THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on April 26, 2010;

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 -

H B

Members of the Panel:

- Ms Lisa Brownstone, Barrister and Solicitor, Chair
- Professor Lesley Lavack, Faculty of Pharmacy, Faculty Panel Member
- Mr. Mir Sadek Ali, Student Panel Member

Appearances:

- Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
- Mr. Daniel Goldbloom, Legal Case Worker, Downtown Legal Services
- Ms H B , the Student

In Attendance:

- Ms Lucy Gaspini, Academic Affairs Officer, University of Toronto, Mississauga
- Ms Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Preliminary

[1] The Trial Division of the University Tribunal was convened on June 11, 2010 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "Code") laid against the student by letter dated April 26, 2010 from Professor Edith Hillan, Vice-Provost, Faculty & Academic Life.

Hearing on the Facts

[2] The two charges facing the student were the following:

i. On or about December 8, 2009, you knowingly used or possessed an unauthorized aid during and in connection with the final examination in CCT 319 H5F ("Course"), contrary to section B.I.1(b) of the *Code*.

ii. In the alternative to charge #1, on or about December 8, 2009, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit, or other academic advantage of any kind, with respect to the final examination in the Course, contrary to section B.I.3(b) of the *Code*.

[3] Particulars of the charges were as follows:

i. At all material times, you were registered as a student at the University of Toronto.

ii. In the Fall term of 2009, you enrolled in the Course, Economics and the Digital Firm, which was taught by Lee Bailey, in the Department of Economics, University of Toronto Mississauga.

iii. The final examination in the Course was held on December 8, 2009 (the "Examination"). The Examination was worth 30% of the final grade in the Course.

iv. The Examination was closed-book, but you were permitted to use a non-programmable, non-graphing calculator. You were not permitted to bring any other aids into the Examination.

v. You brought two calculators into the Examination. One calculator had formulae written in pencil on the inside cover of the calculator. The formulae were relevant to questions on the final examination. You were not permitted to possess those formulae during the Examination.

vi. You brought the formulae into the Examination in order to obtain an academic advantage.

[4] Discipline Counsel for the University, Mr. Centa, introduced an *Agreed Statement of Facts*, which was entered as Exhibit 1. A Joint Book of Documents was entered as Exhibit 2.

The agreed upon facts of the substantive incident that gave rise to this hearing were as follows:

(1) Ms. B first registered as a student at the University of Toronto at Mississauga in Fall 2006. At all material times, she remained a student at the University. In 2009, Ms. B was enrolled in the course of study leading to a specialist degree in Enterprise Management and a minor in Women's Studies.

(2) In Fall 2009, Ms. B enrolled in CCT 319H - Economics and the Digital Firm, which was taught by Lee Bailey ("Course"). Ms. B admits that she received a copy of the syllabus for the Course. The Syllabus stated, in part, as follows:

> (1) Non-programmable, non-graphing calculators are allowed for the term tests and exams. No other aids are permitted.
>
> (2) The Governing Council of the University of Toronto has approved a Code of Academic Behaviour [sic] and a Code of Student Conduct. Together, these documents define the standard for conduct that is expected from members of the university community. Both Codes are summarized in your Academic Calendar. Please be advised that misconduct will not be tolerated.

(3) The academic requirements for the Course included two term tests (each worth 15%) and a final examination worth 30% of the final grade in the Course.

(4) Students were permitted to use basic calculators for each term test and no other aids were permitted.

(5) The final examination in the Course was held on December 8, 2009. Students were permitted to use basic calculators for the final examination and no other aids were permitted.

(6) The final examination warned students that they were not permitted to possess notes or unauthorized calendars:

> The University of Toronto Mississauga and you, as a student, share a commitment to academic integrity. You are reminded that you may be charged with an academic offence for possessing any unauthorized aids during the writing of an exam, including but not limited to any electronic devices with storage, such as cell phones, pagers, personal digital assistants (PDAs), iPods, and MP3 players. Unauthorized calculators and notes are also not permitted. Do not have any of these items in your possession in the area of your desk. Please turn the electronics off and put all unauthorized aids with your belongings at

the front of the room before the examination begins. If any of these items are kept with you during the writing of your exam, you may be charged with an academic offence. A typical penalty may cause you to fail the course.

(7) At the beginning of the final examination, the Chief Presiding Officer ("CPO") announced that students should put away any unauthorized aids.

(8) Ms. B states that she brought two calculators to the final examination with her. She states that she did so in case one of the calculators stopped working during the final examination.

(9) Approximately 15 minutes into the final examination, the CPO examined a calculator on Ms. B 's desk. The CPO opened the calculator lid and discovered handwritten notes and formulae on the inside of the lid of the calculator. The notes contained on the inside of the calculator were relevant to questions 3 and 4 of the final examination. The calculator lid was entered into evidence at these proceedings as Exhibit 3.

(10) On March 12, 2010, Ms. B , accompanied by a representative from Downtown Legal Services, attended a meeting with Catherine Seguin, Dean's Designate for Academic Offences at the University of Toronto Mississauga. During this meeting Ms. B admitted that she was in possession of an unauthorized aid during the final examination.

Admission

[5] Ms B admitted that she knew or ought to have known that she possessed an unauthorized aid during the final examination in the Course, contrary to section B.I.1(b) of the *Code.*, and that she knew or ought to have known that she engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind in connection with the Assignment, contrary to section B.I.3(b) of the *Code.*

Decision of the Tribunal

[6] On the basis of the Agreed Statement of Facts, the Tribunal accepted the plea and found a contravention of the *Code* as set out in the first charge. At this time, the Provost withdrew the second charge.

Penalty Phase

[7] The parties submitted an *Agreed Statement of Facts & Joint Submission on Penalty*, which was entered as Exhibit 4. The following sanctions were jointly proposed:

(a) Ms B shall receive a final grade of zero in the course CCT 319;

(b) Ms B shall be suspended from the University from September 1, 2010, until August 31, 2013;

(c) the sanction shall be recorded on Ms B 's academic record and transcript from the date of the Order from June 11, 2010, until June 10, 2014.

[8] The parties also proposed that the Panel order 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.

[9] Discipline Counsel reviewed the additional facts agreed to in support of the *Joint Submission on Penalty*, portions of which are set out below.

(1) On March 27, 2008, Ms. B admitted that she committed the academic offence of plagiarism in an essay submitted for credit in VCC201H5S – Introduction to Visual Culture ("VCC 201"), which was taught by Prof. Amish Morrell. The act of plagiarism involved improper citation in the body of an essay submitted for academic credit.

(2) On April 9, 2008, Anthony Wensley, Director of the Communication, Culture, and Information Technology program ("CCIT") sanctioned Ms. B under the *Code*. He reduced her mark on the essay she submitted from 65% to 50%.

(3) On March 28, 2008, Ms. B submitted a second essay in VCC 201. Prof. Morrell identified plagiarism in this second essay. He identified that Ms. B had borrowed text from a large variety of sources, had included citations from within her plagiarized sources in her bibliography, and had provided references that did not correspond with the real source of the text.

(4) On September 16, 2008, Ms. B admitted to committing the academic offence of plagiarism. On September 22, 2008, Assistant Dean Lynn Snowden imposed the following penalty on Ms. B : a final grade of zero in the VCC 201 and a 12-month annotation recording the offence on her academic record and transcript.

[10] The Panel notes that this last letter concluded by stating: "I trust that you have had time to reflect on the seriousness of this incident and will not commit another academic offence again. Please be advised that any subsequent allegations of offence are usually referred directly to the Tribunal for investigation."

[11] Information about the students' personal situation was also provided, as follows:

(1) At the time of the final exam in CCT319H, Ms. B was taking six classes and was working 10-12 hours per week as a Part-time Sales Associate at Connect-us Inc. TELUS Authorized Dealers. A reference letter from her manager, George Arandas, is attached at Tab 3.

(2) Ms. B did not make use of the notes on the back of her calculator cover during the exam, nor did she attempt to make use of them.

(3) Since the date of the exam, Ms. B has been suffering from stress and abdominal pain. She has undergone medical testing (including blood work and ultrasound) as part of her doctor's medical investigations. She has been taking Pantoprazole for her condition.

(4) Following the resolution of Ms. B 's second plagiarism offence, her grades have improved. In particular, her studies relating to the Digital Enterprise Management specialist program put her in the top 10% of her class.

(5) Throughout this process, Ms. B has sought a speedy resolution to these charges. She requested, and received, an early hearing date. Ms. B admitted she had possession of an unauthorized aid at the earliest opportunity.

(6) In addition, the student read a statement to the Tribunal, in which she accepted responsibility and remorse for her actions, and also described the effects of her conduct and this sanction upon her. That statement was marked as Exhibit 5.

[12] The Tribunal was reminded by counsel that, while not obliged to accept a joint submission on penalty, the joint submission should not be rejected unless to accept it would be contrary to the public interest or bring the administration of justice into disrepute. The Panel accepts and acknowledges that this is a high threshold for declining to accept a joint submission.

[13] The panel considered the mitigating and aggravating factors in this case. An important aggravating factor was that this was a third offence involving academic dishonesty. In addition, this student was warned very clearly that aids were not permitted, should not be in the student's possession, and that use of aids could result in being charged with an academic offence. The university and its students share a responsibility for academic integrity. As stated in the preamble to the *Code*, "The concern of the Code of Behaviour on Academic Matters is with the responsibilities of all parties to the integrity of the teaching and learning relationship. Honesty and fairness must inform this relationship, whose basis remains one of mutual respect for the aims of education and for those ethical principles which must characterize the pursuit and transmission of knowledge in the University." The Panel wishes to emphasize the importance of safeguarding integrity and honesty in the university environment. To that end, this conduct must be treated with a serious sanction. In mitigation, the Panel notes that the student entered a guilty plea and co-operated with the process, and demonstrated both an acceptance of responsibility for her conduct, and genuine remorse. Having considered all of these factors, the Panel agrees that the sanction that was jointly submitted to it was within an appropriate range of sanction in the circumstances.

Sanction

[14] The Panel therefore accepted the Joint Submission on Penalty, and made the following order at the hearing on June 11, 2010:

(a) Ms B shall receive a final grade of zero in the course CCT 319;

(b) Ms B shall be suspended from the University from September 1, 2010, until August 31, 2013;

(c) the sanction shall be recorded on her academic record and transcript from the date of the Order from June 11, 2010, until June 10, 2014; 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.

Dated this 29th day of June, 2010

Lisa Brownstone, Co-Chair