

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on July 9, 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 -

M H

Date of Hearing: September 20, 2010

Members of the Panel:

Ms Lisa Brownstone, Barrister and Solicitor, Chair

Professor Gabriele D'Eleuterio, Institute for Aerospace Studies, Faculty Panel Member

Mr. Haoyu Feng, Student Panel Member

Appearances:

Ms Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers

Mr. Daniel Goldbloom, Law Student, Downtown Legal Services

In Attendance:

Mr. M H , the Student

Professor Mark Kortschot, then Acting First Year Chair, Faculty of Applied Science and Engineering

Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Preliminary

- [1] The Trial Division of the University Tribunal was convened on September 20, 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 July 9, 2010 from Professor Edith Hillan, Vice-Provost, Faculty & Academic Life.

Hearing on the Facts

- [2] The 13 charges facing the student were as follow:
- (1) On or about May 11, 2010, you knowingly forged or in any other way altered or falsified an academic record, or uttered, circulated or made use of any such forged, altered or falsified record, in connection with a petition submitted to the Registrar of the Faculty of Applied Science and Engineering, being assigned Petition Number 5661 ("Petition"), that you submitted to obtain special consideration in APS106H1 ("Course"), contrary to section B.1.3(a) of the *Code*.
 - (2) In the alternative to paragraph 1 above, on or about May 11, 2010, you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, in connection with a petition submitted to the Registrar of the Faculty of Applied Science and Engineering, being assigned Petition Number 5661 ("Petition"), that you submitted to obtain special consideration in APS106H1 ("Course"), contrary to section B.1.1 (a) of the *Code*.
 - (3) On or about May 11, 2010, or shortly thereafter, you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the record be in print or electronic form, in connection with an undated letter purportedly from yourself to "Respected Sir\Madam" regarding the Petition and its supporting documentation to obtain special consideration in APS106H1, contrary to section B.1.1(a) of the *Code*.
 - (4) On or about May 11, 2010, or shortly thereafter, you knowingly forged or in any other way altered or falsified an academic record, or uttered, circulated or made use of any such forged, altered or falsified record, in connection with a letter dated 09/05/2010 purportedly from Dr. Abu Nasar Rizvi, which you submitted in support of your Petition to obtain special consideration in APS106H1, contrary to section B.1.3(a) of the *Code*.
 - (5) In the alternative to paragraph 4 above, on or about May 11, 2010, or shortly thereafter, you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made

use of any such forged, altered or falsified document, in connection with a letter with the date 09/05/2010 purportedly from Dr. Abu Nasar Rizvi, which you submitted in support of your Petition to obtain special consideration in APS106H1, contrary to section B.1.1 (a) of the *Code*.

- (6) On or about May 27, 2010, you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the record be in print or electronic form, in connection with an email senttofirstyear@ecf.utoronto.ca regarding your Petition to obtain special consideration in APS106H1, contrary to section B.1.1(a) of the *Code*.
- (7) On or about May 31, 2010, you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the record be in print or electronic form, in connection with an email from you to ViceDean Undergrad at ViceDean@ecf.utoronto.ca regarding your Petition to obtain special consideration in APS106H1, contrary to section B.1.1 (a) of the *Code*.
- (8) On or about June 1, 2010, you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the record be in print or electronic form, in connection with a letter and/or statement sent to the Registrar in the Faculty of Applied Science and Engineering, regarding your Petition to obtain special consideration in APS106H1, contrary to section B.1.1 (a) of the *Code*.
- (9) On or about June 1, 2010, you knowingly forged or in any other way altered or falsified an academic record, or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, in connection with a letter dated May 27, 2010, purportedly from Dr. Anisul Islam at Square Hospitals Ltd. in support of your Petition to obtain special consideration in APS106H1, contrary to section B.1.3(a) of the *Code*.
- (10) In the alternative to paragraph 9 above, on or about June 1, 2010, you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the record be in print or electronic form, in connection with a letter dated May 27, 2010, purportedly from Dr. Anisul Islam at Square Hospitals Ltd. In support of your Petition to obtain special consideration in APS106H1, contrary to section B.1.1 (a) of the *Code*.

- (11) On or about June 1, 2010, you knowingly forged or in any other way altered or falsified an academic record, or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, in connection with an undated letter purportedly from Dr. Abu Nasar Rizvi regarding the Petition to obtain special consideration in APS106H1, contrary to section B.1.3(a) of the *Code*.
- (12) In the alternative to paragraph 11 above, on or about June 1, 2010, you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the record be in print or electronic form, in connection with an undated letter purportedly from Dr. Abu Nasar Rizvi regarding the Petition to obtain special consideration in APS106H1, contrary to section B.1.1 (a) of the *Code*.
- (13) In the alternative to each of the paragraphs above, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind, in connection with the following forged and/or falsified documents, submitted in support of your Petition to obtain special consideration in APS106H 1, contrary to section B.I.3(b) of the *Code*:
 - (i) the Petition;
 - (ii) a letter and/or statement you submitted to the Registrar in the Faculty of Applied Science and Engineering on or shortly after May 11, 2010;
 - (iii) a letter dated 09/05/2010 purportedly from Dr. Abu Nasar Rizvi of Square Hospitals Ltd.;
 - (iv) an email you sent to firstyear@ecf.utoronto.ca on or about May 27,2010;
 - (v) an email you sent to ViceDean Undergrad at ViceDean@ecf.utoronto.ca on or about May 31,2010;
 - (vi) a letter dated May 27, 2010, purportedly from Dr. Anisul Islam at Square Hospitals Ltd.;
 - (vii) an undated letter purportedly from Dr. Abu Nasar Rizvi at Square Hospitals Ltd submitted on or about June 1, 2010; and/or
 - (viii) an undated letter purportedly from yourself to "Respected Sir\Madam" submitted on or about June 1, 2010.

- [3] Discipline counsel advised that charges (1), (3), (4), (6), (7), (8), (9) and (11) were the principal charges while charges (2), (5), (10), (12) and (13) were alternative charges. If findings were made on the principal charges, findings would not be sought on the alternative charges.
- [4] Particulars of the charges were set out as follows:
- (1) You were registered at the University of Toronto and enrolled in the First Year Program of the Faculty of Applied Science and Engineering at all material times.
 - (2) On or about April 16, 2010 you wrote the final examination in APS106H1, following which you received a failing grade in the Course.
 - (3) On or about May 11, 2010 you submitted a Petition in which you requested that your mark on the final examination in APS106H1 not be counted towards your final mark in that Course, or alternatively that you be permitted to write a deferred examination in that Course.
 - (4) In your Petition, you stated that your father had been admitted to the hospital the day before the final exam in APS106H1, and that he was subsequently diagnosed with Guillain-Barre Syndrome and was in very critical condition, all of which affected your preparation for the APS 106H1 and subsequent exams.
 - (5) In support of your Petition you submitted a letter and/or statement from you to the Registrar, addressed to "Respected Sir/Madam", advising of your father's serious medical condition and requesting that your final mark in APS106H1 be calculated on the basis of your midterm, project and lab marks ("First Statement").
 - (6) Further in support of the Petition you submitted a letter on Square Hospitals Ltd. letterhead, dated 09/05/2010, purportedly from Dr. Abu Nasar Rizvi, confirming your father's serious medical condition.
 - (7) On or about May 26, 2010 you were advised by the University that there were discrepancies in the petition documents which you had filed.
 - (8) On or about May 27, 2010 you sent an email to firstyear@ecf.utoronto.ca which you stated that there had been a mistake made in the doctor's statement submitted in support of your Petition, and you requested assistance to correct the mistake.
 - (9) On or about May 31, 2010 you sent an email to the ViceDean Undergrad at ViceDean@ecf.utoronto.ca in which you stated that your father had collapsed and had been rushed to hospital with a very serious medical condition, which had affected your ability to write your APS106H1 exam.

- (10) On June 1, 2010 you submitted a letter dated May 31, 2010 from yourself to the Registrar of the Faculty of Applied Science and Engineering containing the same information as had been sent to the ViceDean Undergrad on May 31, 2010 ("Second Statement").
 - (11) Also on June 1, 2010 you submitted additional medical documentation to the University in support of your Petition, which included a letter dated May 27, 2010 on the letterhead of Square Hospitals Ltd. purportedly from Dr. Anisullislam; and you submitted a further letter, undated, purportedly from Dr. Abu Nasar Rizvi at the same hospital, explaining that he had made errors in the dates in his earlier letter of May 9, 2010.
 - (12) All of the letters purporting to be from the doctors at Square Hospitals Ltd. Are false, as is the information contained therein. There are no such doctors associated with Square Hospitals Ltd., and your father was not admitted to that hospital suffering from a serious medical condition with the particulars as described.
 - (13) Similarly, the information provided to the University in the Petition and in the documents that you provided to support your Petition and/or to obtain assistance with your Petition, including the First Statement, the email sent May 27, 2010 to First Year Engineering, the May 31 email to the ViceDean Undergrad, the May 31 letter to the Registrar, and the Second Statement, all contained forged and falsified information. None of the information pertaining to your father's health or your family's financial circumstances or the information provided by the doctors at the hospital was true.
 - (14) you forged the documents and fabricated and falsified the information contained therein so that the University would provide the special consideration requested by you in your Petition, in order to receive an improved grade in the Course.
- [5] The parties provided the Panel with an Agreed Statement of Facts, which provided in relevant part as follows:
- (i) Mr. H hereby pleads guilty to Charge 1, 3, 4, 6, 7, 8, 9, and 11 of the Charges.
 - (ii) The Provost agrees that if the Tribunal convicts Mr. H on Charge 1, 3, 4, 6, 7, 8, 9, and 11 of the Charges, the Provost will withdraw Charge 2, 5, 10, 12 and 13.

Petition

- (iii) Mr. H first registered as a student at the University of Toronto in the Faculty of Applied Science and Engineering ("Faculty") in Fall 2009. At all material times, Mr. H remained enrolled at the University. At the end of the 2009 Fall session, Mr. H had a Cumulative GPA of 0.74 and was placed on academic probation. At the end of the 2010 Winter Session, Mr. H had a cumulative GPA of 0.98 and was placed on repeat probation. Mr. H was deemed to have failed and was required to withdraw from the Faculty for at least one year. Mr. H may apply to the Faculty for readmission to the Fall 2011 session.
- (iv) Mr. H is an international student from Bangladesh, where his family lives.
- (v) In the 2010 Winter term Mr. H was enrolled in APS106H1: Fundamentals of Computer Programming.
- (vi) On May 11, 2010, Mr. H submitted an electronic petition request to the Faculty's Registrar's Office, in which he asked for special consideration in APS106 such that his course grade would be awarded on the basis of his term work without consideration of the mark he obtained in the final exam he wrote on April 16, 2010 ("Petition"). Alternatively Mr. H requested that he be permitted to write another final exam in APS106H1 in the summer. In describing the problem or situation giving rise to this request, Mr. H stated that his father had been admitted as critically ill to the intensive care unit of a hospital suffering from Guillain Barre Syndrome ("GBS") the day before Mr. H's final exam in APS106H1. Mr. H further stated that this incident, coupled with concerns about related financial issues, affected his preparation for his final exam in APS106H1, as well as other courses.
- (vii) Between May 11 and May 21, 2010, Mr. H submitted the following two additional documents in hard copy to the Registrar's Office, in support of his Petition:
 - (a) undated letter to "Respected Sir\Madam" from M H , stating that:
 - (i) on the day before Mr. H's final exam in APS106H1 his father was admitted to hospital suffering from paralysis, and that he was later diagnosed with GBS;

- (ii) he had been unable to provide documentation any earlier because of the burden placed on his mother by his father's illness;
 - (iii) after 10 days his mother obtained a doctor's note from the doctor and sent it to Mr. H by post which did not arrive, so his mother resent the note via DHL (courier) which he received;
 - (iv) "Hope you my situation and give me the marks of this course according to my midterm, project and labs." ("Undated H Letter").
- (b) letter dated 09/05/2010 from Dr. Abu Nasar Rizvi, Senior Consultant, Department of Neurology and neurosurgery, Square Hospitals Ltd., on Square Hospitals Ltd. letterhead, stating the following:
- (i) Mr. M H , age 55, was admitted to Square hospital, at 15/03/2010 with severe lower limb paralysis, dysphagia and respiratory problems, and was diagnosed with a severe form of GBS;
 - (ii) the patient had to be shifted to the intensive care unit one day after his admission as a result of a further deterioration with extensive upper and lower limb paralysis and autonomic nervous system complications, where he remained for 4 weeks.
 - (iii) the patient was moved out of the ICU on April 23, 2010, and he is expected to be discharged within 3 weeks. ("May 9 Dr. Rizvi Letter").
- (viii) On May 26, 2010, Leslie Grife, an academic counsellor in the Registrar's Office, spoke with Mr. H to advise him that his petition had been denied as she had identified discrepancies between the statements he had made in his petition and the medical documentation provided to that date. In particular Ms. Grife identified that Mr. H's Petition and the Undated H Letter submitted in support of that petition stated that Mr. H's father had become ill and admitted to hospital the day before the APS106H1 final exam held on April 16, 2010; yet the May 9 Dr. Rizvi Letter stated M H had been admitted to hospital on March 15, 2010. Mr. H told Ms. Grife that he would try to get new documentation with a letter of apology for the errors in the May 9 Dr. Rizvi Letter. Ms. Grife also asked that Mr. H provide contact information for the doctor and the hospital.

- (ix) On May 27, 2010, Mr. H¹ sent an email to the Faculty's First Year Office regarding his Petition. He stated that he believed there had been a mistake in the doctor's statement, and that he had been asked by the authorities in the hospital for a copy of the May 9 Dr. Rizvi Letter in order for them to verify the process and correct their mistake ("May 27 Email").
- (x) On May 31, 2010, Mr. H sent an email to the Faculty's Office of the Vice-Dean, Undergraduate Studies, regarding his final grades ("May 31 Email"), "to explain the unfortunate incidents that had been taking place in [his] life lately". He stated the following:
 - (a) his course marks in the winter term had been at an average of 65-70%, but that his father had collapsed and been rushed to hospital the day before his APS106 final exam, such that his final mark in APS dropped to 45%;
 - (b) his father had been diagnosed with GBS and was in the ICU;
 - (c) his mother had difficulty getting the required medical documentation to support his petition;
 - (d) the documents received from the hospital contained errors with the dates;
 - (e) the hospital authorities looked into the matter and decided to send the documents again;
 - (f) all these incidents had a negative influence on his exam preparation and performance as he found it hard to concentrate;
 - (g) he was on the verge of leaving for Bangladesh as he was desperate to be able to help and be with his family;
 - (h) had it not been for his father's illness which had a significant negative impact on his APS106H1 exam and all his other exams he would have continued with summer school; and
 - (i) he was clearly a victim of many unfortunate incidents and should therefore be given one more chance to prove his worth and continue "in your prestigious institute".
- (xi) On June 1, 2010, Mr. H submitted the following documents to the First Year Office:

- (a) a hard copy of an undated letter from himself to Dear Sir/ Madam ("June 1 H Letter"). The June 1 H Letter was identical in content to the May 31 Email.
- (b) a letter dated 27/05/2010 on Square Hospitals Ltd. letterhead signed by Dr. Anisul Islam, Member of Board of Directors, and Dr. Abu Nasa Rizvi, stating the following:
 - (i) Mr. M H , age 55, was admitted to Square Hospital on 15/04/2010 with GSB.
 - (ii) the patient was shifted to ICU around 15 hours prior to his admission, and was kept in ICU for around 3 weeks.
 - (iii) the patient was out of ICU on 05/05/2010.
 - (iv) the patient "is expected to be discharged with 3-4 weeks."
 - (v) the previous certified document sent by Abu Nasar Rizvi had two errors regarding dates:
 - a. the admission date was 15/04/2010, and not 15/03/2010 as previously indicated; and
 - b. the date of discharge from the ICU was 05/05/2010 [and not April 23, 2010 as previously indicated].
 - (vi) Dr. Islam as a member of the Board of Directors sincerely apologised on behalf of the hospital authorities for Dr. Nasar's error and for all the confusion it caused;
 - (vii) Dr. Nasar has agreed to provide an additional apology "as he realises that magnitude of Mr. M 's situation." ("Dr. Islam Letter").
- (c) an undated letter on Square Hospitals Ltd. letterhead from Dr. Abu Nasar Rizvi to Respected Sir/Madam conveying sincere apologies for any inconvenience caused because of the error regarding dates, and explaining that Mr. H 's father had been confused with another patient with a similar name ("Dr. Rizvi Apology Letter"). This letter also contained an email address: abu.nasarrizvi@yahoo.ca, and a mobile phone number,

with an invitation to contact Dr. Rizvi with any questions or emergency query.

- (xii) Mr. H attended a meeting with the Dean's Designate pursuant to the Code on June 18, 2010. At that meeting he was asked to explain the documents he had filed in support of his Petition. He explained that his mother obtained the May 9 Dr. Rizvi Letter, the Dr. Islam Letter, and the Dr. Rizvi Apology Letter for him, and that when he told her that questions had been asked by the Registrar about the authenticity of the documents, his mother admitted to having falsified them. He further explained that he was not aware that his mother had provided him with forged and falsified documents.
- (xiii) On Monday June 21, 2010, Mr. H sent a letter to the dean via email. In this letter he confessed that he had falsified the documents submitted for his Petition. He described some of the pressures he faced at the time. He further indicated that a close family friend in Bangladesh, S.A. Farooque, had convinced Mr. H to falsify the medical documents and file a petition, so that Mr. H could avoid telling his parents that he would lose his year of school due to his low academic standing. When the University asked questions about the initial documents, Mr. H explained that Mr. Farooque continued to advise Mr. H to falsify new documents and information regarding his father's medical condition.
- (xiv) Mr. H admits the following:
 - (a) his father did not become ill with GBS in 2010, and was not admitted to a hospital with a critical illness in 2010;
 - (b) the information contained in the Petition was entirely false;
 - (c) the following documents were forged and provided by Mr. H to the University when he knew they were forged and contained false information:
 - (i) the May 9 Dr. Rizvi Letter;
 - (ii) the Dr. Islam Letter; and
 - (iii) the Dr. Rizvi Apology Letter.
 - (d) the following documents were knowingly falsified by Mr. H and provided by him to the University when he knew they contained false information;

- (i) the Undated H Letter;
 - (ii) the May 27 Email;
 - (iii) the May 31 Email; and
 - (iv) the June 1 H Letter.
- (e) he knowingly uttered, used and circulated the Petition, the Undated H Letter, the May 9 Dr. Rizvi Letter, the May 27 Email, the May 31 Email, the June 1 H Letter, the Dr. Islam Letter, and the Dr. Rizvi Apology Letter, knowing that they were forged and contained false information, in order to avoid having his mark from his final exam in APS106H1 counted in his final grade for APS106H1:
- (16) Mr. H acknowledges and admits that the conduct described above in paragraph 17 constitutes academic misconduct as described in the Charges, and in particular that his conduct is contrary to:
- (a) section B.I.3(a) of the Code as described in Charges 1, 4, 9 and 11; and
 - (b) section B.1.1(a) of the Code as described in Charges 3, 6, 7 and 8.

Decision of the Tribunal

- [6] On the basis of the Agreed Statement of Facts and taking into account the nature of the documents and the wording of section B.1.3(a) of the *Code* and section B.1.1(a) of the *Code*, the Tribunal accepted the plea and found contraventions of the *Code* as set out in the principal charges (1), (3), (4), (6), (7), (8), (9) and (11). No findings will be made on the alternative charges (charges (2), (5), (10), (12) and (13) and, according to the Agreed Statement of Facts, these were withdrawn by the University.

Penalty Phase

- [7] Mr. H was sworn, and read a prepared statement. In that statement, he acknowledged that the Tribunal and University would have "good reason to be annoyed" with him and his behaviour, that he was deeply sorry for his "irresponsible, shameful behaviour." He explained some of the difficulties he encountered in his year studying far from his home country, that the tuition has been a big burden on his family, and that the decision to live off campus had made things more difficult for him in his new country, where he was home sick and finding it difficult to balance his daily life. He talked about family problems that lasted from July 2009 until the summer of 2010, and his own medical issues that had caused him embarrassment and discomfort over the year. He

acknowledged that after his first semester, in which he achieved very poor grades, the University gave him a second chance by allowing him to continue on in his program of study. The second semester commenced well, but he did very poorly on the examination in question. He described himself as confused, stressed and scared to tell his parents. He said that he turned to a family friend who asked if he could fight for marks and made suggestions about claiming his father was ill, and then said he was foolish enough to do this and engage in a series of shameful acts. When he was confronted, he initially repeated the shameful acts, and placed blame upon his mother. He realized that this was foolish, irresponsible and shameful behaviour, "had enough" and confessed.

- [8] Mr. H took responsibility for his actions, and indicated that he still wishes to achieve his goal of studying and obtaining a degree at the University. He has not done any acts of this kind before and says that he never will again, that he has learned his lesson and that he feels guilty. He ended his statement by apologizing once again and expressing his deep sorrow.
- [9] In response to other questions from Mr. Goldbloom, he gave some details of the financial dispute that his parents were involved in, and advised that he was concerned about the state of his parents' marriage.
- [10] Under cross-examination by Ms Harmer, Mr. H acknowledged that he could have earlier gone to the University to seek help and chose not to do so. He acknowledged that in his meeting with Professor Kortschot, they went through the documents that he had presented to the University in support of his petition and had a fairly detailed discussion, which included Professor Kortschot pointing out the Yahoo.ca e-mail address he had given to a doctor supposedly not from Canada. Ms Harmer suggested to Mr. H that by the time he left that meeting, he knew Dr. Kortschot didn't believe him, nor would he be expected to believe that Mr. H s mother made up a story and mislead Mr. H about his father's ill health for purposes of assisting with his examination.
- [11] Ms Harmer suggested that as Professor Kortshot pointed out the problems with his story and documentation, Mr. H knew he would never be able to convince anyone that his story was true, and only then decided to write the e-mail accepting responsibility.
- [12] Mr. H reiterated that over the week-end, he realized that what he had done was morally wrong.
- [13] Ms Harmer, on behalf of the University asked the Tribunal to impose the following sanction:
 - (i) impose a final grade of zero (0) in the course APS106H1;
 - (ii) suspend the student from the University for five (5) years starting September 1, 2011 (he is suspended until that date for academic reasons) and that a notation of

the suspension remain on his transcript from now until one year after the end of the suspension; and

- (iii) report the case to the Provost who may publish the decision with the student's name withheld.

- [14] The significant point of disagreement between the University and the student was with respect to the length of the suspension: Mr. Goldbloom on behalf of the student, asked the Tribunal to impose a suspension of 2 to 3 years.
- [15] The Panel considered the factors that are relevant to sanction. In particular, the Panel agrees with the submissions of counsel that forgery and falsification are at the very serious end of the spectrum of offences. Although Mr. H perpetuated the story several times to different forums and different audiences over a period of three weeks (May 11-June 1), the Panel has also considered Mr. H 's submission that this related to a single examination in a single course and a single petition for accommodation. It appears to the panel as though this may be all the student would have needed to attain the average mark he required in order to be able to continue at the university. Nonetheless, the panel agrees that in this respect, the facts before us are not like those in some of the other cases to which the Panel was referred, where students seek to change several marks in several courses by forgery or falsification.
- [16] The detriment to the University is significant. The *Code* emphasizes the responsibility for integrity in the relationship between the student and the University. The petition process exists in order to assist students and requires a fundamental relationship of trust in order for the system to work properly. Students who take advantage of this process hurt both the University and other students who wish to use this process properly and in good faith. As such, the detriment to the University in this process is enormous.
- [17] Deterrence is also obviously an important factor in this case, as other students need to be deterred from misusing processes that the University has set up specifically for their benefit. A clear message needs to be sent to Mr. H and other students, as well as to the faculty and the public at large, that misuse of this process and forgery of documentation will not be tolerated. There will be very serious consequences for this kind of breach of trust.
- [18] The likelihood of repetition is unknown. This is Mr. H 's first offence and there are extenuating circumstances. Mr. H was living a long way from home for the first time, his family was dealing with difficult issues which were weighing on him.
- [19] The Panel agrees that many students find themselves in these kinds of situations, and cheating is not to be countenanced as a way of dealing with the stresses that students face, which stresses may be particularly trying in the case of international students.

- [20] The Tribunal notes that Mr. H did provide a full e-mail confession almost immediately following the meeting with Professor Kortschot, that he has been fully co-operative with this process, pleaded guilty and signed an agreed statement of facts, thereby obviating the need for the University to have a hearing and prove its case. In addition, Mr. H participated in the process, came to the Tribunal hearing and took responsibility for his actions before this Tribunal. Although the e-mail confession came, in the University's submission, only once he knew that his story would not be believed, the Panel is of the view that it is a mitigating factor. That is, even if the confession did come only once the student knew he was, in effect, "caught", he did spare the university the steps of having a full hearing, and he did engage in the process. These are mitigating circumstances.
- [21] The student submitted that a 2-3 year suspension is a significant amount of time and would achieve the University's objective in this case. The Panel does not agree.
- [22] However, given Mr. H's cooperation with the University, his guilty plea, his expressed remorse and regret, his taking full responsibility and participating in the process, his lack of prior offences, his full admission of the offence which came before he retained counsel, the Panel is of the view that although a five year suspension is appropriate, that suspension should be effective from September 1, 2010, and should not run consecutively to his academic suspension which ends in September, 2011.
- [23] Ms Harmer candidly advised the Panel that with a 5 year suspension on top of a 1 year academic suspension, the likelihood of Mr. H ever returning to the University was very small. While the Panel does not accept that a 5 year suspension would be a marked departure from the case law, as suggested by Mr. Goldbloom, the Panel is of the view that in order for this to be a real second chance for Mr. H, as opposed to simply a notional second chance, the total suspension should not be longer than 5 years. Mr. H said he still has the goal of completing his studies here and the Panel is of the view that he ought to be given one more chance to do so with integrity. To be an engineer is to have public trust. In order to earn that trust, the student must acquit himself with integrity and honesty, and take responsibility for his actions. It is hoped and expected that this sanction will bring home to the student the importance of his responsibility to the University and to the public at large, and the seriousness of his actions.

Sanction

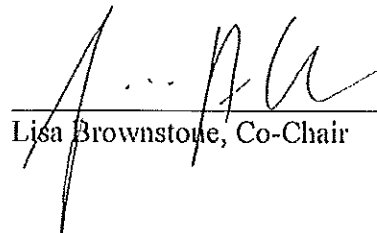
- [24] Therefore the Panel orders:

- (i) that Mr. H receive a final grade of zero in the course APS106H1;
- (ii) that Mr. H be suspended from the University commencing September 1, 2010, for a period of 5 years with a notation of the sanction on his academic

record and transcript for a period of six years from September 20, 2010 to September 20, 2016; and

- (iii) that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the student withheld.

Dated this 3rd day of November, 2010.



Lisa Brownstone, Co-Chair