and 3 related to the attempt and use of an unauthorized aid on February 11, 2004, during a time that the student was to write a closed book exam at the Accessibility Services Department (The Student had registered as having a learning disability and had sought and been granted accommodation in writing this exam). *The student pleaded not guilty to these charges.*

Incident 2: - Charges 4 and 5 related to the submission, the following day, February 12, 2004, of an examination, alleged to be forged, altered or falsified. *The student pleaded guilty to these charges.*

Incident 3: - Charges numbered 6 and 7, related to the submission of an essay on April 17, 2004, which allegedly contained plagiarism. *The student pleaded not guilty to these charges.*

Incident 4: - The fourth incident gave rise to charges 1 and 2 in the second set of charges, and related to the submission, on November 16, 2004, of a field report which was allegedly copied from the work of others. *The student pleaded not guilty to these charges.*

Charge eight (8) in the first set of charges and charge three (3) in the second set of charges was abandoned by Discipline Counsel.

The parties made their submissions. Witnesses for the University were heard and The Student was given the opportunity to cross-examine each one, The Student's testimony on his own behalf was heard, and summations were given.

EVIDENCE

[4] **First Incident:** With respect to incident number 1, giving rise to charges 1, 2, and 3 of the first set of charges, the Panel heard from Professor Waterfall, who testified that The Student was registered in his course **PHL291H-ENGINEERING and ETHICS**. One of the components of the course was the completion of a "classroom essay" on one of three topics provided in advance of the closed-book examination, on February 11, 2004. Those three topics were set out at Tab 5 of the book of documents marked as Exhibit 1.

Because The Student had registered as learning disabled, he was permitted to write his closed-book essay question at Accessibility Services, where the standards were the same: ie, "closed-book, based on one of the assigned topics", but accommodation by way of additional time could be provided.

On February 11, 2004, The Student attended at Accessibility Services and signed the Accessibility Services Test/Exam Centre Policy (Exhibit 1, Tab 7) and submitted a TERM Booklet in the form found at Tab 8 of Exhibit 1. Across the front of the TERM Booklet were The Student's student number, name, course number and instructor's name, together with a handwritten notation of "scrap".

A review of the contents of the booklet disclosed one page only of poorly organized and incomplete jottings, which, although related generally to the topic, in no way constituted an essay or answer to the question assigned.

The Panel also heard from Steven Lam who was an invigilator at Accessibility Services and who was on duty and responsible for administering The Student's examination that day (see Tab 6).

Tab 9 is Mr. Lam's "incident sheet", which corresponded entirely with his oral evidence. In summary, Mr. Lam testified that upon arrival (late) the student asked if he could use the washroom, but attempted to take his knapsack with him into the washroom. When Mr. Lam asked him to leave his bag outside the washroom, The Student shuffled at length, and slowly, within his bag, raising Mr. Lam's suspicion.

When The Student emerged from the washroom, he was holding his arm across his sweatshirt, giving rise to Mr. Lam's concern that he was holding something underneath his sweater. Mr. Lam testified that when The Student was asked to sign a document, The Student's left hand was holding his sweater instead of steadying the paper he was signing. He emptied his pockets when asked, but used only one hand to do so. When Mr. Lam asked The Student if there was anything he shouldn't be taking into the examination, and asked him if he had something under his sweater, The Student replied "I guess I should put it back", returned to his assigned locker and was observed to put white papers, folded into a quarter of a page, into the locker. When then asked "do you have anything else on you", Mr. Lam testified The Student then pulled up his sweatshirt - with both hands. Mr. Lam acknowledged he did not ask The Student to hand over what he had had under the sweatshirt, having been satisfied it was now stored back in The Student's bag or locker.

In cross-examination, The Student asked Mr. Lam whether, when entering the carrel, "did I have anything on me", to which Mr. Lam replied "once you showed me you had nothing under your sweatshirt, no".

Based on the evidence of Mr. Lam, which was not successfully challenged, and for which no contrary or satisfactory explanation was provided, the Panel found that The Student had both intended, and did engage in academic misconduct in order to obtain academic advantage, and was therefore guilty on charges 2 and 3 of the first set of charges. The student was found not guilty on charge number 1, since the fact that he had had to leave the previously prepared pieces of paper which he attempted to secret under his sweatshirt, outside the room, coupled with the sorry state of the one page document handed in, made it clear that he had not been able, despite planning, to "obtain unauthorized assistance in an academic examination".

[5] Second incident: The Panel was also provided with a copy of an original Exam booklet, marked as Exhibit 1.B, which was submitted by The Student to Professor Waterfall on September 12th, allegedly as the form of essay question intended to satisfy, or be, the essay question submitted to satisfy course requirements. Because The Student pleaded guilty to charges 4 and 5, that he "submitted a forged, altered or falsified document on February 12, 2004", no evidence was led as to the circumstances

surrounding why Professor Waterfall was provided with a full version of an Exam booklet on February 12th, but that a document book labeled “TERM” and bearing the phrase “scrap” was handed in to Accessibility Services the prior day.

[6] Third Incident: Turning then to the third incident, it was that on or about April 17th, The Student submitted an essay, worth 20% of his course mark, again to Professor Waterfall and again, ironically, in the **ENGINEERING and ETHICS** course.

The Panel heard that Lorraine Bruce, a PhD student in Philosophy, was a teaching assistant and sometime tutor to the learning disabled. Tab 12 of Exhibit 1 sets out an exchange of email correspondence which, together with Exhibit 2, a receipt for hours of service, showed that Ms. Bruce had spent time from the 29th of January through to the 9th of April assisting The Student with, as she stated, structure, key ideas, organizing thoughts and working on outlines.

Ms. Bruce testified that on Friday April 16th she advised the student that the final draft paper he was to have submitted to her had not arrived, and that she had received a blank document. (Tab 12)

On the 19th, the student wrote back to Ms. Bruce, with an attachment that was an essay (Tab 13), which she described as being “so blatantly different from what they had worked on that it seemed off”. Tab 16 sets out the paper as submitted by The Student, on which marginal notations highlight several passages which are plagiarized directly from an essay website (Tab 15).

The Student did not cross examine Ms. Bruce, and the only challenge to her belief and assertion that passages of his paper were plagiarized is found at Tab 17, second page, where, in an email dated April 20th, he suggests that on April 17th he didn’t submit the final report, but rather the draft, continuing to state that his submission of the paper was “by accident, and he would never do such a thing”, while apologizing to Ms. Bruce.

In his oral submissions at the end of the hearing, he submitted that he made a mistake and submitted his draft noting that because he had two prior offenses, it would make no sense for him to “do this”. – i.e. – engage in plagiarism.

Given the polished nature of the submitted paper, and the lack of any credible explanation or proof that it was draft, the Panel accepts that The Student submitted, for marking as a final version, a paper which included plagiarized materials and therefore found him guilty of charges 4 and 5.

[7] Fourth Incident: The Panel heard from Professor Ulrich Wortmann, who taught an introductory geology course to students. Tab 18 and Professor Wortmann’s oral evidence, made it clear that the students were warned about plagiarism, and an explanation of what constituted plagiarism was given to them.

Tab 19 sets out the field trip report dated November 16, 2004, submitted by The Student: Tab 21 includes a report prepared by a second student, and Tab 23 contains the report of a third student, all from the same field trip.

Tabs 20, 22 and 24 respectively were colour-coded analyses undertaken by Counsel for the University to identify passages and illustrations reproduced by The Student from reports submitted by two other students, including illustrations. A comparison of the reports, and the University's analysis, makes it clear that The Student lifted, holus bolus, entire sections of the field reports of the other students. In addition, Professor Wortmann testified that each of the other students had acknowledged that The Student had asked for a copy of their assignment, variously, "to compare": one was requested only on the date (November 16th) upon which field report was due, and was handed over together with an electronic copy. Professor Wortmann advised that both of those other students had failed the assignment due to their assistance to The Student.

The Panel was prepared to accept the third party hearsay evidence of Professor Wortmann in this respect, given that The Student agreed, with Counsel for the University that the two students involved need not be called to substantiate that evidence. Even without this hearsay evidence, however, the Panel was satisfied on the documents themselves that plagiarism had occurred.

The contrary explanation provided by The Student is set out in Tab 25 of Exhibit 1, in which he responded to a request from Professor Wortmann to discuss the assignment by saying "I didn't remember I submit the assignment yet", going on to say he is "so offended by your email" and that "two weeks ago we did discuss my first offence and there is no way on earth I will do it again". It is to be noted that the report was handed in on November 16th, less than one week before this email.

In oral testimony, The Student admitted asking the two students, but says he did not submit the paper. The Student suggested that the report was handed in by a third party, but declined the offer of the Panel to consider any evidence he might bring that might establish that as fact.

Based on all the evidence and the lack of any credible explanation on the part of The Student, the Panel found him guilty of charges 1 and 2 on the second set of charges.

SANCTIONS

[8] Submissions as to sanction were presented by the University and arguments were heard from The Student. Following deliberation, the Panel accepted the recommendation of the University:

- that a grade of zero be imposed in the two courses that were the subject of the appeal, namely PHL291H1S and GLG216H1;
- that a recommendation be forwarded to Governing Council for The Student's expulsion from the University of Toronto;
- that there be publication of the sanctions and decision in the University newspapers, with The Student's name withheld.
- Further, in the event Governing Council does not accept the recommendation for expulsion, that The Student be suspended from the University of Toronto for the maximum period of five years and that this suspension be recorded on his academic transcript.

These sanctions were given orally in the presence of both parties on March 29, 2005.

REASONS for DECISION and SANCTIONS **(Delivered orally)**

[9] This student's conduct was systematic, premeditated and constituted a pattern of conduct which made him unworthy to continue presence within the academic community. He was seemingly unaware of the nature or seriousness of his actions. Most grievously, The Student, on at least two occasions, committed one of the most serious academic offences: he had stolen the thoughts of others. This is the highest type of intellectual dishonesty, being more than simple cheating wherein some of the student's own effort is required. This behaviour is absolutely not acceptable in an environment intended to model and value academic rigor and integrity.

As a result of his individual actions, and of the pattern they constituted, the Panel recommends that The Student be expelled from the University of Toronto.

DATED this _____ day of September, 2005.

Date

Chair