

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO
TRIAL DIVISION**

IN THE MATTER OF charges of academic dishonesty filed on September 17, 2013.

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 -

A [REDACTED] [REDACTED] L [REDACTED]

REASONS FOR DECISION

Hearing Date: June 10, 2014

Panel:

Mr. William McDowell, Barrister and Solicitor, Chair
Professor Ernest Lam, Faculty of Dentistry, Faculty Panel Member
Mr. David Kleinman, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel for the University, Paliare Roland Barristers
Mr. Samuel Greene, Legal Case Worker for the Student, Downtown Legal Services

In Attendance:

Ms. A [REDACTED] [REDACTED] L [REDACTED], the Student
Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto
Mississauga
Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Introduction

1. On June 10, 2014 the student who is A [REDACTED] L [REDACTED], appeared before the Tribunal and admitted the following offences:

(a) On or about March 11, 2013, you knowingly represented the ideas or the expressions of the ideas of another as your own work in the tutorial assignments that you submitted in HIS101H5 (the "Course"), contrary to section B.I.1(d) of the Code. ...

(b) On or about April 1, 2013, you knowingly represented the ideas or the expressions of the ideas of another as your own work in the "Analysis of Academic Writing" assignment that you submitted in the Course, contrary to section B.I.1(d) of the Code.

2. With those admissions, the University withdrew the other two charges and imposed an agreed sanction which will be discussed below. The parties also filed an Agreed Statement of Facts which provides the framework of these reasons.

Background

(a) The Prior Offence

3. In brief, on February 2, 2013, the student submitted her second writing assignment in POL111H5S, entitled "Can a Native State Exist Within a Canadian State?" ("Writing Assignment"). She was required to submit the writing assignment through turnitin.com. Turnitin.com detected a 15% similarity index with an assignment submitted in the Course by another student.

4. The following week on February 8, 2013, Ms. L [REDACTED] admitted to committing the academic offence of plagiarism to Professor Loewen in connection with the Writing Assignment. Professor Loewen reported the matter to the Chair of the Department, Professor Graham White. Given the student's admission, Professor White imposed a mark of zero for the assignment in question. He wrote to her on March 15, 2013 advising her of the sanction. In the course of that note, he said:

Since this incident is considered your first academic offence, I trust that you have had time to reflect on the seriousness of this incident and will not commit another academic offence. It is important for you to know that you cannot drop a course in which an academic offence has occurred and a sanction imposed. Finally, you should be aware that any subsequent allegations of academic offence are usually referred directly to the Tribunal for investigation. The consequences of a second finding of guilt may be very severe.

5. This ought to have served as very clear notice to Ms. L [REDACTED] that she should keep to the "straight and narrow" in the completion of her academic work.

(b) The Present Offence

(i) The Makeup Assignments

6. Regrettably, Ms. L [REDACTED] shortly afterwards committed the present offences, as she admitted before us. An Agreed Statement of Fact was reached between counsel with respect to these offences. In brief, in the Winter 2013 term, Ms. L [REDACTED] enrolled in the Course. The syllabus for the Course set out the relevant portions of the *Code of*

Behaviour on Academic Matters. Ms. L [REDACTED] also benefitted from a tutorial group which reviewed principles of academic integrity.

7. Subsequently Ms. L [REDACTED] missed four tutorials in the Course. Tutorial participation accounted for 20% of the students' final marks in the Course. On the afternoon of February 15, 2013 Ms. L [REDACTED] sent an email to the Course instructor Dr. Mairi Cowan in which she advised that on January 27, 2013 she had been involved in a car accident "where my car flew under a truck on the HWY 403, on my way to work at about 8:00 a.m.". She provided some documentation with respect to the car accident.

8. In a separate email to Dr. Cowan, Ms. L [REDACTED] acknowledged that she had missed an assignment worth 10% of the marks in the Course, together with tutorials amounting to 20%. She mused that perhaps, "I should drop the course, to avoid being penalized of receiving a low marks as final grade [sic]". Dr. Cowan replied sympathetically, "allow me to wish you very well on your recovery: it sounds like you have been through a very scary and stressful time!" She offered that assignment deadlines might be extended and alternate arrangements might be made with respect to the tutorial absences. She asked the Student the obvious question, "but you will still have all the work to do: are you up to it? Or do you think you would be better off retaking the course when other things in your life are more settled?". Ms. L [REDACTED] enthusiastically accepted the offer to make up the work through the Makeup Assignments.

9. Accordingly, the Course Teaching Assistant, Sarah Loose, sent an email to Ms. L [REDACTED] on February 19, 2013 in order to make alternate arrangements for the missed

tutorials. Ms. Loose asked that Ms. L [REDACTED] complete the tutorial writing assignments she had missed since her accident which were those of January 25th, February 1st, 8th and 15th. She provided further instructions for the assignments as an attachment to her email.

10. On March 11, 2013, Ms. L [REDACTED] submitted the Makeup Assignments for the tutorials that she missed on January 25th, February 1st, February 8th and February 15th, 2013 to Ms. Loose. In the course of reviewing and grading the Make-Up Assignments, Ms. Loose determined that "the Makeup Assignments that Ms. L [REDACTED] submitted contained passages that were reproduced verbatim or nearly verbatim from the article on which the Make-Up Assignment was based or other secondary sources which were not identified through the use of quotation marks or any other methods of citation".

11. The panel was grateful to counsel for the University for carefully leading us through each Makeup Assignment. The passages admitted to have been plagiarised or inadequately cited from various websites and articles helpfully were identified through different-coloured highlighting. Ms. L [REDACTED] made the following admissions concerning the Makeup Assignments:

1. Ms. L [REDACTED] agrees that the text highlighted in orange, blue, pink, yellow and green in the Makeup Assignments at Tabs 10, 11, 12 and 13 of the JBD should have been referenced using quotation marks or other appropriate means, and that each of the sources corresponding to the highlighted text should have been appropriately cited.
2. With respect to the Makeup Assignments, Ms. L [REDACTED] admits that she knowingly:

- (a) included verbatim and nearly verbatim excerpts from sources that were not attributed, including:
 - (i) the AHA Website and the LaCombe Article in respect of the Makeup Assignment for the January 25, 2013 missed tutorial;
 - (ii) the Norton Article in respect of the Makeup Assignment for the February 1, 2013 missed tutorial;
 - (iii) the Carney Article and the Social Research Methods Website in respect of the Makeup Assignment for the February 8, 2013 missed tutorial; and
 - (iv) the Indiana Website, the Ask.com Website and the Wednesday PDF in respect of the Makeup Assignment for the February 15, 2013 missed tutorial;
- (b) failed to attribute those verbatim and nearly verbatim excerpts appropriately using quotation marks or other appropriate means;
- (c) represented in the Makeup Assignments the ideas of another person, the expression of the ideas of another person, and the work of another person as her own; and
- (d) admitted plagiarism in the Makeup Assignments contrary to section B.I.1(d) of the *Code*.

(ii) The Analysis of Academic Writing Assignment

12. Students in the Course are required to submit an Analysis of Academic Writing Assignment ("the Analysis Assignment") on April 1, 2013. The Analysis Assignment is worth 15% of students' final grades in the Course.

13. To assist the students in preparing for the assignment, Dr. Cowan distributed a "model assignment" ("the Model Assignment") to students via Blackboard, an online teaching resource used at UTM.

14. Dr. Cowan took pains to advise students in the Course, both during a lecture and via Blackboard, that the Model Assignment was not "to be considered as a 'blueprint' for their own Analysis Assignments". It was offered as an inspiration to students for their own work.

15. On April 1, 2013, Ms. L [REDACTED] submitted her Analysis Assignment. Dr. Cowan reviewed this work which had been provided to her by Ms. Loose and determined that it contained passages that were reproduced verbatim or nearly verbatim from the Model Assignment that had been distributed to students.

16. Counsel reviewed this document with us, in this case using pink highlighting to reflect the same wording and blue highlighting to reflect similar phrasing. Ms. L [REDACTED] made the following admissions:

1. Ms. L [REDACTED] agrees that she took the highlighted text in the Analysis Assignment from the Model Assignment.
2. With respect to the Analysis Assignment, Ms. L [REDACTED] admits that she:

- (a) knowingly included verbatim and nearly verbatim extracts from the Model Assignment in her Analysis Assignment;
- (b) knew or ought to have known that she was not permitted to include verbatim or nearly verbatim extracts from the Model Assignment in her Analysis Assignment;
- (c) knowingly represented in the Analysis Assignment the ideas of another person, the expression of the ideas of another person, and the work of another person as her own; and
- (d) knowingly committed plagiarism in the Analysis Assignment contrary to section B.I.1(d) of the *Code*.

(iii) Meeting with the Dean's Designate

17. On July 30, 2013, Ms. L [REDACTED] met with Professor Emmanuel Nikiema, the Dean's Designate for Academic Offences at UTM. During that meeting, Ms. L [REDACTED]:

- (a) admitted that she had committed plagiarism in violation of s. B.I.1.(d) of the Code in respect of both the Makeup Assignments and Analysis Assignment;
- (b) admitted that in the Analysis Assignment, she took sentences (including portions of the introduction and conclusion) from the Model Assignment that was distributed to students; and
- (c) signed an admission of guilt form in respect of both the Makeup Assignments and the Analysis

Assignment. A copy of the admission of guilt form is included in the JBD at Tab 1.

(iv) Penalty on Behalf of the Student

18. Mr. Greene reviewed with us the well-known principles set out in the *University of Toronto v. Mr. C.* (Case No. 1976/77-3; November 5, 1976). In that case, the Tribunal observed that the "classical components of enlightened punishment are reformation, deterrence, and protection of the public". The Tribunal should consider the following:

- (a) the character of the person charged;
- (b) the likelihood of a repetition of the offence;
- (c) the nature of the offence committed;
- (d) any extenuating circumstances surrounding the commission of the offence;
- (e) the detriment to the University occasioned by the offence;
- (f) the need to deter others from committing a similar offence.

19. Addressing these criteria, Mr. Greene emphasized the presence of extenuating circumstances. Ms. L [REDACTED] was under considerable pressure at her place of employment, and had been involved in a significant motor vehicle collision in which she had sustained injuries.

20. Ms. L [REDACTED] did not address the Tribunal, but wrote a letter in which she apologized for her conduct and acknowledged that what she had done was wrong. She observed that she seeks to become the first person in her family ever to graduate from university, and intends to return to UTM when she is permitted to do so. She also provided a letter from Ms. Aga Tomaszewska, a lay supervisor at St. Maximillian Kolbe Parish. Ms. Tomaszewska vouched for the character of Ms. L [REDACTED].

I would like to add that she has good morals and whatever happens next will not stop her from keep going forward in life [sic] and of finishing off what she started in the near future.

21. The parish priest, Father Blazejak provided a brief note to the Tribunal as well.

22. In her submissions, Ms. Lie on behalf of the University addressed the *Mr. C.* criteria. She observed that Ms. L [REDACTED] presented an obvious risk of repetition of the offences, having regard to the brief period between commission of the first and second offences. She referred to the decision of *University of Toronto v. M.O.*, (Case No. 652; November 12, 2012) which held that a three-year suspension for a second offence, including dishonesty, is reasonable.

23. Counsel had in any event agreed on a joint submission. We agreed to impose an Order, accepting the joint submission of counsel, in the following terms:

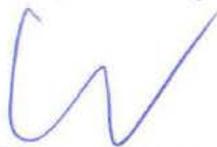
Ms. L [REDACTED] [admits that she] is guilty of two counts of knowingly representing the ideas or the expression of the ideas of another as her own work, contrary to s. B.I.1(d) of the *Code*.

The following sanctions shall be imposed upon Ms. L [REDACTED]:

- (a) a final grade of zero in the course HIS101H5 (Introduction to Historical Studies);
- (b) a suspension from the University of Toronto to commence on the day the Tribunal makes its order until August 31, 2017;
- (c) a notation of the sanction on her academic record and transcript from the day the Tribunal makes its order until graduation; and
- (d) that this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with Ms. L [REDACTED]'s name withheld.

24. At the conclusion of the hearing, the Tribunal signed an Order including terms (a) through (d).

Dated at Toronto, this 14th day of October, 2014.



William McDowell, Co-Chair