

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on July 20, 2009
and November 16, 2009

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-

C■■■■ K■■■■ S■■■■ L■■■■

Hearing Date: November 20, 2009

Members of the Panel:

Ms. Laura Trachuk, Chair
Professor Shaker Meguid, Faculty Panel Member
Mr. Sybil J. Derrible, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel for the University of Toronto,
Paliare Roland Barristers
Mr. C■■■■ K■■■■ S■■■■ L■■■■ Student

In Attendance:

Mr. Berry Smith, Vice-Dean, School of Graduate Studies
Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances,
Office of Governing Council

Introduction

[1] The Trial Division of the University Tribunal was convened on November 20, 2009 to consider charges under the *University Code of Behaviour on Academic Matters, 1995* (the "Code") which had been laid against Mr. C■■■■ K■■■■ S■■■■ L■■■.

[2] The Notice of Hearing sent to Mr. L■■■ via e-mail and courier on November 9, 2009 clearly advised that he was entitled to be represented at the hearing. Nevertheless, Mr. L■■■ chose to appear without a representative as was also his right.

[3] On July 20, 2009 the following charges were laid against Mr. L■■■:

- (1) On or about May 5, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, W■■■ S■■■ C■■■, to obtain unauthorized assistance, during and in connection with the final examination in ACT247, contrary to section B.I.1(b) of the *Code*.
- (2) On or about May 5, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, C■■■ Y■■■ C■■■, to obtain unauthorized assistance, during and in connection with the final examination in ACT247, contrary to section B.I.1(b) of the *Code*.
- (3) On or about May 5, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, T■■■ T■■■ C■■■, to obtain unauthorized assistance, during and in connection with the final examination in ACT247, contrary to section B.I.1(b) of the *Code*.

Alternative Charges:

- (4) In the alternative to charge #1, on or about May 5, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting W■■■ S■■■ C■■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to the final examination ACT247, contrary to section B.I.3(b) of the *Code*.
- (5) In the alternative to charge #2, on or about May 5, 2009, you knowingly did or omitted to do something for the purpose of

aiding or assisting C ■ Y ■ C ■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to the final examination ACT247, contrary to section B.I.3(b) of the Code.

- (6) In the alternative to charge #3, on or about May 5, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting T ■ T ■ C ■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to the final examination ACT247, contrary to section B.I.3(b) of the Code.

[4] On November 16, 2009 further charges were laid against Mr. L ■ as follows:

Term Test 1:

- (7) On or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, W ■ S ■ C ■, to obtain unauthorized assistance during and in connection with term test 1 in ACT247, contrary to section B.I.1(B) of the Code.
- (8) On or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, C ■ Y ■ C ■, to obtain unauthorized assistance during and in connection with term test 1 in ACT247, contrary to section B.I.1(B) of the Code.
- (9) On or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, T ■ T ■ C ■, to obtain unauthorized assistance during and in connection with term test 1 in ACT247, contrary to section B.I.1(B) of the Code.

Term Test 2:

- (10) On or about March 17, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, C ■ Y ■ C ■, to obtain unauthorized assistance during and in connection with term test 2 in ACT247, contrary to section B.I.1(B) of the Code.
- (11) On or about March 17, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, T ■ T ■ C ■, to obtain unauthorized assistance during and in connection with term test 2 in ACT247, contrary to section B.I.1(B) of the Code.

Alternative Charges:

- (12) In the alternative to charge #7, on or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting W■■ S■■ C■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to term test 1 in ACT 247, contrary to section B.1.3(b) of the *Code*.
- (13) In the alternative to charge #8, on or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting C■■ Y■■ C■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to term test 1 in ACT 247, contrary to section B.1.3(b) of the *Code*.
- (14) In the alternative to charge #9, on or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting T■■ T■■ C■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to term test 1 in ACT 247, contrary to section B.1.3(b) of the *Code*.
- (15) In the alternative to charge #10, on or about March 17, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting C■■ Y■■ C■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to term test 2 in ACT 247, contrary to section B.1.3(b) of the *Code*.
- (16) In the alternative to charge #11, on or about March 17, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting T■■ T■■ C■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to term test 2 in ACT 247, contrary to section B.1.3(b) of the *Code*.

Facts

[5] Mr. L■■ and the University of Toronto reached an Agreed Statement of Facts (ASF) with respect to this matter as follows:

1. For the purposes of this hearing under the Code of Behaviour on Academic Matters ("Code"), the Provost of the University of Toronto (the "Provost" and the "University") and C■■■ K■■■ S■■■ L■■■ ("Mr. L■■■") have prepared this agreed statement of facts ("ASF") and a joint book of documents ("JBD"). The Provost and Mr. L■■■ agree that:

- (a) they consent to the admission into evidence of each document contained in the JBD for all purposes, including for the truth of its contents, without further need to prove the document; and
- (b) if a document indicates that it was sent or received by someone, that is prima facie proof that the document was sent and received as indicated.

2. This hearing arises out of charges of academic misconduct filed by the Provost under the Code ("Charges"). A copy of the Charges, which were filed on July 20, 2009, is included in the JBD at Tab 1. Mr. L■■■ acknowledges that he received a copy of the Charges. Mr. L■■■ hereby pleads guilty to charge #1, #2, and #3 of the Charges.

3. Additional charges were filed by the Provost under the Code ("Additional Charges"). A copy of the Additional Charges is included in the JBD at Tab 2. Mr. L■■■ acknowledges that he received a copy of the Charges. Mr. L■■■ hereby pleads guilty to charge #7, #8, #9, #10, and #11 of the Additional Charges.

A. *Mr. L■■■'s academic and employment history at the University of Toronto*

4. In Fall 2003, Mr. L■■■ registered at the University of Toronto pursuant to an exchange agreement with the University of Hong Kong.

5. In Fall 2005, Mr. L■■■ registered in the Master of Science program in the Department of Statistics in the School of Graduate Studies at the

University. The University conferred a Master of Science Degree on Mr. L█ in June 2006.

6. In Fall 2006, Mr. L█ registered in the Doctor of Philosophy program in the Department of Statistics in the School of Graduate Studies at the University. He remained registered at the University at all material times. A copy of Mr. L█'s academic record dated May 14, 2009, is included in the JBD at Tab 3.

7. Mr. L█ admits that he received and reviewed a copy of the SGS Calendar, which states, in part:

The Governing Council of the University of Toronto has approved a Code of Behaviour on Academic Matters applying to members of the University. The Code of Behaviour on Academic Matters addresses the responsibilities of all parties to the integrity of the teaching and learning experience. It concerns the accountability of faculty members and students as they cooperate in all phases of this relationship. Honesty and fairness must inform these activities, the foundation of which is mutual respect for the aims of education and for those ethical principles which characterize the pursuit and transmission of knowledge within the University.

The Code addresses offences, procedures, sanctions: more information appears in three appendices. The Code is enforced by Divisional Deans, the Provost, and the University Disciplinary Tribunal.

In cases involving graduate students, the divisional dean is the Dean of the School of Graduate Studies.

8. Since 2005, Mr. L█ has frequently worked as a teaching assistant or a course instructor at the University. For example, in academic year 2007 to 2008, he held the following appointments:

- (a) ACT245H1 Financial Principles for Actuarial Science I (Teaching Assistant)
- (b) ACT471H1 Actuarial Applications of Finance (Teaching Assistant)

- (c) ECMB12H3 Applied Data Analysis (Teaching Assistant)
- (d) ECMB06H3 Macroeconomic Theory and Policy: A Mathematical Approach (Teaching Assistant)
- (e) MGTC09H3 – Intermediate Finance (Teaching Assistant)
- (f) MGTC03H3 – Principles of Finance (Teaching Assistant)
- (g) New College - Statistics Aid Centre
- (h) New College - Statistics Aid Centre
- (i) STA107H1 - An Introduction to Probability and Modelling (Course Instructor)

9. In academic year 2008 to 2009, Mr. L■■ held the following appointments:

- (a) ACT247H1 - Introductory Life Contingencies (Teaching Assistant)
- (b) ACT452H1 - Loss Models II (Teaching Assistant)
- (c) ACT455H1 - Advanced Topics in Actuarial Science (Teaching Assistant)
- (d) ACT460H1 - Stochastic Methods for Actuarial Science (Teaching Assistant)
- (e) ECMC48H3 – Money and Banking (Teaching Assistant)
- (f) ECMC49H3 – Financial Economics (Teaching Assistant)
- (g) ECMC92H3 - Economics of Markets and Pricing (Teaching Assistant)
- (h) MGTD71H3 – Advanced Financial Management (Course Instructor)

- (i) MGTD75H - Investments (Teaching Assistant)
- (j) MGTD78H – Risk Management (Course Instructor)
- (k) MGTD75H3 – Investments (Course Instructor)

B. ACT 247- Introductory Life Contingencies

10. As indicated above, in Winter 2009, Mr. L■■ was a teaching assistant in ACT 247 – Introductory Life Contingencies (“Course”), which was taught by Prof. Andre Badescu, in the Department of Statistics. A copy of the outline for the Course outline is included in the JBD at Tab 4.

11. As a teaching assistant in the course, Mr. L■■ was expected to keep one office hour per week and to invigilate tests and examinations held in the Course. He was neither required to conduct tutorial sessions, nor to grade test or examination papers.

12. The Course had three requirements:

- (a) a term test held on February 10, 2009 (“Term Test #1”), which was worth 25% of the final grade in the Course;
- (b) a term test held on March 17, 2009 (“Term Test #2”) which was worth 25% of the final grade in the Course; and
- (c) a final examination held on May 5, 2009 (“Final Examination”), which was worth 50% of the final grade in the Course.

C. Mr. L■■'s connection to three students in the Course

13. Among the students in the Course were three that Mr. L■■ already knew:

- (a) T■■ T■■ (“T■■”) C■■■;

(b) W■■ S■("V■■■■") C■■■; and

(c) C■■■ Y■■■ ("K■■■") C■■■ (collectively, the "Students").

14. In Fall 2007, T■■■ and K■■■ both took STA107, which Mr. L■■■ taught. Both students were also enrolled in MAT137Y1, a calculus course ("Calculus"). T■■■ and K■■■ learned that Mr. L■■■ tutored students privately, in addition to his duties as a TA or course instructor. T■■■ and K■■■ asked S■■■ L■■■ to tutor them in Calculus. Mr. L■■■ agreed to do so. T■■■ and K■■■ paid Mr. L■■■ approximately \$30 to \$40 per hour for tutoring sessions, which took place approximately 2 times a week over the latter part of 2007 and the early part of 2008.

15. T■■■, K■■■ and V■■■ were all interested in becoming actuaries. Actuarial Science is based upon the application of mathematical techniques to reduce the impact of such hazards as loss of income through death, disability, or retirement, or loss of property through fire, accident, or theft. Professional accreditation as an actuary is obtained via the Canadian Institute of Actuaries by passing a series of examinations set by the Society of Actuaries ("Society") or the Casualty Actuarial Society.

16. One of the examinations set by the Society is called Exam P – Probability. It is a three-hour multiple choice examination. The Society publishes a syllabus and other study materials. The syllabus for Exam P develops knowledge of the fundamental probability tools for quantitatively assessing risk and the application of these tools to problems encountered in actuarial science.

17. Exam P is administered by the Society and it is not connected to the University of Toronto.

18. Mr. L■■ offered private tutoring sessions to candidates for Exam P. A copy of an e-mail sent by Mr. L■■ to students including T■■, is attached to the Joint Book of Documents at Tab 5.

19. T■■, K■■ and V■■ each paid S■■ L■■ approximately \$1000 for tutoring sessions for Exam P that took place once or twice a week in January and February 2008. None of the three students passed Exam P when they wrote it.

20. In Fall 2008, T■■ enrolled in STA257H1 - Probability and Statistics I ("STA257"). Mr. L■■ did not have any official role in that course, but Mr. L■■ provided T■■ with private tutoring in STA257. T■■ paid Mr. L■■ approximately \$30 to 40 per hour for tutoring in that course on a weekly or twice-weekly basis.

D. Mr. L■■ offers to help T■■, V■■, and K■■ cheat in the Course

21. During one of T■■'s STA257 tutorial sessions, Mr. L■■ told T■■ that he would be the teaching assistant for the Course. The Course was a compulsory course if T■■ wanted to graduate with a Major or Specialist designation in Actuarial Science.

22. Mr. L■■ said that if T■■ paid him \$1500, Mr. L■■ would give him all of the answers to the 2 term tests and the final examination. Mr. L■■ told T■■ to ask K■■ and V■■ to see if they were interested in the same deal.

23. T■■ told Mr. L■■ that he would accept his offer. On January 7, 2009, T■■ withdrew \$1,500 cash from his bank account, and shortly thereafter gave the money to Mr. L■■

24. V█████ told Mr. L████ that he would accept his offer. He also withdrew \$1500 cash from his bank account and gave it to Mr. L████

25. K████ told Mr. L████ that he would accept his offer, but that K████ did not have \$1500 to pay Mr. L████ at that time. K████ and Mr. L████ agreed that K████ would pay Mr. L████ \$500 before each of Term Test #1, Term Test #2, and the Final Examination. In fact, K████ paid Mr. L████ only \$1400.

E. Term Test #1

26. Term Test #1 was worth 25% of the final grade in the Course, and consisted of 10 multiple choice questions. Each question had five possible answers lettered 'A' through 'E.' Students were responsible for solving the questions and then recording the answer they chose on a Scantron sheet. There were three versions of Term Test #1, which were labelled T1, T2 and T3. Each version of Term Test #1 contained the same questions and answers, but the questions appeared in a different order on each version, and the correct answer would be a different letter in each of the versions.

27. Term Test #1 was held in the Bahen Centre, in one fairly large lecture room. Prof. Badescu, Mr. L████ and a female teaching assistant invigilated Term Test #1. One of Mr. L████'s duties was to accompany male students to and from the washroom, if male students made such a request.

28. Mr. L████ admits that he solved the answers to Term Test #1 during the exam. He admits that he then escorted each of the Students, one at a time, to the washroom. When they were in the washroom, Mr. L████ gave each of the Students the answers to Term Test #1, as he had solved them.

29. Mr. L■ gave each of the Students a string of 11 digits where 1 represented A, 2 represented B, 3 represented C, 4 represented D, and 5 represented E. The eleventh digit represented which of the three Exam Codes the Students should mark on their answer sheet (T1, T2, or T3). Each of the Students memorized the string of digits in the washroom, and when they returned to the classroom, they filled out their scantron sheet accordingly.

F. Term Test #2

30. Term Test #2 was worth 25% of the final grade in the Course, and consisted of 10 multiple choice questions. Each question had five possible answers lettered 'A' through 'E.' Students were responsible for solving the questions and then recording the answer they chose on a Scantron sheet. There were three versions of Term Test #2, which were labelled T1, T2 and T3. Each version of Term Test #2 contained the same questions and answers, but the questions appeared in a different order on each version, and the correct answer would be a different letter in each of the versions.

31. Term Test #2 was held in the Examination Centre in two smaller rooms, EX310, and EX320. Mr. L■ invigilated the test in one of the classrooms, and another teaching assistant invigilated in the other classroom. Prof. Badescu travelled back and forth between the two classrooms during the test.

32. Mr. L■ admits that he solved Term Test #2 in the classroom. He admits that he then provided the answers, as he had solved them, to T■ and to K■. He provided them with the answers in the classroom, because he was the only invigilator in the room for most of the time.

33. V [REDACTED] did not attend Term Test #2. He did not attend because Mr. L [REDACTED] suggested to him that, because he was a very weak student, that it would reduce suspicion if he did not get a great mark on Term Test #2.

G. Final Examination

34. The Final Examination was worth 50% of the final grade in the Course, and consisted of 20 multiple choice questions. Each question had five possible answers lettered 'A' through 'E.' Students were responsible for solving the questions and then recording the answer they chose on a Scantron sheet. There were three versions of the Final Examination, which were labelled T1, T2 and T3. Each version of the Final Examination contained the same questions and answers, but the questions appeared in a different order on each version, and the correct answer would be a different letter in each of the versions.

35. The Final Examination was held in the Bahen Centre, in a fairly large lecture room. Prof. Badescu, Mr. L [REDACTED], and another teaching assistant invigilated the Final Examination. One of Mr. L [REDACTED]'s duties was to accompany students to and from the washroom, if students made such a request.

36. In the days before the examination, Mr. L [REDACTED] requested that Prof. Badescu give him the solutions for the final examination. Prof. Badescu refused, and told Mr. L [REDACTED] that it was not necessary for his duties that he have the solutions to the examinations.

37. Immediately prior to the start of the examination, Mr. L [REDACTED] again requested that Prof. Badescu give him the solutions to the final examination. Prof. Badescu refused again. Mr. L [REDACTED] then began to work on his own to solve the examination questions.

38. Approximately one hour after the examination had started, Mr. L■■ told Prof. Badescu that he had found an error in one of his questions, and he again asked Prof. Badescu if he could see all of the solutions. This time, Prof. Badescu gave Mr. L■■ the solutions to examination T1. Mr. L■■ took the solutions and copied down all of answers on his working booklet. A copy of Mr. L■■'s working booklet is included in the JBD at Tab 6.

39. Mr. L■■ admits that he then escorted each of the Students, one at a time, to the washroom. When they were in the washroom, Mr. L■■ gave each of the Students the answers to the first 10 questions of the Final Examination, plus the Exam Code.

40. Mr. L■■ gave each of the Students a string of 11 digits where 1 represented A, 2 represented B, 3 represented C, 4 represented D, and 5 represented E. The eleventh digit represented which of the three Exam Codes the Students should mark on their answer sheet (T1, T2, or T3). Each of the Students memorized the string of digits in the washroom, and when they returned to the classroom, they filled out their scantron sheet accordingly.

41. Mr. L■■ admits that he subsequently provided the students with the answers to the final 10 questions in the examination room.

42. Mr. L■■ deliberately provided one incorrect answer to two of the Students so that they would not all score a perfect score on the Final Examination. He did so deliberately so as not to arouse suspicion.

H. Admissions and acknowledgments

43. Mr. L■■ admits that he knowingly provided the Students with unauthorized assistance during Term Test #1 and the Final Examination and that he did so in exchange for money.

44. Mr. L█ admits that he knowingly provided unauthorized assistance to T█ and K█ during Term Test #2. He admits that he did so in exchange for money.

45. Mr. L█ acknowledges that the Provost of the University of Toronto has:

- (a) made no representations or promises as to what sanction the Provost will seek in this case;
- (b) advised him to obtain independent legal advice before signing this ASF and that he has either done so or deliberately waived his right to do so.

[6] Mr. L█ and the University of Toronto reached a Supplementary Agreed Statement of Facts (Supplementary ASF) as follows:

46. For the purposes of this hearing under the Code of Behaviour on Academic Matters ("Code"), the Provost of the University of Toronto (the "Provost" and the "University") and C█ K█ S█ L█ ("Mr. L█") have prepared this supplementary agreed statement of facts ("SASF")

47. On May 5, 2009, after the final examination, Prof. Badescu confronted Mr. L█ and accused Mr. L█ of doing something wrong. Mr. L█ did not admit that he had assisted students to cheat.

48. Mr. L█ admits that he met with the Students after the final examination. He admits that he advised them not to tell anyone that he had assisted them to cheat because, in his opinion, if they did, they might be subject to a harsher penalty at the University. Mr. L█ admits that he assisted the students to craft the stories they would tell at their meeting with the Dean's designate in the Faculty of Arts and Science.

49. On May 13, 2009, the Students each met with the Dean's designate for academic discipline in the Faculty of Arts and Science. None of the

Students implicated Mr. L█ during their meetings. Instead, the students told the Dean's designate that they had cheated among themselves during the tests and the final examination. Mr. L█ had helped them come up with these stories.

50. On May 15, 2009, Mr. L█ met with Prof. Susan Pfeifer, the Dean of the School of Graduate Studies, to discuss this matter. Dean Pfeifer provided Mr. L█ with the warning contained in the *Code of Behaviour on Academic Matters*. During the meeting,

- (a) Mr. L█ did not acknowledge that he knew the Students, except from classes at the University of Toronto;
- (b) Mr. L█ denied that he had assisted the Students to cheat during the final examination.

51. Mr. L█ admitted to committing the offences only after being informed that the Students had signed confessions admitting to his role in the commission of the offences.

52. Mr. L█ acknowledges that the Provost of the University of Toronto has:

- (a) made no representations or promises as to what sanction the Provost will seek in this case; and
- (b) advised him to obtain independent legal advice before signing this ASF and that he has either done so or deliberately waived his right to do so.

[7] Mr. L█ and the University of Toronto also agreed on a Joint Book of Documents which contained a copy of the charges, Mr. L█'s academic record, the course outline for ACT 247, an e-mail from Mr. L█ to candidates for Exam P – Probability in December 2007 and Mr. L█'s final examination working booklet.

[8] At the hearing of this matter on November 20, 2009, Mr. L█ was given a full opportunity to make submissions to the panel. He advised that, contrary to what he had agreed to in the ASF, the students had approached him with the offer of

money to help them with their marks in ACT 247. He said he was tempted by the money offered and agreed to help them. He explained that, although he was guaranteed the maximum number of teaching assistant hours permitted each term by the Department of Statistics, he still needed money because he had to provide for his family. Mr. L■■ also advised that he suggested to the students when he met with them after the final exam that, if the University learned of his involvement in the scheme, the charges and penalty would be more severe. He said that they all agreed that the students would say that they cheated among themselves and would not mention him. Mr. L■■ went to Hong Kong after the first charges were laid against him. He explained that after consulting with friends there, he decided that it would be better for him to admit his guilt. He said that he tried to contact the other students but was unable to do so. He returned to Toronto in October with the intention of admitting his guilt only to find that the other students had already confessed. The above information was provided by Mr. L■■ as submissions but he did not testify under oath and was not subject to cross examination.

Relevant Code Provisions

B. OFFENCES

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 be tolerated. To this end, all must acknowledge that seeking credit or other advantages by fraud or misrepresentation, or seeking to disadvantage others by disruptive behaviour is unacceptable, as is any dishonesty or unfairness in dealing with the work or record of a student.

Wherever in this Code an offence is described as depending on "knowing", the offence shall likewise be deemed to have been committed if the person ought reasonable to have known.

B.I. 1. It shall be an offence for a student knowingly:

(b) 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.

B. II. Parties to Offences

1. (a) Every member is a party to an offence under this Code who knowingly:

(ii) does or omits to do anything for the purpose of aiding or assisting another member to commit the offence;

(iv) abets, counsels, procures or conspires with another member to commit or be party to an offence;

C. II.(b) Tribunal Sanctions

1. One or more of the following sanctions may be imposed by the Tribunal upon the conviction of any student:

(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 such a 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 record and transcript shall record a course or courses in respect of which an offence has not been committed, withdrawal from the course or courses without academic penalty shall not 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.

3. The Tribunal may, if it considers it 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.

Appendix A

Interpretation

2. (o) "member" or "member of the University" means a student or faculty member, proctor or invigilator in the University and includes a group;

Disposition of Charges

[9] It is an offence under section B. I. 1. (b) to use an aid or to obtain unauthorized assistance in an examination or term test. Under section B. II. 1. (a)(ii) any member of the University who does anything to aid or assist another member to commit an offence is a party to it.

[10] There can be no doubt that Mr. L■■ was party to the offence of using unauthorized aids. He has acknowledged that he provided the answers to two term tests and one final examination to several students.

[11] Mr. L■■ pleaded guilty to charges 1, 2 and 3 and 7 to 11 in paragraphs 2 and 3 of the ASF. The panel considered that guilty plea in light of the facts agreed in the ASF and the Joint Book of Documents and decided to accept it. Mr. L■■ was therefore found guilty of charges 1, 2, 3 and 7 to 11 at the hearing on November 20. The other charges, which were laid in the alternative, were withdrawn.

Sanctions

[12] At the hearing of this matter on November 20, 2009 the panel issued the following order and advised the parties that written reasons would follow :

- (1) THAT Mr. L■■ is guilty of 8 counts of doing something for the purpose of aiding or assisting a student to obtain unauthorized assistance during a term test or final examination contrary to section B.I(1)(b) of the *Code of Behaviour on Academic Matters*;

- (2) THAT the Mr. L■■ shall be immediately suspended from the University for up to 5 years;
- (3) THAT the Tribunal recommends to the President of the University that he recommend to the Governing Council that Mr. L■■ be expelled from the University; and,
- (4) THAT the Tribunal shall report this case to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University newspapers, with Mr. L■■'s name withheld.

Reasons for Sanctions

[13] The University asked the panel to recommend the expulsion of Mr. L■■ and to suspend him pending the implementation of that recommendation. The University also asked that Mr. L■■'s offence be reported by the Provost with his name withheld. According to the University, no other sanction would be appropriate given Mr. L■■'s extraordinary breach of trust.

[14] Mr. L■■ apologized and expressed regret for his actions. However, he distinguished between his actions as a teaching assistant and his record as a student. He agreed that he could not commit a more serious offence as a teaching assistant but pointed out that he had been a good student. He acknowledged that a significant sanction is appropriate toward his status as teaching assistant but not as a student. He said his status of teaching assistant is irrelevant to his status as student. Mr. L■■ argued that he would have no opportunity to commit the offence again as he has been dealt with as an employee of the University and banned from holding any further teaching assistant positions. He also submitted that his thesis supervisor, who was the Prof. of ACT 247, has withdrawn from his committee effectively making it impossible for him to finish and defend his thesis. He said that he has therefore already suffered a very serious penalty. He asserted that he has been very cooperative with the University by agreeing to the ASF and Joint Book of Documents and by pleading guilty.

[15] Mr. L■■ implored us to impose something short of expulsion so that eventually he will be able to use his transcript without any notation on it. He hopes to "start over" one day. The panel also hopes that Mr. L■■ can start over but he can never wipe the slate clean. The offence Mr. L■■ committed is among the most serious a member of the University community could commit. His actions were fundamentally contrary to the values inherent in the Code.

[16] In *The University Tribunal of University of Toronto and C*, (1976/77-3), Mr. John Sopinka, a member of a panel of the Appeal Tribunal, held that the principle to be applied in determining an appropriate sanction for an offence under the Code is that "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." He went on to say that "The classical components of enlightened punishment are reformation, deterrence and protection of the public." Mr. Sopinka also proposed a useful list of factors to be considered in applying those criteria:

- 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; and,
- f) the need to deter others from committing a similar offence.

[17] The above factors have been considered in many subsequent decisions. We considered them in this case and concluded that a recommendation of expulsion was the appropriate sanction.

The character of the person charged

[18] We know very little about Mr. L■■'s character. We do know that he was a very successful student. We also know that he betrayed that trust and violated the Code for financial gain. We know that he did not confess his offence for many months but did plead guilty and expressed remorse at the hearing. All in all, the

fact that Mr. L█ took bribes from students suggests that his character is deeply flawed even if he has been a good student academically.

The likelihood of a repetition of the offence

[19] Mr. L█ has advised that he has been barred from any future teaching assistant positions at the University so he will have no opportunity to repeat the offence. However, there could be other lucrative opportunities to assist students with achieving unearned academic success. We hope that Mr. L█ has learned from this experience and will never commit such an ethical breach again but we have no way of knowing that. He did ultimately confess but it happened at the final hour after the other students had already done so. The fact that he originally conspired with them to keep his involvement secret suggests that he would likely commit such an offence if he thought he would not get caught. Furthermore, his involvement with *three* students, not just one, also contributes to the likelihood that he would commit other offences.

The nature of the offence committed

[20] The offence committed by Mr. L█ is one of the most serious that a member of the University community could commit. He was given the trust and responsibility of invigilating two tests and an examination as a teaching assistant and then sold answers for those tests and exam to students. He took \$1,500.00 from two of them and \$1,400.00 from a third by essentially guaranteeing a high mark. He then embarked on a rather sophisticated scheme of providing them the answers during the tests and exams by accompanying them to the washroom and providing them with a code which would tell them the right selection in the multiple choice questions. In the ASF, Mr. L█ agreed that the scheme had been his idea and that he had proposed it to one of the students and asked him to canvass the others. At the hearing, Mr. L█ said that one of the students had solicited him. Either way, Mr. L█ was centrally involved in the planning and the

execution of a scheme the purpose of which was to provide the students with "unauthorized aid" and "unauthorized assistance".

The extenuating circumstances surrounding the commission of the offence

[21] Extenuating circumstances may be mitigating factors or aggravating factors. In this case there are a few mitigating factors and many aggravating factors.

[22] The first mitigating factor is that Mr. L■■ expressed remorse at the hearing. He also entered into a guilty plea which may also demonstrate some insight and remorse. He cooperated with the University by signing an Agreed Statement of facts and agreeing to a Joint Book of Documents. This could have been a long and complicated case if Mr. L■■ had not cooperated and he saved everyone the time and expense of such a proceeding although there is little doubt the University would have ultimately proven its case.

[23] However, Mr. L■■ did not confess when he was first confronted. On the contrary, he conspired with the other students to hide his involvement. He did not confess until a few weeks before the hearing after the other students had already done so. According to his submissions, he did not decide to confess until his friends in Hong Kong convinced him to do so because there was so much evidence against him.

[24] There are many other aggravating factors in this case. Mr. L■■ did not commit a single impetuous offence. He assisted two students to cheat on two tests and an exam and assisted another one to cheat on one test and an exam. He participated in a scheme carried out over several months with planning and deliberation. He could have stopped at any time but did not do so. Moreover, Mr. L■■ persistently asked Professor Badescu for the answers to the final examination which also demonstrates his determination to perpetuate the scheme. His actions were a gross breach of the trust placed in him by his thesis

supervisor. The relationship between a thesis advisor and his or her student is a very significant one and must be based on trust. Likewise all of the faculty at the University must be able to trust the students they assign as teaching assistants. Mr. L■■ was in the extremely privileged position of having a guarantee of the maximum possible number of teaching assistant hours. He repudiated the extraordinary faith placed in him by the University by abusing his position for money. He placed greed ahead of academic interests. The purpose of the scheme was simply to benefit him commercially:

The detriment to the University occasioned by the offence

[25] The University's reputation with respect to the reliability of the marks and credits received by students must be unimpeachable. The fact that such a corrupt scheme could be promoted by one of its graduate students is a serious threat to that reputation. Mr. L■■'s actions violated the University's commitment to all of its students that they will be marked fairly and impartially and that no one will receive credit that is not earned.

The need to deter others from committing a similar offence

[26] Teaching assistants are in a unique position of trust among the students at the University. They have access to tests, exams, answers, results, mark sheets and many other opportunities to manipulate the assessment and marking of students. It is fundamental to the University that they be beyond reproach. Anyone working as a teaching assistant must understand that any violation of that position of trust will be treated with great severity. All students at the University must know that any kind of commercial scheme for credit, be it the purchase or sale of marks or essays or anything else will not be tolerated.

[27] After considering all of the above factors in light of the criteria of reformation, deterrence and protection of the public, the panel decided that the appropriate sanction was to recommend expulsion. We saw little likelihood that Mr. L■■ could

be reformed for all of the reasons set out above, We were also of the view that the criteria of deterrence and protection of the public dictated that he could never again be a member of the University of Toronto community. Furthermore, his transcript should always bear a notation indicating that he was expelled from the institution given the grievousness of his offences.

[28] Mr. L■■ argued that his penalty should be related to his position as a teaching assistant and not to his status as a student. However, in *The University of Toronto and A*, (January 14, 2009), a panel of the Tribunal found that students retain their status as students and continue to be subject to Code if they commit offences while working as teaching assistants. The fact that Mr. L■■ had the privilege of working as a teaching assistant did not mitigate his offences, it aggravated them.

[29] The sanction of recommending to the President that he recommend expulsion to the Governing Council is not a common one but in this case is consistent with others in which it has been used. In fact, none of the offences in the other decisions presented to the panel were as serious as Mr. L■■'s and there is no precedent in the Tribunal jurisprudence for his corrupt commercial enterprise. However, in *The University of Toronto and Ms VWSL* (April 6, 2006), the Tribunal explained its decision to recommend expulsion of a student who had purchased work which she had submitted for credit on several occasions as follows at paragraph 21:

Moreover, the "enterprise" of purchasing work for submission to the University is emblematic of the highest and greatest danger to the University community that the Code attempts to prevent, namely the circumstance when respect for learning is forsaken "in favor of self interest, when truth becomes the hostage of expediency." In this regard, a failure to recognize this type of cheating threatens the integrity and respect that lie at the heart of the learning environment necessary to maintain the University community. Failure to recognize the severity of this threat would in effect be punitive to those students and teachers who strive through their honest hard work to maintain those values. As such, the effect on the University community is serious.

[30] The above quotation also describes the seriousness of this offence. Mr. L [REDACTED] was a privileged graduate student who had so little respect for learning that he abused his position of trust for the basest kind of self interest, money. Mr. L [REDACTED]'s actions rank among the most serious that a member of the University could commit. They were fundamentally contrary to the values inherent in the Code. The panel therefore recommended to the President that he recommend expulsion to the Governing Council, that Mr. L [REDACTED] be suspended for five years and that this decision be published in the University newspapers with Mr. L [REDACTED]'s name withheld.

Dated at Toronto, January 21, 2010



Laura Trachuk
On Behalf of the Panel
Professor Shaker Meguid
Sybil J. Derrible