

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION**

IN THE MATTER charges of academic dishonesty made on April 26, 2010, May 7, 2010 and May 7, 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 –

S C , N H AND M K

Hearing Date: June 14, 2010

Members of the Panel:

Ms. Julie Hannaford, Barrister and Solicitor, Chair

Professor Andrea Litvak, Faculty of Social Work, Faculty Panel Member

Mr. Sybil Derrible, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers

Ms. Camille Labchuk, Law Student, Downtown Legal Services, for Ms. S. C

Mr. Joshua Chan, Law Student, Downtown Legal Services, for Ms. N. H.

Ms. Alyssa Manji, Law Student, Downtown Legal Services, for Ms. M. K

In Attendance:

Dr. Tamara Jones, Academic Integrity Officer (formerly), Office of Student Academic Integrity

Professor John Browne, Dean's Designate, Office of Student Academic Integrity

Ms. Rebecca Smith, Coordinator Student Crisis Response Program, Student Life, Office of the Assistant Vice - President

Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

1. The charges in this case arise out of events that took place in the winter term of 2009, when each of the Students were enrolled in a course taught at the University, called "Modernism and Colonial Korea (EAS 333H1). The course was taught by Professor Janet Poole ("Course").
2. Professor Poole's syllabus for the course included a section about plagiarism. It included extracts from the Code of Behaviour on Academic Matters ("*Code*"), and the professor's own statement about how plagiarism constitutes a breach of trust between the instructor and the student. The Students each received a copy of the syllabus. The portion of the syllabus that referred to plagiarism stated:

"I consider plagiarism to be a serious breach of trust between instructor and student and will refer all cases to the appropriate authority according to U of T's Code of Behaviour on Academic Matters. This code defines academic offences as follows:

It is an or in any other way offence if a *student* knowingly;

- forges alters or falsifies any document or evidence required by the University, or utters, circulates or makes use of any such forged, altered or falsified document, whether the record be in print or electronic form;
- uses or possesses an unauthorized aid or aids or obtain unauthorized assistance in any academic examination or term test or in connection with any other form of academic work;
- personates another person, or has another person personate, at any academic examination or term test in connection with any other form of academic work;
- represents as one's own any idea or expression of an idea or work of another in any academic work, i.e., to commit plagiarism;
- submits, without the knowledge and approval of the instructor to whom it is submitted, any academic work for which credit has previously been obtained or is being sought in another course or program of study in the University or elsewhere;
- submits any academic work containing a purported statement of fact or reference to a source which has been concocted.

(<http://www.utoronto.ca/academicintegrity/academicoffenses.html>)

If you are not clear what plagiarism is or are worried that you may unwittingly plagiarise, please see the following link and/or come and talk to me:
<http://www.writing.utoronto.ca/advice/using-sources/how-not-to-plagiarize>".

3. Professor Poole assigned a paper as part of the Course. The paper was worth 30% of the final grade. It was to be 8-10 pages long, and it was due on March 3, 2010 [this was an extended deadline from February 24, 2010].
4. Each of the Students submitted their papers on March 3, 2010. The details of the papers submitted by each of the students are as follows:
 - (a) Ms. C submitted a paper titled "Depiction of the City in 1930s Korean Fiction ("C Essay");
 - (b) Ms. H submitted a paper titled "Nostalgia and Modernity in Korean Fiction of the 1930s" ("H Essay"); and
 - (c) Ms. K submitted a paper titled "The City in 1930s Fiction" ("K Essay").
5. None of these papers were actually written by the Students. Each of the papers was written by an unknown person working for a business called "The Essay Place".
6. The website for The Essay Place (www.theessayplace.com) lists its business address as 593 Yonge Street, Suite 216, Toronto, Ontario. The Essay Place writes custom essays for students for prices starting at \$28.00 per page. According to its website, The Essay Place's "writers all have MA's, or PHD's in their field of expertise, and are looking to pass on their knowledge to our clients."
7. In submitting an essay for the Course that was purchased from "The Essay Place", it is clearly admitted by each of the Students that, with respect to their respective purchased essays, she:
 - (a) did no meaningful academic work;

- (b) knowingly submitted it in essentially the same form as she received it from The Essay Place.
- (c) knowingly represented the ideas of another person, the expression of the ideas of another person, and the work of another person as her own;
- (d) knowingly committed plagiarism contrary to section B.I.1(d) of the *Code*; and
- (e) knew that she was engaged in a form of cheating, academic dishonesty or misconduct, fraud, or misrepresentation in order to obtain academic credit, contrary to section B.1.3(b) of the *Code*.

The above admissions were made by each of the students in their Agreed Statement of Fact, part of their agreement to plead guilty to the charges that were laid following the investigation related to the papers.

THE MEETINGS WITH THE DEAN'S DESIGNATE AND THE ADMISSIONS MADE BY THE STUDENTS

- 8. Each of the Students met with Professor John Browne, the Dean's Designate for academic integrity at the Faculty of Arts and Science, University of Toronto, with respect to the purchased essays that are at issue in this case.
- 9. Ms. C initially told Professor Browne that she had written the C Essay herself. Later in the meeting, she admitted that she had received editorial and grammatical assistance from a friend who attended university in the United States. Eventually, after being confronted with the document properties of the essay that revealed that Michael Thompson, the owner of The Essay Place, was listed in the author field of the document, she admitted to having purchased the essay submitted from The Essay Place.
- 10. Ms. H and Ms. K, who met with Prof. Browne after Ms. C met with him, admitted to Professor Browne that they purchased their essays.

FINDING OF THE PANEL IN RESPECT OF THE GUILTY PLEAS

11. The Panel reviewed the facts as set out by the students and the University, as well as the documents provided in the Joint Book of Documents. On the basis of the facts, the panel determined that it was appropriate to accept the pleas of the students and entered the finding that the students were guilty of the offences to which they pleaded.

BACKGROUND TO THE OFFENCES RELEVANT TO THE PENALTY

12. This was not the first time that the students had cheated. In fact, each one of the Students committed two other offences in addition to the offences that are the subject of these hearings. These events are outlined below.

MS. CHOP'S FIRST OFFENCE

13. In the Winter term of 2008 (one year before her enrolment in Professor Poole's course) Ms. C enrolled in PHY 205H. At that time, her friend S J was also enrolled in PHY 205. Ms. J used Ms. C's computer to complete and print an essay she submitted in PHY 205.
14. In Winter 2009 (the same time that she was enrolled in Professor Poole's course), Ms. C's then boyfriend, J P, enrolled in PHY 205. Ms. C gave Mr. P an electronic copy of Ms. J's essay. Mr. P submitted Ms. J's essay in virtually unaltered form. He did no meaningful academic work on the paper before he submitted it. Ms. C, when confronted with the events, admitted that she committed the academic offence of knowingly providing unauthorized assistance to a student contrary to section B.I.1(b) of the *Code*.
15. Ms. C was sanctioned for having provided unauthorized assistance. She received a notation on her academic record and transcript reading "Censured for Academic Misconduct" from March 25, 2009, until March 24, 2011. Not only did she receive the above mentioned sanction, but she received a letter from Professor Britton, outlining how she had apologized profusely, and outlining how she represented that she was aware of

the University's regulations concerning plagiarism. The letter provided a stern warning against unacceptable behaviour in the University, and of the severity with which a future offence would be treated, if it occurred.

MS. H 'S FIRST OFFENCE

16. In the Summer of 2008 Ms. H enrolled in ECO 200. Ms. H obtained a deferral of the first term test in ECO 200, which was worth 25% of the final grade, from June 12 to June 23, 2008.
17. On June 19, 2008, Ms. H requested a further deferral due to a family emergency. Ms. H provided the instructor with a screen shot of her e-ticket, which purportedly showed her flying from Toronto to London, England at 11:10 am on June 23, 2008. Upon further investigation, it became clear that Ms. H 's flight was not departing for London at 11:10 am, as she had indicated, but rather, it was to depart at 11:10 pm.
18. On August 6, 2008, Ms. H admitted to violating the *Code* by altering the time of the flight on the electronic itinerary because she was not prepared to write the test on June 23.
19. Professor Sam Solecki, the Dean's Designate for Academic Integrity, suspended Ms. H for six months, from July 1, 2008, until December 31, 2008, and annotated her transcript until May 31, 2010, to reflect the offence. Professor Solecki wrote a letter to Ms. H , in which he noted that Ms. H had admitted to altering her flight itinerary so that she could escape writing the test, for which she was not prepared. Professor Solecki also warned Ms. H about the severity with which a future offence would be treated, and affirmed the University would not tolerate unacceptable behaviour.

MS. K 'S FIRST OFFENCE

20. In Fall 2005, Ms. K enrolled in AST 101. In November 2005, Ms. K wrote a mid-term examination in AST 101, which was worth 25% of the final mark in the course.

21. On December 1, 2005, Ms. K admitted that she had permitted her friend to copy her examination answer for a short-answer question and had provided her friend with unauthorized assistance during the mid-term examination.
22. Professor Brown, the Dean's Designate for Academic Integrity, gave Ms. K a grade of zero on the question she allowed her friend to copy, and put a two year annotation on her academic record and transcript, which expired on October 31, 2007. Professor Brown's letter affirmed that Ms. K recognized that her actions were wrong, and her regret for having engaged in the activity for which she was sanctioned. Professor Brown warned Ms. K that any further offence would be treated severely.

THE STUDENTS' SECOND OFFENCE

23. In Fall 2009, the Students enrolled in EAS 209. In October, they wrote a term test in tutorial. The term test was worth approximately 2% of the final grade in the course.
24. The Students and N R S submitted answers to the term test that were virtually identical.
25. The Students admitted that they had copied from each other during the test and that they had each knowingly received unauthorized aid during the test contrary to section B.I.1(b) of the *Code*.
26. On December 2, 2009, each of the Students admitted to Professor John Browne, the Dean's Designate for Academic Integrity, that she had committed a second academic offence.
27. On December 3, 2009, Professor Browne, imposed sanctions on the Students. Each of the Students received a final grade of zero in the course and a notation on her academic record and transcript until she graduated from the University. Ms. H also received a four-month suspension from May 1, 2010, to August 30, 2010.

28. The letters sent by Professor Browne to the students outlined how each of the students had apologized and expressed their regret for having committed this offence. Each letter outlines the response of each student to having committed this second academic offence. In the case of Ms. C , there is an explanation that she was facing personal issues (a stressful family situation) that caused her stress and anxiety, and that Ms. C did not plan to collaborate on the quiz, but also that she did not realize how serious the offence was because the quiz was worth such a small percentage of the final grade. In the case of Ms. H , the letter outlined how Ms. H said she did not plan to collaborate on the quiz, and how she regretted and apologized for having committed this second offence. In the case of Ms. K , the letter outlined also how Ms. K regretted and apologized for her collaboration, that she did not plan to collaborate, but that since the quiz was worth such a small percentage of the final grade, she did not realize the seriousness of the collaboration.

THE PRIOR ESSAY PURCHASE AND EVIDENCE GIVEN BY THE STUDENTS

29. As noted above at paragraph 20, Ms. H . was enrolled in EAS 209 in Fall 2009.
30. On October 20, 2009, Ms. H submitted an essay titled "What Makes Orientalism and How to go Beyond It." This essay was not written by Ms. H . The essay was the work of an individual working in the business called The Essay Place. Ms. H purchased this Essay and submitted it in the same month as she collaborated on the 2% term test in this course.

THE PENALTY PHASE OF THE HEARING

31. The Students each gave evidence at the hearing. Each of the students was cross examined. Each student took the opportunity to set out their explanation for having committed the offence, and the extent of their remorse. They did so against the backdrop of their request that a penalty less severe than expulsion be levied against them – each of the Students asked the panel to impose a sanction of suspension for five years. The University was asking the panel to suspend the students, and, concurrently, request the President to recommend to the Governing Council that the students be expelled, with a

report of the case (with names withheld). At issue, therefore was the propriety of a five year suspension, as opposed to expulsion.

32. The panel observed from the outset that the students were equally distraught, equally tearful, and equally apparently traumatized by the seriousness of what they were facing. Each student presented throughout as extremely nervous, and indeed, on many occasions, the students needed moments to compose themselves during the hearing and during their testimony. At various times, there was audible weeping.
33. Ms. C explained that she regretted having purchased her essay, saying that she “had made the biggest mistake of her life”. In her defence, she explained that her life at the University had been punctuated by a series of family illness and hardship. In August, 2008, her sister had surgery and in the result, she felt isolated, presumably because of the distance between her and her sister. She could not be there to comfort her sister. Then, in April, 2009, her mother had an aneurism. Again, she suffered from the distance between her and her mother – she was not able to go and comfort her. In the summer of 2009, she learned that her family was undergoing financial hardship, and her mother was unable to undergo a planned surgery. When her mother finally did have her surgery (in October 2009), she could not go home to be with her. So, both she and her family were undergoing severe pressures.
34. On her own behalf, Ms. C explained that she was under tremendous pressure to complete her degree. She explained that in Korea, it is very difficult to obtain employment without a university degree. Even though she told her parents in 2009 that she wanted to take a year off, she was prevailed upon to continue to attend school. In December 2009, upon telling her parents of her problems, and saying she wanted to take a semester away from school, her parents insisted that she stay on at school.
35. Ms. C sought counseling from the University – she attended on December 1 and 3, 2009, and, in 2010, on April 29th, May 5th, and 27th, and on June 9. The report of her counseling was made an exhibit, and the nature of the counseling related to how Ms. C was feeling distressed and anxious, as a result of the anticipated tribunal hearing, and a number of “family issues”.

36. So, Ms. C was caught in a maelstrom of family pressure to continue at her studies, and was obliged nevertheless to cope with the long distance comforting of her family as they persevered through financial hardship and illness. It was this multivalent pressure that informed and explained why she cheated – in March 2009 (when she gave her boyfriend an essay written by her friend); in October 2009 (when she collaborated and copied on a quiz worth 2%); and in March 2010 (when she purchased an essay from The Essay Place and presented it as her own work).
37. Mr. Centa (on behalf of the University) explored Ms. C's explanation under cross examination. What the cross examination of Ms. C focused on was the timing of her commission of the offences, in relation to the warnings and sanctions that had been imposed, together with her expressions of remorse and promises to abide by the University policy about academic honesty. What was highlighted during the cross examination was the fact that Ms. C had met with the Dean's designate in September, 2009, in relation to the offence that occurred in March 2009 – when she gave her boyfriend an essay written by a friend – which essay her boyfriend copied. Only one month later, Ms. C committed a further offence – she wrote a quiz using an unauthorized aid, which she knew was wrong. Ms. C was caught using an unauthorized aid, and, this led to a meeting with the Dean on December 3, 2009. It was at this meeting that Ms. C was alerted to the seriousness of having committed not one, but two, offences, and, she was once again remorseful, apologetic, and promised not to commit another offence.
38. And yet, as the cross examination showed, less than three months after this meeting, Ms. C committed the offence of purchasing an essay for submission in Professor Poole's course. Ms. C admitted that she ordered the essay sometime in February, 2010, so that it could be handed in on the due date in March, 2010.
39. Between January 1 and April, 2010, Ms. C sought no counseling, and indeed, it is clear that she knew of the counseling services available – she had gone to the counseling service in December 2009. At the very time that she was experiencing the stress that led to the commission of her third offence, she eschewed the very assistance that the

University offered to help her avoid committing another offence. In fact, Ms. C appears to have sought counseling only for stress related to the hearing in respect of the charges against her – the report of the counselor only references that she had been dealing with family issues. The cross examination of Ms. C revealed that the sporadic counseling undertaken by Ms. C appears to have been sought out only to address her anxiety about the impending hearing, and not for the purpose of coping with the multitude of stresses she was experiencing, and which she said contributed to her multiple instances of cheating.

40. Ms. H gave evidence about her extreme remorse for what she called the “mistakes” she had committed. She said “words cannot express my remorse”. Ms. H told the panel she would not commit the same “mistake” again. She was very sorry. Ms. H was also beset by family pressure: while she was studying at the University, her father’s business in Korea faltered, and this had the effect of increasing her stress levels. As Ms. H stated, she was never confident in her ability as a student, and, she felt pressured by the inquiries made by her parents about her grades. In the face of these mounting pressures – the tribulations of her father in his business, the insecurity and doubt about her own abilities, and the inquiries from home about her grades, Ms. H purchased the essay for Professor Poole’s course, and for that “mistake”, she said she was truly sorry. Also, she promised to make amends for what she had done. It was not clear exactly what amends she planned to make. Ms. H reported that she had begun to see a counselor to help her deal with this – a report from the University counseling service (Exhibit 5) showed that six days before the hearing, Ms. H had presented to the University counseling service. She received counseling for her anxiety, distress and confusion about the hearing that she was going to attend.

41. Mr. Centa’s cross examination explored the timing of Ms. H’s offences. It was made clear that only one year after she had been suspended for falsifying a document (her travel itinerary), she cheated on a quiz. Ms. H admitted that although she did not think the cheating on a test worth 2% was a “big deal”, she understood very well in her meeting with the Dean on December 2, 2009, that cheating, even on a test worth 2%, was indeed a “big deal”. And yet, in that same term, in October 2009, she had submitted a

purchased essay. Ms. H stated in response to Mr. Centa's question about this essay purchase, that she "hesitated over the price being charged for the essay", but then "went ahead" and purchased it.

42. At the time that Ms. H was meeting with the Dean in December 2009, no one at the University was aware of the essay purchase that had occurred in October 2009. This essay purchase was not addressed until after the charges in May, 2010 were laid. This essay purchase is not the subject matter of this case. Nevertheless, it is relevant to the penalty phase.
43. When she was meeting with the Dean in December 2009, about her cheating on the 2% test, she promised not to make any more "mistakes", and on the strength of that promise, the Dean deferred her suspension. Under cross examination by Mr. Centa, Ms. H admitted that she repaid the Dean for his deferral and his acceptance of her promise not to cheat again, by purchasing another paper – this one for Professor Poole's course. And on that occasion, she was undeterred by the price. Just as Ms. H had promised the Dean that she would not make any more "mistakes", so had she fervently vowed to the panel in her testimony that she would "never make the same mistake again". Evidently, as Ms. H agreed, her promise was not to be relied upon.
44. Ms. K was filled with regret as she gave her testimony. She took pains to explain the series of offences in which she had been caught cheating. In the fall term of 2005, she permitted a friend to copy from her mid term examination. Four years later, she was caught cheating on the 2% test, just as Ms. H, and Ms. C had been caught.
45. For Ms. K, her university life has been a financial as well as an emotional struggle: before she was accepted at the University, her parents divorced. According to Ms. K, she has been struggling with her father's refusal to contribute or provide her with financial assistance – as she explained, going to the University "costs a fortune", and with that cost comes the high expectations of her mother about her academic achievement. Under the financial pressure, she has been unable to visit her family – and the more she is distanced from her family, the more she became unable to study efficiently.

46. Ms. K regards herself as unlucky – she thinks she is “the most unlucky person”. She did not learn enough from her prior offences, and now, having learned her lesson, she asked for a second chance – something she would use wisely if she was permitted to await the expiry of a suspension to finish her degree sometime in the future.
47. Mr. C explored the idea of second chances with Ms. K. He recalled how Ms. K had told the Dean that she hadn’t really learned from her first offence, and that is why she committed a second offence (cheating on the 2% test). Ms. K did tell the Dean at the meeting arising from the second offence that she was truly sorry – that she was not going to commit another offence again. Her protestations to the Dean about “learning from her offences” were made to appear congruent with the protestations presented to the panel about having learned from her offences and therefore needing a second chance.
48. What evolved from the cross examination of Ms. K relates to the backdrop for the offences of not only Ms. K, but of Ms. C and Ms. H as well. In answer to Mr. Centa’s questions about the planning and discussion that went into the purchase of the essays for Professor Poole’s course, Ms. K explained how Ms. C, Ms. H, and Ms. K all discussed how they planned to purchase essays for Professor Poole’s assignment. Not only did they discuss this, but they together admitted – to each other – that each of them had two prior offences, and each of them knew that what they were doing was wrong. In Ms. K’s cross examination, she also admitted that before purchasing the essay for Professor Poole’s course, she considered her conversations with the Dean’s Designate, and it was only after considering her conversation with the Dean’s Designate in December 2009, that she decided to purchase her essay.

REASONS FOR THE PENALTY IMPOSED (MAJORITY)

49. Having determined to accept the plea of each of the students, the panel addressed what penalty was appropriate in the circumstances. The University requested the panel to impose a penalty of expulsion, while the students requested the panel to impose a five year suspension. The *Code* allows for a range of penalties to be imposed in the discretion of the panel. Subsection C II (b) states:

Tribunal Sanctions

1. One or more of the following sanctions may be imposed by the Tribunal upon the conviction of any student:
 - (a) an oral and/or written reprimand;
 - (b) an oral and/or written reprimand and, with the permission of the instructor, the resubmission of the piece of academic work in respect of which the offence was committed, for evaluation. Such a sanction shall be imposed only for minor offences and where the student has committed no previous offence.
 - (c) assignment of a grade of zero or a failure for the piece of academic work in respect of which the offence was committed;
 - (d) assignment of a penalty in the form of a reduction of the final grade in the course in respect of which the offence was committed;
 - (e) denial of privileges to use any facility of the University, including library and computer facilities;
 - (f) a monetary fine to cover the costs of replacing damaged property or misused supplies in respect of which the offence was committed;
 - (g) assignment of a grade of zero or a failure for any completed or uncompleted course or courses in respect of which any offence was committed;
 - (h) suspension from attendance in a course or courses, a program, an academic unit or division, or the University for such a period of time up to five years as may be determined by the Tribunal. Where a student has not completed a course or courses in respect of which an offence has not been committed, withdrawal from the course or courses without academic penalty shall be allowed;
 - (i) recommendation of expulsion from the University. The Tribunal has power only to recommend that such a penalty be imposed. In any such case, the recommendation shall be made by the Tribunal to the President for a recommendation by him or her to the Governing Council. Expulsion shall mean that the student shall be denied any further registration at the University in any program, and his or her academic records and transcript shall record this sanction permanently. Where a student has not completed a course or courses in respect of which an offence has not been committed, withdrawal from the course or courses without academic penalty shall be allowed. If a recommendation for expulsion is not adopted, the Governing Council shall have the power to impose such lesser penalty as it sees fit.
 - (j)
 - (i) recommendation to the Governing Council for cancellation, recall or suspension of one or more degrees, diplomas or certificates obtained by any graduate; or
 - (ii) cancellation of academic standing or academic credits obtained by any former student

who, while enrolled, committed any offence which if detected before the granting of the degree, diploma, certificate, standing or credits would, in the judgement, of the Tribunal, have resulted in a conviction and the application of a sanction sufficiently severe that the degree, diploma, certificate, standing, credits or marks would not have been granted.

2. The hearing panel shall have the power to order that any sanction imposed by the Tribunal be recorded on the student's academic record and transcript for such length of time as the panel considers appropriate.
 3. The Tribunal may, if it considers appropriate, report any case to the Provost who may publish a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University newspapers, with the name of the student withheld.
50. In arriving at its decision to impose a five year suspension, we were referred to the factors that ought to guide the determination of the appropriate penalty. These considerations are set out in the decision of C (Case 1975/76-04; November 5, 1976, p. 13) as follows:

"What then are the principles that this Tribunal should follow in dealing with an appeal from sentence? First, in my opinion, punishment is not intended to be retribution to get even, as it were, with the student for what he has done. It must serve a useful function. The classical components of enlightened punishment are reformation, deterrence and protection of the public. In applying these criteria, a tribunal should consider all of the following:

- a) the character of the person charged;
- b) the likelihood of a repetition of the offence;
- c) the nature of the offence committed;
- d) any extenuating circumstances surrounding the commission of the offence;
- e) the detriment to the University occasioned by the offence;
- f) the need to deter others from committing a similar offence.

In considering these matters, the Tribunal may have resort to the transcript of evidence if it is available and to any material presented on the appeal which bears on them."

51. The panel considered carefully all the submissions of the University and of the students relating to the appropriate penalty to be imposed. There is no question but that the offences committed by the three students are egregious, offensive, and made all the more invidious because of their connection to an industry that capitalizes on cheating. That the enterprise of businesses like The Essay Place is growing is a fact, made all the more disturbing by the difficulty of detecting when students have purchased an essay. Too often, as was the case in the V W S L matter (Case 440; April 6, 2006), detection of essay purchases will occur fortuitously – there is no “method” available to determine when a student has purchased an essay. What we also recognized was the fact that these businesses prey upon people exactly like Ms. C , Ms. H and Ms. K – students who are far from home, suffering homesickness, and distance from their family, and suffering from the vicissitudes of university life as well. Such businesses as The Essay Place offer an ephemeral, yet effective panacea to the student who is beset by pressure from home to do well in the face of difficult schedules and difficult courses and not enough time or personal resources to address their troubles through counseling. All of these students felt isolated, frightened, lonely, and under massive pressure to obtain a university degree, and they were under pressure to come home with a degree because not to do so would be to disappoint their family – who, in each case, was coping with financial and medical pressures of their own. Their resort to The Essay Place was a last resort – one undertaken to salvage them each from the prospect of returning home to the disapproval of their family and peers, without a degree and with the shame and humiliation of having failed at the university that their family had laboured, sacrificed, and paid for, in the hopes that they would have a reputable and honourable education.
52. As much as the University is the victim of places like The Essay Place, so are each of the three students. Ms. C , Ms. H , and Ms. K , in exchange for the significant cost of a custom essay, now face the additional cost of losing their reputations, their honour with their family, and the prospect of a future with a university degree.
53. It was evident to us that this last set of charges, and the purchase of an essay represented the third in a series of offences. [It was also recognized that in the case of Ms. H , this was her fourth offence.] Certainly, each student displayed a pattern of failing to learn

from her previous offences – and each student had committed a variation on her previous offence. Each offence committed differs from the other. And, it is true that there is little symmetry between the offences. Altering a flight itinerary is different from copying from another student in a 2% quiz. So is the offence of letting one's boyfriend use a term paper done by a friend. And, so is permitting a friend to copy from your mid-term examination. It might well be argued that in the case of giving one's boyfriend a copy of a term paper, or allowing a friend to copy from your mid-term (as was the case with Ms. C and Ms. K respectively) that these are acts of misguided collegiality and really, the commission of an offence by the boyfriend and friend of Ms. C and Ms. K upon them. It might well be argued that these misguided attempts to be magnanimous only exacerbated the stress upon these two students, and impelled them toward greater and more excruciating loneliness and isolation, which then led to the commission of the ultimate offences in this case. Ms. H's first offence involved alteration of a document (a flight itinerary) and although this was not the same as allowing a friend or boyfriend to use one's resources (or a friend's resources), it might well be argued that Ms. H was candid to the Dean about why she was trying to avoid taking her test – she was not prepared to write the test, and she did an act out of desperation to avoid confronting her lack of preparedness. Viewed on its own, it is a bad beginning to an academic career, but it is so entirely different from the subsequent offences that there is a risk to seeing it as part of a real continuum of planned and deliberate dishonesty.

54. It was also our view that the litany of offences being cited in support of the expulsion penalty, must be viewed in the context of what was at stake, especially in respect of the offence related to the 2% quiz. It is clear, and the students admitted, that they all copied from a friend during the term test that was worth 2%. But, the point was that the test was only worth 2%. In this regard, we do not accept the argument put forth that if the students were willing to cheat when the stakes were so low, then this augured badly for what they would be willing to do when the stakes were high. Rather, we are of the view that a more contextual analysis should apply to the discrete offence related to cheating on a 2% quiz. The fact that the quiz was only worth 2% is an indication of the seriousness of the quiz, not the seriousness of the offence. Of course, this does not condone the act of cheating on any quiz. But, it was important to recognize that the students, subjectively,

made a determination that what they were doing at the time was not as grave precisely because the test was only worth 2% of the final grade. That they were wrong in this estimation was admitted by each of them – to the Dean, and to the panel at this hearing. It was our view that the students' understanding of the gravity of what they were doing – and that it evolved after meeting with the Dean, is an important consideration in the continuum of their expression of remorse.

55. This leads to the final consideration of the panel related to the penalty – that of remorse, and that of the prospect of repetition, and the deterrence effect on the community of the penalty imposed.
56. It is arguable that from a deterrence perspective, a five year suspension will have the same effect as an expulsion. Both penalties remove the student from the community. Expulsion is a permanent removal; suspension is not. A five year suspension, though, coming as it does at a time in a student's life when those five years make all the difference, devastates a student's future plans and aspirations, since it pushes out the time within which a student may embark on a university backed employment pursuit. It has the chilling effect of compromising study habits, of undermining momentum in the routine of classes, paper writing, and exam writing, and it threatens to dampen the enthusiasm, the resources for, and the general taste for ramping up that pursuit again. It has, in effect, the same dark consequences as the finality of expulsion, and, it might be argued, if the student returns to pursue studies after the suspension, she is doing so with the cloud on her background together with the requirement that she "re-learn" how to learn in a university environment.
57. As for the objective deterrence associated with a five year suspension, within the university community, it was our view that such a severe lengthy suspension, with its attendant notation on the transcript, would fulfill the need for deterrence, for the "chilling" of the desire to purchase essays, as much as an expulsion would. For us, expulsion should be reserved for those cases where there is a repetition in kind of offences, and not for a series of unrelated, different offences, except in cases where the

kind of offences, albeit different, are so egregious as a whole, that the community cannot tolerate retention of a student even after a long suspension.

58. There are a number of cases that suggest that expulsion is warranted where a series of offences is greater in number and more serious in kind than the pattern evinced by these three students. A review of the decisions contained in the authorities presented show that suspensions (of varying lengths) were imposed in situations where there were a series of offences, and where, in one case, the accused student did not appear. We were persuaded, though, that there is no easy calculus from which to derive a penalty. There ought not to be a formulaic approach to the penalty in any case. Instead, the panel is to look to the previous authorities for guidance, and not mechanically apply principles that have evolved in one case to another, because each case admits of its own collection of facts, circumstances, and mitigating factors. In the end, the four factors that are to be considered in the imposition of a penalty, together with the consideration of character and extenuating circumstances, make it necessary to carefully examine each factual matrix with the help and guidance of previous authorities, and not with the weight of a derived formula attending upon the panel's consideration.
59. That a five year suspension is warranted in this case derives not only from the considerations above, but also from the clear and unwavering expression of remorse by each of the students in this case. We were mindful of how devastated each of the students appeared at the hearing. Their inability to maintain their composure without breaking into tears, together with their expression of extreme regret, suggested to us that in each case, the monumental significance of their dishonesty had been brought home to them as a result of the proceedings. Each of the students were well and truly afraid, indeed, panicked, by the thought of being expelled. They were afraid for the reactions of their parents, and they were appalled by their own actions and by their fundamental failure to heed the prior warnings of the Dean when they were caught cheating on two previous occasions. It appeared to us that these students were deeply shamed, and profoundly ashamed; of what they had done. No penalty could have inflicted the suffering and remorse that these students were feeling; rather, the process of being accountable to the panel, and being held publicly accountable to a tribunal of their peers,

had inflicted the deepest shame and misery of all. That each of the students were humiliated by what they had done goes without saying. And, it is worth observing that the very process of the trial, and all the attendant requirements that the students be publicly confronted with their misdeeds, is often the only thing that brings home the need for change to each of Ms. C , Ms. H , and Ms. K – for that is what was made evident as we observed the conduct of the hearing. From the time that the charges were read, to the conclusion of the submissions, each of these students were galvanized in turn by terror, remorse, sadness, self pity, and profound fear.

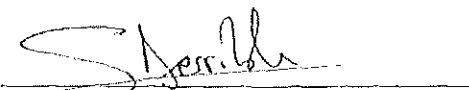
60. The final Order of the Panel is:

- i. S . C , N H and M K shall receive a final grade of zero (0) in the course EAS333H1: "Modernism and Colonial Korea";
- ii. S C , N H and M K shall be suspended for a period of 5 years from the University from June 14, 2010 until June 13, 2015;
- iii. The sanctions shall be recorded on S C 's, N H 's and M K 's academic record and transcript until the Students graduate from the University; and
- iv. 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 at Toronto, this 16 day of November, 2010


Professor Andrea Litvack

Dated at Toronto, this 15 day of November, 2010


Mr. Sybil Derrible

DISSENT (AS TO PENALTY ONLY)

1. This case raises fundamental questions about the penalties that flow from findings of academic misconduct. In particular, this case provides an opportunity to explore the distinction between suspension and expulsion. Is there a bright line between a long suspension and expulsion? If there is, where and when is that bright line made manifest? How does the policy of deterrence interplay with the consideration of mitigating and extenuating circumstance, and the convicted student's expression of remorse? Is there a relationship between the intensity of regret/remorse and the severity of the penalty? Does the expression of regret, the appearance of remorse, and the promise to reform militate against the imposition of that most final sanction of expulsion? How much can a plea, with all of its attendant costs savings and procedural efficiencies, affect the nature of the penalty? Finally, how does the nature of the offence committed affect penalty considerations?
2. These are the questions that lie at the heart of the decision about penalty in this case. I have considered all the reasoning that went into the determination of the panel that resulted in the decision that the appropriate sanction for Ms. C , Ms. H , and Ms. K was to levy a five year suspension. While I agree with many of the considerations that formed the foundation of the decision, I do not agree with the result. And, I believe that there is a different approach that ought to bear upon these difficult penalty decisions, especially in the circumstances of this case.
3. While I do not wish to restate or argue with the findings of the facts that came out during the review of the Agreed Statement of Facts in respect of the offences and the penalty, I review the salient facts below to provide a backdrop to my reasoning about the penalty to be imposed.
4. Ms. C , Ms. H , and Ms. K enrolled in a course, called "Approaches to East Asia" in the fall term of 2009. Each of these students were majoring in East Asian Studies. Ms. C , Ms. H , and Ms. K came to that course with a history of academic dishonesty. Their transcript reflects this fact.

5. In the Winter term of 2009, Ms. C had (knowingly) given her boyfriend a copy of another student's essay. Her boyfriend submitted this essay for academic credit. In a meeting with the Dean, Ms. C was penalized, and given a warning about further academic dishonesty. She apologized, expressed regret, and promised not to be dishonest in the future.
6. In the Summer term of 2008, Ms. H had falsified a flight itinerary to obtain a further deferral of a term test in an economics course. In a meeting with the Dean, Ms. H was penalized, and given a warning about further academic dishonesty. She apologized, expressed regret, and promised not to be dishonest in the future.
7. In the Fall of 2005, Ms. K permitted a friend to copy from her work on a mid term examination. In a meeting with the Dean, Ms. H was penalized, and given a warning about further academic dishonesty. She apologized, expressed regret, and promised not to be dishonest in the future.
8. And so it was that Ms. C, Ms. H, and Ms. K with their respective backgrounds of meetings with the Dean, their promises to refrain from academic misconduct, and their apologies for their misconduct, found themselves, together, in October, 2009, in a class test in their "Approaches to East Asia" course. This term test was worth only 2% of the final grade in the course.
9. Ms. C, Ms. H, and Ms. K all copied from each other, and from another student, in this test. They all submitted answers that were virtually identical. They admit that they collaborated with each other, and copied each other's test answers. They admit that they did so knowing that this was wrong.
10. In the very same month (October, 2009), and in the very same course ("Approaches to East Asia"), Ms. H submitted an essay for credit in the course. Ms. H purchased that essay, from The Essay Place. This was not discovered until much later, but Ms. H admits that she knew when she purchased her essay and submitted it in satisfaction of course requirements in this course, that what she was doing was wrong.

11. It was with the background of their prior offences, and their collaboration on the 2% term test, that Ms. C , Ms. H , and Ms. K individually met with the Dean on December 2, 2009. Each of them received the same stern lecture. Each of them admitted their misdoing. And, each of them pledged allegiance to the principle of academic integrity. They promised to err no further, and did so knowing that subsequent infractions of the *Code* would be treated most severely. Of course, these warnings were not new to these three students. Each of them had previously received the same lecture from the Dean, prior to December 2, 2009, and each of them had previously promised fidelity to the code of academic conduct. Ms. H attended at the Dean's meeting to be censured for having cheated on the term test in October 2009, knowing that she had in the same month submitted an essay for credit that she had purchased from "The Essay Place". The Dean was, at the time, unaware of this purchase; obviously, Ms. H was not so unaware.
12. Ms. C , Ms. H , and Ms. K found themselves together enrolled in another East Asian Studies course in the term that immediately followed their meeting with the Dean in December 2009. This course was called "Modernism and Colonial Korea", taught by Professor Janet Poole. This course required the students to submit an essay that was to be worth 30% of the final grade. In setting this requirement, Professor Poole gave Ms. C , Ms. H , and Ms. K a written warning about plagiarism. This warning was in the syllabus. In addition to extracting the relevant section of the Code about what constitutes an academic offense, Professor Poole stated that "I consider plagiarism to be a serious breach of trust between instructor and student and will refer all cases to the appropriate authority...".
13. And so it was, with this written warning adumbrating the individual personal meetings with the Dean that had occurred in December 2009, that Ms. C , Ms. H and Ms. K approached the impending deadline for submission of this term paper worth 30%. Ms. C , Ms. H , and Ms. K did not address how to deal with this required term paper in isolation. Rather, they collaborated. They had a discussion. They talked about how they each had a history of academic dishonesty, and a history of being censured by the University. They talked about how they knew that cheating was wrong. They knew they had met with the Dean (or Dean's designate) – since it was only three months

earlier, they could hardly forget. They discussed the idea of purchasing an essay to submit for credit in the course. According to the evidence that tumbled out during the cross examination of Ms. K , the discussion did not devolve into a debate about the vicissitudes of this form of cheating – in fact, “no one tried to dissuade the others” from going out and buying an essay.

14. After their discussion, each of Ms. C , Ms. H , and Ms. K repaired to The Essay Place (either virtually or in person) and ordered their custom essay. Each of Ms. C , Ms. H and Ms. K submitted the essay they purchased to Professor Poole on the due date.
15. Ms. C was the first to meet with the Dean’s Designate after discovery of the purchased essays. In her meeting, she initially denied that she had purchased the essay, saying she had received editorial and grammatical assistance from a friend. It was when she was confronted with the document properties found on the essay that she admitted to having purchased the essay from The Essay Place.
16. Ms. H and Ms. K met with the Dean’s Designate after Ms. C . It is not known whether they were made aware of the forensic content of the meeting between the Dean’s Designate and Ms. C , but in any event, they offered up no explanations of any kind. They admitted that they had purchased their essays from The Essay Place.
17. All three of the students were very very sorry for what they had done when it came time for the hearing into the charges of academic misconduct against them on June 14, 2010. Each in their own way made manifest how they deeply regretted their misdeeds. For Ms. C , this was the biggest mistake of her life; Ms. H was speechless – unable to find words to express her remorse; and Ms. K asked for a second chance, promising to use her new chance wisely this time. Each of the students explained the adversity they were facing, in being students far from home, with family settings that were far from ideal. They were all sincerely moved and upset at being in the situation in which they found themselves. Their demeanour throughout was very emotional. There is no doubt about the genuineness of their remorse, and of the real personal cost to each of them of the hearing and the charges, and it was no doubt painful for each of them to admit their guilt.

and have their misdeeds laid bare before them in the Agreed Statement of Facts put before the panel.

18. In my view, expressions of remorse or regret, no matter how heartfelt or sincere, are not enough to mitigate the penalty that flows from this sort of academic dishonesty. Nor do the family adversities experienced by each one of the students amount to a sufficient explanation for the commission of the offence in the manner in which the offences were committed. It cannot be that the severity of an offence such as this can be leavened by pleas of adversity, or expressions of sorrow or remorse. If that were the case, then the penalty phase of the hearing would of necessity call for an analysis of the exhortations of sorrow and a weighing of the catalogue of all the negative events that beset the student who has committed the wrong. To do thus would turn the exploration of extenuating circumstance into the primary focus of the deliberations around penalty. "Extenuating circumstance" is but one of the considerations brought to bear upon the penalty in each student's case. Extenuating circumstance ought not to displace the equally important concerns of the panel when it approaches penalty.
19. What should remain at the forefront of penalty considerations, standing equally with the consideration of "extenuating circumstance", are the factors enunciated in the C decision: the nature of the offence, the detriment of the offence to the University, the deterrence of others, and the likelihood of repetition, are all objective factors, having little to do with emotional protestations and promises of what will happen in the future. The effects on the individual of the hearing process, their anxiety, their stress, and their feelings of remorse and sorrow, are important, and to be sure, if there were an absence of such feeling, the panel would be entitled to infer that there is little left except to impose the most severe penalty possible. But that is not to say that the intense expression of sorrow and remorse is both necessary and sufficient to reduce the penalty levied in any instance.
20. Even if it were true that the outpouring of grief and remorse over their misdeeds ought to militate against expulsion in this case, it is my view that the obligation of a Tribunal is more than to receive heartfelt statements of sorrow, or to accept the maelstrom of

emotion without analysis. While it is not possible to gainsay the extent of the sorrow and remorse, the outpouring of tears, and the self criticism that emanated from each of the students, I observe that in each case, the explanation for their isolation, their sense of loss, and their feeling of alienation, did not cohere with the events that each described as the backdrop to this profound loss of perspective and principle as students at the University.

21. Ms. C reported being distressed about her mother's illness – an illness that appeared to come on in April 2009, and which culminated in her mother having surgery in October of 2009, all occurring against financial troubles in the family. While this might explain why Ms. C cheated on her term test in October 2009, it was clear that her real adversity that she was facing in February/March of 2010 was the fact that she did not want to be in school, and her parents wanted her to stay. I do not regard this lack of desire to be at the University as grounding for a decision to purchase an essay, in collaboration with her friends, in the relevant time period.
22. Ms. H committed her third offence apparently because she had doubts about her own abilities, and, her parents had expectations that she would achieve a University education. Her self doubt, combined with her parent's expectations, and her father's faltering business, led to the third instance of cheating. Self doubt is the hallmark of almost any conscientious student in a university setting. It is a healthy fear of failure that motivates prodigious study. Family finances can certainly combine to deter a student from focusing on their studies, and it is easily imaginable that over arching self doubt combined with a disastrous family financial picture can lead to many forms of thoughtless cheating. There was, however, in Ms. H's case, not the slightest evidence that either her self doubt had become pathological or harmful, or that her family's situation financially placed her thought processes in peril. Her statements about her own adversity were simply those of "self doubt" and "faltering business".
23. Ms. K explained that her parents divorced, and, in the result, her father did not provide financial assistance, presumably to her or the rest of her family. Divorce produces many casualties, not the least of which are the children, who even in their late teens and early

twenties, are caught in the cross fire of the continually debilitating battle over finances and affection. To her family's credit, though, Ms. K ended up attending at the University of Toronto – and she did so after the divorce occurred. Ms. K's story would be heart rending, except for the fact that her parents divorced in 2005, and not in 2009 or 2010, which is when her last two offences were committed. While there is no doubt that the effects of divorce persist long after the initial event, and while it may be that Ms. K was still caught in the emotional after effects of a dissolved family unit, it is hard to imagine why these sad events did not feature at all in her discussions with the Dean's Designate when she was caught cheating – in 2005 and in 2009. We cannot know whether Ms. K was too reticent or embarrassed to offer up this explanation to the Dean in 2005 or 2009, but one would have expected this to be explained in some way – after all, this last offence which is the subject matter of this inquiry was committed five years after her parents divorced.

24. Parsing through the various explanations of extenuating circumstance is the obligation of the panel that hears any evidence of extenuating circumstance. No expression of sorrow, no matter how dramatic or over arching it may be, should immunize a panel from doing so. There are many situations that might well give rise to the commission of an academic offense. And, it is easy to imagine how some circumstances could provide good reason to excuse the commission of the offence. Shock, trauma, depression, loss, sudden illness, separately or together- can cause a student to lose perspective, to forget integrity, and to wander away from principle, or even honesty. Generally, though, what is needed is a connection between the causative symptom or illness or event, and the academic offense. In each case, it is the duty of the student to show the panel how their extenuating circumstance is so closely connected to the commission of the offense as to suggest that their otherwise good judgment was irretrievably clouded, and that the offence occurred during that dark time, and specifically because of it.
25. By contrast, what was explained by all three students in this case - free floating anxiety about family finances, general sadness about a family asunder, or plain unhappiness and self doubt - simply provided colour to the narratives of their various misdeeds. The students' emotional distress provided an overlay to the events, and not what was needed

to provide a causal connection between their individual adversity and the offence in question.

26. There is no question but that these three students present a likelihood of repeating an offence of academic dishonesty. Two of the students (Ms. C and Ms. K) have now committed three offences. Ms. H has committed four -- she purchased not one, but two essays. In this regard, their promise to not re offend makes little difference. Of all the factors, the likelihood of repetition of an offence must be evaluated in this case without regard for the statements of the student. Examining all the evidence, including the counseling reports (more of which will be discussed later), cannot but lead to this conclusion.
27. There is no question but that the offence committed in this case constitutes a detriment to the University. As has been observed on many occasions, the industry of custom essay writing appears to be expanding, not contracting. As stated earlier, its roots are elusive, and, as technology improves, the ghost written essay will no doubt be all but impossible to detect.
28. The evidence in this case showed that the University was able to detect that the essays were written by a custom essay service because certain properties were left imbedded in the metadata in the papers submitted. This metadata showed that the author of the paper was a Michael Thompson, the owner of The Essay Place. Once confronted with this evidence, the students were obliged to admit they had purchased their essays. Obviously, the papers submitted had not been "cleaned" of metadata. Until fairly recently, this "cleaning" was not always possible or available. Much depends upon the software being used in each case.
29. The very disturbing feature of this case is that but for the removal of the "properties" feature on each paper, these offences might never have been detected. One can imagine how the erasure of metadata, and the general "cleaning up" of documents, once implemented as "state of the art, anti-detection" steps, will leave professors with no option but to either require submission of essays with all metadata intact (and thereby usher in a most wasteful forensic exercise to ensure original authorship), or, alternatively,

to eschew essay writing as a means of evaluating a student's progress altogether, lest they be confounded by the plethora of services that offer a means of avoiding the thought and hard work behind essay writing for those who have sufficient funds, and insufficient scruples.

30. Essay writing lies at the core of an education in the University. The student writing an essay labours to marry ideas to expression, and in so doing acquires skills of thought and analysis that few other academic endeavours can produce. If the attempt to stop the expansion of plagiarism through custom essay writing fails, there is little left for principled professors but to find another means to evaluate and teach students how to think and write. For this reason, and because the purchased essay supports an industry founded on cheating, offences related to the purchase of essays must be treated as being at the pinnacle of dishonesty, and therefore calling for the most severe penalty. The detriment to the University is plain and obvious.
31. The last two factors that bear consideration are the nature of the offence and general deterrence occasioned by the penalty. They relate to the question of detriment to the University, discussed above.
32. In my view, the gravamen of the offences committed by these students lies not only in the feeding of an industry that enables cheating, but also in the planning, deliberation and most importantly, the collaboration, that went into these offences. Purchasing an essay from a custom essay writer, for money, is in and of itself an offense to the University. Planning to do so makes it more offensive. Deliberating about it in a group dedicated to that end makes the act more susceptible to censure. This is what happened amongst Ms. C , Ms. H , and Ms. K .
33. But, not only did they deliberate about purchasing the essay, and not only did they plan to purchase the essay, but they discussed how they planned to do so in the face of each having been caught cheating on two earlier, separate occasions. And in the face of acknowledging these events, and in the face of the warnings they received, and in the face of having promised not to re-offend, they each drove forward, and did what they knew was wrong.

34. These students each placed their orders for their essays. They then paid money for their orders. They waited for their essays to be custom written. And then, having received their essays, they submitted them, all the while knowing that they had each twice been caught cheating, that they each twice had abjectly apologized, and that they each twice had promised the Dean (or Dean's Designate) that they would never do so again. These transactions took time – more than 24 hours, and likely more than 48 hours. And in the space of the time it took them to place their orders for a custom essay, and make the payment, and wait for delivery, and then submit their essay, they had time to reflect on their discussion with each other – about how it was wrong, about how they had twice been sanctioned, and about how they had each twice promised to never re-offend. The nature of the offence is not only that it consists of feeding an industry that capitalizes on cheating. The nature of the offence is that it is a transaction that takes time, not one that occurs in the blink of an eye.
35. And, the nature of these particular offences stems from the time taken with each student – twice – by the Dean or Dean's Designate, following on their two prior offences. Each student had the benefit of an explanation of academic dishonesty and the penalties. And each had the benefit of the Dean's (or Dean's Designate) agreeing to take their word that they would not re-offend.
36. Each of Ms. C , Ms. H , and Ms. K let down the Dean (or Dean's Designate). They did not keep their word that they would not re-offend. Indeed, as they discussed their plan to purchase their essays, the students were reminded of their previous sanctions and, presumably, of their promises.
37. The University's principles of academic conduct are founded on the principle of integrity; the University's approach to events of dishonesty is one of democracy, fairness, and forgiveness. That is the only way to explain why the students each received an opportunity to reform when they committed offences, not once, but twice before. Each time, they received a stern warning from the Dean or the Dean's Designate. They received an oral and a written admonition about cheating. And, their promises about how they learned and would not re-offend were recorded and recognized. Each time, the

students were accorded respect and deference with regard to their acknowledgements of wrongdoing and promises for a better path in the future.

38. By discussing their plan to purchase their essays together, and by their advertence to their previous sanctions for academic dishonesty, Ms. C , Ms. H , and Ms. K made a mockery of the decanal process for dealing with academic offenses in the first (and second) instance. It is trite to say that the time expended in investigating and discussing the earlier offences of each student, and recording the discussion and promises made, was significant. Clearly, in each case, the Dean (or Dean's Designate) sincerely believed that the students would reform, and this hope animated each letter to each student. The students were given a "second chance".
39. When these students discussed their prior offences, and when these students effectively supported each other in their pursuit of a custom written essay, they defaced the practices and procedures put in place at the decanal level to address academic dishonesty. Their discussion and planning and deliberation in the purchase of their essays transforms the letters from the Dean, and the meetings with the Dean into what must have been for them the risible pro forma speeches of an avuncular presence – an event to be lived through rather than the sincerely well meant discussion that was meant.
40. There can be no better reason than to penalize these students with expulsion. In their planning and deliberation, they made a mockery of the processes of the University. In their defence, they mobilized the resources of the University – the counseling service. They did so not to show how their actions were affected by the trauma of their lives, but rather to show how the meting out of justice (in the form of a hearing) was an assault upon their sensitivities. And, they mobilized what the University had offered to them (counseling) to show that the stress of being brought to justice justifies their entitlement to suspension, and not expulsion.
41. No student should be entitled to prey upon the resources of the University, either for counseling, or for procedural fairness in being given a second, or third chance, to mend their ways. Ms. C , Ms. H , and Ms. K each asked the panel to do just that – to ignore that they planned and deliberated together to buy an essay; to ignore that they had

collaborated and cheated together on an earlier test, and had promised never to cheat again, and to ignore that they mobilized the counseling resources of the University to show that their anxiety about being held to account for their collaboration should exonerate them from the most severe penalty.

42. I approach the issue of general deterrence differently from the majority of the panel. While it may be quite true from a practical perspective that a long suspension will have the same deterrence effect as an expulsion, that does not address the issue of how to structure a penalty analysis in general. The idea of "deterrence" is a key factor in the penalty process. The decision in C makes that clear. In my respectful view, it is not for the panel to determine whether one penalty or the other will actually have a deterrent effect. This can never be known precisely. It is therefore the duty of the panel to address deterrence within the context of a fair and fairly calibrated penalty system. The majority of the panel was disposed to impose a suspension rather than an expulsion for two main reasons – first, that the remorse expressed by the students was sufficient to consider a penalty short of expulsion, and secondly, that the deterrence effect of a long suspension was functionally no different from that which would occur if expulsion was imposed. The problem with imposing a penalty other than expulsion, in the face of the pre existing reasoning about these kinds of offences, is that it imposes a subjective analysis upon what should be a purely objective analysis. The pre existing decisions about penalties where essays were purchased militate in favour of imposing the most severe of penalties. It is not necessary to review those decisions in these reasons. At the heart of the reasoning in the previous decisions was the proposition that both the infraction (the essay purchase) and the industry that makes such cheating possible, can only attract the most severe penalty – not because it would actually deter, but because it expressed the disapproval of the University of such behaviour, and because only the meting out of the most severe penalty possible (expulsion) would have the chance of reducing demand for the services that make this type of cheating possible. It would be folly for a panel to either invite submissions about or enter into deliberations about whether one penalty or another would incite or depress recidivism. Rather, in my view, a panel ought to receive and recognize the scale of penalties, and weigh the factors associated with penalty before coming to a decision about penalty. The consideration of actual deterrence is, in my view, irrelevant

to the ultimate decision on penalty – in this case, there was no evidence led as to actual deterrence, and therefore no basis for the panel to embark on such an analysis. Moreover, requiring such evidence would be counterproductive to the proper considerations for penalty.

43. In all these circumstances, and for all these reasons, I differ from the penalty imposed by the panel, and I would impose a sanction of zero in the course, an immediate suspension, together with a request that the President recommend to the Governing Council that the students each be expelled, and that the reasons therefore be published, in respect of each student, with their names withheld.

Dated at Toronto, this 10th day of November, 2010



Ms. Julie Hannaford, Co-Chair