

**UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on March 11, 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:

UNIVERSITY OF TORONTO (the "University")

- and -

S [REDACTED] N [REDACTED] (the "Student")

REASONS FOR DECISION

Hearing Date: Wednesday, September 17, 2014

Panel Members:

Ms. Roslyn M. Tsao, Barrister and Solicitor, Chair
Dr. Maria Rozakis-Adcock, Faculty of Medicine, Faculty Panel Member
Ms. Alice Zhu, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel for University, Paliare Roland Barristers
Professor Eleanor Irwin, Dean's Designate, University of Toronto Scarborough
Professor Dan Riggs, Instructor BIOB11H: Molecular Aspects of Cellular and Genetic Processes, Department of Biological Sciences, University of Toronto Scarborough

In Attendance:

Mr. S [REDACTED] N [REDACTED], the Student
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

1. The Trial division of the Tribunal heard this matter on September 17, 2014. The Student was charged on March 11, 2013 of the following:
 - (a) Charge #1 - On or about April 17, 2012, the Student knowingly forged or in any other way altered or falsified a document or evidence required by the University, or knowingly uttered, circulated or made use of any such forged, altered or falsified document, namely, his Scantron answer form in the final exam in BIOB11H3, contrary to section B.I.1(a) of the Code.
 - (b) Charge #2 - In the alternative, on or about April 17, 2012, the Student knowingly forged or in any other way altered or falsified an academic record, namely, his Scantron answer form in the final exam in BIOB11H3, or he uttered, circulated or made use of such forged, altered or falsified record contrary to section B.I.3(a) of the Code.
 - (c) Charge #3 - In the further alternative, on or about April 17, 2012, the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind, by altering or falsifying his Scantron answer form in the final exam in BIOB11H3, contrary to section B.I.3(b) of the Code.
2. The Student attended at the Hearing and entered a pleaded "not guilty" to all charges.

Review of Evidence

3. The University tendered two witnesses: Professor Dan Riggs and Dean's Designate, Professor Eleanor Irwin.

Professor Dan Riggs- Course Instructor

4. Professor Riggs was the course instructor for BIO B11H3S (the "Course") in the Winter 2013 term. Professor Riggs has taught for 25 years and is presently in the Department of Biological Sciences, Scarborough Campus.
5. The Course was a 2nd year course with approximately 400 students. The final examination for the Course was April 17, 2012.

6. Professor Riggs acknowledged that, given the class size, he would not have known the students in the Course by face or by name. However, Professor Riggs did come to know the Student following the final examination as described further below.
7. Professor Riggs clearly and plainly outlined the usual protocol he follows and followed for the examination in question:
 - (a) the examination would typically be sat in a large gymnasium which would likely have been partitioned for another course's class;
 - (b) he and the invigilators would set up the desks before the arrival of the students by placing 3 documents on each desk:
 - (i) test booklet (with multiple choice questions);
 - (ii) numbered Candidate form; and
 - (iii) Scantron answer form.
 - (c) when the students arrived, they would take a number and find the desk with the corresponding Candidate Form. This provides an assurance of random seating;
 - (d) about a half hour into the examination, the invigilators begin to circulate to check the students' Student Card/identification, have the student sign the Candidate form in their presence and compare the signature to the Student Card. This process takes about 30-45 minutes with 1-2 invigilators for the 400 students; and
 - (e) at the end of the examination, he and the invigilators count booklets, Scantron answer forms and Candidate Forms to confirm that the number of each corresponds to the number of students who sat the examination based on their head count.
8. Professor Riggs confirmed that the number of "sets" of examination materials matched with the number of students in the room in this case. Professor Riggs also confirmed that no student left or requested to leave the examination to his recollection.

9. The marking of the examination took place on the Friday following the examination, April 20th, and by the following Monday or Tuesday, the grades for the Course would have been posted to ROSI.
10. On the Tuesday following the examination, the Student attended at Professor Riggs office late in the day. The Student stated that he received a grade from the examination but that this was not possible as he had not written the examination.
11. The Student advised Professor Riggs that he attended at the examination, signed a Candidate Form but had to leave because he felt ill. There was, indeed, a completed and signed Candidate form for the Student (Exhibit 4).
12. The following day, Professor Riggs met with his course coordinator, Sean Ramrattan, about this matter. They looked at the Candidate forms, the Scantron answer forms and, upon counting them, found that the number of Candidate forms matched the number of Scantron answer forms collected after the examination. Upon further review of the actual Candidate forms and Scantron answer forms, Professor Riggs could not find an exact Scantron Answer form with the Student's name and student number. Rather, there was one Scantron form with a name and number which did not match any Candidate form (the "Orphan Scantron") (Exhibit "5").
13. Professor Riggs noticed anomalies on the Orphan Scantron:
 - (a) The printed "last name" was "N[REDACTED]";
 - (b) The column of bubbles below the "r" and the "i" in the last name had erased letter bubbles which corresponded to the Student's actual last name and further, under the fifth column, there was an erased letter bubble that again corresponded to the Student's actual last name;
 - (c) The printed "first name" was "S[REDACTED]";
 - (d) The bubbles below the "first name" had no bubble completed under the "m" but there was a filled letter bubble (not erased) under the fifth column which

corresponded to the Student's actual first name (even though there was no printed letter above)¹;

- (e) the way that the nines ("9") and "o" letters were printed were similar to those characters on the Student's Candidate form; and
 - (f) 100 multiple answer bubbles were filled in.
14. There was no student in the Course named "S■■ N■■".
 15. Professor Riggs explained that the Scantron answer forms are matched to Candidate forms manually based on the name fields because, based on prior experience, students are "sloppy" in completing their student numbers accurately. In this case, although the completed student number on the Orphan Scantron did not match the Student's number on his Candidate form, the course coordinator told Professor Riggs that they attributed the Orphan Scantron to the Student given that there was a match for **all** of other sets of forms and the name was close.
 16. Professor Riggs was not pleased that a grade was assigned to the Student based on a Scantron form that did not match his name. However, there was no extra Scantron answer form, no unmatched Candidate form and, therefore, the conclusion that the Orphan Scantron belonged to the Student was not unreasonable.
 17. Furthermore, no other student raised an issue about a missing grade on the Course examination.
 18. After reviewing the Candidate form and Orphan Scantron, Professor Riggs emailed the Student to ask to meet again. The Student responded that he was not in Toronto and was "ill", staying in Montreal. Professor Riggs normally required a meeting to discuss misconduct but attempted to accommodate the Student by further emailing to advise that he had evidence of identity misconduct.

¹ As the published decision herein will not reveal the Student's full name, suffice to say, the letter bubbles that appear to have been erased or remained correlate to the Student's name.

19. Professor Riggs indicated that no meeting took place with the Student and that, without satisfactory response for the Student, he referred the matter to the Dean's Designate.
20. Professor Riggs was asked to confirm whether anyone had approached him during the examination to advise of illness. Professor Riggs testified that he was not aware that anyone had approached the other invigilators or himself on that basis during that examination.
21. Professor Riggs also confirmed that he did not interact with the Student during the examination that he was aware of.

Professor Eleanor Irwin – Dean's Designate

22. Professor Irwin is the Dean's Designate and is responsible for meeting with students who are alleged to have committed an academic offence.
23. In the given case, she had sent 4 possible dates for a meeting with the Student. She and the Student eventually met on September 26, 2012.
24. Professor Irwin confirmed that the Student's transcript to date indicated that he had been registered at the University starting in Fall 2011 until the end of the Winter 2012 term. He was in good standing and earned 3 credits at the University and had 5 credits transferred from Dawson College. The Student is not currently enrolled at the University.
25. During the September 26, 2012 Dean's Designate meeting, Professor Irwin confirmed that she reviewed, as per usual, the relevant provisions of the Code, the allegations, the Dean's Warning by both reading the formal warning and explaining it in lay terms, that the Student was entitled to get advice and to attend with a representative. Further, the Student was told that he was not required to give any statement or admissions but that if he did, they were admissible at any subsequent process. Professor Irwin also confirmed to the Student that she could impose sanctions, could refer the matter to the Tribunal and any statements made by the Student at the meeting could be referred to.

26. Professor Irwin then proceeded to show the Student the documents (Scantron answer form and Candidate form), review Professor Riggs' allegations and that she believed that the Student had filled in the Scantron with his name and answered the questions, then erased his name and the corresponding bubbles before leaving the examination.
27. The Student denied that he had done that. He said that he had attended at the examination but then left "almost immediately" as he felt ill. He confirmed that he completed the Candidate form, his name and student number on his Scantron answer form but left these documents on his desk when he left.
28. The Student told Professor Irwin that he had been sick and told her that he had a very serious illness and indicated that he would not be back to the University "ever again", ostensibly because of this illness. Professor Irwin acknowledged that she was, in fact, concerned about the Student's condition at that time because he did not look well.
29. As per usual course, Professor Irwin explained to the Student that the matter would be referred to the Provost and Vice-Provost and she attempted to guide him about the importance of "good medical evidence" if he was not well. There was no medical evidence provided to Professor Irwin at this meeting.
30. Professor Irwin emailed the Student 2 days latter to remind him that she was going to send the file to the Tribunal but that she wanted to include his medical information. Professor Irwin confirmed what the Student had told her about his health and added that Professor Riggs had told her that the Student had told him that he was undergoing chemotherapy:

Dear Mr. [Student]

I met with you on September 26 in the matter of an alleged academic offence. At that meeting you said that you were in very poor health, so poor that you would not be returning to your studies. I have learned from Prof. Riggs that you told him you were undergoing chemotherapy.

In order for me to understand the situation, please send me a medical certificate confirming your statements about your health. ..

31. The Student replied: *I am going to send you the certificate that you asked for as soon as possible.*
32. The Student did not send such a medical certificate and after two months, on November 28, 2012, Professor Irwin emailed the Student again to advise that she would be sending the file to the Vice-Provost without any medical certificate.
33. On December 3, 2012, Professor Irwin received an email from the Student's email address but purportedly penned by the Student's girlfriend, Ms. Beauchamp. In this email, Ms. Beauchamp refers to a number of very specific events following the Dean's Designate Meeting:
 - (a) that the Student collapsed at home on October 2nd and "was taken to the hospital for "necessary treatments and since then his condition is getting worse";
 - (b) that she had been checking the Student's emails since then because "he only needs to rest at this point as told by his oncologist";
 - (c) that the Student had "briefly" told her to send Professor Irwin a medical certificate confirming his condition and that she has been trying to do so "but his oncologist has been on leave since September and he will be back in early January because he is currently conducting research in Europe."; and
 - (d) that she has been "asking from the hospital for the certificate but they are insisting that his oncologist is the one that needs to sign the certificate in order to be valid".
34. Professor Irwin immediately responded to Ms. Beauchamp's email to confirm the mailing address to which the medical certificate could be sent.
35. On February 17, 2013, Ms. Beauchamp emailed Professor Irwin to explain that the documents which she had sent were "rejected by the post office" due to a misspelled address, that she had resent them and to expect them later that week.

36. However, by March 1, 2013, Professor Irwin had still not received the medical certificate and, again, emailed the Student to advise that she had sent the file to the Vice-Provost to lay charges.
37. Shortly thereafter, Professor Irwin received a letter by Xpress post with a handwritten medical note dated March 1, 2013 from a walk-in clinic in Montreal stating:

To whom it may concern

This Patient has been suffering from severe anxiety, secondary to financial issues in Iran and illness. It is recommended that he takes 2 Semester (sic) off for his medical condition. he may return in summer.

Dr. Raymond Rezaie MD, CCFP Lic No. 1064724

38. To state the obvious, this medical note was not from an oncologist, a hospital nor referred to physical illness as the primary ailment. There was no reference to the Student's medical condition from the September 2012 to December 2013 period or before that, in relation, to the offence date.
39. Finally, a print out of the Student's four Petitions filed at the University was introduced through Professor Irwin (Exhibit 11). For the April, 2012 examination period, the Student filed the following two Petitions:

- (a) Petition submitted on April 20, 2012 seeking deferral of examinations in PSYA02H3S and the Course based on the Student's Statement:

*I missed my final exams due to severe sickness and **not being able to attend** in the exams that was approved by two physicians. required documentation will be provided.* (emphasis added)

Referenced with this Petition is a Medical Certificate dated April 19, 2012 indicating that the Student had a headache, nausea and diarrhea since "yesterday" and that the problem was "acute"² and had started on April 18, 2012 and that the student attended at the opening of the clinic on April 19th and required "frequent trips to washroom interrupting exam".

² As opposed to "chronic" problem for the student.

- (b) Petition submitted April 27, 2012 seeking a deferral of the examination in STAB22H3 based on the Student's Statement:

due to severe sickness and not being to write the exam with a valid utsc medical certificate

Referenced with this Petition are Medical Certificates dated April 17, 2012 (date of the Course examination) and April 27, 2012³. The April 17, 2012 Certificate indicates that the Student had an "acute" problem of diarrhea for 3-5 days and that "pt states could not sit exams". The April 27, 2012 Certificate states that the Student reported the onset of gastrointestinal illness on April 26th 2012 and that the "acute" problem" will not permit a student to sit for prolonged periods & may require he visit the bathroom".

The Student's Evidence

40. The Student was affirmed and testified to the following:

- (a) On the day of the examination in the Course, he attended at the examination and filled in the Scantron form with his name as well as the Candidate form.
- (b) Usually, there was a 15-45 minute wait before the Candidate form was signed with the invigilator. However, he was given seat number 57 in the first row and was attended to relatively early on. He presented his student card and signed the Candidate form.
- (c) After about 19 minutes, he had a very bad stomach ache.
- (d) He also stated that he was suffering from depression and anxiety.
- (e) He read the first seven questions and answered them but then he felt very sick and had to stand and then leave the examination.

³ In the photocopy of Exhibit 11, the April 17, 2012 Medical Certificate is attached to the April 20, 2012 Petition but from the face of the Petitions, this April 17th Certificate was submitted with the later April 27, 2012 Petition. Not much turns on this but it is mentioned for completeness.

- (f) The invigilators were all at the back of the room, talking, he did not let any of them know that he was leaving.
- (g) He stated that, if he had wanted to cheat, he would have taken the Scantron form with him and certainly would not have used a name that was so close to his own name on the Scantron form.
- (h) When the marks were released (the following Tuesday according to Professor Riggs), he was very surprised to have received a mark since he had not finished his questions⁴.
- (i) He went to speak to Professor Riggs to explain that he could not have gotten a mark since he did not write the examination.
- (j) He went back to Montreal after speaking to Professor Riggs.
- (k) Ten years ago, the Student had a case of stomach cancer and a benign tumour was removed at that time. He had had chemotherapy then and, during the period in question, he thought that the cancer had returned as he was having gastro-intestinal problems. However, after two months, the doctors "cleared him".
- (l) He did not attend University last year because of his gastro-intestinal problems as per the medical note.
- (m) He has never received a grade less than a "B" and other professors, close to him, would vouch for him.
- (n) During the mid-terms, he saw students exchanging Scantron answer forms.
- (o) His girlfriend was "not accurate" in her email by saying that his "oncologist had cleared him". The incident relating to his collapse arose from his depression and attempted suicide at that time but she did not want to tell the University about that (nor did he).

⁴ There was no evidence ever put before the Panel about the Student's grade on the Course examination.

- (p) Since that time, he has not taken any course and has a full-time job. He does not think that he can come back to school because of his full-time job.
 - (q) He attended at the hearing because he does not want to be accused of something he did not do and was prepared to undergo a polygraph test.
41. Upon cross-examination by Ms. Harmer, the following admissions were obtained:
- (a) It was approximately 20 minutes after the examination started when the invigilators started to go around to collect Candidates forms. He filled out his name on the Scantron and completed 8 answers to questions. It was another 15-20 minutes after the start of collection of Candidates forms that they reached his desk and, by that time, he had completed around 6 answers⁵. He then worked on the examination for another 7-10 minutes to answer 2 more questions;
 - (b) He was in the examination room for a total of a half hour;
 - (c) On the Orphan Scantron (Exhibit 5), he confirmed that the answer bubbles for the first 8 questions did not appear have been changed but he did not know how the balance of the 100 answer bubbles were completed or where "x" notations on some of the answer bubbles came from;
 - (d) The Student left his papers on the desk, "everything", because he thought he would be accused of cheating if he took his Scantron answer form. Had he wanted to cheat, he would have done a better job to erase things and again, would not have chosen a name so close to his own;
 - (e) He went to see Professor Riggs after the marks were posted because he "was surprised that he had a mark";

⁵ Although the Student was very confident about the timing of matters, and the sequence of events during his testimony in "chief", upon cross-examination, the Student was markedly more hesitant at times and seemed to be trying to craft the "right" answer to the question.

- (f) He filed a Petition to defer the examination in the Course within the 3 day time period on April 20;
- (g) The Student stated that he filed the Petition after the marks were posted⁶;
- (h) He lead Professor Irwin to believe that he was seriously ill at the Dean's Designate meeting but he never sent Professor Irwin any medical evidence because he was having medical tests done to determine whether he had cancer;
- (i) He was under the care of a doctor at the time (following the Dean's Designate meeting on September 26, 2012). This doctor was Dr. Rezaie, his family doctor not an oncologist. The Student stated that his family doctor wanted to be "sure" about whether he had cancer or not before referring him to a specialist;
- (j) He was "out of commission" and could not function during this period because of these medical tests and because of depression too;
- (k) Until December, 2012, he continued in this state of uncertainty about the recurrence of cancer. As a result, he could not get a medical note although he asked for a note. The doctor said that he did not want to provide a note because there was no diagnosis;
- (l) When asked why he did not get a note to confirm that he was undergoing tests for cancer, he replied that he did get such a note which was the note sent by his girlfriend;
- (m) When confronted with the fact that the note which his girlfriend sent was dated March 1, 2013 and made no mention of cancer, the Student responded that he did not ask for a note to advise about medical tests – he asked for a note that he had cancer – but they could not provide because there was no diagnosis;

⁶ However, Professor Riggs' evidence was the marks were not posted until the following Tuesday, after April 20th.

- (n) He was not seeing a psychologist/psychiatrist after the September, 2012 period but he did see a psychiatrist in May 2014 as referred to by his family doctor;
- (o) His family doctor diagnosed him with depression 2 years ago (around May 2012) and prescribed medication but that he did not get a note to this effect because he was embarrassed;
- (p) For the next 2 years, although his family doctor tried to assist him with depression, he lied to the family doctor and said he was feeling fine;
- (q) In reviewing Ms. Beauchamp's December 3, 2012 email (Exhibit 9B) with the Student, the Student stated that he wanted her to tell the truth but that he did not see the email at the time it was sent. Ms. Harmer identified with the Student, the inaccuracies in the email, namely:
 - (i) in December 2012, he was not and had not been seeing any oncologist, only his family doctor;
 - (ii) there was no oncologist who was on leave and, at first, the Student stated that his family doctor was away for several months but then confirmed that his family doctor had not been on leave as at December, 2012;
 - (iii) that no doctor, in fact, had been away on leave, no doctor was coming back in January and no doctor had been doing research in Europe;
 - (iv) that he did not know why Ms. Beauchamp referred to a "hospital" since he was attended to at the family clinic ("CLSC"); and
 - (v) that most of the email was not true but that Ms. Beauchamp was trying to buy time as he had attempted suicide.
- (r) No one else was aware that the Student had attempted suicide;
- (s) The Student was questioned about the March, 2103 cover note and medical note finally sent to Professor Irwin (Exhibit 10). The Student stated that the cover note

was written by his girlfriend and not him, even though it referred to "my physician".

- (t) When asked why the medical note mentions "financial issues in Iran" and nothing about cancer tests, the Student stated that he "didn't ask [the doctor] to say so".
- (u) Ms. Harmer also explored the events surrounding the adjournment of the earlier scheduled hearing date for this matter on August 15, 2014. The Student emailed the University at 11:20 a.m. on the day before the scheduled hearing advising that he "was supposed to fly to Toronto today for the scheduled meeting tomorrow morning but it has been a 2 days I have been having a persistent fever" and had been asked by his doctor not to leave town. Ms. Harmer requested medical confirmation by reply email of 11:41 a.m.. The Student did not respond until just after midnight on the 15th and Ms. Harmer replied at 7:48 a.m. asking for the note before the 9:45 a.m. hearing time.

The hearing convened as scheduled in the absence of the Student and it is obvious that Ms. Harmer fairly set out the Student's request for the adjournment and provided the email exchange regarding same to the Panel. An Order was made adjourning the hearing to September 17th, peremptory to the Student and requiring the Student to provide "clear evidence that he purchased an airline ticket for today's hearing, and clear evidence from a qualified doctor that he was advised by the doctor to not travel to the hearing today". The Order further stated that if the Student failed to provide both pieces of evidence that this Panel would be entitled to consider such failure to abide by the Order to assess the Student's credibility. The Order was duly provided to the Student.

Two days before the Hearing, Ms. Harmer emailed the Student requesting the two pieces of evidence required under the Order (long overdue). The Student sent an email on the day before the hearing stating that the Student had intended to buy the airline ticket from Montreal on August 15th (we note that his original email indicated that he was going to fly "today" being August 14) because of better pricing, even though he lived in Ottawa. He also attached a medical note dated

August 15, 2014 from a doctor, not his regular family doctor, which stated simply "Medical leave For 15/08/14" and not from August 14th, the day when he requested the adjournment.

On cross-examination, the Student stated that he did not realize that there was a 10 day time frame to provide the medical note and that he was "preoccupied about work in Ottawa."

42. The Panel posed the following questions to the Student:

- (a) When asked whether he saw a doctor on the same day as the Course examination, the Student stated that he saw a doctor in the morning of April 17, 2012 to obtain his medical note submitted with the Petition. When asked, why he nevertheless went to sit the examination if he had seen the doctor in the morning, he advised that he wanted to try the exam. It is noted that the Medical Certificate for April 17, 2012 (Exhibit 11) states that "pt states could not sit exam" which would seem to be referring to the examinations in past tense.
- (b) In reviewing the email exchange between Professor Irwin and the Student of September 28/October 1, 2012 (Exhibit 9A) (see Paragraphs 29 and 30 above), the Student was asked why he responded to Professor Irwin's request for a medical certificate to confirm his statements about his health, including a reference to Professor Riggs that he was undergoing chemotherapy by stating that he was "going to send [her] the certificate that [she] asked for as soon as possible". In particular, the Student was asked why, at no time, did he set the record straight if he never did undergo chemotherapy or had a diagnosis of cancer. The Student responded that he thought there was a "possibility of chemo" so he did not want to say for sure that he was not undergoing such treatment.
- (c) The Student was then asked whether he understood the distinction between "missing" his examination versus "leaving early". The Student confirmed that he understood the difference. The Student was referred to his Petition for a deferral

of his examinations (see Paragraph 38(1) above) in the Course and another course wherein he stated:

I missed my final exams due to severe sickness and not being able to attend in the exams that was approved by two physicians. required (sic) documentation will be provided.

The Student was asked why he stated that he "missed" his exams since he clearly attended, signed in, but left early. He responded that he considered that, because he did not finish, he had "missed" the examination.

The Student was then directed to the second part of his statement about "not being able to attend" which could not be taken to equate to "missing" the examination. The Student had no response.

43. Ms. Harmer had redirect arising from the Panel's questions and asked why the Student would have been surprised to have received a score because he had answered 8 questions. At which point, the Student's answer was quite surprising as he stated "But I erased my name and answers."

Decision of the Tribunal

44. For the reasons below, the Panel is satisfied it is more likely than not that the Student committed the offence set out in Charge #1 namely, the alteration of the Scantron answer form for the Course examination contrary to Section B.I.1(a) of the Code.
45. There was some discussion raised by the University as to whether the Scantron answer form is a "document or evidence required by the University" so as to fall under the rubric of Section B.I.1(a) of the Code. We are of the view that a Scantron answer form is included in scope of this section (as has been applied in other Decisions) and, in any event, if we are mistaken, we would find the Student guilty of Charge #3 pursuant to Section B.I.3(b) of the Code.
46. Charges #2 and #3 were withdrawn by the University based on the finding of guilt for Charge #1.

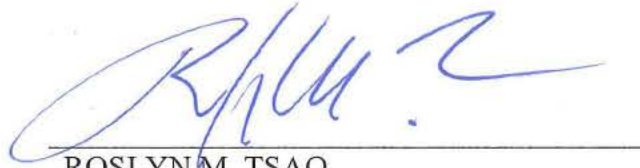
47. When considering the preamble to Section B of the Code, we note that the purpose of the prosecuting offences is to ensure that "conditions which might enable cheating, misrepresentation or unfairness not be tolerated".
48. With this in mind, we have concluded based on a clear and compelling evidence, that the Student altered his Scantron answer form with the goal of having no examination score entered for him although he attended at the examination and completed 100 answers. Although we need not determine the exact motive or mechanics of the Student's whole plan, we do accept the University's theory that, had the Student been successful in having his Scantron answer form "disappear" because of a non-existent name and student number, he might have been granted a deferral in order to re-write the examination at a later date pursuant to his Petition request at an advantage.
49. Unfortunately, the Candidate forms and Scantron answer forms were manually matched together with the result that a score (that the Student must not have liked) was attributed to him. Perhaps the Student believed that if there was no Scantron answer form corresponding to his name, that it would be irrelevant that there was a Candidate form for him.
50. The Petition that the Student filed after the examination but before the scores were published are consistent with the Student attempting to represent that he **missed** the examination due to illness as opposed to attending and then leaving because of illness. At this hearing, the Student was forced to take an alternate position, that he attended but had to leave, as his Candidate form was obviously completed and witnessed at the time. The resulting inconsistency between his evidence at the hearing and his Petition statement and his "surprise" at having received a score on the examination even though he testified that he completed some 8 questions leads us to conclude that the Student was attempting to create a "condition which might enable cheating, misrepresentation or unfairness" by erasing his name from the Orphan Scantron.
51. The post-incident communications, failures to provide medical certificates that would corroborate the Student's statements to University officials and the clearly misleading communications about cancer, though not directly related to the incident, permit this

Panel to doubt the Student's credibility where his evidence differs from the other witnesses.

Penalty

52. The University recommended the following penalty:
 - (a) The Student to receive final grade of zero in the Course;
 - (b) The Student to be suspended by the University from September 17, 2014 until September 16, 2016; and
 - (c) The sanction to be recorded on the Student's academic record and transcript until September 16, 2017.
53. The Panel obtained some current information relating to the Student. The Student is employed full-time at Harry Rosen in Ottawa and cannot re-attend university for financial reasons at this time. He has seen a psychiatrist twice in Ottawa in June, 2014 but is no longer seeing her.
54. The University had no evidence to tender but confirmed that this was the Student's first offence.
55. After considering other decisions in somewhat similar circumstances and that this was a first offence for the Student, we are of the view that the University's recommended penalty is in a reasonable range.
56. Accordingly, the Penalty set out in Paragraph 52 above is ordered by the Panel.
57. The Tribunal shall report this decision to the Provost for publication of a Notice of this decision and the sanction in the University newspaper, with the Student's name withheld.
58. An Order with the penalty was signed by the Panel at the hearing.

Dated at Toronto, this 25th day of October, 2014.



ROSLYN M. TSAO
Co-Chair