

JUDICIAL COUNCIL MAJORITY OPINION

A student violates the Honor Code, when that student knowingly “plagiarizes; which includes, but is not limited to, failing to attribute language or ideas to their original source or failing to indicate by quotation marks a passage from another source of more than (5) consecutive words.” *The Honor Code of the Students of Northwestern University School of Law*, Art. VII, § 2(e).

MADHIRAJU, P.: The Accused was charged with knowingly having plagiarized a paper that was written for a Law of Securitization class in the spring of 1997. The professor of the class gave the Accused an incomplete on the Accused’s transcript, pending the findings of this Judicial Council. Because the Accused plead guilty to the charge of plagiarism, the Council is now faced with recommending the appropriate penalty for the Accused.

The Council unanimously agrees upon the following recommendation to be made to the Faculty Review Board. The grade of incomplete that the Accused received in the Law of Securitization class should remain unless and until one of the following occurs. First, at the request of the professor, the Accused must rewrite the Law of Securitization paper. Second, if the professor determines the Accused cannot adequately complete the course by rewriting the paper, then, in the alternative, that the Accused must take another class in which a legal research and analysis paper is required. In either case, the Accused should receive from the professor the necessary instruction and guidance so that this does

class, the incomplete should be removed from the Accused's transcript.

The circumstances that surround the case, and the grounds for the decision, are as follows: The Accused wrote a one-draft paper for a Law of Securitization course in the spring of 1997. Upon examination of the paper, the teacher's assistant alerted the professor that approximately 75% of the Accused's paper was directly copied from the professor's treatise. None of this portion of the paper was cited or attributed to the professor or the professor's work. The teacher's assistant further concluded that in all likelihood, the remaining 25% of the paper was directly copied from an uncited and unattributed source. Despite the obvious plagiarization in the Accused's paper, the Council finds that the lack of intent to deceive the professor or cheat the other students should limit the extent of the Accused's penalty. The Council finds this to be primarily a cultural misunderstanding.

The Accused, during the 1996-97 school year, was an L.L.M. candidate in the law school. The Accused had spent an entire life in Japan and had never been to the United States prior to entering the law school. The Accused's education was conducted in Japan. Under the Japanese educational system, the copying of a source's material on an exam or paper without citation or attribution has an entirely different implication than it does in the United States. In Japan, the direct copying of a teacher's work on an exam or paper evidences the respect that the student has for that teacher and the teacher's work. The copying of passages from a source, including the text written by a professor, demonstrates to the professor the student's knowledge of the materials covered in the course. The verbatim copying signifies that the student could not have said it better.

copy the most relevant and important points and passages from the text. This extracting and copying of relevant materials fell within the Accused's understanding of analysis, as learned in Japan. Under the Japanese system, copying under the circumstances stated above need not be referenced by either a citation or other methods of attribution, essentially because the source should be obvious.

The Japanese educational system also differs in custom, with regards to the relationship that a student has with a professor. It is not customary for a student to approach a professor with questions of any sort. Under the Japanese model, such an action by a student would be deemed disrespectful to the professor.

It should be also noted that the Accused has a limited grasp of the English language, both in speaking and listening. The Accused scored the minimum score acceptable to pass T.O.E.F.L., the examination that determines whether a student has an adequate grasp of the English language requisite for study at an institution of higher learning in the United States. The director of the L.L.M. program testified during the penalty hearing that the Accused's English skills were among the poorest of any L.L.M. students in the Accused's class. The Accused then testified that in an average class the Accused can only understand about 30% of the material. The Accused, along with all of the other L.L.M. students, was required to be present at an orientation meeting in the fall of 1997 regarding the Honor Code. During this meeting, the entire Honor Code was briefly explained to all of the students in attendance, including the Accused. The Accused testified that the Accused understood only about 10% of this meeting.

American model. In fact, the Accused had only written one paper during the span of the Accused's entire education in Japan. In that paper the Accused did not have to cite or attribute the work of the professor in any manner. The Accused never heard the word "plagiarize" until coming to Northwestern.

Therefore, in the instant case where the Accused has come from such a conflicting cultural and educational model, and was not sufficiently notified as to the American expectations and rules governing a student's work, the Honor Code violation should be viewed as substantially less severe. It is under these considerations that the Council concludes that the Accused did not act with an intent to knowingly violate the Honor Code. This view is further supported by the actual paper that was handed in. To paraphrase the Accused's counsel's opening statement, if the Accused did intend to claim the substance of the paper to be the Accused's own, then the Accused's actions constituted the worst attempt of plagiarization ever. The amount of direct copying from the professor's own treatise (and potentially other sources) could not have realistically been done with the intent to deceive the professor into thinking that the work was the original product of the Accused.

Therefore, the penalty recommendation is aimed at educating rather than punishing. The Council recommends that the Accused be penalized only to the effect that the Accused should have to learn the proper methods of citation and analysis, as required by a graduate of the law school. The Council laments the fact that the size of each L.L.M. class is so large as to not be able to give the individualized attention that a degree seeking candidate from a foreign country with limited English language skills

itself or the individual professors, to make sure that L.L.M. candidates understand the meaning of the Honor Code, and the expectations it places on students. Such measures could include publishing materials in different foreign languages that explain the Honor Code, or having professors meet with L.L.M. students in their classes

In the present case, the Council suggests that the professor who supervises the Accused, in either the rewrite of the Law of Securitization paper or in the other course, provide the Accused with the necessary guidance, and inform the Accused that questions are expected and invited.