

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION**

IN THE MATTER OF charges of academic misconduct made on October 9, 2013;

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 [REDACTED] - H [REDACTED] K [REDACTED]

REASONS FOR DECISION

Hearing Date: February 20, 2014

Members of the Panel:

Ms. Roslyn Tsao, Barrister and Solicitor, Chair
Professor Charmaine Williams, Faculty of Social Work, Faculty Panel Member
Ms. Lucy Chau, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. S [REDACTED] - H [REDACTED] K [REDACTED], the Student, via Skype

In Attendance:

Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto
Mississauga
Ms. Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

1. The hearing of this matter was conducted via Skype, on consent, as the Student currently resides in Taiwan.
2. The Student confirmed that she had had the opportunity to seek legal advice and representation but declined to have such representation at the hearing.
3. The Student and the University submitted an Agreed Statement of Facts ("ASF") and Joint Book of Documents. The ASF was signed by the Student and University. In the ASF, the Student admits to committing the academic offence of knowingly using or possessing an unauthorized aid under section B.I.1(b) of the Code (the "Offence").
4. The Student was charged on October 9, 2013 of committing the Offence on February 14, 2013 during a quiz in LIN100Y5Y. The Student was also charged with an alternative offence contrary to section B.I.3(b) of the Code, which charge was withdrawn following a finding of guilt of the Offence.
5. The Student admits to having used four small sheets of paper that contained notes relevant to the quiz and did so knowing that such notes were not permitted during the quiz.
6. As such, the elements of the Offence have been admitted and the Panel accepts the Student's guilty plea to the Offence and notes the alternative charge as being withdrawn.

Penalty

7. The Student and the University submitted a Joint Submission on Penalty, proposing the following sanctions:
 - (a) The Student will receive a final grade of zero in the course LIN100Y5Y;
 - (b) The Student to be suspended for three (3) years from the University of Toronto, commencing on the day the Tribunal makes its order;

- (c) A notation of the sanction to be recorded on the Student's academic record and transcript from the date of the order until the Student's graduation; and
 - (d) The case to be reported to the Provost for publication, with the name of the Student withheld.
8. The Student and the University also submitted an Agreed Statement of Facts on Penalty with documents. The relevant circumstances in this matter are as follows:
- (a) The Student is 27 years old and came to Canada when she was 20 years old from Taiwan. The Student commenced studies at the University of Toronto in 2010.
 - (b) There are two prior findings of guilt for the Student for two separate offences:
 - (i) In June, 2011, the Student committed a similar offence by bringing 4 pieces of papers with handwritten notes into an examination. The Student was confronted with the allegations and admitted her guilt at the Dean's Designate level on November 17, 2011. The Student was sanctioned with a mark of zero for the examination and an annotation on her transcript for 6 months. The Student was warned of the seriousness of the incident and that any subsequent allegation of academic offence would be referred directly to the Tribunal.
 - (ii) On November 15, 2011, the Student submitted an assignment in LIN200H5F which, she subsequently admitted, had been prepared with unauthorized assistance. Again, the Student admitted her guilt to the Chair of the Department at the earliest opportunity. Because the Chair was not aware of the earlier offence (as it had not been disposed of at that time), he imposed a sanction of a mark of zero for the Assignment. Subsequently in February 2012, after the Student had failed to return a signed Acknowledgment of Receipt of the letter with the sanction, the

Vice-Dean sent a further letter to the Student after having also discovered that there was an earlier finding of guilt. The penalty was not amended despite this new information but the Student was again warned of the seriousness of any subsequent academic offence.

9. After the commission of the within Offence in February, 2013, the Student met with the Dean's Designate on June 19, 2013 and pleaded guilty to the Offence at that time. The Student explained that she had been on academic probation and was worried about a coursework, that she had struggled with depression and anxiety since she was a teenager, had been on medication for many years and was isolated.
10. For this hearing, the Student has provided letters and reports from healthcare professionals which state:
 - (a) In about April, 2013, the Student sought assistance from the UTM Health and Counselling Centre with Dr. Dunstall;
 - (b) On June 7, 2011, the Student was brought to Credit Valley Hospital by UTM police for suicidal ideation and depression after meeting with her academic counsellor. The emergency physician certified that the Student was unable to care for herself at that time; and
 - (c) At that time, she was referred to a psychiatrist, Dr. M Singh, and, following her discharge on June 9th, she continued as an outpatient of Credit Valley Hospital treated by Dr. Singh with counselling and medication. Dr. Singh diagnosed the Student with Major Depressive Disorder.
11. The Student left Canada on August 15th to return to Taiwan and currently lives with her family in Taiwan. She advises that she is under the care of a physician in Taiwan whom she sees monthly for continuing treatment for her depression and anxiety.

12. The Student is currently looking for work and not engaged in studies but has indicated her intention to return to studies, at the University of Toronto, at the end of any suspension.
13. It is not contradicted that the Student has a history of anxiety and depression both before coming to Canada and more recently, as diagnosed based on the reports from Dr. Dunstall and Dr. Singh since at least Spring 2013.
14. In response to questions from the Panel, the Student confirmed that she had been treated for depression in Taiwan before coming to Canada but that she had not sought medical assistance when she came to Canada until Spring 2013.
15. The University has been fair in its position that, but for the following mitigating circumstances, the penalty that it would have sought would have been more serious than the 3-year suspension that is presented to the Panel:
 - (a) The Student has pleaded guilty at the earliest opportunity and has cooperated fully with the process, including attending the hearing by Skype after moving back to Taiwan;
 - (b) The Student's seeking of and compliance with medical treatment for her anxiety and depression after the Offence and since returning to Taiwan demonstrates the Student's acknowledgment of the seriousness of her situation and her attempts to address same; and
 - (c) The Student has expressed her remorse both immediately after committing the Offence and throughout the process, including at the hearing.
16. The University has also rightly submitted that "while the Student's depression and anxiety are relevant to the appropriate sanction, her medical condition neither excuses nor justifies her unacceptable conduct". (see F [REDACTED] (2013), paragraph 12)

17. The Panel views the Student's mental health challenges as relevant considerations to penalty insofar as fashioning an appropriate disposition for this Student. We wish to add that the Student has admitted that she was aware at the time of the offence that her conduct consisted of academic dishonesty and, as such, her mental health history, in itself, is not a mitigating factor for penalty on the basis that her ability to know "right from wrong" was impaired and can excuse knowingly dishonest behaviour.
18. Given the circumstances and documentation provided, the Panel accepts the Joint Submission on Penalty and orders accordingly. Had the Student not cooperated throughout nor provided insight into her personal circumstances, the Panel would not have hesitated to impose a more serious penalty given the prior two (2) offences.
19. The Panel has expressed its sincere hope that the Student will succeed in her goals of completing her education and continue to access medical and counselling supports. The Panel felt that her remorse was genuine and that the medical reports that were submitted were helpful to the Panel in determining penalty.

Dated at Toronto, this 11th day of March, 2014.



Roslyn Tsao, Co-Chair