

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

IN THE MATTER of charges of academic dishonesty made on April 2, 2012

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:**

**UNIVERSITY OF TORONTO (the "University")**

- and -

**N [REDACTED] G [REDACTED] (the "Student")**

**Hearing Date:** June 21, 2012

**Panel Members:**

Ms. Rodica David, Barrister and Solicitor, Chair  
Dr. Joel Kirsh, Faculty of Medicine, Faculty Panel Member  
Ms. Emily Holland, Student Panel Member

**Appearances:**

Ms. Lily Harmer, Assistant Discipline Counsel for University, Paliare Roland Barristers  
Ms. Mary Phan, Legal Case Worker, Downtown Legal Services

**In Attendance:**

Ms. Lucy Gaspini, Academic Affairs Officer, University of Toronto Mississauga  
Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

## The Charges

1. The student was charged with 6 offences under the University of Toronto, Code of Behaviour on Academic Matters (“Code”) relating to her falsifying and forging documents to obtain deferrals for writing final examinations in 2 courses.
2. The student and the University signed and filed an Agreed Statement of Facts (Exhibit 2) on the circumstances. In the circumstances, the University withdrew 2 of the charges and proceeded on the following four charges:
  1. *On or about September 1, 2011, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated and made use of any such forged, altered or falsified document, namely a Petition that you submitted to obtain a deferred exam in PSY395H5S, contrary to section B.I.1(a) of the Code.*
  2. *On or about September 1, 2011, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated and made use of any such forged, altered or falsified document, namely a University of Toronto Medical Certificate which you submitted in support of a petition for a deferred exam in PSY395H5S, contrary to section B.I.1.(a) of the Code.*
  4. *On or about September 1, 2011, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated and made use of any such forged, altered or falsified document, namely a Petition that you submitted to obtain a deferred exam in STA221H5S, contrary to section B.I.1(a) of the Code.*
  5. *On or about September 1, 2011, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated and made use of any such forged, altered or falsified document, namely a University of Toronto Medical Certificate which you submitted in support of a petition for a deferred exam in STA221H5S, contrary to section B.I.1.(a) of the Code.*

## The Background

3. Ms. G ■ first registered as a student at the University of Toronto in Fall 2007 at the University of Toronto Mississauga. As of June 14, 2012, Ms. G ■ had earned 19.0 credits with a cumulative grade point average of 1.76.
4. In 2011 Winter Ms. G ■ enrolled in PSY395H5: Hormones and Behaviour, a 0.5 credit course. The final exam was scheduled to be written on April 8, 2011 (“PSY Final Exam”). It was worth 40% of the course mark. Ms. G ■ did not write the PSY Final Exam at that time.
5. Ms. G ■ did not write the mid-term test in PSY395H5. Without a mark for the final exam her mark in PSY395H5 was 26.36/100.
6. On or about April 11, 2011, Ms. G ■ submitted an online petition for a first deferral of the PSY Final Exam (“PSY First Petition”). Her petition request was granted, and she was given permission to write a deferred exam in PSY395H5 during the week of April 26-30, 2011.
7. In 2011 Winter Ms. G ■ was also enrolled in STA221H5: The Practice of Statistics II, also a 0.5 credit course. The final exam was scheduled to be written on April 13, 2011 (“STA Final Exam”). It was worth 50% of the course mark. Ms. G ■ did not write the STA Final Exam at that time.
8. Ms. G ■ had not written either of the term tests in STA221H5 which were worth 20% each, and had earned marks of 2.75/10 in her assignments submitted in the course. Ms. G ■ was given an indulgence by the course instructor who agreed to reallocate the 40 marks for the two term tests to Ms. G ■’s final exam, so that it represented 90% of her mark in STA221H5. Without a final exam mark, therefore, Ms. G ■’s mark in STA221H5 was 2.75/100.
9. On or about April 24, 2011, Ms. G ■ submitted an online petition for a first deferral of the STA Final Exam (“STA First Petition”). She did not give a reason for her request, nor did she attach any supporting documentation. Her petition request was granted, and she was given permission to write a deferred exam in STA221H5 during the week of April 26-30, 2011.
10. Ms. G ■ did not write a deferred exam in either of PSY395H5 or STA221H5 in April, 2011.

11. On May 27, 2011, Ms. G ■ received two emails from the Assistant Registrar, Academic Standards & Examinations, to follow up on outstanding documentation from her April examinations. The email noted that Ms. G ■ had never provided evidence of her illness to support the reasons for missing her exams, and requested that she submit supporting evidence of her illness to the Office of the Registrar by June 1.
12. Ms. G ■ ignored these emails and did not provide any supporting documentation to the University

### Circumstances of the Offences

13. On or about August 30, 2011, Ms. G ■ attended in person at the Office of the Registrar to ask about obtaining a second deferral of her PSY Final Exam. She then submitted two formal online petition requests in the evening of August 31, 2011: one for a second deferral of her PSY Final Exam (“Second PSY Petition”), and the other for a second deferral of her STA Final Exam (“Second STA Petition”), each indicating medical sickness as the reason for her request. She did not attach any documentation to support her request. These Petitions are at Tabs 10 and 11 of the Joint Book of Documents (“JBD”), marked as Exhibit 1.
14. Ms. G ■’s Second PSY Petition and Second STA Petition (collectively “Second Petitions”) were refused on September 1, 2011, on the basis that the deadline to submit a petition for a deferred exam is one week after the end of the final examination period in the Winter 2011 term.
15. Ms. G ■ gave the following implausible explanation for the delay:  
*“...[her] petitions had not gone through. When I called the Office of Reg. I spoke to Truc who told me that the issue may have been because I had used a Mac to submit the petition. I will be dropping the Medical Certificate, that the doctor wrote on one day (for both dates that I saw him), however the original is not available as that I had submitted to the Office Drop box in April so only a photocopy was available...”*
16. Clearly her explanation that she could only tender a copy of the medical certificate was intended to fortify the authenticity of the medical certificate which otherwise might be questioned if the original was not provided.
17. Ms. G ■ then dropped off a copy of a University of Toronto Medical Certificate at the Office of the Registrar on September 1, 2011 (“Medical Certificate”) in support of both the PSY Second Petition and the STA Second Petition. It indicated that a physician by

the name of J. McBaird had provided health care services to Ms. G ■ on April 26 and 28, 2011, that the nature and timeline of the problem and its treatment were: “1 week, antibiotics”, and that the student was prevented from writing exams due to “freq. Urination + pain”. The Medical Certificate contained an address stamp for “Central Park Medcial [sic] Center Walk-In” at an illegible address, with a 905 phone number, and “J. McBaird” with a CPSO number 92602. The Medical Certificate was dated April 28, 2011. A copy of the Medical Certificate is included in the JBD at Tab 16.

18. On September 2, 2011, Ms. G ■ sent an email repeating her explanation for providing a copy of the medical certificate, obviously concerned as to whether it had been accepted.
19. The University then was put to the effort and expense of conducting an investigation, which revealed that the College of Physicians and Surgeons (“CPSO”) registration number on the copy of the medical certificate that Ms. G ■ provided to the University, was that of another physician and that there was no record under the name of the physician who allegedly signed the medical certificate.
20. At a Dean’s meeting on January 19, 2012 Ms. G ■ admitted that she had made up the Medical Certificate by obtaining the address stamp online.

### **The Verdict**

21. The above facts, all of which were contained in the Agreed Statement of Facts satisfy the burden on the University to prove the offences by clear and convincing evidence.
22. The Tribunal was therefore unanimous in finding Ms. G ■ guilty of the four charges on which the University proceeded as set out in paragraph 2 of these reasons for decision.

### **The Sanction**

23. The parties signed an Agreed Statement of Facts on Sanction, Exhibit 3 (“ASFS”) as well as a Joint Submission on Penalty Exhibit 4. (“JSP”)

### **Joint Submission on Penalty**

24. The JSP proposes the following penalty:
  - a) *a final grade of zero in PSY395H5 and STA221H5 for the 2011 Winter term;*

- b) *a suspension from the University to commence July 1, 2012 and to end June 30, 2017;*
- c) *a notation of the sanction on her academic record and transcript from the date of the Order until the earlier of her graduation from the University or June 30, 2018.*
- d) *That this case be reported 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 the name of the student withheld.*

### **Two Previous Offences**

- 25. In the winter and summer of 2008, not long after she had enrolled in the University, she committed two separate offences by submitting a false quiz in one course and a false essay in another course.
- 26. For these two previous offences, she received relatively light sanctions, namely:
  - 1. a mark of 0 for the course and a notation on her transcript of academic misconduct for 2 years from June 18, 2008 to June 17, 2010.
  - 2. Ms. G■ was given a mark of 0 for the course, a 12 month suspension from the University from January 1, 2009 to December 31, 2009, and a notation on her transcript from January 1, 2009 to December 31, 2010.
- 27. Although Ms. G■ did not testify, paragraph 9 of the ASFS that if she were to testify Ms. G■ would explain that she is a 22-year-old single parent of two young children who was in the process of separating from her partner at the time of the offence. She faces significant financial pressures, and receives no financial support from her family or from her former partner. Ms. G■ was working at two jobs at the time of the offence, and hopes in future to use her degree from the University to obtain one well-paying job to permit her to spend more time with her family.

### **Criteria in Determining Appropriate Sanction**

- 28. Ms. G■ has shown a pattern of using forgery and falsification as a means of obtaining credits towards her degree. She has two previous convictions, and just weeks after the suspension for her two previous convictions had ended, Ms. G■ committed the offences of which she is found guilty today. These previous suspensions had no deterrent effect on her. The likelihood of repetition is therefore high.

29. The University has been very lenient with Ms. G■■ in an effort to enable her to obtain a degree:
1. The penalties on the two previous offences were lenient.
  2. In the statistics course she was offered the opportunity to make up for her lack of term work by increasing the weight of the final exam.
  3. She had already received one deferral for both courses without giving any reason whatsoever in her Petitions for deferral.
30. As a young single mother with 2 young children, Ms. G■■ found herself in very challenging circumstances. However, she had numerous legitimate options for dealing with her dilemma:
1. She could have sought counseling. The University offers a variety of counseling services, academic, health and financial. These services are available at both the University of Toronto Mississauga and the St. George campus at no cost to the student.
  2. She could have applied for financial assistance.
  3. She could have withdrawn from the programme at any time, and resumed her studies when her personal circumstances improved.
  4. She could have become a part-time student.
31. Instead she chose the route of dishonesty and deceit.
32. Many students have and will not doubt continue to have serious life challenges; yet they follow the rules. Ms. G■■'s circumstances, while very unfortunate, do not provide an excuse for her behavior. However, they do carry some weight in determining the appropriate penalty.
33. The offences are of a grave and serious nature. The University prides itself on its reputation of honesty, integrity and high academic standards. A degree from this University is highly regarded both by the academic and business community. It is important that these standards not be jeopardized. It is therefore incumbent on the Tribunal to preserve these standards and ensure that others are deterred from engaging in conduct of the nature of Ms. G■■'s actions.

34. The Tribunal has considered that a recommendation for expulsion might have been more appropriate than five years suspension.
35. However, we must take into account that Ms. G ■ acknowledged her wrongdoing at the Dean's meeting, attended at the hearing, signed two Agreed Statements of Fact and the Joint Submission on Penalty, and pleaded guilty.
36. An additional mitigating factor related to sanction is the University's lack (beyond sanctions) of intervention after the initial offences in 2008, or when it was clear that Ms. G ■'s academic performance was at risk in 2011.
  - a) The University owes a duty to its students, beyond simply being a provider of a catalog of courses and degrees, to provide guidance and remediation where necessary when students' academic trajectories diverge from the expected or desired course; there was ample opportunity prior to the offences of 2011 for intervention(s) that might have prevented the offences entirely.
  - b) Counsel for the University offered unopposed testimony that Ms. G ■ committed her second academic offence in 2008, within mere weeks of having been sanctioned for her first academic offence of that year. However, the sanction letter of November 17, 2008 is silent on any connection between these two events. Beyond the escalation of the penalty imposed, there is no evidence that any steps were taken in 2008 to identify the contributing factors to Ms. G ■'s repeated academic offences, or to recommend (or compel) Ms. G ■ to take measures as mentioned above (para 30).
  - c) The Tribunal heard from the University that there is no established practice of referring students in similar circumstances to services that might assist them in avoiding future difficulties.
  - d) In 2011, despite clear indications that Ms. G ■'s coursework was inadequate, she was offered an overweighting of her final exam in STA221H5 rather than a recommendation to withdraw from the course or seek academic counseling.
37. The University should consider that it has a duty to give proactive assistance to students in distress, such as Ms. G ■, rather than simply penalizing such students.

### **The Weight of the Joint Recommendation on Penalty**

38. In the 2006 case of *Regina v. Tsicos*, the Ontario Court of Appeal held that the test for rejecting a joint submission is a very stringent one: this Tribunal must find that the



recommended penalty is “contrary to the public interest or will bring the administration of justice into disrepute”. The JSP must be given high deference. This principle was applied in a decision of this Tribunal in *The University and P* [REDACTED].

39. In the absence of a JSP, this Tribunal would have recommended expulsion, despite the mitigating factors. However, the test for disregarding the Joint Submission is so high that the facts of this case cannot be said to meet that threshold.

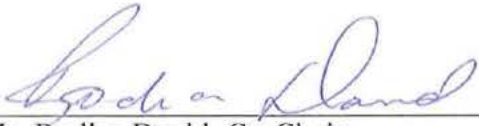
### **The Penalty**

40. This Tribunal therefore accepts the Joint Submission and imposes the sanctions set out in paragraph 24 of these Reasons for Decision, with the dates to begin the date of this decision.

### **Addendum**

41. A few days following the completion of the hearing, Ms. G [REDACTED] sent an email directly to the two lay members of the Tribunal. This email was directed to Christopher Lang, Director, Appeals, Discipline and Faculty Grievances who passed it onto the Tribunal Chair. Counsel for the University objected to any consideration by the Tribunal of this email.
42. Ms. G [REDACTED] was given a full and fair hearing with every possible opportunity to present her evidence and submissions. In the Verdict phase, she clearly stated that she did not want any legal representation, despite being given the opportunity by the Tribunal to seek representation. In the Sanction phase, she was represented very well by a student from the Downtown Legal Services.
43. Once a hearing is concluded, it might have been open to her to bring a motion to the Tribunal to reopen the case if any facts came to light that could not have been known with reasonable diligence at the time of the hearing, if the facts sought to be adduced would have a significant bearing on the outcome and if it does not prejudice the University. If she could have satisfied these tests, then the Tribunal would have the discretion to reopen the hearing and permit both parties to present their positions. Ms. G [REDACTED] did not bring any such motion, nor did she request to reopen the hearing.
44. It is entirely inappropriate for her to try to reargue her case in an email. The members of the Tribunal therefore did not read Ms. Gill’s email and these reasons, in large part completed prior to her email, have not been changed in any way related to her email.

Dated at Toronto, this 5<sup>th</sup> day of July, 2012.

A handwritten signature in blue ink, appearing to read "Rodica David", written in a cursive style.

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Ms. Rodica David, Co-Chair