

THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on June 14, 2011;

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 -

Z M

REASONS FOR DECISION

Hearing Date: October 19, 2011

Members of the Panel:

- Mr. Clifford Lax, Q.C., Chair
- Professor Markus Bussmann, Faculty of Mechanical and Industrial Engineering, Faculty Panel Member
- Ms. Alice Kim, Student Panel Member

Appearances:

- Ms. Lily Harmer, Assistant Discipline Counsel for the University of Toronto, Paliare Roland Barristers
- Kenneth Raddatz, Legal Case Worker, Downtown Legal Services

Attendance:

- Ms. Z M the Student
- Professor G. Scott Graham, Dean's Designate, Faculty of Arts and Science
- Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

### The Hearing

1. The University Tribunal was convened on Wednesday, October 19, 2011 to hear three charges under the *Code of Behaviour on Academic Matters, 1995* (the "Code") laid against Z M by letter dated June 14, 2011 from Professor Edith Hillan, Vice Provost. Faculty and Academic Life of the University (the "Charges").
2. The Tribunal was advised that the matter would proceed upon an Agreed Statement of Facts dated October 19, 2011.
3. The Tribunal was advised that Ms. M would admit guilt on Charge 1 and the Provost would withdraw Charges 2 and 3 if the Tribunal, was prepared to accept the guilty plea.

### The Charges

4. Ms. M pleaded guilty to the following Charge:
  - (a) in or about November, 2010, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely your mid-term test in BIO205H5 contrary to Section B.I.1(a) of the Code.

### Agreed Statement of Facts

5. The Agreed upon Statement of Facts was signed by Z M personally and by Ms. Harmer on behalf of the University.
6. Ms. M candidly admitted that on the term test of October 14, 2010, she received a grade of 8 (out of a potential 24 marks), as well as a mark of zero (out of a potential three marks) for a bonus question. She then falsely claimed that there appeared to be a discrepancy, between her exam mark posted online and the mark allegedly noted on her exam paper. She was sufficiently convincing in this assertion, that the professor in charge of the course responded that it appeared to him to be a typographical error. He requested that Ms. M contact his Teaching Assistant about the discrepancy.
7. On November 22, 2010, Ms. M submitted her term test to the Teaching Assistant. She explained that the paper was "in bad condition because my lab partner spilled onto my papers". The altered test that she submitted was smudged and discolored and had been detached so that each page was separate. The falsified marks for the short answer portion of the exam totalled 20.5 plus three bonus marks for a total of 23.5 out of a possible 27 marks.
8. Clearly, the Teaching Assistant did not believe that he was reviewing the same exam that had been submitted to him for marking. As a result, Ms. M was invited to attend a meeting with the Dean's Designate on April 4, 2011. After offering a variety of explanations for various inconsistencies and anomalies, Ms. M admitted that she had altered the marks on her test and had stained the exam paper in an attempt to avoid detection.

9. In the Agreed Statement of Facts, Ms. M candidly admits that she knowingly altered her answers before resubmitting the term test by adding answers and by adding marks that had not been on her term test on October 14, 2010.
10. Before this Tribunal, Ms. M acknowledged that the facts set out in the Agreed Statement of Facts were true and that she had executed the Agreed Statement of Facts voluntarily. Therefore, the Tribunal accepted the guilty plea and found that the facts admitted supported the finding of guilt on the first Charge. As a result, counsel on behalf of the University withdrew Charges 2 and 3.

### Sanction

11. While the parties agreed on the facts surrounding this Charge, they disagreed as to the appropriate sanctions.
12. Counsel for the University sought the following sanctions:
  - a. A final grade of zero in BIO205H5;
  - b. A suspension of Ms. M from the University of Toronto for three years commencing September 1, 2011 and ending August 31, 2014;
  - c. The imposition of a notation on her academic record and transcript stating that she had been found to have committed an academic offense, such notation to run for four years from September 1, 2011 until August 31, 2015, or until she graduates, whichever occurs first; and,
  - d. A report of this case to the Provost who may publish a notice of the Decision of the University Tribunal and the sanctions imposed, with Ms. M 's name withheld.
13. Submissions on behalf of Ms. M acknowledge that she should receive a final grade of zero in course BIO205H5 and that this is an appropriate case to be reported to the Provost for publication. However, the student submitted that an appropriate period of suspension would be for two years, with the student being permitted to resume classes after one year, provided that her marks would be withheld until the two year suspension had been completed.
14. The student submitted that a suspension of greater than two years would amount to an effective expulsion from the University because she expected to be married by the end of two years, pursuant to an arranged marriage and once married, would be unlikely to complete her studies and therefore unable to ever obtain her degree. She stated that in her culture, it was extremely unlikely that her husband would permit her to continue to be a student. She based this conclusion on what she had been told by her parents, the experience of her sister and her knowledge of her community's expectation of married women who had attained the age of 23 years.
15. Counsel for the University drew to the attention of the Panel the fact that in 2009, Ms. M had admitted to have submitted falsified data in a formal laboratory report she had turned in for credit in another course. At that time, she was given a mark of zero for

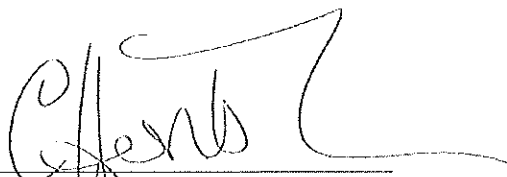
the laboratory report in question, cautioned in writing with a specific reference to the importance of the University Code of Behaviour on Academic Matters and specifically warned to not commit another academic offense.

16. Counsel for the University submitted that the charges to which Ms. M       pleaded guilty in this hearing should result in a two year suspension and that the prior academic offense in 2009 constituted an aggravating factor, which justified the imposition of a further year of suspension.
17. This Panel considers the criteria for sanction set out in the Decision in the matter of the appeal of Mr. C (November 5, 1976) and subsequently adopted by this Tribunal in the matter of M.S., (Reasons for Decision - April 29, 2009) and in the Decision in the matter of S.M., (Reasons for Decision – October 6, 2008) as applicable to this case. In the latter two cases, the Tribunal suspended the student for a period of three years and placed a notation on the transcript for a period of four years.
18. In this case as in the Tribunal Decision in the matter of S.M., the sanction was aggravated by a prior academic offense, by the same student and of the same nature.
19. While Ms. M       presented herself as a personable and reasonably contrite student, the fact remains that she deliberately attempted to mislead her teachers by carefully concocting an untruthful explanation as to why her exam papers had been marred by the alleged spillage of liquid by her laboratory partner. In fact, it was Ms. M       who had spilled liquid on her exam papers in an attempt to obliterate the original poor marks which she had received and attempted to insert the correct answers in the hope of misleading her teacher into substantially increasing the grades that she had received. Regrettably, this was the second instance Ms. M       had been caught trying to obtain higher test results through improper means.
20. Both the first offense and this offense were deliberate and carefully thought out attempts to fraudulently obtain higher marks. Ms. M       only admitted her guilt when she was confronted with the evidence of her wrongdoing. She was caught trying to unfairly advance her own position while at the same time undermining the academic standards of the University.
21. We are unable to conclude with certainty that Ms. M       will be unable to complete her studies once the period of suspension has ended. If in fact because of an intervening marriage or any other external factor which adversely affects her return to the University, she is unable to graduate, she has only herself to blame for the predicament that she finds herself in. The Code is concerned with the responsibilities of all parties to the integrity of the teaching and learning relationship. Ms. M       has failed to discharge her responsibility to the integrity of the learning relationship.
22. We are also unable to accept the submission that a student can be suspended, but still attend classes at the University. Section C.II.(b)1.(h) of the Code states that upon a conviction, one of the possible sanctions is “(h) suspension from attendance in a course or courses, a program, an academic division or unit, or the University for such a period of time up to five years as may be determined by the Tribunal.” The language quoted clearly requires that the student be suspended from any form of attendance at any type of University course or program. Therefore, the suggestion that Ms. M       be permitted to

attend courses, while under suspension, with her marks withheld until the period of suspension was completed, contravenes the Code and therefore must be rejected.

23. The Panel was unanimously of the view that the sanctions sought by the University were appropriate in the circumstances of this case.
24. Therefore this Panel imposes the following penalty:
  - (a) a final grade of zero in the course BIO205H5 – Ecology;
  - (b) a suspension from the University of Toronto for three years commencing September 1, 2011 and ending August 31, 2014;
  - (c) a notation on Ms. M       's academic record and transcript stating that she has been found guilty of an academic offense, such notation to run from September 1, 2011 until August 31, 2015, or until she graduates, whichever occurs first; and,
  - (d) a report to the Provost who may publish a notice of the Decision of the University Tribunal and the sanctions imposed, with Ms. M       's name withheld.

Dated at Toronto, this 10<sup>th</sup> day of November, 2011.



Mr. Clifford Dax, Q.C., Chair