

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on October 1, 2009;

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 -

S [REDACTED] H [REDACTED]

Hearing Date: November 18, 2009

Members of the Panel:

- Ms. Julie K. Hannaford, Barrister and Solicitor, Chair
- Professor Paul Cooper, Faculty of Forestry, Faculty Panel Member
- Ms. Elena Kuzmin, Student Panel Member

Appearances:

- Mr. Rob Centa, Assistant Discipline Counsel for the University, Paliare Roland Barristers
- Mr. Noah Craven, Legal Case Worker, Downtown Legal Services

In Attendance:

- Professor Eleanor Irwin, Dean's Designate, Office of Academic Integrity, University of Toronto Scarborough
- Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances, Office of Appeals, Discipline and Faculty Grievances
- Ms. S [REDACTED] H [REDACTED], the Student

Reasons for Decision in respect of the Penalty Phase

[1] On November 18th, 2009, the panel received a plea of guilty in respect of a charge that Ms. H [REDACTED], on or about July 28, 2009, knowingly represented as her own an idea or expression of an idea, and/or work of another in an essay she submitted for academic credit in WSTC20H3, contrary to section B.I.1(d) of *the Code*. The panel heard the evidence in respect of this charge, provided through an agreed statement of fact and a joint book of documents [Exhibits 1 and 2]. Following its deliberation in respect of the evidence, the panel accepted the guilty plea, having satisfied itself that the evidence offered formed a foundation for a finding of guilt in respect of the charge.

[2] The penalty phase of the hearing consisted of a joint submission on the penalty, also accompanied by an agreed statement of fact, and an undertaking, and there ensued submissions in respect of the agreed statement of fact, the undertaking, and the law in respect of penalty. Following its deliberation, the panel accepted the joint submission with respect to the penalty and made the following order,

That the following sanctions shall be imposed on Ms. H [REDACTED]:

- (a) she shall receive a final grade of zero in the course WSTC20H3Y; and,
- (b) she is suspended from the University from September 1, 2009, until August 30, 2012; and,
- (c) the sanction shall be recorded on her academic record and transcript from the date of the Order until August 30, 2013; and,
- (d) that 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 the name of the student withheld.

[3] Because this case involved a joint submission that included a novel aspect to the submission – namely an undertaking – brief reasons for the acceptance of the joint submission are in order.

[4] The matter proceeded on the basis of joint submissions in respect of the facts and in respect of the penalty. These are attached as Schedule “A” to these reasons.

[5] The joint submission on penalty included an undertaking, signed by Ms. H [REDACTED], in which Ms. H [REDACTED] undertook to pursue 5 and one half hours of writing instruction offered by the University. Part of the writing instruction includes instruction on how to properly cite and reference sources. Another part of the writing instruction involves instruction on how to write essays effectively.

[6] This undertaking was part of a joint submission that involved a suspension until August 31, 2012 – a period of approximately 3 years. The undertaking specifically provides that Ms. H [REDACTED] cannot graduate without pursuing this writing instruction, and a promise to participate faithfully in the workshop. The panel was advised that the Provost took this undertaking into account – indeed, had the undertaking not been offered, the Provost might well have declined to endorse the other aspects of the penalty.

[7] While it is true that a joint submission as to penalty should be accorded great deference and respect, this does not obviate an examination by the tribunal of how the proposed penalty would address the objects of penalties generally. It is precisely this question that was the basis for the dialogue that ensued with the University and counsel for Ms. H [REDACTED] that occupied the panel.

[8] It is important to note that this particular joint submission was one that evolved out of a constellation of facts and circumstances and considerations that were carefully undertaken by the University and Ms. H [REDACTED] and as well, her counsel, in advance of the proffered joint submission. This exchange of facts, circumstances, and positions is what formed the basis for the joint submission. That an undertaking of the kind given [which is attached to these reasons as Schedule “B” is reflective of both the constellation of facts and circumstances canvassed by the parties, and as well, of the careful consideration by the parties as to whether this was a case where the object of rehabilitation of the relationship between the University and the student could and would take place.

[9] The panel was satisfied that the penalty – namely the suspension – was in and of itself in accord with the evolving decisions respecting penalty for similar sets of offences. In addition, the panel was satisfied that the University and the student had approached the concept of the undertaking in a conscientious way – by selecting a course of study that would achieve the rehabilitative end required. Indeed, it is notable that the writing workshop not only provides the methodology needed to properly cite resources, but also addresses how to write material effectively. [It is arguable that the mischief associated with improper citation and appropriation of content arises because a student does not have the basic tools to write effectively on their own.]

[10] It is very significant that the University has determined – and the student has undertaken – to work toward repairing the relationship between the University and the necessity of academic integrity as it involves this student. This is a difficult assessment to make, and it always involves a leap of faith. It is not certain that this venture will be successful. Yet, it is not for this panel to insert its own assessment of success for that which has been carefully considered by the University.

[11] Nor is it appropriate for the panel to reject a joint submission that includes an undertaking simply because it is novel, or because no one can guarantee that the rehabilitative end will not be achieved. There is much to be said for an academic institution that crafts remedies and penalties that express hope in a better outcome. There is much more to be said when such penalties and remedies come in the face of repeated

offences: while it may be arguable that the multitude of previous offences argue against a change in behaviour, it is also arguable that the previous penalties imposed did little to help change behaviour. To the extent that the University and Ms. H [REDACTED] have together proposed a new way to address an old problem, they are both to be commended. Not all situations will be appropriate for such a resolution – or such an undertaking. In many ways, this is a situation that is imbued with both hope and promise – hope by the University that this will indeed repair the respect for integrity and dedication to academic integrity, and a promise by Ms. H [REDACTED] that she will apply herself to this end.

[12] The University is an institution that flourishes in an environment of honesty, integrity, and the free and open exchange of ideas. That is why the code of academic behaviour is so important, and the penalties for transgression of the code must be respected and applied consistently and fairly.

[13] But the University is also a place where its foundation of freedom and integrity give rise to an obligation to examine the effectiveness of the penalties and remedies available to protect the Code that informs the integrity of the institution – and, where those penalties and remedies may be enhanced – it is the concomitant obligation of the University to explore how this may occur. In this way, the University remains at the forefront of modeling fairness and justice, and in this way, the University exemplifies that which is at its core – the full and fair and free examination of process, ideas, and models – even those which we take for granted as true.

[15] In arriving at this novel joint submission, the considerations and deliberations of the University and Ms. H [REDACTED] and her counsel are to be respected and accorded great deference, and it is for this reason that the panel accepts the joint submission on penalty, coming as it does with the hope that the undertaking will bear the fruit of the hard work and consideration that formed the basis of the submission.

I certify that this is the Decision of the Panel.

16 February 2010
Date

Julie Hannaford
Julie K. Hannaford, Chair

SCHEDULE "A"

NO. 1

THE UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO

University of Toronto and S [redacted] H [redacted] ([redacted])

AND

Agreed Statement of Facts

S H

This Exhibit is produced by

the University of Toronto

this 18th day of November, 2009

1. For the purposes of this hearing under the Code of Behaviour on Academic Matters ("Code"), the Provost of the University of Toronto (the "Provost") and S [redacted] H [redacted] ("Ms.

H [redacted]) have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents

("JBD"). The Provost and Ms. H [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 indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. This hearing arises out of charges of academic misconduct filed by the Provost under the Code. A copy of the Charges, which were filed on October 1, 2009, is included in the JBD at Tab 1. Ms. H [redacted] acknowledges that she received a copy of the Charges.

3. The Notice of Hearing into the Charges is included in the JBD at Tab 2. Ms. H [redacted] acknowledges that she has received reasonable notice of this hearing.

4. In Fall 2002, Ms. H [redacted] first registered as a student at the University of Toronto. At all material times, Ms. H [redacted] remained enrolled at the University. A copy of Ms. H [redacted]'s academic record dated August 18, 2009, is included in the JBD at Tab 3.

5. In Summer 2009, Ms. H [redacted] enrolled in WSTC20H3Y – Women and Environments,

which was taught by Dr. Colette Granger ("Course"). A copy of the syllabus for the Course is included in the JBD at Tab 4. Ms. H [REDACTED] admits that she received a copy of the syllabus for the Course.

6. One of the Course assignments was to complete a final essay, which was worth 25% of the final grade in the Course. A copy of the assignment is included in the JBD at Tab 5. Ms. H [REDACTED] admits that she received a copy of the assignment.

7. On July 28, 2009, Ms. H [REDACTED] submitted her final essay, which she titled "Women Struggles" ("Essay"). She submitted the Essay for academic credit and in partial completion of the Course requirements. A copy of the Essay is included in the JBD at Tab 6.

8. Ms. H [REDACTED] admits that she knew or ought to have known that she had included in the Essay verbatim and nearly verbatim excerpts from:

- a. Sachs, C. (1996), Rural women and nature. In *Gendered fields: Rural women, agriculture, and environment* (pp. 29-43). Boulder CO: Westview Press. An excerpt from which is found in the JBD at Tab 7;
- b. Saritha, R. (2007), Women Entrepreneurship: Problems and Need for Environmental Alterations. In Ganesamurthy, V.S. (Ed.) *India: Economic Empowerment of Women* (pp. 55-65). New Delhi: New Century Publications. An excerpt from which is found in the JBD at Tab 8;
- c. Remennick, L. (1999). Women of the "Sandwich" Generation and Multiple Roles: The Case of Russian Immigrants of the 1990s in Israel". In *Sex Roles*, v. 40, No.

516. An excerpt from which is found in the JBD at Tab 9;

d. Rao, B. (1991) Women and water in rural Maharashtra. In *Environment and Urbanization*, Vol 3, No. 2, October 1991. An excerpt from which is found in the JBD at Tab 10;

e. Mahil, P. (2008). Marsha Fireston on the Future for Women Entrepreneurs. *Journal of Financial Planning*, December 2008. An excerpt from which is found in the JBD at Tab 11; and

f. Ramirez, J. (1991). "Women's Work Devalued" excerpted from "The Global Kitchen" in *Canadian Woman Studies*, spring 1991. An excerpt from which is found in the JBD at Tab 12. (collectively the "Sources")

9. Two of the Sources (Sachs and Saritha) were included in the reading kit for the Course.

10. Ms. H [REDACTED] admits that she knew or ought to have known that did not use quotation marks or any other appropriate method to indicate that she had included lengthy verbatim or nearly verbatim passages from the Sources in her Essay. She also admits that she ought to have done so.

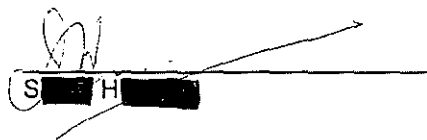
11. Ms. H [REDACTED] admits that she did not include some of the Sources in her list of references at the end of the Essay, and that she ought to have done so.

12. Ms. H [REDACTED] admits that, in the Essay, she represented the work and expressions of others as her own.


13. Ms. H [REDACTED] admits that she committed the academic offence of plagiarism as set out in charge #1 of the Charges, which are included in the JBD at Tab. ~~X~~ 1.

14. Ms. H [REDACTED] acknowledges that the Provost has advised her to obtain independent legal advice before signing this ASF. She acknowledges that she has either done so, or deliberately waived her right to do so.

Signed in Toronto on November 15, 2009.


S [REDACTED] H [REDACTED]

Signed in Toronto on November 18, 2009.


Robert A. Centa
Assistant Discipline Counsel
University of Toronto

University of Toronto and S [REDACTED] H [REDACTED] ([REDACTED])

Agreed Statement of Facts and
Joint Submission on Penalty

1. For the purposes of the sanction phase of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the University of Toronto (the "University") and S [REDACTED] H [REDACTED] ("Ms. H [REDACTED]") have prepared this Agreed Statement of Facts and Joint Submission on Penalty ("JSP"). The University and Ms. H [REDACTED] agree that:

- a. each document attached to the Joint Submission may be admitted into evidence at the Tribunal for all purposes, including for the truth of its contents, without further need to prove the document; and
- b. if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. Ms. H [REDACTED] acknowledges that she has admitted to committing two previous academic offences

3. First, in 2006, she admitted to bringing unauthorized aids into an examination on August 23, 2006 in POLA90. She received a final grade of zero in the course. A copy of the sanction letter dated September 26, 2006, is attached to this document at Tab 1.

4. Second, she admitted to plagiarizing an essay in the 2007 fall session course HLTC02, for which she received a zero in the course and a four month suspension. A copy of the sanction letter dated July 28, 2008, is attached to this document at Tab 2.

5. Ms. H [REDACTED] voluntarily chose not to take courses in Fall 2009, which effectively put her on an academic suspension as of September 1, 2009.

6. Ms. H [REDACTED] has agreed to complete a program through the University of Toronto Scarborough Centre for Teaching and Learning, which is acceptable to the University, prior to her graduation from the University.

7. The Provost and Ms. H [REDACTED] submit that the appropriate penalty in all the circumstances of the case is that the University Tribunal:
 - a. impose a final grade of zero in the course WSTC20H3Y;

 - b. suspend Ms. H [REDACTED] from the University of Toronto from September 1, 2009 until August 30, 2012;

 - c. impose a notation on her academic record and transcript stating that she has been found to have committed academic offences until August 30, 2013; and


 - d. report this case to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed, with Ms. H [REDACTED]'s name withheld.

8. Ms. H [REDACTED] acknowledges that the Provost of the University of Toronto has advised her to obtain independent legal advice before signing this document and that she has done so.

Signed in Toronto on November 18, 2009.


S. H.

Signed in Toronto on November __, 2009.


Robert A. Centa
Assistant Discipline Counsel
University of Toronto

SCHEDULE "B"

NO. 4

THE UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO

University of Toronto and S [redacted] H [redacted] ([redacted])

Undertaking

AND

S. H. [redacted]
This Exhibit is produced by

1. Ms. H [redacted] undertakes to complete a program through the University of Toronto Scarborough Centre for Teaching and Learning, which is acceptable to the University, prior to her graduation from the University ("Undertaking").
the University of Toronto
this 18th day of November, 2009

2. Ms. H [redacted] will fulfill the Undertaking by taking the following 5 workshops, which amount to 5 1/2 hours of instruction:

a. Common Types of Academic Assignments:

- 1. Writing at the University;
- 2. Critical reviews;

b. Elements of Writing:

- 1. Writing Strong Introductions;
- 2. Strong Thesis Statements; and
- 3. Editing Your Own Writing.

3. In the event that these workshops are not available at time Ms. H [redacted] attempts to complete them, the University will, acting reasonably, propose an alternate and equivalent program that Ms. H [redacted] shall complete to fulfill the Undertaking.

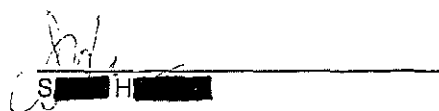
4. Ms. H [REDACTED] acknowledges that the Provost of the University of Toronto has agreed to place a joint submission on penalty before the University Tribunal. A copy of that joint submission is attached to this document.

5. The Provost has agreed to this joint submission, in part, in reliance on Ms. H [REDACTED]'s Undertaking, and, without it, the Provost would not have agreed to put a joint submission before the University Tribunal that included a 3 year suspension.


6. Ms. H [REDACTED] agrees and accepts that she will not be eligible to graduate from the University until she fulfills the Undertaking and the University may rely on this Undertaking to deny her the ability to graduate until it is fulfilled.

7. Ms. H [REDACTED] acknowledges that the Provost of the University of Toronto has advised her to obtain independent legal advice before signing this document and that she has done so.

Signed in Toronto on November 18, 2009.


S [REDACTED] H [REDACTED]

Signed in Toronto on November 18, 2009.


Robert A. Centa
Assistant Discipline Counsel
University of Toronto