THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on June 27, 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

B E T W E E N:

THE UNIVERSITY OF TORONTO

- AND –

O[redacted] K[redacted]

Dates of Hearing: November 8, 2013 & January 24, 2014

Members of the panel:
Ms. Julie Rosenthal, Barrister and Solicitor, Chair
Professor Markus Bussmann, Faculty of Applied Science and Engineering, Faculty Panel Member
Mr. Adel Boulazreg, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland, Barristers
Professor Janet Poole, Instructor for EAS209H1: Approaches to East Asia
Ms. Sara Osenton, Graduate Student, Department of East Asian Studies, Faculty of Arts and Science
Dr. Lisa Smith, Academic Integrity Officer, Faculty of Arts and Science
Professor Don Dewees, Dean's Designate, Faculty of Arts and Science
No one appearing for the Student

In Attendance:
Ms. Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Reasons for Decision

Introduction and Preliminary Matters

1. The Trial Division of the University of Toronto Tribunal was convened on November 8, 2013 and then again on January 24, 2014 to consider a number charges advanced by the University against O[redacted] K[redacted] (the "Student") under the *Code of Behaviour on Academic Matters*.

2. On the first day of the hearing, the Tribunal waited 15 minutes after the appointed time for the start of the hearing. Neither the Student nor any representative of hers arrived.

3. In support of its request to proceed in the absence of the Student, the University introduced the affidavit evidence of Janice Patterson, a legal assistant to the Discipline Counsel who was acting in the matter. Ms. Patterson's evidence established that the Student was served with notice of the charges against her on June 27, 2013. Service was effected by emailing a copy of the charges, along with a covering letter to the email address the Student had provided to the University's Repository of Student Information (known informally as "ROSI").

4. Ms. Patterson's evidence established that several additional emails relating to the scheduling of the hearing, including a copy of the Notice of Hearing, were sent to the Student at the same email address.

5. Ms. Patterson's evidence was that she was not aware of the Student having responded to any of the foregoing emails.

6. The University also introduced the affidavit evidence of Natalie Ramtahal, the Coordinator, Appeals, Discipline and Faculty Grievances at the Office of the Governing Council.

7. Ms. Ramtahal stated in her affidavit that, on June 27, 2013, she sent a letter to the Student referencing the letter that had enclosed a copy of the charges (which had been sent earlier that day by the Vice-Provost). Ms. Ramtahal's letter explained that a panel would be established to hear the matter and urged the Student to seek legal advice. The letter was sent by email and by courier to the email address and two street addresses, respectively, that the Student had provided to ROSI. According to ROSI, one of those addresses expired several weeks after the courier package was sent.

8. Ms. Ramtahal testified that she sent further emails to the Student and further letters to the unexpired street address. Among other things, these emails and letters included a copy of the Notice of Hearing and a further copy of the charges. The Notice of Hearing was sent to the Student on September 10, 2013, almost two months before the hearing convened. A further reminder was sent to the Student by courier to the unexpired street address on the day before the hearing.

9. Ms. Ramtahal did not receive any response to any of the foregoing correspondence.

10. The Tribunal had to consider whether it was appropriate to proceed with the hearing in the Student's absence. Such a manner of proceeding – assuming that reasonable notice has been given – is authorized by section 7(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, which states as follows:

> Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.

11. In addition, Rule 17 of the Tribunal's *Rules of Practice and Procedure* states:

> Where notice of an oral hearing . . . has been given to a person in accordance with this rule, and the person does not attend at or does not participate in the hearing, the panel may proceed in the absence of the person or without the person's participation and the person is not entitled to any further notice in the proceeding.

12. The requirement to give reasonable notice is set out in section 6(1) of the *Statutory Powers Procedure Act*:

> The parties to a proceeding shall be given reasonable notice of the hearing by the tribunal.

13. With respect to whether the Student was given reasonable notice, the Tribunal has considered Rule 9 of the *Rules of Practice and Procedure* which provides that service of a notice of hearing may be effected in a number of different manners, including, by sending a copy to the student's mailing address or email address contained in ROSI. Rule 9 states as follows:

> Charges, notice of hearing, disclosure, material for use on motions, orders, and reasons for decision may be served on a student or sent to a student:
> ...
> (b) by sending a copy of the document by courier to the student's mailing address contained in ROSI . . . and service shall be effective on the day the document is delivered by courier;
>
> (c) by e-mailing a copy of the document to the student's e-mail address contained in ROSI . . . and service shall be effective on the day the document is sent by e-mail.

14. In the present case, the Tribunal finds that service of the notice of hearing was validly effected on the Student, by virtue of the fact that the notice of hearing was sent both by e-mail to the Student's e-mail address contained in ROSI and by courier to the Student's mailing address contained in ROSI. We find that this constitutes effective service under the *Rules of Practice and Procedure* and meets the requirement of reasonable notice as set out in the *Statutory Powers Procedure Act*.

15. In reaching this conclusion, we note that the University's *Policy on Official Correspondence with Students* imposes an obligation on students to advise the University, on the ROSI system, of a current and valid mailing address and a University-issued email account. The *Policy* states as follows:

> Students are responsible for maintaining and advising the University, on the University's student information system (currently ROSI), of a current and valid postal address as well as the address for a University-issued electronic mail account that meets a standard of service set by the Vice-President and Provost.
>
> Failure to do so may result in a student missing important information and will not be considered an acceptable rationale for failing to receive official correspondence from the University.

16. In addition, the Policy requires students to monitor and retrieve their mail and their e-mail. It states:

> Students are expected to monitor and retrieve their mail, including electronic messaging account[s] issued to them by the University, on a frequent and consistent basis.

17. Given that reasonable notice was given and that no response was received from the Student, the Tribunal found it to be appropriate to proceed with the hearing in the Student's absence.

The Charges and the Alleged Misconduct

18. The charges against the Student were as follows:

(1) On or about February 15, 2013, you knowingly represented as your own an idea or expression of an idea and/or the work of another in a reading response that you submitted for academic credit in EAS209H1 (the "Course"), contrary to section B.I.1(d) of the *Code*.

(2) In the alternative, on or about February 15, 2013, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind in connection with a reading response that you submitted in the Course, contrary to section B.I.3(b) of the *Code*.

(3) On February 26, 2013, you knowingly possessed an unauthorized aid in a make-up quiz that you wrote in place of Tutorial Quiz #1 in the Course, contrary to section B.I.1(b) of the *Code*.

(4) In the alternative, on February 26, 2013, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind in connection with a make-up quiz that you wrote in place of Tutorial Quiz #1 in the Course, contrary to section B.I.3(b) of the *Code*.

(5) On or about March 4, 2013, you knowingly obtained unauthorized assistance in connection with a partial draft essay that you submitted for academic credit in the Course, contrary to section B.I.1(b) of the *Code*.

(6) On or about March 4, 2013, you knowingly represented as your own an idea or expression of an idea and/or the work of another in a partial draft essay that you submitted for academic credit in the Course, contrary to section B.I.1(d) of the *Code*.

(7) In the alternative, on or about March 4, 2013, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind in connection with a partial draft essay that you submitted in the Course, contrary to section B.I.3(b) of the *Code*.

(8) On or about March 19, 2013, you knowingly obtained unauthorized assistance in connection with an essay that you submitted for academic credit in the Course, contrary to section B.I.1(b) of the *Code*.

(9) On or about March 19, 2013, you knowingly represented as your own an idea or expression of an idea and/or the work of another in an essay that you submitted for academic credit in the Course, contrary to section B.I.1(d) of the *Code*.

(10) In the alternative, on or about March 19, 2013, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind in connection with an essay that you submitted for academic credit in the Course, contrary to section B.I.3(b) of the *Code*.

19. The charges relate to four different acts of misconduct all of which are alleged to have occurred in one course, namely East Asian Studies 209H (referred to hereinafter as the "Course"). Charges #2, 4, 7 and 10 are advanced only in the alternative. Discipline Counsel indicated that those charges would be withdrawn if convictions were entered on the remaining charges.

The Reading Response

20. Professor Janet Poole, who taught the Course, testified at the hearing. She testified that the course work included three "reading responses". For each reading response, the students were required to relate specified assigned readings to certain designated themes and concepts. The students were specifically instructed that they were not permitted to use any outside sources in completing these assignments. The assignments were to be marked by the teaching assistants who were helping Professor Poole with the course.

21. The teaching assistant responsible for grading the Student's work was named Kristin Shivak. In early March 2013, Ms. Shivak sent an email to Professor Poole relating to the Student's second reading response assignment. Ms. Shivak wrote that she had noticed some suspicious similarities between the Student's submitted work and a particular scholarly article available online.

22. Upon further investigation, Professor Poole found that a number of phrases in the Student's assignment were identical to those in the scholarly article in question. The article was entered into evidence at the hearing. There were, indeed, several long phrases

and sentences that appeared to be copied almost verbatim from the article into the Student's reading response.

23. Professor Poole also undertook her own research search and found a second scholarly article with two rather long sentences in its introductory paragraph that were virtually identical to the introductory sentences in the Student's assignment. This second scholarly article was also entered into evidence.

The Make-Up Quiz

24. Professor Poole explained that the Student e-mailed her, relatively early in the term, to say that she had missed the Course's first in-class quiz for health reasons and to arrange to write a make-up quiz, which was held on February 26, 2013. The make-up quiz was worth 10% of the Course's final grade. The students were not permitted to use any aids while writing the make-up quiz. Professor Poole was not supervising the students as they wrote the quiz. That job fell to Sarah Osenten, a graduate student in the East Asian Studies department.

25. Ms. Osenten testified that the make-up quiz was held in a faculty boardroom. Only three students (including the Student) were writing the make-up quiz. All of the students were told to leave all of their belongings (with the exception of a pen) on the floor, against the wall, and to find a seat at the boardroom table placed in the middle of the room. Once seated at the table, the students were each given a test paper and two blank sheets of paper on which to write their answers.

26. As she watched the students, Ms. Osenten noticed that the Student was keeping one of her hands in her lap, which struck Ms. Osenten as peculiar, because it made it difficult for the Student to keep her answer paper still as she wrote on it. After several minutes, Ms. Osenten looked away. When she looked back, it appeared to her that something had been placed underneath the Student's answer paper. Ms. Osenten asked the Student to give her whatever was under the answer paper. She testified that the Student then squealed and tried to pull all of her papers towards her.

27. Ms. Osenten could see that there was an additional piece of paper, covered with type-written text in very small font, hidden underneath the Student's answer paper. Ms. Osenten seized the additional page, which was entered into evidence as an exhibit at the hearing. Professor Poole explained that the notes on this additional page related to various readings that were the subject of the make-up quiz.

The Draft Essay and the Essay

28. As part of the course work, the students were required to produce an essay of six to eight pages in length. Prior to submitting the final essay, the students were required to submit the essay's introductory paragraph and one further paragraph from the essay (collectively referred to hereinafter as the "draft essay"). The purpose of submitting this draft essay was to enable Professor Poole to verify that the students were "on the right track". The students were told that the essay was to be based on the course readings and that it was not to be a research paper.

29. The Student submitted her draft essay, which Professor Poole reviewed. Certain aspects of the draft caught her attention and raised her suspicions. For example, a

number of the ideas expressed in the draft were not ideas that had been discussed in class. In addition, the draft used fairly complex terminology that, again, had not been discussed in class.

30. The draft was submitted in MS Word format, which allowed Professor Poole to check its "document properties". Those properties showed the author of the draft as being a person named "Doug Manson", which was not the name of the Student. (This was in contrast to the "document properties" of the reading response, which showed the Student's name in the "author" field.)

31. The Student subsequently submitted her final essay. Once again, certain aspects of the essay caught Professor Poole's attention and raised her suspicions. First, in order to complete the essay, the students were to choose three or four readings on which to base their work. The Student's essay focused on three readings that had not yet been covered in class. In Professor Poole's experience, this was very unusual. In addition, the writing style of the essay (which was marked by a number of long, complex sentences using highly specialized vocabulary) stood in stark contrast to the writing done by the student on an in-class quiz (which was marked by very simple sentences, demonstrating no more than a basic knowledge of the English language).

32. As with the draft, the essay was submitted in MS Word format. Professor Poole checked the "document properties" of the essay. Again, the properties showed the author of the essay as a person named "Doug Manson".

33. The Tribunal notes that Discipline Counsel introduced evidence consisting of a "LinkedIn" profile and a "Facebook" page, each of which is purports to relate to an

individual named Doug Manson (whether the same Doug Manson, it is not known). The LinkedIn profile simply indicates that Mr. Manson is a "salesman". The Facebook page indicates that Mr. Manson is an "Essay and Report Writer and Editor" and states that he is engaged in "Helping University and College Students with Essays and Reports". Discipline Counsel invited the Tribunal to conclude that the Mr. Manson associated with the Facebook page was the same Doug Manson indicated as the author on the "document properties" of the Student's draft essay and final essay. The Tribunal, however, declines to reach such a conclusion. In short, the evidence is not sufficient to connect the Mr. Manson of the Facebook Profile to the Mr. Manson of the document profiles. We have no way of knowing how common the name "Doug Manson" is. Without such evidence, or without something more to establish that the two people are one and the same, we simply cannot conclude that the Doug Manson associated with the Facebook page is in fact the same Doug Manson who is listed as the author of the Student's draft essay and final essay.

Meeting with the Student at the Office of Student Academic Integrity

34. On May 9, 2013, the Student attended at a meeting with Dr. Lisa Smith, an integrity officer at the University's Office of Student Academic Integrity, Professor Donald Dewees, the Dean's Designate, and Kasha Visutsky, another integrity officer at the Office of Student Academic Integrity.

35. Both Dr. Smith and Professor Dewees testified with respect to what was said at that meeting. There were no conflicts between their respective testimony.

36. With respect to the reading response, Dr. Smith testified that the Student admitted that she had used sources that she had found on the internet. The Student also admitted that the ideas contained in her reading response were not her own, but were rather those of the sources she had found on the internet. Professor Dewees testified that the Student admitted that she had knowingly represented as her own the ideas of another, consistent with the *Code*'s definition of plagiarism.

37. With respect to the make-up quiz, Dr. Smith testified that the Student admitted that she had the typed notes with her when she was writing the quiz. However, she insisted that she had not intended to use the notes and, therefore, did not have the intent to cheat.

38. With respect to the essay, Dr. Smith asked the Student certain questions about the contents of the essay. The Student's answers revealed that she did not understand the meaning of some of the terms used in the essay. For example, she did not know the meaning of the word "utopian". As a further example, the Student did not know how many years there were in a century (another term used in the essay), and she admitted that she struggled with English (which was not her first language).

39. Professor Dewees testified that, when asked about the process she followed for writing the essay, the Student was very vague. Professor Dewees found this telling, as, in his experience, students can typically describe the steps that they followed to complete an assignment in great detail.

40. When pressed further, the Student admitted that she had benefited from what she termed "peer editing". The Student initially insisted that the "peer editor" (there was

only one) did not actually edit her essay. Rather, she said that the "peer editor" had made comments, which she had then implemented. However, as the meeting wore on, the Student's story changed. She eventually admitted that the "editor" was responsible for at least 50% of the essay.

41. The Student also admitted that the "editor" had helped with the two paragraphs submitted as the draft essay.

42. In the end, the Student admitted that she had received unauthorized assistance in connection with the essay and with the draft essay and she admitted that she had understood that this type of assistance was not permitted in the Course.

43. When asked who her peer editor was, the Student was not forthcoming. She was then asked whether she knew Doug Manson. She initially denied knowing him, but then admitted that she did, in fact, know him and that he had helped her with her essay. When asked whether she had paid Mr. Manson for his help, she insisted that she had not done so.

Analysis – Consideration of the Charges

44. The burden of proof is on the prosecutor, to show on "clear and convincing evidence" that the Student has committed the alleged offences. *Code of Behaviour on Academic Matters*, section C.II(a)(9).

(a) The Offence Related to the Reading Response

45. The charge related to the Student's reading response was brought under Section B.I.1(d) of the *Code*, which states as follows:

> It shall be an offence for a student knowingly . . . to represent as one's own any idea or expression of an idea or work of another in any academic examination or term test or in connection with any other form of academic work, i.e. to commit plagiarism.

46. As discussed above, the evidence establishes that that a number of phrases in the Student's assignment were identical to those in the two scholarly articles that were entered into evidence. Both articles were available online. Moreover, the Student admitted having committed the offence. She admitted that the ideas contained in her reading response were not her own ideas, but were rather the ideas expressed in sources that she had found on the internet. And she admitted that she had tried to pass those ideas off as her own.

47. Accordingly, the Tribunal finds the Student guilty on the first charge, namely, that on or about February 15, 2013, she knowingly represented as her own an idea or expression of an idea and/or the work of another in a reading response that she submitted for academic credit in EAS209H1, contrary to section B.I.1(d) of the *Code*.

(b) The Offence Related to the Make-Up Quiz

48. The charge related to the make-up quiz was brought under Section B.I.1(b) of the *Code*, which states as follows:

> It shall be an offence for a student knowingly . . . to use or possess 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.

49. As discussed above, the evidence establishes that the Student possessed a sheet containing notes relating to the assigned readings which were the subject of the quiz. The

Student was not permitted to be in possession of such notes during the writing of the quiz. And, indeed, the Student admitted that she knew that such aids were not allowed.

50. Accordingly, the Tribunal finds the Student guilty on the third charge, namely that, on February 26, 2013, she knowingly possessed an unauthorized aid in a make-up quiz that she wrote in place of Tutorial Quiz #1 in the Course, contrary to section B.I.1(b) of the *Code*.

The Offences Related to the Draft Essay and the Essay

51. Discipline Counsel sought convictions on two separate charges with respect to each of the draft essay and the essay itself. Specifically, for both the draft essay and the essay itself, Discipline Counsel sought convictions of a charge that the Student had knowingly obtained unauthorized assistance with respect to the assignment (contrary to section B.I.1(b) of the *Code*) and that the Student had knowingly represented as her own the idea of another in the assignment, i.e. that the Student had committed plagiarism (contrary to section B.I.1(d) of the *Code*).

52. The offence of unauthorized assistance, as set out in section B.I.1(b), is as follows:

> It shall be an offence for a student knowingly . . . to use or possess 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.

53. The offence of knowingly representing as one's own the ideas of another – i.e. the offence of plagiarism – is set out as follows in section B.I.1(d):

> It shall be an offence for a student knowingly . . . to represent as one's own any idea or expression of an idea or work of another in any academic examination or term test or in connection with any other form of academic work, i.e. to commit plagiarism.

54. The evidence was clear that, for both the draft essay and the final essay, the Student obtained the assistance of another person – namely, Doug Manson. In this respect, the Tribunal notes that the writing styles manifested in both the partial draft essay and the final essay differed markedly from the writing style shown in the Student's in-class test. The Tribunal also notes that the "document properties" of both the partial draft essay and the final essay reveal the author to be "Doug Manson". (By contrast, in the Student's second reading response, the author shown in the "document properties" was the Student herself.) In addition, the Tribunal relies upon the evidence of Professor Dewees, who testified that the Student did not know the meaning of some of the words used in her essay, and could not provide any details as to the process that she followed for writing the essay. Finally, there is the compelling evidence that the Student admitted that Mr. Manson had helped her with the draft essay and that he had written at least half of the final essay.

55. Discipline Counsel asked the Tribunal to find that the Student had paid Mr. Manson for his assistance, that she had purchased the essay from Mr. Manson. Although there was no evidence that money had changed hands, Discipline Counsel argued that the Tribunal should draw the inference that the essay (and the draft essay) had been purchased from the following evidence:

(a) the "document properties" which showed Mr. Manson as the author of the essay and the draft essay;

(b) the type of language used in the assignments, which, according to Discipline Counsel "bore the hallmarks of a purchased essay"; and

(c) the evidence of the Facebook page for a person named "Doug Manson", who apparently helps "university and college students with essays and reports".

56. As discussed above, the Tribunal finds that there is insufficient evidence to establish that the "Doug Manson" who helped the Student with her essay and draft essay is the same as the Doug Manson whose Facebook page was entered into evidence.

57. With respect to the language of the essay and the draft essay, evidence was given by Professor Poole that the language in both the draft essay and the essay itself was similar to language that she had "encountered in purchased essays" in the past. However, Professor Poole's opinion as to the language in the Student's assignments does not provide a sufficient evidentiary basis for concluding that the Student paid Mr. Manson (or, indeed that she paid anyone) for the essay or the draft essay. We note that there is no evidence that Mr. Manson writes essays in exchange for payment. There is also no evidence of any payment occurring between the Student and Mr. Manson. The only evidence is that the Student repeatedly denied having purchased the essay when the proposition was put to her by Professor Dewees.

58. For these reasons, the Tribunal finds that the evidence does not establish that either the draft essay or the essay was purchased.

59. One final matter needs to be addressed. As noted above, the University sought convictions on two charges for each of the partial draft essay and the essay. More specifically, Discipline Counsel argued that, based upon the finding that both the draft essay and the essay contained work that was not the Student's own work, the requisite elements of the offences of both unauthorized assistance and plagiarism had been proven and that, accordingly, convictions should be entered on both charges. The Tribunal disagrees.

60. First, it should be noted that Discipline Counsel advised that she was not aware of any other case wherein a student had been convicted both of obtaining unauthorized assistance and of plagiarism in circumstances where the student submitted work that was completed by another person. Given that the facts in the present case are hardly unique, the Tribunal thinks that this fact is telling.

61. Second and more importantly, Appendix "A" of the *Code* provides a "more detailed account of plagiarism". Paragraph (p) of Appendix "A" states as follows:

> The present sense of plagiarism is contained in the original (1621) meaning in English: "the wrongful appropriation and purloining, and publication as one's own, of the ideas, or the expression of the ideas . . . of another." [emphasis added]

62. As we have emphasized in the preceding quote, the offence of plagiarism as defined in the *Code* consists, in part, of the "purloining" of another person's ideas. "Purloining" is, of course, a synonym for "stealing", taking without authorization.

63. That the notion of theft or misappropriation lays at the heart of plagiarism is consistent with the common understanding of plagiarism, i.e. that it consists of the use of

another's words ideas without due attribution through the use of citations. Discipline Counsel's reading of the offence of section B.I.1(d) would give no effect to this central concept of stealing or theft (or to use the language of the *Code*, "purloining").

64. Moreover, such a reading of the offence of plagiarism would broaden it to such a degree that it would encompass other, separately defined offences, rendering those other offences superfluous. For example, section B.I.1(c) of the *Code* makes it an offence to "personate another person, or to have another person personate, at any academic examination or term test or in connection with any other form of academic work". If Discipline Counsel's reading of plagiarism is correct, then a student who had someone "personate" him or her for the writing of a test, thereby committing a clear violation of B.I.1(c), would also have committed the offence of plagiarism, since the student would have represented as his or her own ideas the ideas of the person who actually wrote the test. Such a reading of section B.I.1(d) would thus make section B.I.1(c) superfluous. Basic rules of statutory interpretation caution against such a reading.

65. Accordingly, we find that the offence of plagiarism, as defined in section B.I.1(d), includes the element of theft, i.e., of taking another's ideas or words <u>without that person's permission</u>.

66. In the present case, as Discipline Counsel confirmed, there is no suggestion that the Student lacked permission from Doug Manson for the use of his ideas. On the contrary, the University's position is that Mr. Manson did, in fact, grant his permission to the Student to use his ideas and his work.

67. Given that there was no lack of permission (indeed, the University's position is that permission was affirmatively granted) for the Student's use of Mr. Manson's words and ideas, the Tribunal concludes that Student did not commit the offence of plagiarism when she submitted her draft essay and her essay.

68. Before leaving this discussion, the Tribunal notes that Discipline Counsel referred us to one case where the student was convicted of plagiarism for having submitted work that was completed by another person. In that case (*University of Toronto v. A[redacted] L[redacted]*, Case No. 410; August 20 2007), the student had enlisted two friends to assist him with respect to various assignments. The assistance was so extensive that the friends did virtually all of the work themselves, although the assignments were, of course, submitted under the student's own name. In that case, the Tribunal convicted the student of the charge of plagiarism with respect to a number of the assignments in question. However, we note that the *L[redacted]* case does not contain any discussion on this issue. That is, the *L[redacted]* case does not contain any discussion as to whether a student who has submitted an essay that was largely written by another person (who consents to the student's use of his or her ideas) commits the offence of unauthorized assistance as opposed to the offence of plagiarism. Certainly, the *L[redacted]* case did not contain any consideration of the definition of "plagiarism" found in Appendix "A" of the *Code*.

69. In the circumstances, the Tribunal does not find that there is anything in the *L[redacted]* decision that would cause it to change its decision with respect to the meaning of section B.I.1(d) or with respect to whether the Student committed the offence of plagiarism.

70. For all of these reasons, the Tribunal finds the Student guilty of the fifth and eighth charges, i.e. that she knowingly obtained unauthorized assistance in connection with a draft essay and in connection with an essay that she submitted for academic credit in the Course, contrary to section B.I.1(b) of the *Code*.

71. Given that the second, fourth, seventh and tenth charges were advanced only in the alternative (and we note that Discipline Counsel made no submissions in respect thereto), the Tribunal refrains from considering those charges.

Analysis – Penalty

72. The penalty sought by the University was as follows:

(1) that the Student be assigned a grade of zero in the Course;

(2) that the Tribunal recommends to the President that he recommend to Governing Council that the Student be expelled from the University;

(3) that, pending the decision of Governing Council, the Student be suspended for five years; and

(4) 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.

73. However, the foregoing penalty was only sought in the event that the Tribunal found that the Student had purchased the essay from Doug Manson. As discussed above, the Tribunal declined to make such a finding. Accordingly, in that circumstance, the penalty sought by the University was as follows:

(1) that the Student be assigned a grade of zero in the Course;

(2) that the Student be suspended for five years;

(3) that a notation of this penalty be made on the Student's transcript and academic record until graduation; and

(4) 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.

74. In considering the appropriate sanction, the Tribunal has had reference to Appendix "C" of the *Code*, which sets out the Provost's Guidelines on Sanctions, Offences and Suggested Penalties for Students. Paragraph 2 of Appendix "C" provides the following guideline:

> For submitting work, where it forms a major fraction of the course, in whole from another person, the sanction recommended shall be suspension from the University for at least two years.

75. In addition, paragraph 3 of Appendix "C" provides as follows:

> Where a student has been previously convicted under the Code and commits another offence, the recommended sanction shall be from suspension for two years to expulsion from the University.

76. The Tribunal is also guided by the principles set out *In the Matter of Mr. C.* (Case No. 1976/77-3; November 5, 1976), which explained that the Tribunal should consider the following factors:

(a) the character of the person charged;

(b) the likelihood of 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; and

(f) the need to deter others from committing a similar offence.

77. The Tribunal has considered all of these factors.

78. With respect to the Student's character, it should be noted that the Student did take some responsibility for her actions, in that she readily admitted to having committed plagiarism in respect of the reading response. However, with regard to the draft essay and the final essay, the Student was not forthcoming. Initially, she asserted that she had merely obtained help from a "peer editor" and only conceded that Mr. Manson had written at least half of her essay when confronted with the fact that the essay's "document properties" listed Mr. Manson as the document's author. In addition, we note that the Student chose not to attend at the discipline hearing.

79. With respect to the likelihood of repetition, we note that the Student previously committed the offence of plagiarism in the course LIN241H1S. That offence was committed in the winter term of 2012 – just one year before the offences at issue in the within proceeding. It seems clear that the sanction imposed in that case (which was a grade of zero on the assignment in question) was not sufficient to deter the Student from re-offending. The Tribunal also notes that the Student committed four separate offences

(arising from three separate instances of misconduct) in quick succession. All of this suggests a high likelihood of repetition.

80. With respect to the nature of the offences, we note that we have found the Student guilty of one charge of plagiarism (among other offences). The seriousness of plagiarism is well-recognized in the decisions of this Tribunal. For example, the decision in *The University of Toronto v. H* (Case No. 521; January 12, 2009), referred to "the seriousness of the offence of plagiarism", noting that it "undermines the relationship of trust which must exist between the University and its students". (at para. 29) Similar comments were made in the decision in *The University of Toronto v. A* (Case No. 661; February 29 2012).

81. We are also mindful of the fact that at least one of the Student's offences required significant planning and deliberation. The cheat sheet that the Student brought to the make-up quiz would have required significant time to prepare. The Tribunal finds it unlikely that the sheet was merely study notes, given the extremely small font used and the fact that all of the notes were squeezed onto one piece of paper. Moreover, the Student must have planned how to bring the sheet with her to the table where she was to write the quiz.

82. Certainly, none of the offences were the result of carelessness or spur-of-the-moment decisions.

83. With respect to any extenuating circumstances surrounding the commission of the offences, because the Student did not attend at the hearing, we do not have the benefit of any evidence that she might have given as to any such extenuating circumstances.

84. With respect to the detriment to the University occasioned by the offences, as we have already noted, plagiarism is seriously detrimental to the University as a whole. It undermines the foundation of academic integrity upon which the University, as a truth-seeking institution, rests.

85. Finally, with respect to the need to deter others from committing a similar offence, we agree with Discipline Counsel that we need to consider the kind of message that should be sent to the University community. The offences committed by the Student are all very serious and the penalty imposed should reflect that.

86. We have reviewed a number of decisions in which the student was found guilty of plagiarism and, in some cases, unauthorized assistance. The cases reviewed include *The University of Toronto v. Z* [redacted] (Case No. 689; April 12 2013), *The University of Toronto v. A* [redacted] (Case No. 661; February 29 2012), *The University of Toronto v. P* [redacted] (Case No. 660; February 6 2012), and *The University of Toronto v. W* [redacted] (Case No. 625; February 13 2013). In all of those cases, the student had committed a prior academic offence. The penalties imposed ranged were remarkably consistent with two four-year suspensions being imposed and two five-year suspensions.

87. Considering all of the foregoing, including the seriousness of the offences, the number of offences, the lack of any mitigating circumstances, and the risk of the Student re-offending, the Tribunal finds the appropriate penalty to be a five-year suspension. Given that the Student still has a number of credits to complete before graduation and in light of our findings with respect to the likelihood of the Student committing another

offence, we also find it appropriate to order that a notation appear on the Student's transcript and academic record of this sanction until graduation.

88. For all of these reasons, the Tribunal imposes the following sanction:

(a) that the Student be assigned a grade of zero in the Course;

(b) that the Student be suspended for five years;

(c) that a notation of this penalty be made on the Student's transcript and academic record until graduation; and

(d) 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 at Toronto, this 25th day of February, 2015.

Julie Rosenthal

Julie Rosenthal, Co-Chair