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PERSONAL & CONFIDENTIAL

Via E-mail and Canada Post

May 31, 2005

Mr. Chris Burr
Law Student, Downtown Legal Services
655 Spadina Avenue
TORONTO, ON
M5S 2H9

Dear Mr. Burr:

Re: University Tribunal – Hearing in the Matter of Mr. D. L. (The Student)

A hearing was held on May 16, 2004 by the Trial Division of the University Tribunal to consider four charges under the Code of Behaviour on Academic Matters, 1995 laid against Mr. L. by letter dated August 13, 2003 from Professor Vivek Goel, Acting Provost.

Background

At the commencement of the hearing, counsel for the University, Mr. Centa, advised that the University was not proceeding on charge 1(a), 2, 3 and 4 leaving the following charge to be heard by the Tribunal:

1. Contrary to sections B.I.1 (b) and B.II of the Code, on or about December 5, 2002, you knowingly:
 - (b) did or omitted to do something for the purpose of aiding or assisting a member, Y. W., to commit an academic offence by knowingly possessing or using an unauthorized aid or aids or by obtaining unauthorized assistance in an academic examination or term test, in Test # 2 in ECO200Y5Y.

The particulars pertaining to the charge 1(b) were as follows:

1. You were enrolled in ECO200Y5Y during the academic year 2002-2003.
2. On or about December 5, 2002, you attended Test #2 of ECO200Y5Y. During this test you sat beside Y. W..
3. You and Y. W. collaborated and or used unauthorized aids during the examination to produce these examination papers.

I am writing to confirm the outcome of the hearing.

The Panel was provided with an Agreed Statement of Facts dated May 13, 2005 and signed by Mr. L. and Mr. Centa which was entered into evidence. The Agreed Statement of Facts provided the following details:

1. D. L. enrolled at the University of Toronto at Erindale College in the fall of 2002. Mr. L. has remained enrolled since that time. It is anticipated that as of May 30, 2005, Mr. L. will have completed sufficient credits to graduate with a B.A. in Economics.
2. Mr. L. enrolled in the full-year Micro-economic Theory ECO200Y5 ("ECO200") in academic year 2002-2003. Professor Carolyn Pitchik taught the course.
3. Professor Pitchik administered term test #2 to ECO200 on December 5, 2002 ("Test #2"). Test #2 consisted of graphing, and short and long answer questions. During Test #2, Mr. L. sat beside another student named Y. W..
4. Test #2 was marked by teaching assistant Melanie O'Gorman. She identified that the tests submitted by D. L. and Y. W. were virtually identical. Both students received marks of 100. A copy of Test #2 submitted by D. L. is attached as Exhibit 1 to this Agreed Statement of Facts ("L. Exam"). A copy of Test #2 submitted by Y. W. is attached to this Agreed Statement of Facts as Exhibit 2 ("W. Exam").
5. The L. Exam and the W. Exam are virtually identical including verbatim long narrative answers containing identical grammatical errors and errors in the usage of particular words.
6. Mr. L. admits that he provided unauthorized assistance to Y. W. during Test #2 by permitting her to copy his answers into her examination booklet.
7. Mr. L. met with Gary Crawford, Associate Dean, Social Sciences Division, pursuant to Section C(1)(a)(5) of the Code of Behaviour on Academic Matters ("Code"). Before the meeting started, Associate Dean Crawford warned Mr. L. as required by Section C(1)(a)(6) of the Code. During this meeting Mr. L. did not admit that he had committed an academic offense under the Code.

8. Mr. L. hereby acknowledges that his conduct during Test #2 on December 5, 2002, in ECO200 violated the Code. Specifically, Mr. L. acknowledges that he is guilty of charge 1 in Exhibit 3 to this Agreed Statement of Facts.

Mr. L. pled guilty to the charge. After consideration, the Panel accepted his guilty plea.

A Joint Submission with respect to sanction dated May 13, 2005 and signed by Mr. L. and Mr. Centa was presented to the Panel for consideration. The Joint Submission recommended the following:

1. That D. L. receive a grade of zero in ECO200Y5Y;
2. That Mr. L. be suspended from attendance at the University for a period of two years, effective June 1, 2005;
3. That the above sanction be recorded on his academic record for a period of two years commencing June 1, 2005; and
4. The facts and sanctions associated with the penalty be published by the University with Mr. L.'s name withheld.

The Panel heard submissions from counsel for the University and for the student. During the course of the submissions the Panel received further information. Mr. L. and Ms. W. are both from China. They came to Canada to pursue their education here. They are in a personal relationship. Ms. W. felt ill and felt she could not study for this test. She did not seek medical attention. She advised Mr. L. of how she was feeling and he offered to help her.

Reasons for Decision

The Panel emphasized that the offence in question is very serious. In this connection, the Panel quoted the first paragraph of University of Toronto *Code of Behaviour on Academic Matters*:

The concern of the Code of Behaviour on Academic Matters is with the responsibilities of all parties to the integrity of the teaching and learning relationship. Honesty and fairness must inform this relationship, whose basis remains one of mutual respect for the aims of education and for those ethical principles which must characterize the pursuit and transmission of knowledge in the University.

It is the responsibility on the part of students to act with honesty as they pursue their academic studies. In this case, the Panel was concerned that this had not happened. The Panel noted that students who do not act with honesty undermine the reputation of the University and the hard work of other students who do act with honesty in their studies.

The Panel also noted the first paragraph of Section B of the University of Toronto *Code of Behaviour on Academic Matters* under the heading “Offences” and pertaining to cheating:

The University and its members have a responsibility to ensure that a climate which might encourage, or conditions which might enable, cheating, misrepresentation or unfairness not to be tolerated. To this end, all must acknowledge that seeking credit or other advantages by fraud or misrepresentation, or seeking to disadvantage other by disruptive behaviour is unacceptable, as is any dishonesty or unfairness in dealing with the work or record of a student.

The Panel points out that this student’s actions in this case strike at the heart of academic integrity and fly in the face of other students who work very hard and study appropriately for their examinations.

In light of the offence to which Mr. L. pled guilty and in light of the importance of maintaining honesty and integrity in the University community, the Panel considered the Joint Submission with respect to sanction and measured the proposed penalty against the factors relevant to sanction outlined by John Sopinka, as he then was, in Case 1976/77-3.

In this case, the Panel was concerned about the elements of premeditation and deceit, the nature of the offence and the way it was committed. The Committee was aware that there were clear alternatives for a student to follow when he or she was ill and could not write an examination. These alternatives included seeking a deferral of the exam on medical reasons after providing proper medical evidence of the illness. In addition, the Panel found the extenuating circumstances of Ms. W.’s health not that helpful given that there were other ways that this situation could have been dealt with in an honest fashion.

In arriving at its decision, the Panel identified the following mitigating factors:

1. Mr. L. entered a guilty plea.
2. Mr. L. now acknowledges that his actions were wrong and expresses remorse.
3. Mr. L. was in a personal relationship with the co-defendant, Y. W., and had expressed concern over Ms. W.’s health and her ability to prepare for her test while ill. He had offered to help her out of concern.
4. Mr. L. accepted that significant sanctions were appropriate in these circumstances.

However, several issues greatly concerned the panel:

1. Mr. L. apparently did not suggest that Ms. W. obtain a doctor’s letter about her condition and seek to defer the writing of her test because of her illness.

2. Ms. W. did not seek medical attention for her illness.
3. Mr. L. did not admit his guilt at the earliest opportunity.
4. Due to circumstances beyond the control of Mr. L. and the University, the offence, although committed in 2002, was not heard until the spring of 2005. Consequently, Mr. L. has been able to complete two more years of study and obtain sufficient credits to graduate this academic year.

For these reasons, having taken into account all the factors in Case 1976/77-3, having taken into account the Joint Submission with respect to Sanction and having considered other cases involving similar situations, the Panel imposed the following sanctions:

1. That D. L. receive a grade of zero in ECO200Y5Y;
2. That Mr. L. be suspended from attendance at the University for a period of two years, effective June 1, 2005;
3. That the above sanction be recorded on his academic record for a period of three years commencing June 1, 2005; and
4. The facts and sanction associated with the penalty be published by the University with Mr. L.'s name withheld.

Information concerning rights of appeal may be found in Section E of the *Code of Behaviour on Academic Matters*, which can be viewed on-line at:

<http://www.utoronto.ca/govcncl/pap/policies/behaveac.html>. The deadline for filing an appeal in this matter is 5:00 p.m., June 22, 2005.

Yours sincerely,

Anthony Gray Ph.D
Secretary, University Tribunal

cc: Kirby Chown, Chair, Tribunal Panel
Edith Hillan
Nora Gillespie
Robert Centa