

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER** of charges of academic dishonesty made on October 30, 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-

M      M

**Members of the Panel:**

- Mr. Raj Anand (Chair)
- Professor Shadi Dalili (Faculty Member)
- Ms. Elena Kuzmin (Student Member)

**Appearances:**

- Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
- Ms. Betty-Ann Campbell, Law Clerk, Paliare Roland Barristers
- Professor Shafique Virani, Instructor
- Ms. Edith Szanto Ali-Dib, Teaching Assistant

**In Attendance:**

- Lucy Gaspini, Academic Affairs Officer, Office of the Dean University of Toronto, Mississauga
- Ms. Nancy Smart, Judicial Affairs Officer, Office of the Governing Council
- M      M      , the Student, did not attend

Transcription of Finding of Guilt Delivered Orally by the Chair:

- [1] Mr. M was charged with two academic offences:
- 1) On or about November 19, 2007, you knowingly represented as your own an idea or expression of an idea or work of another in connection with an essay entitled “the Ode – Qasida (“Essay”), which you submitted for academic credit in RLG204H5F, contrary to section B.I.1.(d) of the Code, and;
  - 2) In the alternative, on or about November 19, 2007, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code, in connection with the Essay which you submitted for academic credit in RLG204H5F, contrary to section B.I.3(b) of the Code.
- [2] Mr. M is not present here today. And, we confirm that he has been adequately notified of the hearing and we had no explanation for his absence.
- [3] We are satisfied by the documentary evidence and the representations of counsel for the University that Mr. M had received notification of an earlier hearing date, that he had requested an adjournment of that date, and had been notified of this date. Efforts have been made to contact him by email and by phone. But, he did not attend today. We proceeded, therefore, in his absence and the evidence of the University was unchallenged.
- [4] Mr. M was at all material times a student at the University of Toronto. He submitted an essay, which is reproduced at Exhibit 7, for credit in the course RLG204. After review in accordance with the procedures of the course, through turnitin.com which produced a high similarity index, and a Google check, several matches were made by the teaching assistant Ms. Edith Szanto.
- [5] There were two website sources from which large excerpts of his short essay were apparently obtained either verbatim or nearly verbatim. It appears that seven excerpts from the 815 word essay were noted in his bibliography while other excerpts did not correspond with his bibliography. From our brief review of the material, there were no citations provided to the excerpts, and indeed, we noted that there were other quotations in the essay that were not cited at all.
- [6] The provisions of the *University of Toronto Code of Behaviour on Academic Matters*, indicate that wherever in the *Code* an offence is described as dependent on “knowing” the offence shall likewise be deemed to have been committed if the person ought to have reasonably to have known. When I was reading the charges, both of them referred to the adverb “knowingly”, in that regard we have evidence that satisfies the panel that Professor Virani, that Professor who taught the course,

indicated adequately to the students the requirements of the course in terms of accrediting information and ideas that were used in the course of drafting the essay in question.

- [7] The course outline, which is Exhibit 3, notifies the students that their entries would be submitted through the turnitin.com facility through the University's course website. Or, through an alternative, if the student chose to use an alternative to turnitin.com, and further noted that plagiarism and inadequate referencing of sources would be penalized in accordance with the University's rules and regulations. Professor Virani also testified that he made it clear to the students, that regardless of disclosure of bibliographical references, that quotations had to be directly cited. There were no direct citations at all.
- [8] Other expert sources were brought in to alert the students to the requirements of the University of reproducing ideas and information from external sources and the need to credit those references, all of these being procedures that are, from the Panel's experience, well-known and understood by students generally.
- [9] We find that Charge number one is made out and that the University has satisfied the burden of proof in that Mr. M knew or ought to have known in connection with the submission of his essay that he was representing as his own idea or an expression of another without properly citing or crediting those sources. We are prepared to make a finding that Mr. M breached Section B.I.1(b) of the Code and we will proceed then to consider sanction. And, the University withdraws charge number 2.

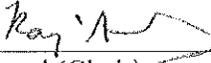
**Transcription of Oral Reason Delivered by the Chair at the Conclusion of the Hearing:**

- [1] The Panel has deliberated and I am prepared to provide the Panel's decision and reasons on penalty.
- [2] The University submitted in this case that the following penalty should be imposed: a final grade of zero in the course RLG204; a two-year suspension; a notation of the sanction on the student's transcript for three years, and a report of the decision and sanction to the provost for publication by the university, presumably with the name of the Student withheld.
- [3] We have determined that the sanction proposed by the University is appropriate with the exception that we would adjust the notation from three years to two years to match the two-year suspension.
- [4] The University cited the familiar 1976 decision in Mr. C., and particularly the concurring reasons, I think, of former Justice Sopinka at page 12, which have been quoted in many cases and which I will refer to briefly, the SB decision of the Tribunal dated November 14th, 2007, the H decision of the Tribunal dated January 12th, 2009, and the K decision of the Tribunal dated June, 2006.
- [5] We have reviewed these decisions. They provide some consistency in terms of the fundamental portion of the sanction, which is the length of the suspension which is to be imposed in cases of plagiarism such as this one. Essentially a two-year suspension for the first offence, and even where, as here, the paper in question was worth 25 per cent, which I believe is a small proportion, relatively, of the course in question, in terms of the factors at play in the Mr. C. decision, because of the absence of the student as in the K case, we have an absence of evidence as well in relation to several of the important factors listed by Mr. Sopinka as mitigating factors, as well as others which I will refer to briefly.
- [6] Notably, we have no evidence relating to the character of the person charged. We have little evidence except from an objective standpoint about the likelihood of repetition of the offence. We have no evidence about extenuating circumstances surrounding the commission of the offence. And, we have no evidence of factors such as remorse, cooperation with the University, and from the Student's standpoint, circumstances of the offence and results flowing from different penalties as they relate to the Student in question.
- [7] In terms of cooperation with the University, we of course note that Mr. M is not here and that this hearing was required, but, we know nothing more in that regard.
- [8] We do have evidence, obviously, of the nature of the offence committed. And, all of the cases cited speak to the seriousness of plagiarism, its relationship to the trust relationship upon which the University's instruction is based on its reputation is built. And all of the cases refer to the increasing prevalence and relatively easy detection of Internet plagiarism.

- [9] All the cases, as well, give voice to the detriment to the University which is occasioned by the undermining of its credibility and academic mission through offences such as plagiarism, and the need for general deterrence which goes beyond, for example, a zero in the course for the person in question. The cases cite the need for a message to the University community that penalties imposed by tribunal in relation to such serious offences will not be a licence to commit such offences.
- [10] There was some consideration by the Panel and an additional question put to Mr. Centa about the issue of matching the notification on the transcript and the length of the suspension. There was a candid recognition on his part that this is an area which has not often been explicitly considered in the Tribunal's jurisprudence over the last many years, and in light of the absence of the student here and in light of any countervailing submissions, this may not be the case in which to create or attempt to create such a rationale.
- [11] That having been said, given what we have in terms of the nature of the offence, it is obviously serious. It is also obviously the work of a first-year student in an assignment which was 25 per cent of the course, and in which there should be some recognition of the need for rehabilitation and the ability of the student if appropriate to move ahead. And in that regard, at least in this case, the panel was of the view that a two-year notation would be sufficient in the circumstances.
- [12] Therefore the Panel is in agreement with the University's submissions as to penalty, with the exception of the notation which will be two years, rather than three.
- [13] The Panel ordered the following:
- 1) A final grade of zero in the course RLG204;
  - 2) A two-year suspension; a notation of the sanction on the student's transcript for two years; and,
  - 3) A report of the decision and sanction to the Provost for publication by the University, presumably with the name of the Student withheld.

I certify that this is the decision of the Panel

Jan. 28/10  
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Date  
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Raj Anand (Chair)