

Internal Moot Court Competition 2013

FACT COMPLEX

1. *Copi Rictus University* is a national South African university which admits primarily full-time students, but also offers several part-time and correspondence courses nationwide. For the 2013 academic year, there were roughly 22 000 students enrolled at *Copi Rictus* nationally. The university is colloquially known as “CRU” (pronounced *crew*) and ranked among the top three tertiary education institutions in the country. The university has enjoyed a commendable reputation in the public eye since its establishment in 1956. The university was famous for the great sense of pride amongst its students.
2. Despite its public reputation, there has been an underlying feeling among the students and the staff of *Copi Rictus University* that many of the university’s policies and practices were sexist in nature, often placing women at an unfair disadvantage to their male counterparts. Recently, suspicion grew among students that female students were marked much more strictly than male students in many of the university’s faculties. However neither evidence of this nor of other prior allegations of sexism against the university could, ever be gathered. Consequently the cases were never brought to justice.
3. In August of 2012, a Facebook page was created which was eloquently named *CRU Confessions*. The website facilitated the anonymous posting of embarrassing anecdotes and comments relating to student life at the university and experiences within the university. Initially, the page had few followers. The creators of the page would receive submissions and personally post each one to the page, without revealing their own identity or the identity of the original authors. The creators also subjected the page to a disclaimer (**refer to annexure**).
4. At first the stories posted on the page were relatively innocent and mostly true, but as the page’s support increased the posts became cruder and more exaggerated. Eventually posts were even made solely to spread rumours and were factually untrue (**refer to annexure**).

5. The page soon garnered support at an exponential rate. In order to keep up with the increasing number of submissions, the creators wrote software which would post submissions autonomously to the page, without the page's creators personally having to post the stories. This was done to speed up the publishing process.
6. In February of 2013, *CRU Confessions* expanded the scope of its operations when the administrators published confidential documents onto the *CRU Confessions* page. The documents were obtained by hacking into *Copi Rictus University's* mainframe network (**refer to annexure**).
7. News of the leaked documents soon spread and this did not only spark interest with large amounts of new supporters of the page, but also sparked the interest of *Copi Rictus University's* Executive Council, which only learnt of *CRU Confessions* in late 2012.
8. A gradual decline in student morale was noticed as *CRU Confessions* garnered more support and student pride began waning. With the leaking of these confidential documents, the progressive worsening of the attitude of students towards the university spiked, which resulted in the university initiating a formal investigation into the operations of the page on 12 March 2013. The investigation lead to the discovery of the identity of the creators and administrators of *CRU Confessions*: Frederick Mahoney (23 years of age) and Tumi Ndlovu (24 years of age).
9. Frederick and Tumi are roommates, and have been friends ever since they moved in together in 2008. Frederick and Tumi are both full-time students at *Copi Rictus*, both studying towards a Master's Degree in Computer Programming.
10. It was also discovered in the academic records of Frederick that he was investigated by the Disciplinary Counsel of the university, for allegedly cheating in the mid-year examinations of the 2012 academic year. Records showed that he was formally notified of the allegations on 25 July 2012 and that his hearing took place on 4 September 2012. In the hearing, he was found to be innocent of all the allegations brought against him. Prior to this incident, Frederick's records show that he had been a sterling student, never having undergone any form of disciplinary investigation while enrolled at *Copi Rictus*, and who had also consistently been among the top in his class in his academic endeavours.

11. The erosion of the students' attitude progressed to such an extent that it became blatantly visible in the conduct of the students. In general, class attendance was poor, significantly fewer students (both male and female) applied for jobs at the university and support for sport, cultural and social events hosted by the university deteriorated drastically. Students became hesitant to reveal that they were enrolled at *Copi Rictus* and generally would harshly criticise the university when in the company of fellow students.
12. This caused for great concern of the Executive Council of the university, as it was felt that the good public reputation of the university and the sense of student pride for which *Copi Rictus* was famous was placed in great jeopardy. Having identified *CRU Confessions* as the root of the problem, the Executive Council initiated legal proceedings against both Frederick and Tumi (as the creators of the page) in the High Court. As Applicant in the case, the Executive Council of *Copi Rictus University* made the following contentions:
 - i. The conduct of the Respondents defamed the university, and thus the university is entitled to claim damages in terms of *actio iniuriarum*;
 - ii. The use of the university's registered mark on the Facebook page constitutes a trademark infringement, and the Respondents are to refrain from continuing the page's operations; and
 - iii. The leaking of the confidential documents constitutes a breach of privacy in terms of ECTA, and the Respondents are liable for damages in this regard.
13. Acting together as Respondents for the case, Frederick Mahoney and Tumi Ndlovu held the following:
 - i. As a juristic entity, the university is not entitled to claim non-patrimonial damages;
 - ii. The logo which was used on the Facebook page is not identical to the university's logo, and thus it does not constitute a trademark infringement; and
 - iii. The conduct of the Respondents in leaking the confidential documents is justified, as it was done as a matter of public interest.

ANNEXURES:

Facebook search bar: Search for people, places and things

Home 9 Post

CONFESIONS

CRU Confessions
4131 likes

Like Message

Community
Tell the world about life as part of the CRU!

About - Suggest an Edit

Photos Likes

4131

Highlights

CRU Confessions 4 minutes ago

Suggest CRU Confessions to Your Friends See All

Facebook search bar: Search for people, places and things

Home 2 Post

CRU Confessions About

Like Adverts Manager

About

Tell the world about life as part of the CRU!

Description

Disclaimer:
The views expressed in the posts on this page do not necessarily represent the views of the page administrators/creators. Moreover, CRU Confessions is in no way officially affiliated with Copi Rictus University, and views expressed in the posts on this page do not necessarily represent the views of the University.

The administrators/creators of CRU Confessions cannot be held responsible for any circumstances which may arise from anything posted onto the page.

Basic info

Joined Facebook 06/08/2012

Contact info

Website <http://post.docs.upload.com/CRUCConf233>

About Create Advert Create Page Developers Careers Privacy Cookies Terms Help

Facebook © 2013 · English (UK)



CRU Confessions Timeline Now

Like

...cant believe Im doin this, bt I gotta pass this module...

Like · Comment · Share

95 people like this.

Write a comment...



CRU Confessions 46 minutes ago

Confession #138

So I went to T-dogs office today to ask for help with my essay on the evolution of a gamete and well... Lets just say he follows a hands ONNNNNNNNNN approach!!!!

Like · Comment · Share

98 people like this.

Does his bite live up to his bark;) 32 minutes ago · Like

Grrrrrr!!! 15 minutes ago · Like

CRU = cruDE 7 minutes ago · Like · 18

Write a comment...



Waaaahahaha. That's pretty sexist tho 3 minutes ago · Like



Write a comment...



CRU Confessions 23 minutes ago

Confession #139

What's the difference between a CRU student and a student from any other university? -an education rofl

Like · Comment · Share

53 people like this.



Write a comment...



CRU Confessions about an hour ago

Confession #137

So this stupid university has ONCE AGAIN marked me harshly just because I'm a GIRL! Ugh! Men are such pigs. Well, the men who work in this place at least...