

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on September 6, 2007 and July 8, 2008;

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 -

Mr. M. H. H.

REASONS FOR DECISION

Members of the Panel:

Mr. Clifford Lax, Chair
Professor Ron Smyth, Faculty Panel Member
Ms. Melany Bleue, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland
Ms. Betty-Ann Campbell, Law Clerk, Paliare Roland
Professor Eleanor Irwin, Dean's Designate

Mr. M. H. H., the Student, did not attend

Preliminary

- [1] The Trial Division of the University Tribunal was convened on December 9, 2008 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "Code") laid against the Student by letters dated September 6, 2007 and July 8, 2008 from Professor Edith Hillan, Vice-Provost, Academic.
- [2] Thirty minutes after the time at which the hearing was scheduled to begin, the Student had not appeared. Discipline counsel for the University proposed to proceed in the Student's absence.
- [3] The Tribunal heard submissions with respect to the University's request to proceed in the absence of the Student.
- [4] The affidavit of Betty-Ann Campbell (Exhibit 2) sets out in great detail the efforts made by the University Discipline Council to provide notice to the Student of the charges, the particulars of the charges and the hearing date.
- [5] In June, 2007 the Student met with Professor Eleanor Irwin acting as the Dean's designate with respect to the University's concerns regarding alleged acts of plagiarism contained in his essay "The Electoral System and Democracy in Canada". The Student did not admit to having engaged in plagiarism at that meeting but was aware that the University's concerns were not answered by the explanation he offered.
- [6] Professor Irwin's attempts to schedule a second meeting concerning allegations of plagiarism in a subsequent essay entitled "Democratic Deficit in Contemporary Canadian Politics: Evidences on Consultation, Deliberation and Decision Making of the Government" were unsuccessful. The Student did not respond to her request for a meeting.
- [7] The Tribunal is satisfied that the Student received notice of this hearing for the following reasons:
 - (a) The evidence that mail sent to the address listed in the Student's ROSI record was collected and forwarded on to the Student by the then residents;
 - (b) The evidence that the Student's hotmail account was current and active throughout the period from September 6, 2007 until the hearing date on December 9, 2008.
 - (c) The evidence that delivery by courier was accepted by the Student who signed the delivery manifest after identifying himself to the courier as "H".
- [8] As indicated above, the Tribunal delayed commencement of the proceeding on December 9, 2008 for approximately 30 minutes. When the Student failed to appear, the proceedings commenced at approximately 6:00 p.m. that evening. The Tribunal was

unaware that at 5:47 p.m. that evening, the Student had sent Nancy Smart, the Judicial Affairs Officer the following email:

“Hi Nancy, I have received your letter which was couriered to my place. Unfortunately I am sorry to say that I will not be attending the hearing as this was the first time I heard from you. I also saw the copies of the mails attached, which were sent to my old address but I had updated all my information on Rosi when my parents moved back to Pakistan and I moved to Scarborough. It will be very difficult for me to get any representation in such short notice as it is advised to have one. I alone will not be able to take pressure nor be able to represent my self properly and everything I had to say I had told my professors when I had the meetings (which were recorded). I am again really sorry and please let me know if there is anything I can still do?”

Neither the panel nor Ms. Smart was aware of the existence of this email until after the panel had concluded its deliberations.

- [9] In any event, the email confirms that the Student had in fact received notice of these proceedings as a result of the courier delivery referred to above. It was therefore, not by happenstance, that the Student waited until the hearing was in progress before sending his email requesting an adjournment.
- [10] If the Student had attended and requested an adjournment, such a request would have been considered and ruled upon by the Tribunal. He chose, however, neither to appear nor to make his request in writing or by email at any time following December 2, 2008 and prior to the commencement of the hearing.
- [11] Based upon the evidence adduced at the hearing, the panel concluded that the Student did in fact receive reasonable notice of the hearing and in accordance with the provisions of the *Code* and of the *Statutory Powers Procedure Act*. Furthermore, the panel concludes that it was appropriate for the Tribunal to proceed in the absence of the Student without further notice of the proceeding.

Hearing on the Facts

- [13] The charges dated September 6, 2007 are as follows:
 - 1. On or about March 15, 2007, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your essay entitled “The Electoral System and Democracy in Canada”, submitted for academic credit in POLA51A3, contrary to Section B.I.1.(d) of the *Code*.
 - 2. In the alternative, on or about March 15, 2007, 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 your essay entitled “The Electoral System and Democracy in Canada”, submitted for academic credit in POLA51A3, contrary to Section B.I.3.(b) of the *Code*.

[14] Particulars of the charges dated September 6, 2007 are as follows:

3. You were, at all material times, a student in POLA51A3 taught by Professor Joerg Wittenbrinck.
4. On or about March 15, 2007, you submitted an essay entitled “The Electoral System and Democracy in Canada” that contained excerpts and passages that were not written by you, but were copied without attribution from the work of another student, Mr. M.

[15] The charges dated July 8, 2008 are as follows:

1. On or about June 19, 2007, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your essay entitled “Democratic Deficit in Contemporary Canadian Politics: Evidences from Consultation, Deliberation and Decision-making of the Government”, submitted for academic credit in POL214, contrary to Section B.I.1.(d) of the *Code*.
2. In the alternative, on or about June 19, 2007, 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 your essay entitled “Democratic Deficit in Contemporary Canadian Politics: Evidences from Consultation, Deliberation and Decision-making of the Government”, submitted for academic credit in POL214, contrary to Section B.I.3.(b) of the *Code*.

[16] Particulars of the charges dated July 8, 2008 are as follows:

3. You were, at all material times, a student in POL214 taught by Professor Tone Careless.
4. On or about June 19, 2007, you submitted an essay entitled “Democratic Deficit in Contemporary Canadian Politics: Evidences from Consultation, Deliberation and Decision-making of the Government” that contained excerpts and passages that were not written by you, but were copied without attribution, or without quotation marks, from other sources.

The Essay Submitted March 15, 2007

[17] With respect to the essay submitted on March 15, 2007 entitled “The Electoral System and Democracy in Canada”, the University called as its witness Professor Joerg Wittenbrinck. He reviewed the impugned essay (Exhibit 7) in detail and noted the

similarities between it and another essay previously submitted by another student. Professor Wittenbrinck's testimony concerning Exhibits 8, 9, 10(a) and 10(b) clearly established that significant portions of the Student's essay were not in fact written by the Student but were copied from the work of another student. Indeed, those portions copied retained precisely the same spelling, grammatical and punctuation errors found in the original essay. Furthermore, many of the references cited in the original essay were simply repeated in the Student's version.

- [18] Professor Wittenbrinck confirmed that the written materials he handed out to students warned of the danger of dishonest academic practices including plagiarism (see Exhibit 5). His teaching assistants conducted seminars to assist the students to better understand issues of academic dishonesty and it would appear that the Student attended one of these seminars on January 25, 2007.
- [19] The panel is satisfied that the extent of the plagiarism found in the Student's essay precluded any possibility that this dishonest practice was the result of error or a simple lack of proper attribution. Rather, the panel is satisfied that the Student had made obvious use of another student's paper and submitted the other student's ideas and text as though they were his own. Therefore, the University has proven count #1 of the charges dated September 6, 2007.

The Essay submitted on June 19, 2007

- [20] With respect to the charges dated July 8, 2008, the panel heard evidence from Professor Tone Careless. The outline for that course (Exhibit 12) **explicitly** indicates that course essays will be reviewed for the detection of possible plagiarism and warned the students of the consequences of such a serious academic offence, should they be found to have engaged in plagiarism.
- [21] The alleged examples of plagiarized content in this essay exhibit somewhat different characteristics from those in the first essay submitted. In the former case, the copied portions were extensive and obvious. In this essay (Democratic Deficit in Contemporary Canadian Politics: Evidences from Consultation, Deliberation Decision Making of the Government), the panel is satisfied that the portions of the Student's essay (Exhibit 13) which appear in bold type, were not the Student's work but were taken from another source.

An example of this can be found on page 2 of the impugned essay. The second to last paragraph (commencing "Canadians generally ...") appears to be the Student's work, while the last paragraph on page 2 (continued at the top of page 3) is both by tone and content obviously an academic work, properly referenced and lucidly written. The contrast between these two paragraphs alone, leads to no other conclusion but that of plagiarism.

- [22] The essay contains references to the work of Cross and Cody, but they are not simply references to research sources, but in fact reflect the actual text or a slightly paraphrased version of those texts. Notwithstanding the fact that the Student actually quoted from

these texts, quotation marks were not used to delineate the words of the source materials from those of his own.

- [23] Professor Careless in his testimony drew the panel's attention to portions of this paper (other than the highlighted portions) which in style and analysis display a measure of sophistication, suggesting that they were in fact written by someone else. While the Tribunal shares Professor Careless' doubts regarding the originality of the essay as a whole, the decision to find the Student guilty is based not on scepticism but on the evidence of Professor Careless which clearly establishes at least three sources from which the Student essentially copied the words of others. The similarity between the essay as submitted and the actual texts of Cross, Cody and co-authors Johnston, Krahn and Harrison leads to no other conclusion but that count #1 of the charges dated July 8, 2008 has been proven overwhelmingly.

Decision of the Tribunal

- [24] The Student is guilty on Charge #1 dated September 6, 2007 and Charge #1 dated July 8, 2008.

Sanction

- [25] Once the panel concluded that the Student was guilty on the first count of both sets of charges, it received submissions on the appropriate penalty to be imposed.
- [26] The University filed a Book of Authorities to assist the panel in determining what other panels of this Tribunal had decided in similar cases of plagiarism.
- [27] Without the evidence of the Student, this panel was unable to consider relevant factors which might influence the appropriate sanction including the character of the person charged, any extenuating circumstances surrounding the commission of the offence and the likelihood of repetition of this offence.
- [28] This panel therefore had to consider the following factors:
- (a) that the Student had been convicted of not one, but two counts of plagiarism;
 - (b) that the Student had shown no remorse nor any acceptance of responsibility when he met with the Dean's designate;
 - (c) the detriment to the University occasioned by the offence; and
 - (d) the need to deter others from committing a similar offence.
- [29] Other panels have noted that the seriousness of the offence of plagiarism is that it undermines the relationship of trust which must exist between the University and its students. As was stated in the *University of Toronto and S.B.* (November 14, 2007) "It hardly needs to be said that the credibility and academic mission of the University, and

the degrees which it awards to students, can be gravely harmed by the commission of offences such as plagiarism and concoction.”

- [30] As stated in *Re: University of Toronto and A.K.* (November 9, 2007) “... it appears in the modern era, particularly as plagiarism has increasingly become the bread and butter of this Tribunal, the Tribunal through a number of cases has established virtually a threshold penalty for those convicted of plagiarism – the two year suspension. The suspension may increase, depending on particular factors and particular cases, including the nature of the plagiarism, the response of the student to the allegations, the conduct of the student throughout the proceeding, whether the charges represented a first or repeated offence, the passage of time since the incident occurred and who contributed to any delay, the expression of remorse, a plea of guilty, or not, any specific extenuating circumstances and other factors. But the consistent minimum penalty appears to be a two year suspension”.
- [31] We agree that a two year suspension appears to be the threshold for a first time offence but in this particular instance, we have concluded that a three year suspension is warranted having regard to the Student having been found guilty of a second count of plagiarism.
- [32] Further, the Student should not be entitled to a grade other than zero in the two courses in which acts of academic misconduct were committed, viz., POLA51A3 and POL214.
- [33] Additionally, there should be a notation of this penalty on the Student’s academic record and on his transcript for a period of four years (or until graduation, whichever occurs first) starting on January 1, 2009.
- [34] Finally, this panel refers this decision to the Provost with the recommendation that the Provost publish the outcome of our decision with The Student’s name withheld.

Date: January 12, 2009



Clifford Lax, Chair