

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION**

Members of the Panel:

Kirby Chown, Co-Chair

Michael Kohler, student, OISE/UT

Anne Marie Salapatek, Faculty of Medicine

IN THE MATTER of the *University of Toronto Act, 1971*, S.O. 1971, c. 56, as amended;

AND IN THE MATTER of the University of Toronto Code of Behaviour on Academic Matters, 1995;

AND IN THE MATTER of disciplinary charges against [REDACTED]

Salim Hirji, for the Student

Lily I. Harmer, for the University of Toronto

In attendance:

[REDACTED]

BACKGROUND

[1] A hearing of the Trial Division of the University Tribunal was convened at 5:00 p.m. on Thursday, March 28, 2002, in the Falconer Room, Simcoe Hall, to consider two charges under the *Code of Behaviour on Academic Matters, 1995*, laid against [REDACTED] by letter dated July 13, 2001 from the Vice-President and Provost, Professor Adel Sedra. At the commencement of the hearing Ms. Harmer advised that the University was not proceeding on charge 2, leaving the following charge to be heard by the Tribunal:

1. On or about April 18, 2001, you did knowingly have another person personate you at an academic examination contrary to Section B.I.1(c) of the *Code of Behaviour on Academic Matters, 1995*. Pursuant to Section B of the *Code* you are deemed to have acted knowingly if you ought reasonably to have known that you had another person personate you at an academic examination. In particular, you had a student personate you at the final examination of APS105S held on Wednesday, April 18, 2001, at 2:00 p.m.

In the matter of disciplinary charges against [REDACTED] [REDACTED]

[2] An Agreed Statement of Facts dated March 28, 2002 and signed by Mr. [REDACTED] and Ms. Harmer was admitted into evidence. The Agreed Statement of Facts provided the following details:

1. [REDACTED] [REDACTED] (“[REDACTED]”) has been a student of the University of Toronto since the fall of 1999.
2. In the winter session of 2001, [REDACTED] was enrolled in APS105 Computer Fundamentals. [REDACTED] had been enrolled in this course during two previous terms, being the fall of 1999 and the winter of 2000, but had received a failing grade of “F” in each of these sessions.
3. [REDACTED] was scheduled to write a final examination in APS105 at 2:00 p.m. on April 18, 2001. The final examination was worth fifty percent (50%) of the final mark[sic].
4. [REDACTED] did not write the final examination. Instead, [REDACTED] [REDACTED] impersonated [REDACTED] at the final examination.
5. [REDACTED] acknowledges that he is guilty of knowingly having another person impersonate him at an academic examination contrary to Section B(I)(1)(c) of the *Code of Behaviour in [sic] Academic Matters, 1995*, as set out in charge 1.

[3] Mr. [REDACTED] pled guilty to the charge. After consideration, the Panel accepted the guilty plea.

[4] A Joint Submission with Respect to Sanction dated March 28, 2002 and signed by Mr. [REDACTED] and Ms. Harmer was presented to the Panel for consideration. The Joint Submission recommended the following sanctions:

1. A mark of zero in APS105;
2. Suspension from the University for a period of five (5) years from the date of the decision;
3. This sanction shall be recorded on the student’s academic record and transcript for five (5) years from the date of this decision; and
4. This case should be reported to the Provost to 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.

[5] The Joint submission set out the following mitigating factors in this case:

1. The student acknowledged his guilt when first confronted with the allegations;
2. The student expressed remorse to the Dean when first confronted with the allegations;

3. The student is a transplanted individual who has not been able to adjust fully to Canadian society in general, and to the university culture in particular;
4. The Student comes from a culture that is dominated by family control, in which personal decisions and educational decisions are made only with permission of the parents or elders. In this case, the student felt intense pressure to complete his studies, and believed that the consequences of failure would be severe;
5. At the time of the offence, the student had a limited support network of friends. He did not have the benefit of close peers to assist him in dealing with his academic problems when they first arose; and
6. The student understands the need for a significant sanction. The student has shown respect for the discipline process throughout, and accepts that the sanction submitted is appropriate.

[6] The panel, during the course of the submissions, received further information. Mr. [REDACTED] is currently twenty-six years old and came to Canada from Sri Lanka. He completed two years of high school before entering the Faculty of Applied Science and Engineering. The particular course in question, APS105, was described as a “core course”. It was the Panel’s understanding that it was a requirement that students pass this course. Failure to do so after three attempts would result in the denial of readmission to the Faculty.

[7] Mr. [REDACTED], through counsel and directly, advised the Panel of the strong family pressures he felt to succeed, as well as the direction he took about the importance of passing this course from his brother and his parents. He felt isolated within the university system and although living with a host family, was not particularly close to them.

REASONS FOR DECISION (Delivered Orally)

[8] The Panel took the above facts into account and was prepared to accept the Joint Submission. The Panel considered the offence of knowingly having another person personate a student on an academic examination to be one of the most serious offences under the *Code of Behaviour on Academic Matters, 1995*.

[9] In this case, the facts put this matter at the extreme edge of an already serious offence. It involved a final examination of a core course in a professional faculty. The Faculty made it a requirement for students to pass this core course in order to gain their professional degree. The Panel paid particular attention to the fact that it was in such a course that another individual took the examination for Mr. [REDACTED] and that therefore Mr. [REDACTED]’s work did not come forward for evaluation.

In the matter of disciplinary charges against [REDACTED] [REDACTED]

[10] The Panel noted that the preamble to the *Code of Behaviour on Academic Matters, 1995*, sets out very clearly the central core of the philosophy of the University. It speaks strongly to core values at the University and to the teaching and learning relationship. The preamble speaks to integrity, honesty, and fairness not only on the individual level, but also to the wider university community:

...Honesty and fairness must inform [the teaching and learning relationship]....

...the University has a responsibility to ensure that academic achievement is not obscured or undermined by cheating or misrepresentation, that the evaluative process meets the highest standards of fairness and honesty, and that malevolent or even mischievous disruption is not allowed to threaten the educational process.

..

[11] In light of the offence to which the Panel found Mr. [REDACTED] guilty, and in light of the importance of maintaining honesty, integrity and fairness in the university community, the Panel considered the Joint Submission with Respect to Sanction and measured that proposed penalty against the factors relevant to sanction outlined in the [REDACTED] case. In that case, a helpful albeit early decision of the appellate level of the University Tribunal, factors were set out which should be taken into account in sentencing. The Panel agreed with and applied these factors as set out below.

[12] The first sentencing factor is the character of the person charged. In this case there was information on the one hand that was disturbing to the Panel; a deliberate and premeditated attempt to cheat. On the other hand, the Panel noted that Mr. [REDACTED] confessed to his guilt promptly. The Panel found this to be a significant admission as he accepted very early on his responsibility for the offence he has committed. The Panel noted, as well, that Mr. [REDACTED] expressed remorse to the Panel directly at the time of the hearing.

[13] The second sentencing factor is the likelihood of a repetition of the offense. Counsel advised that this was Mr. [REDACTED]'s first offence. Mr. [REDACTED] told the Panel of the importance to him of obtaining an education and the effect that this sanction will have on him personally and on his family. The Panel was hopeful that there will be no repetition of such an offence in the future.

[14] The third sentencing factor is the nature of the offence committed. The Panel found this to be an extremely serious offence. There was a deliberate and premeditated attempt to circumvent the evaluation process of the University that constituted a very serious breach of trust between this individual student and his faculty. His actions attacked the integrity of the evaluation process for all students within the university community who have worked honestly for their evaluations.

[15] The fourth sentencing factor relates to extenuating circumstances. The Panel took Mr. [REDACTED]'s individual circumstances at the time into account, particularly with respect to his family background and the particular individual pressures that he felt.

[16] The fifth sentencing factor pertains to the detriment to the University occasioned by the offence. The Panel wished to emphasize that this offence is a violation of the basic trust that must and should exist between the student, individually, and his or her professor; between students and the faculty; and between the whole student body and the University community. Such violation cannot be permitted or tolerated in any fashion at a great university like the University of Toronto.

[17] The final sentencing factor is the need to deter others from committing a similar offence. The Panel hoped that it would be obvious to all students that obtaining a mark by having another student write an examination is not in any way acceptable. The Panel further hoped that severe sanctions attached to an offence of this nature will add to the deterrence and make it very clear that this kind of behaviour is not tolerated and when found will be punished strongly.

[18] The Panel was referred to a number of cases involving impersonation that have been decided over the last twenty years by this Tribunal. The Panel recognized that in many of the cases there is simply not enough factual information for the Panel to come to a conclusion as to why particular decisions were reached. Accordingly, the Panel placed more emphasis on recent cases where the Panel had greater information to enable it to understand the particular facts. The Panel wished to ensure that a consistent message is sent for this type of offence; that it will be punished with a range of sanctions that are appropriate and consistent. The Panel felt that this was very important, not only for the individual student to feel fairly treated, but also the university community as a whole.

[19] Accordingly, taking all of these factors into consideration, the Panel imposed the following sanctions:

1. A mark of zero in APS105;
2. Suspension from the University for a period of five years from the date of this decision;
3. This sanction shall be recorded on the student's academic record and transcript for five years from the date of this decision;
4. The case shall be reported to the Provost to publish a notice of the decision of the Tribunal and the sanctions imposed with the name of the student withheld.

April 9, 2002

I certify that this is the decision of the Panel



Kirby Chown

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION**

Members of the Panel:

Sherry Liang, Co-Chair

Philip Berger, faculty member, Faculty of Medicine

Penny Schincariol, student member, Faculty of Arts and Science

IN THE MATTER of the *University of Toronto Act, 1971*, S.O. 1971, c. 56, as amended;

AND IN THE MATTER of the *University of Toronto Code of Behaviour on Academic Matters, 1995*;

AND IN THE MATTER of disciplinary charges against [REDACTED] [REDACTED]

[REDACTED] [REDACTED], representing himself

Linda R. Rothstein and *Robert A. Centa*, for the University of Toronto

In attendance:

Ian McDonald, Associate Dean, University of Toronto at Scarborough

Sherylin Biason, University of Toronto at Scarborough

Heather Pagan, University of Toronto at Scarborough

BACKGROUND

[1] A hearing of the Trial Division of the University Tribunal was convened at 5:00 p.m. on Tuesday, April 2, 2002, in the Falconer Room, Simcoe Hall, to consider seven charges laid against [REDACTED] [REDACTED] under the *Code of Behaviour on Academic Matters, 1995* by the Vice-President and Provost, Professor Adel Sedra. At the commencement of the proceedings Ms. Rothstein advised the panel that count numbers two, four, five and seven had been withdrawn by the University, such that the following charges remained before the Panel:

1. THAT on or about July 1, 2001, you knowingly counseled another member, Ms. Heather Pagan, to commit to be a party to an offence contrary to s. B.II.1(a)(iv) of the *Code [of Behaviour on Academic Matters, 1995]*. Specifically, you knowingly counseled Ms. Pagan to knowingly evaluate your academic work by reference to any criterion that did not relate to its merit, to the time within which it was to be

In the Matter of Disciplinary Charges Against [REDACTED] [REDACTED]

submitted or to the manner in which it was to be performed, contrary to s. B.I.2(c) of the *Code of Behaviour on Academic Matters, 1995* (“Code”).

3. THAT on or about July 1, 2001, you knowingly counseled another member, Ms. Heather Pagan, to commit or be a party to an offence contrary to s. B.II.1(a)(iv) of the *Code*. Specifically you knowingly counseled Ms. Pagan to knowingly falsify an academic record, namely your results in FSL100H1F contrary to sections B.II.1(a)(iv) and B.I.3(a).

6. THAT on or about July 1, 2001, you, having knowingly engage [sic] in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code*, in order to obtain academic credit or other academic advantage of any kind, contrary to s. B.I.3(b) of the *Code*.³

[2] Mr. [REDACTED] has been enrolled at the University of Toronto at Scarborough since the fall of 1997. He remained enrolled until July 1, 2000 when he commenced a one-year suspension for academic misconduct. He re-enrolled in May of 2001 in FSL100H, and as of October 2001 he had completed 12 credits and had enrolled for four additional credits. FSL100II was a first-year French course taught by Ms. Heather Pagan.

[3] An e-mail dated July 1, 2001, from Mr. [REDACTED] to Ms. Pagan was admitted into evidence. The text of the e-mail was as follows:

Hi Heather! This is [REDACTED] from your FSL100 class. First, thanks for the great semester... I really feel I learned and had fun in the course, plus you were very leanient to me for my absences. I was so surprised on the exam and in-class essay I was really able to write a short passage (despite obviously still with many spelling and grammar errors but at least I think you get my point).

Have you marked the finals yet? If so, how did I do? I'm pretty confident I at least passed at around 60%, n'est pas? However, if there's something I can to to improve that mark to an A or A-, I really would. That's because I'm graduating after the summer. My current cumulative GPA is around 2.6; that's not very competitive if I ever plan to take MBA in two years which requires at least a 2.7 (minimum application!). I'm also taking another full-year course right now and yes, obviously trying very hard to achieve high grades.

Would it be rude to ask you, Heather if you're willing to help me upgrade my FSL100 mark? I can compensate you this around \$100 - \$200 (I'm not a rich guy) which I can drop off to you anytime. Anyhow, if you're not willing to, it's no problem and please don't feel offended. It's just merely a request from a very desperate student!

You can reply to me either by e-mail or contact me by phone:

H: (416) [REDACTED]

In the Matter of Disciplinary Charges Against [REDACTED] [REDACTED]

C: (416) [REDACTED]

Yours truly,

[REDACTED] [REDACTED]

[errors copied from the original]

[4] Ms. Pagan did not accept Mr. [REDACTED]'s offer.

[5] As required by the *Code*, Mr. [REDACTED] met with Associate Dean Ian McDonald on January 10, 2002. During that meeting Mr. [REDACTED] admitted that he committed an academic offence under the *Code*.

[6] Mr. [REDACTED] pled guilty to counts one, three and six.

REASONS FOR DECISION (Delivered Orally)

[7] After consideration, the Panel found Mr. [REDACTED] guilty of counts one and three. In view of the fact that Mr. [REDACTED] was found guilty of academic misconduct described in the *Code*, the Panel found Mr. [REDACTED] not guilty of count six.

[8] The Panel heard evidence and submissions from Mr. [REDACTED] and the University on the question of appropriate sanctions. The University submitted that Mr. [REDACTED] should be expelled.

[9] The Panel imposed the following sanctions:

1. A five-year suspension;
2. This sanction shall be recorded on the student's academic record and transcript for ten years; and,
3. Recommended that the case be reported to the Provost to publish a notice of the decision of the Tribunal and the sanctions imposed with the name of the student withheld.

[10] The Panel was not of the view that general deterrence was critical on the facts of this case given the Panel's opinion that the incidence of this type of conduct is likely rare. At the same time, the Panel did not minimize the severity of the offence. Although the Panel does not place the conduct at the farthest end of the spectrum, as submitted by the University, the Panel felt that the sanction imposed recognized the seriousness of this conduct.

[11] The Panel did not find many extenuating facts in this student's favour to justify leniency, however the Panel was satisfied that a five-year suspension along with a ten-year notation is substantial. Even once, and if, Mr. [REDACTED] returns to the University, the continuation of the


In the Matter of Disciplinary Charges Against [REDACTED] [REDACTED]

notation on his record for up to a further five years will serve as a reminder to him of the offence and will reduce the likelihood of re-occurrence.

[12] Given his young age the Panel saw a potential for rehabilitation to a standard of academic conduct compatible with the University's expectations. To this end, the Panel strongly suggested that Mr. [REDACTED] seek professional guidance and counseling during his suspension.

April 24, 2002

I certify that this is the decision of the Panel


Sherry Liang
Co-Chair