



**UNIVERSITY OF WINDSOR  
SENATE JUDICIAL PANEL**

**BETWEEN:**

**THE UNIVERSITY OF WINDSOR**

**COMPLAINANT**

**AND**

**[REDACTED]**

**RESPONDENT**

**DECISION**

**Members of the Panel:** Professor Jeff Berryman, Chair  
Ms. Alison Samson  
Mr. Rayyan Manwar

**Representative for the Complainant:** Dr. Danieli Arbex

**The Respondent was represented by:** Mr. Mohammed Nasser

**REASONS FOR DECISION**

The parties filed Minutes of Settlement requesting the Judicial Panel to approve the sanction as recommended by the parties. The parties are entitled to use this process, dispensing with a hearing, filing minutes of settlement, and then ask the Judicial Panel to sign the recommended order, in effect, making it the order of the Judicial Panel. The parties recognize that the Judicial Panel has the final say respecting its own orders. In the past, a degree of deference is shown the joint settlement process by Judicial Panels so that the process operates efficiently and fairly between the parties.

**THE CHARGE**

1. The Respondent was charged with non-academic misconduct under Senate Bylaw 31, Student Affairs & Integrity, in that he caused a disturbance and committed acts of vandalism in Alumni Hall.

**DISCUSSION**

2. The parties recommended a sanction that the respondent should make restitution; receive a letter of censure for two years from the date of minutes of settlement; write a letter of reflection regarding the matter; not be allowed in residence indefinitely; and to be treated as a repeat offender on any subsequent academic or non-academic misconduct.
3. At the time of hearing these submissions, the Judicial Panel asked to be informed on comparable sanctions for

similar types of offences. Our concern is to ensure that the sanction being suggested by the parties is within the range of reasonable and appropriate sanctions as determined by other Judicial Panels and the Discipline Appeal Committee. Dr. Arbex provided an extremely brief account of seven previous decisions concerning non-academic misconduct. From these decisions we believe that the suggested sanction is within the realm of reasonable sanctions for this type of offence and are prepared to endorse it.

4. Counsel for the respondent requested that the plea of the respondent be recorded and entered as "no contest", rather than "guilty" on the minutes of settlement. The Chair questioned whether this was an appropriate plea and was assured by respondent's counsel that it was available. The ostensible reason for making this request was to ensure that if any subsequent civil proceedings were commenced against the respondent by other parties, then the decision of the Judicial Panel regarding sanction would not be accepted as an admission of guilt.
5. A plea of 'no contest' has been the subject of comment by the Ontario Court of Appeal in *R. v. G (D.M.)* (2011) 105 O.R. (3d) 481 in which Watt J.A. remarked:

[44] *Nolo contendere* is a formal plea available in some jurisdictions by express inclusion in the governing procedural law. Translated literally from the Latin, *nolo contendere* means "I do not wish to contend". By entry of the plea, a defendant neither contests nor admits guilt of the offence to which the plea relates.

Implicit in this comment is the notion that such a plea should be expressly provided for in the governing procedural law covering the hearing panel. Since our by-law is silent to this form of pleading we are reluctant to allow its incorporation at this stage. While the plea appears to be part of some administrative tribunals, see for example it is specifically provided for in rule 3.02 of the Rules of Procedure of the Discipline Committee of the Ontario College of Teachers (<https://www.oct.ca/public/complaints-and-discipline/discipline-committee/rules-of-procedure>), it is not a plea that is generally part of, or found in, Canadian law. We see no reason to introduce it to our procedure.

6. The words of the settlement will be changed to read:

1. The Complainant alleges that the Respondent committed various acts of vandalism at the Alumni Hall residence building ("Alumni Hall") on October 12, 2014. The Complainant has agreed to dismiss the complaint of vandalism and accepts a plea of "guilty" to one count of disorderly person.

7. The acknowledgement of 'guilt' is an important act of taking personal responsibility for one's actions. It is not to be diminished or otherwise excused as a mere oversight or inadvertence as suggested by a plea of 'no contest'. In making this change, we recognize that the risk of subsequent civil suit by a third party is probably extremely low.

#### SANCTION


8. The first paragraph of the minutes of settlement will be changed to read as outlined above in paragraph 6 of this decision. In all other respects we endorse the minutes of settlement as presented to us on Friday 18<sup>th</sup> September 2015 and appended to this decision.

  
Professor Jeff Berryman, Chair  
September 23, 2015

## MINUTES OF SETTLEMENT

**IN THE MATTER OF** a formal charge of non-academic misconduct filed by Danieli Arbex, Academic Integrity Officer ("the Complainant"), against [REDACTED] ("the Respondent") under the provisions of University of Windsor Senate Bylaw 31: Student Affairs & Integrity.

### **WHEREAS THE PARTIES AGREE TO THE FOLLOWING FACTS:**

1. The Complaint alleges that the Respondent committed various acts of vandalism at the Alumni Hall residence building ("Alumni Hall") on October 12, 2014. The Complainant has agreed to dismiss the complaint of vandalism and accept a plea of ~~"no contest"~~ *guilty* to one count of disorderly person. 
2. The Respondent was formerly a resident at Alumni Hall during Fall 2014 semester. On October 12, 2014, the Respondent and a friend (also resident at Alumni Hall) became intoxicated and while in an intoxicated and disorderly state caused damage in multiple rooms at the Alumni Hall.
3. The Respondent was in his third semester of study in BA[H] Criminology at the time of the Complaint.
4. The Respondent met with the Academic Integrity Officer ("AIO") on December 19, 2014 to respond to the allegation and the Respondent did not accept responsibility for his actions.
5. On March 23, 2015, following a full investigation, the Complainant referred this matter to a Judicial Panel. On June 5, 2015, at the first appearance, the Respondent pled not guilty to the charge and a hearing date was set for September 18 and 21, 2015.
6. The Respondent acknowledges that his conduct falls below the level of integrity expected of all students at the University of Windsor.
7. The Respondent has been represented by legal counsel throughout these proceedings.
8. The Parties wish to resolve the Complaint by way of joint submission as indicated. The Parties acknowledge that by entering into this agreement at this time they are waiving their right to make representations before the Judicial Panel at a formal hearing, unless called upon by the Judicial Panel to do so.

**9. IT IS HEREBY AGREED THAT:**

- (a) The Respondent accepts the facts as described in paragraph 2 above.
- (b) The Respondent shall make restitution, including costs of the damages and the interest rate from the date of the incident and the date the Minutes of Settlement are approved. (APPENDIX A)
- (c) The Respondent shall receive a letter of censure for two years starting from the date the Minutes of Settlement are approved by this Panel.
- (d) The Respondent will write a letter of reflection regarding the matter, which shall be filed with the University Secretariat by a date to be set by the Judicial Panel, for onward forwarding to [REDACTED], Department Head, Residence Services.
- (e) The Respondent will not be allowed in Residence indefinitely.
- (f) The Respondent agrees that in relation to any subsequent academic or non-academic misconduct he shall be considered to be a repeat offender.
- (f) The Parties shall make a joint submission to the Judicial Panel recommending the within settlement after having considered all the circumstances of this case. The Parties recognize that the final decision in this matter lies with the Judicial Panel.

[REDACTED]  
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Respondent

September 17, 2015

Danieli Arbex  
\_\_\_\_\_  
Danieli Arbex, J.S.D.  
Academic Integrity Officer  
Complainant

September 18, 2015