



# UNIVERSITY OF TORONTO

OFFICE OF THE GOVERNING COUNCIL

TO: Members of the Academic Board

SPONSOR: Christopher Lang, Director, Appeals, Discipline and Faculty  
Grievances

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AGENDA ITEM: 11b

## ITEM IDENTIFICATION:

**Semi-Annual Report: University Tribunal, Individual Cases, Winter 2010**

## 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.

The purpose of the information package is to fulfill the requirements of the University Tribunal and, in so doing, inform the Board of the Tribunal’s work and the matters it considers, and the process it follows. It is not intended to create a discussion regarding individual cases, their specifics or the sanctions imposed, as these were dealt with by an adjudicative body with a legally qualified chair, bound by due process and fairness, and based on the record of evidence and submissions put before it by the parties.

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

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** the *University of Toronto Act*, 1971, S.O. 1971, c. 56 as amended S.O. 1978, c. 88

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

BETWEEN:

THE UNIVERSITY OF TORONTO

- and -

M [REDACTED] C [REDACTED]

**Members of the Panel:**

- Ms. Lisa Brownstone, Chair
- Professor Ikuko Komuro-Lee
- Mr. Adrian Asselin, Student

**Appearances:**

- Ms. Lily Harmer, Assistant Discipline Counsel
- Dr. Kristy Gourlay, Manager, Office of Student Academic Integrity
- Ms. Sarah Crowder, Student Counsel, Downtown Legal Services
- Ms. M [REDACTED] C [REDACTED], Student
- Mr. Max Shapiro, Observer, Downtown Legal Services

**Preliminary**

- [1] The Trial Division of the University Tribunal was convened on May 21, 2008 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters*, 1995 (the *Code*) laid against the Student by letter dated January 22, 2008 from Professor Edith Hillan, Vice-Provost, Academic.

**Notice of Hearing and Charges**

[2] The Charges are as follows:

1. On or about November 9, 2007, you did knowingly forge or in any other way alter or falsify any academic record, and/or did utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form, in that you forged and/or altered and/or falsified your academic transcript, contrary to section B.I.3.(a) of the Code.
2. In the alternative, on or about November 9, 2007, you did knowingly engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by forging and/or altering and/or falsifying your academic transcript, contrary to section B.I.3.(b) of the Code.
3. On or about November 23, 2007, you did knowingly forge or in any other way alter or falsify any academic record, and/or did utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form, in that you forged and/or altered and/or falsified your academic transcript, contrary to section B.I.3.(a) of the Code.
4. In the alternative, on or about November 23, 2007, you did knowingly engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by forging and/or altering and/or falsifying your academic transcript, contrary to section B.I.3.(b) of the Code.

[3] Particulars of the Charges are as follows:

1. At all materials times you were a student at the University of Toronto. In academic term winter 2006 you obtained a mark of 40 and a Grade F in ECO220Y.
2. You petitioned for late withdrawal without academic penalty from ECO220Y, which petition was refused.
3. On or about November 9, 2007, you held an employment position that gave you authorized access to ROSI, you accessed your ROSI record, and changed your status in connection with ECO220Y to a WDR. The record therefore showed after this change that the course had been withdrawn and/or dropped.
4. On November 23, 2007, you again accessed your ROSI record to cancel ECO220Y so that it did not appear on your academic transcript at all.
5. On or about November 23, 2007, you further backdated the cancellation of ECO220Y to February 19, 2007, the last official date to drop a full year course without penalty.

### Agreed Statement of Facts

- [4] The Panel was provided with an agreed statement of facts, signed by the Student and counsel for the University. In summary, the Student admitted that, while working part-time in a clerical position that gave her access to ROSI, she, while alone in the office as other staff were at a meeting, accessed her own ROSI academic record. She initially changed her failing grade of 40 to a "WDR", so that her academic record made it appear that she had withdrawn from the course. Two weeks later, she was again working alone in the office and again, accessed her ROSI academic record. At this time, she cancelled the course from her academic record so that it did not appear at all and back-dated that cancellation to February 19, 2007 which had been the deadline for withdrawing from the course without penalty.
- [5] As a result of cancelling the course and expunging her failing grade from her academic record, the student's sessional GPA increased significantly, as did her cumulative GPA, exceeding the required minimum she needed to achieve to be able to graduate. When confronted with the alterations, the Student admitted that she had altered her ROSI academic record on November 9, 2007 and November 23, 2007.
- [6] The Student pleaded guilty to Charges 1 and 3. The University withdrew Charges 3 and 4.
- [7] Counsel for the University led the Panel through the Agreed Statement of Facts.

### Decision of the Tribunal

- [8] Based on the Agreed Statement to Facts and the Student's guilty plea to Charges 1 and 3, the Tribunal found the Student guilty of those charges.

### Sanction and Reasons

- [9] The Panel proceeded with a contested hearing into the appropriate sanction. The University filed no evidence for the sanction portion of the hearing. The Student testified on her own behalf, and filed a series of documents, which included her curriculum vitae, reference letters, high school records and awards, OSAP documents, print-outs related to extra-curricular involvement and a portion of a document indicating the Student's admission of her actions when confronted.
- [10] The Student testified about the circumstances that led up to and that were prevailing at the time that the actions occurred. She gave evidence about the difficult adjustment she had when moving here from abroad, the financial stresses that were operating upon her at the time, her extensive involvement in extra-curricular activities and in paid employment.
- [11] The University sought an order asking this Panel to recommend to the President that the student be expelled from the University; that there be a suspension imposed for 5 years

while the expulsion recommendations were in process; and that the Panel report this decision to the Provost.

- [12] The Student's representative submitted that the appropriate penalty was a lengthy suspension.
- [13] Both the University and the Student provided the Panel with Books of Authorities so that the Panel might have an opportunity to review several other decisions of the Tribunal in similar cases.
- [14] Counsel were agreed that the criteria to be considered when deciding on the appropriate sanction were those set out in the matter of the appeal of Mr. C (November 5, 1976). Those criteria are:
  - (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; and
  - (f) the need to deter others from committing a similar offence.
- [15] In its submissions on penalty, the University focussed on the nature of the offence, the detriment to the University and the importance of general deterrence. The Student focussed on the character of the person charged, the likelihood of repetition of the offence, and the extenuating circumstances surrounding the commission of the offence. She acknowledged the need to deter others from committing a similar offence and submitted that this could be accomplished by a lengthy suspension.
- [16] In her submissions, counsel for the University reiterated the purpose of the *Code of Behaviour on Academic Matters* and the centrality of academic honesty to all of the work of the University, as well as to the integrity of the teaching and learning relationship. Counsel submitted that the Panel should take into account the values expressed in the preamble when considering the appropriate sanction.
- [17] In the University's submission, which the Panel accepts, the Student took advantage of a position of trust that she held due to her employment situation with the University. ROSI, the University's electronic record system, was described as the heart of the University. In the University's submission, the fact that the Student had deliberately gone into her own record not once but twice, and had carefully made the date for cancellation of the course the last possible date upon which cancellation was allowed with no penalty, displays a very deliberate course of conduct, twice, to ensure a result that advantaged the Student. The University also submitted that when one student is advantaged by cheating, other students are disadvantaged. The University acknowledged that the Student faced stresses

and difficulties, but submitted that these were of no other magnitude or character than those faced by many students at the University, and it is simply not acceptable to choose to cheat in order to deal with these stresses. There are other options open to students, such as getting counselling, or seeking a reduced course load, which are acceptable ways of dealing with these kinds of stresses.

- [18] In the University's submission, the nature of this offence is one of the most egregious that can be committed, and any forgery of an academic record is very, very, serious. Counsel for the University submitted, and the Panel accepts, that an aggravating circumstance in this case is that the Student accessed her academic record at its source, so that no proper record of her academic performance could ever be found or printed, had her actions not been discovered. This, in the University submission, is worse than tampering with a paper record while the electronic record remains intact and can be discovered at a later date. In the University's submission, both the University and others must be able to rely on the integrity of an academic transcript. The detriment to the University in this kind of conduct is enormous, especially when the Student acts from a trusted position. The need to deter others, in the University's submission, is of crucial importance.
- [19] On the Student's behalf, her representative made submissions that the Student was not asking to be excused, that she admitted the conduct right away when confronted and that she understood the gravity of the offence. While the Panel appreciates the submissions made by the Student's representative in this regard, the Panel does pause to note that in her testimony, the Student did not express any remorse or explicit understanding of the gravity of her actions.
- [20] In the Student's submission, the mitigating circumstances were that this was her first offence and that, otherwise, her character was consistent with the core values of the University. In her adjustment to a new country, and to multiple jobs, she performed admirably in ultimately satisfying her degree requirements and improving her GPA. She stressed the leadership positions that she had held, the fact that this offence occurred over a very short period of time and was relatively contained in scope, and that she admitted guilt early and fully co-operated with the University. In her submission, a suspension would be an effective deterrent, given that the Student had already been fired from her job and will undoubtedly have future employment options and continued studies affected by her actions. In her submission, the detriment to the University could be remedied by imposing a lengthy suspension of 4-5 years.
- [21] Following the parties' submissions on penalty, the Panel deliberated. The Panel also reviewed many of the cases supplied to it by both parties, and carefully considered whether a lengthy suspension could achieve the goals required of an appropriate penalty. The following were the aggravating circumstances considered:
- (i) these records are at the heart of the University's system;
  - (ii) the Student occupied a position of trust, and from that position chose a course of conduct to benefit herself and disadvantage others; and

(iii) the Student made this change at the source of the record so that the alteration would be permanent.

[22] The Panel also considered that the University must be in a position to rely on and protect the integrity of its records.

[23] The Panel also considered the mitigating circumstances which it considered to be that the Student was undergoing personal stresses and hardships, as well as that the alterations were relatively contained and made in a short period of time. The Panel was of the unanimous opinion that the aggravating factors were very serious and the conduct in these circumstances warranted the most serious penalty. Accordingly, the Panel unanimously recommends that:

1. The Tribunal recommend to the President of the University of Toronto that he recommend to Governing Council that the Student be expelled from the University;
2. Pending the decision of the Governing Council, the Student be suspended for five years; and
3. A report of the decision be made to the Provost for publication in the University's newspaper with the student's name and identifying features withheld.

[24] The following reasons were read orally at the hearing:

The Student was employed by the University in a position of trust. Due to this position, she had the privilege of access to ROSI, the system described by the University as the heart of its records. The Student misused this trust to her own gain, and therefore to the disadvantage of others. She did so in a way that sought to erase the record from the University computer system forever. The University must take all steps to protect the integrity of its records, so that others within and outside of the University community can rely on them. Although the Panel accepts that the Student had stressors in her life, the Panel does not accept that the choice of dealing with those stressors in this way is excusable.

8 July 2008  
Date

  
Ms. Lisa Brownstone, Chair

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on December 12, 2007;

**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 -

M [REDACTED] V [REDACTED]

**Hearing Date: July 23, 2008**

**Members of the Panel:**

- Mr. Raj Anand, Barrister and Solicitor, Chair
- Professor Ikuko Komuro-Lee, Faculty Panel Member
- Ms. Sujata Pokhrel, Student Panel Member

**Appearances:**

- Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
- Ms. Sarah Crowder, Student Legal Case Worker, Downtown Legal Services

**In Attendance:**

- Ms. M [REDACTED] V [REDACTED], the Student, in attendance
- Ms. Kristi Gourlay, Manager, Office of Student Academic Integrity, Faculty of Arts and Science
- Ms. Nancy Smart, Senior Judicial Affairs Officer, Office of the Governing Council



- [1] For the reasons given at the time of the hearing, we find the allegations in paragraphs 8, 9, 18, 19, 23 and 24 of the Agreed Statement of Facts (see attached), to be proven.
- [2] We are prepared to deliver the decision and the reasons of the panel on penalty.
- [3] We have considered the Joint Submission on Penalty of the University and the Student and, while I would say that we are at the borderline, we are prepared to accept that Joint Submission. We considered asking for further information about what mitigating factors or other reasons might have rendered expulsion inappropriate in these circumstances. But we are satisfied on review and reflection that the Joint Submission on Penalty should be adopted by this panel.
- [4] In terms of the factors that are often cited from the Mr. C. case, particularly Mr. Sopinka's list, we have little or no evidence with respect to the character of the person charged, the likelihood of a repetition of the offence, although that is more inference than anything else, and extenuating circumstances surrounding the commission of the offence. We did have information about the nature of the offence committed and it was pretty clear what detriment to the University was occasioned by the offence and what might need to be done to deter others from committing a similar offence. I have referred to the six factors that Mr. Sopinka listed on page 12 of the Mr. C. decision.
- [5] In terms of those factors on which we have information, there is no doubt that these were very serious forms of misconduct. They strike at the heart of the academic mission of the University, at the bond of trust that exists between students and the institution and, indeed, at the credibility of the University in the public arena, when events such as this are permitted to take place. The three particulars - and I will call them three, although the first of them might be expanded to refer to the seven instances - the three acts were undoubtedly planned and deliberate.
- [6] The first involved seven uses of a false medical certificate which, from what we can gather was, itself, a major undertaking to create. We didn't hear much about how that was done, but intuitively I think fairly clear from the information that we have that that was an intricate and difficult process that would have required planning and deliberation. The second particular relates to an egregious example of obtaining and distributing information from the doctor that was known to be false. And the third relates to what I might call a fairly commonplace example of plagiarism in an essay. These were not spontaneous mistakes or negligent acts; these were planned and deliberate acts by the Student.
- [7] On the other side, in terms of the factors that need to be considered in imposing a penalty, are the Student's early admission of these acts and events, which we are told occurred at the divisional meeting eleven months ago today. In addition, she and her representative were clearly willing to work with the University to enter into an Agreed Statement of Facts and Joint Submission on Penalty, which clearly facilitated these proceedings and allowed this Tribunal to get to the bottom of this in relatively short order. Those acts of

cooperation are themselves evidence of contrition and remorse for this series of events, which I suppose can be seen as a form of mitigating circumstances.

- [8] The three offences occurred in short proximity to one another and there could be some debate as to whether, given the success of the false certificate followed by acts to cover-up the false certificate, they could be seen as the actions of a repeat offender, but in traditional terms they would be seen as concurrent offences because none of them came before this Tribunal until now. The penalty chosen and agreed to by the parties incorporate elements of rehabilitation in terms of the Student being given a second chance, albeit at a considerable distance in time from today, which itself provides a lengthy period of reflection. And, indeed, the notation on the Student's academic record and transcript will, under this penalty, persist for some seven years from today, which clearly is a lengthy period – an unusually lengthy period.
- [9] So given that mix of factors and considerations, which emerge from the Agreed Statement of Facts as put forward by the parties, we accept the Joint Submission on Penalty, which consists of the following:
- i. Grade of 0 in each of the seven (7) courses taken by the Student in the Winter 2007 session:
    - VIC348Y1Y
    - SLA244H1S
    - ENG302Y1Y
    - ENG444Y1Y
    - ITA210Y1Y
    - ENG354Y1Y
    - SLA251H1S
  - ii. Suspension for five (5) years from today, July 23, 2008
  - iii. Notation on transcript recording that the Student has been found guilty of academic misconduct for a period of seven (7) years from today, July 23, 2008
  - iv. Report this case to the Provost who may publish a Notice of the decision and the sanctions imposed, with the name of the Student withheld.
- [10] The panel wishes to thank both Mr. Centa and Ms. Crowder for their assistance in getting this matter to a conclusion before the Tribunal.

Mar. 11/10  
Date

  
Mr. Raj Anand, Barrister and Solicitor

## **Agreed Statement of Facts**

### **A. Background**

1. In September 2002, Ms. V [REDACTED] registered in the Faculty of Arts and Science at the University of Toronto. By Winter 2007, Ms. V [REDACTED] had completed 14.0 credits. A copy of her academic record is included in the Joint Book of Documents at **Tab 3**.
2. In Winter 2007, Ms. V [REDACTED] enrolled in:
  - a. VIC348Y1Y, "The Renaissance in the Cities", taught by Professor Laura Willett;
  - b. SLA244H1S, "Studies in Film Genre I: Russian and Soviet Comedy", taught by Professor Leo Livak;
  - c. ENG302Y1Y, "Poetry and Prose, 1500-1600", taught by Professor Scott Schofield;
  - d. ENG444Y1Y, "Studies in Twentieth-Century Literature", taught by Professor Greig Henderson;
  - e. ITA210Y1Y, "Contemporary Italian", taught by Professor Somigli;
  - f. ENG354Y1Y, "Modern Canadian Poetry", taught by Professor Redekop; and
  - g. SLA251H1S, "Origins of Slavic Civilization", taught by Professor V. Mezentsev.

### **B. The forged medical certificate**

3. Ms. V [REDACTED]'s treating physician was Dr. P.D. Dalglish. On several occasions, Ms. V [REDACTED] had requested Dr. Dalglish to sign University of Toronto Student Medical Certificates for her. For example, in February 2007, Dr. Dalglish signed a Student Medical Certificate stating that she had the flu ("February Certificate"). A copy of the February Certificate is included in the Joint Book of Documents at **Tab 4**.

4. In April and May 2007, Ms. V [REDACTED] requested extensions of certain course work deadlines. Ms. V [REDACTED] made her requests in April and May 2007. Each of her requests cited medical problems as grounds for the extension.

5. In support of each request, Ms. V [REDACTED] submitted a copy of a U of T Student Medical Certificate dated April 12, 2007 (the "April Certificate"). A copy of the April Certificate is included in the Joint Book of Documents at **Tab 5**.

6. Ms. V [REDACTED] admits that she:

- a. did not attend an appointment with Dr. Dalglish on April 12, 2007;
- b. created the April Certificate by altering the date and content from the February Certificate; and
- c. submitted the April Certificate for the purpose of obtaining academic consideration in each of the courses in which she was enrolled in Winter 2007.

7. The University required the April Certificate to obtain the academic consideration sought by Ms. V [REDACTED].

8. Ms. V [REDACTED] admits that on or about April 13, 2007, she knowingly altered and falsified a document required by the University of Toronto and uttered, circulated and made use of any such altered and falsified document, namely, the April Certificate, contrary to section B.I.1(a) of the Code.

9. Ms. V [REDACTED] pleads guilty to charge #1 of the Charges filed by the Provost, which are included in the Joint Book of Documents at **Tab 2**.

**C. *The false doctor's letter***

10. In Winter 2007, Ms. V [REDACTED] enrolled in VIC348Y1Y, which was taught by Professor Laura Willett.

11. In respect of VIC348Y1Y, Ms. V [REDACTED] requested that certain term work be re-marked on the grounds that her performance had been affected by medical problems.

12. On April 26, 2007, Ms. [REDACTED] wrote a letter to Dr. Dalgleish. A copy of this letter is included in the Joint Book of Documents at **Tab 6**.

13. In support of her petition, Ms. V [REDACTED] submitted the April Certificate and a letter from Dr. Dalgleish's office dated May 3, 2007 ("Dr. Dalgleish's Letter"). A copy of Dr. Dalgleish's Letter is included in the Joint Book of Documents at **Tab 7**. It stated:

To whom it may concern:

I Dr. P.D. Dalgleish verify that the medical note signed on April 12, 2007 is accurate and true – signed by myself that patient M [REDACTED] V [REDACTED] was in my office Apr 12, 2007, as a walk-in patient and the reason it was not recorded in our office records was because it was documented in M [REDACTED]'s medical certificate.

The certificate was signed by myself and dated by me. The original was misplaced, however M [REDACTED] did suffer from medical problems which caused her to miss school and work assignments. She continued to receive treatment.

P D Dalgleish MD

14. In fact, the information contained in Dr. Dalgleish's Letter is false. In particular:

- a. the medical note referred to (which is the Certificate) is neither accurate nor true; and
- b. Ms. V [REDACTED] did not attend at Dr. Dalgleish's office on April 12, 2007.

15. On July 6, 2007, after having had a further opportunity to review his records, Dr. Dalgleish sent a note to Kristi Gourlay, Manager of the Office of Student Academic Integrity, A copy of Dr. Dalgleish's note is included in the Joint Book of Documents at **Tab 8**. It states:

Due to new information received by me from U of T AND after extremely close scrutiny of M [REDACTED]'s CHART I now feel it is prudent and necessary TO RETRACT MY LETTER OF MAY 3, 2007.

16. Ms. V [REDACTED] admits that:

- a. she did not attend an appointment with Dr. Dalgleish on April 12, 2007;
- b. she knew that the relevant information contained in the Letter was false; and

- c. she submitted the Letter for the purpose of obtaining academic consideration in VIC348Y1Y.

17. The University required Dr. Dalglish's Letter to obtain the academic consideration sought by Ms. V [REDACTED].

18. Ms. V [REDACTED] admits that on or about May 3, 2007, she knowingly uttered, circulated and made use of a falsified document required by the University of Toronto, namely, the Letter, contrary to section B.I.1(a) of the Code.

19. Ms. V [REDACTED] pleads guilty to charge #2 of the Charges filed by the Provost which are included in the Joint Book of Documents at **Tab 2**.

***D. The plagiarized essay***

20. In Winter 2007, Ms. V [REDACTED] enrolled in ENG444Y1Y, which was taught by Professor Greig Henderson.

21. On April 13, 2007, Ms. V [REDACTED] submitted an essay entitled "Sacramental Symbolism in Flannery O'Connor's *The Violent Bear It Away*", in ENG444Y1Y ("Symbolism Paper"). The Symbolism Paper was worth 40% of the final grade in ENG444Y1Y. A copy of the Symbolism Paper is included in the Joint Book of Documents at **Tab 9**.

22. Ms. V [REDACTED] admits that the text of the Symbolism Paper was almost entirely copied verbatim, or virtually verbatim, and without attribution from an essay which she purchased over the internet entitled "The Symbolic Vision of Flannery O'Connor: Patterns of Imagery in *The Violent Bear It Away*" (the "Purchased Paper"). A copy of the Purchased Paper is included in the Joint Book of Documents at **Tab 10**.

23. Ms. V [REDACTED] admits that in the Symbolism Paper she knowingly represented as her own an idea or expression of an idea and/or the work of another, contrary to section B.I.1(d) of the Code. She did no meaningful academic work on the Symbolism Paper, and essentially submitted the essay she had purchased.

24. Ms. V [REDACTED] admits that she is guilty of charge #3 of the Charges filed by the Provost, a copy of which is included in the Joint Book of Documents at **Tab 2**.


### ***E. Acknowledgments***

25. Ms. V [REDACTED] acknowledges that the University of Toronto has advised her to obtain independent legal advice before signing this Agreed Statement of Facts, and that she has done so.

Signed in Toronto on July 23, 2008.

  
M [REDACTED] V [REDACTED]

Signed in Toronto on July 23, 2008.

  
Robert A. Centa  
Assistant Discipline Counsel  
University of Toronto

University of Toronto  
and

**Joint Submission on Penalty**

1. The University of Toronto and M [REDACTED] V [REDACTED] submit to the University Tribunal that the appropriate penalty in all the circumstances of this case is that:

a. the University Tribunal impose a grade of zero in each of the following courses taken by Ms. V [REDACTED] in Winter 2007:

1. VIC348Y1Y
2. SLA244H1S
3. ENG302Y1Y
4. ENG444Y1Y
5. .ITA210Y1Y
6. ENG354Y1Y and
7. SLA251H1S;

b. Ms. V [REDACTED] be suspended from the University of Toronto for a period of five years from July 23, 2008 until July 22, 2013; and

c. her academic record and transcript bear a notation indicating that she has been found to have committed academic offences for seven years from July 23, 2008 to July 22, 2015.



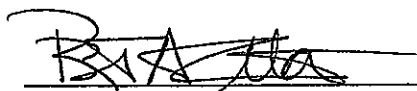
2. The University of Toronto and Ms. V [REDACTED] submit that the University Tribunal should report this case to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed, with Ms. V [REDACTED]'s name withheld.

3. Ms. V [REDACTED] acknowledges that the University of Toronto has advised her to obtain independent legal advice before signing this Joint Submission on Penalty and that she has done so.

Signed in Toronto on July 23, 2008.

  
M [REDACTED] V [REDACTED]

Signed in Toronto on July 23, 2008.

  
Robert A. Centa  
Assistant Discipline Counsel  
University of Toronto

UNIVERSITY OF TORONTO  
UNIVERSITY TRIBUNAL  
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 Mr. A [REDACTED] A [REDACTED].

**Members of the Panel:**

- Laura Trachuk, Chair
- Adil D'Sousa, Student Panel Member
- Professor Graham Trope, Faculty Panel Member

**Appearances:**

- Hugh Scher for Mr. A [REDACTED] A [REDACTED], the Student
- Edward Holmes for the Intervenor Canadian Union of Public Employees Local 3902
- Ms. Linda Rothstein, Discipline Counsel for the University of Toronto
- Ms. Lily Harmer, Assistant Discipline Counsel for the University of Toronto

**PRELIMINARY DECISION**

Mr. A [REDACTED] has raised a preliminary objection to the jurisdiction of the University Tribunal to proceed with a hearing with respect to charges laid against him under the *University of Toronto Code of Behaviour on Academic Matters, 1995* (the "Code"). He asserts that the Tribunal has no jurisdiction to proceed because a labour arbitrator has exclusive jurisdiction with respect to this matter. The parties have agreed that the Canadian Union of Public Employees, Local 3902 (referred to as the "union") should be permitted to intervene with respect to this preliminary objection.

In the alternative, Mr. A [REDACTED] has also raised an objection with respect to being charged as a student under the *Code*. He alleges that any charges against him under the *Code* should have been as a member of the faculty.

The parties proceeded by way of affidavit as well as written and oral submissions.

### The Facts

For the purpose of this preliminary objection, the following facts are considered to be true and provable. A [REDACTED] A [REDACTED] registered as a student at the University of Toronto (the "university") in the fall of 2004 and was in his final term of the Bachelor of Business Administration program in April 2008. During the fall 2007 term, Mr. A [REDACTED] was employed as a teaching assistant in MGTBO3H – Management Accounting. In the winter 2008 term he was employed as a teaching assistant in MGTCO3H – Principles of Finance. As a teaching assistant, Mr. A [REDACTED] was a member of the union's bargaining unit. The union has a collective agreement with the university.

The university alleges that in April 2008, Mr. A [REDACTED] was marking exams for MGTCO3H and significantly inflated the mark on one of them. The person who had written the exam was his brother. The university also alleges that it subsequently discovered that Mr. A [REDACTED] changed the grade that had been given to his brother on the mid-term for MGTBO3H by falsifying a document that had been provided to him. It alleges further that he inflated the mark on his brother's final exam mark in MGTBO3H. Mr. A [REDACTED] had not disclosed to the faculty members responsible for the courses that his brother was in the class.

The Provost has proceeded with charges against Mr. A [REDACTED] under the *Code*. He has also received a written reprimand from the Chair of the Department of Management with respect to the allegations. Mr. A [REDACTED] has filed a grievance challenging the written reprimand and has also filed a grievance with respect to the university's decision to proceed with charges under the *Code*. The grievances have been forwarded to arbitration and a date has been scheduled for the hearing in February 2009.

The following charges were laid against Mr. A [REDACTED] on August 7, 2008:

### CHARGES

Note: Wherever in the *Code of Behaviour on Academic Matters, 1995* ("*Code*") an offence is described as depending on "knowing", the offence shall likewise be deemed to have been committed if the person ought reasonably to have known.

1. On or about April 23, 2008 you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the document be in print or electronic form, namely the final exam submitted by N [REDACTED] A [REDACTED] in MGTCO3H – Principles of Finance, contrary to section B.I.1.(a) of the *Code*.
2. In the alternative, on or about April 23, 2008, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print

or electronic form, namely the final exam submitted by N [REDACTED] A [REDACTED] in MGTC03H – Principles of Finance, contrary to section B.I.3.(a) of the *Code*.

3. In the alternative, on or about April 23, 2008, you knowingly engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not here and otherwise described, in order to obtain academic credit or other academic advantage of any kind, in marking the final exam of N [REDACTED] A [REDACTED] in MGTC3H – Principles of Finance, contrary to section B.I.3.(b) of the *Code*.

The following charges were laid against Mr. A [REDACTED] on November 21, 2008:

#### CHARGES

Note: Wherever in the *Code of Behaviour on Academic Matters, 1995* (“*Code*”) an offence is described as depending on “knowing”, the offence shall likewise be deemed to have been committed if the person ought reasonably to have known.

1. On or about November 29, 2007 you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the document be in print or electronic form, namely the marks for the mid-term exam submitted by N [REDACTED] A [REDACTED] in MGTB03H – Management Accounting, contrary to section B.I.1.(a) of the *Code*.
2. In the alternative, on or about November 29, 2007, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the marks for the mid-term exam submitted by N [REDACTED] A [REDACTED] in MGTB03H – Management Accounting, contrary to section B.I.3.(a) of the *Code*.
3. In the alternative, on or about November 29, 2007, you knowingly engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind, in marking the mid-term exam of N [REDACTED] A [REDACTED] in MGTB03H – Management Accounting, contrary to section B.I.3.(b) of the *Code*.
4. On or about December 10, 2007 you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the document be in print or electronic form, namely the marks for the final exam submitted by N [REDACTED] A [REDACTED] in MGTB03H – Management Accounting, contrary to section B.I.1(a) of the *Code*.

5. In the alternative, on or about December 10, 2007, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the marks for the final exam submitted by N [REDACTED] A [REDACTED] in MGTB03H – Management Accounting, contrary to section B.I.3.(a) of the *Code*.
6. In the alternative, on or about December 10, 2007, you knowingly engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind, in marking the mid-term exam of N [REDACTED] A [REDACTED] in MGTB03H – Management Accounting, contrary to section B.I.3.(b) of the *Code*.

As charges were laid against Mr. A [REDACTED] alleging that he violated the *Code* he has not been permitted to graduate pursuant to Section C.I.(a)12.

### Relevant Statutory Provisions

#### *The University of Toronto Act, 1971*

1. (1) In this Act,
  - (l) “student” means any person registered at the University for full-time or part-time study in a program that leads to a degree or post-secondary diploma or certificate of the university or in a program designated by the Governing Council as a program of post-secondary study of the university;
  - (m) “teaching staff” means the employees of the University, University College, the constituent colleges and the arts and science faculties of the federated universities who hold the academic rank of professor, associate professor, assistant professor, full-time lecturer or part-time lecturer, unless such part-time lecturer is registered as a student, or who hold any other rank created by the Governing Council and designated by it as an academic rank for the purposes of this clause;
2. (14) The government, management and control of the University and of University College and of the property, revenues, business and affairs thereof, and the powers and duties of The Governors of the University of Toronto and of the Senate of the University under *The University of Toronto Act, 1947* as amended are vested in the Governing Council, and, without limiting the generality of the foregoing, the Governing Council has power to,
  - (o) do all such acts and things as are necessary or expedient for the conduct of its affairs and the affairs of the University and University College.

#### *Ontario Labour Relations Act, 1995*

48(1) **Arbitration provision** – Every collective agreement shall provide for the final and binding settlement by arbitration, without stoppage of work, of all differences between the parties arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable.

*Statutory Powers Procedure Act*

**Dismissal of proceeding without hearing**

- 4.6(1) Subject to subsections (5) and (6), a tribunal may dismiss a proceeding without a hearing if,
- a. the proceeding is frivolous, vexatious or is commenced in bad faith;
  - b. the proceeding relates to matters that are outside the jurisdiction of the tribunal;

**Code Provisions**

**A. PREAMBLE**

...

This *Code* is concerned, then, with the responsibilities of faculty members and students not as they belong to administrative or professional or social groups, but as they co-operate in all phases of the teaching and learning relationship.

...

**B. OFFENCES**

The University and its members have a responsibility to ensure that a climate which might encourage, or conditions which might enable, cheating, misrepresentation or unfairness not be tolerated. To this end, all must acknowledge that seeking credit or other advantages by fraud or misrepresentation, or seeking to disadvantage others by disruptive behaviour is unacceptable, as is dishonesty or unfairness in dealing with the work or record of a student.

Wherever in this Code an offence is described as depending on “knowing”, the offence shall likewise be deemed to have been committed if the person ought reasonably to have known.

B.I.1. It shall be an offence for a student knowingly:

- a. to forge or in any other way alter or falsify any document or evidence required by the university, or to utter, circulate or make use of any such forged, altered or falsified document, whether the record be in print or electronic form;

3. It shall be an offence for a faculty member and a student alike knowingly:

- a. to forge or in any other way alter or falsify any academic record, or to utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form;
- b. to engage in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind.

## INTERPRETATION

2. In this Code, unless the context otherwise requires:

(k) "faculty member" means a member of the teaching staff;

(m) "instructor" means any person who teaches or instructs or has a duty to evaluate the work of a student or students or who evaluates or who has a duty to evaluate the work of a student or student, and includes a faculty member, a teaching assistant and a librarian;

(o) "member" or "member of the university" means a student or a faculty member, proctor or invigilator in the university, and includes a group;

(s) "student" means that type of member of the University who is currently or was previously

- i. engaged in any academic work which leads to the recording and/or issue of a mark, grade, or statement of performance by the appropriate authority in the university or another institution; and/or
- ii. registered in any academic course which entitles the member to the use of a University library, library materials, library resources, computer facility or dataset; and/or
- iii. a post-doctoral fellow.

## Collective Agreement Provisions

### ARTICLE 3: RESERVATION OF MANAGEMENT RIGHTS

3:01 The Union acknowledges that it is the right of the Employer to maintain order and efficiency; hire, classify, transfer, promote, demote, layoff, discipline, suspend, or discharge employees; establish and enforce rules and regulations not inconsistent with the provisions of this Agreement, which govern the conduct of the employees; and generally to manage and operate the University of Toronto. The Employer agrees to exercise these rights in a manner which is fair, reasonable, equitable and consistent with the provisions of this agreement.

### ARTICLE 10: ACADEMIC FREEDOM

10:03 Course Instructors' employment obligations and responsibilities to the university shall encompass teaching, which includes, without being restricted to, responsibilities as follows:

An employee shall carry out his or her responsibility for teaching with all due attention to the establishment of fair and ethical dealings with students, taking care to make

himself or herself accessible to students for academic consultation, to inform students adequately regarding course formats, assignments, and methods of evaluation, to maintain teaching schedules in all but exceptional circumstances, to inform students adequately of any necessary cancellation and rescheduling of instructions and to comply with established procedures and deadlines for determining, reporting and reviewing the grades of his or her students.

In performance of their duties, they shall deal fairly and ethically with their colleagues, shall avoid discrimination, shall not infringe their colleagues' academic freedom, and shall observe appropriate principles of confidentiality.

### ARTICLE 13: PROGRESSIVE DISCIPLINE

13:01 Discipline will normally follow investigation and discussion with the employee, and will normally proceed through the following steps, with the objective of resolving the matter and/or correcting the behaviour as early as possible:

Step 1: Oral or written warning

Step 2: Letter of reprimand, suspension (with or without pay), change in assignment

Step 3: Discharge or cancellation of subsequent appointments

Disciplinary measures shall be proportional to the seriousness of the issue and shall increase in severity with repetition of the same or similar occurrences. An oral warning alone shall be used only in cases that appear minor or unlikely to proceed to Steps 2 and 3 of the discipline procedure.

The Employer reserves the right in serious circumstances to bypass Steps 1 and 2 of the recommended procedure.

An employee who is disciplined at Steps 2 and/or 3 shall be advised in writing of the nature of the discipline and the reasons therefore. The Union will receive a copy of the notification of discipline or written warning within one (1) working day (24 hours).

### ARTICLE 14: GRIEVANCE PROCEDURE

#### Definition

14:01(a) A grievance shall be defined as any difference arising out of the interpretation, application, administration or alleged violation of the Collective Agreement. Employment under the provisions of the Collective Agreement is a prerequisite for the filing of a grievance, with the exception of a hiring grievance as defined in Article 14:01(b).



- 15:03 An arbitrator shall not have the authority to make any decision which is inconsistent with the terms of the Agreement nor to add to or amend any of the terms of the Agreement. The jurisdiction of the arbitrator shall be confined to the issue in dispute. The decision of the arbitrator shall be final and binding on the parties.
- 15:04 In the event that an arbitrator deals with a matter relating to the discharge, suspension or disciplinary action, then the arbitrator has the authority to reinstate an employee with or without compensation for wages and any other benefits lost, or to make any other award he/she may deem just and reasonable which would be consistent with the terms of the Agreement.

### **Unsatisfactory Performance**

- 18:03 In the event that a supervisor forms the opinion that an employee's performance is unsatisfactory, the supervisor shall prepare a written evaluation as prescribed in Article 18:02 without undue delay, for discussion with and comment by the employee.

### **Employment File**

- 18:06 An employment file shall be maintained within each Department for each employee employed within it, which shall be separate from the employee's academic record. The employment file shall contain only those documents bearing the employee's signature, acknowledging receipt only, and relating to the employee's employment.

### **Submissions of the parties**

Mr. A [REDACTED] submits that the dispute between himself and the university arises under the collective agreement and that a labour arbitrator, therefore, has the exclusive jurisdiction to determine it pursuant to section 48(1) of the *Labour Relations Act, 1995*.

Mr. A [REDACTED] argues that the conduct which is the subject of the university's allegations before the Tribunal arises directly from his employment relationship which is governed by a collective agreement. The dispute therefore involves the interpretation, administration, application or alleged violation of the collective agreement. He contends that "but for" his employment relationship he could not have engaged in the misconduct with which he is accused. Mr. A [REDACTED] maintains that the nature of the dispute must be determined by examining the facts surrounding it and is not determined according to how the legal issues have been framed. In this case, he submits, the dispute arises from his alleged failure to properly carry out the duties of his employment. He has been disciplined for that with a letter of reprimand and a grievance has been filed. He asserts that the charges also relate to the manner in which he carried out his teaching

assistant duties and therefore a labour arbitrator, not the Tribunal, has jurisdiction over the matter.

Mr. A [REDACTED] submits that the scope of the collective agreement is determined by its provisions. A dispute is within the scope of the collective agreement if it arises either explicitly or implicitly from the interpretation, application, administration or alleged violation of the terms of the collective agreement. In this case, he says, the collective agreement covers discipline, unsatisfactory performance, the contents of the employment file and academic freedom and integrity. Mr. A [REDACTED] claims that the essential character of the university's allegations against him relate to unsatisfactory and unethical work performance and the appropriate discipline for that conduct. He asserts that those matters are within the scope of collective agreement.

Mr. A [REDACTED] also claims that the charges against him are frivolous, vexatious, made in bad faith and amount to an abuse of process because he was charged under the *Code* even though he was engaged in his employment duties when the alleged misconduct occurred. He contends that none of the charges relate to his conduct as a student at the university. He maintains that the university is proceeding against him under the *Code* rather than under the collective agreement because of its belief that the collective agreement does not provide for a sufficient remedy for the alleged misconduct. He claims that that is not a legitimate basis for laying charges under the *Code*.

Mr. A [REDACTED] argues, in the alternative, that even if he is subject to charges under the *Code* when performing his teaching assistant duties, he should be charged as a member of faculty not as a student. A faculty member is defined under the *Code* as a member of the teaching staff. Mr. A [REDACTED] claims that he was a member of the teaching staff because his primary duties were to teach, instruct, grade and evaluate students. He contends that the university is only proceeding against him as a student because the penalties available against students are harsher than those against faculty members or staff. Furthermore, the remedies available to the university, if it proceeded against him as a member of faculty or staff, are the same as the disciplinary provisions of the collective agreement. He maintains that the charges are therefore an abuse of process.

Mr. A [REDACTED] also denies that he should be considered a student under the *University of Toronto Act, 1971* (U of T Act). He claims that under the U of T Act he should be considered part of the administrative staff. He argues that the *Code* does not apply to administrative staff and that demonstrates that the definitions in the U of T Act should not be applied to the *Code*. Mr. A [REDACTED] says that he is an instructor under the *Code* and that instructors should be considered faculty. He maintains that the Tribunal must distinguish between faculty, students and instructors in an internally consistent way.

Mr. A [REDACTED] submits that he has not gained any personal advantage by committing the misconduct alleged and that he has been prevented from graduating and proceeding with the next step in his desired career as an accountant. He asks that the Tribunal find that it has no jurisdiction to proceed with the charges or, in the alternative, order that all of the charges against him be stayed pursuant to section 4.6(1) (a) and (b) of the *Statutory Powers Procedure Act*.

Mr. A [REDACTED] refers to the following authorities: *Bartello v. Canada Post Corp.* (1987), 46 D.L.R. (4<sup>th</sup>) 124 (Ont. H.C.J.); *Chapman v. 3M Canada Inc.* [1995] O.J. No. 564 (Gen.Div. ) Aff'd

[1997] O.J. No. 928 (Ont. C.A.); *Chapman v. 3M Canada Inc.* [1997] O.J. No. 928 (Ont. C.A.); *Giorno v. Pappas* (1999), 170 D.L.R. (4<sup>th</sup>) 160 (Ont. C.A.); *Jadwani v. The Attorney General of Canada* (2001), 52 O.R. (3d) 660 (Ont. C.A.); *Piko v. Hudson's Bay Company* (1998), 167 D.L.R. (4<sup>th</sup>) 479 (O.C.A.); *Regina Police Association Inc. v. Regina (City) Board of Police Commissioners* [2001] 1 S.C.R. 360 (SCC); *St. Anne-Nackawic Pulp and Paper Co. Limited v. Canadian Paper Workers Union, Local 219*, [1986] 1 S.C.R. 704 (SCC); *Weber v. Ontario Hydro*, [1995] 2 S.C.R. 929 (SCC).

The union states that its interest in this matter is to protect the integrity of the collective agreement that it executed with the Governing Council. It endorses Mr. A [REDACTED]'s position that jurisdiction lies exclusively with the arbitrator. It contends that the university is prosecuting this matter but that it is the same body that has agreed in the collective agreement that differences will be addressed under the grievance arbitration process. It maintains that the particulars to the charges provide the factual context or character of the matter and that the essential character of the dispute is an alleged violation of the collective agreement. It compares the letter of reprimand and the charges and claims that they are almost the same. It submits that it was impossible for Mr. A [REDACTED]'s alleged transgression to have occurred without the employment relationship. He could not have committed the transgression solely in his capacity as a student. It contends that the duties Mr. A [REDACTED] was performing at the relevant time were duties under the collective agreement and that those were the duties that are captured in the letter of reprimand and in the particulars of the charges.

The union argues that this situation is distinguishable from the professional college decisions relied upon by the university because, in this case, the same body is involved in both the grievance and the academic discipline process.

The union asserts as well that the *Code* contemplates violations committed by students actually enrolled in courses and not transgressions such as those with which Mr. A [REDACTED] has been charged. The union claims that the *Code* does not appear to contemplate the actions of a student holding the position of a teaching assistant.

The union also relies upon the definitions in the *Code* which include teaching assistant under the definition for instructor.

The union denies that the university would be deprived of an ultimate remedy if the *Code* proceeding were stayed. It notes that Mr. A [REDACTED] has received a letter of reprimand and claims that the university could also relieve him of his teaching assistant duties. It maintains that the remedy is only required to be responsive to the transgression even if a different remedy would be available in another forum.

The union refers to the following authorities: *McFadyen v. Ontario (Mining and Lands Commissioner)*, [2007] O.J. No. 4875, Ontario Superior Court of Justice, Div. Ct.; *Wentworth County Board of Education v. Wentworth Women Teachers' Assn.*, [1990] O.P.E.D. No. 4; *Goudie v. Ottawa (City)*, [2003] S.C.J. No. 12, Supreme Court of Ontario, Judgment: March 20, 2003; *K.A. [Indexed as A. (K.) v. Ottawa (City)]*, 80 O.R. (3d) 161, Court of Appeal for Ontario;

*Giorno and Pappas (supra); British Columbia (Director of Employment Standards) (Re)*, [2001] B.C.E.S.T.D. No. 628, Nov. 14, 2001.

The university argues that the essential character of the dispute falls squarely within the ambit of the *Code*. It asserts that labour arbitrators do not have exclusive jurisdiction in every circumstance where the conduct in issue occurred in the course of employment. Nothing ousts the jurisdiction of the courts or other tribunals over matters that arise in the employment context but fall outside traditional labour law issues. It claims that other tribunals may possess overlapping jurisdiction, concurrent jurisdiction or themselves be endowed with exclusive jurisdiction.

The university contends that overlapping jurisdiction requires careful consideration of the essential character of the dispute, legislative intent, the ambit of the collective agreement and the responsiveness of the remedies provided. The university submits that the legislature, through the U of T Act, empowered Governing Council to regulate the academic conduct of its students and faculty and that Governing Council intended matters of academic conduct to be addressed by the procedures under the *Code*. Mr. A [REDACTED] is a member of the university and is governed by the *Code* and the process it provides for dealing with breaches of its provisions. The university maintains that the conduct that the Tribunal is being asked to consider constitutes an egregious breach of the provisions of the *Code*. The issues are fundamentally about academic misconduct, not employment. It states that the *Code* is concerned with issues of academic honesty and integrity and the remedies provided are responsive to those issues. The collective agreement does not address allegations of cheating or academic dishonesty, nor does it provide an adequate remedy for the conduct with which Mr. A [REDACTED] has been charged. The arbitrator therefore does not, and was not intended to have, exclusive jurisdiction.

The university contends that the fact that Mr. A [REDACTED] was able to engage in the alleged cheating because he held a position as an employee of the university does not change the essential character of the dispute. The dispute involves academic misconduct and falls within the purview of the *Code*. The remedies available to the Tribunal are commensurate with the academic nature of the offences prohibited under the *Code* and include reduction in marks, suspension from the university and expulsion. In contrast, the remedies available under the collective agreement do not address the offence with which Mr. A [REDACTED] is accused. The most serious discipline available is discharge or cancellation of subsequent appointments. A labour arbitrator could not order any sanction which could affect Mr. A [REDACTED]'s status as a student. The university claims that, if the arbitrator has exclusive jurisdiction in this case, Mr. A [REDACTED] will be in a better position, due to his status as a teaching assistant, than any other student that improperly assisted his brother to falsely improve his grades.

The university compares this situation to those in which professional discipline bodies take jurisdiction with respect to the misconduct of members even where they work in a unionized environment. It argues that labour arbitrators do not have exclusive jurisdiction in such cases. It claims that there is a difference in focus between the grievance procedure and the disciplinary process of a regulatory college. Employees who engage in professional misconduct in the course of employment may be disciplined by their employer as well as by their professional regulator. Likewise the legislature has given the university the power to discipline and there is no

meaningful distinction between this case and those dealing with the discipline processes of regulatory colleges.

The university denies that it has acted in bad faith by charging Mr. A [REDACTED] as a student. It argues that the *Code* states that it applies to students and faculty. It does not specifically state that it applies to teaching assistants. Teaching assistants are included in the definition of instructors because instructors are referred to in the Divisional Procedures section, i.e. the process prior to the laying of charges. The university asserts that, pursuant to the rules of statutory interpretation, the terms in the *Code* must be defined consistently with those of its authorizing statute, the U of T Act. "Faculty" under the *Code* is defined to include "teaching staff" and "teaching staff" under the U of T Act excludes part-time lecturers registered as students. Therefore, Mr. A [REDACTED] could not be a faculty member for the purposes of the *Code*. It maintains that there is no inconsistency between the *Code* and the U of T Act because "instructor" has no bearing on who is covered by the prohibitions of the *Code*. When Mr. A [REDACTED] is acting as a teaching assistant he still has the obligations of a student under the *Code* but not those of a faculty member. Mr. A [REDACTED] has the status of a student whether or not he is acting "in his capacity" as a student. The university argues that the *Code* is about the responsibilities that attach to the status and privilege of being a student. Therefore, a student is prohibited from assisting another student to cheat. It maintains that it is fallacious to argue that a student who is cheating is acting "in the capacity" of a student.

The university denies that this is a case of unsatisfactory work performance and claims that it is a case about Mr. A [REDACTED]'s obligations as a member of the university. It contends that academic integrity is what is at stake. It submits that if the parties to the collective agreement had intended to exclude the bargaining unit members from the purview of the *Code* or the jurisdiction of the Tribunal they would have said so. The university denies that the concept of academic freedom in the collective agreement is the same thing as the concept of academic misconduct. It denies that any other provisions of the collective agreement apply to academic misconduct. It says that if an arbitrator was intended to have jurisdiction over academic integrity that would have been specifically addressed by the parties.

The university asserts that the charges against Mr. A [REDACTED] were laid by the Provost and not by Governing Council. It asserts that the Provost is not Mr. A [REDACTED]'s employer.

Finally, the university argues that if Mr. A [REDACTED] and the union are successful with this preliminary objection there is really no remedy for Mr. A [REDACTED]'s alleged offences. Mr. A [REDACTED] had completed his last term of study and his last contract as a teaching assistant so discharging him or barring him from further contracts would be pointless. It denies that a labour arbitrator would have the authority to impose the academic sanctions contemplated by the *Code*.

The university refers to the following authorities: *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Quebec (Attorney General)*, [2004] 2 S.C.R. 185; *Gagnard et al. v. Canada (Attorney General)*, 2003 CanLII 40299 (ON C.A.); *Bhadauria v. Ontario College of Teachers*, [2004] O.J. No. 2468 (Div. Ct.); *Fox v. British Columbia College of Teachers*, [2004] B.C.J. No. 2322 (S.C.); *University of Saskatchewan v. Professional Assn. of Internes and Residents of Saskatchewan*, [2001] S.J. No. 346 (C.A.)

Mr. A [REDACTED] acknowledges that he is bound by the *Code* but denies that the Tribunal process should be used for offences that allegedly occurred while he was working as a teaching assistant. He argues that the U of T Act does not provide specifically for how the *Code* is to be established or for the Tribunal. He asserts that it is therefore not correct that the Tribunal and the *Code* take jurisdiction from the U of T Act. He claims that the *Code* and its processes are not an expressed legislative scheme and that they are incidental to the university's jurisdiction under the U of T Act. Mr. A [REDACTED] maintains that when the ambiguous jurisdiction, which the university asserts is derived from the U of T Act, is compared with the explicit exclusive jurisdiction arbitrators derive from section 48(1) of the *Labour Relations Act*, it is clear that the legislature intended that disputes that arose under the collective agreement would be within that exclusive jurisdiction. Mr. A [REDACTED] also asserts that the collective agreement does include academic integrity in Articles 10.03, 13 and 18 and that it provides for a mechanism to address it. Mr. A [REDACTED] contends that, if the Tribunal were to proceed, there is a risk of its results conflicting with those of the labour arbitrator.

Mr. A [REDACTED] maintains that the fact that he would not be a teaching assistant if he were not a student is irrelevant. He also argues that it is not relevant whether he is better off if he committed the offence while working as a teaching assistant because he was working under a collective agreement. Finally, Mr. A [REDACTED] argues that it is an abuse of process for the university to prevent him from graduating just because of actions he allegedly committed as a teaching assistant.

### Decision

Mr. A [REDACTED] asserts that this Tribunal should not proceed with the charges against him for two reasons. First he asserts that the Tribunal has no jurisdiction because the offences with which he is charged were committed in the course of his employment as a teaching assistant and, therefore, an arbitrator has exclusive jurisdiction to determine any dispute about them. Secondly, Mr. A [REDACTED] claims that even if charges could be laid against him under the *Code*, he should have been charged as a member of faculty and, therefore, the charges against him were an abuse of process and should be stayed. However, we find that the Tribunal does have the jurisdiction to proceed with the hearing and that Mr. A [REDACTED] was properly charged as a student.

Mr. A [REDACTED] is a student of the University of Toronto because he is enrolled in a course of study. By enrolling in the university, a student agrees to abide by the rules that apply to members of the university community including the rules about academic integrity found in the *Code*. Mr. A [REDACTED] is a student of the university whether or not he is actually attending a class or studying for an exam because being a student of the university is his status and is not a position, like teaching assistant, that he fills from time to time. He was therefore still a student even when he was working as a teaching assistant. In fact, he could not have worked as a teaching assistant unless he was a student. As a result of Mr. A [REDACTED]'s status as a student, he is bound to his obligations to the university community at all times including those times when he is working as a teaching assistant. Those obligations include a commitment to academic integrity.

An arbitrator has exclusive jurisdiction over any dispute arising between the university and the union relating to the interpretation, administration, application or violation of the collective

agreement. That is the principle for which *Weber v. Ontario Hydro (supra)* stands. It does not stand for the principle that every dispute that arises in the employment context is within the exclusive jurisdiction of an arbitrator. The charges against Mr. A [REDACTED] are not a dispute arising explicitly or implicitly out of the collective agreement. The essential character of the dispute is whether Mr. A [REDACTED] violated his obligations with respect to academic integrity. The charges against Mr. A [REDACTED] arise from allegations that he fraudulently inflated his brother's marks. In other words, he is a student who allegedly cheated. He was not relieved of the obligation he has as a student to act with academic integrity when he stepped into the classroom as a teaching assistant.

The issue before the Tribunal is whether Mr. A [REDACTED] violated the *Code* and, if so, what penalty should be imposed. That is not an issue over which an arbitrator has jurisdiction. As noted above, an arbitrator has jurisdiction over the interpretation, application, administration or alleged violation of the collective agreement. However, not all issues that arise in an employment context fall into those categories. For example in *Piko v. Hudson's Bay Company (supra)*, the Ontario Court of Appeal found that the court did have jurisdiction to hear a law suit against the employer alleging malicious prosecution. The Court noted at paragraph 11 that, "Some disputes between employers and employees may not arise under the collective agreement; others may call for a remedy that the arbitrator has no power to grant." In *Regina Police Association Ltd. (supra)* the arbitrator did not have jurisdiction over disciplinary matters because the legislature had intended that those issues be determined through a different process. In *St. Anne-Nackawic Pulp and Paper Co. (supra)*, the court found that it had the jurisdiction to impose an injunction in a labour dispute because the labour arbitration process could not provide an adequate remedy. In *Goudie v. Ottawa (supra)*, a claim was allowed to proceed before the court because it was found to be about a pre-employment agreement and therefore did not arise out of the interpretation, application, administration or alleged violation of the collective agreement. In *Quebec (Commission des droits de la personne et des droits de la jeunesse) (supra)*, the Supreme Court found that the Human Rights Tribunal had jurisdiction with respect to a provision in a collective agreement which allegedly discriminated against younger teachers because the issue in essence was about the negotiation of the collective agreement not its interpretation, application, administration or alleged violation. The "full factual context" of this dispute is that Mr. A [REDACTED] is not just an employee of the university but that at the time he allegedly committed the offences he was also a student and bound to act with academic integrity or face sanctions under the *Code*.

This collective agreement does not cover disputes that arise out of Mr. A [REDACTED]'s status as a student under the *Code*. There are no provisions in the collective agreement that deal specifically with academic integrity. Nothing in the collective agreement ousts the Provost's right to lay a charge under the *Code*. Given the crucial importance of academic integrity to this, or any, university, the parties to a collective agreement would have to very clearly state that students working as teaching assistants were not subject to the *Code* or its procedures to oust the jurisdiction of the Tribunal. The absence of such language indicates that that was not the parties' intention.

The collective agreement is a labour relations scheme, but the *Code* is an academic integrity scheme. The Tribunal has the power to impose academic penalties which are appropriate to the alleged offences such as suspension from a course, program or the university for a period of time

and ordering that a student's record reflect the sanctions. Mr. A [REDACTED] wishes to apply for a course leading to the profession of accountant. It is a profession requiring trustworthiness. If he committed the alleged offences, it may be appropriate for his records to reflect his dishonesty for a period of time. The university's reputation that its degrees are honestly obtained is ultimately all that it has. If Mr. A [REDACTED] committed the acts with which he is accused, he has undermined his own degree as well as those of his fellow students. He has disadvantaged those who obtained their marks honestly by dishonestly raising his brother's marks. These are all issues which arise because the essential characteristic of the dispute is one of academic integrity and not the violation of the collective agreement. These are not issues which would be part of a dispute before a labour arbitrator but are always concerns of the Tribunal. The university has an interest in ensuring that students who graduate have acted with academic integrity as members of the community and also in deterring students from helping each other cheat. Those are not considerations that arise from the employment context. These considerations are similar to those of the disciplinary body of a professional college which must take into account the public interest. For example in *Fox v. British Columbia College of Teachers (supra)*, the court found at paragraph 26 that "The considerations which govern the outcome of labour arbitrations and grievances are not identical to the concerns of a body like the College of Teachers, which must consider the broader public interest on a province wide basis: see *Young v. British Columbia College of Teachers*, [2001] B.C.J. No. 405, 2001 BCCA 164 at Paras.44 to 64."

The union has suggested that if the Tribunal were to proceed with this matter it would threaten the collective agreement or the collective bargaining relationship. There is no real basis for that fear. The only time the Tribunal would be involved with one of the bargaining unit members is in a situation in which a teaching assistant is accused of violating the *Code*. It is a situation so rare that neither party was able to come up with a case where it had been addressed even though teaching assistants are unionized at many universities. The issues of academic integrity included in the *Code* are not included in the collective agreement and therefore proceeding with this dispute does not undermine any of its provisions.

Mr. A [REDACTED] also argues that he should be considered a member of faculty under the *Code*. The *Code* is concerned "with the responsibilities of faculty members and students". There is no question that Mr. A [REDACTED] was bound to the *Code* as a student. The only question is whether he had a different status under the *Code* during those hours in which he was working as a teaching assistant. The words "teaching assistant" are only mentioned in the definition of "instructor" but instructor is only mentioned in the Divisional Procedures section of the *Code*. "Instructor" is not a status under the *Code*. Mr. A [REDACTED]'s status under the *Code* continued to be that of student. He was a student who was hired as a teaching assistant. He was not part of the teaching staff. Guidance can be drawn from the U of T Act under the authority of which the Governing Council issued the *Code*. The U of T Act clarifies that part-time lecturers who are also students are excluded from the definition of "teaching staff". Mr. A [REDACTED] is a student for the purposes of the *Code* because that is his status at the university. He did not stop being a student and become a member of the faculty when he worked as a teaching assistant. His alleged offence is properly treated as an offence committed by a person who is asking the university to confer a degree. He should not be in a better or different position than any other student who assists another student to cheat. Mr. A [REDACTED] was still bound to the obligations of a student under the *Code* when he was



working as a teaching assistant and was capable of being charged as a student. The charges laid against Mr. A [REDACTED] were not an abuse of process and should not be stayed.

For all of the above reasons, we find that the Tribunal has the jurisdiction to proceed with hearing the charges against A [REDACTED] A [REDACTED]. Mr. A [REDACTED]'s preliminary motion is therefore denied.

Dated at Toronto, January 14, 2009

Laura Trachuk, Co-Chair  
Adil D'Sousa, Student Panel Member  
Graham Trope, Faculty Panel Member

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on October 29, 2008;

**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 -

**K ■ W ■ K ■ L ■**

**REASONS FOR DECISION**

**Members of the Panel:**

Mr. Clifford Lax, Q.C., Chair

Professor Annette Sanger, Faculty Panel Member

Mr. Jamon Camisso, Student Panel Member

**Appearances:**

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland

Danny Kastner, Counsel, Paliare Roland

**In Attendance:**

Ms. Lucy Gaspini, Academic Affairs Officer, Office of the Dean, University of Toronto  
Mississauga

Ms. K ■ W ■ K ■ L ■, the Student, did not attend

### Preliminary

- [1] The Trial Division of the University Tribunal was convened on August 17, 2009 at 1:00 p.m., in the Boardroom, Simcoe Hall to consider the two charges laid against Ms. K. W. K. L. under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "Code") by the Vice-Provost, Professor Edith Hillan.

### Proof of Service of the Notice of Hearing and the Charges

- [2] Increasingly, this Tribunal is being asked to draw an inference that the student who does not appear at the hearing, has received notice of the hearing and of the charges to be decided at the hearing.
- [3] As is frequently the case, the student does not update their contact information as required by the *University Policy on Official Correspondence With Students*, effective September 1, 2006. Even though students are responsible for advising the University of a current and valid postal address, as well as the address for a University issued electronic mail account, experience indicates that this requirement is often ignored.
- [4] The University bears the evidentiary burden of establishing that on a balance of probabilities, the student has received effective notice. In order to discharge that burden, it is not enough for the University to submit that there is no evidence to support the conclusion that the student did not receive notice, as such a submission effectively shifts the burden of proof from the University to the student. Further, to invite the Tribunal to draw an inference based upon a lack of evidence, does not satisfy the onus cast upon the University of establishing that the student was more likely served than not.
- [5] We were referred to only one prior decision which dealt with the University's evidentiary burden to establish effective service. In the decision *University of Toronto and F. B.*, released February 15, 2007 the panel judged that the content of the notice and the timing of its attempted service, were both reasonable. In arriving at this conclusion, that Tribunal had regard to section 6(1) of the *Statutory Powers Procedure Act* which requires that "the parties to a proceeding shall be given reasonable notice of the hearing by the Tribunal."
- [6] The requirement that the parties receive reasonable notice relates to both the contents of the notice and the amount of time between the date of service and the day of hearing. So for example in an earlier case, the *University of Toronto and Ms. O. K.* released June 2006, the panel was concerned whether a Notice of Hearing, dated only a week before the hearing, was reasonable under the circumstances.
- [7] In this case, we are not concerned with the reasonableness of the University's attempts to serve Ms. L., but the effectiveness of bringing to Ms. L.'s attention both the nature of the charges and the hearing date. Therefore, even if the University's attempts were eminently reasonable but (with the benefit of hindsight), ineffectual, can the University then come before the Tribunal and claim to have given reasonable notice of the charges

even though it could offer little positive evidence to support the inference that the student was made aware of the charges.

[8] It is the University's burden to submit the evidence, which can support the inference to be drawn. The inference must be based upon evidence. So for example, a lack of response, in itself, is not evidence that the student has ignored the notification. There must be evidence that the notice was sent to an address, postal or electronic, that was likely to come to the student's attention..

[9] In this case, the Tribunal ultimately concluded that it was prepared to draw an inference that Ms. L■ had received effective notice, both of the charges and of the hearing date. In order to fully understand the rationale for drawing such an inference, an abbreviated chronology of relevant facts is required.

(a) In April 2007, Ms. L■ submitted an essay for academic credit in PHL3111H1S, which essay was plagiarized from the published work of Michael Jacovides of the Department of Philosophy, Purdue University. Ms. L■ made little effort to conceal the plagiarism other than to insert an introductory sentence preceding the plagiarized text. Her bibliography of sources contains two references, neither of them being Professor Jacovides' work.

(b) While she was required to meet with her course instructor before submitting her essay, she did not do so.

(c) Professor Ainslie, the course instructor attempted to communicate with Ms. L■ by email but his attempts were unsuccessful as the address she had provided was not functioning. Therefore, as a result of a telephone call, Professor Ainslie arranged to meet with Ms. L■ on May 11, 2007 at 3:00 p.m. to discuss his concerns regarding the essay she had submitted to him. Ms. L■ did not attend the meeting.

(d) Thereafter, the University made numerous attempts to communicate with Ms. L■ at her Toronto address for the purpose of convening a meeting with the Dean's Designate in accordance with section C.I.(a)(5) of the *Code*. The University was unaware that Ms. L■ had returned to live in Hong Kong.

(e) In an email dated June 27, 2007 from Robert Gardin of the Registrar's office, Ms. L■ was advised that the University had been attempting to send her information by mail and she was asked to update her address on the repository of student information.

(f) On July 2, 2007, Ms. L■ responded to the June 27, 2007 email providing an address in Hong Kong and because her response was sent by email, she also provided an email address through which she could be reached.

(g) Ms. L■'s response of July 2, 2007 indicated that she knew that the University was trying to get in touch with her and she acknowledged that she would update her

repository of student information record to reflect both her address and her email account. She subsequently did update her student information.

- (h) Subsequently, by letter dated July 11, 2007 Lynn Snowden, Assistant Dean at the University of Toronto Mississauga Campus wrote to Ms. L■ at the address which Ms. L■ had provided in her email of July 2, 2007. Ms. Snowden's letter explicitly refers to a concern that the research paper submitted for academic credit may have contained plagiarized material and the student was invited to discuss the allegation with Ms. Snowden or with Ms. Snowden's representative. There was no reply from Ms. L■ to Ms. Snowden's letter. However, Ms. Snowden's letter which went out by registered mail was not returned to the sender.
  - (i) Subsequent correspondence, both by post and by email (addressed to the email address from which K■ L■ had sent her July 2, 2007 email to the University of Toronto produced no responses.
- [10] The Tribunal concludes that it is entitled to draw the inference that Ms. Snowden's letter of July 11, 2007 sent by registered mail and not returned, was in fact received by Ms. L■. Further, the Tribunal concludes that the email correspondence sent to Ms. L■'s email account "■■■■■■■■■■@hotmail.com" likely came to Ms. L■'s attention and her refusal to respond was a strategic decision.
- [11] Therefore we have concluded that on a balance of probabilities, it is more likely than not that Ms. L■ did in fact receive notice of the charges and of this hearing, but has chosen to not participate.

#### Hearing on the Facts

- [12] The charges dated October 29, 2008 are as follows:

1. In or about April, 2007, you knowingly represented as your own an idea or expression of an idea or work of another in connection with an essay entitled "How does Locke think that we acquire the Idea of Power?" ("Essay", which you submitted for academic credit in PHL311H1S, contrary to Section B.1.1.(d) of the *Code*.
  2. In the alternative, in or about April, 2007, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code*, in connection with the Essay which you submitted for academic credit in PHL311H1S, contrary to Section B.1.3.(b) of the *Code*.
- [13] A comparison of Ms. L■'s term paper and the published work of Michael Jacovides, leaves no doubt that Ms. L■'s paper, but for the first sentence, was entirely plagiarized.
- [14] Therefore, the first charge has been made out and there is no need to consider the alternative charge.

### Decision of the Tribunal

[15] The Student is guilty on Charge #1 dated October 29, 2008.

### Sanction

[16] The student has not cooperated with the University nor has the student shown any remorse for the offence. As stated above, this was a gross act of plagiarism in that the student did not even bother to inject any of her own thoughts, observations or conclusions but simply lifted the entire paper from the text of Professor Jacovides.

[17] Obviously, there is a need to deter others from committing a similar offence.

[18] The University's counsel has suggested that an appropriate penalty would be for the student to receive a grade of zero on the course in question, that she be suspended from the University of Toronto for two years and that there be a notation on her academic record referencing this conviction for a period of three years.

[19] In view of all the facts set out above, this Tribunal agrees with the University's counsel submission as to penalty. Indeed, considering all of Ms. L's conduct in this matter, the Tribunal might well have accepted a penalty submission with more serious consequences for the student. We mention this only because plagiarism appears to be an increasing problem and even though the students are repeatedly warned about the consequences of this academic offence, some, like Ms. L, have decided to ignore these warnings. Nor does it appear that the penalties imposed in the past, have had the desired deterrent effect.

[20] The panel therefore imposes the following sanctions:

1. That the student receive a grade of zero in PHL311H1S.
2. Suspension from the University for a period of two years.
3. A three year notation on her transcript; and
4. This matter shall be reported to the Provost for publication in the University newspapers with the name of the student withheld.

Date: September 1, 2009

  
Clifford Lax, Q.C., Chair

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on January 5, 2009;

**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 -

**X [REDACTED] P [REDACTED] Z [REDACTED]**

**Members of the Panel:**

- Ms. Kirby Chown, Chair
- Professor Paul Cooper, Faculty Panel Member
- Mr. Nikola Cunjak, Student Panel Member

**Appearances:**

- Mr. Robert Centa, Assistant Discipline Counsel
- Mr. X [REDACTED] Z [REDACTED], the Student, did not appear

**Preliminary**

- [1] The Trial Division of the University Tribunal was convened at 5:30 p.m. on May 4, 2009 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "Code") laid against the Student by letter dated January 5, 2009 from Professor Edith Hillan, Vice-Provost, Academic.
- [2] The panel was made up of Ms. Kirby Chown, Chair; Professor Paul Cooper, a faculty member and Mr. Nikola Cunjak, a student member. Counsel for the University was Mr. Robert Centa. The Student was not represented and did not attend the hearing.

- [3] The hearing was called to order at 5:30 p.m. and then adjourned until 6:00 p.m. to allow the Student further time to appear. At 6:00 p.m. the hearing was reconvened, but the Student had still failed to appear. The University proposed to proceed in the Student's absence and the Tribunal heard submissions with respect to this issue.
- [4] Mr. Centa presented the panel with the affidavit of Ms. Betty-Ann Campbell, a law clerk from his firm, Paliare Roland. In addition, Mr. Centa called Ms. Campbell as a witness. Ms. Campbell testified that she had personally attended at the examination facility on McCaul Street in Toronto on March 20, 2009. The Student identified himself to her. She then personally served the Student with the Notice of Hearing, the Charges and the University's disclosure brief.
- [5] After considering the Affidavit of Ms. Campbell, her evidence and the submissions of counsel, the panel was satisfied that the provisions in the *Code* and in the *Statutory Powers Procedure Act* ("SPPA") had been met and ruled that the hearing would proceed in the Student's absence.
- [6] In arriving at its decision, the panel found that Student had received the Notice of Hearing, the Charges and the complete disclosure brief approximately six weeks before the hearing date and that this material provided the Student with reasonable notice of the charges, the hearing date and the seriousness of the said charges.

#### **Hearing on the Facts**

- [7] The charges are as follows:
  - i. On or about March 17, 2008, you knowingly represented as your own an idea or expression of an idea, and/or work of another in an essay that you submitted to fulfill the course requirements of AST251, contrary to Section B.I.1.(d) of the *Code*.
  - ii. In the alternative, on or about March 17, 2008, 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 an essay you submitted for academic credit in AST251, contrary to Section B.I.3.(b) of the *Code*.
- [8] Particulars of the charges are as follows:
  - i. You were registered at the University of Toronto Mississauga and enrolled in AST251 ("Course") at all material times.
  - ii. On or about March 17, 2008, you submitted an assignment entitled "Life on Other Worlds: The Research Paper" to partially fulfill the Course requirements ("Essay").



- iii. The Essay contained unacknowledged passages taken verbatim or nearly verbatim from various sources including websites.
  - iv. For the purposes of obtaining academic credit or another academic advantage, you knowingly plagiarized your assignment.
  - v. Your conduct violated the *Code*.
- [9] The University called three witnesses: Ms. Marija Stankovic, Professor Slavek Rucinski and Ms. Kristi Gourlay.
- [10] Ms. Stankovic is a graduate student at the University of Toronto and was the Teaching Assistant (TA) in AST251 at the time of the events in question. It was her responsibility to mark the essays prepared by the students in AST251.
- [11] Ms. Stankovic testified that students were made aware of the requirements for the course which included the preparation of a research paper ("paper") worth 25% of the final mark that was required to be submitted in hard copy and email on March 17, 2008. She also testified that the webpage for the course contained further information on the paper and, in particular, noted the fact that the papers would be checked for plagiarism and there would be "very serious consequences if plagiarism is detected". As well, she drew the panel's attention to a further posting on the website entitled "Critical Writing", which was prepared by the previous professor of the course and updated by Professor Rucinski. This section of the website advised students to read and adhere to the guidelines "How Not to Plagiarize".
- [12] The Student submitted a paper entitled "Life on Other Worlds" on March 17, 2008 in hard copy and via email to the TA. Ms. Stankovic reviewed the hard copy of the Student's research paper and became alerted to some potential irregularities in the paper when she noted that a sentence from the first page was repeated on the third page of the paper. She entered this sentence into the Google search engine and found that it was a verbatim match to material on the internet. She reviewed the rest of the paper and Googled other passages, finding that they were similarly extracted verbatim, or virtually verbatim, from articles on the internet. She noted on the paper "Case for plagiarism!" and highlighted portions of the paper that were copied from the internet. She then provided the paper and copies of the primary sources, to Professor Rucinski. Although the Student noted some articles as references at the end of the paper, he did not acknowledge the portions that had been copied from the internet.
- [13] Professor Rucinski is a professor in the Department of Astronomy and Astrophysics and the professor for AST251. He advised the panel that he discussed plagiarism in class at the beginning of the course and directed the students to the relevant pages dealing with plagiarism on the course website.

- [14] Professor Rucinski testified that he received the Student's original paper from the TA and reported this matter to the chairperson of the department on April 15<sup>th</sup>, describing it as a case of plagiarism.
- [15] The panel was provided with a Book of Documents that included the hard copy of the Student's research paper together with Ms. Stankovic's notations and, as well, copies of the internet sources from which the Student had allegedly plagiarized. The panel was invited to compare the internet documents to the Student's essay as counsel for the University led Ms. Stankovic through the evidence.
- [16] Ms. Gourlay, who is the manger of the Office of Student Academic Integrity for Arts and Science, was called. She had reviewed the electronic copy of the Student's research paper. She carried out a very thorough review of the paper as against internet sources. Once again, in the Book of Documents, the panel was invited to follow along with her annotations on the electronic copy of the Student's essay and to compare it to the provided internet sources from which the Student had allegedly plagiarized.

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

- [17] After considering the submissions of counsel, reviewing the documentation and after deliberation, the panel was satisfied that counsel for the University had proved the case on clear and compelling evidence and found the Student guilty of the offence set out at charge #1.
- [18] The panel noted that the extent of plagiarized material in the Student's paper was significant and comprised virtually all of the submitted paper. The panel also noted that although the Student included at the end of his paper a section entitled "References and Resources" which listed a number of books and internet sites he had apparently consulted, he failed to list the sites from which he actually took the material in question. This represents a very flagrant and serious case of plagiarism.
- [19] On being advised of the Tribunal's decision, discipline counsel withdrew charge #2.

#### **Penalty Phase**

- [20] Counsel for the University recalled Ms. Kristi Gourlay to introduce the ROSI transcript of the Student and invited the panel to consider it as part of the penalty phase.
- [21] The University submitted that the appropriate penalty in the circumstances would be as follows:
  - i. That the Student receive a final grade of 0 in AST251;
  - ii. That the Student be suspended for a period of two years from May 4, 2009 to May 3, 2011;

- iii. That a notation appear on the transcript of the Student that the Student had committed an academic offence for a period of three years from May 4, 2009 to May 3, 2012; and
- iv. That the decision be reported to the Provost to be published with the name of the Student withheld.

[22] Counsel for the University provided the panel with a Book of Authorities, which contained several decisions of the University Tribunal in similar cases. The panel paid particular attention to the criteria for sanction first proposed by Mr. Justice Sopinka in the matter of the appeal of Mr. C. (November 5, 1976). Mr. Sopinka, as he then was, indicated that a panel 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] As the Student did not attend the hearing, this panel was not able to consider relevant factors which might influence the sanction to be applied, including his character, any extenuating circumstances and the likelihood of a repetition of offence.

[24] The panel took into account the following factors:

- i. the Student had been convicted of one serious count of plagiarism;
- ii. the Student had shown no remorse or any acceptance of responsibility for this matter and had declined to attend the hearing;
- iii. the Student had no prior academic offences;
- iv. the detriment to the University occasioned by the offence; and
- v. the need to deter others from committing a similar offence

[25] The panel was strongly of the view that plagiarism is a serious offence that goes to the very heart of the academic integrity of the University and its students.

- [26] The panel also notes, as stated in the case of re: *University of Toronto and A.K.* (November 9, 2007), that a number of cases has established a threshold minimum penalty for those convicted of plagiarism of a two-year suspension.
- [27] The panel agrees that a two-year suspension should be the threshold for a first time offence of plagiarism and judges that it is the appropriate sanction for this case.
- [28] The panel is of the view that this case is very similar in all respects to the case of re: *Ms. O.K.* (June, 2006). Comparing the nature of the offence, the fact that there were no prior offences committed by the Student and the fact that the Student did not appear at the hearing, we felt that the University's submission re penalty should be varied in one respect; namely, that a notation should be on the Student's transcript for a period of two years rather than three years.
- [29] Accordingly, we determine the sanction in this case as follows:
- i. the Student receive a final grade of 0 in AST251;
  - ii. the Student be suspended for a period of two years from May 4, 2009 to May 3, 2011;
  - iii. that a notation appear on the transcript of the Student for a period of two years from May 4, 2009 to May 3, 2011 that the Student has committed an academic offence; and
  - iv. the decision be reported to the Provost to be published with the name of the Student withheld.

Dated this 10<sup>th</sup> day of September, 2009

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Kirby Chown, Associate Chair

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on April 29, 2009;

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 -

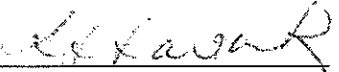
P [REDACTED] D [REDACTED]

**FINDINGS OF THE TRIBUNAL FOLLOWING  
A GUILTY PLEA BY P [REDACTED] D [REDACTED]**

1. The University and P [REDACTED] D [REDACTED] entered into an Agreed Statement of Facts and filed that Agreed Statement of Facts and a Joint Book of Documents at the opening of the hearing. Ms. D [REDACTED] entered a plea of guilty to Charges 1 and 6 set out in the Notice of Hearing attached as Tab 2 to the Joint book of Documents.
2. Following a review of Agreed Statement of Facts and the Joint Book of Documents, and after the hearing the submissions of counsel, this Tribunal was satisfied that Ms. D [REDACTED] had committed the offences in Charges 1 and 6 of the Notice of Hearing. The Tribunal accepted the guilty plea and made a finding that Ms. D [REDACTED] was guilty of the charges of academic misconduct contained in Charges 1 and 6.
3. The Tribunal then heard submissions on penalty and gave separate oral Reasons dealing with that aspect of this matter.

DATED September 28, 2009

  
\_\_\_\_\_  
Ronald G. Slaght, Chair

  
\_\_\_\_\_  
Lesley Ann Lavack, Faculty Panel Member

  
\_\_\_\_\_  
Sybil Derrible, Student Panel Member

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on April 29, 2009;

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

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**BETWEEN:**

**THE UNIVERSITY OF TORONTO**

- and -

P [REDACTED] D [REDACTED]

**Members of the Panel:**

- Mr. Ronald Slaght, Chair
- Professor Lesley Lavak, Faculty Panel Member
- Mr. Sybil J. Derrible, Student Panel Member

**Appearances:**

- Ms. Lily Harmer, Assistant Discipline Counsel, for the University
- Ms. Marian MacGregor, Clinic Director, Community Legal Aid Services Program (CLASP), for the Student
- Ms. Phanny Im, Legal Case Worker, Community Legal Aid Services Program (CLASP), for the Student

**In Attendance:**

- Ms. P [REDACTED] D [REDACTED] the Student
- Ms. Lucy Gaspini, Academic Affairs Officer, Office of the Dean University of Toronto Mississauga
- Professor Scott Graham, Dean's Designate for Academic Offences at the University of Toronto, Mississauga

**Transcription of Oral Reasons On Sanction Delivered by the Chair at the Conclusion of the Hearing**

- [1] With some considerable reluctance, the Panel has decided it will accept the joint recommendation of the University and your counsel to impose this sanction which is essentially a three-year suspension, but in doing so, we want you to know that while this was an unusual case, it was in no way, shape, or form an insignificant one or small one or a minor matter. We see it as a major matter.
- [2] We see your conduct in the course of many years to be nothing less than deliberate acts of dishonesty, forgery, and a continued failure to recognize what you have done. Not only that, but your acts embroiled a fellow student in acts of academic dishonesty himself, which had to be sorted out and who knew how that would turn out. We noted that this has been going on since the year 2007 for him, and that as late as March 2009 you made no admission that you had done anything wrong.
- [3] You have ambitions to go to law school and we want you to know that the university expects integrity and honesty from students in all things, and that you did not display that standard of conduct during this long period of time.
- [4] So we are concerned and remain concerned, but as was pointed out to us, we have a limited ability to overturn an agreed submission on penalty. And in this case, we were not persuaded in the end that agreeing with the joint submission would bring the administration of this tribunal into disrepute, which is the test that we would have had to meet. But it's a close call, I can tell you. So you should consider yourself fortunate.
- [5] And we took into account in reaching our decision the character references which we put some weight on. These are people who have known you for many years, and certainly attest to your good qualities. Other important considerations were that we think your apology was sincere and that you are getting some counselling and that your family is now inside the tent and can provide you with direction and the help that I think you will need.
- [6] On a more technical side, our being here tonight with an agreed statement of facts and a plea from you did save the university and other people including Mr. K [REDACTED] what would have been a lengthy and difficult hearing. We now know that Mr. K [REDACTED] is not going to face charges, and that was a factor.
- [7] In this particular case, we put some emphasis on the fact that Ms. Harmer was prepared to make this recommendation on behalf of the university.
- [8] So we will impose the sanction that is provided for in Exhibit 2.



- 1) The Student shall be suspended from the university for that two-year period, starting tomorrow, September 29, 2009.
- 2) There will be a notation on the Student's record and transcript until the Student graduates, which will be sooner than the three years in the second element of it.
- 3) The Tribunal shall report the case to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University newspapers with the name of the student withheld.

[9] When you pursue your next academic endeavours and your endeavours in life, please keep this lesson in mind, because I think you have been given every advantage by your counsel, the university, and by this tribunal.

I certify that this is the decision of the Panel

October 20/09  
Date

W. S. Slaght  
Ronald Slaght, Q.C. (Chair)

University of Toronto and

THE UNIVERSITY TRIBUNAL  
(#401752102) UNIVERSITY OF TORONTO

AND

P.

D.

**Agreed Statement of Facts**.....

This Exhibit is produced by

1. For the purposes of this hearing under the ~~Code of Behaviour on Academic~~ <sup>the UNIVERSITY</sup> ~~Matters ("Code")~~, the University of Toronto (the "University") and P [REDACTED] D [REDACTED] have <sup>this 28 day of SEPTEMBER, 2009..</sup> prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD").

The University and P [REDACTED] D [REDACTED] agree that:

- a. they consent to the admission into evidence of each document contained in the JBD for all purposes, including for the truth of its contents, without further need to prove the document; and
  - b. if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated, unless the facts set out below indicate otherwise.
2. On August 27, 2009, the University delivered a Notice of Hearing in this matter. This Notice of Hearing is found at Tab 1 of the JBD.
  3. The Notice of Hearing arises out of charges of academic misconduct filed by the Provost under the *Code*. A copy of the Charges is found in the JBD at Tab 2.
  4. P [REDACTED] D [REDACTED] admits that she is guilty of academic misconduct as set out in Charges 1 and 6.
  5. In Fall 2005 P [REDACTED] D [REDACTED] registered at the University of Toronto, New College, in the Faculty of Arts & Science. As of September 22, 2009, she had accumulated 20.5

credits with a CGPA of 2.84, and had completed all of the program requirements to graduate with a Bachelor of Arts. A copy of P████ D████'s academic record dated September 22, 2009 is found in the JBD at Tab 3.

6. In November 2005 Ms. D████ began dating P████ R████ K████, a student at the University of Toronto Mississauga. In or around October, 2006, Ms. D████ and Mr. K████ broke up. Their relationship was on again off again until late winter/early spring of 2007; however, they were still in communication after their final break-up.

7. In October, 2006, Ms. D████ told Mr. K████ that she was sick, and had been sick for a number of years. She further told him that she did not want anyone to know about her illness, not even her family, that he was the only person she had ever told about it, and that he was not to tell anyone. She further told him that she was undergoing tests to determine a diagnosis. An email exchange between Ms. D████ and Mr. K████ on October 24, 2006 concerning these issues is found in the JBD at Tab 4.

8. On or about November 9, 2006, Ms. D████ told Mr. K████ that she had been diagnosed with ovarian cancer. She further told him not to tell anyone about her illness, as she wanted to keep it a secret from everyone, including her friends and family. She told Mr. K████ that he would be her sole support in helping her to deal with her fight with cancer.

9. Ms. D████ wrote and gave to Mr. K████ a letter dated November 8, 2006 which she told him was from her family doctor, Dr. Janette Milne ("November 8, 2006 Letter"). This letter had the name Janet Milne PhD typewritten at the bottom, and stated that Ms.

D[REDACTED] was ill with cancer, that she would be undergoing further tests, and that she needed to tell someone about her medical situation to obtain personal support during the treatment process. It further stated that she may be entering chemotherapy in November 2006. A copy of the November 8, 2006 Letter is found in the JBD at Tab 5.

10. Shortly thereafter Ms. D[REDACTED] gave to Mr. K[REDACTED] a series of letters she had written to him, in which she referenced, among other things, the impact of a cancer diagnosis on her outlook on life, her concerns about the future, and her love for Mr. K[REDACTED]. In particular she suggested a number of times that she did not have a long future to look forward to, and once stated that she was dying. An email from Mr. K[REDACTED] to Ms. D[REDACTED] dated November 13, 2006 summarizing some of the contents of these letters is found in the JBD at Tab 6.

11. Ms. D[REDACTED] wanted to persuade Mr. K[REDACTED] that she was seriously ill with cancer. Her motive for doing so was an effort to save a failing relationship. She believed that if she convinced Mr. K[REDACTED] that she was ill, he would continue to be her boyfriend and they would rebuild their relationship.

12. Mr. K[REDACTED] told Ms. D[REDACTED] that he was very worried about her health and that the resulting stress was impacting on his school work. He told her that he was considering asking for relief from his course instructors in the form of a deferral of his end of term deadlines for course work.

13. On December 3, 2006, Mr. K[REDACTED] submitted the November 8, 2006 Letter to four of his course instructors, to support the following requests:

- a. to Professor Todd Sanders on November 22, 2006 for a two week extension for submission of an essay worth 10% of the course mark, originally due November 29 in ANT360. A copy of Mr. K█████'s email request to and subsequent email exchange with Todd Sanders from November 22 to December 8, 2006 is found in the JBD at Tab 7.
- b. to Professor Heather Miller in ANT316 on November 22, 2006 for relief from a December 1 deadline for submission of a web poster worth 25% of the course mark. Professor Miller agreed to an extension until December 16, 2006. A copy of the emails exchanged between Mr. K█████ and Professor Miller between November 22 and December 8, 2006 is found in the JBD at Tab 8.
- c. to Professor Shyon Baumann in SOC284 on November 23, 2006 for deferral of the final test in the course, worth 25% of the course mark. Professor Baumann agreed to defer the test from December 4 to December 8, 2006. A copy of the emails exchanged between Mr. K█████ and Professor Baumann between November 23 and December 3, 2006 is found in the JBD at Tab 9.
- d. initially to Professor Brownfield on November 23 and again on November 28 which was unanswered, with a follow-up request to Diane Bartlett, the course teaching assistant in SOC211, for an extension of 2 weeks on an essay worth 40% of the course mark due December 8, 2006. A copy of

the emails exchanged between Mr. K [REDACTED] and Diane Bartlett is found in the JBD at Tab 10.

14. Ms. D [REDACTED] states that she did not give Mr. K [REDACTED] the November 8, 2006 Letter for the purpose of submitting it to the University, and that she only became aware that he had done so after the fact when he asked her to provide him with additional medical documentation as discussed in paragraph 17 below.

15. After learning that the November 8, 2006 Letter had been submitted by Mr. K [REDACTED] to the University, Ms. D [REDACTED] did not tell Mr. K [REDACTED] that she had fabricated the November 8, 2006 Letter, nor did she tell anyone else.

16. Ms. D [REDACTED] further states that at the time (early December 2006) she was only aware that the November 8, 2006 Letter had been submitted to Todd Sanders for ANT360; she became aware much later that he had also submitted it to his course instructors in ANT316, SOC284 and SOC211.

17. After receiving the November 8, 2006 Letter from Mr. K [REDACTED], Todd Sanders and Heather Miller requested that Mr. K [REDACTED] provide additional medical documentation. Mr. K [REDACTED] therefore asked Ms. D [REDACTED] for another more formal document from Dr. Milne. Ms. D [REDACTED] agreed to help Mr. K [REDACTED] by obtaining the requested additional medical documentation, knowing at that time that he intended to submit it to the University as additional supporting medical documentation.

18. Ms. D [REDACTED] complied with Mr. K [REDACTED]'s request by aiding and assisting him in obtaining a note on the letterhead of Dr. Janette Milne dated December 5, 2006

(December 5, 2006 Note"). Ms. D[REDACTED] was aware that Mr. K[REDACTED] intended to submit the December 5, 2006 Note to Todd Sanders for ANT360, and became aware some time later that he had also submitted it to Heather Miller for ANT316. This note, which contained Dr. Janet Milne's signature, stated that Ms. D[REDACTED] was extremely ill, that she required support from a peer as her family had not been made aware of her illness, and that Ms. D[REDACTED]'s condition was confidential. A copy of the December 5, 2006 Note is found in the JBD at Tab 11.

19. Ms. D[REDACTED] was aware that Mr. K[REDACTED] intended to request an extension in his course work because of his belief that she was suffering from a serious medical condition. She was aware that he believed the contents of the November 8, 2006 Letter to be true. She did not disabuse him of this belief. She admits that she ought to have known that there was a strong likelihood that he would use this letter in support of his requests for extensions to his course deadlines.

20. Ms. D[REDACTED] states that she did not tell Mr. K[REDACTED] the truth because she wanted to maintain the relationship, which became her singular focus, and she did not at the time appreciate the seriousness of the consequences to herself, to Mr. K[REDACTED], or to the University. She further states that she convinced herself that somehow the matter would resolve itself and that she could maintain their relationship in spite of it.

21. Ms. D[REDACTED] was not ill with cancer or any other serious physical disease in November, 2006 or thereafter.

22. Todd Sanders confirmed with Dr. Janette Milne that neither the November 8, 2006 Letter nor the December 5, 2006 Note (collectively the "Doctors Notes") were written by her. Despite knowing this, and despite knowing that as a consequence Mr. K█████ was facing allegations of academic misconduct, Ms. D█████ continued to mislead R█████ K█████ into believing that she had cancer which required medical treatment. She further misled him into thinking that the information contained in the Doctors Notes was true, and that Dr. Milne was not telling the truth.

23. Ms. D█████ further assisted Mr. K█████ to prepare to attend two meetings with the dean's designate under section C.I.(a).5. of the *Code of Behaviour on Academic Matters* by providing him with documents to support his belief that she was suffering from cancer, including additional medical documentation about her medical status. A copy of an email from P█████ D█████ to R█████ K█████ dated April 2, 2007, together with the related supporting documents, is found at Tab 12 of the JBD. Another email from P█████ D█████ to R█████ K█████ dated April 4, 2007 at 12:20 p.m is found in the JBD at Tab 13.

24. Mr. K█████ attended a first dean's meeting on April 4, 2007 at 2:00 p.m., to address allegations that he submitted the Doctors Notes in order to seek academic consideration for term work not yet submitted in ANT360. Mr. K█████ used the information provided to him by Ms. D█████ to defend himself, and to support his assertion that Ms. D█████ was and had been sick. Ms. D█████ continued to tell Mr. K█████ and believes that at this time he continued to believe, that she was seriously ill with cancer, and she actively supplied him with information to support that belief.



25. In preparation for a second dean's meeting on September 27, 2007, to address allegations that he submitted the Doctor's Notes in ANT316, SOC211 and SOC284, Mr. K█████ asked Ms. D█████ for proof that she was sick at the relevant time. Emails exchanged between Mr. K█████ and Ms. D█████ on September 14, 2007 in which they discussed the assistance she could give him are found in the JBD at Tab 14.

26. In or about October or November 2007 Mr. K█████ doubted Ms. D█████'s story that she had cancer. To convince him that she did, Ms. D█████ provided to Mr. K█████ a letter dated September 20, 2007, again from a Dr. Howard Wu stating that Ms. D█████ had a diagnosis of ovarian cancer and Lupus. This letter purporting to be from Dr. Wu is found in the JBD at Tab 15.

27. During the period from December 18, 2006 to March 27, 2009, Ms. D█████ was in periodic communication with Sally Walker, Assistant Principal and Registrar at New College, regarding her personal issues. Initially she told Ms. Walker that her boyfriend R█████ K█████ had been wrongly accused of an academic offence, and that she had ovarian cancer. From time to time she continued to discuss these issues with Ms. Walker, maintaining the story that she had been diagnosed with cancer and that she was undergoing treatment. She also attempted to persuade Ms. Walker that R█████ K█████ had been wrongly accused and to obtain her assistance for him.

28. On March 24, 2009 Ms. D█████ attended a lengthy dean's meeting to discuss allegations of academic misconduct against her in connection with the information and assistance she provided to Mr. K█████. She made no admission of responsibility at this meeting.

29. Ms. D [REDACTED] admits that :

a. In respect of the November 8, 2006 Letter she knowingly:

1. forged, altered or falsified the November 8, 2006 Letter and provided it to R [REDACTED] K [REDACTED];
2. led R [REDACTED] K [REDACTED] to believe that the contents of the November 9, 2006 Letter were true;
3. ought to have known R [REDACTED] K [REDACTED] would use the letter to submit it to the University for academic advantage;
4. did nothing to stop R [REDACTED] K [REDACTED] from doing so;
5. took no steps to correct the situation once R [REDACTED] K [REDACTED] had submitted the documents.

b. In respect of the December 5, 2006 Note she knowingly forged, altered or falsified the December 5, 2006 Note, and knowingly aided and assisted R [REDACTED] K [REDACTED] to submit it to the University to support his request for extensions to the deadlines for submission of his course work in ANT360 and ANT316;

c. She knowingly provided false information to P [REDACTED] R [REDACTED] K [REDACTED] concerning a serious medical condition which she claimed to suffer from, but did not;

- d. she knowingly continued to provide further false information to him and to the University to perpetuate her story as believed by Mr. K [REDACTED] that she suffered from cancer and that the contents of the Doctors Notes were true;
- e. She knowingly implicated Mr. K [REDACTED] in serious allegations of academic misconduct concerning submission of the Doctors Notes, and exacerbated the impact of the Code proceedings against Mr. K [REDACTED] by continuing to provide him with false information and a false belief in the veracity of her story of suffering from cancer and the authenticity of the Doctors Notes.

30. P [REDACTED] D [REDACTED] therefore pleads guilty to Charges 1 and 6.

31. P [REDACTED] D [REDACTED] acknowledges that she is represented by counsel and has received legal advice before signing this ASF.

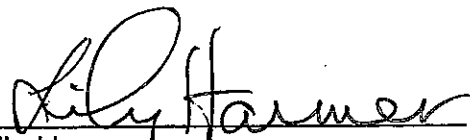
32. P [REDACTED] D [REDACTED] acknowledges that the University has made no promises or representations to her regarding the penalty the University will seek in this matter.

Signed in Toronto on September 28, 2009.



P [REDACTED] D [REDACTED]

Signed in Toronto on September 28, 2009.



Lily Harmer  
Assistant Discipline Counsel  
University of Toronto

University of Toronto and

**THE UNIVERSITY TRIBUNAL**  
**UNIVERSITY OF TORONTO**  
 AND

**JOINT SUBMISSION ON PENALTY**

.....P.....D.....  
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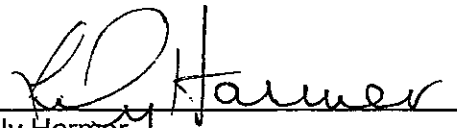
1. The Provost and Ms. D[REDACTED] submit that the appropriate penalty in all the circumstances of the case is that the University Tribunal: <sup>the UNIVERSITY</sup> this 28 day of SEPTEMBER, 2009.

- a. suspend Ms. D[REDACTED] from the University of Toronto for two years from September 29, 2009 until September 28, 2011;
- b. impose a notation on her academic record and transcript stating that she has been found to have committed academic offences, such notation to remain on her transcript for three years or until she graduates from the University, whichever occurs first; and
- c. report this case to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed, with Ms. D[REDACTED]'s name withheld.
2. Ms. D[REDACTED] acknowledges that the University of Toronto has advised her to obtain independent legal advice before signing this Joint Submission on Penalty and that she has done so.

Signed in Toronto on September 28, 2009.

  
 P[REDACTED] D[REDACTED]

Signed in Toronto on September 28, 2009.

  
 Lily Harmer  
 Assistant Discipline Counsel  
 University of Toronto

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on March 18, 2009;

**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 -

D■■■■ O■■■■ S■■■■

**Members of the Panel:**

- Ms. Lisa Brownstone, Chair
- Professor Nick Cheng, Faculty Panel Member
- Ms. Elena Kuzmin, Student Panel Member

**Appearances:**

- Mr. Robert A. Centa, Assistant Discipline Counsel
- Ms Betty-Ann Campbell, Law Clerk, Paliare Roland
- Dr. Tamara Jones, Academic Integrity Officer
  
- Mr. D■■■■ O■■■■ S■■■■, the Student, did not attend

**Preliminary**

- [1] The Trial Division of the University Tribunal was convened on August 25, 2009 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "Code") laid against the student by letter dated March 18, 2009 from Professor Edith Hillan, Vice-Provost, Academic.
- [2] The student did not attend at the hearing, which was scheduled to commence at 5:30 p.m. At 6:50 p.m., the Tribunal proceeded to hear evidence and submissions about proceeding in the student's absence. University counsel filed the Notice of Hearing and the Charges, and advised the Panel that the events giving rise to the allegations occurred in the fall of 2008, and came to light in late November 2008.

After that, the student dropped all remaining courses (other than the subject course, which he was prohibited from dropping, given the circumstances).

- [3] A Notice of Hearing was issued July 7, 2009 and was sent to the student's mailing address and email address, both of which were provided by the student to the University and were listed as his current addresses on ROSI.
- [4] The Tribunal heard that on March 24, 2009, Ms Nancy Smart, then of the Office of the Governing Council, couriered and emailed the student at the addresses provided. Ms Smart enclosed the charges, advised the student that he had been charged with offences under the Code, advised him to speak with a legal representative, and enclosed a letter with some information about how to obtain legal representation.
- [5] The Panel was advised that on June 22, 2009, a letter from Discipline counsel as well as a package of material was sent to the student, both by email at his University of Toronto address and by courier to the address on ROSI. The courier confirmed that the package had been received and signed for. The letter advised the student of evidence that the University expected to call against him and suggested a series of possible hearing dates. Again, the student was encouraged to obtain legal representation.
- [6] On June 26, 2009, having heard nothing from the student, Ms Campbell, Law Clerk for the firm that is University discipline counsel, telephoned, and spoke to someone who identified himself as the student's brother. Ms Campbell provided the information of who she was and her telephone number, and asked that the student call her back.
- [7] A further email was sent on July 6, 2009 advising that, not having heard from the student, counsel would ask that the matter be scheduled for Tuesday, August 25, 2009 at 5:30 p.m. The student was then copied on a letter to Ms Smart requesting that date.
- [8] On July 7, 2009 the Notice of Hearing was sent to the student by both email and courier. The student was advised that the hearing was scheduled for Tuesday, August 25, 2009 at 5:30 p.m. Previous correspondence, including the charges letter, were attached. The Notice of Hearing indicated the following:  
  

"If you do not attend, the hearing may take place without you and you will be not be entitled to further notice in the proceeding."
- [9] On August 17, 2009, Discipline counsel contacted the student at a cell phone number provided by the student's mother. The student said he would call University counsel back, but never did.

- [10] The Panel notes that the University's Policy on Official Correspondence with Students, effective September 1, 2006, states in part as follows:

**Postal Addresses and Electronic Mail Accounts**

Students are responsible for maintaining and advising the University, on the University's student information system (currently ROSI), of a current and valid postal address as well as the address for a University-issued electronic mail account that meets a standard of service set by the Vice-President and Provost.

Failure to do so may result in a student missing important information and will not be considered an acceptable rationale for failing to receive official correspondence from the University.

...

**Students' rights and responsibilities regarding retrieve of official correspondence**

Students are expected to monitor and retrieve their mail, including electronic messaging account[s] issued to them by the University, on a frequent and consistent basis. Students have the responsibility to recognize that certain communications may be time-critical.

- [11] The relevant provisions of the *Statutory Powers Procedure Act* regarding notice are as follows:

**Notice of hearing**

6.(1)The parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. R.S.O. 1990, c. S.22, s. 6 (1).

**Statutory authority**

(2)A notice of a hearing shall include a reference to the statutory authority under which the hearing will be held.

**Oral hearing**

(3)A notice of an oral hearing shall include,

- (a) a statement of the time, place and purpose of the hearing; and
- (b) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

...

**Effect of non-attendance at hearing after due notice**

7.(1)Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding. R.S.O. 1990, c. S.22, s. 7; 1994, c. 27, s. 56 (14).

...

- [12] The Tribunal was satisfied that the University had provided reasonable notice to the student, and that the student had chosen not to respond to or engage with the University in respect of these matters.

[13] The Panel therefore proceeded in the student's absence.

**Hearing on the Merits**

[14] The charges facing the student are the following:

- (i) On or about November 13, 2008, you knowingly represented as your own, an idea or expression of an idea, and/or the work of another in an essay that you submitted to fulfill the course requirements of FRE 240 contrary to section B.I.1(d) of the *Code*.
- (ii) In the alternative, on or about November 13, 2008, 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 an essay you submitted for academic credit in FRE 240, contrary to section B.I.3(b) of the *Code*.

[15] Particulars of the charges are as follows:

- (i) You were registered at the University of Toronto and enrolled in FRE 240 ("Course") at all material times.
- (ii) On or about November 13, 2008, you submitted an assignment titled "Life Notre View par Paul Eluard: Une Analyse Profonde" to fulfill partially the Course requirements ("Essay").
- (iii) The Essay contained unacknowledged passages taken verbatim or nearly verbatim from various sources including websites. The Essay contained ideas that were not your own ideas, but were the unacknowledged ideas of others.
- (iv) For the purposes of obtaining academic credit or another academic advantage, you knowingly plagiarized your assignment.
- (v) Your conduct violated the *Code*

[16] The Tribunal heard from Professor Corrinne Denoyelle, who taught the FRE 240 course in which the student's offence was alleged to have taken place. Professor Denoyelle identified her course syllabus, which was filed, in which she had provided the students with information on how they would be evaluated. The assignment in question was set out as being worth 25% of the mark in the course.

[17] Professor Denoyelle also identified for the Panel the document that set out the assignment that gave rise to the charges in this case. That document provided the



student with the structure that the assignment was to follow and a breakdown of how the assignment would be marked. At the bottom of the page, Professor Denoyelle had included a note advising that there are internet sites that provide some explanations of the text at issue, which was a poem by Paul Eluard. The note advised that Professor Denoyelle was familiar with these sites, and asked the students to have the courtesy of only consulting those sites after having handed in their work. She went on to say that what is most important is that the students express their own thoughts about the text. Attached to the handout was a 2 page document prepared on July 21, 2008 by Dr. Margaret Procter, University of Toronto Coordinator of Writing Support entitled "How Not To Plagiarize". At the top of that document, the offence of plagiarism from the Code of Behaviour and Academic Matters was set out.

- [18] Professor Denoyelle testified that when she received the student's essay, she noticed that there were some sentences in very, very good French, with very few spelling and grammar errors, which was unusual. She also noticed that some of the explanations were very elegant, also unusual for a second year French student. She testified that there were other students who plagiarized and she saw some of the exact same sentences in their work as well.
  
- [19] University counsel filed a copy of the student's paper, as well as a copy of the website. Professor Denoyelle pointed out that there were seven main ideas in the website explanation of the text, and that the seven main ideas appeared, in the same order, in the student's paper. The paper did not follow the structure that she had provided to the students in the paper explaining the assignment. She testified that the student had made some small changes to the writing, so that it was not a case of verbatim plagiarism as is the case in other plagiarism cases brought before the Tribunal. There were even some errors in the website that reappeared in the student's essay (for example, using the term "pieds" in explaining French poetry, which she had explained to the class was no longer used or acceptable in analysis of French poetry).
  
- [20] Professor Denoyelle took the Panel through the seven main ideas in both the website and the paper. The ideas were the same, and in many cases important words had been copied. In some cases, the structure of some of the sentences had been changed. There was one paragraph which the student had added in the paper that did not appear on the website. Nowhere in the paper did the student attribute any thoughts, ideas or words to any author, publication or internet site.
  
- [21] In the submissions of counsel, the plagiarism offence is made out when either the ideas in a work belong to another but are expressed as one's own, without attribution, or when the actual words of another are taken and used as one's own, without attribution. In this case, University counsel submitted that both elements were present, but that it was really more of an "ideas" case, in that many portions of the paper had been tweaked or rewritten from the text.

- [22] University counsel submitted that the ideas did not belong to the student; rather, at a structural level, he presented the ideas from the website in the same order they appeared there. Given the scale of this, it was clear that he took someone else's ideas and represented them as his own.
- [23] The Panel concluded that the first offence alleged had been made out. Given both the volume and order of the ideas presented in the student's paper when compared to the website, without any attribution whatsoever by the student, it was clear that the student had taken the ideas from the website and expressed them as his own. This was not a case of one or two sentences or ideas appearing in both the website and the student's paper, which could be perhaps explained as some sort of coincidence. The order and the volume of the duplication were such that it was impossible to conclude that this could have been a coincidence.
- [24] The Panel notes that the handout "How Not To Plagiarize" which accompanied the assignment specifically said, "If I put the ideas into my own words, do I still have to clog up my pages with all those names and numbers?" with a corresponding answer "sorry – yes you do - ...whether you quote a passage directly in quotation marks, paraphrase closely in your own words, or just summarize it rapidly, you need to identify the source then and there (that applies to internet sources too; you still author and date as well as title and URL)." Again, on the second page, the document states "Be sure to document these paraphrases or summaries even when you are not using the exact original words."
- [25] The Panel concludes that it is clear that the student violated these rules and principles, and committed the offence of plagiarism as set out in the first charge.

### Sanction

- [26] The University called Dr. Tamara Jones, an Academic Integrity Officer, as its only witness on sanction. Dr. Jones filed Exhibit 7, which was a letter dated May, 2006 but which should have read May 2008, which indicated that the student had previously committed the offence of submitting an assignment for credit which contained material taken from sources without appropriate acknowledgment. The student had admitted that offence, expressed regret for his actions, provided an explanation, and said that he was very sorry and would not act similarly in future. The sanction of the Dean's Designate in that case had been a grade of zero in the course and a two year notation on the student's transcript.
- [27] University counsel requested the following sanction in this case:
- (i) a final grade of zero in the course FRE 240Y1 from August 25, 2009 to August 24, 2012;
  - (ii) a suspension from the University of Toronto from August 25, 2009 to August 24, 2012;
  - (iii) a 4 year notation on the student's transcript, from August 25, 2009 to August 24, 2013; and

- (iv) a report to the Provost for publication in newspapers of the decision, with the student's name withheld.

- [28] The Discipline counsel took the panel through the sentencing principles set out in the case of *Mr. C*. He pointed out that the student had chosen not to participate in the process, and that this was a second offence. The likelihood of repetition was therefore fairly high, in that the repetition of the offence had occurred within 6 months of the first sanction. It was clear that the student had learned little the first time. Plagiarism is a serious offence. In this regard, the Panel agrees with the statements of the Panel in the case of *Mr. S.B.* that "plagiarism and concoction of sources are serious offences that go to the heart of the trust relationship when which the University's programming is built. The credibility and academic mission of the University, and the degrees that it awards to its students, can be gravely harmed by the commission of offences such as plagiarism and concoctions."
- [29] In this case, there was no evidence of any mitigating circumstances, given that the student unfortunately had chosen not to participate in the process. The Panel notes that it is unfortunate when students do not participate in the process, as the Panel is then unable to have any evidence or information of factors that may have led to the behaviour, and there is no ability for the Panel to know of or consider any potential mitigating circumstances.
- [30] In the cases of both *Mr. S.B.* and *Mr. M.H.H.*, previous panels noted that when a serious breach of trust such as plagiarism and/or concoction occurs, a response of at least a 2 year suspension for a first offence and a 3 year or longer suspension on a subsequent finding should occur.
- [31] In the circumstances, the Panel agrees that a 3 year suspension is warranted, and orders that:
- (i) the student be assigned a final grade of zero in the course FRE 240;
  - (ii) the student be suspended from the University of Toronto from August 25, 2009 to August 24, 2012;
  - (iii) there be a notation on the student's academic record and transcript from August 25, 2009 to August 25, 2013; and
  - (iv) a report of this case to the Provost who may publish a notice of the decision of the University of Toronto Tribunal and the sanctions imposed, with the student's name withheld.

Dated this 7<sup>th</sup> day of October, 2009

  
 Lisa Brownstone, Co-Chair

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on October 27, 2008;

**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 -

N [REDACTED] J [REDACTED] O [REDACTED]

**Members of the Panel:**

- Ms. Lisa Brownstone, Chair
- Professor Bruno Magliocchetti, Faculty Panel Member
- Mr. Mir Sadek Ali, Student Panel Member

**Appearances:**

- Ms. Lily Harmer, Assistant Discipline Counsel
- Mr. J [REDACTED] O [REDACTED], the Student, did not attend

**Preliminary**

[1] The Trial Division of the University Tribunal was convened on May 20, 2009 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "Code") laid against the student by letter dated October 27, 2008 from Professor Edith Hillan, Vice-Provost, Academic.

[2] The charges are as follows:

- i. In or about January, 2008, you knowingly forged or in any other way altered or falsified an academic record, or uttered, circulated or made use of any such forged, altered or falsified record, namely a letter dated January 8, 2008,

purportedly prepared by the Associate Registrar, University College, contrary to Section B.I 3(a) of the Code.

- ii. In the alternative, in or about January, 2008, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the Canadian High Commission a letter dated January 8, 2008, confirming your registration status at the University purportedly from the Associate Registrar at University College contrary to Section B.I 3(b) of the Code

[3] Particulars of the charges are as follows:

- i. At all material times, you were enrolled at the University of Toronto in the Faculty of Arts and Science.
- ii. On or about January 8, 2008, you requested and were provided with a letter from the Associate Registrar of University College confirming your registration status ("Original Letter").
- iii. On or about January, 2008, you submitted a letter purportedly from the Associate Registrar at University College to the Canadian High Commission in Lagos, Nigeria ("Altered Letter").
- iv. The Altered Note was forged, falsified or altered by you and was not the Original Letter that had been provided to you from the Associate Registrar.
- v. The Altered Letter indicated that you were currently registered at the University, and that you would be eligible to graduate in May, 2008, when you were not registered and not eligible to graduate.
- vi. You submitted this forged, falsified or altered document in support of your application to extend your study permit to permit you to continue attending the University. You submitted the Altered Letter knowing that it was forged, altered or falsified.

[4] The student did not attend the hearing. The University filed the Affidavit of Betty Ann Campbell and proceeded to outline the communications it had had with the student, in support of its argument that sufficient notice had been given to the student to allow the hearing to proceed in his absence.

[5] In August, 2008, the student provided two e-mail addresses to the University at which they could contact him, one being his University address and one being a hotmail account. In addition, the student provided a telephone number.

- [6] The panel was advised that the last communication from the student had been in September 2008. At that time, the student knew that there were allegations against him that he had forged a letter, and knew that the Dean's Office had attempted to get in touch with him in order to deal with those allegations.
- [7] In late September 2008, the student advised the University by e-mail that he would like to cancel his registration and that he did not intend to continue at the University. On October 1, 2008, Dr. Kristi Gourlay, the manager of the University's Office of Academic Integrity, replied and advised that procedures in the Code apply to him whether he is currently registered at the University or not. She also attached a letter from the Dean's Designate which informed the student how the Dean's Designate would be proceeding in this matter. That letter, from Donald Dewees, Professor and Dean's Designate for Academic Integrity, indicated that Professor Dewees understood that the student had received his letter of September 8, 2008 which invited the student to a meeting with Professor Dewees to discuss the allegations that he altered or falsified a document, which Professor Dewees identified, and that the student submitted that altered document to the Canadian High Commission in Lagos, Nigeria. In that correspondence, the Dean's Designate advised that he had sent the case to the Provost for review and that he was confident that the offence had been committed, and that the student would hear from the Provost's Office in due course about the status of his case. On or about November 5, 2008, the Judicial Affairs officer in the Office of the Governing Council e-mailed the student and attached a letter containing procedural information about the charges and the hearing, and suggested that the student seek legal advice.
- [8] Thus, as of September 2008, the student knew that there was ongoing business with the University and that he could not simply cancel or withdraw from the University; rather, the outstanding issue had to be resolved. He was on notice at that time that he needed to stay in touch with and be aware of communications from the University.
- [9] On February 26, 2009, University counsel provided the student by e-mail with a summary of the University's anticipated evidence and the disclosure brief. Counsel provided suggested dates for a tribunal hearing in March and April 2009, and asked that the student contact the law firm regarding his availability on those dates. Again, she advised him that he consider obtaining legal representation and provided him the contact information for Downtown Legal Services. This information was sent to both e-mail addresses that had been provided by the student. The law firm for the University attempted to reach the student by telephone, at a number previously provided by the student, but was unable to do so. In the e-mails, the firm asked for a current mailing or residential address to which it could send a bound copy of the disclosure brief, and asked for a telephone number. He was also asked to up-date his ROSI record.

- [10] Having received no response, on March 11, 2009, the law firm sent the student another e-mail requesting a response and advising that the three previously proposed tribunal dates were no longer available. The firm provided him with additional suggested hearing dates in May and June 2009 and asked him to contact them no later than March 13. E-mails were sent to both addresses once again, and no response was received.
- [11] On Monday, March 16, 2009, the firm requested the Judicial Affairs Officer to schedule the Tribunal hearing for May 20, 2009 beginning at 5:30 p.m. The student was notified of the date by e-mail from the Judicial Affairs Officer to both of his addresses on March 18, 2009. The e-mail sent to the hotmail account was returned as undeliverable. On March 19, 2009 further e-mails were sent to the student to confirm the May 20 hearing date. There was no contact received from the student and no delivery failure notices in relation to these e-mails. Attempts to reach the student by telephone were again unsuccessful. The student never updated his ROSI record.
- [12] The Notice of Hearing dated March 18, 2009 was sent to e-mail addresses provided by the student, and contained the underlined warning that "if you do not attend, the hearing may take place without you and you will not be entitled to further notice in the proceeding."
- [13] University counsel also drew the panel's attention to the policy of the University entitled "Policy on Official Correspondence with Students" approved May 1, 2006 and effective since September 1, 2006. The policy requires the student to maintain a current and valid postal address as well as the address for a University-issued electronic mail account, and to advise the University of these addresses. The policy notes that failure to do so may result in a student missing important information, and will not be considered an acceptable rationale for failing to receive official correspondence from the University. The policy also notes that students are expected to monitor and retrieve their mail, including electronic messaging account[s] issued to them by the University, on a frequent and consistent basis, and that students have the responsibility to recognize that certain communications may be time critical. Students are to be responsible for ensuring that all electronic messages sent to the official University-issued account are received and read.
- [14] In the University's submission, its efforts were sufficient to provide notice to the student. The student knew that the University needed to speak with him. The student knew the allegations against him. Although there was some evidence that he was not able to enter Canada for a period of two years, he never said that he could not attend a hearing because he could not get into the country but that he would like to attend. He made absolutely no effort to engage with the University after September, 2008, when he knew that these serious allegations were pending against him.

- [15] The relevant portions of the *Statutory Powers Procedure Act* provide as follows:

**Notice of hearing**

6.(1) The parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. R.S.O. 1990, c. S.22, s. 6 (1).

**Statutory authority**

(2) A notice of a hearing shall include a reference to the statutory authority under which the hearing will be held.

**Oral hearing**

(3) A notice of an oral hearing shall include,

- (a) a statement of the time, place and purpose of the hearing; and
- (b) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

...

**Effect of non-attendance at hearing after due notice**

7.(1) Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding. R.S.O. 1990, c. S.22, s. 7; 1994, c. 27, s. 56 (14).

...

- [16] The University provided to the Tribunal three cases in support of its position that its efforts constituted reasonable notice in the circumstances.
- [17] Although in none of the cases was the student out of the country, the Tribunal was satisfied that the principle articulated in those cases applies to this case. The University had made all reasonable efforts to contact the student, to advise the student of the importance of his remaining in communication with the University, and had exhausted all reasonable approaches to finding the student. Yet, the student had chosen not to respond and not to engage with the University in any way. The University is not to be precluded from proceeding with its important duties by the actions of a student in ignoring or failing to engage at all with the University. In the circumstances, the panel concluded that reasonable notice within the meaning of the *Statutory Powers Procedure Act* had been provided.

**Evidence on the merits**

- [18] The University first tendered the evidence of Linda Nauman, the Registrarial Assistant at University College. She has been employed by the University of Toronto since January 2005 and became an Associate Registrar in October 2006, a position that she continues to hold. In that role, she helps students with problems and requests, and manages frontline staff e-mails and telephone calls.



- [19] Ms Nauman testified that she did not know the student personally but that she became aware of him in January 2008, when he telephoned her office requesting a letter to extend his Visa, and requested that this letter be sent by e-mail.
- [20] Her staff responded that such a letter could not be sent by e-mail. Because the student was persistent in his requests, his call was passed on to Ms Nauman. The student insisted that the requested letter be sent by e-mail as he was not in Toronto and had no other way of getting the letter, and therefore Ms Nauman finally reluctantly agreed. He said that he wanted to renew his study permit.
- [21] Ms Nauman outlined for the Panel the usual practice with respect to requests for this sort of letter. That practice is to prepare a hard copy of the letter and require the student to pick it up with a student card, and to provide relevant ROSI information in order to ensure that the letter is going into the right hands. The letters contain the student's registration status, the dates of registration, when the student is expected to graduate, the academic progress as indicated by the projected graduation date, and the fees paid. The letters are on University College Registrar Office letterhead, with the student's name and identification and a few short paragraphs, and a signature and seal. The seal is raised and embossed over the signature and the letters are generally picked up by the students. Sometimes the letters will be faxed to the Canadian Immigration Office or to the student if the student cannot pick it up. The University College Registrar's Office staff asks a number of questions in order to ensure that they are speaking to the student. Ms Nauman did so with this student in order to ensure that it was him that was making the request, and was so satisfied.
- [22] Ms Nauman provided the panel with some background information about the student. The student had been admitted to Arts and Sciences in 2004 with one credit from his international baccalaureate. In the winter of 2005 he had taken half a course which he had failed. He had enrolled in a full course in mathematics from which he had withdrawn late. There were three more courses the student had taken in which he had received a grade of F. In the summer of 2006, the student was placed on academic probation, which occurs if the student has a GPA of less than 1.5. He therefore was suspended for one year from May 2007 to May 2008. He would have been eligible to return for the summer of 2008 if he so chose. After his suspension, the student was permitted one session to show a GPA of 1.7 and if not, the student would have a three year suspension.
- [23] When Ms Nauman was speaking with the student on the telephone at the time he requested the letter, he advised her that he wanted to return in September of 2008, that his study permit had lapsed, and that he needed a new permit and therefore needed a letter from the University. He said that he wanted a letter to say that he was currently registered and Ms Nauman advised that she could not provide such a letter but could say that he was eligible to return in May 2008 to continue his studies. He asked her to do him a favour and write a different letter but eventually accepted this was the only letter she could provide. He wanted the

letter e-mailed, and although Ms Nauman offered to send it by fax, he indicated that he was in Calgary, could not come and pick it up and was not going to be in Toronto and that he had an urgent deadline. He said that he did not have a fax number and Ms Nauman offered to fax it to Nigeria, but he said that he needed to send a package containing the letter. He said that there was no one who could get it for him in Toronto and eventually, Ms Nauman agreed to e-mail it, because, as she described it, she was giving him the benefit of the doubt and wanted to help him. He insisted he needed it that day, and so she sent it to his University of Toronto e-mail address.

- [24] The letter was filed before the Tribunal. It indicated that the student was not registered in the current academic session but would be eligible to return in the 2008 summer session which would run from May 12, 2008 to August 15, 2008. It also provided Ms Nauman's telephone number and e-mail address if further information was required. The letter was on University College letterhead.
- [25] Ms Nauman testified that she put the letter in PDF format and e-mailed it to the student and heard nothing further. However, she did receive an e-mail from the High Commissioner in Lagos, Nigeria, copies of which were provided to the Tribunal. The e-mail sought authentication of a letter that had been provided by the student to the High Commissioner in Lagos. Ms Nauman noticed that the crest on the letter was different. She testified that it was an alternate University College crest that she assumed the student had obtained from the website. The content of the letter had been changed to make it look as though he was continuously registered with the University. It identified a major subject of study which was not true, and said that he was registered in the current academic session and eligible to graduate in May 2008 (also not true). In addition, it removed her telephone number and changed her e-mail address. She advised the Canadian High Commissioner in Lagos that the letter was not authentic and that she had sent a different letter.
- [26] She did not hear from the student again until August 2008. At that time, he advised her that he was banned from coming to Canada for two years and that it would help if the University of Toronto would allow him back. In the e-mail he confessed that he forged a letter saying that he was still a student and apologized for doing so. He said that he did it because he believed that a Nigerian on suspension would not be granted a single entry Visa. He indicated that he would still like to resume studies as a student at the University and indicated that he was informed that if he returns to Canada, the University would take action against him, and he accepts this. He advised that he has been banned from Canada for two years beginning August 7, 2008 but there is a thirty day period during which the ban could be reversed. He requested that the University assist him in making a new application for single entry Visa and lifting the two-year ban, and asked that the University (Ms Nauman) inform Canadian Immigration that he was suspended and not expelled and that his suspension ends in September 2008. Again, he asked her forgiveness for forging the letter, but explained he did not

want anyone to know he had been suspended. He said that he would submit himself to the University's action when he returned but asked that the University assist him in assuring that his future stays intact. He provided his University of Toronto e-mail address as well as the hotmail account address and a telephone number at which he could be reached in Nigeria.

- [27] Ms Nauman testified that she sent a reply e-mail right away that she could not write a letter at this point given that there was an issue of discipline/academic integrity and that this would have to be resolved before she could write any letter, and that this would not be resolved within thirty days.
- [28] Later in August, she was advised by the student that he wanted to cancel his registration. She advised that he was not currently registered and has not been since May 2007, but that his record remains intact in the case if he ever returned to continue his studies.
- [29] The panel next heard from Dr. Kristi Gourlay who manages the office of Student Academic Integrity. Dr. Gourlay testified that she sent an e-mail to the student in response to being advised he wanted to cancel his registration. That e-mail advised that he was considered to be a student at the time of the alleged academic offence and thus the procedures outlined in the Code of Behaviour in Academic Matters applied to him whether he is currently registered or not. She attached the letter from the Dean's Designate referred to above. Dr. Gourlay testified that she had heard nothing from the student since then.
- [30] University counsel submitted that the evidence established that the student had knowingly forged or in any other way altered or falsified an academic record, or uttered, circulated or made use of any such forged, altered or falsified record, namely a letter dated January 8, 2008, purportedly prepared by the Associate Registrar, University College, contrary to section B.I (3)(a) of the Code. In response to a question from the Tribunal, University counsel submitted that the letter was an "academic record", defined in 2(c) of Appendix A to the Code as "any record or document included within the definition of the official student academic record...and any other record or document of the University or of another educational institution...used, submitted or to be submitted for the purposes of the University."
- [31] In the alternative, the University counsel submitted that the student knowingly engaged in the form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the committee and High Commission a letter dated January 8, 2008 confirming his registration status at the University, purportedly from the Associate Registrar at University College contrary to section B.I (3)(b) of the Code. The academic advantage, in the submission of the University counsel, was the ability to attend the University which was an advantage because other international students were unable to get it.

### Finding

- [32] After some deliberation, the Tribunal concluded that the purposes of the University include assisting its international students to register and attend, and therefore, the document falls within the definition of "academic record" in s. 2(c) of Appendix A. Therefore, the panel found the student had committed the offence outlined in charge 1 and the second charge was withdrawn.

### Sanction

- [33] The University sought to have the student expelled, the most serious possible sanction. University counsel referred to the preamble of the Code which emphasizes the need for integrity, honesty, fairness and mutual respect in the relationship between the University and students. In her submission, forgery and falsifying letters are egregious acts. Although there had only been one instance of misconduct, in the University counsel's submission, it was of such a nature that it warranted the most onerous penalty. She noted that the student did not engage in the process but communicated only when it was to his benefit to communicate. When Ms Nauman could not be of assistance, he chose to disassociate himself from the University. In University counsel's submission, there was no compelling reason to give the student another opportunity and the student had done nothing to suggest that he deserves a second chance. This, in her submission, made expulsion, as opposed to lengthy suspension, the appropriate sanction.
- [34] In University counsel's submission, although the admission in the e-mail to the University was to his credit, the context of confessing only when he was enlisting assistance, and disengaging when he found out the consequences of his actions, indicated that the student had neither asked for nor should receive a second chance. University counsel was careful to indicate that there is no information about why the student had struggled with his courses, and that there was no evidence to suggest any extenuating or mitigating circumstances. In her submission, this was not a case where the student had done so well that there would be a traumatic terrible effect if he were expelled; that is, there was nothing compelling about his academic situation. University counsel submitted that, if the panel was not inclined to order expulsion, a suspension of five years would be a possible alternative penalty.
- [35] University counsel referred the Tribunal to the six factors to consider when assessing appropriate penalty. In terms of character, counsel noted that the student had removed himself from the University and the process; in terms of likelihood of repetition, counsel fairly pointed out that there was no way of knowing this, as it was a first offence. In counsel's submission, the nature of the offence was egregious, and the University has to be vigilant against this kind of offence; and the detriment to the University was high. In this case, in her submission, there was deliberation in the student's conduct. He took advantage of Ms Nauman's conduct and misused the trust that she placed in him after his

begging and pleading with her. Because of the serious detriment to the University, a serious response is warranted.

- [36] In response to a question from the Tribunal, counsel indicated that if there were a five year suspension, she would request a notation to stay on his transcript for seven years.

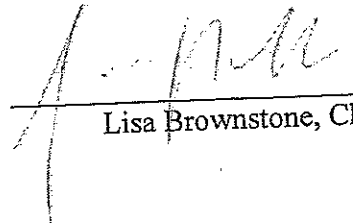
### Decision Sanction

- [37] After deliberation, the Tribunal has concluded that a five year suspension with a seven year notation is the appropriate penalty. Although the acts were egregious, it was the student's first offence. Given the absence of the student, the Tribunal did not have evidence of aggravating or mitigating circumstances before it. Although the offence was egregious, and the student certainly took advantage of the trust that Ms Nauman placed in him, the panel feels that the very lengthy suspension with an even lengthier notation should suffice to demonstrate the seriousness with which the University views this kind of conduct, and serve as both a specific and general deterrent to this kind of action. The Tribunal notes that the document is not a transcript or a ROSI record, as was the case in other cases in which expulsion was ordered. That is, although the document is technically an academic record within the definition in the Appendix, it is not one of the records that goes to the heart of the University and its business. Unlike the other decisions, it did not go to an employer or another academic institution.

- [38] Therefore, the Panel orders:

- (a) that the student be suspended from the University for a period of five (5) years effective September 1, 2008;
- (b) that suspension be recorded on his transcript for a period of seven (7) years, from September 1, 2008; and
- (c) that this case be reported to the Provost for publication in the University newspapers, with the name of the student withheld.

Dated this 7<sup>th</sup> day of October, 2009

  
 Lisa Brownstone, Chair

UNIVERSITY OF TORONTO  
The University Tribunal  
Trial Division

IN THE MATTER of charges of academic dishonesty made on March 4, 2009;

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:

UNIVERSITY OF TORONTO (the "University")

- and -

N [REDACTED] A [REDACTED]

**Members of the Panel:**

Ms. Laura Trachuk  
Mr. Adil D'Sousa  
Professor Graham Trope

**Appearances:**

Phil Downes for N [REDACTED] A [REDACTED]  
Linda Rothstein and Lily Harmer for the University of Toronto

**DECISION**

- [1] A hearing of the Trial Division of the University Tribunal was convened on September 10, 2009 to consider charges brought against N [REDACTED] A [REDACTED] under the *University of Toronto's Code of Behaviour on Academic Matters* (the "Code").

*Charges*

- [2] On March 4, 2009 N [REDACTED] A [REDACTED] was charged as follows:

## CHARGES

Note: Wherever in the *Code of Behaviour on Academic Matters, 1995* ("Code") an offence is described as depending on "knowing", the offence shall likewise be deemed to have been committed if the person ought reasonably to have known.

1. On or about November 29, 2007, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the marks for your mid-term exam in MGTB03H – Management Accounting, contrary to section B.I.3.(a) of the *Code*.
2. In the alternative, on or about November 29, 2007, you knowingly engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind, in connection with your mid-term exam in MGTB03H – Management Accounting, contrary to section B.I.3.(b) of the *Code*.
3. On or about December 10, 2007, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the marks for your final exam in MGTB03H – Management Accounting, contrary to section B.I.3.(a) of the *Code*.
4. In the alternative, on or about December 10, 2007, you knowingly engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind, in connection with your final exam in MGTB03H – Management Accounting, contrary to section B.I.3.(b) of the *Code*.
5. On or about April 23, 2008, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the marks for your final exam in MGTC03H – Principles of Finance, contrary to section B.I.3.(a) of the *Code*.
6. In the alternative, on or about April 23, 2008, you knowingly engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind, in connection with your final exam in MGTC03H – Principles of Finance, contrary to section B.I.3.(b) of the *Code*.

- [3] Mr. A█████ contends that the University may not proceed with the charges listed at paragraphs 5 and 6 above because the Dean's designate made a prior decision to dismiss

those charges and conveyed that decision to him by letter on June 24, 2008. He asserts that the University is precluded by the provisions of the Code from charging him after that decision was made.

### *Facts*

- [4] The parties introduced the following agreed Statement of Facts which was signed by Mr. A[REDACTED] and counsel for the university:

1. For the purposes of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the University of Toronto (the "University") and N[REDACTED] A[REDACTED] have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD"). The University and N[REDACTED] A[REDACTED] agree that:

- a. they consent to the admission into evidence of each document contained in the JBD for all purposes, including for the truth of its contents, without further need to prove the document; and
- b. if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. On August 10, 2009, the University delivered a Notice of Hearing in this matter. This Notice of Hearing is included in the JBD at Tab 18.

3. The Notice of Hearing arises out of charges of academic misconduct filed by the Provost under the *Code*. A copy of the Charges dated March 4, 2009 is included at Tab 19 of the JBD.

#### A. BACKGROUND

4. In Fall 2006, N[REDACTED] A[REDACTED] registered at the University of Toronto at Scarborough ("UTSC") in the Specialist (Co-Operative) Program in Management. At the end of the Winter 2009 term N[REDACTED] A[REDACTED] had accumulated 12.5 credits. A copy of N[REDACTED] A[REDACTED]'s academic record dated August 24, 2009, is found in the JBD at Tab 2.

5. A[REDACTED] A[REDACTED] is N[REDACTED] A[REDACTED]'s older brother. At all material times N[REDACTED] A[REDACTED] lived together with his brother A[REDACTED] and their parents in the family home.

6. Both N[REDACTED] and A[REDACTED] A[REDACTED] were enrolled at UTSC in the Specialist (Co-Operative) Program in Management (the "Program"). This is an enriched program which combines academic studies with work experience in public and private enterprises. Co-operative programs are considered desirable because students have contact with, and heightened exposure to, prospective employers and career opportunities following graduation. At UTSC, approximately 80 per cent of students applying to the Management program from high school seek



admission into Co-Operative programs, of which approximately 50 per cent are actually accepted. Admission is granted on the basis of an applicant's academic performance as well as their interest, experience and potential ability. N■■■■ A■■■■ was admitted to the programme directly out of high school.

7. A■■■■ A■■■■ was enrolled in this Program from 2004 to 2008. A■■■■ A■■■■ was also employed by UTSC as a teaching assistant ("TA") in a number of management courses from the Summer of 2006 to the Winter of 2008. As a TA A■■■■ A■■■■'s responsibilities included marking student course work and invigilating exams.

8. N■■■■ A■■■■ enrolled in the Program in the Fall 2006 term and has completed his third year of study. In Summer 2007, N■■■■ was placed on the Honours List. In June 2008, N■■■■ joined, and was appointed Director of Finance of, DECA U. DECA U promotes itself as being "part of an international organization aimed at preparing university students for a variety of careers ... maintaining a strong focus on business-related areas ...". In January 2009, N■■■■ competed against 77 students at a DECA U Provincial Conference sponsored by TD Bank and was awarded a Top 5 Medal in Financial Services.

9. N■■■■ A■■■■ was enrolled in the following courses at the same time that his brother A■■■■ A■■■■ was employed as a TA in those same courses:

- c. MGTB05 in Fall 2006;
- d. MGTB03 in Fall 2007; and
- e. MGTC03 in Winter 2008.

10. N■■■■ A■■■■ knew that his brother was a TA in each of these courses, but did not advise any of the course instructors in MGTB05, MGTB03 or MGTC03 that his brother A■■■■ was a TA in the same course in which he was enrolled.

#### **B. FACTS RELATING TO MGTB03H3**

11. MGTB03H3 was an introductory course in Management Accounting. It was a required course for successful completion of the Program. N■■■■ A■■■■ was enrolled in this course in Fall 2007. It was taught by Professor Liang Chen.

12. A■■■■ A■■■■ was employed as a TA in MGTB03 in the Fall term of 2007 while his brother was enrolled in the course. N■■■■ A■■■■ was aware that his brother was a TA responsible for marking course work. He did not inform Professor Chen that he was A■■■■ A■■■■'s brother. N■■■■ A■■■■ was never asked by any faculty member or instructor if he was related to A■■■■ A■■■■.

13. Grades in the course were assigned as follows: 4 assignments – 10%; midterm test – 40%; final exam – 50%. There were approximately 205 students enrolled in this course, divided into three lecture groups of 65 students (L1), 78 students (L30), and 62 students (L31). A copy of the Course Outline for MGTB03H3 is found in the JBD at Tab 4.

14. As one of three TA's in the course, A [REDACTED] A [REDACTED] had electronic access to all of the course marks for all students enrolled in the course, including his brother N [REDACTED] A [REDACTED].

15. N [REDACTED] A [REDACTED] submitted 4 assignments for credit in MGTB03, worth in total 10% of the overall course mark, and received the following marks:

- f. October 1, 2007 - Assignment 1 (worth 3%): 100%
- g. October 16, 2007 - Assignment 2 (worth 3%): 100%
- h. November 12, 2007 - Assignment 3 (worth 2%): 96%
- i. November 26, 2007 - Assignment 4 (worth 2%): 100%

#### **Mid-term exam**

16. The mid-term in MGTB03 was written on October 23, 2007. It was worth 40% of the overall course mark. N [REDACTED] A [REDACTED] received a mark of 70 out of 100 on the mid-term. This mark, and the breakdown of his marks by question (Q1: 26, Q2: 18, Q3: 26) was recorded on an electronic spreadsheet to which the TA's, including A [REDACTED] A [REDACTED], were given access by the course instructor. A copy of the electronic spreadsheet showing N [REDACTED] A [REDACTED]'s mid-term mark as 70 is found in the JBD at Tab 6.

17. N [REDACTED] A [REDACTED] received his marked mid-term back in class in early November, 2007, clearly indicating that he had received a mark of 70. He was aware that he had received a mark of 70 for the mid-term at that time.

18. On November 30, 2007, A [REDACTED] A [REDACTED] inflated N [REDACTED] A [REDACTED]'s mid-term grade by 20 marks to 90% by altering the mid-term mark on an electronic spreadsheet which was maintained by the course instructor, and to which he had access. A copy of the electronic spreadsheet altered by A [REDACTED] A [REDACTED] to show a mid-term mark for N [REDACTED] A [REDACTED] of 90% is found in the JBD at Tab 8.

#### **Final exam**

19. The final exam in MGTB03 was held on December 10, 2007. It was worth 50% of the overall course mark. N [REDACTED] A [REDACTED] wrote this exam. A [REDACTED] A [REDACTED] served as an invigilator during this exam, and together with the other 2 TAs and

Professor Chen, marked the exam papers immediately after the exam.

20. A [REDACTED] A [REDACTED] marked N [REDACTED] A [REDACTED]'s final exam paper. In the course of doing so he inflated the marks given to N [REDACTED] A [REDACTED]'s answers to the final exam as follows:

- j. he marked 3 multiple choice questions in Question 1 as having been answered correctly when they were not, and thereby gave an additional 6 marks in Question 1, so that N [REDACTED] A [REDACTED]'s mark for the multiple choice questions in Question 1 showed as 44/50 when it should have been 38/50;
- k. he awarded a mark of 15/25 for Question 2, when the answer should only have received a mark of 11/25;
- l. he awarded a mark of 19/25 for Question 3, when the answer should only have received a mark of 13/25.

21. When these adjustments are made to N [REDACTED] A [REDACTED]'s total mark for the final exam, he should have received a mark of 62%, and not the 78% given to him by A [REDACTED] A [REDACTED]. A copy of the Answer Booklet submitted by N [REDACTED] A [REDACTED] on December 10, 2007 for the final exam in MGTB03, with the original marks recorded in black ink and the corrected marks recorded in red ink, is found in the JBD at Tab 11.

22. N [REDACTED] A [REDACTED] received a final grade of 85 in MGTB03. This final mark was calculated using an improperly inflated mid-term mark of 90, and an improperly inflated final exam mark of 78. If the marks actually earned by N [REDACTED] A [REDACTED] had been used to calculate his final grade, his actual final mark in the course should have been 69.

23. The improperly inflated grade of 85 was posted on ROSI on December 12, 2007. N [REDACTED] A [REDACTED] accessed his transcript on ROSI at least six times on December 12, 2007. He continued to access his transcript on ROSI a further seven times on December 13, 14, 15, and 16. He was aware at that time that he had received a final grade in MGTB03 of 85%. A copy of the ROSI access records for N [REDACTED] A [REDACTED]'s account using his access identification number is found in the JBD at Tab 20.

24. In order to receive a final mark in MGTB03 of 85%, N [REDACTED] A [REDACTED] would have had to score 94.16% on the final exam, because he only received a grade of 70 on the mid-term. N [REDACTED] A [REDACTED] knew that he would have had to have done very well, and much better than he had done on the mid-term, in order to receive such a high final grade in the course.

25. Only 3 people in the class of 144 students received a mark of 90 or higher on the final exam. 10 people in the class (other than N [REDACTED] A [REDACTED]) received a mark of 85 or higher in the course. Only 3 people improved their mark on the final

exam by more than 20 marks, as N████ would have had to have done to achieve a course mark of 85. Each of these 3 students, however, had failed the mid-term and needed to improve their marks significantly on the final exam in order to pass the course. A further 5 students achieved a mark on the final exam that was between 16 and 20 marks higher than each had earned on the mid-term; 3 of these students had also failed the mid-term, while 2 had received marks in the 60's. A copy of the marks recorded for all of the students in MGTB03 in Fall 2007 is found in the JBD at Tab 21. A table comparing the mid-term marks with the final exam marks highlighting the 8 students described above, as well as those who did worse on the final than the mid-term by the same spreads, is found in the JBD at Tab 22.

26. When the improperly inflated marks are removed from N████ A████'s record, he earned a mark of 69 in MGTB03, and not the recorded 85.

27. The fact that N████ A████'s marks were inflated by his brother A████ A████ on both the mid-term and the final exams was not detected by the University until after the University became aware that A████ A████ had inflated N████ A████'s marks on the final exam in MGTC03, as described below.

### C. FACTS RELATING TO MGTC03

28. N████ A████ was enrolled in MGTC03 in the Winter 2008 term. MGTC03 was a required course for successful completion of the Program. MGTC03 was a course in Principles of Finance, taught by Esther Eiling. Grades in the course were assigned as follows: assignments -- 15%; midterm exam -- 30%; final exam -- 55%. A copy of the Course Outline for MGTC03 is found in the JBD at Tab 14.

29. N████ A████ received 100% (15/15) on the assignments and 96% (28.8/30) on the midterm exam.

30. A████ A████ was employed as a TA in MGTC03 in the Winter 2008 term at the same time his brother was enrolled in the course. N████ A████ was aware that his brother was a TA responsible for marking course work. He did not inform Professor Eiling that he was A████ A████'s brother. N████ A████ was never asked by any faculty member or instructor if he was related to A████ A████.

31. The final exam in MGTC03 was written on April 23, 2008. The exam consisted of 9 questions. A████ A████ was one of the invigilators at the exam. A copy of the Exam Question Book is found in the JBD at Tab 15.

32. N████ A████ wrote the final exam in MGTC03 on April 23, 2008. A copy of his Answer Booklet is found in the JBD at Tab 16.

33. A■■■■ A■■■■ graded his brother N■■■■ A■■■■'s exam paper. In doing so he gave inflated marks on 6 of the 9 questions, so that N■■■■ A■■■■'s reported mark on the final exam was 56.5/68, or 83%, when it should have been 31.5/68, or 46.3% - a failure. N■■■■ A■■■■'s mark was therefore improperly increased by a total of 25 marks. This inflated mark on the final exam would have improved N■■■■ A■■■■'s final mark in the course by 20%. A comparison of the marks awarded by A■■■■ A■■■■ to the correct grades is found in the JBD at Tab 17.

34. Professor Eiling discovered the inflated marks improperly awarded to N■■■■ A■■■■'s paper at the time she and the course TAs, including A■■■■ A■■■■, were marking the final exam papers.

35. N■■■■ A■■■■ acknowledges that the University has advised him to obtain independent legal advice before signing this ASF and that he has done so.

36. N■■■■ A■■■■ acknowledges that the University has made no promises or representations to him regarding the penalty the University will seek in this matter.

[5] Mr. A■■■■'s brother, A■■■■ A■■■■, was the only person to testify in this matter. Mr. A■■■■ A■■■■ acknowledged that he had falsified his brother's marks in two courses in which he had been a teaching assistant. He also testified that he and his brother had discussed the courses on a few occasions but did not do so regularly. Mr. A■■■■ A■■■■ denied that he ever told his brother that he had altered his marks.

[6] Mr. N■■■■ A■■■■'s transcript was included in the joint book of documents and it showed that Mr. A■■■■ was a good student who frequently received "A's" in his courses.

[7] Mr. A■■■■ met with the Dean's designate, Eleanor Irwin, about the alterations to his marks in MGTC03- Principles of Finance on June 17, 2008. At that time he was advised that he would not be charged and a letter to that effect followed on June 24, 2008. The University subsequently learned about the changes to his marks in MGTB03 and then decided to lay charges against him with respect to the changes to his marks in both courses. A statement by Professor Irwin was submitted on the agreement of the parties.

*Submissions With Respect to the Objection to the Charges Relating to MGTC03.*

[8] Mr. A■■■■ submits that the University had no authority to impose charges with respect to the exam in MGTC03 as the Dean's designate had already made and issued a decision that no charges would be laid. He relies upon the following sections of the Code:

C.I.(a) Divisional Procedures

Note: Where a student commits an offence, the faculty in which the student is registered has responsibility over the student in the matter. In the case of Scarborough and Erindale Colleges, the college is deemed to be the faculty.

...  
3. If after such a discussion, the instructor is satisfied that no academic offence has been committed, he or she shall so inform the student and no further action shall be taken in the matter by the instructor, unless fresh evidence comes to the attention of the instructor, in which case he or she may again proceed in accordance with subsection 2.

...  
7. If the dean, on the advice of the department chair and the instructor, or if the department chair, on the advice of the instructor, subsequently decides that no academic offence has been committed and that no further action in the matter is required, the student shall be so informed in writing and the student's work shall be accepted for normal evaluation or, if the student was prevented from withdrawing from the course by the withdrawal date, he or she shall be allowed to do so. Thereafter, the matter shall not be introduced into evidence at a Tribunal hearing for another offence.

[9] Mr. A. [REDACTED] argues that the plain meaning of section C.I.(a)(7) of the Code precludes the Dean's designate from relying on the charges she had dismissed in any other proceeding and the University therefore cannot rely on the charges related to MGTC03. Mr. A. [REDACTED] argues that the Dean decided that no academic offence had been committed with respect to MGTC03 and had informed him in writing. He contends that the University is therefore precluded from introducing those allegations into evidence at the Tribunal hearing for another offence pursuant to section C. I. (a) (7). He notes that section C.I.(a)(7) does not include an exception for fresh evidence although such an exception is found at the instructor level in section C.I.(a)(3). Mr. A. [REDACTED] argues that even if such an exception exists at the decanel level, no fresh evidence came to the attention of the Dean's designate. Specifically, there was no new evidence about whether N. [REDACTED] A. [REDACTED] knew about his brother changing his marks. Professor Irwin said she changed her mind because she learned about the changes to Mr. A. [REDACTED]'s marks in MGTB03. However, Mr. A. [REDACTED] claims that she knew or should have known about those changes at the time she made the decision not to lay any charges in MGTC03. Mr. A. [REDACTED] submits that a student is entitled to finality when a Dean investigates an allegation and then dismisses it.

[10] The University responds that Mr. A. [REDACTED]'s interpretation of the Code is too narrow. It asserts that the Code should be read purposively and as a whole. The University claims that it would not be consistent with the purpose of the Code for a Dean to be prevented from forwarding charges to the Provost when she or he becomes aware of new information. In this case, the second meeting was not with the instructor but with the Dean. The University may, therefore, have skipped a procedural step but Mr. A. [REDACTED] has not objected to that. The University relies upon section C.I.(a) (11) of the Code

which provides that decanal procedures will not normally be reviewed by the Tribunal unless there has been a substantial wrong. The University argues that, in this case, all that has occurred is that there has been a second Dean's meeting instead of a second instructor's meeting..

- [11] The University argues that the last sentence of section C.I.(a)(7) of the Code is not meant to apply to a situation such as this. It claims that the section is intended for situations in which an allegation has been dismissed and therefore never dealt with. The University would be prevented from raising such an allegation in a subsequent proceeding. The University says that these circumstances are different because it has laid charges with respect to the allegation. As a result, Mr. A [REDACTED] has a full opportunity to meet the case against him and there is no prejudice.
- [12] The University maintains that the Dean's designate did act on fresh evidence when she referred the charges because she learned of the changes to Mr. A [REDACTED]'s marks in MGTB03 in the fall of 2008. It asserts that the standard for the introduction of fresh evidence upon which Mr. A [REDACTED] is relying is the civil standard for introducing evidence on appeal and is not appropriate in these circumstances. The University contends that the decanal process is intended to be flexible and that the Dean cannot investigate every possible source of information before making a decision. According to the University, the Dean must be able to go back and revisit a decision after it has been made. In this case, the University says, Mr. A [REDACTED] withheld the information that his brother had been the teaching assistant in previous courses that he had taken.
- [13] Mr. A [REDACTED] replies that the Code says that an instructor may revisit an allegation when new *evidence* comes to light not new *information* and in this case there was no new evidence. Mr. A [REDACTED] maintains that he was never asked if his brother was a teaching assistant in any other course. He claims that the Dean's designate did not change her mind because she learned of new evidence. She changed her mind about his credibility and the University should not be permitted to proceed with the charges in those circumstances.

#### *Submissions on the Merits*

- [14] The University argues that Mr. A [REDACTED] knew that his brother A [REDACTED] had changed his marks and is therefore guilty of the offences with which he is charged. It asserts that it has proven his knowledge on a balance of probabilities. The University contends that it is more likely than not that Mr. A [REDACTED] knew what his brother had done and that any other explanation is improbable. It relies upon A [REDACTED] A [REDACTED]'s evidence and claims that it is highly improbable that he discussed the course with his brother as infrequently as he claimed or that he never discussed his marks. It points to the fact that the conduct continued for a long period of time. It argues that the only explanation for why A [REDACTED] A [REDACTED] would change the marks is that he wanted to help his brother. It relies upon the fact that A [REDACTED] A [REDACTED] never offered any other explanation for his actions.

- [15] The University referred to the decision of the Supreme Court in *F.H. v. McDougall* [2008] 3 S.C.R. 41.
- [16] Mr. A████ responds that the University has not proved on the balance of probabilities that he knew about the changes to his marks. He contends that the University has not provided clear, cogent and convincing evidence. He maintains that it is not drawing an inference from the evidence but is only speculating as to what may have occurred. Mr. A████ notes that there is nothing about his previous academic performance which would lead him to the conclusion that his marks must have been changed. He denies that the fact that A████ is his brother and that they live together should lead to the conclusion that they must have discussed what A████ was doing. He argues that no information has been provided about his family. He notes that it is completely possible that he and A████ did not discuss what A████ was doing if A████ was trying to protect him.
- [17] The University replies that if A████ was acting alone to protect his brother he could have provided that explanation but he did not do so.

### *Decision*

- [18] The parties agree that the University has the burden of proof with respect to the charges against Mr. A████ and must prove that he violated the Code on the balance of probabilities. The Code states at section C.II.(a)(9) that the prosecutor has the onus of proof and "must show on clear and convincing evidence that the accused has committed the alleged offence". The panel has considered all of the evidence and has determined that the University has not met that onus.
- [19] There is no dispute that Mr. A████ A████ changed his brother's marks. However, there is no direct evidence and insufficient circumstantial evidence that Mr. A████ knew what his brother was doing. A████ and N████ are brothers who live in the same house and A████ used his position as a teaching assistant to improve N████'s marks. That is all relevant circumstantial evidence. However, it is not clear and convincing enough to prove that N████ knew A████ had changed his marks. We know almost nothing about the relationship between the brothers. Family dynamics can be very complicated. We could speculate that N████ must have known what his brother was doing. We could also speculate that if A████ was prepared to put his own future in jeopardy to help his brother, he may very well have not told him what he was doing in order to protect him. However, we cannot convict Mr. A████ on the basis of speculation. We also cannot infer that Mr. A████ necessarily should have known his marks had been inflated given how well he did on the assignments and in prior courses. We do not know whether he felt confident in the answers he gave. He is a student who usually did well. We note that the University did not argue that he should have known that the marks he received did not reflect how he had done on the tests. Ultimately, we do not have sufficient evidence to conclude Mr. A████ knew that A████ A████ had changed his marks let alone any evidence of any more active participation in those actions. The University has therefore not proved on the balance of probabilities that Mr. A████ knew that A████ A████ was



going to change his marks or had changed his marks before the University became aware of it.

- [20] We therefore find that the University has not proved that Mr. N█████ A█████ violated the Code. The charges against him are therefore hereby dismissed.
- [21] As the panel has decided to dismiss the charges after reviewing all of the evidence it need not decide whether the University was precluded from proceeding with the charges related to MGTC03H.

Dated at Toronto, October 9, 2009



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Laura Trachuk for the panel  
Graham Trope  
Adil D'Sousa

**THE UNIVERSITY OF TORONTO**  
**The University Tribunal**  
**Trial Division**

**IN THE MATTER** of charges of academic dishonesty made on August 7, 2008;

**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:**

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

- and -

A [REDACTED] A [REDACTED]

**Members of the Panel:**

Ms. Laura Trachuk  
Mr. Adil D'Sousa  
Professor Graham Trope

**Appearances:**

Mark Lapowich, for A [REDACTED] A [REDACTED]  
Linda Rothstein and Lily Harmer, for the University of Toronto

**DECISION**

- [1] A hearing of the Trial Division of the University Tribunal was convened on September 10, 2009 to consider charges brought against A [REDACTED] A [REDACTED] under the *University of Toronto's Code of Behaviour on Academic Matters* (the "Code"). A preliminary decision had been issued on January 14, 2009.

## *Charges*

- [2] On August 7, 2008 A [REDACTED] A [REDACTED] was charged as follows under the Code of Behaviour on Academic Matters, 1995 (the "Code"):

### CHARGES

Note: Wherever in the *Code of Behaviour on Academic Matters, 1995* ("Code") an offence is described as depending on "knowing", the offence shall likewise be deemed to have been committed if the person ought reasonably to have known.

1. On or about April 23, 2008 you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the document be in print or electronic form, namely the final exam submitted by N [REDACTED] A [REDACTED] in MGTC03H – Principles of Finance, contrary to section B.I.1.(a) of the *Code*.

2. In the alternative, on or about April 23, 2008, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the final exam submitted by N [REDACTED] A [REDACTED] in MGTC03H – Principles of Finance, contrary to section B.I.3.(a) of the *Code*.

3. In the alternative, on or about April 23, 2008, you knowingly engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not here and otherwise described, in order to obtain academic credit or other academic advantage of any kind, in marking the final exam of N [REDACTED] A [REDACTED] in MGTC3H – Principles of Finance, contrary to section B.I.3.(b) of the *Code*.

- [3] The following charges were laid against Mr. A [REDACTED] on November 21, 2008:

### CHARGES

Note: Wherever in the *Code of Behaviour on Academic Matters, 1995* ("Code") an offence is described as depending on "knowing", the offence shall likewise be deemed to have been committed if the person ought reasonably to have known.

1. On or about November 29, 2007 you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the document be in print or electronic form, namely the marks for the mid-term exam submitted by N [REDACTED] A [REDACTED] in MGTB03H – Management Accounting, contrary to section B.I.1.(a) of the *Code*.

2. In the alternative, on or about November 29, 2007, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the marks for the mid-term exam submitted by N■■■■ A■■■■ in MGTB03H – Management Accounting, contrary to section B.I.3.(a) of the *Code*.

3. In the alternative, on or about November 29, 2007, you knowingly engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind, in marking the mid-term exam of N■■■■ A■■■■ in MGTB03H – Management Accounting, contrary to section B.I.3.(b) of the *Code*.

4. On or about December 10, 2007 you knowingly forged or in any other way altered or falsified any document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, whether the document be in print or electronic form, namely the marks for the final exam submitted by N■■■■ A■■■■ in MGTB03H – Management Accounting, contrary to section B.I.1(a) of the *Code*.

5. In the alternative, on or about December 10, 2007, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the marks for the final exam submitted by N■■■■ A■■■■ in MGTB03H – Management Accounting, contrary to section B.I.3.(a) of the *Code*.

6. In the alternative, on or about December 10, 2007, you knowingly engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind, in marking the mid-term exam of N■■■■ A■■■■ in MGTB03H – Management Accounting, contrary to section B.I.3.(b) of the *Code*.

### *Decision*

- [4] At the hearing of this matter on September 10, 2009, Mr. A■■■■ and the University submitted an agreed Statement of Facts in which Mr. A■■■■ acknowledges that he was a teaching assistant for two courses in which his brother was enrolled. He did not advise the professors responsible for the courses of that fact. He also acknowledges that he changed his brother's marks in both courses as charged. He pleads guilty to charge 2 of the charges laid on August 7, 2008 and to charges 2 and 5 of the charges laid on November 21, 2008.

[5] After reviewing the agreed Statement of Facts the panel has decided to accept Mr. A [REDACTED]'s plea of guilty to three of the charges. We therefore find that A [REDACTED] A [REDACTED] did, on two occasions, commit offences in violation of section B.i.(3)(a) of the Code. We also find that he committed an offence in violation of section B.i.(3)(b).

[6] We will hear submissions on penalty when the hearing reconvenes.

Dated at Toronto, October 9, 2009

A handwritten signature in black ink, appearing to be 'Laura Trachuk', written over a horizontal line.

Laura Trachuk for the panel  
Graham Trope  
Adil D'Sousa

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on April 21, 2009;

**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 -

**L ■ O ■**

Hearing Date: August 27, 2009

**Members of the Panel:**

- Ms Rodica David, Q.C., Chair
- Professor Graeme Hirst, Faculty Panel Member
- Mr. Sybil J. Derrible, Student Panel Member

**Appearances:**

- Ms Lily Harmer, Assistant Discipline Counsel
- Ms L ■ O ■, the Student, in attendance

**REASONS FOR DECISION**

[1] The student is charged with plagiarizing various portions of an essay that she submitted for academic credit in POL208. She chose not to give evidence although she participated actively in the hearing.

[2] There are two elements to this offence:

1. The plagiarism itself; in other words, the representation of the work of another as one's own;
2. Doing so knowingly.

### The Plagiarism

[3] The essay is contained at Tab 4 of Exhibit 3. There is no question that significant portions of the essay were copied precisely or substantially from outside sources. These passages were not in quotation marks; there were no footnotes. The evidence indicates that there is only one reference contained in her bibliography that relates to the copied material in her essay, namely the article by James Kurth contained at Tab 5 of Exhibit 3, but the essay itself did not cite this article as the source of the copied material. The sources of the other copied material were not referenced in her bibliography at all.

### Was the Plagiarism done knowingly?

[4] The second preamble set out in Section B of *the Code* states that if the student ought reasonably to have known, then she did so knowingly. There is no direct evidence to indicate whether the student had actual knowledge that she was plagiarizing. However, the University has presented clear and convincing evidence that the student ought reasonably to have known that she was plagiarizing, which we infer from the following evidence:

1. The course outline at Exhibit 3, Tab 3 contains significant information about plagiarism in the official University document "A Warning about Plagiarism". According to Dr. Yaniszewski, this was provided to all students as part of the course.
2. Teaching assistant Mr. McKee testified that he conducted a full tutorial on the elements of writing, including the methods of avoidance of plagiarism and that plagiarism is prohibited by the University.
3. The student appeared to be aware of the use of quotation marks as she used them in some portions of her essay.

### The Verdict

[5] The student is therefore guilty of the offence set out in Charge 1 of Exhibit 1 which states as follows:

1. On or about July 21, 2008, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your essay entitled "Should the International community use military force to stop the genocide in Darfur even if the government of Sudan opposes any such action?", submitted for academic credit in POL208, contrary to Section B.I.1.(d) of the *Code*.

### SANCTION

[6] The University seeks the following:

1. Zero in the course pursuant to Section C.II.(b) 1 (g);
2. Two-year suspension pursuant to Section C.II.(b) 1 (h);
3. Recording the sanction on the student's academic record for 3 years pursuant to Section C.II.(b) 2.
4. Report a notice of the decision and sanctions with the name of the student withheld pursuant to Section C.II.(b) 3.

[7] The student again chose not to give evidence on sanction. However, in her submissions, the student stated that she thought that the appropriate sanction is a zero in the paper and a two-year suspension.

[8] Ms. Harmer, counsel for the University, referred to the well-known and often-cited six factors originally established in the Appeal of Mr. C. (November 5, 1976). These are delineated in the case of Mr. S ■■■ B ■■■ at Tab 4 of the University's Brief of Authorities:

1. The character of the student:

We have little evidence of the student's character. Dr. Yaniszewski stated that the student was combative in the meeting with the Dean's representative. However, he conceded in cross-examination that she was not combative when she met with him. Her conduct before this Tribunal was in some respects uncooperative and disrespectful.



2. The likelihood of repetition:

No evidence was presented on this issue.

3. The nature of the offence:

The offence itself is serious; however the University did not convince us that the student had actual knowledge that she was committing an offence.

4. The extenuating circumstances:

The only evidence on this issue is contained in Exhibit 4, namely the notes of Dr. Yaniszewski and his testimony on his recollection of what the student told him when he met with her. As the student did not give evidence, there was no opportunity for the University to cross-examine the student on the veracity of these statements. However, she did advise that she did high school in Trinidad, that the system was very different there, and that she was out of school for a long time. She suggested to him that "her not approaching the instructor prior to submitting her essay was an error in retrospect and contributed to her mistakes in citation". However her attitude in this hearing did not indicate that she recognized the seriousness of the offence that she had committed. This is her first offence.

5. The detriment to the University:

Such conduct is always detrimental to the University, which prides itself on having an exemplary reputation.

6. General deterrence:

It is important that plagiarism be emphatically deterred by the imposition of a significant sanction.

[9] It appears that a two-year suspension is usually imposed for plagiarism. In the case of A ■ K ■ ■ ■ ■ ■, the Tribunal stated in its Reasons dated November 9, 2007 at paragraph 12:

In reviewing the history of decisions of this Tribunal in plagiarism cases, it appears in the more modern era, particularly as plagiarism has increasingly become the bread and butter of this Tribunal, the Tribunal through a number of cases has established virtually a threshold penalty for

those convicted of plagiarism – the two year suspension. A suspension may increase, depending on particular factors in particular cases, including the nature of the plagiarism, the response of the student to the allegations, the conduct of the students throughout the proceeding, whether the charges represented a first or repeated offence, the passage of time since the incident occurred and who contributed to any delay, the expression of remorse, a plea of guilty or not, any specific extenuating circumstances and other factors. But the consistent minimum penalty appears to be a two year suspension. The panel in this case is of the view that a two year suspension here is really the minimal period of suspension that could reasonably be imposed in this case.

[10] In our view the circumstances set out in paragraph 4 above warrant a slightly lesser sanction than is the usual case. We therefore have decided that the appropriate sanction is as follows:

1. Zero in the course pursuant to Section C.II.(b) 1 (g);
2. Eighteen-month suspension pursuant to Section C.II.(b) 1 (h);
3. Recording the sanction on the student's academic record for 3 years pursuant to Section C.II.(b) 2;
4. Report a notice of the decision and sanctions with the name of the student withheld pursuant to Section C.II.(b) 3.

I certify that this is the decision of the Panel

Nov 3/09  
Date

Rodica David  
Rodica David, Barrister and Solicitor (Chair)

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on April 29, 2009;

**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 -

**K ■ K ■**

**Members of the Panel:**

Ms. Kirby Chown, Chair

Mr. Graeme Hirst, Faculty Panel Member

Ms. Nikola Cunjak, Student Panel Member

**Appearances:**

Ms. Lily Harmer, Counsel for the University

Ms. K ■ K ■, the Student, did not appear

**Preliminary**

- [1] A hearing of the Trial Division of the University Tribunal was convened on Tuesday February 10, 2009 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters 1995* (hereafter the "Code"), against the Student. The charges were set out in a letter to the Student dated September 18, 2007.
- [2] The Panel of the Tribunal was made up of Kirby Chown, Chair; Graeme Hirst, a faculty member; and Nikola Cunjak, a student member. Counsel for the University of Toronto was Lily Harmer. The Student was not represented and did not attend the hearing.

- [3] Three minutes after the time at which the hearing was scheduled to begin, the Student had still failed to appear. The University proposed to proceed in the Student's absence and the Panel heard submissions with respect to this.
- [4] Ms. Harmer presented the Panel with the affidavit of Betty-Ann Campbell, a law clerk, which described in detail the extensive efforts made to contact the Student, to notify her of the charges, to advise her of the seriousness of the charges and of the hearing before the Tribunal. As well, the Student was provided with a copy of the Notice of Hearing and the charges along with detailed disclosure of the evidence.
- [5] The Panel had to decide whether the University's attempts to provide the Student with notice were reasonable and whether they met the requirements set out in the *Code* and in the Statutory Powers and Procedures Act (hereinafter the "*SPPA*"). After considering the evidence in the affidavit of Ms. Campbell and the submissions of counsel, the Panel was satisfied that provisions in the *Code* and in the *SPPA* had been met and ruled that the University could proceed with the hearing in the Student's absence.
- [6] In particular, the Panel noted that in December 2008, the Student had responded to an e-mail from Ms. Campbell and provided her a new phone number and address for future correspondence. The Student acknowledged via e-mail on January 24, 2009 that she had received the disclosure brief but indicated she would not be able to return to Canada for the hearing and asked about alternatives. Ms. Harmer corresponded with the Student in January 2009 to review possible options but indicated if the matter could not be settled it would have to be heard by the Tribunal. The Student failed to respond to Ms. Harmer's correspondence or to the correspondence from Ms. Campbell about choosing a hearing date. She was notified of the February 10, 2009 hearing date via email on January 6, 2009. Thus the Panel was satisfied that the Notice of Hearing, the charges, and the disclosure and the date for the hearing were brought to the Student's attention in a timely fashion.

### Hearing on the Facts

- [7] The charges are as follows:
- (1) On or about June 3, 2007, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by falsely advising Mr. Morteza Memari that you received a passing mark and were entitled to academic credit in ACT466H, contrary to Section B. 1. 3 (b) of the *Code*.

- (2) On or about June 4, 2007, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by falsely advising Professor Sam Broverman that you had written the tests administered in ACT466H and that you were entitled to academic credit for ACT466H, contrary to section B. 1. 3 (b) of the *Code*.
- (3) On or about June 11, 2007, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud, or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by falsely advising Mr. Morteza Memari that you received certain grades in three tests administered in ACT466H, contrary to Section B. 1. 3(b) of the *Code*.
- (4) On or about June 11, 2007, you knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of such forged, altered or falsified record, namely, your purported test results for ACT466H, contrary to Section B. 1. 3(a) of the *Code*.
- (5) In the alternative to 4 above, on or about June 11, 2007, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, and/or uttered, circulated or made use of such forged, altered or falsified document, namely, your purported test results for ACT466H, contrary to Section B. 1. 1(a) of the *Code*.
- (6) On or about June 12, 2007 you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by falsely advising Professor Sam Broverman that you received certain grades in three tests administered in ACT466H and that you were entitled to academic credit in ACT466H contrary to Section B. 1. 3(b) of the *Code*.
- (7) On or about June 12 2007, you knowingly forged or in any way altered or falsified an academic record, and/or uttered circulated or made use of any such forged altered or falsified record, namely your purported test results for ACT466H, contrary to Section B. 1. 3(a) of the *Code*.
- (8) In the alternative to 7 above, on or about June 12, 2007 you knowingly forged or in any other way altered or falsified a document or evidence

required by the University and/or uttered, circulated or made use of any such forged altered or falsified document, namely, your purported test results for ACT466H, contrary to Section B. 1. 1(a) of the *Code*.

[8] Particulars of the charges are as follows:

- (1) All material times you were a student at the University of Toronto in the Faculty of Arts and Science. In academic term Winter 2007 you were enrolled in ACT466H which was taught by Professor Sam Broverman.
- (2) On or about June 3, 2007 you contacted Mr. Morteza Memari, Associate Registrar at St. Michael's College, to question the grade of zero you received in ACT466H. You advised Mr. Memari that you had received a mark above fifty percent and that the recorded grade of zero was incorrect.
- (3) On or about June 4, 2007, you contacted Professor Sam Broverman, instructor for ACT466H, to question the grade of zero you received in ACT466H. You advised Professor Broverman that you had written the three tests administered in the course and that the grade of zero was incorrect.
- (4) On or about June 11, 2007, you contacted Mr. Memari again to question the grade of zero you had received in ACT466H, and you provided him with the purported marks you said you had received on the three tests administered in ACT466H.
- (5) On or about June 12, 2007, you contacted Professor Broverman and again stated that you had written the three tests administered in the ACT466H. You provided him with the purported marks you said you had received in those three tests. You further claimed you had received a passing grade in the course and had therefore earned 0.5 academic credit.
- (6) You did not write any of the three tests administered in ACT466H in the academic term Winter 2007; the marks you provided to Mr. Memari and to Professor Broverman were false; and you did not earn academic credit in ACT466H in that term.

[9] Counsel for the University indicated the University would be proceeding on charges 1, 2, 3 and 6. The other charges were withdrawn.

[10] The University called four witnesses: Professor Sam Broverman, Morteza Memari, Keith Broere and Phillip Ip.

[11] Professor Broverman knew the Student through his role as student advisor and as well because he had taught her in two prior courses. Professor Broverman testified that the entire course mark in ACT466H was based on three term tests written in class. He indicated that the Student was required to pass ACT466H in order to graduate from the specialist program.

[12] Professor Broverman testified that the Student contacted him before the start of the course to indicate she would have to fly over from Hong Kong for the term

tests and inquired whether alternative arrangements could be made to accommodate her. He told her that this would not be possible. Professor Broverman noted that the Student did not attend any of the lectures in ACT466H and was not present for any of the three term tests administered in the course. He confirmed that his teaching assistant, Keith Broere, came to each term test, had each student sign in and then checked the identification card of each student against the sign in list. At the conclusion of each test, the number of test papers was counted and cross checked with the head count and the sign-in list. Mr. Broere marked all three tests and returned them to Professor Broverman who then returned the tests to the students – the first two tests were returned in class and the third was returned after the conclusion of the term.

- [13] Prof Broverman testified that he did not receive any marked tests for the Student from Mr. Broere. He did not return tests one and two to the Student in class as there were no such tests to return and the Student was not present. The Student never made any effort to contact him with respect to picking up test number three.
- [14] Professor Broverman submitted the final marks for ACT466H on May 1, 2007. He gave the Student a mark of zero for each of the three tests and a course mark of zero for the whole course.
- [15] Convocation was June 14, 2007. On Monday June 4, 2007, Professor Broverman learned via e-mail from Morteza Memari, Associate Registrar for St. Michael's College, that the Student had contacted Mr. Memari via email to advise that she hoped to graduate on June 14, 2007 and indicated that her zero grade in ACT466 was incorrect. She asserted that she had accumulated a score above fifty percent on the three term tests and expected a passing grade in the course. Professor Broverman advised Mr. Memari that the Student had not in fact written any of the three term tests and as a result had correctly ended up with a mark of zero for each test and zero for the course.
- [16] The Student emailed Professor Broverman directly on June 4, 2007 with the same assertions. Professor Broverman reiterated that the Student's name was not on the two of the three term test sign-in sheets that he had in his possession nor did she ever come to his office to pick up the third test. He indicated that he was prepared to meet with the Student to discuss matters further. They met on June 13 but there was no resolution. Professor Broverman indicated she could discuss matters further with St. Michael's College Registrar, the Dean of Arts and Science if she wished.
- [17] Professor Broverman was shown a document entitled *Degree Request Form* dated March 22, 2007 which was submitted by the Student on or about April 20, 2007 to the Office of the Registrar and Student Services requesting confirmation that she had completed all of the requirements to graduate with an Hon BSc. On the form, her program status was indicated as complete. This was an error on the part of the University as the final marks for ACT466H had not yet been submitted.

- [18] Mr. Memari testified next. His testimony concerned the correspondence between the Student, himself and Professor Broverman over the student's assertions about ACT466H.
- [19] Mr. Memari reviewed the extensive e-mail correspondence between himself and the Student and himself and Professor Broverman. In this email correspondence, the Student repeatedly asserted that she had attended the lectures, had written the three term tests and had passed all three tests. She provided passing grades she alleged she had received for the three tests. Mr. Memari relayed this information to Professor Broverman but accepted Professor Broverman's statement that he had no record of the Student having taken the tests and that the correct mark for the course was zero and so advised the Student.
- [20] Mr. Memari testified that he advised the Student via email that she could speak to Professor Broverman to see if this matter could be resolved but if it could not, she would not be able to graduate on June 14, 2007. He also met with the Student on June 13, 2007 and explained how she could pursue this matter further with the Dean of the Faculty but based on the facts, he told her she could not participate in graduation.
- [21] The Student did not participate in graduation which was held on June 14, 2007.
- [22] The next witness was Keith Broere who was the Teaching Assistant for Professor Broverman in the ACT466H course during the relevant period in Winter 2007.
- [23] Mr. Broere testified that he did not know the Student. He explained the routine he followed for each term test which included handing out the tests, collecting signatures of the students on a sign in sheet, checking the students' identification against the sign in sheet, collecting the tests, counting them and cross checking them against the attendance list. He would then mark the tests and provide the corrected tests and the marks to Professor Broverman.
- [24] Mr. Broere supervised all three tests for ACT466H and followed the above procedures on each occasion. He marked all three tests. The Student did not sign in on the sign in sheet for any of the three tests. He had no exam papers from the Student for any of the three tests and accordingly did not assign her a mark for any of the tests.
- [25] Mr. Broere testified that it was not possible for a student to write a test and not sign in as he counted the number of tests at the end and cross checked that number with the headcount of the room and the sign in sheet. The students are kept in the room until this is reconciled. He had never had a discrepancy between the number of students and the number of tests and did not in Winter 2007.



- [26] He marked the third test in ACT466H in mid to late April and provided the marks electronically to Professor Broverman in a spreadsheet. His computer was password protected.
- [27] The final witness called was Dr. Peter Ip who works in the University of Toronto Computing and Network Services. He attempted to find information on where the Student was located when she logged into her computer and sent the various e-mails to Professor Broverman and to Mr. Memari. He did find that most of the ISP's were based in Hong Kong.
- [28] The Panel was presented with a document brief containing, inter alia, copies of the e-mails referred to above between the student and Mr. Memari and Professor Broverman as well as other University officials; her academic transcript, and her degree request.

### **Decision of the Tribunal**

- [29] After hearing the submissions of counsel and considering all the evidence, the Panel was satisfied that counsel for the University had proved the charges on the basis of clear and compelling evidence.
- [30] The Panel agreed that this was a unique case in which the Student had completely fabricated her involvement in an entire course in order to suggest she had taken the course and had completed three term tests with a passing grade in order to get her degree. Despite the Student's assertions in her e-mails that she had attended class, had written the term tests and had passed the course, the Panel found that there was overwhelming evidence that she did not attend class nor write any of the three tests. The Panel was persuaded by the careful and thorough procedures that Mr. Broere carried out in each of the three tests which supported the University's case that the Student in fact was not there and did not write any of the three tests.
- [31] The Panel did not place any weight on the evidence of Mr. Ip who attempted to discern where the Student was when she sent various e-mails to the University.
- [32] The Panel was satisfied on the evidence before it that the Student is guilty of the charges at paragraphs 1, 2, 3, and 6 and has committed the serious act of academic misconduct.

### **ADJOURNMENT OF HEARING**

- [33] The Panel adjourned the hearing after making this finding. The hearing was to be rescheduled at a future date for evidence and submissions re sanction. The hearing was subsequently adjourned to May 25, 2009.

- [34] The Student did not attend the penalty phase of the hearing nor was she represented by Counsel.

### SANCTION

[35] On May 25<sup>th</sup> the hearing resumed for the penalty phase. The University argued that the appropriate sanction in this matter was:

- (a) recommendation to the Governing Council that the Student be expelled from the University.
- (b) in the interim, a five year suspension until Governing Council has considered the recommendation for expulsion, with notice of the suspension to be placed on the Student's record for six years or until graduation, whichever comes first.
- (c) that the Office of the Provost publish a notice of this decision in the University newspaper with the name of the Student withheld.

[36] The Panel considered the submissions by Counsel for the University and the principles for deciding the appropriate sanction as set out in the reasons for decision in the case of *The University of Toronto and Mr. C (November 5, 1976)* in the dissent of Mr. Sopinka, as he then was, which principles have been adopted consistently by Panels of the University Tribunal.

[37] The Panel considered the nature of the offence in this case. The Student did not attend any of the classes in ACT466, did not write any of the three mandatory tests yet asserted to the Associate Registrar and to her Professor that she had indeed been present, had indeed written the tests and had indeed passed and should therefore be allowed to graduate. Her conduct in June 2007 represented a prolonged series of misrepresentations and falsehoods as she attempted to persuade more than one individual at the University of these untrue assertions in order to graduate. The University responded to her assertions by actively trying to investigate the matter given her rapidly approaching graduation date. They did so in good faith but were unable to substantiate her claims.

[38] The Student's conduct was a direct assault on the academic integrity of the University. She attempted to get credit for a course she had not taken and to graduate based on false pretences. This clearly is in dramatic contrast to other students who have worked hard and legitimately to complete their courses and their degree requirements.

[39] The Student did not appear. As a result, the Panel was not provided with any information about any mitigating or extenuating circumstances that may have led

her to engage in this course of deception. As well, the Panel had no evidence relating to her character. We do however note that there is no record that the Student had committed any prior academic offences.

- [40] The Panel was struck by the fact that at no point in this course of conduct did the Student admit to any mistake nor evidence any remorse over her actions. Although the Student initially co-operated with Counsel for the University with respect to this hearing, that co-operation and any communication soon ceased.
- [41] Accordingly the Panel was unanimously of the view that the sanction requested by the University was appropriate.
- [42] Therefore the Panel determines that the appropriate sanction is as follows:
1. recommendation to the Governing Council that the Student be expelled from the University. In the interim, that the Student to be suspended and that suspension be noted on the Student's record for a period of six years or graduation, whichever comes earlier.
  2. that the Student receive a grade of zero in the course.
  3. that the Provost publish a notice of this decision with the name of Student withheld.

I certify that this is the decision of the Panel

Nov 3, 2009  
Date

Kirby Chown  
Kirby Chown, Barrister and Solicitor (Chair)

**UNIVERSITY OF TORONTO  
UNIVERSITY TRIBUNAL**

**IN THE MATTER OF** charges of academic dishonesty made on April 7, 2007;

**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 -

A [REDACTED] M [REDACTED]

Hearing Date: April 24, 2008

**Members of the Panel:**

- Ms. Laura Trachuk, Barrister and Solicitor, Chair
- Professor William Weiss, Faculty Panel Member
- Ms. Melanie Bleue, Student Panel Member

**Appearances:**

- Ms. Erin Burbidge, Assistant Discipline Counsel, for the University
- Mr. Rob Centa, Assistant Discipline Counsel, for the University

**In Attendance:**

- Mr. Scott Moore, Quality Assessment Officer, School of Graduate Studies
- Ms. A [REDACTED] M [REDACTED], the Student, not in attendance

[1] A hearing was held with respect to charges filed against A. M. under the *University of Toronto Code of Behaviour on Academic Matters, 1995* on April 24, 2008. Ms. M. did not attend the hearing but she did sign an Agreed Statement of Facts in which she pled guilty to two of the charges. The panel accepted her plea and found her guilty on two charges. Ms. M. also signed a Joint Submission on Penalty.

Decision on Penalty

[2] The following ruling on penalty was issued orally on April 24, 2008:

The panel accepts the joint submission on penalty. Expulsion is the most serious penalty which can be imposed under the Code. However, the offence for which the student has been convicted is an extremely serious one. Ms. M. submitted two essays in POL 200Y which she had obtained in large part from internet sources. It is essential that academic work submitted for credit be original. It is unfair to the other students if credit is received for papers that have been purchased. It is fundamental to the University's reputation that it show no tolerance for plagiarism.

The panel therefore imposes the following penalty:

1. A grade of zero shall be assigned in POL 200Y.
2. We recommend that the President recommend to the Governing Council that Ms. M. be expelled from the University.
3. Pending the decision of the Governing Council, Ms. M. should be suspended from the University for a period up to five years.
4. This decision should be reported to the Provost who may publish a notice of this decision and the sanctions imposed with Ms. M.'s name withheld.

I certify that this is the decision of the Panel

Nov. 6, 2009  
Date

  
Laura Trachuk, Barrister and Solicitor (Chair)

**UNIVERSITY OF TORONTO  
UNIVERSITY TRIBUNAL  
TRIAL DIVISION**

**IN THE MATTER** of charges of academic dishonesty made on July 21, 2009;

**AND IN THE MATTER** of the *University of Toronto Act*, 1971, S.O. 1971, c. 56 as amended S.O. 1978, c. 88;

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

**BETWEEN:**

**UNIVERSITY OF TORONTO**

-and-

**D■■■■■ W■■■■■**

Members of the panel:

- Mr. John A. Keefe, Chair
- Professor Graeme Hirst, Faculty Member
- Ms. Elena Kuzmin, Student Panel Member

Appearances:

- Mr. Robert A. Centa, Assistant Discipline Counsel for the University of Toronto, Paliare Roland Barristers

In Attendance:

- Ms. Lucy Gaspini, Academic Affairs Officer, University of Toronto, Mississauga
- Mr. D■■■■■ W■■■■■, the Student, not in attendance

## REASONS FOR DECISION

1. The University Tribunal was convened on Wednesday, September 16, 2009 to hear charges under the *Code of Behaviour on Academic Matters*, 1995 (the "Code") laid against D■■■ W■■■ (the "Student"). The Student was informed by letter dated July 21, 2009 from Professor Edith Hillan, Vice-Provost, Faculty & Academic Life, that he had been charged with academic offences and was provided with particulars of those charges.
2. Notice of Hearing was sent to the Student on September 4, 2009.
3. The Student was not present at the hearing.
4. At the outset of the hearing, the Tribunal was advised that the matter would proceed based on an Agreed Statement of Facts dated September 9, 2009.
5. Paragraph 3 of the Agreed Statement of Facts states as follows:

...Mr. W■■■ acknowledges that he has received reasonable notice for this hearing. Mr. W■■■ does not wish to attend the hearing before the Tribunal and requests that the hearing proceeds in his absence.
6. The Tribunal determined that it was appropriate to proceed in the absence of the Student in these circumstances.
7. The Tribunal noted that Mr. W■■■ was not represented at the hearing by counsel and that he executed the Agreed Statement of Facts without legal representation.
8. Paragraph 13 of the Agreed Statement of Facts provides as follows.

Mr. W████ acknowledges that the Provost of the University of Toronto has advised him to obtain independent legal advice before signing this ASF. He acknowledges that he has either done so, or deliberately has waived his right to do so.

9. The Agreed Statement of Facts was executed on behalf of University by Robert A. Centa, Assistant Discipline Counsel of the University of Toronto. He assured the Tribunal that, on more than one occasion, Mr. W████ was advised to seek legal advice before proceeding with the Agreed Statement of Facts and that he declined to do so. Mr. Centa also assured the Tribunal that the Agreement was executed with Mr. W████'s full knowledge and consent and without any undue pressure.

#### **The Charge**

10. The Charge upon which the Student agreed to plead guilty (hereinafter referred to as "Charge") is the following.
  1. On or about March 9, 2009, you knowingly represented as your own an idea or expression of an idea, and/or work of another in an essay you submitted in POL 200, contrary to section B.I.1(d) of the *Code*.

#### **The Background Facts**

11. The Agreed Statement of Facts describes the background facts as follows:
  1. For the purposes of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the University of Toronto (the "University") and D████ W████ ("Mr. W████") have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD"). The University and Mr. W████ agree that:
    - a. each document contained in the JBD may be admitted into evidence before the Tribunal for all purposes, including for the truth of the document's contents, without further need to prove the document; and



- b. if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.
2. This hearing arises out of charges of academic misconduct filed by the Provost under the *Code*. A copy of the Charges, which were filed on July 21, 2009, is included in the JBD at Tab 1. Mr. W■■■■ acknowledges that he received a copy of the Charges.
3. The Notice of Hearing into the Charges is included in the JBD at Tab 2. Mr. W■■■■ acknowledges that he has received reasonable notice of this hearing. Mr. W■■■■ does not wish to attend the hearing before the Tribunal and requests that the hearing proceed in his absence.
4. In Fall/Winter 2008-2009, Mr. W■■■■ registered as a student at the University of Toronto. At all material times, Mr. W■■■■ remained enrolled at the University. A copy of Mr. W■■■■'s academic record dated September 2, 2009, is included in the JBD at Tab 3.
5. In Summer 2008, Mr. W■■■■ enrolled in POL 200 - Introduction to Political Theory, which was taught by Professor Len Ferry ("Course"). A copy of the syllabus for the Course is included in the JBD at Tab 4. Mr. W■■■■ admits that he received a copy of the syllabus for the Course.
6. One of the Course assignments was to complete a research essay, which was worth 25% of the final grade in the Course. A copy of the assignment is included in the JBD at Tab 5.
7. For his research essay, on March 9, 2009, Mr. W■■■■ submitted an essay titled "To obey or not to obey that is the question" ("Essay") in partial completion of the course requirements. A copy of the Essay is included in the JBD at Tab 6.
8. Mr. W■■■■ submitted the Essay through Turnitin.com. The Turnitin Originality Report for the Essay is included in the JBD at Tab 7. The Originality Report indicated an overall similarity index of 31%, which is high, and could indicate that the Essay contained verbatim extracts from other sources found in the database.
9. Mr. W■■■■ admits that he knowingly, which includes ought to have known:
  - a. included verbatim and nearly verbatim excerpts from an article titled "Civil Disobedience" from the on-line Stanford Encyclopedia of Philosophy, a copy of which is found in the JBD at Tab 8; and
  - b. included verbatim and nearly verbatim excerpts from an article titled "Locke's Political Philosophy" from the on-line Stanford Encyclopedia of Philosophy, a copy of which is found in the JBD at Tab 9; and
  - c. failed to attribute those excerpts appropriately using quotation marks.
10. Mr. W■■■■ admits that, in the Essay, he represented the work and expressions of another as his own.

11. Mr. W████ admits that he committed the academic offence of plagiarism as set out in charge #1 of the Charges, which are included in the JBD at Tab 2.
12. The Provost agrees to withdraw charges 2 and 3 of the Charges.
13. Mr. W████ acknowledges that the Provost of the University of Toronto has advised him to obtain independent legal advice before signing this ASF. He acknowledges that he has either done so, or deliberately waived his right to do so.
12. It is important to understand some of the facts in order to understand the basis of the Tribunal's conclusion. It is very clear that the Student's essay contained the exact words from an article published on the Internet from the Stanford Encyclopedia of Philosophy entitled *Locke's Political Philosophy*. There was no attempt quote the source of the words. In some cases, the Students did edit the words from the other publication and he did include reference to the publication in his endnotes titled Works Cited.
13. Unlike many other cases of plagiarism brought before the Tribunal, in this case there was not a wholesale importing of all or a portion of the on-line publication into the work submitted by the student. Some sentences were imported from the other publication without proper citation or attribution, but there was also some independent work and independent thought put into the Student's work. In this respect, although there is a breach of the *Code*, this particular offence is not at the higher end of the spectrum.
14. Based on the Agreed Statement of Facts and the documents in the Joint Book of Documents, the Tribunal concluded that it was prepared to make a finding of guilt to count 1 of the Charges. Discipline Counsel then withdrew counts two and three of the Charges.

### **Joint Submissions on Penalty**

15. After the Tribunal concluded that it was prepared to make the finding of guilt on count 1 of the Charges, the Tribunal was presented with an Agreed Statement of Facts and Joint Submission on Penalty ("Joint Submission of Penalty"). This was also executed on September 9, 2009 by Mr. W■■■■ and University Discipline Counsel.

16. Paragraph 7 of the Joint Submission on Penalty provides as follows:

7. Mr. W■■■■ acknowledges that the Provost of the University of Toronto has advised him to obtain independent legal advice before signing this Joint Submission on Penalty. Mr. W■■■■ has either done so or has deliberately waived his right to do so.

17. The Joint Submissions on Penalty provides as follows:

2. Mr. W■■■■ has previously admitted to committing two other academic offences for which he received sanctions at the Divisional Level.

3. On October 4, 2004, Mr. W■■■■ admitted that he had committed plagiarism in a paper that he had submitted for credit in POL 200.

4. He received a mark of zero for the plagiarized paper as a sanction under the *Code*.

5. On June 6, 2005, Mr. W■■■■ admitted that he had committed plagiarism in an assignment that he submitted for credit in PHL 300. He received the following sanction:

- a. a final grade of zero in the course;
- b. a suspension from the University of Toronto from September 1, 2005 to December 1, 2005; and
- c. an annotation of Mark of zero on the course due to academic misconduct for one year from June 1, 2005 to May 31, 2005.

### **Guidelines on Penalty**

18. The Factors to be considered when determining penalty are well established:

- (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 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.<sup>1</sup>

19. The Tribunal, in determining the appropriate penalty, should consider various factors in order to find a fit sentence for this offender, for this offence in this community. In doing so, fairness, balance and proportion must be blended in.
20. There should be some measure of uniformity or proportionality so that there should be similar sentences imposed for offences committed in similar circumstances. The sentencing should preserve and ensure fairness by avoiding disproportionate sentences among similar sentencing processes so that there are not wide swings or inconsistencies between like offences and like offenders, recognizing that there is never a like offence or like offender.
21. There should be a range of sentences for offences such as plagiarism with sentences within that range moving up or down within that range depending on aggravating or mitigating circumstances.

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<sup>1</sup> In the Matter of the University of Toronto Code of Behaviour and an Appeal by Mr. C., November 1976 pg 12.

### Conclusion on Penalty

22. The Student was not in attendance at the hearing. No witnesses were called to present character evidence. There was no evidence before the Tribunal concerning the Student's personal or family background, his current activities or his academic intentions.
23. This makes it somewhat difficult for the Tribunal to weigh all the relevant factors because the factors relating to the offender are not available to the Tribunal.
24. The Tribunal examined the prior offences of the Student. In October 2004, the Student plagiarised a paper in the same course POL 200 and received the mark of zero on the paper. In June 2005, the Student committed plagiarism in an assignment. In that case he received a grade of zero in the course and was suspended for a period from September 5, 2005 to December 1, 2005. Clearly, the Student was aware of the seriousness of the offence of plagiarism having been disciplined on two prior occasions and he suspended for the second offence. Although the circumstances of this particular offence are on the lower threshold of seriousness, nonetheless, it is still involves the commission of the offence of plagiarism and it is his third offence.
25. The Tribunal was presented with the decisions of the Tribunal on other matters. One such decision was a Tribunal decision in the matter of *The University of Toronto and S.M.* This was a case involving a Joint Submission of Penalty and the principles to be applied in accepting or rejecting a Joint Submission of Penalty. In that decision, the Tribunal stated as follows:

A panel is not obliged to accept the Joint Submission on Penalty. Having said that, we accept the principle set out in the decision of the Ontario Court of Appeal in *R.v. Michael Tsicos*<sup>2</sup> dated October 6, 2006 that, generally speaking, a joint submission on penalty should be accepted unless it would be contrary to the public interest or bring the administration of justice into disrepute to give effect to the joint submission.

26. Based on this principle, even if the Tribunal concludes that the agreed upon penalty may not be what it would impose in the circumstances, the Joint Submission on Penalty should be accepted unless to do so would be contrary to the public interest or bring the administration of justice into disrepute.
27. The academic offence of plagiarism is a serious breach of the University's standards of ethical behaviour. The offence of plagiarism undermines the relationship of trust between the University and its students. Given the access to the Internet and sources of information, plagiarism has become a serious problem in the University environment. Principles of general deterrence must be considered in determining the appropriate penalty. As stated in *The University of Toronto and Mr. S.B.* (November 14, 2007):

It hardly needs to be said that the credibility and academic mission of the University, and the degrees which it awards to its students, can be greatly harmed by the commission of offences such as plagiarism and concoction."
28. In support of the submission that the proposed penalty was within the appropriate range, University Discipline Counsel referred the Tribunal to a number of cases. One such case was *The University of Toronto and Mr. M.H.H.* In that case, the student was charged

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<sup>2</sup> *Her Majesty the Queen v. Michael Craig Tsicos*, CAO, Oct. 11, 2006, Docket: C45531

with two counts of plagiarism, one committed on March 15, 2007 and one committed June 19, 2007. The Student had not been disciplined before. The student did not appear at the Tribunal hearing. After examining a number of other cases, the Tribunal concluded that the consistent minimum penalty for a first time offence of plagiarism would be a two year suspension. The Tribunal concluded that a three year suspension was warranted having regard to the fact that the student was found guilty on two counts of plagiarism.

29. University Discipline Counsel also referred the Tribunal to the case *The University of Toronto and Mr. S.B.* In this case, the Tribunal considered the appropriate penalty for plagiarism for a third time offender. In that case, University Discipline Counsel was seeking a three year suspension. The student appeared at the hearing, pleaded not guilty, but was found guilty. There were extenuating personal circumstances presented by the student and there had been considerable delay in prosecuting the offence. The Tribunal concluded as follows:

[33] In our view, the case law of this Tribunal supports the University's position in this case. On a purely numerical count, previous cases of "first time offenders" in cases of plagiarism and/or concoction have been met with suspensions of two years (K., June 2006; A., September, 2004; B., April, 2004 and February, 2006); three years (referred to as at the "most severe end" in L., October 8, 2004); and four years (S.). Previous cases of "repeat offenders" in such cases have resulted in suspensions of four months (W., March 25, 1998); sixteen months (K., May 2003); three years (M.M., August 2005; and D., July, 2005); five years (L., above); and expulsion (B., February, 2007).

[34] This summary, of course, captures only a few of the factors in Mr. Sopinka's list, most notably the nature of the offence and the degree and likelihood of repetition. A more detailed review of the decisions reveals other important evidence, such as remorse,

cooperation with the University, circumstances of the offence, results flowing from different penalties, etc. Another factor seems to be a greater recognition, as time has passed, of the need for significant specific and general deterrence. In our view, we have reached a point where a serious breach of trust such as plagiarism and/or concoction should evoke a response of at least a two-year suspension for a first offence and a three year or longer suspension on a subsequent finding.

[35] Here, a three year suspension for a third offence, having regard to the range of other circumstances that we discussed above, strikes a balance of punishment, compassion, rehabilitation and deterrence.

30. Based on this decision and the *The University of Toronto and M.H.H.*, University Discipline Counsel submits that a three and a half years suspension is appropriate in this case. We note that although the suspension proposed in the Joint Submission on Penalty is for three and a half years, it is effectively a suspension for four academic years.
31. Although the Tribunal considered the proposed penalty to be on the high side, the Tribunal concluded that it should accept the Joint Submission on Penalty. The Tribunal concluded that the penalty was within the range of appropriate penalties for this offence in these circumstances. The Tribunal concluded that accepting the Joint Submission on Penalty would not be contrary to the public interest or bring the administration justice into disrepute.

### **Order**

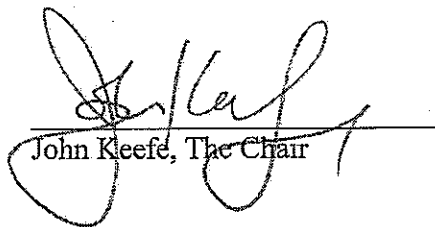
32. Accordingly the Tribunal has determined that the penalty in the circumstances is as follows:
  - (a) Impose a final grade of zero in the course POL 200 – Introduction to Political Theory;



- (b) Suspend Mr. W■■ from the University of Toronto from September 16, 2009 until March 16, 2013;
- (c) Impose a notation until September 16, 2013 on his academic record and transcript stating that he has been found to have committed academic offences; and
- (d) Report this case to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed with the Student's name withheld.

Dated November 26, 2009

V5761197

  
John Keefe, The Chair

**UNIVERSITY OF TORONTO  
UNIVERSITY TRIBUNAL – TRIAL DIVISION**

**IN THE MATTER** of charges of academic dishonesty made on September 18, 2008;

**AND IN THE MATTER** of the *University of Toronto Act*, 1971, S.O. 1971, c. 56 as amended S.O. 1978, c. 88;

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

**BETWEEN:**

**UNIVERSITY OF TORONTO**

-and-

Z [REDACTED] C [REDACTED]

Members of the panel:

- Mr. John A. Keefe, Chair
- Professor Graeme Hirst, Faculty Member
- Ms. Elena Kuzmin, Student Panel Member

Appearances:

- Mr. Robert A. Centa, Assistant Discipline Counsel for the University of Toronto, Paliare Roland Barristers

In Attendance:

- Ms. Lucy Gaspini, Academic Affairs Officer, University of Toronto, Mississauga
- Mr. Z [REDACTED] C [REDACTED], the Student, not in attendance

### REASONS FOR DECISION

1. The University Tribunal was convened on Wednesday, September 16, 2009 to hear charges under the *Code of Behaviour on Academic Matters*, 1995 (the "Code") laid against Z [REDACTED] C [REDACTED] (the "Student"). The Student was informed by letter dated September 18, 2008 from Professor Edith Hillan, Vice-Provost, Faculty & Academic Life, that he has been charged with academic offences and was provided with particulars of those charges.
2. Notice of Hearing was sent to the Student on September 15, 2009.
3. The Student was not present at the hearing.
4. At the outset of the hearing, the Tribunal was advised that the matter would proceed based on an Agreed Statement of Facts dated September 5, 2009.
5. In the Agreed Statement of Facts, the Student acknowledges that he has received reasonable notice of this hearing. He also states that he will be out of the country on the day of the hearing, and requests that the hearing proceed in his absence.
6. The Tribunal determined that it was appropriate to proceed in the absence of the Student in these circumstances.
7. The Tribunal noted that the Student was not represented at the hearing by counsel and that he executed the Agreed Statement of Facts without legal representation.

8. Paragraph 10 of the Agreed Statement of Facts provides as follows.

Mr. C [REDACTED] acknowledges that the Provost of the University of Toronto has advised him to obtain independent legal advice before signing this ASF. He acknowledges that he has either done so, or deliberately has waived his right to do so.

9. The Agreed Statement of Facts was executed on behalf of University by Robert A. Centa, Assistant Discipline Counsel of the University of Toronto. Mr. Centa assured the Tribunal that the Agreement was executed with Mr. C [REDACTED]'s full knowledge and consent and without any undue pressure.

### **The Charge**

10. The Charge to which the Student agreed to plead guilty is:

On or about March 25, 2008, you knowingly represented as your own an idea, or an expression of an idea, or the work of another, in connection with an assignment titled "State of the Issue Paper: Arsenic Poisoning in Bangladesh" ("Essay"), which you submitted for academic credit in GGR345H5S – Environmental Issues in the Developing World ("Course"), contrary to section B.I.I(d) of the *Code*.

### **The Background Facts**

11. The Agreed Statement of Facts describes the background facts as follows:

1. For the purposes of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the University of Toronto (the "University") and Z [REDACTED] C [REDACTED] ('Mr. C [REDACTED]') have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD"). The University and Mr. C [REDACTED] agree that:

- a. each document contained in the JBD may be admitted into evidence before the Tribunal for all purposes, including for the truth of the document's contents, without further need to prove the document; and
- b. if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. This hearing arises out of charges of academic misconduct filed by the Provost under the *Code*. A copy of the Charges, which were filed on September 18, 2008, is included in the JBD at Tab 1. Mr. C [REDACTED] acknowledges that he received a copy of the Charges.
3. The Notice of Hearing into the Charges is included in the JBD at Tab 2. Mr. C [REDACTED] acknowledges that he has received reasonable notice of this hearing. Mr. C [REDACTED] will be out of the country on the day of hearing, and requests that the hearing proceed in his absence.
4. In Fall 2005, Mr. C [REDACTED] registered as a student at the University of Toronto, Mississauga. At all material times, Mr. C [REDACTED] remained a registered student at the University. A copy of Mr. C [REDACTED]'s academic record dated September 4, 2009, is included in the JBD at Tab 3.
5. In Winter 2008, Mr. C [REDACTED] enrolled in GGR345H5: Environmental Issues in the Developing World ("Course"). David Sider was the instructor for the Course. A copy of the Course Syllabus is included in the JBD at Tab 4. Mr. C [REDACTED] admits that he received a copy of the Course Syllabus.
6. Assignment #2 in the Course assignments was to complete a "State of the Issues" report that focused on one environmental issue in a developing country of the student's choice. Assignment #2 was worth 30% of the final grade in the Course. A copy of the assignment is included in the JBD at Tab 5.
7. On March 25, 2008, Mr. C [REDACTED] submitted his State of the Issue Report, "Arsenic Poisoning in Bangladesh," in partial completion of the Course requirements ("Report"). A copy of the Report is included in the JBD at Tab 6.
8. Mr. C [REDACTED] admits that, the Report, he knowingly:
  - a. included verbatim and nearly verbatim excerpts from a number of on-line sources, copies of which are included in the JBD at Tabs 8 to 14;
  - b. failed to attribute those excerpts appropriately using quotation marks; and
  - c. did not include all of the sources in the bibliography.
9. Mr. C [REDACTED] admits that, in the Report, he represented the work and expressions of others as his own, and that he committed the academic offence of plagiarism as set out in charge #1 of the Charges, which are included in the JBD at Tab 2.
13. Mr. C [REDACTED] acknowledges that the Provost of the University of Toronto has advised him to obtain independent legal advice before signing this ASF. He acknowledges that he has either done so, or deliberately waived his right to do so.

12. It is important to understand some of the facts in order to understand the basis of the Tribunal's conclusion. In this case, it is very clear that the Student submitted an essay that was based almost entirely on content taken from on-line sources. The Tribunal was provided with the relevant materials from which the Student's work was taken. There was little or no independent thought put into the Student's work. It appeared, in fact, that the Student was able to effectively cut and paste most of the paper from the on-line sources. In this respect this would have to be viewed as being at the most serious end of the spectrum in terms of the nature of this offence.
13. Based on the facts as set out in the Agreed Statement of Facts and the documents in the Joint Book of Documents, the Tribunal concluded that it was prepared to make a finding of guilt to count 1 of the Charges. Discipline Counsel then withdrew count two of the Charges.

#### **Joint Submissions on Penalty**

14. After the Tribunal concluded that it was prepared to make the finding of guilt on count 1 of the Charges, the Tribunal was presented with an Agreed Statement of Facts and Joint Submission on Penalty ("Joint Submission of Penalty"). This was also executed on September 5, 2009 by Mr. C [REDACTED] and University Discipline Counsel.
15. Paragraph 8 of the Joint Submission on Penalty provides as follows:
  8. Mr. C [REDACTED] acknowledges that the Provost of the University of Toronto has advised him to obtain independent legal advice before signing this "Joint Submission on Penalty" and that he has either done so or has deliberately waived his right to do so.

16. The Joint Submissions on Penalty provides as follows:

2. Mr. C [REDACTED] has previously admitted to committing two other academic offences under the *Code*, and for which he received sanctions.

3. On April 16, 2007, Mr. C [REDACTED] admitted that he had obtained unauthorized assistance in two lab reports that he submitted for academic credit in CHM 221 H5S. He submitted the lab reports, which were each worth 5% of the final grade in the course, on March 21 and 30, 2007.

4. On June 11, 2007, Professor Moore, Chair of the Department of Chemical and Physical Science, University of Toronto Mississauga imposed a mark of zero on each of the two lab reports as a sanction. A copy of Prof. Moore's letter to Mr. C [REDACTED] is attached to this JSP as Tab 1. Mr. C [REDACTED] admits that he received a copy of Prof. Moore's letter.

5. On July 16, 2007, Mr. C [REDACTED] admitted that he had committed plagiarism in an assignment that he submitted for academic credit in GGR 333 H5S. He had submitted the assignment, which was worth 35% of the final grade in the course, on April 19, 2007.

6. Assistant Dean Lynn Snowden imposed a mark of zero on the assignment, which was worth 35% of the final grade in the course. A copy of Assistant Dean Snowden's letter to Mr. C [REDACTED] is attached to this JSP as Tab 2. Mr. C [REDACTED] admits that he received a copy of Assistant Dean Snowden's letter.

### **Guidelines on Penalty**

17. The Factors to be considered when determining penalty are well established:

- (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 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.<sup>1</sup>

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<sup>1</sup> In the Matter of the University of Toronto Code of Behaviour and an Appeal by Mr. C., November 1976 pg 12.

18. The Tribunal, in determining the appropriate penalty, should consider various factors in order to find a fit sentence for this offender, for this offence in this community. In doing so, fairness, balance and proportion must be blended in.
19. There should be some measure of uniformity or proportionality so that there should be similar sentences imposed for offences committed in similar circumstances. The sentencing should preserve and ensure fairness by avoiding disproportionate sentences among similar sentencing processes so that there are not wide swings or inconsistencies between like offences and like offenders, recognizing that there is never a like offence or like offender.
20. There should be a range of sentences for offences such as plagiarism with sentences within that range moving up or down within that range depending on aggravating or mitigating circumstances.

#### **Conclusion of Penalty**

21. The Student was not in attendance at the hearing. No witnesses were called to present character evidence. There was no evidence before the Tribunal concerning the Student's personal or family background, his current activities or his academic intentions.
22. This makes it somewhat difficult for the Tribunal to weigh all the relevant factors relating to the offender are not available to the Tribunal.



23. The Tribunal was presented with the decisions of the Tribunal on other matters. One such decision was a Tribunal decision in the matter of *The University of Toronto and Mr. S.M.* This was a case involving a Joint Submission of Penalty and the principles to be applied in accepting or rejecting the Joint Submission of Penalty. In that decision, the Tribunal stated as follows:

A panel is not obliged to accept the Joint Submission on Penalty. Having said that, we accept the principle set out in the decision of the Ontario Court of Appeal in *R.v. Michael Tsicos*<sup>2</sup> dated October 6, 2006 that, generally speaking, a joint submission on penalty should be accepted unless it would be contrary to the public interest or bring the administration of justice into disrepute to give effect to the joint submission.

24. Based on this principle, even if the Tribunal concludes that the penalty may not be what it considers it would impose in the circumstances, the Joint Submission on Penalty should be accepted unless to do so would be contrary to the public interest or bring the administration of justice into disrepute.
25. The academic offence of plagiarism is a serious breach of the University's standards of ethical behaviour. The offence of plagiarism undermines the relationship of trust between the University and its students. Given the access to the Internet and sources of information, plagiarism has become a serious problem in the University environment. Principles of general deterrence must be considered in determining the appropriate penalty. As stated in *The University of Toronto and Mr. S.B.* (November 14, 2007):

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<sup>2</sup> *Her Majesty the Queen v. Michael Craig Tsicos*, CAO, Oct. 11, 2006, Docket: C45531

It hardly needs to be said that the credibility and academic mission of the University, and the degrees which it awards to its students, can be greatly harmed by the commission of offences such as plagiarism and concoction.”

26. In support of the submission that the proposed penalty was within the appropriate range, the University Discipline Counsel referred the Tribunal to a number of cases. One such case was *The University of Toronto and Mr. N.H.H.* In that case, the student was charged with two counts of plagiarism, one committed on March 15, 2007 and one committed June 19, 2007. The Student had not been disciplined before. The student did not appear at the Tribunal hearing. After examining a number of other cases, the Tribunal concluded that the consistent minimum penalty for a first time offence of plagiarism would be a two year suspension. The Tribunal concluded that a three year suspension was warranted having regard to the fact that the student was found guilty on two counts of plagiarism.
27. University Discipline Counsel also referred the Tribunal to the case *The University of Toronto and Mr. S.B.* In this case, the Tribunal was considering the appropriate penalty for plagiarism for a third time offender. In that case, University Discipline Counsel was seeking a three year suspension. The student appeared at the hearing, pleaded not guilty, but was found guilty. There were extenuating personal circumstances presented by the student and there had been considerable delay in prosecuting the offence. The Tribunal concluded as follows:

[33] In our view, the case law of this Tribunal supports the University’s position in this case. On a purely numerical count, previous cases of “first time offenders” in cases of plagiarism and/or concoction have been met with suspensions of two years

(K., June 2006; A., September, 2004; B., April, 2004 and February, 2006); three years (referred to as at the “most severe end” in L., October 8, 2004); and four years (S.). Previous cases of “repeat offenders” in such cases have resulted in suspensions of four months (W., March 25, 1998); sixteen months (K., May 2003); three years (M.M., August 2005; and D., July, 2005); five years (L., above); and expulsion (B., February, 2007).

[34] This summary, of course, captures only a few of the factors in Mr. Sopinka’s list, most notably the nature of the offence and the degree and likelihood of repetition. A more detailed review of the decisions reveals other important evidence, such as remorse, cooperation with the University, circumstances of the offence, results flowing from different penalties, etc. Another factor seems to be a greater recognition, as time has passed, of the need for significant specific and general deterrence. In our view, we have reached a point where a serious breach of trust such as plagiarism and/or concoction should evoke a response of at least a two-year suspension for a first offence and a three year or longer suspension on a subsequent finding.

[35] Here, a three year suspension for a third offence, having regard to the range of other circumstances that we discussed above, strikes a balance of punishment, compassion, rehabilitation and deterrence.

28. Based on this decision and earlier decision referred to, *The University of Toronto and M.H.H.*, University Discipline Counsel submits that a three and a half year suspension is appropriate in this case. University Discipline Counsel submitted that this is the third offence of plagiarism for the Student. The Tribunal had to consider whether the prior offences should be treated as one prior offence rather than two separate offences. The background in the connection with the two prior offences was then examined by the Tribunal in some detail.
29. The first offence involved obtaining unauthorized assistance in two lab reports that the Student submitted for academic credit which were each worth 5% of the final grade in the course. The two lab reports were submitted on March 21 and 30, 2007. The Student was

interviewed by his professor and the Chair of the Department on April 16, 2007. At that time he admitted guilt and a mark of zero in each report was imposed. He received written notice of the outcome of the interview on June 11, 2007.

30. The second offence was in connection with an assignment which was worth 35% of his final grade in course GGR 333 H5S. This assignment was submitted on April 19, 2007, just three days after he had met with his Professor and the Head of the Department in connection with the two lab reports. In respect of the second offence, he met with Assistant Dean and the Professor on July 16, 2007, at which time he admitted that he had plagiarized the assignment. He received formal notice that he would be given a mark of zero on the assignment on July 17, 2007.
31. The Tribunal concluded that the prior offences should be considered as two separate offences. It is very clear that when Mr. C [REDACTED] submitted the assignment on April 19, 2007, just three days after meeting with the Professor and the Head of the Department in connection with the lab reports that he would be very well aware of what he was doing and that it was wrong.
32. Accordingly, the Tribunal concluded that the Student was well aware of the seriousness of the offence of plagiarism when he submitted the plagiarised assignment in this particular case. The Tribunal also noted that the circumstances in this offence were on the higher threshold of seriousness for this type of offence. Although the Student had not

been previously suspended for plagiarism, we believe that it is appropriate to consider this to be his third offence.

33. One other factor that the Tribunal considered to be of some significance was that the Student was very close to completing the requirements for his degree. His academic record shows that in the first two years of his academic period at the University he performed very well. In the last two years his academic performance slipped considerably. The Tribunal had no evidence before it as to the circumstances that caused the Student's academic performance to deteriorate so significantly.
34. Although the Tribunal considered the proposed penalty to be on the high side, the Tribunal concluded that it should accept the Joint Submission on Penalty. The penalty proposed in the Joint Submission on Penalty is within the range of the appropriate penalties for this offence in these circumstances. The Tribunal concluded that accepting the Joint Submission of Penalty would not be contrary to the public interest or bring the administration justice into disrepute.

### **Order**

35. Accordingly the Tribunal has determined that the penalty in the circumstances is as follows:
- (a) Impose a final grade of zero in the course GGR 335;

- (b) Suspend the Student from the University of Toronto from September 16, 2009 until March 16, 2014;
- (c) Impose a notation on his academic record and transcript stating that he has been found to have committed academic offences until March 16, 2014; and
- (d) Report this case to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed with the Student's name withheld.

Dated November 26, 2009



John Keefe  
The Chair

V5761681

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on May 14, 2009;

**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 -

**G. H. [REDACTED] J. [REDACTED] L. [REDACTED]**

**Hearing Date: October 16, 2009**

**Members of the Panel:**

- Ms. Roslyn Tsao, Barrister and Solicitor, Chair
- Professor Louis Florence, Faculty Panel Member
- Mr. Jamon Camisso, Student Panel Member

**Appearances:**

- Ms. Lily Harmer, Assistant Discipline Counsel for the University, Paliare Roland Barristers
- Ms. Betty-Ann Campbell, Law Clerk, Paliare Roland Barristers
- Professor Janet Poole, Department of East Asian Studies

**In Attendance:**

- Professor Donald Dewees, Dean's Designate, Office of Academic Integrity
- Dr. Tamara Jones, Academic Integrity Officer, Office of Student Academic Integrity
- Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances, Office of Governing Council
- Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances, Office of Governing Council
- G. H. [REDACTED] J. [REDACTED] L. [REDACTED], the Student, not in attendance

### **Reasons**

1. The panel provided its findings regarding guilt and penalty orally at the time of hearing and gave brief oral reasons regarding penalty (see Appendix "A"). We are providing the supplemental reasons in order to provide some background regarding this case and to address certain procedural issues that arose.
2. The Student was charged on May 14, 2009 of the following:
  - (i) On or about November 18, 2008, he knowingly used or possessed an unauthorized aid or aids or obtained assistance in an academic examination or term space, namely In-Class Quiz #2 in EAS 251H1, contrary to section B.I.1(b) of the Code.
  - (ii) On or about November 18, 2008, you knowingly represented as your own an idea, or an expression of an idea, or the work of another, in connection with In-Class Quiz #2, which you submitted for academic credit in EAS 251H1, Aesthetics and Politics in 20<sup>th</sup> Century Korea ("Course"), contrary to section B.I.1(d) of the Code.
  - (iii) In the alternative, on or about November 18, 2008, 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 In-Class Quiz #2, which you submitted for academic credit in the Course, contrary to Section B.I.3(b) of the Code.
3. The Student did not attend at the Hearing. The Tribunal waited until 9:45 a.m., 15 minutes after the scheduled Hearing time, with the doors open to the room, to allow for the Student to appear.

### **Reasonable Notice of Hearing**

4. The University proposed to proceed in the Student's absence and, therefore, had the onus of satisfying the Tribunal that "reasonable notice" of the Hearing has been provided to the Student, pursuant to the *Code* and the *Statutory Powers Procedure Act* ("SPPA"). Reasonable notice of the Hearing must also include a warning to the Student that if he does not attend at the Hearing, the Tribunal may proceed in his absence and the Student will not be entitled to any further notice of the proceeding (s.6(3)(b) of the SPPA) ("the Warning").
5. The University presented evidence to the Tribunal with respect to the steps undertaken to communicate with the Student, advise him of the charges, provide notice of the Hearing and disclosure of the materials, by calling Ms. Betty-Ann Campbell, a law clerk at the firm of Palliare Rolland Rosenberg Rothstein LLP, the University's counsel.



6. Without going into all of the efforts made by the University, as set out in the Affidavit of Betty-Ann Campbell, Exhibit 2, the University did the following:

- On May 14, 2009, the Charges were mailed and e-mailed by the University to the Student by regular mail, to his ROSI address, his ROSI e-mail address.
- On June 22, 2009, Ms. Campbell confirmed the Student's active ROSI to obtain the listed telephone number(s) and mailing and e-mail addresses for the Student.
- Counsel for the University wrote to the Student on June 24, 2009 with a summary of the University's anticipated evidence, the University's documentary disclosure brief ("Disclosure") and 5 proposed dates in August, 2009 for a hearing of the case. Counsel indicated that the student was to contact Ms. Campbell no later than June 30, 2009 for the purpose of scheduling the Hearing. On June 25, 2009, Ms. Campbell e-mailed a copy of counsel's June 24, 2009 letter to the Student's ROSI e-mail address and sent the letter with enclosures by courier to the Student's mailing address.
- On July 6, 2009, Ms. Campbell received a telephone call from the courier that the Disclosure was not delivered to the Student as the concierge indicated that the Student no longer lived at the given address.
- On July 6, 2009, Ms. Campbell attempted to contact the Student by telephone at his ROSI telephone number. The call was answered by an automated message: "The customer you are calling is unavailable at the moment. Please try again later."
- On July 6, 2009, Ms. Campbell also e-mailed the Student requesting a current address, as well as e-mailing the Student an electronic version of the University's Disclosure in four parts.
- On August 19, 2009, Ms. Campbell reconfirmed the Student's active ROSI record. The previous addresses and telephone number continued to be listed.
- On August 19, 2009, Ms Campbell attempted to call the student by telephone and received the same automated message. Ms. Campbell also e-mailed the Student on August 19, 2009 asking for a current address, providing the Student with four Tribunal dates in September and October, 2009 (including October 16, 2009) and indicating that if he failed to respond, then a Hearing date might be set on any of the proposed dates.
- On September 2, 2009, Ms. Campbell attempted to call the Student again and received the same automated message. Ms. Campbell then e-mailed the Office of the Governing Counsel to request a Tribunal hearing date for October 16, 2009, one of the dates proposed in Ms. Campbell's August 19, 2009 e-mail to the Student, and copied this e-mail to the Student's e-mail.

- On September 10, 2009, a Notice of Hearing was issued by the Office of the Governing Counsel for October 16, 2009. The Governing Counsel e-mailed this Notice of Hearing to the Student.
  - On October 8, 2009, Ms. Campbell reconfirmed the Student's active ROSI contact information which was the same. Ms. Campbell then telephoned the student at his ROSI telephone number. A male answered the call and Ms. Campbell asked to speak to "J[REDACTED]". The male confirmed that he was this individual and after Ms. Campbell provided her name and law firm, she indicated that she was calling about the Tribunal Hearing that was set for the following week. The Student said "yes" and Ms. Campbell asked the Student if he was planning on attending the Hearing and the Student indicated that he was not sure. The Student confirmed the e-mail address that the University Counsel and the University had been using to be his email address. At this time, Ms. Campbell indicates that the telephone call was apparently terminated. When she immediately tried to call the Student back, she received the same automated message that she had received before.
7. The Tribunal also received evidence of Alex Nishri by Affidavit sworn October 15, 2009 (Exhibit "3"). Mr. Nishri is the Manager of E-mail and Web Services and Small Systems in the University of Toronto's Information and Technology Services. Mr. Nishri was asked by University Counsel to review the activity record associated with the Student's e-mail account at the University of Toronto, which was his ROSI listed e-mail address. Mr. Nishri's evidence is that during the period of June 26 – September 2, 2009, the Student's e-mail box was accessed only once on August 5, 2009 and the only email that was marked "Read" was the e-mail Ms. Campbell sent to the Student on July 6, 2009 at 3:00 p.m. (Exhibit "2R"). This was the 4<sup>th</sup> e-mail from Ms. Campbell attaching Part 4 of the University's Disclosure Brief and indicated that it was "Further to my previous e-mail...".
8. Mr. Nishri was also asked to review the status of the e-mail sent by the Office of the Governing Counsel to the Student on September 10, 2009, with the Notice of Hearing. Mr. Nishri's evidence is that this e-mail was marked "Read" and that the Student's mailbox was accessed on October 8, 2009 (accordingly, the Student appears to have accessed his e-mail account only on August 5, 2009 and October 8, 2009).
9. The Tribunal is satisfied that the Notice of Hearing (including the Warning) for the October 16, 2009, 9:30 a.m. hearing, the Charges and the University's Disclosure, were served by e-mail to the Student's ROSI e-mail address. The Tribunal is satisfied that the Student has received reasonable notice of the Charges and the Hearing, given the phone discussion between Ms. Campbell and the Student on October 8, 2009 and the apparent opened e-mails in the Student's ROSI e-mail address.

10. Accordingly, the Hearing proceeded without the Student.

**Facts of the Case**

11. The Course instructor, Professor Janet Poole, testified before the Tribunal. Her evidence was the following:
- Professor Poole has been at the University for two years, teaching previously at New York University for 4 years and was engaged in PhD. work at Columbia University before that.
  - Professor Poole taught the Course EAS251H1 beginning in the Fall of 2008. This was the first time that Professor Poole had taught the Course and it was a new course at the University. There were 26 or 27 students in her class and the Student was one of these registered students.
  - The Syllabus for the Course contains a clear warning against plagiarism and Professor Poole testified that on the first day of class, she reviews the Syllabus with the students and the plagiarism warning. Professor Poole testified that she told the students that she will report any case of plagiarism that she finds and that they must avoid plagiarism and treat it seriously, because they have a responsibility to themselves and in this Google age, she can easily identify plagiarism.
  - There was an In-Class Quiz #2 on November 11 scheduled in the Syllabus, but was actually given on November 18. The value of the Quiz was 15% of the Course grade. It was conducted in a regular classroom and consisted of 5 questions, of which the students chose three to answer, with each question being worth 5%. Each question contained a citation from the assigned readings. The student was to identify the author and title (2 points) of the cited reading and provide a brief essay regarding the significance of the passage (3 points). It was scheduled for the first hour of the two hour class.
  - Professor Poole recalls that the classroom was arranged in approximately four rows and each student had an individual desk. There were no books allowed on the desk.
  - Upon reviewing the Student's Quiz answers, Professor Poole noticed a "disparity" in 2 parts of each answer. Professor Poole noted that for each answer, the vocabulary, grammar and sentence structure was markedly different in different parts of the particular answer. Professor Poole also noted that some of the responses contained "far more than what she had taught in class".

- Professor Poole then Googled some of the phrases in the Student's answers and found matches from on-line material (in the Student's answers) which were identical or very similar to passages (Exhibit 1-6, 1-7 and 1-8).
12. Professor Poole e-mailed the Student to meet with her, but the Student did not reply for the first week, but then came to her office during office hours.
  13. Professor Poole then sent another e-mail and the Student replied to say that he would come to her office next week. The Student attended class the next week when the Quiz was being returned, but Professor Poole did not return his. The Student did not come to her office the next day, nor did he show up for the final exam three weeks later.
  14. Professor Poole noted that the Student obtained a grade of 8/15 on Quiz #1, which was a Quiz of the same format. Professor Poole also noted that he had handed in a paper which had serious problems in it, but that he did attend class.
  15. Lastly, Professor Poole noted that the responses given in Quiz #2 that seemed to have been plagiarized were not responsive to the question.

#### **Decision of Tribunal**

16. Based on the evidence tendered by Professor Poole, the Tribunal finds that the Student is guilty of Charge Number 2. The evidence supports a finding that the student used work of another without proper acknowledgment. The evidence demonstrates that work found from internet sources appeared verbatim or near verbatim in the Student's answers.
17. The University has withdrawn the first and third charges and accordingly, there is a finding of guilt on the second charge against the Student.

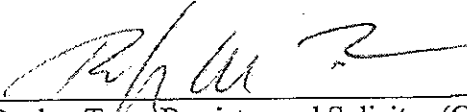
#### **Penalty**

18. Based on oral reasons, given at the Hearing (See Appendix "A"), the panel orders the following:
  - (a) A zero in the course EAS251H1;
  - (b) A two-year suspension;
  - (c) A notation on the Student's record and academic transcript for a period of two years; and

- (d) The Tribunal shall report the case to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University newspapers with the name of the student withheld.

I certify that this is the decision of the Panel

December 16, 2009  
Date

  
Roslyn Tsao, Barrister and Solicitor (Chair)

## Appendix "A"

### Transcription of the Finding of Guilt Delivered by the Chair During the Hearing

1. Chair: We have taken a brief recess to discuss this matter. We do not need to hear from you Ms. Harmer with respect to submissions on a finding of guilt. We are prepared, on the evidence that has been tendered to us, to make a finding of guilt on the second charge, on the list of charges. And, are charges 1 and 3 are withdrawn?
2. Ms. Harmer: That's correct.
3. Chair: OK.
4. Ms. Harmer: Thank you very much. If I could move on to the sanction stage, I will attempt to be brief.
5. Chair: Yes, please.

### Transcription of Oral Reasons Regarding Penalty Delivered by the Chair at the Conclusion of the Hearing

1. We have decided to impose a penalty of the following. First, a zero grade in the course in question. And, second, a two-year suspension commencing today.
2. In terms of the third aspect, which is the notation, this has troubled the Panel the most and caused the most discussion. The University has requested three years. We are prepared to impose a two-year notation.
3. The Panel has some difficulty finding the link between the length, the more lengthy notation and individual deterrence.
4. On the second reason for requesting the extended notation by Ms. Harmer, and that is for the purposes of giving information to the University, again the Panel is not sure that it is the appropriate function of the panel to address this concern in imposing penalty. We certainly recognize that the incidence of plagiarism is growing and that the University requires all tools to combat it, and it may be that the penalties in *the Code* should consider whether the aspect of the notations should be left on the student's records as of course until graduation. But that, in our view, is perhaps a policy decision rather than something that the Tribunal should be considering in individual cases.
5. In these particular facts, given that this is a first-time offence for the student and that he is an undergraduate student in second year, we do not feel that it is appropriate to extend the notation past the two-year suspension period.

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER** of charges of academic dishonesty made on July 8, 2009

**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-**

**J [REDACTED] D [REDACTED]**

**Hearing Date: August 21, 2009**

**Members of the Panel:**

- Ms. Janet E. Minor, Barrister and Solicitor (Chair)
- Professor Kathi Wilson, Associate Professor, Department of Geography (Faculty Member)
- Mr. Jamon Camisso (Student Member)

**Appearances:**

- Mr. Rob Centa, Assistant Discipline Counsel, Paliare Roland Barristers

**In Attendance:**

- Lucy Gaspini, Academic Affairs Officer, Office of the Dean University of Toronto Mississauga
- Mr. Henry T. Mulhall, Assistant Secretary of the Governing Council, Office of Governing Council
- Mr. J [REDACTED] D [REDACTED], the Student, not in attendance

**Transcription of Oral Reasons Delivered by the Chair at the Conclusion of the Hearing**

- [1] We have reviewed the Agreed Statement of Facts on Sanction and the Joint Submission and the cases referred to in the authorities and we are prepared to accept the Joint Submission on Sanction. As we have noted, there is a presumption that a joint submission will be accepted assuming that it is within the range of reasonable sanctions and is in the public interest.
- [2] We have reviewed the cases and think that this is within the range. We are therefore prepared to order that the appropriate penalty is a final grade of zero in the course POL 442; that Mr. D█████ be suspended from August 21st, 2009, until February 21st, 2013; that a notation be imposed on his academic record until February 21st, 2014, noting that he has been found to have committed academic offences; and that the case be reported to the Provost, who may publish a notice of the sanctions imposed with the student's name withheld.
- [3] We have already found that the student committed academic offences as set out in the Notice of Hearing and Charges. On reviewing the Agreed Statement of Facts we observe that Mr. D█████ was enrolled at the University of Toronto in Mississauga and has been since the fall of 2004. In the summer of 2008, Mr. D█████ provided an essay in Poli Sci 442, "Topics in Latin America: Civil Society and Democracy in Latin America" taught by Professor Marciaj.
- [4] The course required completion of a research essay worth 40 per cent of the final grade and Mr. D█████ submitted an essay entitled "What would be the best way that civil society groups could help build democracy in Latin America?" Mr. D█████ admits that in the essay he included verbatim and nearly verbatim excerpts from the introduction to "Democracy in Latin America: Reconstructing Political Society", edited by M.A. Garreton and V. Newman. Those excerpts were not attributed and they were represented as his own. He did no meaningful work on the essay and he admits he committed the academic offence of plagiarism. With respect to that essay, which we have reviewed, there was virtually no meaningful academic work done at all. It was a compilation of plagiarized excerpts.
- [5] With respect to the second allegation that he concocted references, he admits that he did so. The concoction relates to the noting of a footnote which was not accurate. It was provided in order to conceal the plagiarism that otherwise he had been relying on and so we find that he was also guilty of that charge.
- [6] The University provided us with a Joint Submission on Penalty. The penalty suggested was an imposition of a final grade of zero in the course POL 442; a suspension of Mr. D█████ from the university from August 21st, 2009 until February 21st, 2013; the imposition of a notation on his academic record until February 21st, 2014, noting that he has been found to have committed academic



offences; and reporting of the case to the Provost who may publish a notice of the decision and the sanctions with the student's name withheld.

- [7] We have reviewed the Agreed Statement of Facts on sanction and note that the principles of sanctioning which are set out in Re: Mr. C., 1976-1977, an often-quoted case, contemplate the examination of a number of factors including the nature of the offence, the character of the student, the damage to the University, specific deterrence and general deterrence, and any mitigating factors that may have been offered.
- [8] We note first that the Student has acknowledged his responsibility and entered into an Agreed Statement of Facts both on the offences and the sanction. The Student did not appear, and so provided no further evidence on any mitigating circumstances that he might have relied on. As a result, we have no indication other than the fact that he agreed to the hearing proceeding on the Agreed Statement of Facts. We have no other information with respect to his character.
- [9] The University submits that the panel should also take into account two previous offences for which the student received a sanction. These are set out in the Agreed Statement of Facts. The Student admitted to two other acts of plagiarism, both in Poli Sci courses, and they occurred approximately at the same time, so that they were considered two concurrent offences rather than very separate offences. Nonetheless, the sanctions were imposed on July 3rd, 2008.
- [10] The Student met with his professors and the dean designate on July 3rd, 2008, when he acknowledged that he had committed plagiarism in those assignments. He received a letter July 13th, 2008 setting out the penalties with respect to those offences. The offence in this case was committed July 31st, 2008, very shortly after the other two.
- [11] This fact gives us great concern. It would appear that the Student did not learn from his two previous incidents of misconduct and was prepared to continue in the same way some three weeks thereafter.
- [12] With respect to the concerns of the University, we rely on and agree with the statements made by the panel in the case of the University of Toronto and MHH, where the panel noted that:
- Plagiarism is an extremely serious offence which undermines the relationship of trust which must exist between a university and its students.
- [13] The panel referred to the University of Toronto and SB from November 2007:

It hardly needs to be said that the credibility and academic mission of the university and the degrees which it awards to students can be greatly harmed by the commission of offences of plagiarism and concoction.

[14] We have reviewed the cases provided to us by the university with similar offences and we are satisfied that the proposed Joint Submission on Penalty falls within the reasonable range of penalties for these offences and we so order.

[15] The Panel ordered the following:

- 1) A final grade of zero in the course Poli Sci 442;
- 2) That Mr. D [REDACTED] be suspended from August 21st, 2009, until February 21st, 2013;
- 3) That a notation be imposed on his academic record until February 21st, 2014, noting that he has been found to have committed academic offences; and,
- 4) That the case be reported to the Provost, who may publish a notice of the sanctions imposed with the student's name withheld.

I certify that this is the decision of the Panel

Dec. 22, 2009.

Date

Janet E. Minor

Janet E. Minor (Chair)

### Agreed Statement of Facts

1. For the purposes of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the University of Toronto (the "University") and J [REDACTED] (J [REDACTED]) D [REDACTED] ("Mr. D [REDACTED]") have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD").

The University and Mr. D [REDACTED] agree that:

- a. they consent to the admission into evidence of each document contained in the JBD for all purposes, including for the truth of its contents, without further need to prove the document; and
- b. if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. This hearing arises out of charges of academic misconduct filed by the Provost under the *Code*. A copy of the Charges, which were filed on July 8, 2009, is included in the JBD at Tab

1. Mr. D [REDACTED] acknowledges that he received a copy of the Charges

3. In Fall 2004, Mr. D [REDACTED] registered in the University of Toronto Mississauga. At all material times, Mr. D [REDACTED] remained enrolled at the University. A copy of Mr. D [REDACTED]'s academic record dated June 26, 2009, is found in the JBD at Tab 2.

4. In Summer 2008, Mr. D [REDACTED] enrolled in POL 442 – Topics in Latin America: Civil Society and Democracy in Latin America, which was taught by Professor Juan Pereira Marsiaj ("Course"). A copy of the syllabus for the Course is found in the JBD at Tab 3. Mr. D [REDACTED] admits that he received a copy of the syllabus for the Course.

5. One of the Course assignments was to complete a research essay, which was worth 40% of the final grade in the Course. For his research essay, on July 31, 2008, Mr. D [REDACTED] submitted an essay titled "What would be the best way that civil society groups could help build democracy in Latin America?" ("Essay") A copy of Essay is found in the JBD at Tab 4.

6. With respect to the Essay, Mr. D [REDACTED] admits that he knowingly:

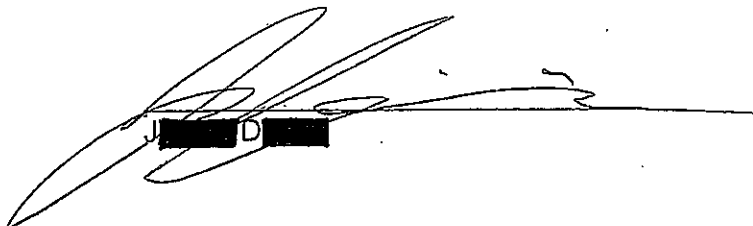
- a. included verbatim and nearly verbatim excerpts from the Introduction to *Democracy in Latin America: (re) constructing political society*, which was edited by M.A. Garretón and E. Newman, a copy of which is found in the JBD at Tab 5 ("Introduction");
- b. failed to attribute those excerpts appropriately using quotation marks;
- c. had represented as his own an idea or expression of an idea or work of another;
- d. did no meaningful academic work on the Essay; and
- e. committed the academic offence of plagiarism with respect to the Essay as set out in charge #1 of the Charges, which are included in the JBD at Tab 2.

7. Furthermore, Mr. D [REDACTED] admits that he concocted the references that he included in the Essay, and that the Introduction (JBD Tab 5) was actual source of the material in the Essay. Mr. D [REDACTED] admits that committed the academic offence as set out in charge #2 of the Charges, which are included in the JBD at Tab 2.


8. Mr. D [REDACTED] acknowledges that the Provost of the University of Toronto has:

- a. made no representations or promises as to what sanction the Provost will seek in this case;
- b. advised him to obtain independent legal advice before signing this ASF and that he has either done so or deliberately waived his right to do so.

Signed in Toronto on July 30, 2009.

  
J. [REDACTED] D. [REDACTED]

Signed in Toronto on July 30, 2009.

  
Robert A. Centa  
Assistant Discipline Counsel  
University of Toronto

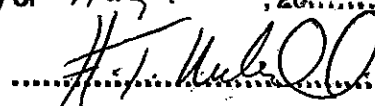
NO. 1

**THE UNIVERSITY TRIBUNAL  
UNIVERSITY OF TORONTO**

AND

Mr. J D

.....  
This Exhibit is produced by  
the Discipline Counsel  
.....  
this 21<sup>st</sup> day of Aug., 2009

  
.....

University of Toronto and J [REDACTED] (J [REDACTED]) D [REDACTED] ([REDACTED])

**JOINT SUBMISSION ON PENALTY**

1. The Provost and Mr. D [REDACTED] submit that the appropriate penalty in all the circumstances of the case is that the University Tribunal:

- a. impose a final grade of zero in the course POL 442 – Topics in Latin America: Civil Society and Democracy in Latin America;
- b. suspend Mr. D [REDACTED] from the University of Toronto from August 21, 2009 until February 21, 2013;
- c. impose a notation until February 21, 2014, on his academic record and transcript stating that he has been found to have committed academic offences; and
- d. report this case to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed, with Mr. D [REDACTED]'s name withheld.

2. Mr. D [REDACTED] acknowledges that the University of Toronto has advised him to obtain independent legal advice before signing this Joint Submission on Penalty and that he has either done so or waived his right to do so.

Signed in Toronto on August 18, 2009.

NO. 4

**THE UNIVERSITY TRIBUNAL  
UNIVERSITY OF TORONTO**

AND  
Signed in Toronto on August 18, 2009.

Mr. J [REDACTED] D [REDACTED]

This Exhibit is produced by

he Discipline Counsel

his 21<sup>st</sup> day of Aug., 2009

#T. M. [REDACTED]

[Signature]  
J [REDACTED] D [REDACTED]

[Signature]  
Robert A. Centa  
Assistant Discipline Counsel  
University of Toronto

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on August 11, 2009;

**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 -

F [REDACTED] Z [REDACTED]

**Hearing date: Thursday, January 5, 2010**

**PANEL:**

- Mr. Clifford Lax, Barrister and Solicitor, Chair
- Professor Graeme Hirst, Faculty Panel Member
- Mr. Jamon Camisso, Student Panel Member

**APPEARANCES:**

- Ms. Lily Harmer, Assistant Discipline Counsel for the University, Paliare Roland Barristers
- Ms. Kristi Gourlay, Manager, Office of Student Academic Integrity, Faculty of Arts and Science
- Mr. Michael Nicholson, University College Registrar

**IN ATTENDANCE:**

- Professor Sam Solecki, Dean's Designate, Office of Student Academic Integrity
- Ms. Betty-Ann Campbell, Law Clerk, Paliare Roland Barristers
- Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances, Office of Governing Council
- Mr. F [REDACTED] Z [REDACTED], the Student, not in attendance

**Finding of Guilt:**

[1] The panel is satisfied that Mr. Z [REDACTED] committed the offence for which he is charged in count number one.

**Transcription of Reasons Delivered by Chair at the Conclusion of the Hearing:**

[2] Mr. F [REDACTED] Z [REDACTED] is charged with an offence contrary to the Code of Behaviour on Academic Matters of the University of Toronto.

[3] It is alleged that he forged or altered or falsified an academic record of the University which, in this case, was a degree from the University of Toronto.

[4] In the evidence (Exhibit five), is a photocopy of what purports to be a University of Toronto degree. The evidence clearly indicates that it was not a degree issued by the University. In particular, the University of Toronto does not grant an Honours Bachelor of Commerce degree as this purported degree claims. So *prima facie*, the degree, was not one that the University of Toronto offers and certainly was never granted to Mr. F [REDACTED] Z [REDACTED].

[5] There are other *indicia* indicating that the alleged degree was forged. In particular, the print font used for the word "Commerce" as part of the purported Honours Bachelor of Commerce degree, is not the same as the font used for the preceding words "Honours Bachelor of .....", indicating the alteration of a commerce degree.

[6] The panel is satisfied that Mr. Z [REDACTED] either directly or indirectly caused this document to be forged to give the indication that he had graduated with a degree from the University of Toronto.

[7] In fact, he did not graduate at all from the University of Toronto. His academic credits while a student at the University of Toronto fell well short of entitling him to graduate.

[8] As is often the case with students who leave Canada in the face of these kinds of charges, the University has to establish that the student received actual notice of the pending charges. This is not easily done. However, in this case, by an examination of the university website and the student's personal internet mailbox, the panel is satisfied that the notices that were provided to Mr. Z [REDACTED] electronically were in fact received and subsequently deleted by someone having access to the student's personal mailbox. The inference can be drawn that it was Mr. Z [REDACTED], who reviewed the charges and deleted the relevant documents from his internet mailbox.



[9] We therefore conclude that he received proper notice of the charge and of this hearing.

[10] Forgery of an academic record is one of the most serious offences set out in the Code of Behaviour on Academic Matters. In line with prior decisions of this Tribunal, the author of forged documents or the person responsible for causing the forgeries to be made is typically expelled from the University. There is no reason to deviate from such penalty, in this case.

[11] Therefore:

1. Mr. Z [REDACTED] shall be immediately suspended from the University for a period of up to five years; and
2. This Tribunal recommends to the President of the University that the President recommend to governing council that Mr. Z [REDACTED] be expelled from the University; and,
3. This Tribunal reports this case to the Provost for publication of a notice of this decision, or of the sanction imposed by this Tribunal to be published in the university newspapers with Mr. Z [REDACTED]'s name withheld.

[12] The Tribunal wishes to note its concern over the existing provision in the Code of Behaviour on Academic Matters which grants the guilty student anonymity. We are told that expulsion is primarily sought for its deterrent value. If that is the primary goal, the Tribunal believes that the deterrent value would be significantly enhanced if the student once found guilty, was subsequently identified by name. Other students would then appreciate the seriousness of the offence. While we have no power to amend the existing code, we hope that the Provost and the Governing Council will take seriously our recommendation that students, once expelled from the university, are no longer entitled to anonymity.

Date: January 11, 2010

  
\_\_\_\_\_  
Clifford Lax, Q.C., Chair

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on July 10, 2009;

**IN THE MATTER OF** the *University of Toronto Act*, 1971, S.O. 1971, c. 56 as amended S.O. 1978, c. 88

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

**BETWEEN:**

**THE UNIVERSITY OF TORONTO**

- and -

I [REDACTED] M [REDACTED]

**Members of the Panel:**

- Lisa Brownstone, Chair
- Professor Bruno Magliocchetti, Faculty Panel Member
- Mr. Jamon Camisso, Student Panel Member

**Appearances:**

- Robert Centa and Tina Lee, Assistant Discipline Counsel
- Ms Lucy Gaspini, University of Toronto Mississauga
- Mr. Jordan Giurlanda, Student Legal Representative
- Mr. I [REDACTED] M [REDACTED], Student

**Preliminary**

- [1] The Trial Division of the University Tribunal was convened on October 27, 2009 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters*, 1995 (the "Code"), laid against the student by letter dated July 10, 2009 from Professor Edith Hillan, Vice-Provost, Academic.

**Hearing on the Facts**

- [2] The student faced 16 charges, as follows:

**CHM 221 Charges**

- (1) On or about May 7, 2008, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered,

circulated or made use of any such forged, altered or falsified document, namely, a medical note purportedly prepared by Dr. M. Atalla, in support of a petition filed in CHM 221, contrary to section 8.1.1 (a) of the Code.

- (2) In the alternative, on or about May 7, 2008, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a medical note purportedly prepared by Dr. M. Atalla, in support of a petition filed in CHM 221, contrary to section 8.1.3(b) of the Code.
- (3) On or about September 8, 2008, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a medical note purportedly prepared by Dr. M. Atalla, in support of a further petition filed in CHM 221, contrary to section 8.1.1 (a) of the Code.
- (4) In the alternative, on or about September 8, 2008, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a medical note purportedly prepared by Dr. M. Atalla, in support of a further petition filed in CHM 221, contrary to section B.1.3(b) of the Code.

#### **ENG 140 Charges**

- (5) On or about May 7, 2008, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a medical note purportedly prepared by Dr. M. Atalla, in support of a petition filed in ENG 140, contrary to section B.1.1 (a) of the Code.
- (6) In the alternative, on or about May 7, 2008, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a medical note purportedly prepared by Dr. M. Atalla, in support of a petition filed in ENG 140, contrary to section B.1.3(b) of the Code.

#### **PHL 283 Charges**

- (7) On or about May 7, 2008, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a medical note purportedly prepared by Dr. M. Atalla, in support of a petition filed in PHL 283, contrary to section B.1.1 (a) of the Code.

- (8) In the alternative, on or about May 7, 2008, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a medical note purportedly prepared by Dr. M. Atalla, in support of a petition filed in PHL 283, contrary to section B.1.3(b) of the Code.

#### **BIO 380 Charges**

- (9) On or about January 9, 2009, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a medical note purportedly prepared by Dr. M. Atalla, in support of a petition in BIO 380, contrary to section B.1.1 (a) of the Code.
- (10) In the alternative, on or about January 9, 2009, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a medical note purportedly prepared by Dr. M. Atalla, in support of a petition in BIO 380, contrary to section B.1.3(b) of the Code.
- (11) On or about March 2, 2009, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a medical note purportedly prepared by Dr. S.D. Solomon, in support of a petition in BIO 380, contrary to Section B.1.1 (a) of the Code.
- (12) In the alternative, on or about March 2, 2009, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a medical note purportedly prepared by Dr. S.D. Solomon, in support of a petition in BIO 380, contrary to section B.1.3(b) of the Code.

#### **BIO 315 Charges**

- (13) On or about January 9, 2009, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a medical note purportedly prepared by Dr. M. Atalla, in support of a petition in BIO 315, contrary to section B.1.1 (a) of the Code.
- (14) 14. In the alternative, on or about January 9, 2009, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a medical note

purportedly prepared by Dr. M. Atalla, in support of a petition in BIO 315, contrary to section B.1.3(b) of the Code.

- (15) On or about March 2, 2009, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a medical note purportedly prepared by Dr. M. Atalla, in support of a petition in BIO 315, contrary to Section B.1.1(a) of the Code.
  - (16) In the alternative, on or about March 2, 2009, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a medical note purportedly prepared by Dr. M. Atalla, in support of a petition in BIO 315, contrary to section B.1.3(b) of the Code.
- [3] Discipline counsel advised that charges (1), (3), (5), (7), (9), (11), (13) and (15) were the principal charges, while charges (2), (4), (6), (8), (10), (12), and (14) were alternative charges, which would be withdrawn if the Panel were to make a finding on the principal charges.
- [4] Particulars of the Charges were set out as follows:
- (i) At all material times, you have been enrolled at the University of Toronto at Mississauga. In Winter 2008, you enrolled in:
    - a. CHM 221 - Introductory Physical Chemistry
    - b. ENG 140 - Literature for our times
    - c. PHL 283 - Bioethics
  - (ii) In Fall 2008, you enrolled in
    - a. BIO 315 - Advanced Cell Biology
    - b. BIO 380 - Human Development
  - (iii) With respect to charges 1 and 2, on or about April 26, 2008, you submitted an on-line petition for "deferral of unwritten final examination" in CHM 221. On May 7, 2008, you handed in to the Office of the Registrar at the University of Toronto Mississauga a University of Toronto Medical Certificate dated April 21, 2008. The medical certificate was purportedly signed by Dr. M. Atalla in Brampton.
  - (iv) With respect to charges 3 and 4, on or about August 29, 2008, you submitted an on-line petition for further "deferral of unwritten final examination" in CHM 221. On or about September 8, 2008, you handed in to the Office of the Registrar at the University of Toronto Mississauga a University of Toronto Medical Certificate dated August 28, 2008. The medical certificate was purportedly signed by Dr. M. Atalla.

- (v) With respect to charges 5 and 6, on or about April 26, 2008, you submitted an on-line petition for "deferral of unwritten final examination" in ENG 140. On or about May 7, 2008, you handed in to the Office of the Registrar at the University of Toronto Mississauga a University of Toronto Medical Certificate dated April 26, 2008. The medical certificate was purportedly signed by Dr. M. Atalla.
- (vi) With respect to charges 7 and 8, on or about April 26, 2008, you submitted an on-line petition for "deferral of unwritten final examination" in PHL 283. On or about May 7, 2008, you handed in to the Office of the Registrar at the University of Toronto Mississauga a University of Toronto Medical Certificate dated April 26, 2008. The medical certificate was purportedly signed by Dr. M. Atalla.
- (vii) With respect to charges 9 and 10, on or about December 23, 2008, you submitted an on-line petition for "deferral of unwritten final examination" in BIO 380. On or about January 9, 2009, you handed in to the Office of the Registrar at the University of Toronto Mississauga a University of Toronto Medical Certificate dated December 9, 2008. The medical certificate was purportedly signed by Dr. M. Atalla.
- (viii) With respect to charges 11 and 12, on or about February 21, 2009, you submitted an on-line petition for "deferral of unwritten final examination" in BIO 380. On or about March 2, 2009, you handed in to the Office of the Registrar at the University of Toronto Mississauga a University of Toronto Medical Certificate dated February 11, 2009. The medical certificate was purportedly signed by Dr. S. Solomon of the Rexdale Medical Centre in Rexdale.
- (ix) With respect to charges 13 and 14, on or about December 22, 2008, you submitted an on-line petition for "deferral of unwritten final examination" in BIO 315. On or about January 9, 2009, you handed in to the Office of the Registrar at the University of Toronto Mississauga a University of Toronto Medical Certificate dated December 18, 2008. The medical certificate was purportedly signed by Dr. M. Atalla.
- (x) With respect to charges 15 and 16, on or about February 21, 2009, you submitted an on-line petition for a further "deferral of unwritten final examination" in BIO 315. On or about March 2, 2009, you handed in to the Office of the Registrar at the University of Toronto Mississauga a University of Toronto Medical Certificate dated February 18, 2009. The medical certificate was purportedly signed by Dr. M. Atalla.
- (xi) With respect to all charges:
  - a. none of the medical certificates that you submitted were authentic;
  - b. none of the medical certificates were signed by a medical doctor;
- (xii) You knowingly submitted notes that you had either forged, falsified or altered, or that you knew had been forged, falsified or altered.

- (xiii) You submitted these forged, falsified or altered notes in support of your petition requests in the courses and to obtain an academic advantage.

[5] The parties provided the Panel with an Agreed Statement of Facts, which provided in relevant part as follows:

- (1) In Fall 2004, Mr. M████ registered in the University of Toronto Mississauga. At all material times, Mr. M████ remained enrolled at the University. He submitted an application to graduate in June 2009, but he has not graduated.
- (2) In Winter 2008, Mr. M████ enrolled in four courses, including CHM 221 - Introductory Physical Chemistry, ENG 140 - Literature for our times, and PHL 283 - Bioethics. In Fall 2008, Mr. M████ enrolled in three courses, including BIO 315 - Advanced Cell Biology, and BIO 380 - Human Development.
- (3) As set out below, Mr. M████ admits that he knowingly committed academic offences as set out in charge #1, 3, 5, 7, 9, 11, 13, and 15 of the Charges. He hereby pleads guilty to those offences.

#### **A. April 21 Medical Certificate**

- (4) On April 26, 2008, Mr. M████ submitted an on-line petition for "deferral of unwritten final examination" in CHM 221. On May 7, 2008, Mr. M████ submitted a University of Toronto Medical Certificate dated April 21, 2008, to the Office of the Registrar at the University of Toronto Mississauga ("April 21 medical certificate"). The April 21 medical certificate was purportedly signed by Dr. M. Atalla.
- (5) Mr. M████ understood that the University required him to submit a signed medical certificate in support of his petition for academic consideration based on an illness. He admits that he submitted the April 21 medical certificate in support of his petition for consideration in CHM 221.
- (6) The University accepted the medical documentation provided by Mr. M████ without confirming its authenticity. On May 11, 2008, the University granted Mr. M████'s petition and permitted him to write a special deferred examination during the week of August 25 to 29, 2009.
- (7) Mr. M████ admits that he did not see Dr. Atalla on April 21. Mr. M████ admits that he wrote the information set out on the April 21 medical certificate, which is false, and that he also forged Dr. Atalla's signature on the April 21 medical certificate. Mr. M████ admits that he knowingly falsified and forged a document that he submitted to the University in support of his petition for academic consideration.

### B. April 26 Medical Certificate

- (8) On April 26, 2008, Mr. M████ submitted an on-line petition for "deferral of unwritten final examination" in ENG 140 and PHL 283. On May 7, 2008, Mr. M████ submitted a University of Toronto Medical Certificate dated April 26, 2008, to the Office of the Registrar at the University of Toronto Mississauga ("April 26 medical certificate"). The April 26 medical certificate was purportedly signed by Dr. M. Atalla.
- (9) Mr. M████ understood that the University required him to submit a signed medical certificate in support of his petition for academic consideration based on an illness. He admits that he submitted the April 26 medical certificate in support of his petition for consideration in ENG 140 and PHL 283.
- (10) The University accepted the medical documentation provided by Mr. M████ without confirming its authenticity. On May 11, 2008, the University granted Mr. M████'s petitions and permitted him to write special deferred examinations during the week of August 25 to 29, 2009.
- (11) Mr. M████ admits that he did not see Dr. Atalla on April 26. Mr. M████ admits that he wrote the information set out on the April 26 medical certificate, which is false, and that he also forged Dr. Atalla's signature on the April 26 medical certificate. Mr. M████ admits that he knowingly falsified and forged a document that he submitted to the University in support of his petition for academic consideration.

### C. August 28 Medical Certificate

- (12) On August 29, 2008, Mr. M████ submitted an on-line petition for a further "deferral of unwritten final examination" in CHM 221. On September 8, 2008, Mr. M████ submitted a University of Toronto Medical Certificate dated August 28, 2008, to the Office of the Registrar at the University of Toronto Mississauga ("August 28 medical certificate"). The August 28 medical certificate was purportedly signed by Dr. M. Atalla.
- (13) Mr. M████ understood that the University required him to submit a signed medical certificate in support of his petition for academic consideration based on an illness. He admits that he submitted the August 28 medical certificate in support of his petition for consideration in CHM 221.
- (14) The University accepted the medical documentation provided by Mr. M████ without confirming its authenticity. On September 19, 2008, the University granted Mr. M████'s petition for a further deferral and permitted him to write a regular deferred examination during the April 2009 exam period. The University advised Mr. M████ to audit the course. The University advised Mr. M████ that no further petitions for this course would be considered.



- (15) Mr. M█████ admits that he did not see Dr. Atalla on August 28. Mr. M█████ admits that he wrote the information set out on the August 28 medical certificate, which is false, and that he also forged Dr. Atalla's signature on the August 28 medical certificate. Mr. M█████ admits that he knowingly falsified and forged a document that he submitted to the University in support of his petition for academic consideration.

#### **D. December 9 Medical Certificate**

- (16) On December 23, 2008, Mr. M█████ submitted an on-line petition for a "deferral of unwritten final examination" in BIO 380. On January 9, 2009, Mr. M█████ submitted a University of Toronto Medical Certificate dated December 9, 2008, to the Office of the Registrar at the University of Toronto Mississauga ("December 9 medical certificate"). The December 9 medical certificate was purportedly signed by Dr. M. Atalla.
- (17) Mr. M█████ understood that the University required him to submit a signed medical certificate in support of his petition for academic consideration based on an illness. He admits that he submitted the December 9 medical certificate in support of his petition for consideration in BIO 380.
- (18) The University accepted the medical documentation provided by Mr. M█████ without confirming its authenticity. On January 19, 2009, the University granted Mr. M█████'s petition and permitted him to write a special deferred examination during the week of February 17 to 20, 2009.
- (19) Mr. M█████ admits that he did not see Dr. Atalla on December 9. Mr. M█████ admits that he wrote the information set out on the December 9 medical certificate, which is false, and that he also forged Dr. Atalla's signature on the December 9 medical certificate. Mr. M█████ admits that he knowingly falsified and forged a document that he submitted to the University in support of his petition for academic consideration.

#### **E. December 18 Medical Certificate**

- (20) On December 23, 2008, Mr. M█████ submitted an on-line petition for a "deferral of unwritten final examination" in BIO 315. On January 9, 2009, Mr. M█████ submitted a University of Toronto Medical Certificate dated December 18, 2008, to the Office of the Registrar at the University of Toronto Mississauga ("December 18 medical certificate"). The December 18 medical certificate was purportedly signed by Dr. M. Atalla.
- (21) Mr. M█████ understood that the University required him to submit a signed medical certificate in support of his petition for academic consideration based on an illness. He admits that he submitted the December 18 medical certificate in support of his petition for consideration in BIO 315.

- (22) The University accepted the medical documentation provided by Mr. M[REDACTED] without confirming its authenticity. On January 19, 2009, the University granted Mr. M[REDACTED]'s petition and permitted him to write a special deferred examination during the week of February 17 to 20, 2009.
- (23) Mr. M[REDACTED] admits that he did not see Dr. Atalla on December 18. Mr. M[REDACTED] admits that he wrote the information set out on the December 18 medical certificate, which is false, and that he also forged Dr. Atalla's signature on the December 18 medical certificate. Mr. M[REDACTED] admits that he knowingly falsified and forged a document that he submitted to the University in support of his petition for academic consideration.

#### **F. February 19, 2009, Medical Certificate**

- (24) On February 21, 2009, Mr. M[REDACTED] submitted an on-line petition for a "deferral of unwritten final examination" in BIO 380. On March 2, 2009, Mr. M[REDACTED] submitted a University of Toronto Medical Certificate dated February 19, 2009, to the Office of the Registrar at the University of Toronto Mississauga ("February 19, 2009, medical certificate"). The February 19, 2009, medical certificate was purportedly signed by Dr. S. Solomon.
- (25) Mr. M[REDACTED] understood that the University required him to submit a signed medical certificate in support of his petition for academic consideration based on an illness. He admits that he submitted the February 19, 2009, medical certificate in support of his petition for consideration in BIO 380.
- (26) On March 11, 2009, the Office of the Registrar contacted Dr. Solomon to confirm the authenticity of the February 19, 2009, medical certificate. Dr. Solomon stated that he did not see Mr. M[REDACTED] on that date and did not sign the medical certificate.
- (27) Mr. M[REDACTED] admits that he did not see Dr. Solomon on February 19, 2009. Mr. M[REDACTED] admits that he wrote the information set out on the February 19, 2009, medical certificate, which is false, and that he also forged Dr. Solomon's signature on the February 19, 2009, medical certificate. Mr. M[REDACTED] admits that he knowingly falsified and forged a document that he submitted to the University in support of his request for academic consideration.

#### **G. February 18, 2009, Medical Certificate**

- (28) On February 21, 2009, Mr. M[REDACTED] submitted an on-line petition for a further "deferral of unwritten final examination" in BIO 315. On March 2, 2009, Mr. M[REDACTED] submitted a University of Toronto Medical Certificate dated February 18, 2009, to the Office of the Registrar at the University of Toronto Mississauga ("February 18, 2009, medical certificate"). The February 18, 2009, medical certificate was purportedly signed by Dr. M. Atalla.

- (29) Mr. M[REDACTED] understood that the University required him to submit a signed medical certificate in support of his petition for academic consideration based on an illness. He admits that he submitted the February 18, 2009, medical certificate in support of his petition for consideration in BIO 315.
- (30) On March 11, 2009, the Office of the Registrar contacted Dr. Atalla to confirm the authenticity of the February 18, 2009, medical certificate, and the five other certificates that Mr. M[REDACTED] had submitted that purported to be signed by Dr. Atalla. Dr. Atalla stated that he did not see Mr. M[REDACTED] on those dates and did not sign the medical certificates.
- (31) Mr. M[REDACTED] admits that he did not see Dr. Atalla on February 18, 2009. Mr. M[REDACTED] admits that he wrote the information set out on the February 18, 2009, medical certificate, which is false, and that he also forged Dr. Atalla's signature on the February 18, 2009, medical certificate. Mr. M[REDACTED] admits that he knowingly falsified and forged a document that he submitted to the University in support of his petition for academic consideration.

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

- [6] On the basis of the Agreed Statement of Facts, the Tribunal accepted the plea and found contraventions of the *Code* as set out in the principal charges (1, 3, 5, 7, 9, 11, 13 and 15). At this time, the University withdrew the alternative charges (2, 4, 6, 8, 10, 12, 14 and 16).

#### **Penalty Phase**

- [7] The student filed a series of documents on sanctions which included previous medical information and information about the student's financial situation. In addition, the student was affirmed and read a pre-written statement to the Panel. The Panel views the contents of the statement as important, and therefore reproduces it here in full:

Dear Members of the Panel,

I am writing this statement to express my remorse for my academic offenses at the University of Toronto. I am deeply ashamed of my behaviour, and saddened by the negative impacts this event has had on the University, my family, my doctor, and my fellow students. This situation is especially troubling at this point in time, as I am currently a few courses away from graduating at the University of Toronto.

There are no excuses for my conduct. However, it is relevant that I explain how I ended up in this position. This way, the University may be in a better position to understand the reasons for my actions, and use that knowledge to prevent other students from making the same mistakes.

At the time of the offenses, I lived with my single mother and two younger sisters. I have been the only male in my household since I was 8 years old. My family has previously been on welfare. My mother, who speaks very little English, is currently working 50 hours a week on an assembly line. She has an annual income that is less than \$20,000, and I have accrued approximately \$30,000 in OSAP debt to fund my education.

From a very young age, I have been charged with the responsibility of cooking and cleaning for my two younger sisters, as well as attending to many other household chores. I also have the responsibility of paying my family's bills and tending to the majority of our administrative matters. While I was enrolled at UTM, my daily commute between my home and campus was approximately 3 hours. The demands of my family situation have prevented me from getting involved in any extra-curricular activities at the University.

I see my education as necessary to improve my family's economic situation. This has resulted in an intense pressure I feel to succeed. Without a degree, I am concerned that I will be unable to find employment that can improve the standard of living for my mother and sisters. Furthermore, my family will be burdened with a \$30,000 debt that will be extremely difficult to repay without my post-secondary education, and the employment opportunities that follow.

This continuous pressure has been the cause of the anxiety I began to experience while preparing and writing my exams at the University. I realize that it is common for many students to experience exam-related anxiety, but I have found the severity of my reactions to be uncharacteristic of typical stress or tension. Prior to exams, I would experience symptoms such as: panic attacks, sleeplessness, nausea, vomiting, and high fever. Before the start of my fourth year, my relationship with my former girlfriend of three years came to a difficult end. This event further exacerbated the stress I felt at the time.

I first visited a doctor about my anxiety in 2004, and received a medical note that allowed me to defer an exam. I continued [to] visit my doctor and receive valid medical certificates for my symptoms between 2004 and 2008. Over time, this process became so routine to me, that I decided to fill out and submit the certificates myself.

I understand that the number of times that I have visited a medical professional is irrelevant to the need to obtain a valid medical certificate for each exam deferral. I recognize that I have made a serious mistake, for which I accept complete responsibility. My only hope is that the panel allows me the opportunity to complete my degree, and gives me the chance to represent the University positively as a hard working alumnus in my future career. I strongly value the chance to learn from my error. I also wish that my case will serve as a strong reminder to my colleagues of the need to follow the University's academic policies correctly at all times.

Thank you for your consideration.

Respectfully,

I [REDACTED] M [REDACTED]

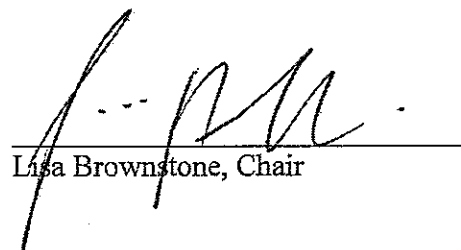
- [8] The parties submitted a joint submission on penalty, proposing that the University Tribunal:
- (a) impose a final grade of zero in each of the courses CHM 221, ENG 140, PHL 283, BIO 380, BIO 315;
  - (b) suspend Mr. M [REDACTED] from the University of Toronto from October 27, 2009 until October 27, 2014;
  - (c) impose a notation on his academic record and transcript stating that he has been found to have committed academic offences, such notation to remain on his transcript until one year after he graduates from the University; and

- (d) report this case to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed, with Mr. M[REDACTED]'s name withheld.
- [9] The Tribunal was reminded by counsel that, while not obliged to accept a joint submission on penalty, the joint submission should not be rejected unless to accept it would be contrary to the public interest or bring the administration of justice into disrepute. The Panel accepts and acknowledges that this is a high threshold for declining to accept a joint submission.
- [10] In reaching its decision, the Panel paid regard to the facts in this case, in particular the aggravating fact that the offences occurred in several courses over a period of time, and the significant mitigating facts, which included those set out in the student's statement above, as well as the student's guilty plea and engagement and co-operation in this process. The Panel also had regard to previous Tribunal cases brought to the Panel's attention. The Panel was unanimously of the view that the joint submission was at the high end of the appropriate range, but was still within that range, such that it ought to be accepted.

#### Sanction

- [11] The Panel therefore accepted the joint submission on penalty, and makes the following order:
- (a) the assignment of a final grade of zero in each of the courses CHM 221, ENG 140, PHL 283, BIO 380, BIO 315;
  - (b) the suspension of Mr. M[REDACTED] from the University of Toronto October 27, 2009 until October 27, 2014;
  - (c) a notation on his academic record and transcript stating that he has been found to have committed academic offences, such notation to remain on his transcript until one year after he graduate from the University; and
  - (d) a report of this case to the Provost who may publish a notice of the decision of the University of Toronto Tribunal and the sanctions imposed, with Mr. M[REDACTED]'s name withheld.

Dated this 20<sup>th</sup> day of January, 2009 2010

  
 Lisa Brownstone, Chair

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on July 20, 2009  
and November 16, 2009

**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-

**C■■■■ K■■■■ S■■■■ L■■■**

**Hearing Date: November 20, 2009**

**Members of the Panel:**

Ms. Laura Trachuk, Chair  
Professor Shaker Meguid, Faculty Panel Member  
Mr. Sybil J. Derrible, Student Panel Member

**Appearances:**

Mr. Robert Centa, Assistant Discipline Counsel for the University of Toronto,  
Paliare Roland Barristers  
Mr. C■■■■ K■■■■ S■■■■ L■■■, Student

**In Attendance:**

Mr. Berry Smith, Vice-Dean, School of Graduate Studies  
Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances,  
Office of Governing Council

## Introduction

[1] The Trial Division of the University Tribunal was convened on November 20, 2009 to consider charges under the *University Code of Behaviour on Academic Matters, 1995* (the "Code") which had been laid against Mr. C■■■ K■■■ S■■■ L■■■.

[2] The Notice of Hearing sent to Mr. L■■■ via e-mail and courier on November 9, 2009 clearly advised that he was entitled to be represented at the hearing. Nevertheless, Mr. L■■■ chose to appear without a representative as was also his right.

[3] On July 20, 2009 the following charges were laid against Mr. L■■■:

- (1) On or about May 5, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, W■■■ S■■■ C■■■, to obtain unauthorized assistance, during and in connection with the final examination in ACT247, contrary to section B.I.1(b) of the *Code*.
- (2) On or about May 5, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, C■■■ Y■■■ C■■■, to obtain unauthorized assistance, during and in connection with the final examination in ACT247, contrary to section B.I.1(b) of the *Code*.
- (3) On or about May 5, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, T■■■ T■■■ C■■■, to obtain unauthorized assistance, during and in connection with the final examination in ACT247, contrary to section B.I.1(b) of the *Code*.

## Alternative Charges:

- (4) In the alternative to charge #1, on or about May 5, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting W■■■ S■■■ C■■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to the final examination ACT247, contrary to section B.I.3(b) of the *Code*.
- (5) In the alternative to charge #2, on or about May 5, 2009, you knowingly did or omitted to do something for the purpose of

aiding or assisting C ■ Y ■ C ■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to the final examination ACT247, contrary to section B.I.3(b) of the Code.

- (6) In the alternative to charge #3, on or about May 5, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting T ■ T ■ C ■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to the final examination ACT247, contrary to section B.I.3(b) of the Code.

[4] On November 16, 2009 further charges were laid against Mr. L ■ as follows:

Term Test 1:

- (7) On or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, W ■ S ■ C ■, to obtain unauthorized assistance during and in connection with term test 1 in ACT247, contrary to section B.I.1(B) of the Code.
- (8) On or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, C ■ Y ■ C ■, to obtain unauthorized assistance during and in connection with term test 1 in ACT247, contrary to section B.I.1(B) of the Code.
- (9) On or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, T ■ T ■ C ■, to obtain unauthorized assistance during and in connection with term test 1 in ACT247, contrary to section B.I.1(B) of the Code.

Term Test 2:

- (10) On or about March 17, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, C ■ Y ■ C ■ to obtain unauthorized assistance during and in connection with term test 2 in ACT247, contrary to section B.I.1(B) of the Code.
- (11) On or about March 17, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting a student, T ■ T ■ C ■, to obtain unauthorized assistance during and in connection with term test 2 in ACT247, contrary to section B.I.1(B) of the Code.



#### Alternative Charges:

- (12) In the alternative to charge #7, on or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting W■■ S■■ C■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to term test 1 in ACT 247, contrary to section B.I.3(b) of the *Code*.
- (13) In the alternative to charge #8, on or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting C■■ Y■■ C■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to term test 1 in ACT 247, contrary to section B.I.3(b) of the *Code*.
- (14) In the alternative to charge #9, on or about February 10, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting T■■ T■■ C■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to term test 1 in ACT 247, contrary to section B.I.3(b) of the *Code*.
- (15) In the alternative to charge #10, on or about March 17, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting C■■ Y■■ C■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to term test 2 in ACT 247, contrary to section B.I.3(b) of the *Code*.
- (16) In the alternative to charge #11, on or about March 17, 2009, you knowingly did or omitted to do something for the purpose of aiding or assisting T■■ T■■ C■■ to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage with respect to term test 2 in ACT 247, contrary to section B.I.3(b) of the *Code*.

#### Facts

[5] Mr. L■■ and the University of Toronto reached an Agreed Statement of Facts (ASF) with respect to this matter as follows:

1. For the purposes of this hearing under the Code of Behaviour on Academic Matters ("Code"), the Provost of the University of Toronto (the "Provost" and the "University") and C■■■ K■■■ S■■■ L■■■ ("Mr. L■■■") have prepared this agreed statement of facts ("ASF") and a joint book of documents ("JBD"). The Provost and Mr. L■■■ agree that:

- (a) they consent to the admission into evidence of each document contained in the JBD for all purposes, including for the truth of its contents, without further need to prove the document; and
- (b) if a document indicates that it was sent or received by someone, that is prima facie proof that the document was sent and received as indicated.

2. This hearing arises out of charges of academic misconduct filed by the Provost under the Code ("Charges"). A copy of the Charges, which were filed on July 20, 2009, is included in the JBD at Tab 1. Mr. L■■■ acknowledges that he received a copy of the Charges. Mr. L■■■ hereby pleads guilty to charge #1, #2, and #3 of the Charges.

3. Additional charges were filed by the Provost under the Code ("Additional Charges"). A copy of the Additional Charges is included in the JBD at Tab 2. Mr. L■■■ acknowledges that he received a copy of the Charges. Mr. L■■■ hereby pleads guilty to charge #7, #8, #9, #10, and #11 of the Additional Charges.

**A. *Mr. L■■■'s academic and employment history at the University of Toronto***

4. In Fall 2003, Mr. L■■■ registered at the University of Toronto pursuant to an exchange agreement with the University of Hong Kong.

5. In Fall 2005, Mr. L■■■ registered in the Master of Science program in the Department of Statistics in the School of Graduate Studies at the

University. The University conferred a Master of Science Degree on Mr. L■■ in June 2006.

6. In Fall 2006, Mr. L■■ registered in the Doctor of Philosophy program in the Department of Statistics in the School of Graduate Studies at the University. He remained registered at the University at all material times. A copy of Mr. L■■s academic record dated May 14, 2009, is included in the JBD at Tab 3.

7. Mr. L■■ admits that he received and reviewed a copy of the SGS Calendar, which states, in part:

The Governing Council of the University of Toronto has approved a Code of Behaviour on Academic Matters applying to members of the University. The Code of Behaviour on Academic Matters addresses the responsibilities of all parties to the integrity of the teaching and learning experience. It concerns the accountability of faculty members and students as they cooperate in all phases of this relationship. Honesty and fairness must inform these activities, the foundation of which is mutual respect for the aims of education and for those ethical principles which characterize the pursuit and transmission of knowledge within the University.

The Code addresses offences, procedures, sanctions: more information appears in three appendices. The Code is enforced by Divisional Deans, the Provost, and the University Disciplinary Tribunal.

In cases involving graduate students, the divisional dean is the Dean of the School of Graduate Studies.

8. Since 2005, Mr. L■■ has frequently worked as a teaching assistant or a course instructor at the University. For example, in academic year 2007 to 2008, he held the following appointments:

- (a) ACT245H1 Financial Principles for Actuarial Science I (Teaching Assistant)
- (b) ACT471H1 Actuarial Applications of Finance (Teaching Assistant)

- (c) ECMB12H3 Applied Data Analysis (Teaching Assistant)
- (d) ECMB06H3 Macroeconomic Theory and Policy: A Mathematical Approach (Teaching Assistant)
- (e) MGTC09H3 – Intermediate Finance (Teaching Assistant)
- (f) MGTC03H3 – Principles of Finance (Teaching Assistant)
- (g) New College - Statistics Aid Centre
- (h) New College - Statistics Aid Centre
- (i) STA107H1 - An Introduction to Probability and Modelling (Course Instructor)

9. In academic year 2008 to 2009, Mr. L■■ held the following appointments:

- (a) ACT247H1 - Introductory Life Contingencies (Teaching Assistant)
- (b) ACT452H1 - Loss Models II (Teaching Assistant)
- (c) ACT455H1 - Advanced Topics in Actuarial Science (Teaching Assistant)
- (d) ACT460H1 - Stochastic Methods for Actuarial Science (Teaching Assistant)
- (e) ECMC48H3 – Money and Banking (Teaching Assistant)
- (f) ECMC49H3 – Financial Economics (Teaching Assistant)
- (g) ECMC92H3 - Economics of Markets and Pricing (Teaching Assistant)
- (h) MGTD71H3 – Advanced Financial Management (Course Instructor)

- (i) MGTD75H - Investments (Teaching Assistant)
- (j) MGTD78H – Risk Management (Course Instructor)
- (k) MGTD75H3 – Investments (Course Instructor)

**B. ACT 247- Introductory Life Contingencies**

10. As indicated above, in Winter 2009, Mr. L■■ was a teaching assistant in ACT 247 – Introductory Life Contingencies (“Course”), which was taught by Prof. Andre Badescu, in the Department of Statistics. A copy of the outline for the Course outline is included in the JBD at Tab 4.

11. As a teaching assistant in the course, Mr. L■■ was expected to keep one office hour per week and to invigilate tests and examinations held in the Course. He was neither required to conduct tutorial sessions, nor to grade test or examination papers.

12. The Course had three requirements:

- (a) a term test held on February 10, 2009 (“Term Test #1”), which was worth 25% of the final grade in the Course;
- (b) a term test held on March 17, 2009 (“Term Test #2”) which was worth 25% of the final grade in the Course; and
- (c) a final examination held on May 5, 2009 (“Final Examination”), which was worth 50% of the final grade in the Course.

**C. Mr. L■■’s connection to three students in the Course**

13. Among the students in the Course were three that Mr. L■■ already knew:

- (a) T■■ T■■ (“T■■”) C■■■;

(b) W■■ S■ ("V■■") C■■; and

(c) C■■ Y■■ ("K■■") C■■ (collectively, the "Students").

14. In Fall 2007, T■■ and K■■ both took STA107, which Mr. L■■ taught. Both students were also enrolled in MAT137Y1, a calculus course ("Calculus"). T■■ and K■■ learned that Mr. L■■ tutored students privately, in addition to his duties as a TA or course instructor. T■■ and K■■ asked S■■ L■■ to tutor them in Calculus. Mr. L■■ agreed to do so. T■■ and K■■ paid Mr. L■■ approximately \$30 to \$40 per hour for tutoring sessions, which took place approximately 2 times a week over the latter part of 2007 and the early part of 2008.

15. T■■, K■■ and V■■ were all interested in becoming actuaries. Actuarial Science is based upon the application of mathematical techniques to reduce the impact of such hazards as loss of income through death, disability, or retirement, or loss of property through fire, accident, or theft. Professional accreditation as an actuary is obtained via the Canadian Institute of Actuaries by passing a series of examinations set by the Society of Actuaries ("Society") or the Casualty Actuarial Society.

16. One of the examinations set by the Society is called Exam P – Probability. It is a three-hour multiple choice examination. The Society publishes a syllabus and other study materials. The syllabus for Exam P develops knowledge of the fundamental probability tools for quantitatively assessing risk and the application of these tools to problems encountered in actuarial science.

17. Exam P is administered by the Society and it is not connected to the University of Toronto.

18. Mr. L [REDACTED] offered private tutoring sessions to candidates for Exam P. A copy of an e-mail sent by Mr. L [REDACTED] to students including T [REDACTED], is attached to the Joint Book of Documents at Tab 5.

19. T [REDACTED], K [REDACTED] and V [REDACTED] each paid S [REDACTED] L [REDACTED] approximately \$1000 for tutoring sessions for Exam P that took place once or twice a week in January and February 2008. None of the three students passed Exam P when they wrote it.

20. In Fall 2008, T [REDACTED] enrolled in STA257H1 - Probability and Statistics I ("STA257"). Mr. L [REDACTED] did not have any official role in that course, but Mr. L [REDACTED] provided T [REDACTED] with private tutoring in STA257. T [REDACTED] paid Mr. L [REDACTED] approximately \$30 to 40 per hour for tutoring in that course on a weekly or twice-weekly basis.

***D. Mr. L [REDACTED] offers to help T [REDACTED], V [REDACTED], and K [REDACTED] cheat in the Course***

21. During one of T [REDACTED]'s STA257 tutorial sessions, Mr. L [REDACTED] told T [REDACTED] that he would be the teaching assistant for the Course. The Course was a compulsory course if T [REDACTED] wanted to graduate with a Major or Specialist designation in Actuarial Science.

22. Mr. L [REDACTED] said that if T [REDACTED] paid him \$1500, Mr. L [REDACTED] would give him all of the answers to the 2 term tests and the final examination. Mr. L [REDACTED] told T [REDACTED] to ask K [REDACTED] and V [REDACTED] to see if they were interested in the same deal.

23. T [REDACTED] told Mr. L [REDACTED] that he would accept his offer. On January 7, 2009, T [REDACTED] withdrew \$1,500 cash from his bank account, and shortly thereafter gave the money to Mr. L [REDACTED]

24. V████ told Mr. L████ that he would accept his offer. He also withdrew \$1500 cash from his bank account and gave it to Mr. L████

25. K████ told Mr. L████ that he would accept his offer, but that K████ did not have \$1500 to pay Mr. L████ at that time. K████ and Mr. L████ agreed that K████ would pay Mr. L████ \$500 before each of Term Test #1, Term Test #2, and the Final Examination. In fact, K████ paid Mr. L████ only \$1400.

*E. Term Test #1*

26. Term Test #1 was worth 25% of the final grade in the Course, and consisted of 10 multiple choice questions. Each question had five possible answers lettered 'A' through 'E.' Students were responsible for solving the questions and then recording the answer they chose on a Scantron sheet. There were three versions of Term Test #1, which were labelled T1, T2 and T3. Each version of Term Test #1 contained the same questions and answers, but the questions appeared in a different order on each version, and the correct answer would be a different letter in each of the versions.

27. Term Test #1 was held in the Bahen Centre, in one fairly large lecture room. Prof. Badescu, Mr. L████ and a female teaching assistant invigilated Term Test #1. One of Mr. L████'s duties was to accompany male students to and from the washroom, if male students made such a request.

28. Mr. L████ admits that he solved the answers to Term Test #1 during the exam. He admits that he then escorted each of the Students, one at a time, to the washroom. When they were in the washroom, Mr. L████ gave each of the Students the answers to Term Test #1, as he had solved them.



29. Mr. L■■ gave each of the Students a string of 11 digits where 1 represented A, 2 represented B, 3 represented C, 4 represented D, and 5 represented E. The eleventh digit represented which of the three Exam Codes the Students should mark on their answer sheet (T1, T2, or T3). Each of the Students memorized the string of digits in the washroom, and when they returned to the classroom, they filled out their scantron sheet accordingly.

***F. Term Test #2***

30. Term Test #2 was worth 25% of the final grade in the Course, and consisted of 10 multiple choice questions. Each question had five possible answers lettered 'A' through 'E.' Students were responsible for solving the questions and then recording the answer they chose on a Scantron sheet. There were three versions of Term Test #2, which were labelled T1, T2 and T3. Each version of Term Test #2 contained the same questions and answers, but the questions appeared in a different order on each version, and the correct answer would be a different letter in each of the versions.

31. Term Test #2 was held in the Examination Centre in two smaller rooms, EX310, and EX320. Mr. L■■ invigilated the test in one of the classrooms, and another teaching assistant invigilated in the other classroom. Prof. Badescu travelled back and forth between the two classrooms during the test.

32. Mr. L■■ admits that he solved Term Test #2 in the classroom. He admits that he then provided the answers, as he had solved them, to T■■ and to K■■. He provided them with the answers in the classroom, because he was the only invigilator in the room for most of the time.

33. V [REDACTED] did not attend Term Test #2. He did not attend because Mr. L [REDACTED] suggested to him that, because he was a very weak student, that it would reduce suspicion if he did not get a great mark on Term Test #2.

**G. Final Examination**

34. The Final Examination was worth 50% of the final grade in the Course, and consisted of 20 multiple choice questions. Each question had five possible answers lettered 'A' through 'E.' Students were responsible for solving the questions and then recording the answer they chose on a Scantron sheet. There were three versions of the Final Examination, which were labelled T1, T2 and T3. Each version of the Final Examination contained the same questions and answers, but the questions appeared in a different order on each version, and the correct answer would be a different letter in each of the versions.

35. The Final Examination was held in the Bahen Centre, in a fairly large lecture room. Prof. Badescu, Mr. L [REDACTED], and another teaching assistant invigilated the Final Examination. One of Mr. L [REDACTED]'s duties was to accompany students to and from the washroom, if students made such a request.

36. In the days before the examination, Mr. L [REDACTED] requested that Prof. Badescu give him the solutions for the final examination. Prof. Badescu refused, and told Mr. L [REDACTED] that it was not necessary for his duties that he have the solutions to the examinations.

37. Immediately prior to the start of the examination, Mr. L [REDACTED] again requested that Prof. Badescu give him the solutions to the final examination. Prof. Badescu refused again. Mr. L [REDACTED] then began to work on his own to solve the examination questions.

38. Approximately one hour after the examination had started, Mr. L■■ told Prof. Badescu that he had found an error in one of his questions, and he again asked Prof. Badescu if he could see all of the solutions. This time, Prof. Badescu gave Mr. L■■ the solutions to examination T1. Mr. L■■ took the solutions and copied down all of answers on his working booklet. A copy of Mr. L■■'s working booklet is included in the JBD at Tab 6.

39. Mr. L■■ admits that he then escorted each of the Students, one at a time, to the washroom. When they were in the washroom, Mr. L■■ gave each of the Students the answers to the first 10 questions of the Final Examination, plus the Exam Code.

40. Mr. L■■ gave each of the Students a string of 11 digits where 1 represented A, 2 represented B, 3 represented C, 4 represented D, and 5 represented E. The eleventh digit represented which of the three Exam Codes the Students should mark on their answer sheet (T1, T2, or T3). Each of the Students memorized the string of digits in the washroom, and when they returned to the classroom, they filled out their scantron sheet accordingly.

41. Mr. L■■ admits that he subsequently provided the students with the answers to the final 10 questions in the examination room.

42. Mr. L■■ deliberately provided one incorrect answer to two of the Students so that they would not all score a perfect score on the Final Examination. He did so deliberately so as not to arouse suspicion.

#### ***H. Admissions and acknowledgments***

43. Mr. L■■ admits that he knowingly provided the Students with unauthorized assistance during Term Test #1 and the Final Examination and that he did so in exchange for money.

44. Mr. L█ admits that he knowingly provided unauthorized assistance to T█ and K█ during Term Test #2. He admits that he did so in exchange for money.

45. Mr. L█ acknowledges that the Provost of the University of Toronto has:

- (a) made no representations or promises as to what sanction the Provost will seek in this case;
- (b) advised him to obtain independent legal advice before signing this ASF and that he has either done so or deliberately waived his right to do so.

[6] Mr. L█ and the University of Toronto reached a Supplementary Agreed Statement of Facts (Supplementary ASF) as follows:

46. For the purposes of this hearing under the Code of Behaviour on Academic Matters ("Code"), the Provost of the University of Toronto (the "Provost" and the "University") and C█ K█ S█ L█ ("Mr. L█") have prepared this supplementary agreed statement of facts ("SASF")

47. On May 5, 2009, after the final examination, Prof. Badescu confronted Mr. L█ and accused Mr. L█ of doing something wrong. Mr. L█ did not admit that he had assisted students to cheat.

48. Mr. L█ admits that he met with the Students after the final examination. He admits that he advised them not to tell anyone that he had assisted them to cheat because, in his opinion, if they did, they might be subject to a harsher penalty at the University. Mr. L█ admits that he assisted the students to craft the stories they would tell at their meeting with the Dean's designate in the Faculty of Arts and Science.

49. On May 13, 2009, the Students each met with the Dean's designate for academic discipline in the Faculty of Arts and Science. None of the

Students implicated Mr. L■ during their meetings. Instead, the students told the Dean's designate that they had cheated among themselves during the tests and the final examination. Mr. L■ had helped them come up with these stories.

50. On May 15, 2009, Mr. L■ met with Prof. Susan Pfeifer, the Dean of the School of Graduate Studies, to discuss this matter. Dean Pfeifer provided Mr. L■ with the warning contained in the *Code of Behaviour on Academic Matters*. During the meeting,

- (a) Mr. L■ did not acknowledge that he knew the Students, except from classes at the University of Toronto;
- (b) Mr. L■ denied that he had assisted the Students to cheat during the final examination.

51. Mr. L■ admitted to committing the offences only after being informed that the Students had signed confessions admitting to his role in the commission of the offences.

52. Mr. L■ acknowledges that the Provost of the University of Toronto has:

- (a) made no representations or promises as to what sanction the Provost will seek in this case; and
- (b) advised him to obtain independent legal advice before signing this ASF and that he has either done so or deliberately waived his right to do so.

[7] Mr. L■ and the University of Toronto also agreed on a Joint Book of Documents which contained a copy of the charges, Mr. L■'s academic record, the course outline for ACT 247, an e-mail from Mr. L■ to candidates for Exam P – Probability in December 2007 and Mr. L■'s final examination working booklet.

[8] At the hearing of this matter on November 20, 2009, Mr. L■ was given a full opportunity to make submissions to the panel. He advised that, contrary to what he had agreed to in the ASF, the students had approached him with the offer of

money to help them with their marks in ACT 247. He said he was tempted by the money offered and agreed to help them. He explained that, although he was guaranteed the maximum number of teaching assistant hours permitted each term by the Department of Statistics, he still needed money because he had to provide for his family. Mr. L■■ also advised that he suggested to the students when he met with them after the final exam that, if the University learned of his involvement in the scheme, the charges and penalty would be more severe. He said that they all agreed that the students would say that they cheated among themselves and would not mention him. Mr. L■■ went to Hong Kong after the first charges were laid against him. He explained that after consulting with friends there, he decided that it would be better for him to admit his guilt. He said that he tried to contact the other students but was unable to do so. He returned to Toronto in October with the intention of admitting his guilt only to find that the other students had already confessed. The above information was provided by Mr. L■■ as submissions but he did not testify under oath and was not subject to cross examination.

## **Relevant Code Provisions**

### **B. OFFENCES**

The University and its members have a responsibility to ensure that a climate which might encourage, or conditions which might enable, cheating, misrepresentation or unfairness not be tolerated. To this end, all must acknowledge that seeking credit or other advantages by fraud or misrepresentation, or seeking to disadvantage others by disruptive behaviour is unacceptable, as is any dishonesty or unfairness in dealing with the work or record of a student.

Wherever in this Code an offence is described as depending on "knowing", the offence shall likewise be deemed to have been committed if the person ought reasonable to have known.

B.I. 1. It shall be an offence for a student knowingly:

(b) to use or possess an unauthorized aid or aids or obtain unauthorized assistance in any academic examination or term test or in connection with any other form of academic work.

B. II. Parties to Offences

1. (a) Every member is a party to an offence under this Code who knowingly:

(ii) does or omits to do anything for the purpose of aiding or assisting another member to commit the offence;

(iv) abets, counsels, procures or conspires with another member to commit or be party to an offence;

C. II.(b) Tribunal Sanctions

1. One or more of the following sanctions may be imposed by the Tribunal upon the conviction of any student:

(h) suspension from attendance in a course or courses, a program, an academic unit or division, or the University for such a period of time up to five years as may be determined by the Tribunal. Where a student has not completed a course or courses in respect of which an offence has not been committed, withdrawal from the course or courses without academic penalty shall be allowed.

(i) recommendation of expulsion from the University. The Tribunal has power only to recommend that such a penalty be imposed. In such a case, the recommendation shall be made by the Tribunal to the President for a recommendation by him or her to the Governing Council. Expulsion shall mean that the student shall be denied any further registration at the University in any program, and his or her academic record and transcript shall record a course or courses in respect of which an offence has not been committed, withdrawal from the course or courses without academic penalty shall not be allowed. If a recommendation for expulsion is not adopted, the Governing Council shall have the power to impose such lesser penalty as it sees fit.

3. The Tribunal may, if it considers it appropriate, report any case to the Provost who may 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.

## Appendix A

### Interpretation

2. (o) "member" or "member of the University" means a student or faculty member, proctor or invigilator in the University and includes a group;

### Disposition of Charges

[9] It is an offence under section B. I. 1. (b) to use an aid or to obtain unauthorized assistance in an examination or term test. Under section B. II. 1. (a)(ii) any member of the University who does anything to aid or assist another member to commit an offence is a party to it.

[10] There can be no doubt that Mr. L■ was party to the offence of using unauthorized aids. He has acknowledged that he provided the answers to two term tests and one final examination to several students.

[11] Mr. L■ pleaded guilty to charges 1, 2 and 3 and 7 to 11 in paragraphs 2 and 3 of the ASF. The panel considered that guilty plea in light of the facts agreed in the ASF and the Joint Book of Documents and decided to accept it. Mr. L■ was therefore found guilty of charges 1, 2, 3 and 7 to 11 at the hearing on November 20. The other charges, which were laid in the alternative, were withdrawn.

### Sanctions

[12] At the hearing of this matter on November 20, 2009 the panel issued the following order and advised the parties that written reasons would follow :

- (1) **THAT** Mr. L■ is guilty of 8 counts of doing something for the purpose of aiding or assisting a student to obtain unauthorized assistance during a term test or final examination contrary to section B.I(1)(b) of the *Code of Behaviour on Academic Matters*;



- (2) **THAT** the Mr. L■■ shall be immediately suspended from the University for up to 5 years;
- (3) **THAT** the Tribunal recommends to the President of the University that he recommend to the Governing Council that Mr. L■■ be expelled from the University; and,
- (4) **THAT** the Tribunal shall report this case to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University newspapers, with Mr. L■■'s name withheld.

### **Reasons for Sanctions**

[13] The University asked the panel to recommend the expulsion of Mr. L■■ and to suspend him pending the implementation of that recommendation. The University also asked that Mr. L■■'s offence be reported by the Provost with his name withheld. According to the University, no other sanction would be appropriate given Mr. L■■'s extraordinary breach of trust.

[14] Mr. L■■ apologized and expressed regret for his actions. However, he distinguished between his actions as a teaching assistant and his record as a student. He agreed that he could not commit a more serious offence as a teaching assistant but pointed out that he had been a good student. He acknowledged that a significant sanction is appropriate toward his status as teaching assistant but not as a student. He said his status of teaching assistant is irrelevant to his status as student. Mr. L■■ argued that he would have no opportunity to commit the offence again as he has been dealt with as an employee of the University and banned from holding any further teaching assistant positions. He also submitted that his thesis supervisor, who was the Prof. of ACT 247, has withdrawn from his committee effectively making it impossible for him to finish and defend his thesis. He said that he has therefore already suffered a very serious penalty. He asserted that he has been very cooperative with the University by agreeing to the ASF and Joint Book of Documents and by pleading guilty.

[15] Mr. L■■ implored us to impose something short of expulsion so that eventually he will be able to use his transcript without any notation on it. He hopes to "start over" one day. The panel also hopes that Mr. L■■ can start over but he can never wipe the slate clean. The offence Mr. L■■ committed is among the most serious a member of the University community could commit. His actions were fundamentally contrary to the values inherent in the Code.

[16] In *The University Tribunal of University of Toronto and C*, (1976/77-3), Mr. John Sopinka, a member of a panel of the Appeal Tribunal, held that the principle to be applied in determining an appropriate sanction for an offence under the Code is that "punishment is not intended to be retribution to get even, as it were, with the student for what he has done. It must serve a useful function." He went on to say that "The classical components of enlightened punishment are reformation, deterrence and protection of the public." Mr. Sopinka also proposed a useful list of factors to be considered in applying those criteria:

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

[17] The above factors have been considered in many subsequent decisions. We considered them in this case and concluded that a recommendation of expulsion was the appropriate sanction.

*The character of the person charged*

[18] We know very little about Mr. L■■'s character. We do know that he was a very successful student. We also know that he betrayed that trust and violated the Code for financial gain. We know that he did not confess his offence for many months but did plead guilty and expressed remorse at the hearing. All in all, the

fact that Mr. L■■ took bribes from students suggests that his character is deeply flawed even if he has been a good student academically.

*The likelihood of a repetition of the offence*

[19] Mr. L■■ has advised that he has been barred from any future teaching assistant positions at the University so he will have no opportunity to repeat the offence. However, there could be other lucrative opportunities to assist students with achieving unearned academic success. We hope that Mr. L■■ has learned from this experience and will never commit such an ethical breach again but we have no way of knowing that. He did ultimately confess but it happened at the final hour after the other students had already done so. The fact that he originally conspired with them to keep his involvement secret suggests that he would likely commit such an offence if he thought he would not get caught. Furthermore, his involvement with *three* students, not just one, also contributes to the likelihood that he would commit other offences.

*The nature of the offence committed*

[20] The offence committed by Mr. L■■ is one of the most serious that a member of the University community could commit. He was given the trust and responsibility of invigilating two tests and an examination as a teaching assistant and then sold answers for those tests and exam to students. He took \$1,500.00 from two of them and \$1,400.00 from a third by essentially guaranteeing a high mark. He then embarked on a rather sophisticated scheme of providing them the answers during the tests and exams by accompanying them to the washroom and providing them with a code which would tell them the right selection in the multiple choice questions. In the ASF, Mr. L■■ agreed that the scheme had been his idea and that he had proposed it to one of the students and asked him to canvass the others. At the hearing, Mr. L■■ said that one of the students had solicited him. Either way, Mr. L■■ was centrally involved in the planning and the

execution of a scheme the purpose of which was to provide the students with "unauthorized aid" and "unauthorized assistance".

*The extenuating circumstances surrounding the commission of the offence*

[21] Extenuating circumstances may be mitigating factors or aggravating factors. In this case there are a few mitigating factors and many aggravating factors.

[22] The first mitigating factor is that Mr. L■■ expressed remorse at the hearing. He also entered into a guilty plea which may also demonstrate some insight and remorse. He cooperated with the University by signing an Agreed Statement of facts and agreeing to a Joint Book of Documents. This could have been a long and complicated case if Mr. L■■ had not cooperated and he saved everyone the time and expense of such a proceeding although there is little doubt the University would have ultimately proven its case.

[23] However, Mr. L■■ did not confess when he was first confronted. On the contrary, he conspired with the other students to hide his involvement. He did not confess until a few weeks before the hearing after the other students had already done so. According to his submissions, he did not decide to confess until his friends in Hong Kong convinced him to do so because there was so much evidence against him.

[24] There are many other aggravating factors in this case. Mr. L■■ did not commit a single impetuous offence. He assisted two students to cheat on two tests and an exam and assisted another one to cheat on one test and an exam. He participated in a scheme carried out over several months with planning and deliberation. He could have stopped at any time but did not do so. Moreover, Mr. L■■ persistently asked Professor Badescu for the answers to the final examination which also demonstrates his determination to perpetuate the scheme. His actions were a gross breach of the trust placed in him by his thesis

supervisor. The relationship between a thesis advisor and his or her student is a very significant one and must be based on trust. Likewise all of the faculty at the University must be able to trust the students they assign as teaching assistants. Mr. L ■ was in the extremely privileged position of having a guarantee of the maximum possible number of teaching assistant hours. He repudiated the extraordinary faith placed in him by the University by abusing his position for money. He placed greed ahead of academic interests. The purpose of the scheme was simply to benefit him commercially:

*The detriment to the University occasioned by the offence*

[25] The University's reputation with respect to the reliability of the marks and credits received by students must be unimpeachable. The fact that such a corrupt scheme could be promoted by one of its graduate students is a serious threat to that reputation. Mr. L ■'s actions violated the University's commitment to all of its students that they will be marked fairly and impartially and that no one will receive credit that is not earned.

*The need to deter others from committing a similar offence*

[26] Teaching assistants are in a unique position of trust among the students at the University. They have access to tests, exams, answers, results, mark sheets and many other opportunities to manipulate the assessment and marking of students. It is fundamental to the University that they be beyond reproach. Anyone working as a teaching assistant must understand that any violation of that position of trust will be treated with great severity. All students at the University must know that any kind of commercial scheme for credit, be it the purchase or sale of marks or essays or anything else will not be tolerated.

[27] After considering all of the above factors in light of the criteria of reformation, deterrence and protection of the public, the panel decided that the appropriate sanction was to recommend expulsion. We saw little likelihood that Mr. L ■ could

be reformed for all of the reasons set out above, We were also of the view that the criteria of deterrence and protection of the public dictated that he could never again be a member of the University of Toronto community. Furthermore, his transcript should always bear a notation indicating that he was expelled from the institution given the grievousness of his offences.

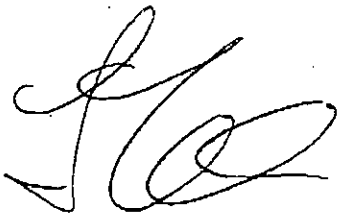
[28] Mr. L■■■■ argued that his penalty should be related to his position as a teaching assistant and not to his status as a student. However, in *The University of Toronto and A*, (January 14, 2009), a panel of the Tribunal found that students retain their status as students and continue to be subject to Code if they commit offences while working as teaching assistants. The fact that Mr. L■■■■ had the privilege of working as a teaching assistant did not mitigate his offences, it aggravated them.

[29] The sanction of recommending to the President that he recommend expulsion to the Governing Council is not a common one but in this case is consistent with others in which it has been used. In fact, none of the offences in the other decisions presented to the panel were as serious as Mr. L■■■■'s and there is no precedent in the Tribunal jurisprudence for his corrupt commercial enterprise. However, in *The University of Toronto and Ms VWSL* (April 6, 2006), the Tribunal explained its decision to recommend expulsion of a student who had purchased work which she had submitted for credit on several occasions as follows at paragraph 21:

Moreover, the "enterprise" of purchasing work for submission to the University is emblematic of the highest and greatest danger to the University community that the Code attempts to prevent, namely the circumstance when respect for learning is forsaken "in favor of self interest, when truth becomes the hostage of expediency." In this regard, a failure to recognize this type of cheating threatens the integrity and respect that lie at the heart of the learning environment necessary to maintain the University community. Failure to recognize the severity of this threat would in effect be punitive to those students and teachers who strive through their honest hard work to maintain those values. As such, the effect on the University community is serious.

[30] The above quotation also describes the seriousness of this offence. Mr. L■■ was a privileged graduate student who had so little respect for learning that he abused his position of trust for the basest kind of self interest, money. Mr. L■■'s actions rank among the most serious that a member of the University could commit. They were fundamentally contrary to the values inherent in the Code. The panel therefore recommended to the President that he recommend expulsion to the Governing Council, that Mr. L■■ be suspended for five years and that this decision be published in the University newspapers with Mr. L■■'s name withheld.

Dated at Toronto, January 21, 2010



Laura Trachuk  
On Behalf of the Panel  
Professor Shaker Meguid  
Sybil J. Derrible

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on June 3, 2009,

**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 -

S■■■■ J■■■■

**Hearing Date:** June 9, 2009

**Members of the Panel:**

- Ms. Jane Pepino, Chair
- Professor Kathi Wilson, Faculty Panel Member
- Mr. Liang Yuan, Student Panel Member

**Appearances:**

- Mr. Robert A. Centa, Assistant Discipline Counsel for the University of Toronto
- Ms. Elesha Shore, assisting Mr. Robert A. Centa
- Mr. S■■■■ J■■■■, the Student
- Dr. Helen Slade, Office of Student Life at the University of Toronto



### Preliminary

- [1] The Trial Division of the University Tribunal was convened on June 9, 2009 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "*Code*"), set out in a Notice of Hearing dated June 3, 2009.

### Hearing on the Facts

- [2] The charges are as follows:

- i. On or about May 5, 2009, you knowingly used or possessed an unauthorized aid or aids, or obtained unauthorized assistance in an academic examination, namely the final examination in ECO333Y (the "*Course*"), contrary to section B.I.1.(b) of the *Code*.
- ii. In the alternative, on or about May 5, 2009, 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 the final examination in the *Course*, contrary to section B.I.3.(b) of the *Code*.
- iii. On or about May 5, 2009, you knowingly provided unauthorized assistance to another student in an academic examination, namely the final examination in the *Course*, contrary to section B.I.1.(b) of the *Code*.
- iv. In the alternative, on or about May 5, 2009, 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 the final examination in the *Course* contrary to section B.I.3.(b) of the *Code*.

- [3] The particulars of the charges are as follows:

- i. At all material times you were a student at the University of Toronto. In 2008-2009, you enrolled in the *Course*.
- ii. On or about May 5, 2009, you wrote the final examination in the *Course*. You wrote the examination in a private study carrel in the Accessibility Services. You wrote the examination several hours before the other students in the *Course* wrote the examination.
- iii. You brought a cellular telephone into the private study carrel with you knowing that a cellular telephone was an unauthorized aid during the examination.
- iv. During the examination, you telephoned another student in the *Course* and told him

the questions on the examination. The other student provided you with answers to the questions. You made and received several telephone calls during the examination for this purpose.

v. You knew that:

- (a) You were not permitted to make telephone calls to other students during the examination;
- (b) You were providing the other student with the examination questions before that student wrote the examination, which amounted to providing that student with unauthorized assistance;
- (c) You were receiving answers from the other student which constituted receiving unauthorized assistance; and

vi. You did so for the purpose of obtaining an academic advantage.

[4] The University of Toronto and the Student filed an Agreed Statement of Facts, the details of which are summarized here:

- In Fall 2008, the Student enrolled in ECO333Y1 - Urban Economics, which was taught by Professor Peter Tomlinson.
- The mid-term examination in the Course was worth 50% of the final grade. The Student wrote neither the mid-term examination, nor the make-up mid-term examination.
- The final examination in the Course was worth 50% of the final grade. Because the Student missed the mid-term examination, his final examination was to be worth 100% of his final grade. The final examination in the Course was scheduled to commence at 7:00 p.m. on May 5, 2009.
- The Student is registered with Accessibility Services at the University. He requested and received accommodation for the examination. Specifically, Accessibility Services permitted him additional time to complete the examination, and stopped-clock breaks during the examination time.
- Because of the accommodations he received, he was scheduled to write the examination at 3:00 p.m. on May 5, which was 4 hours before the rest of the class. He was permitted to write the examination in Room EX340 at the Examination Centre.
- Before the examination started, the Student signed a declaration acknowledging that:
  - (a) The exam invigilator instructed him to secure all his belongings in a locker and that he had done so; and

(b) That he was not in possession of any unauthorized exam materials or electronic devices (including cellular telephones).

- During the examination, invigilators observed the Student behaving in a suspicious manner. One of the invigilators entered the private room and asked the Student to roll up his sleeve. The Student admits that he had an earpiece for a cellular telephone taped to his arm and body underneath his shirt. He also admits that he had a Nokia cellular telephone in the left pocket of his pants and that the earpiece was plugged into the telephone.
- The Student admits that he hid the telephone in his shoe in order to sneak it into the private room where he would write the examination.
- The Student admits that during the examination, he placed and received several calls to and from Mr. F. B., who was also enrolled in the Course. The Student admits that he read all of the questions on the examination to Mr. B. and that Mr. B. provided him with answers to those questions.
- The Student admits that he and Mr. B. agreed on this plan before the examination began. The Student admits that he had previously written examinations in the Examinations Centre and that the private room where he would be writing the examination would permit him to make and receive telephone calls with a minimal chance of being caught.

[5] The Student pleaded guilty to charges #1 and #3.

### **Decision of the Tribunal**

[6] The panel accepted the Student's plea and entered a verdict of guilty on charges #1 and #3. The University withdrew the alternative charges.

### **Penalty**

[7] The University and the Student submitted an Agreed Statement of Facts on Sanction and a Joint Submission on Penalty. In the Agreed Statement of Facts on Sanction, the Student admitted that he had been sanctioned on two prior occasions for unauthorized aid. The first incident occurred in April 2006, at which time the Student received a written caution; the second incident occurred in February 2008, at which time the Student received a 0 on a term test, a further 25 mark reduction in the course and an annotation on his transcript until he graduates from the University.

[8] In the Joint Submission on Penalty, both the University and the Student recommended to the panel that the following sanction is appropriate in all the circumstances:


- i. A final grade of zero in the course ECO333Y1;
- ii. Four-year suspension from the University of Toronto from June 9, 2009 to January 1, 2013;
- iii. Notation on the Student's academic record and transcript stating that he has been found to have committed academic offences, and such notation to remain until the Student graduates from the University; and
- iv. A report of the case to the Provost who may publish a notice of the decision and the sanction imposed with the name of the Student withheld.

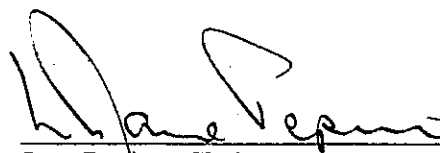
### **Sanction and Reasons**

[9] The Chair, on behalf of the panel, delivered the following reasons orally at the conclusion of the hearing.

[10] Thank you, Mr. Centa, and the Student. The panel has considered the Agreed Statement of Facts, the plea, the outline of the balancing that has gone on between the University and the Student with respect to the seriousness of the offence and the mitigating circumstances accepted by the University and for all of those reasons is prepared to accept the Joint Submission on Penalty. As a result, we will impose the following:

- i. A final grade of zero in the course ECO333Y1;
- ii. Suspension from the University of Toronto from June 9, 2009 to January 1, 2013;
- iii. Notation on the Student's academic record and transcript stating that he has been found to have committed academic offences, and such notation to remain until the Student graduates from the University; and
- iv. A report of the case to the Provost who may publish a notice of the decision and the sanction imposed with the name of the Student withheld.

  
Date

  
Jane Pepino, Chair

**THE UNIVERSITY OF TORONTO**  
**The University Tribunal**  
**Trial Division**

**IN THE MATTER** of charges of academic dishonesty against made on August 7, 2008 and November 21, 2008;

**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:**

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

- and -

A [REDACTED] A [REDACTED]

**Hearing Date:** December 9, 2009

**Members of the Panel:**

Ms. Laura Trachuk, Barrister and Solicitor, Chair  
Professor Graham Trope, Department of Ophthalmology and Vision Sciences,  
Faculty of Medicine, Faculty Member  
Mr. Adil D'Sousa, Student Member

**Appearances:**

Mr. William Trudell, Barrister and Solicitor, Counsel for Mr. A [REDACTED] A [REDACTED]  
Ms. Linda Rothstein, Discipline Counsel for the University of Toronto, Paliare  
Roland Barristers  
Ms. Lily Harmer, Assistant Discipline Counsel for the University of Toronto,  
Paliare Roland Barristers

**In Attendance:**

Mr. A [REDACTED] A [REDACTED], the Student  
Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances,  
Office of the Governing Council

## DECISION

[1] A hearing of the Trial Division of the University Tribunal was convened on December 9, 2009 to consider sanctions against A■■■■ A■■■■ under the *University of Toronto's Code of Behaviour on Academic Matters* (the "Code"). Two prior decisions have been issued with respect to this matter. A preliminary decision which dealt with a challenge to the panel's jurisdiction was issued on January 14, 2009. A second decision finding Mr. A■■■■ guilty of several offences under the Code was issued on October 9, 2009. This decision provides supplementary reasons for the sanctions imposed on Mr. A■■■■ at the hearing on December 9, 2009.

### ***Charges***

[2] At a hearing held on September 10, 2009, Mr. A■■■■ pled guilty to the following charges:

(i) On or about April 23, 2008, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the final exam submitted by N■■■■ A■■■■ in MGTC03H – Principles of Finance, contrary to section B.I.3.(a) of the *Code*.

(ii) On or about November 29, 2007, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the marks for the mid-term exam submitted by N■■■■ A■■■■ in MGTB03H – Management Accounting, contrary to section B.I.3.(a) of the *Code*.

(iii) On or about December 10, 2007, you knowingly forged or in any other way altered or falsified any academic record or uttered, circulated or made use of any such forged, altered or falsified record, whether the record be in print or electronic form, namely the marks for the final exam submitted by N■■■■ A■■■■ in MGTB03H – Management Accounting, contrary to section B.I.3.(a) of the *Code*.

[3] In the decision dated October 9, 2009, the Tribunal accepted Mr. A■■■■'s plea and found him guilty of the above charges.

## **Sanctions**

[4] A hearing was convened on December 9, 2009 to consider the sanctions which should be imposed upon Mr. A[REDACTED] for the above offences. The University was seeking expulsion and Mr. A[REDACTED] was asking for a lesser penalty. At the conclusion of that hearing the Tribunal made the following comments and imposed the following sanctions:

We have considered the submissions of the University and Mr. A[REDACTED]. The offences committed by Mr. A[REDACTED] are, as he acknowledges, extremely serious. He held a position of trust that he abused on three occasions. It is absolutely fundamental that students at this University have confidence in the impartiality of those assigned to assess them. Mr. A[REDACTED]'s actions profoundly undermine that necessity. We therefore did consider the penalty of expulsion. However, we also believe that Mr. A[REDACTED] has the potential for rehabilitation. We are concerned that we did not hear his testimony on this issue. Nevertheless, we believe that the record we do have before us today in addition to the testimony and materials from last day, allow us to conclude that Mr. A[REDACTED] can be rehabilitated and should not be precluded forever from graduating from the University of Toronto. Nevertheless, a strong message needs to be sent to the community that such conduct will lead to very serious sanctions. We therefore consider it appropriate that Mr. A[REDACTED] be suspended from the University until April 2013. That will, in effect, mean that Mr. A[REDACTED] will have been prevented from graduating from the University for five years. We consider that to be a penalty which reflects the seriousness of the offence and the necessity for deterrence balanced with the principle of rehabilitation. We therefore order as follows:

1. A[REDACTED] A[REDACTED] will be suspended from the University from October 9, 2009 until April 30, 2013.
2. The suspension will be recorded on his academic record for that period of time.
3. This decision will be reported to the Provost for publication with the name of the student withheld.

[5] The panel advised the parties that further written reasons for the decision would follow.

[6] In an early decision of the Appeals Tribunal, Mr. John Sopinka described the approach to be used in considering sanctions for Code offences. He said "The classical components of enlightened punishment are reformation, deterrence and

protection of the public." Mr. Sopinka also proposed the following useful list of factors to be considered in applying those components:

- 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

[7] That approach has been followed in numerous subsequent decisions and was applied by the panel in this case. The panel was concerned that it did not hear from Mr. A■■■■ himself during the sanctions part of the proceeding.

[8] However, we were provided with a number of documents attesting to Mr. A■■■■'s remorse and good character. It was apparent that he had been straightforward with the individuals who wrote the letters about his actions and had even given them the ASF to read. He has been doing volunteer work and had been forthright about these offences when he was applying for the position. Mr. A■■■■'s academic record is admirable and he has no prior Code offences.

[9] The panel also took into account the very serious nature of the offences. Mr. A■■■■ accepted teaching assistant positions in courses in which his brother was enrolled. He abused the privileged position of trust he held as a teaching assistant to improve his brother's marks on three occasions. Furthermore, he did not own up to the offences when he was first confronted. However, he did subsequently acknowledge the offences, agree to the ASF and plead guilty to the charges. That demonstrated that he did reach an understanding of the seriousness of his actions and his cooperation saved everyone the time and expense of a trial.

[10] The panel was very cognizant of the detriment to the University occasioned by Mr. A■■■■'s offences as well as the need to deter other students, particularly teaching assistants, from abusing positions of trust. The teaching faculty must be able to rely upon their teaching assistants implicitly. Furthermore, it is grossly unfair to the other students for a teaching assistant to use his position to give credit to a student who has not earned it. The University's reputation is synonymous with the integrity of the credits earned by its students. Any time credit is given where it is not due that reputation is threatened. Mr. A■■■■'s actions attacked the promise the University makes to its students that they will be evaluated impartially and to the world that its students have truly earned the marks and credits on their transcripts.

[11] After considering all of the above factors, the panel determined that a very significant sanction should be imposed on Mr. A■■■■. It seriously considered the



option of recommending expulsion. However, the panel ultimately decided that preventing Mr. A████ from graduating for five years would achieve the goals of reformation, deterrence and protection of the public. The greatest penalty the Tribunal can impose short of expulsion is suspension for five years. In this case, Mr. A████ had finished his course work and was ready to graduate when his offences were discovered in April 2008. As he was charged with the offences he has not been able to graduate since then. He has been prevented from proceeding with his dream of becoming an accountant, a career which may remain forever out of his reach now. Therefore, by imposing a suspension until April 2013, the panel effectively suspended Mr. A████ for five years. That is a very significant sanction which will convey the message that such breaches of trust will not be tolerated.

[12] The panel decided not to recommend expulsion because Mr. A████ did not act for his own benefit. This distinguished Mr. A████'s actions from those of Mr. S.L. in the recent decision of *The University of Toronto and S.L.* (January 21, 2010) in which a teaching assistant provided answers to students for money on several occasions. Mr. A████'s situation is also distinguishable from the University of Toronto and M.C. (July 8, 2008), in which a student with access to the University's computer system abused her position of trust to improve her own transcript in such a manner that it could never be discovered. Mr. A████ committed the violations of the Code to assist his brother. There is no question that Mr. A████'s offences were extremely serious. It is understandable that the University was seeking expulsion in the circumstances. However, the panel decided that the suspension would provide the necessary deterrence and that there was little likelihood of the offence being repeated. Unlike Mr. S.L., the panel considered it unlikely that Mr. A████ would abuse a position of trust in the future. Finally, and most significantly in this case, the panel accepted that Mr. A████ could be rehabilitated. It decided that he deserved to have another chance. That decision was also informed by the fact that he did not act for his own benefit.

[13] For all of the above reasons the panel imposed the sanctions set out in paragraph [4] above.

Dated at Toronto, January 29, 2010



Ms. Laura Trachuk for the panel  
Mr. Graham Trope  
Mr. Adil D'Sousa

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on October 1, 2009;

**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 -

S [REDACTED] H [REDACTED]

**Hearing Date:** November 18, 2009

**Members of the Panel:**

- Ms. Julie K. Hannaford, Barrister and Solicitor, Chair
- Professor Paul Cooper, Faculty of Forestry, Faculty Panel Member
- Ms. Elena Kuzmin, Student Panel Member

**Appearances:**

- Mr. Rob Centa, Assistant Discipline Counsel for the University, Paliare Roland Barristers
- Mr. Noah Craven, Legal Case Worker, Downtown Legal Services

**In Attendance:**

- Professor Eleanor Irwin, Dean's Designate, Office of Academic Integrity, University of Toronto Scarborough
- Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances, Office of Appeals, Discipline and Faculty Grievances
- Ms. S [REDACTED] H [REDACTED], the Student

### Reasons for Decision in respect of the Penalty Phase

[1] On November 18<sup>th</sup>, 2009, the panel received a plea of guilty in respect of a charge that Ms. H[REDACTED], on or about July 28, 2009, knowingly represented as her own an idea or expression of an idea, and/or work of another in an essay she submitted for academic credit in WSTC20H3, contrary to section B.I.1(d) of *the Code*. The panel heard the evidence in respect of this charge, provided through an agreed statement of fact and a joint book of documents [Exhibits 1 and 2]. Following its deliberation in respect of the evidence, the panel accepted the guilty plea, having satisfied itself that the evidence offered formed a foundation for a finding of guilt in respect of the charge.

[2] The penalty phase of the hearing consisted of a joint submission on the penalty, also accompanied by an agreed statement of fact, and an undertaking, and there ensued submissions in respect of the agreed statement of fact, the undertaking, and the law in respect of penalty. Following its deliberation, the panel accepted the joint submission with respect to the penalty and made the following order,

That the following sanctions shall be imposed on Ms. H[REDACTED]:

- (a) she shall receive a final grade of zero in the course WSTC20H3Y; and,
- (b) she is suspended from the University from September 1, 2009, until August 30, 2012; and,
- (c) the sanction shall be recorded on her academic record and transcript from the date of the Order until August 30, 2013; and,
- (d) that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanction imposed in the University newspapers, with the name of the student withheld.

[3] Because this case involved a joint submission that included a novel aspect to the submission – namely an undertaking – brief reasons for the acceptance of the joint submission are in order.

[4] The matter proceeded on the basis of joint submissions in respect of the facts and in respect of the penalty. These are attached as Schedule “A” to these reasons.

[5] The joint submission on penalty included an undertaking, signed by Ms. H[REDACTED], in which Ms. H[REDACTED] undertook to pursue 5 and one half hours of writing instruction offered by the University. Part of the writing instruction includes instruction on how to properly cite and reference sources. Another part of the writing instruction involves instruction on how to write essays effectively.

[6] This undertaking was part of a joint submission that involved a suspension until August 31, 2012 – a period of approximately 3 years. The undertaking specifically provides that Ms. H [REDACTED] cannot graduate without pursuing this writing instruction, and a promise to participate faithfully in the workshop. The panel was advised that the Provost took this undertaking into account -- indeed, had the undertaking not been offered, the Provost might well have declined to endorse the other aspects of the penalty.

[7] While it is true that a joint submission as to penalty should be accorded great deference and respect, this does not obviate an examination by the tribunal of how the proposed penalty would address the objects of penalties generally. It is precisely this question that was the basis for the dialogue that ensued with the University and counsel for Ms. H [REDACTED] that occupied the panel.

[8] It is important to note that this particular joint submission was one that evolved out of a constellation of facts and circumstances and considerations that were carefully undertaken by the University and Ms. H [REDACTED] and as well, her counsel, in advance of the proffered joint submission. This exchange of facts, circumstances, and positions is what formed the basis for the joint submission. That an undertaking of the kind given [which is attached to these reasons as Schedule "B" is reflective of both the constellation of facts and circumstances canvassed by the parties, and as well, of the careful consideration by the parties as to whether this was a case where the object of rehabilitation of the relationship between the University and the student could and would take place.

[9] The panel was satisfied that the penalty – namely the suspension – was in and of itself in accord with the evolving decisions respecting penalty for similar sets of offences. In addition, the panel was satisfied that the University and the student had approached the concept of the undertaking in a conscientious way – by selecting a course of study that would achieve the rehabilitative end required. Indeed, it is notable that the writing workshop not only provides the methodology needed to properly cite resources, but also addresses how to write material effectively. [It is arguable that the mischief associated with improper citation and appropriation of content arises because a student does not have the basic tools to write effectively on their own.]

[10] It is very significant that the University has determined – and the student has undertaken – to work toward repairing the relationship between the University and the necessity of academic integrity as it involves this student. This is a difficult assessment to make, and it always involves a leap of faith. It is not certain that this venture will be successful. Yet, it is not for this panel to insert its own assessment of success for that which has been carefully considered by the University.

[11] Nor is it appropriate for the panel to reject a joint submission that includes an undertaking simply because it is novel, or because no one can guarantee that the rehabilitative end will not be achieved. There is much to be said for an academic institution that crafts remedies and penalties that express hope in a better outcome. There is much more to be said when such penalties and remedies come in the face of repeated

offences: while it may be arguable that the multitude of previous offences argue against a change in behaviour, it is also arguable that the previous penalties imposed did little to help change behaviour. To the extent that the University and Ms. H[REDACTED] have together proposed a new way to address an old problem, they are both to be commended. Not all situations will be appropriate for such a resolution – or such an undertaking. In many ways, this is a situation that is imbued with both hope and promise – hope by the University that this will indeed repair the respect for integrity and dedication to academic integrity, and a promise by Ms. H[REDACTED] that she will apply herself to this end.

[12] The University is an institution that flourishes in an environment of honesty, integrity, and the free and open exchange of ideas. That is why the code of academic behaviour is so important, and the penalties for transgression of the code must be respected and applied consistently and fairly.

[13] But the University is also a place where its foundation of freedom and integrity give rise to an obligation to examine the effectiveness of the penalties and remedies available to protect the Code that informs the integrity of the institution – and, where those penalties and remedies may be enhanced – it is the concomitant obligation of the University to explore how this may occur. In this way, the University remains at the forefront of modeling fairness and justice, and in this way, the University exemplifies that which is at its core – the full and fair and free examination of process, ideas, and models – even those which we take for granted as true.

[15] In arriving at this novel joint submission, the considerations and deliberations of the University and Ms. H[REDACTED] and her counsel are to be respected and accorded great deference, and it is for this reason that the panel accepts the joint submission on penalty, coming as it does with the hope that the undertaking will bear the fruit of the hard work and consideration that formed the basis of the submission.

I certify that this is the Decision of the Panel.

16 February 2010  
Date

Julie Hannaford  
Julie K. Hannaford, Chair

## **SCHEDULE "A"**

THE UNIVERSITY TRIBUNAL  
UNIVERSITY OF TORONTO

University of Toronto and S [REDACTED] H [REDACTED] ( [REDACTED] ) AND

Agreed Statement of Facts

This Exhibit is produced by

the University of Toronto

this 18<sup>th</sup> day of November, 2009.

1. For the purposes of this hearing under the Code of Behaviour on Academic Matters ("Code"), the Provost of the University of Toronto (the "Provost") and S [REDACTED] H [REDACTED] ("Ms.

H [REDACTED]") have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents

("JBD"). The Provost and Ms. H [REDACTED] agree that:

- a. each document contained in the JBD may be admitted into evidence before the Tribunal for all purposes, including for the truth of the document's contents, without further need to prove the document; and
- b. if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. This hearing arises out of charges of academic misconduct filed by the Provost under the Code. A copy of the Charges, which were filed on October 1, 2009, is included in the JBD at Tab 1. Ms. H [REDACTED] acknowledges that she received a copy of the Charges.

3. The Notice of Hearing into the Charges is included in the JBD at Tab 2. Ms. H [REDACTED] acknowledges that she has received reasonable notice of this hearing.

4. In Fall 2002, Ms. H [REDACTED] first registered as a student at the University of Toronto. At all material times, Ms. H [REDACTED] remained enrolled at the University. A copy of Ms. H [REDACTED]'s academic record dated August 18, 2009, is included in the JBD at Tab 3.

5. In Summer 2009, Ms. H [REDACTED] enrolled in WSTC20H3Y – Women and Environments,

which was taught by Dr. Colette Granger ("Course"). A copy of the syllabus for the Course is included in the JBD at Tab 4. Ms. H [REDACTED] admits that she received a copy of the syllabus for the Course.

6. One of the Course assignments was to complete a final essay, which was worth 25% of the final grade in the Course. A copy of the assignment is included in the JBD at Tab 5. Ms. H [REDACTED] admits that she received a copy of the assignment.

7. On July 28, 2009, Ms. H [REDACTED] submitted her final essay, which she titled "Women Struggles" ("Essay"). She submitted the Essay for academic credit and in partial completion of the Course requirements. A copy of the Essay is included in the JBD at Tab 6.

8. Ms. H [REDACTED] admits that she knew or ought to have known that she had included in the Essay verbatim and nearly verbatim excerpts from:

- a. Sachs, C. (1996), Rural women and nature. In *Gendered fields: Rural women, agriculture, and environment* (pp. 29-43). Boulder CO: Westview Press. An excerpt from which is found in the JBD at Tab 7;
- b. Saritha, R. (2007), Women Entrepreneurship: Problems and Need for Environmental Alterations. In Ganesamurthy, V.S. (Ed.) *India: Economic Empowerment of Women* (pp. 55-65). New Delhi: New Century Publications. An excerpt from which is found in the JBD at Tab 8;
- c. Remennick, L. (1999). Women of the "Sandwich" Generation and Multiple Roles: The Case of Russian Immigrants of the 1990s in Israel". In *Sex Roles*, v. 40, No.



516. An excerpt from which is found in the JBD at Tab 9;

d. Rao, B. (1991) Women and water in rural Maharashtra. In *Environment and Urbanization*, Vol 3, No. 2, October 1991. An excerpt from which is found in the JBD at Tab 10;

e. Mahil, P. (2008). Marsha Fireston on the Future for Women Entrepreneurs. *Journal of Financial Planning*, December 2008. An excerpt from which is found in the JBD at Tab 11; and

f. Ramirez, J. (1991). "Women's Work Devalued" excerpted from "The Global Kitchen" in *Canadian Woman Studies*, spring 1991. An excerpt from which is found in the JBD at Tab 12. (collectively the "Sources")

9. Two of the Sources (Sachs and Saritha) were included in the reading kit for the Course.

10. Ms. H [REDACTED] admits that she knew or ought to have known that did not use quotation marks or any other appropriate method to indicate that she had included lengthy verbatim or nearly verbatim passages from the Sources in her Essay. She also admits that she ought to have done so.

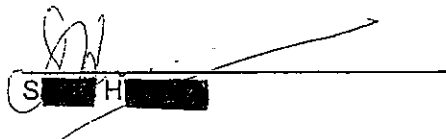
11. Ms. H [REDACTED] admits that she did not include some of the Sources in her list of references at the end of the Essay, and that she ought to have done so.

12. Ms. H [REDACTED] admits that, in the Essay, she represented the work and expressions of others as her own.


13. Ms. H [REDACTED] admits that she committed the academic offence of plagiarism as set out in charge #1 of the Charges, which are included in the JBD at Tab ~~2~~ 1.

14. Ms. H [REDACTED] acknowledges that the Provost has advised her to obtain independent legal advice before signing this ASF. She acknowledges that she has either done so, or deliberately waived her right to do so.

Signed in Toronto on November 18, 2009.

  
S. H. [REDACTED]

Signed in Toronto on November 18, 2009.

  
Robert A. Centa  
Assistant Discipline Counsel  
University of Toronto

University of Toronto and S [REDACTED] H [REDACTED] ([REDACTED])

Agreed Statement of Facts and  
Joint Submission on Penalty

1. For the purposes of the sanction phase of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the University of Toronto (the "University") and S [REDACTED] H [REDACTED] ("Ms. H [REDACTED]") have prepared this Agreed Statement of Facts and Joint Submission on Penalty ("JSP"). The University and Ms. H [REDACTED] agree that:

- a. each document attached to the Joint Submission may be admitted into evidence at the Tribunal for all purposes, including for the truth of its contents, without further need to prove the document; and
- b. if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. Ms. H [REDACTED] acknowledges that she has admitted to committing two previous academic offences

3. First, in 2006, she admitted to bringing unauthorized aids into an examination on August 23, 2006 in POLA90. She received a final grade of zero in the course. A copy of the sanction letter dated September 26, 2006, is attached to this document at Tab 1.

4. Second, she admitted to plagiarizing an essay in the 2007 fall session course HLTC02, for which she received a zero in the course and a four month suspension. A copy of the sanction letter dated July 28, 2008, is attached to this document at Tab 2.

5. Ms. H [REDACTED] voluntarily chose not to take courses in Fall 2009, which effectively put her on an academic suspension as of September 1, 2009.


6. Ms. H [REDACTED] has agreed to complete a program through the University of Toronto Scarborough Centre for Teaching and Learning, which is acceptable to the University, prior to her graduation from the University.

7. The Provost and Ms. H [REDACTED] submit that the appropriate penalty in all the circumstances of the case is that the University Tribunal:

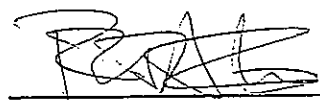
- a. impose a final grade of zero in the course WSTC20H3Y;
- b. suspend Ms. H [REDACTED] from the University of Toronto from September 1, 2009 until August 30, 2012;
- c. impose a notation on her academic record and transcript stating that she has been found to have committed academic offences until August 30, 2013; and
- d. report this case to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed, with Ms. H [REDACTED]'s name withheld.

8. Ms. H [REDACTED] acknowledges that the Provost of the University of Toronto has advised her to obtain independent legal advice before signing this document and that she has done so.

Signed in Toronto on November 18, 2009.

  
S. H.

Signed in Toronto on November \_\_, 2009.

  
Robert A. Centa  
Assistant Discipline Counsel  
University of Toronto

## **SCHEDULE "B"**

THE UNIVERSITY TRIBUNAL  
UNIVERSITY OF TORONTO

University of Toronto and S [REDACTED] H [REDACTED] ( [REDACTED] )

AND

Undertaking

This Exhibit is produced by

1. Ms. H [REDACTED] undertakes to complete a program through the University of Toronto the University of Scarborough Centre for Teaching and Learning, which is acceptable to the University, prior to this 18<sup>th</sup> day of November, 2009, her graduation from the University ("Undertaking").

2. Ms. H [REDACTED] will fulfill the Undertaking by taking the following 5 workshops, which amount to 5 1/2 hours of instruction:

a. Common Types of Academic Assignments:

1. Writing at the University;
2. Critical reviews;

b. Elements of Writing:

1. Writing Strong Introductions;
2. Strong Thesis Statements; and
3. Editing Your Own Writing.

3. In the event that these workshops are not available at time Ms. H [REDACTED] attempts to complete them, the University will, acting reasonably, propose an alternate and equivalent program that Ms. H [REDACTED] shall complete to fulfill the Undertaking.

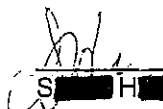
4. Ms. H [REDACTED] acknowledges that the Provost of the University of Toronto has agreed to place a joint submission on penalty before the University Tribunal. A copy of that joint submission is attached to this document.

5. The Provost has agreed to this joint submission, in part, in reliance on Ms. H [REDACTED]'s Undertaking, and, without it, the Provost would not have agreed to put a joint submission before the University Tribunal that included a 3 year suspension.


6. Ms. H [REDACTED] agrees and accepts that she will not be eligible to graduate from the University until she fulfills the Undertaking and the University may rely on this Undertaking to deny her the ability to graduate until it is fulfilled.

7. Ms. H [REDACTED] acknowledges that the Provost of the University of Toronto has advised her to obtain independent legal advice before signing this document and that she has done so.

Signed in Toronto on November 18, 2009.

  
S [REDACTED] H [REDACTED]

Signed in Toronto on November 18, 2009.

  
Robert A. Centa  
Assistant Discipline Counsel  
University of Toronto



**UNIVERSITY OF TORONTO  
UNIVERSITY TRIBUNAL**

**IN THE MATTER OF** charges of academic dishonesty made on or about November 18, 2009;

**AND IN THE MATTER OF** the *University of Toronto Act*, 1971, S.O. 1971 c.56 as amended S.O. 1978, c.88;

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

**BETWEEN:**

**UNIVERSITY OF TORONTO**

-and-

**A ■■■ S ■■■ J ■■■**

**Date of Hearing:** February 10, 2010

**Members of the panel:**

- Bernard Fishbein, Barrister and Solicitor, Chair
- Professor Dionne Aleman, Mechanical and Industrial Engineering, Faculty Panel Member
- Mr. Mir Sadek Ali, Student Panel Member

**Appearances:**

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

**In Attendance:**

- Mr. A ■■■ S ■■■ J ■■■, the Student
- Ms. Lucy Gaspini, Academic Affairs Officer, University of Toronto, Mississauga
- Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances, Office of Governing Council

## REASONS FOR DECISION

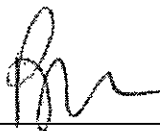
### Background

1. A hearing was held with respect to this matter on February 10, 2010.
2. In view of the Agreed Statement of Facts (a copy of which is attached to this Decision), the admissions of the student and the representations of counsel, the Tribunal was unanimously of the view that the student had violated Section B.1.3 (b) of the *Code of Behaviour on Academic Matters, 1995* ("the Code") in that he 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. Essentially, the student, in order to avoid the consequences of handing in a term project in a course late (or not at all) had, after already being granted one extension, improperly gained access to a University office (by means of a security access card that was available to him because of his temporary employment by the University in an unrelated capacity) and left there a broken, unreadable computer disc and other documents attempting to suggest that the project had in fact been completed and handed in in a timely manner.
3. Further, on the basis of a further agreed upon statement of facts and a joint agreed upon submission to penalty (a copy of which is also attached to this Decision), and after hearing from the student himself as well as counsel, the Tribunal unanimously accepted the agreed upon penalty:
  - (a) the student shall receive a final grade of zero in the course HSC 302H5 Biocommunication Visualization;
  - (b) the student shall be suspended from the University from April 30, 2010 until April 30, 2013;
  - (c) the sanction shall be recorded on the student's academic record and transcript from the date the Tribunal renders its decision until April 30, 2013;

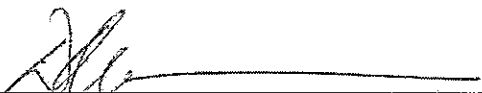
- (d) that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University newspapers, with the name of the student withheld.

4. The Tribunal then unanimously made the appropriate orders.

DATED at Toronto this 24 day of February, 2010.



Bernard Fishbein, Chair



Professor Dionne Aleman, Faculty  
Member



Mr. Mir Sadek Ali, Student Panel  
Member

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on November 18, 2009,

**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 -

A ■ S ■ J ■

**Agreed Statement of Facts**

1. For the purposes of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the Provost of the University of Toronto (the "Provost") and A ■ S ■ J ■ ("Mr. J ■") have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD"). The Provost and Mr. J ■ agree that:

- (a) each document contained in the JBD may be admitted into evidence before the Tribunal for all purposes, including for the truth of the document's contents, without further need to prove the document; and
- (b) if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. This hearing arises out of a charge of academic misconduct made by the Provost under the *Code*. A copy of the charge, which was filed on November 18, 2009, is included in the JBD at Tab 1 ("Charge").

3. Mr. J████ acknowledges that he received a copy of the Charge, waives the reading of the Charge, and hereby pleads guilty to charge #1.

4. The notice of hearing in this matter is included in the JBD at Tab 2. Mr. J████ acknowledges that he received the notice of hearing, and has received reasonable notice of this hearing.

5. Mr. J████ first registered as a student at the University of Toronto at Mississauga in Fall 2004. At all material times, Mr. J████ remained a student at the University. In 2009, Mr. J████ was enrolled in the course of study leading to a major in Communication, Culture & Information Technology program ("CCIT"). A copy of Mr. J████'s academic record dated February 2, 2010, is included in the JBD at Tab 3.

**A. The Assignment**

6. In Winter 2009, Mr. J████ enrolled in HSC 302H5 – Biocommunication Visualization, which was taught by Professor David Mazierski and Professor Shelley Wall ("Course"). A copy of the syllabus and schedule for the Course is included in the JBD at Tab 4. Mr. J████ admits that he received a copy of the syllabus for the Course.

7. Assignment #3 in the Course was a three-part assignment described as a "Didactic conceptual illustration, rationale paper, and presentation" ("Assignment"). The Assignment was worth a total of 35% of the final grade in the Course. A description of the Assignment, which Mr. J████ admits that he received, is included in the JBD at Tab 5.

8. The Assignment was to be handed in on April 6, 2009. The project had four interim deadlines: March 2, March 9, March 16, and March 23, 2009. Mr. J████ missed all four of the deadlines.

9. On April 6, 2009, Mr. J████ did not attend class and did not hand in the Assignment.

10. On April 9, 2009, Mr. J████ requested an extension of time to hand in the Assignment on the basis that he had been ill the week before. Dr. Wall provided him with an extension until April 13, 2009, but Mr. J████ did not hand in the Assignment on that date. On April 14, 2009,

Mr. J████ sought a further extension to hand in the Assignment on account of illness. Dr. Wall did not respond to this request. A copy of the e-mail chain containing this exchange is found in the JBD at Tab 6.

**B. May 6 – the first unauthorized entry into room CC3029**

11. Mr. J████ was a part-time employee in the Classroom Technology Department, which provided audio/visual services to classrooms at the University of Toronto Mississauga. To provide these services, the Classroom Technology Department had swipe cards that granted access to most classrooms and offices on campus. Mr. J████ admits that he had access to these swipe cards solely because of his part-time employment in the Classroom Technology Department.

12. On May 6, 2009, Mr. J████ surreptitiously obtained a room key to room SE2005 from the desk of one of his co-workers. He used that key to gain access to SE2005 and to remove swipe cards, which he believed would give him access to CC3029, which housed the mailroom for the CCIT program.

13. On May 6, 2009, at 2:30 a.m., Mr. J████ used the swipe cards he had obtained to try and open the door to CC3029. The first two attempts to open the door using one swipe card were unsuccessful. Mr. J████'s third try, using a different card, was successful, and he obtained unauthorized access to CC3029 at 2:35 a.m.

**C. The package**

14. On May 7, 2009, Mr. J████ created and assembled several items that purportedly related to the Assignment (the "Package"). The Package consisted of:

- (a) a letter from Mr. J████ to Ms Rose Antonio, which was dated April 15, 2009, and which read, in part, "I have been asked by Professor Shelley Wall to submit my assignment for HSC302 to you for collection. Kindly find the attached envelope and let her know you have received it" ("Cover Letter");

- (b) a blue Post-It note that was stuck to the cover letter, on which was written "For Rose, Not one of mine" and on which appears an illegible signature ("Post-It");
  - (c) a padded envelope, on which was written: "To Prof. Shelley Wall, HSC302" ("Padded Envelope"); and
  - (d) a broken CD, which was placed within the padded envelope ("Broken CD").
15. Photocopies of the Package are included in the JBD at Tab 7.

**D. May 7 – the second unauthorized entry into room CC3029**

16. On May 7, 2009, at 3:45 a.m., Mr. J [REDACTED] used the swipe card to gain access to CC3029.
17. He entered the room, without authorization, and placed the Package in the mailbox of Rose Antonio, Undergraduate Counsellor for the CCIT program.
18. Ms. Antonio discovered the Package when she arrived for work on May 7.

**E. Admissions**

19. In addition to the admissions set out above, Mr. J [REDACTED] admits that to mislead the University in order to obtain, or attempt to obtain an academic advantage, he knowingly:
- (a) dated the Cover Letter April 15 to make it look like he had submitted the Package and the Assignment more or less on time;
  - (b) added the Post-It to make it look as if he had submitted the Assignment more or less on time, but it had then become lost somewhere in the CCIT office.
  - (c) included the Broken CD to make it appear as if he had completed the Assignment, but on media that would not be machine readable.
20. Mr. J [REDACTED] admits that he never completed the Assignment and he engaged in the conduct described above in an attempt to obtain more time to complete the Assignment and to reduce or avoid a penalty for submitting the Assignment after its due date.

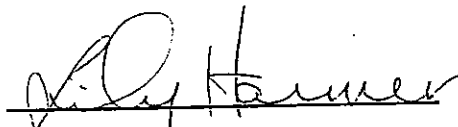
21. Mr. J [REDACTED] admits that he knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind in connection with the Assignment, contrary to section B.1.3(b) of the *Code*.

22. Mr. J [REDACTED] acknowledges that the Provost has advised him to obtain independent legal advice before signing this ASF. He acknowledges that he is signing this ASF freely and voluntarily, knowing of the potential consequences he faces, and with the benefit of the advice of counsel.

Signed on February 9, 2010.

  
A [REDACTED] S [REDACTED] J [REDACTED]

Signed on February 10, 2010.

  
Robert A. Centa  
Assistant Discipline Counsel  
University of Toronto



THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on November 18, 2009,

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 -

A ■ S ■ J ■

**Joint Submission on Penalty**

1. For the purposes of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the Provost of the University of Toronto (the "Provost") and A ■ S ■ J ■ ("Mr. J ■") have prepared this Joint Submission on Penalty ("JSP"). The Provost and Mr. J ■ agree that:

- (a) each document appended to the JSP may be admitted into evidence before the Tribunal for all purposes, including for the truth of the document's contents, without further need to prove the document; and
- (b) if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. All capitalized terms have the same defined meaning as the Agreed Statement of Facts.

**A. Joint Submission**

3. Mr. J[REDACTED] and the Provost submit that, in all the circumstances of this case, the appropriate penalty is that the Tribunal order that the following sanctions be imposed on Mr. J[REDACTED]:

- (a) he receive a final grade of zero in the course HSC 302H5 – Biocommunication Visualization
- (b) he be suspended from the University from April 30, 2010, until April 30, 2013;
- (c) the sanction be recorded on his academic record and transcript from the date the Tribunal renders its decision until April 30, 2013; and
- (d) that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University newspapers, with the name of the student withheld.

**B. Additional facts in support of the Joint Submission**

4. After Ms. Antonio received the Package, she attempted to locate who in the CCIT program had put the Package in her mailbox. No one in the department said that they had placed the Package in her mailbox.

5. Ms. Antonio then obtained a computer printout as to who had accessed room CC3129 between May 6 and May 7, 2009. She learned that there had been three attempts (one successful) to access the room between 2:30 a.m. and 2:35 a.m. on May 6, and one successful access to the room on May 7, 2009, at 3:45 a.m. The report indicated that the key used to access room CC3129 belonged to the Classroom Technology Department. Ms. Antonio then contacted the Classroom Technology Department and learned that Mr. J[REDACTED] was a casual employee with the Classroom Technology Department and would have access to the access cards.

6. On May 9, 2009, Campus Police interviewed Mr. J[REDACTED] and asked him where he was in the late evening and early morning of May 6 and 7, 2009. Mr. J[REDACTED] stated that he was on

campus studying. Campus Police asked Mr. J[REDACTED] if he had accessed any rooms while walking around the building and he replied no.

7. Campus Police then confronted Mr. J[REDACTED] with the information they had gathered regarding the access report for room CC3129. Mr. J[REDACTED] then admitted that he had accessed the mail room to drop off his assignment. Mr. J[REDACTED] then turned over the key to Campus Police.

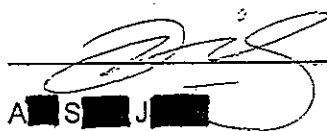
8. On May 15, 2009, Mr. J[REDACTED] sent an email to Anil Vias (Director of Technology Resource Centre) and Mr. J[REDACTED]'s supervisor. A copy of this email is attached to the JSP at Tab 1.

9. Mr. J[REDACTED]'s employment with the Classroom Technology Department was terminated.

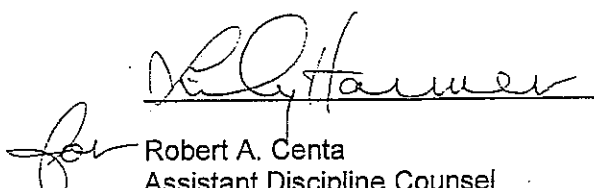
10. On August 24, 2009, Mr. J[REDACTED] met with Professor Scott Graham. Professor Graham is the Dean's Designate for Academic Discipline at the University of Toronto Mississauga. During this meeting, Mr. J[REDACTED] described how he committed the offence and admitted that he had violated the *Code of Behaviour on Academic Matters*.

11. Mr. J[REDACTED] acknowledges that the Provost has advised him to obtain independent legal advice before signing this ASF on Penalty. He acknowledges that he is signing this ASF on Penalty freely and voluntarily, knowing of the potential consequences he faces, and with the benefit of the advice of counsel.

Signed on February 9, 2010.

  
A. S. J.

Signed on February 10, 2010.

  
for Robert A. Centa  
Assistant Discipline Counsel  
University of Toronto