



# University of Toronto

---

OFFICE OF THE GOVERNING COUNCIL

TO: Members of the Academic Board

SPONSOR: Nancy Smart, Judicial Affairs Officer  
CONTACT INFO: nancy.smart@utoronto.ca / 416-946-7663

DATE: November 8, 2007

AGENDA ITEM: 8 (b)

## **ITEM IDENTIFICATION:**

### **Decisions of the University Tribunal**

## **JURISDICTIONAL INFORMATION:**

The University Tribunal hears cases of academic discipline under the *Code of Behaviour on Academic Matters, 1995* (the “Code”) <sup>1</sup> which are not disposed of under the terms of the *Code* by the Division.

Section 5.2.6 (b) of the Terms of Reference of the Academic Board provides for the Board to receive for information reports, without names, on the disposition of cases in accordance with the *Code*.

## **RECOMMENDATION:**

For information.

---

<sup>1</sup> <http://www.utoronto.ca/govcncl/pap/policies/behaveac.pdf>

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made in March 7, 2006,

**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:**

**THE UNIVERSITY OF TORONTO**

- and –

**Mr. L.**

Members of the panel:

- Raj Anand, Chair
- Professor Ikuko Komuro-Lee, Faculty Panel Member
- Mr. Adrian Asselin, Student Panel Member

Appearances:

- Ms Lily Harmer for the University of Toronto
- Mr. L., The Student

[1] A hearing was held on September 7, 2006 by the trial division of the University Tribunal to consider two charges under the *Code of Behaviour on Academic Matters, 1995* (the “Code”) laid against the student by letter dated March 7, 2006 from Professor Edith Hillan, Vice-Provost, Academic.

[2] The panel of the Tribunal was made up of Adrian Asselin, a student; Ikuko Komuro-Lee, a professor; and Raj Anand, outside legal counsel. Counsel for the University was Lily Harmer. The student represented himself at the hearing.

**Notice of Hearing and Charges**

[3] The Notice of Hearing is dated July 31, 2006. At the commencement of the hearing, counsel for the University, Lily Harmer advised that the University was not proceeding on charges 4 and 8 leaving the following charges to be heard by the Tribunal:

1. In the winter of 2003, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your essay entitled "Climate Change and Infectious Disease: West Nile Virus Case Study in the

Toronto-Niagara Region" that you submitted to fulfill the course requirements of GGR498H1, contrary to section B.1.1(d) of the Code.

2. In the winter of 2003, you knowingly submitted your essay entitled "Climate Change and infectious Disease: West Nile Virus Case Study in the Toronto-Niagara Region" containing a purported statement of fact or reference to a source which has been concocted to fulfill the course requirements of GGR498H1, contrary to section B.1.1(f) of the Code.
3. In the winter of 2003, you knowingly submitted, without the knowledge and approval of the instructor to whom it was submitted, any academic work for which credit had previously been obtained or is being sought in another course or program of study in the University or elsewhere, in connection with your essay entitled "Climate Change and Infectious Disease: West Nile Virus Case Study in the Toronto-Niagara Region" to fulfill the course requirements of GGR498H1, contrary to section B.1.1(e) of the Code.
4. In the winter of 2003, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your essay entitled "Climate change and mosquito borne disease: the Canadian and Australian experience" that you submitted to fulfill the course requirements of IN1492H1, contrary to section B.1.1(d) of the Code.
5. In the winter of 2003, you knowingly submitted your essay entitled "Climate change and mosquito borne disease: the Canadian and Australian experience" containing a purported statement of fact or reference to a source which has been concocted to fulfill the course requirements of IN1492H1, contrary to section B.1.1(f) of the Code.
6. In the winter of 2003, you knowingly submitted, without the knowledge and approval of the instructor to whom it was submitted, any academic work for which credit had previously been obtained or is being sought in another course or program of study in the University or elsewhere, in connection with your essay entitled "Climate change and mosquito borne disease: the Canadian and Australian experience" to fulfill the course requirements of IN1492H1, contrary to section B.1.1(e) of the Code.

#### **Particulars of the Charges**

[4] The particulars of the charges were as follows:

1. You were, at all material times, a student in GGR498H1 taught by Professor Tony Davis and by Quentin Chiotti in the fall term of 2002.
2. In the winter of 2003 you submitted an essay entitled "Climate Change and Infectious Disease: West Nile Virus Case Study in the Toronto-Niagara Region" that contained excerpts and passages that were not written by you, but were copied without attribution from a variety of internet websites and other sources.
3. Some or all of the citations and references used by you in the essay were falsified and/or concocted.

4. Much of the content of the essay was also submitted to fulfill the course requirements of IN1492H1.

[5] You were, at all material times, a student in IN1492H1 taught by Professor David Powell in the winter term of 2003.

1. In the winter of 2003 you submitted an essay entitled "Climate change and mosquito borne disease: the Canadian and Australian experience" that contained excerpts and passages that were not written by you, but were copied without attribution from a variety of internet websites and other sources.
2. Some or all of the citations and references used by you in the essay were falsified and/or concocted.
3. Much of the content of the essay was also submitted to fulfill the course requirements of GGR498H1.

#### **Agreed Statement of Facts**

[6] The panel was provided with an Agreed Statement of Facts signed by the Student and Counsel for the University that was entered into evidence. The Agreed Statement of Facts is attached as an appendix to this decision.

#### **Plea**

[7] The Student pleaded guilty at the hearing to charges 1, 2, 3, 5, 6 and 7 as presented by the University.

[8] Counsel for the University led the panel through the Agreed Statement of Facts, presented the details of the charges and the particulars of the offences and took the panel to the relevant sections of the *Code of Behaviour on Academic Matters*.

[9] The Student noted that he was not disputing any of the facts as presented by the University. The Chair asked if there were any additions, clarifications or contradictions that the Student wished to enter. In response, the Student indicated that there were none, but that he wished to make some submissions with respect to penalty. The Chair indicated that he would have that opportunity.

[10] After deliberation, the panel unanimously accepted the Student's guilty plea and entered a verdict of guilty on charges 1, 2, 3, 5, 6 and 7 as set out by the University.

#### **Submissions on Penalty**

[11] An Agreed Statement of Facts on Penalty and a Joint Submission on Penalty, signed by the Student and Counsel for the University, were presented to the panel for its consideration.

The Agreed Statement of Facts and the Joint Submission on Penalty are attached as appendixes to this decision.

[12] The Agreed Statement of Facts on Penalty indicated that the Student had been found to have committed the academic offence of plagiarism on two separate occasions prior to the events which led to the charges in the present matter and presented the details of those prior offences.

[13] The Joint Submission on Penalty noted:

1. The University of Toronto and the Student submit to the Tribunal that the appropriate penalty in all the circumstances of this case is that Student:
  - (a) receive a zero in the course GGR498;
  - (b) receive a zero in the course INI492;
  - (c) be suspended from the University for a period of five years from September 1, 2006 to August 31, 2011; and
  - (d) have his academic record and transcript bear a notation of these academic offences from September 1, 2006 to August 31, 2012 or his graduation from the University, whichever occurs first.
2. The University of Toronto and the Student submit that the University should publish these offences with the Student's name withheld.

[14] The panel heard submissions from counsel for the University and for the student. Both parties agreed that the appropriate penalty in all of the circumstances was the one set out in the Joint Submission on Penalty.

[15] Counsel for the University presented the panel with a book of authorities and referred the panel to several decisions of the University Tribunal and, in particular, the criteria for sanction first proposed by the late Mr. Justice Sopinka sitting as a member of the University Tribunal in the appeal of Mr. C. (November 5, 1976).

[16] According to the guidelines set out by Mr. Sopinka, the Tribunal should consider the following six criteria when deciding on an appropriate sanction:

- (1) the character of the person charged;
- (2) the likelihood of a repetition of the offence;
- (3) the nature of the offence committed;
- (4) any extenuating circumstances surrounding the commission of the offence;
- (5) the detriment to the university occasioned by the offence;
- (6) the need to deter others from committing a similar offence.

[17] Counsel for the University highlighted the seriousness of the offences and emphasized the importance of the integrity of the University's transcripts and academic records. She reviewed

past decisions of the University Tribunal in a number of cases involving academic dishonesty, particularly plagiarism.

[18] The student agreed with the University regarding the seriousness of the offences. He acknowledged the offences, accepted the consequences and noted that he was appearing before the Tribunal to take responsibility for his actions in person. He told the panel that he was greatly sorry for what he had done and wanted to return to the University after five years as a better student. He was not claiming ignorance, and realized that he was a repeat offender.

### **Decision**

[19] After carefully considering the submissions of the University and the student, the panel indicated that it had some concerns about the start date of the jointly recommended suspension. The Chair, reminding the parties that previous Tribunals imposed the sanction from the date of the student's first admission of guilt, reported that the panel was unsure how to establish the implementation date for the sanction, given the delay between the commission of the offences and the commencement of judicial proceedings against the student by the University.

[20] A chronological review of events was collaboratively provided by the student and discipline counsel, in which both parties agreed that a meeting was held in July 2003 at which Mr. Roger Riendeau, Vice-Principal and Academic Coordinator, Innis College, Mr. David Powell, Undergraduate Program Counsellor, Centre for the Environment, and the student were present. An allegation of plagiarism in at least one course was discussed during that meeting. Both parties also confirmed that the student's first meeting with the Dean occurred in October 2005. From July 2003 until May 2005, the student was in Australia.

[21] The Chair then asked whether the University had attempted to contact the student between July 2003 and May 2005 in order to begin judicial proceedings against him, and, if not, did either party wish to comment on whether the sanction effective date should be different from that which was suggested in the Joint Statement on Penalty; that is, given the chronology of events, should the effective date begin on or before the date of the Tribunal hearing, September 1, 2006.

[22] Discipline counsel responded that consensus on the events between July 2003 and May 2005 was not possible. However, counsel did bring to the attention of the panel one of the facts in evidence regarding the meeting with the Dean in October 2005. During that meeting, the student did not dispute the allegations or evidence presented. His lack of disagreement was characterized as an admission of guilt by discipline counsel. However, during the course of that meeting, the student attempted to explain his behaviour as a consequence of his inability to write papers well. Counsel questioned whether such a response can be considered a full and frank admission or if it was an attempt to explain or excuse behaviour that is virtually impossible to justify on the grounds of inability, given the evidence in the case. Counsel then reminded the panel that the same explanation had been offered in response to previous charges of plagiarism laid in 2002.

[23] The Chair asked whether discipline counsel was arguing that the first real admission of guilt occurred during the present hearing. Counsel responded in the affirmative. The student responded that he had not intended to deny his responsibility by mentioning his poor writing skills. His intention was to make a statement of fact: that he is a poor writer. The panel then inquired of the student why he had made no contact with the University between July 2003 and October 2005. The student explained that two reasons affected his action: (1) He had been told that there was a backlog of cases and that he would be contacted about his case in due time. Because he was not familiar with the process, he did not have a sense of how long he would have to wait; and (2) He was afraid to face the issue.

[24] The panel then recessed again and returned with its decision, to unanimously accept and impose the Joint Submission on Penalty. The reasons for the decision are as follows:

[25] First, the panel notes that, in considering the appropriate sanction, they accept the principle that a joint submission on penalty cannot be taken lightly and must carry a great deal of weight. While the criminal law practice is not entirely parallel or binding on us, it is noteworthy that a trial judge should not depart from a joint penalty submission unless it is so disproportionate to the offence that its imposition "would be contrary to the public interest and bring the administration of justice into disrepute": *R. v. Bosklopper* [1995] O.J. No. 4125 (C.A.).

[26] Second, the panel has had an opportunity to consider the admitted facts of this case in light of the guidelines set out above.

[27] In short, we have a case of multiple instances of plagiarism in two essays; falsification or concoction of citations and references in the two essays; submission of much of the same content for credit in both essays; and all of this after two previous admitted instances of plagiarism in the immediately preceding term in 2002. As against this, we have received a full acknowledgment of responsibility, and cooperation with the University in the presentation to this Tribunal. The student expressed his wish to complete his degree, for which he requires 1.5 remaining course credits.

[28] The deliberate and concealed changing of words and resubmission of similar material, after warnings that this would not be acceptable, goes to the character of the student, among other factors. The repetition of similar plagiarism offences is inexplicable, and constitutes an egregious breach of trust and assault on the integrity of the teaching and learning relationship. Plagiarism, particularly on the internet, is easily done and difficult to prevent.

[29] Plagiarism penalties for first offences by undergraduate students appear to fall in the range of up to two-year suspensions. Here we have multiple plagiarism offences, together with a prior history and an added "double counting" of the same material in two courses. Five years is the longest suspension that is available to the Tribunal, and expulsion would prevent the student from translating his remorse and desire for improvement into the tangible result of a completed degree. We regard the date of the hearing, September 1, 2006, as the first date on which a true admission of guilt was made by the student, and accordingly it is an appropriate starting point for the five year suspension. He will also receive a mark of zero in the two courses in question.

[30] Balancing the objectives of compassion, specific and general deterrence, and protection of the University community, we therefore accepted the joint submission of the University and the student.

[31] The panel thanks the parties for their assistance in the presentations and submissions at the hearing.

---

Date

---

Raj Anand, Chair



**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on May 1, 2006;

**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 -

**Members of the Panel:**

Mr. Raj Anand, Chair

Professor James Rini, Faculty Panel Member

Ms. Sara Ageorlo, Student Panel Member

**Appearances:**

Ms. Lily Harmer, Counsel for the University of Toronto

Mr. Guy Giorno, Counsel for the Student

Mr. \_\_\_\_\_, the Student

**In attendance:**

Professor Susan Pfeiffer, Dean, School of Graduate Studies, & Vice Provost, Graduate Education

**Preliminary**

[1] The Trial Division of the University Tribunal was convened on February 26, 2007 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the “Code”) laid against the student by letter dated May 1, 2006 from Professor Edith Hillan, Vice-Provost, Academic.

[2] The panel of the Tribunal was made up of Mr. Raj Anand, outside legal counsel, Ms. Sara Ageorlo, a student; and Dr. Rini, a professor. Counsel for the University was Ms. Lily Harmer. The student attended the hearing and was represented by Mr. Guy Giorno.

### **Hearing on the Facts**

[3] The charges are as follows:

1. Contrary to Section B.I.1(f) of the *Code of Behaviour on Academic Matters* (the *Code*), in or about 2002, you knowingly submitted academic work containing a purported statement of fact or reference to a source which had been concocted in your research data which formed part of your Master's thesis in RST9999Y.
2. Contrary to Section B.I.3(b) of the *Code*, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain credit or other academic advantage of any kind when, in or about 2002, you submitted academic work containing a purported statement of fact or reference to a source which had been concocted in the research data which formed part of your Master's thesis in RST9999Y.

[4] Particulars of the charges are as follows:

1. At all times you were a Master of Science student in the Department of Public Health Sciences, School of Graduate Studies, at the University of Toronto.
2. You were engaged in research at the University of Toronto, under the direction of Dr. Susan Tarlo.
3. During the course of your research you fabricated, falsified, or misrepresented data by various means including, but not limited to, by altering, fabricating and/or falsifying data with respect to:
  - a. the number of air samples obtained from symptomatic and asymptomatic sources;
  - b. the number of symptomatic and asymptomatic sources;
  - c. sputum samples; and
  - d. a subject's work status (collectively "fabricated data")
4. In September 2002, you submitted your thesis entitled "Evaluation of Asthma, Work-related Symptoms, Induced Sputum, and Exposures Among Medical Radiation Technologists" containing the results of your research, including the fabricated data, for academic credit in RST9999Y.
5. In December 2002, a final report entitled "Evaluation of work-related symptoms, asthma, sensitization and exposure among radiologic technologists", which contained the fabricated data, was submitted to the WSIB Research Advisory Council.

6. In 2002, you submitted an abstract containing the fabricated data to the American Journal of Respiratory and Critical Care Medicine that was published in the Am J Resp Crit Care Med., 2002, Vol. 165, A. 522.
7. In 2002, you submitted a manuscript entitled "Medical Radiation Technologist Exposure to X-ray Film Processing Chemicals", which contained the fabricated data to the American Journal of Industrial Medicine.
8. In 2002, you submitted a manuscript entitled "Sputum cytology and serum glutaraldehyde antibodies in medical radiation technologists", which contained the fabricated data, to the American Journal of Industrial Medicine.
9. Your research, thesis, abstract, report and manuscripts contained and/or were based on data you fabricated, falsified, or misrepresented as described above.

[5] Reading of the charges was waived. The charges, with the accompanying letter from Professor Edith Hillan, Vice-Provost, Academic, dated May 1, 2006, were entered as Exhibit 1.

[6] The student then entered a plea of guilty to the charges.

[7] Discipline counsel for the University introduced the *Agreed Statement of Facts* in two volumes. Volume 1 was entered as Exhibit 2 and Volume 2, *The Book of Documents*, was entered as Exhibit 3.

[8] Discipline counsel provided an overview of Exhibits 2 and 3:

1. In November 2002, the student was awarded a M.Sc. in the Collaborative Program in Environment and Health.
2. In October 2004, the student was accepted to the School of Graduate Studies to commence a doctoral program at the Institute of Medical Science in the summer of 2005. At the time of the hearing the student was still registered in the doctoral program.
3. At some time in 2001, the student altered the clinical data that he had collected in several ways:
  - a. he reported that he collected 32 air samples from 20 workplaces of symptomatic medical radiation technologists, when he had in fact obtained 36 air samples from 22 such workplaces;
  - b. he reported that he had obtained 16 air samples from 10 workplaces of asymptomatic medical radiation technologists, when in fact he had only obtained 12 air samples from 7 such workplaces;
  - c. he altered data for 4 of 55 induced sputum samples; and
  - d. he changed one result on a study subject to indicate that it had been performed while the subject was working, when the subject was in fact off work.

4. The student altered the data because he felt that there were too few data in one of the comparison groups.
5. The altered research data formed part of the basis of the student's M.Sc. thesis; the altered research data formed part of a final report to the WSIB Research Advisory Council; and the altered research data was included in two papers submitted for publication by two of the student's thesis committee members.
6. As a member of the University, the student was at all times bound by the University's "Policy on Ethical Conduct in Research" (*Policy*). By altering data, the student acted contrary to that policy, particularly section 3(i), which states: "The University considers that the highest ethical standards in research would entail (although not exclusively) the accurate presentation and interpretation of experimental data and other factual information".
7. In August 2005, the student voluntarily disclosed to three colleagues, two of whom had been on his thesis committee, that he had altered research data when producing his thesis in 2002. Following this disclosure, the student provided his colleagues with corrected data.
8. Upon learning of the altered data, the student's two thesis committee members analyzed the impact of the corrected research data on the overall outcome of the student's research and concluded that the changes were not material to the outcome.

[9] Having completed the summary of the agreed statement of facts, discipline counsel requested that the panel accept the student's guilty plea and find him guilty of the charges.

[10] The panel asked for more details regarding the student's motives for altering the data, given the fact that the student had not analyzed the research data prior to making the changes and, so, did not know if the changes would materially affect the outcome of his research.

[11] Discipline counsel reiterated that the student admitted in the *Agreed Statement of Facts* that he hoped to achieve a better result. However, the *Statement* is silent on whether by "better result" the student meant to achieve comparable sample sizes or to change the outcome of his research.

[12] The panel questioned whether the student's guilty plea was a plea to both charges or to just the first charge, given that the formal admission in paragraph 37 of the *Statement* related only to the charge pertaining to section B.i.1(f) of the *Code*.

[13] Discipline counsel responded that both charges arose from the same offence. As such, the University withdrew the second charge pertaining to section B.i.3(b).

#### **Decision of the Tribunal**

[14] After deliberation, the panel accepted the student's guilty plea to charge #1.

## **Penalty Phase**

[15] The University submitted to the panel a *Joint Submission on Penalty*, Exhibit 4, to which both parties had agreed. The *Submission* suggested that the appropriate penalty in all circumstances is:

- a. recommendation by the Tribunal to Governing Council that the student's Master of Science Degree, conferred November 2002, be cancelled and revoked;
- b. suspension of the student from attendance at the University for a period of six months from the date of this hearing;
- c. assignment of a grade of NCR in RST9999Y for the 2002 summer term;
- d. notation on the student's transcript to the effect that he was sanctioned for academic misconduct for a period of two years from the date of this hearing.<sup>1</sup>

[16] In addition, the University and the student submitted that the Tribunal should report the decision to the Provost for publication in the University's newspaper with the student's name withheld.

[17] The University reviewed the possible sanctions provided for by the *Code* in section C.ii.(b), ranging from a reprimand to expulsion, as well as the provisions for ancillary penalties such as zero grades, suspensions and cancellation of degrees.

[18] The panel questioned what the impact of the cancellation and revocation of the student's M.Sc. degree would be on his current status as a doctoral student. After consulting with Professor Pfeiffer, discipline counsel informed the panel that the student's on-going registration status will be determined by the department/program in which he is currently registered. It was discipline counsel's understanding that the department is willing to have the student continue in some capacity. It is likely that the student will return after his suspension in the capacity of a master's student, rather than a doctoral student.

[19] Although a suspension of six months seems lenient in light of previous Tribunal decisions, the University explained to the panel that the student's current supervisor believes that six months is the longest that the student can be absent from his research work. If he were to be suspended for a longer period of time, his work would have to be given to another researcher.

[20] The University understands the cancellation and revocation of a degree to be a very serious sanction. However, the University is prepared to recognize two important factors:

1. the student reported the offence voluntarily

---

<sup>1</sup> For clarity, the fact of the degree cancellation and the date it was cancelled, and the grade of NCR for RST9999Y in the 2002 summer term, shall remain on the student's transcript permanently.

2. the behaviour was out of character for the student

[21] The University placed a *Book of Authorities* before the panel so that it might have an opportunity to review several decisions of other panels of the University Tribunal.

1. Mr. C. (January 25, 2006) was charged with fabricating data. It was the opinion of the Tribunal that expulsion should be reserved for students who showed no possibility of rehabilitation. In deciding sanctions to be imposed, the panel sought to balance the seriousness of the offence with the opportunity for the student to reform by providing him with a second chance. Since it was determined that Mr. C. showed potential for reform, the Tribunal recommended a five-year suspension, a five-year notation, a grade of 0 in RST9999Y, and publication in the University's newspaper with the student's name withheld.

It was noted that there has only been one other revocation case on record:

2. Mr. R. (November 13, 1996) was charged with plagiarism in preparing his thesis. The Tribunal accepted the defendant's plea of guilty and, noting that the student had reported his offence voluntarily, recommended a cancellation of his degree, a five-year suspension, a six-year notation, and recommended publication in the University's newspapers with the student's name withheld.

[22] Discipline counsel reviewed with the panel the criteria for sanction first proposed by the late John Sopinka, Q.C. in the appeal of Mr. C. (November 5, 1976). According to these guidelines, the Tribunal should consider the following six criteria when deciding on an appropriate sanction:

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

[23] Prior to deliberation on sanction, defence counsel addressed the panel on two issues:

1. The student's future registration status as a master's student, rather than a doctoral student, had been discussed, but without guarantee. At the time of the hearing, discussions had been of a hypothetical nature.

2. While deterrence and the integrity of the University's degrees are important factors to consider when recommending sanctions, it is equally important not to discourage students from coming forward and admitting misconduct. This is the only case on record wherein a student came forward and admitted academic misconduct, even though there was almost no possibility of his misconduct being discovered.

[24] The student concluded the defence submission with an apology, a promise not to repeat his mistake, and a request for a second chance.

### **Sanction and Reasons**

[25] As both parties stated, the fabrication of data, followed by the publication of the falsified data in published research papers and a thesis, are very serious offences. Actions of this kind undermine the integrity, reputation and credibility of the University, its academic staff and students, and its academic mission, as well as the public need to presume that a degree from the University is honestly earned. A serious penalty is warranted in order to vindicate the interests of both specific and general deterrence.

[26] In this case, the penalty is serious; the student loses his masters degree, and apart from the accompanying stigma, the permanent notation means he will have to explain this cancellation in any university or employment application. The other terms result in forfeiture of his grade in research and thesis work, but do not prevent him from rehabilitating himself by resuming his studies.

[27] This case presents extenuating circumstances that are unique in our jurisprudence. The student came forward, albeit after several years, and disclosed the full extent of the alterations he had made. But for his disclosure, the alteration of the data would not likely have been discovered. Only his conscience caused him to reveal his misconduct, and he did not leave it to the University to find out.

[28] Mr.                    also cooperated fully with the University from that point onward, and expressed his remorse throughout, culminating in his frank statements to us at the hearing. These sentiments militate against the likelihood that this student will repeat conduct of this kind.

[29] This case illustrated, in some respects, the difficulties that the parties must anticipate when they take the sensible step of shortening the hearing by negotiating an Agreed Statement of Facts and dispensing with live witnesses or other forms of confirmatory evidence. The panel had questions about two issues that were referred to in the Statement, and it was awkward for the parties to provide answers or supplementary information, in light of the carefully worded and final agreement that found expression in the Statement.

[30] First, the Statement assured the panel in paragraphs 29 to 33 that the student's fabrications of data did not affect the validity of his research, which was then published jointly with members of the University's research team. There was no independent validation of this conclusion, and so to an extent, the nature of the detriment to the University was somewhat unclear. Second, on the issue of motive for his actions, the Statement made a bare reference in

paragraph 10 that the student had been "experiencing a great deal of stress, created by the research and his overall academic workload." There was no medical or other expert evidence, and stress in itself is not an unusual event in the course of academic life. This made it difficult for the panel to evaluate the weight to be given to this agreed fact as an extenuating circumstance.

[31] The panel considered these questions and announced its conclusion at the hearing that the joint submission of the parties as to penalty should be accepted for the reasons which we are now releasing.

[32] The Tribunal thanks the parties for their assistance at the hearing of this matter.

Aug. 13 / 07  
Date

Raj Anand  
Raj Anand, Chair



**THE UNIVERSITY TRIBUNAL  
UNIVERSITY OF TORONTO  
TRIAL DIVISION**

**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 the Student.

**Members of the Panel:**

**Mr. Michael Hines, Co-Chair**  
**Professor Stephane Mechoulan, Faculty**  
**Ms. Candace Ikeda-Douglas, Student**

**Appearances**

**Mr. Stephen Frankel** - for the Student  
**Ms. Lily Harmer** - for the University

**In attendance**

**Professor Scott Graham** – Dean's Designate  
**The Student**

1. The Trial Division of the University Tribunal was convened on August 13, 2007 to consider charges brought under the *Code of Behaviour on Academic Matters, 1995*, laid against the Student by letters dated March 7, 2007, May 31, 2007 and June 19, 2007 from the Vice-Provost, Academic, Professor Edith Hillan.
2. The letter of March 7, 2007 contained the following charges:

**CCT 206H5S**

- (1) On or about March 30, 2006, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your final Group Project, submitted for academic credit in CCT 206H5S, contrary to Section B.I.1.(d) of the *Code*.
- (2) In the alternative, on or about March 30, 2006, you knowingly engaged 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, in connection with your final Group Project, submitted for academic credit in CCT 206H5S, contrary to Section B.I.3.(b) of the *Code*.

**CCT 204H5S**

- (3) On or about April 12, 2006, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your paper entitled "Redesign of Nail Polish Remover Bottle" submitted for academic credit in CCT 204H5S, contrary to Section B.I.1.(d) of the *Code*.
- (4) In the alternative, on or about April 12, 2006, you knowingly engaged 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, in connection with your paper entitled "Redesign of Nail Polish Remover Bottle" submitted for academic credit in CCT 204H5S, contrary to Section B.I.3.(b) of the *Code*.

**VCC 304H5S**

- (5) On or about July 27, 2006, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your paper entitled "Hysterectomy and Female Gender Identity" submitted for academic credit in VCC 304H5S, contrary to Section B.I.1.(d) of the *Code*.
- (6) In the alternative, on or about July 27, 2006, you knowingly engaged 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, in connection with your paper entitled "Hysterectomy and Female Gender Identity" submitted for academic credit in VCC 304H5S, contrary to Section B.I.3.(b) of the *Code*.

- 3. The letter of May 31, 2007 contained the following charges:

**VCC 390H5F**

- (1) On or about November 3, 2006, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your paper, "Shooting to play or kill?", submitted for academic credit in VCC 390H5F, contrary to Section B.I.1.(d) of the *Code*.
- (2) On or about November 3, 2006, you knowingly submitted your paper containing a purported statement of fact or reference to a source which

has been concocted in connection with your paper, "Shooting to play or kill?", submitted for academic credit in VCC 390H5F, contrary to Section B.1.1(f) of the Code.

- (3) In the alternative, on or about November 3, 2006, you knowingly engaged 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, in connection with your paper, "Shooting to play or kill?", submitted for academic credit in VCC 390H5F, contrary to Section B.1.3.(b) of the Code.

4. The letter of June 19, 2007 contained the following charges:

- (1) On or about March 2, 2007, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your essay proposal and annotated bibliography submitted for academic credit in FAH391H5S, contrary to Section B.1.1(d) of the Code.
- (2) In the alternative, on or about March 2, 2007, you knowingly engaged 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, in connection with your essay proposal and annotated bibliography submitted for academic credit in FAH391H5S, contrary to Section B.1.3(b) Code.

5. The Student pled guilty to:

- (a) charge #1, #3 and #5 of the Charges filed by the University on March 7, 2007;
- (b) charge #1 and #2 of the Charges filed by the University on May 31, 2007; and
- (c) charge #1 of the Charges filed by the University on June 19, 2007.

6. The remaining charges were withdrawn. The hearing proceeded entirely on the basis of agreed facts which are set out below.

**I. Background**

7. The University of Toronto (the "University") admitted the Student to its Honours Bachelor of Arts and Science program at the Scarborough campus in the Fall of 2002. In 2004, the Student continued his studies at the University's Mississauga campus. At the end of the 2007 Winter Term the Student had earned 14 credits.

8. At the relevant times, the Student was enrolled as follows:

- (a) In the Winter Term of 2006, he was enrolled in four half courses, including CCT206H5 (Law, Technology and Culture) and CCT204H5 (Design Thinking).
- (b) In the Summer Term of 2006, he was enrolled in four half courses, including VCC304H5 (Visual Culture and the Construction of Identity).
- (c) In the Fall Term of 2006, he was enrolled in four half courses, including VCC390H5 (Topics in Visual Culture and Communication).
- (d) In the Winter Term of 2007, he was enrolled in five half courses, including FAH391H5 (History of Photography).

**a) Law, Technology and Culture**

9. In the Winter of 2006, the Student enrolled in CCT206H5 – Law Technology and Culture – a second year course offered by the Department of Communication, Culture and Information Technology at Mississauga. Professor Anthony Wensley taught the course.

10. Law, Technology and Culture examined digital artifacts in terms of both their creation and management and how they can be distinguished from their traditional physical counterparts. A detailed course outline was provided to students which included a warning that "copying, plagiarizing, or other forms of academic misconduct will not be tolerated. Any student caught engaging in such activities will be subject to academic discipline ranging from a mark of zero in the assignment ... to dismissal from the University as outlined in the academic handbook".

11. The course requirements consisted of two papers and an examination, as well as a group project worth 20% of the final mark in Law, Technology and Culture ("Group Project").

12. The Student and three other classmates were responsible for submitting the Group Project in partial fulfillment of the course requirements. Prior to the March 30, 2006 due date, the Student provided another member of his group with his segment of the Group Project. The Student's segment was then assimilated with

those that had been written by the other group members and the Group Project was submitted to the instructor by a member of the group.

13. In keeping with the course requirement that students submit their projects to Turnitin.com ("Turnitin"), an electronic copy of the Group Project was transmitted to Turnitin by a member of the group. The Turnitin Originality Report revealed a 33% match between the Group Project and a paper that had been submitted by another student the previous year. Further analysis of the Originality Report revealed that the suspect segments of the Group Project were those that the Student had purportedly written.
14. The Student did not write his segment of the Group Project. Instead, he copied it virtually in its entirety from an assignment that had been written and submitted by another student who had been registered in Law, Technology and Culture the previous year.
15. The Student admits that he did no meaningful academic work in respect of the Group Project. He further admits that he knew that he was expected to provide original work that did not contain plagiarism. Specifically, the Student admits that in or about March 2006, he knowingly represented as his own, an idea, an expression of an idea, and the work of another in the Group Project which he submitted to fulfill the course requirements of Law, Technology and Culture, contrary to s. B.I.1(d) of the Code.

**b) Design Thinking**

16. In the Winter Term of 2006, the Student enrolled in CCT204H5 – Design Thinking – a second year course offered by the Department of Communication, Culture and Information Technology at Mississauga. Professor Ann Szeto taught Design Thinking.
17. Design Thinking focused on the design process in the communication of information, with an emphasis on critical thinking and problem solving. Students were provided with a detailed course outline, which included a section entitled "Plagiarism" stating that "students are expected to be informed about plagiarism" and the Code, and which listed various academic offences including plagiarism.
18. The course requirements comprised a number of assignments and tests, including a research essay worth 25% of the final grade in Design Thinking.
19. On or about April 12, 2006, the Student submitted a research essay entitled "*Redesign of Nail Polish Remover Bottle*" to fulfill this requirement.
20. The Student did not write *Redesign of Nail Polish Remover Bottle*. Instead, he copied it from an assignment that had been written and submitted by another student who had taken the course the previous year.

21. The Student admits that he did no meaningful academic work on *Redesign of Nail Polish Remover Bottle*. Specifically, the Student admits that on or about April 12, 2006, he knowingly represented as his own, an idea, an expression of an idea, and the work of another in *Redesign of Nail Polish Remover Bottle*, which he submitted to fulfill the course requirements of Design Thinking, contrary to s. B.I.1(d) of the Code.

**c) Visual Culture and the Construction of Identity**

22. In the summer of 2006, the Student enrolled in VCC304H5 – Visual Culture and the Construction of Identity – a third year course offered by the Department of Communication, Culture and Information Technology at Mississauga. Professor Joseph Ferenbok taught Visual Culture.
23. Visual Culture examined identity in the context of visual culture's impact on its creation, projection and maintenance. The course outline contained a section entitled "Academic Offences" which clearly stated that "all assignments must conform to the rules regarding plagiarism" and academic regulations, and that: "Further information regarding referencing and essay writing is available on WebCT. You are also encouraged to take advantage of the resources of the Academic Skills Centre if you require help."
24. The course requirements consisted of two projects, marks for participation and attendance, and an essay worth 35% of the final grade in Visual Culture.
25. On or about July 27, 2006, the Student submitted a paper entitled "*Hysterectomy and Female Gender Identity*".
26. The Student did not write significant portions of *Hysterectomy and Female Gender Identity*. Instead, he copied significant portions of it from published works (i.e. a book and a journal article) that he did not reference or otherwise acknowledge.
27. The Student admits that on or about July 27, 2006, he knowingly represented as his own, an idea, an expression of an idea, and the work of another in *Hysterectomy and Female Gender Identity*, which he submitted to fulfill the course requirements of Visual Culture, contrary to s. B.I.1(d) of the Code.

**d) First Dean's Meeting – November 10, 2006**

28. On November 10, 2006 in 3 sequential meetings the Student met with the dean's designate, Professor Scott Graham, to discuss allegations of plagiarism in each of CCT206 for the Group Project, in CCT204 for his paper *Redesign of Nail Polish Remover Bottle*, and in VCC304 for his paper *Hysterectomy and Female Gender Identity*. In each case the Student admitted that he was guilty of the offence of plagiarism as alleged.

**e) Frontiers in Visual Culture and Knowledge Media Design**

29. In the Fall of 2006, the Student enrolled in VCC390HF5 – Frontiers in Visual Culture and Knowledge Media Design (“Frontiers”) – a third year course offered by the Department of Communication, Culture and Information Technology at the Mississauga campus. Professor Joseph Ferenbok taught Frontiers.
30. Frontiers examined video games from the dual perspectives of what they can teach us about visual culture and about improving the design of media. The course outline contained the same section entitled “Academic Offences” as in Visual Culture.
31. The course requirements comprised a number of assignments, including a midterm paper worth 30% of the final mark in Frontiers.
32. On or about November 3, 2006, the Student submitted his midterm paper entitled *Shooting to play or kill?*
33. In addition to submitting a hard copy of *Shooting to play or kill?*, the Student also transmitted an electronic copy to Turnitin as required. The Turnitin Originality Report revealed a 42% overall similarity index in comparing text contained in *Shooting to play or kill?* with text contained in online sources that the Student did not reference.
34. The Student did not write much of *Shooting to play or kill?*. Instead, he cut and pasted significant portions of text from online sources without attribution.
35. The Student admits that in or about November 2006, he knowingly represented as his own, an idea, an expression of an idea, and the work of another in *Shooting to play or kill?* which he submitted to fulfill the course requirements of Frontiers, contrary to s. B.1.1(d) of the Code.
36. In addition, many of the sources that the Student had cited in *Shooting to play or kill?* and its Bibliography were not the actual sources that he used and were, instead, concocted.
37. The Student admits that he falsified and/or concocted several of the citations and references to sources contained in *Shooting to kill or play?*, contrary to section B.1.(1)(f) of the Code, and that he did so in order to disguise his actions.

**f) History of Photography**

38. In the Winter Term of 2007, the Student enrolled in FAH391 – History of Photography – a third year course offered by the Department of Fine Art at Mississauga. Dr. Amish Morrell taught this course.

39. History of Photography focused on the evolution of photography from the 1830s to the present, and how it has shaped conceptions of social and national identity and changing perceptions of subjectivity and reality. The course outline contained a section entitled "Academic Honesty" which stated that citations, in-text references and a works-cited page would be required, using a consistent referencing style.
40. The course requirements comprised both tests and assignments, including an essay proposal worth 10% of the final mark in History of Photography.
41. On or about March 2, 2007, the Student submitted an essay proposal and annotated bibliography ("Essay Proposal").
42. The Student did not write much of the Essay Proposal. Instead, he copied significant portions of it from a number of online and other sources.
43. The Student admits that he did no meaningful academic work on the Essay Proposal. Specifically, the Student admits that on or about March 2, 2007, he knowingly represented as his own, an idea, an expression of an idea, and the work of another in the Essay Proposal, which he submitted to fulfill the course requirements of History of Photography, contrary to s. B.I.1(d) of the Code.

**g) Second Dean's Meeting – March 14, 2007**

44. The Student met with Professor Scott Graham, dean's designate, on March 14, 2007 to discuss an allegation of plagiarism in VCC390 in connection with his paper *Shooting to play or kill?*. The Student admitted at that meeting that he was guilty of plagiarism as alleged. He explained that he wasn't capable of writing a good paper, he had sought academic counseling but had not found it helpful, he was facing pressure from his parents and the demands of a job, and "I know I shouldn't have been doing this but I did it 4 times".
45. The Student waived a dean's meeting in connection with FAH3391, as he had admitted guilt to the course instructor in a meeting with him.
46. As a result of the foregoing, The Student was charged by the University with academic offences described in paragraphs 2 – 4, above.

**II. Pleas and Findings**

47. As stated, at the hearing of this matter, the Student pled guilty to:
  - (a) charge #1, #3 and #5 of the Charges filed by the University on March 7, 2007;



- (b) charge #1 and #2 of the Charges filed by the University on May 31, 2007;  
and
  - (c) charge #1 of the Charges filed by the University on June 19, 2007.
48. Based upon the Agreed Statement of Facts and the Student's guilty pleas, the Tribunal found him guilty of these six offences.

### **III. Sanction**

#### **a) Agreed Facts**

49. After the Tribunal made its finding of guilt, the parties advised the Tribunal of the following agreed facts, which they considered relevant to the issue of sanction:
- (i) The Student had committed a prior plagiarism offence under the Code of Behaviour on Academic Matters in 2004.
  - (ii) The Student had been enrolled in the Winter 2004 session of SOCB51H3S – Deviance and Normality II.
  - (iii) At a meeting with Professor Elinor Irwin, Dean's Designate, on July 15, 2004 to discuss allegations of plagiarism, the Student admitted that he had committed the academic offence of plagiarism in an essay he had submitted for academic credit in SOCB51H3S. The Student further admitted that:
    - (A) he had been aware when he submitted the essay that it would be examined by Turn-it-in;
    - (B) 52% of the essay was drawn from six internet sources; and
    - (C) he had failed to list or otherwise acknowledge all sources of text and information contained in his essay.
  - (iv) The Dean's Designate imposed the following penalty:
    - (A) a grade of zero for the paper; and
    - (B) a notation on the Student's transcript for a one year period.
  - (v) In Professor Irwin's letter to the Student summarizing the meeting and the penalty imposed, she stated:

"This is more lenient than recommended in the Provost's guidelines, and is imposed in the expectation that you have learned a lesson from this experience and will not offend again. ... A

second offence will automatically result in a far more severe penalty.”

- (vi) In anticipation of the hearing, the Student had obtained two letters of character reference, specifically:

- (A) a letter dated August 8, 2007, from Pastor Chang Cho; and
- (B) a letter dated August 9, 2007, from Bryan Lee, CFA.

**b) Joint Submission**

- 50. The University of Toronto and the Student then submitted to the Tribunal that the appropriate penalty in all of the circumstances should be:
  - (a) the Student be suspended from attendance at the University of Toronto for a period of 5 years, from the date of the hearing;
  - (b) assignment of a grade of zero in:
    - i. CCT206H5 for the 2006 Winter term;
    - ii. CCT204H5 for the 2006 Winter term;
    - iii. VCC304H5 for the 2006 Summer term;
    - iv. VCC390H5 for the 2006 Fall term; and
    - v. FAH391H5 for the 2007 Winter term.
  - (c) notation on the Student's transcript from the date of this hearing for a period of 7 years or his graduation from the University, whichever occurs first, to the effect that he was sanctioned for academic misconduct.
- 51. The University of Toronto and the Student further submitted that the Tribunal should report this case to the Provost who may publish a notice of the decision of the Tribunal and the sanction or sanctions imposed with the Student's name withheld.
- 52. The panel was also provided with case law to support the joint submission that the proposed sanction is reasonable in all the circumstances of the case.

53. It would be fair to say that the Panel's initial reaction to all of the foregoing was that the proposed penalty, although clearly at the most severe end of the disciplinary spectrum, was still insufficient in view of the facts of the case. The Student has been treated with leniency once before. Rather than learning any kind of significant lesson from that experience, he appears to have simply treated it as a temporary setback in his pursuit of a degree. The Student seems to place a great deal of emphasis on passing and relatively little emphasis on learning.
54. Were it not for the fact that the guilty plea and proposed sanction in this case were secured through the important process of pre-hearing discussion and negotiation, we would have been inclined to recommend the punishment of expulsion. However, out of respect for the importance of that process, we have decided to accept the joint submission of the parties.
55. Accordingly, we hereby impose the following sanctions:
- (a) the Student be suspended from attendance at the University of Toronto for a period of 5 years, from the date of the hearing;
  - (b) assignment of a grade of zero in:
    - (i) CCT206H5 for the 2006 Winter term;
    - (ii) CCT204H5 for the 2006 Winter term;
    - (iii) VCC304H5 for the 2006 Summer term;
    - (iv) VCC390H5 for the 2006 Fall term; and
    - (v) FAH391H5 for the 2007 Winter term.
  - (c) notation on the Student's transcript from the date of this hearing for a period of 7 years or his graduation from the University, whichever occurs first, to the effect that he was sanctioned for academic misconduct.
56. We further advise that the Tribunal shall report this case to the Provost for publication with the name of the student withheld.

DATED at Toronto this 12th day of October, 2007.

  
Co-Chair