

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL – TRIAL DIVISION**

IN THE MATTER of charges of academic dishonesty made on July 25, 2008;

AND IN THE MATTER of the *University of Toronto Act*, 1971, S.O. 1971, c. 56 as amended S.O. 1978, c. 88;

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters, 1995*;

BETWEEN:

UNIVERSITY OF TORONTO

-and-

[REDACTED] [REDACTED]

Members of the panel:

- Mr. Ronald Slaght, Chair
- Professor James Rini, Faculty Member
- Ms. Melany Bleue, Student Panel Member

Appearances:

- Mr. Robert Centa, Assistant Discipline Counsel for the University of Toronto
- Professor Eleanor Irwin, Dean's Designate, University of Toronto at Scarborough
- Ms. Sarah Crowder, Student Legal Representative, Downtown Legal Services
- Ms. [REDACTED] [REDACTED] Student

REASONS FOR DECISION

1. The Trial Division of the University Tribunal was convened on September 8, 2008 to consider charges brought under the *Code of Behaviour on Academic Matters, 1995* ("Code") and laid against the Student by letter dated July 25, 2008 from the Vice-Provost, Academic, Professor Edith Hillan.

Hearing on the Facts

The charges are as follows:

- (i) On or about May 28, 2008, you knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in an academic examination or term test, namely the mid term examination in FREA96H3, contrary to Section B.I.1(b) of the *Code*.
- (ii) In the alternative, on or about May 28, 2008, 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 during the mid term examination in FREA96H3, contrary to Section B.I.3.(b) of the *Code*.

2. At the outset of the hearing, the Tribunal was informed that matter would proceed as a plea of guilty based upon an Agreed Statement of Facts, dated September 9, 2008, and a Joint Submission on Penalty, dated September 8, 2008. The details of the Agreed Statement of Facts are summarized here:

- In the 2005 Fall, the Student was admitted to the University of Toronto at Scarborough.
- In 2008 Summer, the Student enrolled in FREA96H3, *Introductory French I*, taught by Rostyslav (Ross) Bilous. As part of the course requirements, students were required to write a mid-term test worth 25% of the final grade. Students were not permitted to use any aids during the writing of the mid-term.
- On May 28, 2008, during the writing of the mid-term, Mr. Bilous and the presiding invigilator discovered the Student in possession of, and copying from, pieces of paper that contained both typed and handwritten text relevant to the subject matter of the mid-term. The papers were confiscated from the Student, but she was permitted to continue writing the mid-term.
- The Student admits that she knowingly used and possessed unauthorized aids and obtained unauthorized assistance in the mid-term, contrary to Section B.i.1.(b) of the *Code*. The Student admits that she is guilty of charge #1 of the charges filed by the University.

3. The Student pleaded guilty to count 1 of the charges. On the basis of the ASF, the Tribunal accepted the plea and made a finding that the Student was guilty of Count 1. The remaining charge was withdrawn.

Decision

4. The panel accepts the Student's plea and enters a verdict of guilty on charge 1. The University withdraws the remaining charge.

Penalty

5. In an Agreed Statement of Facts pertaining to sanction, the panel was informed of prior academic offences committed by the Student as well as mitigating factors that were taken into consideration when preparing the Joint Submission on Penalty. Briefly, the Student had been sanctioned at the divisional level on two prior occasions, April 27, 2006 and November 16, 2006, for acts contrary to the *Code*. However, in the weeks prior to the instant offence, the Student's family, and the home where she lived, were threatened and harassed by individuals seeking to collect on gambling debts owed by a member of the Student's family. To her credit, the Student immediately admitted to committing the current offence; within days of committing the offence, the Student withdrew from all other courses in which she was enrolled, effectively placing herself on a voluntary suspension; and, finally, the Student enrolled in a counselling program focussed on exploring and correcting the underlying causes and motivations that led her to commit these academic offences.

6. The Joint Submission on Penalty recommended the following sanctions:

- (i) the University Tribunal impose a grade of zero in the course FREA96H3;

- (ii) that the Student be suspended from the University of Toronto until April 30, 2011;
- (iii) that the Student's academic record and transcript bear a notation until April 30, 2011, indicating that she has been found guilty of an academic offence;

7. The parties submit that the University Tribunal should report this case to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed with the Student's name withheld.

8. In support of the recommended sanction, counsel for the University reviewed for the panel previous decisions of the Ontario Court of Appeal (on the effect of a Joint Submission on discretion in sentencing) and the University Tribunal. While acknowledging the right of the Tribunal to impose a sanction different than that proposed by the parties, counsel for the University reminded the panel of the deference that is owed to joint submissions. Although the Tribunal is not bound by previous decisions, discipline counsel argued that the proposed sanction is within the range of penalties imposed by other Tribunal panels in similar cases.

9. The panel sought clarification as to the Student's academic status relative to graduation, to which the University replied that the Student had completed 13.5 credits and was, therefore, past the half way point to completion. The Student would have to complete 6.5 credits following her return to the University. Therefore, 2012 is the earliest that the Student would be eligible for graduation.

10. The Panel accepted the Joint Submission on Penalty. In reviewing the facts, the Panel acknowledged that the Student admitted the offence and cooperated with the University.

However, the Student should be aware that this was a very "close call". But for the University's acquiescence in a suspension of less than three years, we would not have imposed this sanction. We would likely have imposed a sanction of three years or more. The panel is concerned that there is no evidence to suggest that the Student has learned anything from the two previous offences for which she was sanctioned. Although we will accept this Joint Submission, we are not without our doubts about its propriety. We recognize that two years and eight months is a long time to be away from the University. We expect that by the time the Student returns to the University, she will have learned that there had better not be a fourth offence. We hope that the Student will benefit from the counselling she has undertaken. Although it is difficult for us to infer very much at this early stage, given the absence of any reports or evaluations from the counsellor, we are pleased to see that the Student has taken this initiative. The fact that the Student voluntarily withdrew from her courses (leaving these to be added to her course work upon her return) was an act that allowed the panel to ultimately accept this Joint Submission. That was a factor we put some emphasis on when accepting the Submission. Therefore, the penalty in this case will be:

- i. suspension from the University until April 30, 2011;
- ii. a grade of zero in the course FREA96H3;
- iii. a notation on the Student's transcript until April 30, 2011, indicating that she has been found guilty of an academic offence;
- iv. a report to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed with the Student's name withheld.

Nov 3/08
Date

W. Slaght
Ronald G. Slaght, Chair