



TO: Members of the Academic Board

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

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DATE: October 26, 2009

AGENDA ITEM: 13(c)

ITEM IDENTIFICATION:

Semi-Annual Report: University Tribunal, Individual Cases, Fall 2009

JURISDICTIONAL INFORMATION:

The University Tribunal hears cases of academic discipline under the *Code of Behaviour on Academic Matters, 1995* (the “Code”) 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 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 -

MS. J.H.(L.) Y.

Members of the Panel:

- Mr. Raj Anand, Chair
- Professor Sarah King, Faculty Panel Member
- Ms. Melany Bleue, Student Panel Member

Appearances:

- Ms. Lily Harmer, Assistant Discipline Counsel for the University
- Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity

- Mr. Mike Hamilton, Representative for the Student
- Ms. J.H.(L.) Y., the Student

Preliminary

- [1] The Trial Division of the University Tribunal was convened on July 25, 2007 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters*, 1995 (the “Code”) laid against the Student by letter dated January 15, 2007 from Professor Edith Hillan, Vice-Provost, Academic.

Notice of Hearing and Charges

- [2] The Notice of Hearing was dated July 4, 2007.

[3] The charges are as follows:

1. On or about August 3, 2006, you knowingly represented as your own, an idea or expression of an idea, and/or work of another in connection with a form of academic work, namely, "Arts and Politics in Italy", a research paper that you submitted to fulfill the course requirements of FAH339H1, contrary to Section B.i.1(d) of the *Code of Behaviour on Academic Matters, 1995* (the *Code*).
2. In the alternative, on or about August 3, 2006, 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, in a research paper entitled "Arts and Politics in Italy" submitted to fulfill course requirements in FAH339H1, contrary to Section B.i.3(b) of the *Code*.

[4] Particulars of the charges are as follows:

1. You were at all material times a student in FAH339H1: Art and Politics in Italy 1480-1527, taught by Professor Carson during the summer of 2006.
2. On or about August 3, 2006, you submitted a research paper to Professor Carson entitled "Arts and Politics in Italy", which paper had been purchased from an essay service called masterpapers.com.
3. You did not write the paper which you submitted for credit entitled "Arts and Politics in Italy".
4. The paper entitled "Arts and Politics in Italy" which you submitted contained excerpts and passages that were copied without attribution from a number of internet sources.

Agreed Statement of Facts

[5] After reading the charges into evidence, the Student pleaded guilty to charge #1. The University withdrew charge #2.

[6] 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 she did not write the research paper entitled "Arts and Politics in Italy", but rather purchased the paper from a third party who, in turn, had copied the paper in its entirety from online sources that were not referenced. The Agreed Statement of Facts is attached at Appendix 1.

[7] Counsel for the University led the panel through the Agreed Statement of Facts, drawing its attention to the course outline for FAH339H1, especially to the section dealing with plagiarism, which informed students that plagiarism is an offence under the *Code*, that penalties for such misconduct range from a zero in a course to suspension or expulsion from the University, and

then directed students to a University of Toronto website wherein more information about writing and plagiarism could be found.

- [8] The panel sought information on how the offence had been detected. Counsel for the University and counsel for the Student jointly submitted that the plagiarism was detected at the time of marking. It was at the Dean's meeting that the Student admitted to having purchased the plagiarized paper.

Decision of the Tribunal

- [9] Based on the Agreed Statement of Facts and the Student's guilty plea, the Tribunal accepted the plea and made the finding of guilt.

Sanction and Reasons

- [10] The University presented to the panel a Supplementary Agreed Statement of Facts and a Joint Submission on Penalty. The Supplementary Agreed Statement of Facts, attached at Appendix 2, provided agreed facts pertinent to the issue of sanction, specifically that the Student had committed a prior plagiarism offence in MUS110H taken in the 2002 Fall Session. At that time, the Dean's designate for the Faculty of Arts and Science, Professor D.W. Smith, imposed the following penalty:
- a. A grade of zero for the plagiarized paper, worth 30% of the final grade
 - b. A further reduction of 30% for the final grade in the course
 - c. A notation on the Student's transcript for a period of two years, which read "Censured for Academic Misconduct".
- [11] In the sanction letter to the Student, dated May 26, 2003, Professor Smith provided guidance on how to avoid plagiarism in the future and warned that a second offence would be dealt with more severely.
- [12] The Joint Submission on Penalty, attached at Appendix 3, submitted that the appropriate penalty in the circumstance is as follows:
1. that the Student be suspended from attendance at the University of Toronto for a period of three years, from June 1, 2007 to May 31, 2010;
 2. assignment of a grade of zero in FAH339 for the 2006 Summer term; and
 3. notation be placed on the Student's transcript for a period of three years from the date of the hearing to the effect that the Student was suspended from the University for academic misconduct
 4. That a report of the decision be made to the Provost for publication in the University's newspaper with the Student's name withheld

- [13] In reviewing the sanctions available to the panel, discipline counsel compared the severity of the penalty proposed in the Joint Submission against the previous sanction imposed by the Dean for the 2002 plagiarism offence. Discipline counsel submitted that the relatively lenient sanctions imposed by the Dean had not had the desired effect on the Student, in light of the fact that she had committed a second offence. For this reason, the penalty for the second infraction called for a more severe sanction. However, the cooperative attitude of the Student throughout the judicial process, as evidenced by the joint submissions, suggested that the Student could yet be rehabilitated and should, therefore, be given the opportunity to return to the University community.
- [14] The University placed a Book of Authorities before the panel so that it might have an opportunity to review several decisions of other panels of the University Tribunal in similar cases. In particular, the panel reviewed the criteria for sanction first proposed by the late and former Mr. Justice Sopinka in the matter of the appeal of Mr. C. (November 5, 1976). According to these guidelines, the Tribunal should consider the following six criteria when deciding on an appropriate sanction:
- a) the character of the person charged;
 - b) the likelihood of a repetition of the offence;
 - c) the nature of the offence committed;
 - d) any extenuating circumstances surrounding the commission of the offence;
 - e) the detriment to the University occasioned by the offence;
 - f) the need to deter others from committing a similar offence.
- [15] In its submissions on penalty, the University reminded the panel that the Student was not new to the University environment nor was she unfamiliar with disciplinary practices. In spite of her knowledge and past experience, the Student had engaged in academic misconduct a second time. Discipline counsel contrasted the repetitive nature of the Student's behaviour with her willingness to cooperate with University officials on both occasions. Discipline counsel acknowledged that it was difficult to assess the likelihood of a further repetition of misconduct, but reasoned that a more severe sanction on this occasion would deter the Student from committing future offences.
- [16] With respect to the nature of the offence, discipline counsel spoke of the endemic nature of plagiarism and the difficulties associated with detecting purchased papers. Given the gravity of these problems, counsel argued that they need to be addressed in a serious manner.
- [17] The University concluded its submissions on penalty by reminding the panel that academic misconduct must be dealt with seriously. There must be serious consequences for committing offences, both to rehabilitate the Student and to prevent other members of the community from even contemplating the possibility of cheating.

- [18] The panel asked discipline counsel why expulsion had not been sought by the University, since the Student had purchased the plagiarized paper. Ms. Harmer acknowledged that the Provost's Guidelines, contained in Appendix C of the *Code*, do recommend expulsion for purchased papers, but that the principle of consistency must inform the Tribunal when it imposes sanctions. Ms. Harmer noted that while some cases similar to this one did result in expulsion, the majority did not. In this particular case, a three year suspension is on the lower end of the sanction spectrum for a purchased essay, but not for plagiarism as a broad category. That is, for plagiarism broadly speaking, the proposed sanction is actually at the higher end.
- [19] The panel questioned why the case was being prosecuted as both an instance of essay purchasing and plagiarism, since, by purchasing the essay, it was clear that the Student had not written the paper and, therefore, could not be said to have plagiarized. Discipline counsel referred the panel to Section B.i.1.d of the *Code*, which states that to commit plagiarism is: "to represent as one's own any idea or expression of an idea or work of another ...". Ms. Harmer argued that it is the representational act that is crucial to the commission of plagiarism, regardless of whether the paper that is submitted for credit is the result of cutting and pasting sources or purchasing the final product.
- [20] The panel asked discipline counsel how she had come to learn of the first offence, given that the notation on the Student's academic record had expired prior to the commission of the second offence. Ms. Harmer responded that files are maintained for students who have been sanctioned at the decanal level and that no promise is made to expunge the file once the notation sanction expires.
- [21] Following the submissions of discipline counsel, Mr. Hamilton was invited to provide closing comments on behalf of the Student. Mr. Hamilton stressed the amount of care that had gone into the agreed statements presented to the panel. While acknowledging that the Tribunal is not bound by the *Joint Statement on Penalty*, he reminded the panel of the deference criminal courts show to such statements and provided the panel with a copy of *R v. Cerasuolo*, which states:
- "This court has repeatedly held that trial judges should not reject joint submissions unless the joint submission is contrary to the public interest and the sentence would bring the administration of justice into disrepute ... This is a high threshold and is intended to foster confidence in an accused, who has given up his right to a trial, that the joint submission he obtained in return for a plea of guilty will be respected by the sentencing judge."
- [22] In response to these submissions, the Chair commented that the 'bringing of justice into disrepute' is a rather drastic criterion and that in the context of this Tribunal it may be more appropriate to judge *Joint Submissions on Penalty* in terms of an 'acceptable range'. Counsel for the Student conceded that the Tribunal typically employs the 'acceptable range' criterion in determining the appropriateness of a proposed sanction.
- [23] In acknowledging that it is impossible for the parties, when negotiating agreements, to anticipate all the questions that may arise for the panel, the Chair questioned what would prevent the parties from submitting character evidence along with the *Joint Statement on Penalty*. In response, counsel for the defence informed the panel that he had prepared a booklet containing an up-to-date transcript as well as letters attesting to the Student's good character.

Since discipline counsel had had an opportunity to review these documents prior to the hearing and did not then find them objectionable, no objection was raised to having them entered into evidence.

[24] The letters, one from the Student's sister and the other from a friend of the Student, described some life difficulties that the Student had been experiencing at the time the offence was committed. The transcript revealed academic improvement following this time of stress. Counsel for the Student argued that these documents were evidence of the impact of stress on the Student's behaviour and concluded that the probability of reoffending is quite low.

[25] Following the parties' submissions on penalty, the panel recessed to deliberate. The panel then accepted the *Joint Submission on Penalty* as falling within an acceptable range in the present circumstances. The panel therefore imposed the following sanctions:

1. that the Student be suspended from attendance at the University of Toronto for a period of three years, from June 1, 2007 to May 31, 2010;
2. assignment of a grade of zero in FAH339 for the 2006 Summer term; and
3. notation be placed on the Student's transcript for a period of three years from the date of the hearing to the effect that the Student was suspended from the University for academic misconduct
4. That a report of the decision be made to the Provost for publication in the University's newspaper with the Student's name withheld

DATED at Toronto this 15 day of May, 2009



Raj Anand, Tribunal Co-Chair

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on January 22, 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 -

R■■■■ A■■■■

As dictated on May 5, 2008

Members of the Panel:

- Ms. Rodica David, Chair
- Professor Melanie Woodin, Faculty Panel Member
- Dr. Joan Saary, Student Panel Member

Appearances:

- Ms. Lily Harmer, Assistant Discipline Counsel
- Ms. R■■■■, A■■■■, the Student, did not attend

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

- [1] This is a situation where the Student has chosen not to attend and has chosen not to provide us with any extenuating circumstances with respect to this extremely serious offence. The Student has admitted to two previous offences under the University of Toronto's Code of Behaviour, both of which, in our view, were serious and on which she received relatively lenient sanctions. Note that those two previous offences occurred in one year after the next; so we now have three successive years when the Student has admitted to offences under the Code. The action that the Student took was clearly deliberate and must have involved a significant amount of thought. She composed a

relatively long letter which turned out to be, on her own admission, a complete forgery in every respect.

[2] I would like to just review all of the criteria for sanction:

a. Character of the person charged

Well, we have no evidence before us directly on character. We do have the fact that in three successive years she committed serious offences under the *Code* and that is a mark of character.

b. Likelihood of repetition of the offence

We have no evidence on that at all and I don't think that we can make any finding.

c. Nature of the offence

In our view this is an extremely serious offence as it essentially affects the reputation of the University in terms of how it is portrayed to the public. However, we are also concerned about the fact that this type of offence – at least the facts that we have been provided with concerning this offence – could potentially even be the subject of criminal charges. In our view, an attempt to get money from a bank with a forged document could have potential consequences with criminal charges laid. Of course, when criminal charges are laid, the burden of proof is a stronger one, namely beyond a reasonable doubt, than it is when we are dealing with an offence under the University's *Code*. The burden there is for clear and cogent evidence. However, because the nature of the offence has the potential for criminal charges, that has given us a great deal of concern. We feel strongly that the University should not be implicated in behaviour that might otherwise be considered criminal. This is a very serious offence. Paragraph 16 of the R.W. case contains an extremely eloquent and well-stated analysis on serious offences and we believe that the majority of that paragraph applies to this case.

d. Extenuating circumstances

We have not been made aware of any extenuating circumstances surrounding the commission of this offence. If the Student, indeed, did not have the funds available to continue to pursue her academic career, she had many potential options. She might have attempted to speak to a faculty member about what financial concessions might be made; she could have perhaps worked part-time; she could have taken a year off and worked. She could have found other means of dealing with the challenge that presumably she thought she faced of not having enough funds to continue with her education. We also query how she found the funds to continue with her education in any event because we understand that she has taken more courses in this most recent academic year after she tendered this forged document. So in all, we do not find that there are any extenuating circumstances.

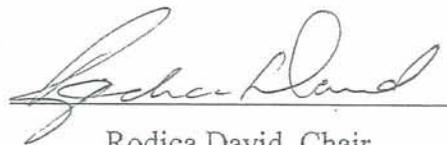
e. Need for deterrence

This is the type of offence that must be brought to the attention of students and a strong sanction imposed so that there is a strong deterrent factor. We are very proud of our University and we have to make certain that people understand that any document that

bears the name of the University is a legitimate document, composed by a person in authority to compose it. It is unfortunate that in this era of electronic information it seems easier to forge documents than in the past. So, we feel that the deterrent factor is very important and that the reputation of the University would be seriously diminished if we did not take a very proactive and serious approach to this.

- [3] Having considered all of the factors we have decided unanimously to accept the Joint Submission. Sanction will be imposed in accordance with the Joint Submission on Penalty, which is Exhibit 5, specifically:
- i. The Tribunal recommend to the President that he recommend to the Governing Council that the Student be expelled from the University; and
 - ii. Pending the decision of the Governing Council, that the Student be suspended from the University for a period of up to five years.
- [4] The Student and the University submit that the Tribunal should report this case to the Provost who may publish a notice of the decision of the Tribunal and the sanctions imposed, with the Student's name withheld.
- [5] Ms. Harmer, thank you very much for your extremely well-reasoned and informative submission, which has made our job much easier. This Tribunal is now adjourned.

Dated this 17th day of July, 2009


Rodica David, Chair

UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION

Members of the Panel:

Michael Hines, Co-Chair

• **Sara Ageorlo**, Student Panel Member

• **Graham Trope**, Faculty Panel Member

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 M.Z.

No one appearing - for M.Z.

Robert A. Centa and **Michael Nicholson** - for the University

1. The Trial Division of the University Tribunal was convened on September 26, 2007 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "Code") laid against the Student by letter dated May 8, 2007 from Professor Edith Hillan, Vice-Provost, Academic.
2. The Vice-Provost's letter advised the Student that she had been charged with four offences concerning two essays that she had submitted to fill the course requirements of PHL 351 and PHL 342. Specifically, in respect of each essay she was charged with plagiarism under section B.1.1(d) and academic dishonesty contrary to section B.1.3(b) of the *Code of Behaviour on Academic Matters, 1995* ("Code").
3. The matter proceeded before the Tribunal on September 26, 2007. The student did not attend. The Assistant Discipline Counsel for the University of Toronto advised the Panel that he had reached an Agreed Statement of Facts with the student concerning the matters in question, and that she was content that the hearing proceed in her absence based upon the agreed-upon document. The Agreed Statement of Facts is reproduced immediately below.

4. Exhibit 3:

UNIVERSITY OF TORONTO

And

M.Z.

AGREED STATEMENT OF FACTS

1. The University of Toronto admitted the student to the University's Bachelor of Arts and Science program at the St. George campus in the Fall of 2002. A copy of the student's academic record as of October 16, 2006 is attached to the Agreed Statement of Facts at **Tab A**.
2. In the Fall of 2006, the student was enrolled in six half courses, including PHL351H1 (Philosophy of Language) and PHL342H1 (Minds and Machines). The University has alleged that the student committed an academic offence in both Philosophy of Language and Minds and Machines.

Philosophy of Language

3. The student enrolled in Philosophy of Language in Fall 2006. It was a third year course in the Department of Philosophy which was taught by Professor Niko Scharer.
4. Philosophy of Language examined the relationship between language and mind that leads philosophers to reflect upon meaning and truth, as well as language as a means of both communication and action. A copy of the course outline for Philosophy of Language is attached to this Agreed Statement of Facts at **Tab B**.
5. The course requirements included an essay which was worth 40% of the final mark in Philosophy of Language.
6. On or about April 17, 2006, the student submitted her essay entitled "*On Theory of Description*". A copy of the student's essay is attached to this Agreed Statement of facts at **Tab C**.
7. After Professor Scharer challenged the student regarding the lack of references in *On Theory of Description*, the student stated that she had handed in an incomplete version of the essay. On or about April 27, 2006, the student submitted a revised version of her essay, which contained citations and references that were not present in the essay she had first submitted on April 17, 2006. According to the student, the citations and references had been omitted from the first essay through inadvertence as a result of accident and/or error. A copy of the essay submitted by the student on April 27, 2006 is at **Tab D**.

8. The student did not write *On Theory of Description*. Instead, she copied substantial segments from a website that she did not reference or otherwise acknowledge. The relevant pages from the website are attached to this Agreed Statement of Facts at **Tab E**.
9. Attached to this Agreed Statement of Facts at **Tab F** is a copy of *On Theory of Description*, which has been highlighted in yellow. The words that are highlighted were taken verbatim from the websites.
10. The student admits that she did no meaningful academic work in respect of *On Theory of Description*. Specifically, the student admits that on or about April 17, 2006, she knowingly represented as her own, an idea, an expression of an idea, and the work of another in *On Theory of Description* which she submitted to fulfill the course requirements of Philosophy of Language, contrary to s. B.I.1(d) of the Code.
11. The student admits that she is guilty of Charge #1 contained in the charges dated May 8, 2007 filed by the University, a copy of which is attached to this Agreed Statement of Facts at **Tab G**.

Minds and Machines

12. In the Fall of 2006, the student enrolled in Minds and Machines, which was a third year philosophy course taught by Professor Evan Thompson.
13. Minds and Machines examined the mind in relation to its mental processes and explored such topic areas as philosophical foundations of artificial intelligence theory; the computational theory of the mind; functionalism vs. reductionism and the problems of meaning in the philosophy of mind. A copy of the course outline for Minds and Machines is attached to this Agreed Statement of Facts at **Tab H**.
14. In order to fulfill the course requirements, students were required to write quizzes and submit papers, including a final paper which was worth 20% of the final mark in Minds and Machines.
15. On or about April 17, 2006, the student submitted a paper entitled "*Artificial Life vs. Artificial Intelligence*". A copy of the student's paper is attached to this Agreed Statement of facts at **Tab I**.
16. The student did not write *Artificial Life vs. Artificial Intelligence*. Instead, she copied it nearly in its entirety from online sources that she did not reference or otherwise acknowledge. The relevant pages from the websites are attached to this Agreed Statement of Facts at **Tab J**.
17. Attached to this Agreed Statement of Facts at **Tab K** is a copy of *Artificial Life vs. Artificial Intelligence*, which has been highlighted in yellow. The words that are highlighted were taken verbatim from the websites.
18. The student admits that she did no meaningful academic work on *Artificial Life vs. Artificial Intelligence*. Specifically, the student admits that on or about April 17, 2006, she knowingly represented as her own, an idea, an expression of an idea, and the work of another in *Artificial Life vs. Artificial*

Intelligence, which she submitted to fulfill the course requirements of Minds and Machines, contrary to s. B.I.1(d) of the *Code*.

19. The student admits that she is guilty of Charge #3 contained in the charges dated May 8, 2007 filed by the University (at Tab G to this Agreed Statement of Facts).

Conclusion

20. If she or a duly authorized agent appear before the University Tribunal, the student will plead guilty to charge #1 and #3 of the charges filed by the University of Toronto.
21. The student 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 either done so or deliberately waived that right.

Signed in Hong Kong on August 15, 2007

"M.Z."

M.Z.

[signature]

Witness

Signed in Toronto on September 15, 2007

"Robert A. Centa"

Robert A. Centa

5. On the basis of this Agreed Statement of Facts, the Panel reached a finding that the student was guilty of plagiarism under charges #1 and #3 as listed in the Notice of Hearing. On consent, charges #2 and #4 concerning academic dishonesty were withdrawn.

6. The Panel was advised further that the student had also agreed to a Joint Submission on Penalty. That Joint Submission is now reproduced immediately below.

UNIVERSITY OF TORONTO

and

M.Z.

JOINT SUBMISSION ON PENALTY

1. The University of Toronto and M.Z. submit to the Tribunal that the appropriate penalty in all of the circumstances is:
 - a. The student be suspended from attendance at the University of Toronto for a period of three years from the date of this hearing;
 - b. assignment of a grade of zero in each of PHL351H1 and PHL342H1 for the 2006 Winter term; and
 - c. notation on the student's transcript to the effect that she was sanctioned for academic misconduct for a period of three years from the date of this hearing.
2. The University of Toronto and the student submit that the Tribunal should report this case to the Provost who may publish a notice of the decision of the Tribunal and the sanction or sanctions imposed with the student's name withheld.

3. The student acknowledges that the University of Toronto has advised her to retain independent legal counsel before signing this Joint Submission on Penalty and that she has either done so or deliberately waived that right.

Signed in Hong Kong on August 1st, 2007.

"M.Z."

M.Z.

Witness

Signed in Toronto on September 26th, 2007.

"Robert A. Centa"

Robert A. Centa

Assistant Discipline Counsel,
University of Toronto

7. As reflected in paragraph 1 of the Joint Submission, the parties reached an agreement on the appropriate penalty in all of the circumstances of the case. The Panel reviewed this agreement and concluded that it did, indeed, reflect an appropriate penalty.
8. Accordingly, the Panel hereby imposes the following sanctions, namely that the student:
 - (a) be suspended from attendance at the University of Toronto for a period of three years, with the suspension to run from September 26, 2007 to September 26, 2010;
 - (b) shall be assigned a grade of zero in each of PHL351H1 and PHL342H1 for the 2006 Winter term; and
 - (c) shall have her transcript bear a notation that she was sanctioned for academic misconduct for a period of three years until September 26, 2010.

The Panel further recommends that this case be reported to the Provost who may publish a notice of the decision of the Tribunal and the sanction or sanctions imposed with the student's name withheld.

9. I certify that this is the decision of the Panel:

DATED at Toronto this 27th day of July, 2009.

A handwritten signature in black ink, appearing to read "Michael A. Hines", written over a horizontal line.

Michael A. Hines

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on July 10, 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:

THE UNIVERSITY OF TORONTO

- and -

L. Y.

Members of the Panel:

- Ms. Lisa Brownstone, Chair
- Professor Magdy Hassouna, Faculty Panel Member
- Mr. Jeffrey Clayman, Student Panel Member

Appearances:

- Mr. Robert Centa, Assistant Discipline Counsel
- Ms. Tina Lee, Assistant to Mr. Centa
- Professor Scott Graham, Dean's Designate, University of Toronto at Mississauga

Preliminary Issue

- [1] The trial division of the University Tribunal was convened on December 1, 2008 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 October 29, 2008.
- [2] Neither the student nor a representative for the student appeared at the hearing. The University proposed to proceed in the student's absence. To this end, the university called evidence and made submissions about the reasonableness of notice provided to the student.

- [3] The University commenced by introducing the following exhibits: the Notice of Hearing; a letter dated May 15, 2007 outlining the charges against the student arising out of her alleged behaviour on or about August 22, 2006 (“the first set of charges”) with a covering letter dated May 15, 2007; and a letter dated February 8, 2008 advising the student of the offences alleged to have been committed on or about April 18, 2007 (“the second set of charges”).
- [4] The University advised that it had had no contact with the student for an extensive period of time and proceeded to lead evidence about the historical contact and the subsequent attempts it had made to effect further contact with the student.
- [5] The Panel heard from Lucy Gaspini, Academic Affairs Officer in the Dean’s Office at the University of Toronto, Mississauga. She testified that on May 28, 2007 she sent a letter to Ms Y at the address Ms Y had provided to the University as the address at which she could be reached. That letter advised that a report had been received that the student had used unauthorized assistance during the writing of an examination, and provided the student with an opportunity to meet with the Assistant Dean or her representative in respect of the alleged incident. The letter advised the student to contact Ms Gaspini before Friday, June 15, 2007 to arrange a meeting time. Ms Gaspini testified that this kind of letter is always sent by registered mail, and that she received no indication that the letter was not received. Ms Gaspini testified that since no response had been received, she began a quest to get a hold of the student. She made several telephone calls to different numbers that had been provided by the student to the University, and, in mid-August, emailed the email address that the student had provided to the University. No response to the email was received. One of the telephone numbers that the student had provided to the University was not in service.
- [6] During the week of August 20, 2007, the student was expected to attend to write an examination in a different course, which had been deferred at the student’s request. Ms Gaspini intended to reach the student at that examination. However, the student did not attend for the examination.
- [7] On August 22, 2007, August 24, 2007 and September 18, 2007, Ms Gaspini tried different numbers to get a hold of the student and left voicemail messages asking for Ms Y to contact her about an urgent matter. Ms Gaspini also asked that, if the telephone number was incorrect and the student was not reachable at that telephone number, whoever got the message telephone Ms Gaspini to advise her that the number was incorrect. No response of any kind was received to these messages.
- [8] Further telephone calls were made on September 20, 2007 and September 30, 2007. On September 20, 2007, Ms Gaspini tried to call all of the numbers listed in Canada 411 under the same surname as the student, but did not receive any response.
- [9] On September 27, 2007, Ms Gaspini obtained an internal email providing a second possible email address for the student.

- [10] On October 1, 2007, Ms Gaspini couriered a letter and sent the letter by regular mail to the student's most current address as listed on the University records. Both were returned to the University on October 22, 2007.
- [11] The Panel next heard from Betty Ann Campbell, a law clerk at Paliare Roland, the firm that is counsel for the University. Ms Campbell testified that the first set of charges was delivered by the University to the firm in April, 2007. Disclosure materials were assembled and sent to the student's address that was provided on the University Record as the student's most recent address. No reply was received. At that point, Paliare Roland received information that there were additional investigations into what would become the second set of charges. Therefore, no further steps were taken at that time to schedule the first set of charges. The second set of charges was received by the firm in February 2008. Ms Campbell prepared disclosure materials for those charges and sent them by courier. That documentation was returned to her office. She ordered an updated Record of Student Information from the University, which listed the same address and email address as those previously provided to the firm by the University. Therefore, Ms Campbell emailed the student, advising that there had been no responses to correspondence, that she had been unable to reach her by telephone, and had not received any response to voicemails. Ms Campbell advised the student in the email that she would be proceeding to schedule the case for a hearing before the Tribunal in relation to both sets of charges in April or May, 2008, and proceeded to suggest various dates. The student was asked to advise Ms Campbell within the next few days whether any of the dates posed a conflict for her, and was advised that if the student did not contact Ms Campbell, Ms Campbell would assume that the student would be available to attend. Ms Campbell received no response to the email, and no indication that the email address was not active.
- [12] Ms Campbell testified that she then hired Don Colbourn, a private investigator, who located the student in Ottawa. The following day, Ms Campbell wrote a letter and sent it by courier to the Ottawa address. She sent everything that had been delivered previously in respect of both sets of charges, including the letters and the disclosure briefs. Delivery confirmation was received on May 1, 2008. No response was received from the student.
- [13] In October, 2008, Ms Campbell again emailed the student suggesting several dates for the hearing and asked for confirmation of her availability to attend. Ms Campbell received no response to that email, including no indication that the email was not delivered.
- [14] The Notice of Hearing was sent by email to the two email addresses that the University had for the student. The week before the hearing, Ms Campbell again retained Mr. Colbourn, who reported that he could not find the student, who had moved from the Ottawa address.
- [15] The Panel was further advised that the student attended a meeting with Scott Graham, Dean's Designate at the University of Toronto, Mississauga, with respect to the incident that led to the first set of charges on February 27, 2007.

- [16] Counsel for the University submitted that the notice given to the student was reasonable, and in accordance with the requirements of the *Statutory Powers Procedure Act*. Counsel submitted that the evidence shows that the student had no interest in taking part in the proceedings, and had made a conscious choice not to participate. Counsel relied in part on a University policy which became effective September 1, 2006 indicating that 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. The policy indicates that students are expected to monitor and retrieve their mail, including electronic messaging accounts issued to them by the University, on a frequent and consistent basis, and are responsible to recognize that certain communications may be time critical.
- [17] After consideration, the Panel concluded that the University had provided reasonable notice to the student. While the Panel was of the view that as of May 1, 2008 it likely would have been preferable to use the mailing address in Ottawa received through the private investigator for all future correspondence with the student, in addition to the email addresses, the Panel noted that as of the date shortly before the hearing, the private investigator reported that the student was no longer at that address and that her whereabouts were unknown. The private investigator reported that an extensive investigation was conducted in attempts to locate contact information for the student, who commonly uses an alias, resulting in two names being searched for. The private investigator advised that the student does not maintain typical records which generally indicate information as to a person's whereabouts nor does she maintain a stable lifestyle or remain in one location for extended periods of time. He describes her as nomadic and transient in her behaviour. Therefore, the private investigator was unsuccessful in finding her the second time.
- [18] The Panel was satisfied that the University, both before and after counsel had been retained, had taken many steps to try to locate the student, and that the student had failed to make herself available to the University or to acknowledge communications from the University repeatedly, even going so far as not to attend for an examination that had been deferred at her request in August, 2007. There were no "bounced-back" email messages indicating that any of the email accounts were no longer active; and the package of disclosure documents and notice of the charges were signed for and received on May 1, 2008. By that time, the student would know that she was facing two sets of charges and that a hearing into these charges was likely to be scheduled in the near future. She would also know the details of those charges. She was again invited to contact the University directly or through its counsel. Nonetheless, she made no effort to contact the University directly or through counsel. This pattern of behaviour continued until the date of the hearing. The Panel therefore concluded that reasonable notice had been provided, and that it would be improper to permit a student to avoid facing charges by a complete failure to respond to the University's many attempts to reach her. Further, the Panel considered that adjourning to permit further attempts at service would not assist, given that the student appeared to have moved again without providing any further contact information.

- [19] Therefore, the Panel concluded that reasonable notice had been provided and was prepared to have the hearing proceed in the student's absence, in accordance with the provisions of the *Statutory Powers Procedure Act*.

Notice of Hearing and Charges

- [20] The charges are as follows:

MAY 15, 2007

- i. On or about August 22, 2006, you knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in an academic examination or term test, namely the final examination in ECO336Y5Y – Public Economics, contrary to Section B.I.1.(b) of the University's *Code of Behaviour on Academic Matters, 1995 (Code)*.
- ii. In the alternative, on or about August 22, 2006, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind during the final examination in ECO336Y5Y – Public Economics, contrary to Section B.I.3.(b) of the *Code*.

FEBRUARY 8, 2008

- i. On or about April 18, 2007, you knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in an academic examination or term test, namely the final examination in PHL290H5 - "Psychoanalysis", contrary to Section B.I.1(b) of the University's *Code of Behaviour on Academic Matters, 1995 (Code)*.
- ii. In the alternative, on or about April 18, 2007, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind during the final examination in PHL290H5 - "Psychoanalysis", contrary to Section B.I.3.(b) of the *Code*.

- [21] Particulars of the Charges are as follows:

MAY 15, 2007

- i. At all material times you were enrolled in ECO336Y5Y. This course was taught by Professor McMillan
- ii. You wrote a deferred final examination in this course on August 22, 2006. The only aid permitted in the examination room was a calculator.

- iii. During the examination, you were found to be in possession of a piece of paper containing text related to the examination.

FEBRUARY 8, 2008

- i. At all material times you were enrolled in PHL290H5. This course was taught by Professor André Gombay. In advance of the PHL290H5 final examination, Professor Gombay provided the class with the final examination questions for use as a study aid.
- ii. You were instructed that the only aid permitted in the final examination room was the Sigmund Freud text, Introductory Lectures on Psychoanalysis. You were instructed not to write anything in the Freud text.
- iii. You wrote a final examination in this course on April 18, 2007. During the examination, you were found to be in possession of a copy of the Freud text in which full answers to the final examination had been written. You used those answers as an unauthorized aid.

[22] In support of the charges, the University called four witnesses.

The First Set of Charges

[23] The first witness was Wendy Norman, the Examinations Officer employed in the Office of the Registrar since 2004. Ms Norman testified that she was supervising a special deferred examination in Economics 336 in August, 2006. Ms Norman testified that she recalled L.Y.'s arrival at 9:25 am, twenty-five minutes after the start of the examination and only five minutes before she would not have been permitted to write the examination. Ms Norman was invigilating the examination with two other people. After a moment or two, during which the student had commenced writing the examination, Ms Norman checked her identification and the aids allowed. The only aid allowed was a calculator. Ms Norman testified that it is her habit to check every aid at every examination. This is her routine practice because there have been occasions where there are known to be notes hidden in calculator covers or other aids. In this case, Ms Norman picked up the student's calculator, saw that it had a cover and saw that there were notes under the cover. Ms Norman identified the calculator for the Panel as the one that was taken from the desk of the student. She testified that inside the calculator, folded carefully into three parts, was a double-sided piece of paper that contained notes written in small print. These notes were entered into as an exhibit at the hearing. When Ms Norman discovered the note, she asked the student whether it was her calculator. The student initially replied that it was, and Ms Norman asked whether the notes were hers. According to Ms Norman, the student said that she didn't know what that was, that the calculator belonged to a friend of hers. At this point, Ms Norman took the calculator and provided the spare calculator to the student. After the examination, the student asked for the calculator back but Ms Norman advised her that it was her practice to confiscate the aid and to make a report and sent it to the department. That report was also entered into evidence. Ms Norman could

evidence. Ms Norman could not recall whether she saw the student use the calculator. A copy of the report was sent to Ms Gaspini and Ms Norman had no further contact with the student.

- [24] Next, the Panel heard from Professor McMillan who testified by videoconference from North Carolina. He testified that he had taught Economics 336 every year since he arrived at the University except 2006-2007 when he was on sabbatical, and that there are about 75 students in the course each year. The course is graded by one term test each semester and a comprehensive final examination. He remembered the student as she had missed a term test. He had had occasion to review the handwritten note that was found folded up in the calculator cover and described its relevance to the examination as very high. Indeed, two portions of the note related directly to questions that were found on the examination. The remainder of the note covered material that was covered in the course and was generally relevant to the examination.
- [25] The University then called Scott Graham, an Associate Professor of Computer Science and Forensic Science, and Dean's Designate at the University of Toronto, Mississauga. Professor Graham advised that he met with the student on February 27, 2007 about the incident described by Ms Norman. According to Professor Graham, the student agreed that she had an unauthorized aid, and agreed that that was not good, but indicated that she did not believe that she was guilty. She told him that a friend had given her the calculator after graduation, that it had been used for a term test, that the handwritten notes which were in her writing, had been prepared as a help sheet, to study for a make-up term test. In leaving the term test, she had checked the help sheet to see if her answers on the test had matched up with her study notes, and folded it up on the bus on the way home and inserted it into the cover of the calculator. By the time of the August examination, she had forgotten that they were there. Professor Graham testified that he was not satisfied with that explanation and that he recommended the case move to the Tribunal.

The Second Set of Charges

- [26] The Tribunal then heard from Professor Gombay, who came to the University in 1973 and was a Professor of Philosophy, specializing in 17th Century Rationalism. He also teaches a course of Philosophy and Psychoanalysis (PHL290). Professor Gombay identified his course description for the Panel, which set out that grades would be based on a test, an essay and a final examination. The final examination was to be worth 40% of the course mark. Professor Gombay testified that it was his practice on the last day of classes to give to the students a list of questions, and to advise the students that the final examination would be a sub-set of that list. Professor Gombay identified the examination for the Panel. The examination indicated that the text used in the course was allowed, but that no other text or aid was allowed. He advised that he had told them they were not allowed to write the answers in a book, but that they could have markers for page numbers on the pages that the felt would be relevant to their examination. He, along with a teaching assistant, supervised the examination. He testified that the teaching assistant told him that two students were cheating and showed him where the students were. He went to the desk and asked to see the book that they were using. He took the student's book, which was the assigned course textbook and opened the front cover, inside of

which was the student's name, which was marked as an exhibit at the hearing. Inside the book Professor Gombay also saw a lot of handwriting. He therefore took the book from the student and the examination booklets in which she had written thus far. In the book were handwritten answers to the questions he had provided to the students in advance. The answers in her examination booklet were identical to those that were in the book; that is, the student had copied out, word for word, her handwritten answers in the textbook into the examination booklets. Professor Gombay testified that he told the students at the beginning of the course that they would be allowed to bring the book into the examination, and no other aids. He also testified that he let the student continue to write the examination after he confiscated the book. The examination itself indicates: "Text allowed: Freud's Introductory Lectures; no other text or aid allowed."

- [27] After the examination, the student came running after him and the teaching assistant and asked him not to report the incident. He advised the student that it was too late, and that he had already reported it. She pleaded for a few minutes with him and he repeated that it was too late.

The University's Submissions

- [28] The University, in its closing submissions, submitted that the acts were similar in that aids were allowed in each examination, and yet extra, unauthorized aids were used in each. The differences were in the timing of when the student was caught. In the Economics course, she had not yet used the aid, while in the Philosophy course, she had. In the University's submission this difference was immaterial in that it is possession of the unauthorized aid that is the offence. The onus of proof, the University reminded the Panel, is on the University and the standard is on the balance of probabilities. In the words of the Supreme Court of Canada, "there is only one standard of proof" in civil cases and that is proof on the balance of probabilities. That is, is it more likely that not that an alleged event occurred? (*FH v. McDougall*, [2008] S.C.C. 53, para. 49).

Decision of the Tribunal

First Set of Charges

- [29] The Panel, having reviewed and considered the evidence, including the note written in very small writing and carefully folded into three to fit precisely within the covers of the calculator, concluded that the note did not have the appearance of a study note, but rather that of a "cheat sheet". It had a very high degree of relevance to the final examination. The student knew or ought to have known that the aid was there, as she bears the responsibility for ensuring that she does not bring in any unauthorized aid into the examination.
- [30] The Panel concluded that the University had discharged its onus and proven the offence on the balance of probabilities.

Second Set of Charges

- [31] With respect to the second set of charges, the Panel found that, contrary to explicit instructions, the student had attempted to “sneak in” full answers to questions that she had pre-prepared, and then copied these out word for word into the examination booklets. The Panel noted that the answers carefully handwritten into wherever blank pages could be found in the textbook bore the same headings as those from the practice questions provided in advance of the examination, and were clearly meant to be, and were, directly copied into the examination booklet. The Panel was satisfied that the student knew or ought to have known that she was in possession of an unauthorized aid, (these pre-fabricated answers), during the examination. The Panel also noted that the student had written herself notes of where to find the answers to various questions at the front of the book. Again, the Panel found that the University had proven its case on the balance of probabilities on the second set of charges.
- [32] Accordingly, the Panel found, on both sets of charges, that the University had proven the offences as alleged under B.i.1(b) of the *Code of Behaviour on Academic Matters*. The University withdrew the counts on both sets of alternative charges under B.i.3(b) of the Code.

Penalty Phase of the Hearing

Evidence

- [33] The University called Scott Graham at the penalty phase of the hearing. Professor Graham advised the Panel that he had met with the student on July 27, 2006, and that she had made an admission to him in another course that she had been guilty of plagiarism. The University entered as an exhibit a document bearing the student’s signature in which the student admitted that she was guilty of plagiarism on July 27, 2006. It also entered as an exhibit a letter from the Assistant Dean to the student dated August 10, 2006 advising of her the sanction imposed, which was a reduction of 10% in her final mark in that course.

The University’s Submission

- [34] The University advised that it was seeking the following sanction to be imposed by the Panel:
- (a) final grades of zero in both ECO336 and PHL290;
 - (b) that the Panel recommend that the student be expelled; and
 - (c) that a report be made to the Provost to be reported in the press with the student’s name withheld.

The University counsel noted that an expulsion carries with it an automatic transcript notation.

- [35] The University took the Panel to the case of *Mr. C.*, in which John Sopinka, then a member of the University Tribunal of the University of Toronto, provided an outline of the principles to be followed in dealing with an appeal from sentence, which must also be principles to be applied in deciding on sentence in the first instance. He noted that punishment is not intended to be retribution to get even with the student, but must serve a useful function. The classical components of punishment are reformation, deterrence and protection of the public, and in applying these criteria, a tribunal should consider all of the following:
- (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.
- [36] In the University's submission, the evidence clearly showed that the acts were carefully and deliberately planned by the student, which would put the acts at the more serious end of the spectrum. These were not acts that were done inadvertently or carelessly. Further, the acts occasioned significant detriment to the University. The fundamental form of evaluation of an in-class examination with a level playing field for all students was undermined by the student. The University submitted there is a strong need to deter others. The University referred to the case of SB in which a panel recently indicated in discussing a plagiarism case that a strong message had to be sent that academic offences will not be tolerated, and will be dealt with strongly.
- [37] University counsel submitted that a further aggravating factor was the timing of the offence. That is, on July 27, 2006 there was a meeting in respect of a plagiarism charge, which the student admitted, in another course. On August 10, 2006, a letter was sent (although there was no evidence available to the Panel about the date on which it was received) indicating that the sanction for that plagiarism would be a 10% reduction in the course mark. Nonetheless, on August 22, 2006, the student engaged in a further academic offence by possessing an unauthorized aid in an economics examination. On February 27, 2007, the student met with Professor Graham about that use of unauthorized aid. Yet, on April 18, 2007, about six weeks later, the student engaged in a further academic offence in the philosophy examination. University counsel asked rhetorically, what more could the University have done to bring to the student's attention the importance of academic integrity? This was a rapid series of events.
- [38] Further, in the University's submission, the onus was on the student to show evidence supporting a reduced penalty or mitigating factors. The student did not plead guilty, which would be the best evidence of some insight or remorse, and indeed, by her failure to attend, presented no evidence of any other mitigating factors. The likelihood of repetition, in the University's submission, was overwhelming given the timing and the evidence. The only character evidence that was available to the Panel was that related to the offences.

- [39] In the University's submission, the offences were not concurrent but should be treated as second and third offences. Given that the student met with Professor Graham before she committed the third offence and that the economics offence had been brought to her attention by the time the philosophy offence occurred, the third offence would merit the recommendation of expulsion taking the approach outlined in the SB case. In the University's submission, a five year suspension in this case was inappropriate. The chances of rehabilitation, in the University's submission, are none given that the student has been "ducking" the University for 18 months, and has completely refused to engage in the process. There is no reason for the Panel to believe, in the University's submission, that the academic relationship can be rehabilitated. The student's very failure to participate in the process was evidence that there was no prospect of rehabilitation.

Decision on Penalty

- [40] The Panel considered the University's submissions as well as the evidence provided to the Panel by University counsel.

- [41] The Panel notes that the first paragraph of the Code states the following:

The concern of the Code of Behaviour on Academic Matters is with the responsibilities of all parties to the integrity of the teaching and learning relationship. Honesty and fairness must inform this relationship, whose basis remains one of mutual respect for the aims of education and for those ethical principles which must characterize the pursuit and transmission of knowledge in the University.

- [42] The Code further states the following, under the heading "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.

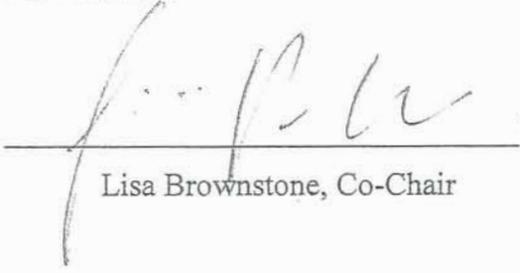
- [43] The Panel agrees with the Panel in *DL* that it is a responsibility on the part of students to act with honesty as they pursue their academic studies, and that students who do not act with honesty undermine the reputation of the University and the hard work of other students who do act honestly.

- [44] The Panel considered the case of SB, in which the student had previously committed two plagiarism offences, which he had admitted to. In that case, there was evidence of significant extenuating circumstances and the University had submitted that it would have asked for a longer suspension if not for some of the extenuating circumstances. The Panel there noted that first time offenders in cases of plagiarism had been met with suspensions of two, three and four years; while repeat offenders had resulted in

suspensions of four months, sixteen months, 3 years, 5 years and expulsion. That Panel expressed its view that a serious breach of trust such as plagiarism and/or concoction should evoke a response of at least a 2 year suspension for a first offence and a suspension of 3 years or longer on a subsequent finding. In that case, the Panel concluded that a 3 year suspension for a third offence, having regard to the range of other circumstances, struck an appropriate balance of punishment, compassion, rehabilitation and deterrence.

- [45] In this case, the Panel was very concerned about the following:
- (i) the elements of pre-meditation and deceit in both offences;
 - (ii) the timing of the offences (each offence occurred after a previous offence had been brought to the attention of the student); and
 - (iii) the complete failure of the student to engage in the process or even respond to the University with respect to either sets of charges.
- [46] Further, given the student's failure to participate in the process, the Panel had no evidence of any mitigating factors. There was no acknowledgement, no explanation, no remorse, no extenuating circumstances, and no evidence of any prospect of rehabilitation brought to the attention of the Panel. Given all of the above, the Panel is of the view that the University should not be forced to continue in the relationship with the student, and that the student should not have the benefit of the University's resources.
- [47] The Panel therefore imposes the following sanctions:
- i. that the student receive a grade of zero in ECO336 and PHL290;
 - ii. that the Panel recommend to the President and the Governing Council that the student be expelled from the University; and
 - iii. that the facts and sanctions associated with the penalty be provided to the Provost to be published with the student's name withheld.

Dated this 27th day of June 2009



Lisa Brownstone, Co-Chair

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on April 3, 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 -

Mr. M.T.M.

Members of the Panel:

- Mr. Clifford Lax, Chair
- Professor Carolyn Pitchik, Faculty Panel Member
- Mr. Sybil Derrible, Student Panel Member

Appearances:

- Ms. Lily Harmer, Assistant Discipline Counsel
- Professor Susan Pfeiffer, Dean, School of Graduate Studies

Preliminary

- [1] The Trial Division of the University Tribunal was convened on February 18, 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 April 3, 2008 from Professor Edith Hillan, Vice-Provost, Academic.
- [2] Assistant discipline counsel, Ms. Harmer, introduced two emails from the Student, dated February 17, 2009 at 7:13 p.m. and 7:19 p.m. (Exhibits 2 and 3 respectively). To the first email the Student attached the signed signature pages to the Agreed Statement of Fact (ASF) and the Joint Submission on Penalty (JSP); the second email confirmed that he would not be in attendance at the hearing scheduled for the evening of February 18, 2009.

[3] Ms. Harmer reviewed the Notice of Hearing (Exhibit 1), which informed the Student that:

“You may choose to attend the hearing with or without representation, or not to attend at all. If you do not attend, the hearing may take place without you and you will not be entitled to further notice in the proceeding. If you do not attend you will be notified in writing of the outcome.

The panel was then reminded of the provisions of the Statutory Powers Procedure Act (SPPA), Section 7.1, which permits administrative tribunals to proceed in the absence of a party, provided proper Notice of Hearing has been given.

[4] In light of the provisions of the SPPA, the content of the Notice of Hearing, and the emails from the Student, the panel permitted the hearing to proceed in the Student’s absence.

Hearing on the Facts

[5] The charges are as follows:

1. In or about March, 2006, you knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of any such forged, altered or falsified academic record, namely, an application for admission to the School of Graduate Studies, University of Toronto dated March 21, 2006 (the “Application”), contrary to section B.I.3.(a) of the *Code*.
2. In or about March, 2006, you knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of any such forged, altered or falsified academic record, namely a NED University of Engineering & Technology Transcript of Academic Records (“Transcript”), submitted in support of the Application, contrary to section B.I.3.(a) of the *Code*.
3. In or about March, 2006, you knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of any such forged, altered or falsified academic record, namely a Diploma conferring a Bachelor of Engineering degree from NED University of Engineering & Technology (“Diploma”), submitted in support of the Application, contrary to section B.I.3.(a) of the *Code*.
4. On or about January 24, 2008, 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 academic record, namely a letter to the University of Toronto dated January 24, 2008, from NED University of Engineering & Technology (“January 24, 2008 Letter”), contrary to section B.I.3.(a) of the *Code*.
5. In the alternative, in or about March 2006, 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 an application for admission to the School of Graduate Studies, University of Toronto dated March 21, 2006, contrary to section B.I.1.(a) of the *Code*.

6. In the alternative, in or about March 2006, 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 a NED University of Engineering & Technology Transcript of Academic Records, submitted in support of the Application, contrary to section B.I.1.(a) of the *Code*.
7. In the alternative, in or about March, 2006, 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 a Diploma conferring a Bachelor of Engineering degree from NED University of Engineering & Technology, submitted in support of the Application, contrary to section B.I.1.(a) of the *Code*.
8. In the further alternative, contrary to section B.I.3(b) of the *Code*, you did knowingly engage 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, by:
9.
 - a. submitting a forged, altered or falsified Application in or about March, 2006; and/or
 - b. submitting a forged, altered or falsified NED University of Engineering & Technology Transcript of Academic Records in or about March, 2006, in support of the Application; and/or
 - c. submitting a forged, altered or falsified Diploma conferring a Bachelor of Engineering degree from NED University of Engineering & Technology in or about March, 2006, in support of the Application; and/or
 - d. submitting a forged, altered or falsified letter to the University of Toronto dated January 24, 2008, from NED University of Engineering & Technology.

[6] Particulars of the charges are as follows:

1. In or about March, 2006 you submitted an application for admission to the School of Graduate Studies, Masters of Engineering, at the University of Toronto.
2. On the application form you indicated that you had obtained a Bachelor of Engineering from NED University of Engineering & Technology in Karachi, Pakistan.

3. As part of your application documents you submitted the following documents purporting to be from NED University:
 - a. a diploma conferring on you a Bachelor of Engineering degree; and
 - b. a Transcript of Academic Records in your name.
4. On or about January 24, 2008 you submitted or caused to be submitted to the University a letter dated January 24, 2008 from NED University confirming the authenticity of the Diploma and the Transcript, and that you had been a student at NED University.
5. The information contained in the Application, the Diploma, the Transcript, and the January 24, 2008 letter, was forged or in any other way altered or falsified to make it appear that you had been a student at NED University, that you had received a Bachelor of Engineering Degree from that institution, and that you had achieved a successful academic record there. The Application, Diploma and Transcript were forged, falsified and/or altered to support your application for admission to the University of Toronto. The January 24, 2008 Letter was forged, falsified and/or altered to cover up your other forgeries.

[7] The parties submitted an Agreed Statement of Fact, the details of which are summarized here:

- i. In March 2006, the Student applied to the Masters of Engineering Program at the University of Toronto. As part of his signed application, the Student certified that he had attended NED University of Engineering & Technology in Karachi, Pakistan from January 1999 to February 2003. The Student further certified that he had earned a Bachelor of Engineering Computer Information Systems Degree, achieving a final grade of 76%.
- ii. In support of the admission application, a number of documents were submitted to the University by or on behalf of the Student, including a NED University Transcript of Academic Records and a Diploma conferring a Bachelor of Engineering Degree from NED University.
- iii. In correspondence dated April 13, 2006, the Director of the University's MET (Master of Engineering in Telecommunications) Program advised the Student that the MET Admissions Committee would be recommending to the School of Graduate Studies that the Student be accepted for admission.
- iv. In correspondence dated April 28, 2006, the Dean of the School of Graduate Studies confirmed the University's offer of admission. In correspondence dated April 28, 2006, the Director of Student Services, School of Graduate Studies, advised the Student that if he accepted the offer, he must present his original bachelor's diploma as a condition of admission.

- v. The Student accepted the offer of admission in a Confirmation Form which he signed on June 6, 2006. The Student was admitted to the University's one-year Masters of Engineering Program in the Fall of 2006. He successfully completed his Masters degree in the Winter of 2007 and was eligible to graduate.
- vi. In or about June 2007, the Electrical and Computer Engineering Graduate Office received a telephone call from an individual who stated that the Student did not hold a Bachelor of Engineering degree from NED.
- vii. The University reviewed the documents submitted by the Student in support of his application for admission. A comparison of the Student's transcript with representative samples of NED transcripts that had been submitted by other applicants revealed anomalies that raised concerns about the authenticity of the Student's transcript.
- viii. The University contacted NED by email to request verification of the Student's academic credentials and provided copies of the Transcript and Diploma for authentication. In an email dated October 4, 2007, NED's Deputy Controller of Examinations advised the University "there is no education records of the said candidate found in the Examinations Department and the copies of Degree and Transcript sent to us are found to be fake and forged".
- ix. The University held a Dean's meeting with the Student on December 5, 2007 and December 15, 2007, in accordance with section C.i.(a).6 of the *Code*. The Student acknowledged the inconsistencies in the Transcript and the Diploma but he was unable to offer an explanation for the anomalies. The Student denied having engaged in academic misconduct.
- x. On or about January 24, 2008, the Electrical and Computer Engineering Graduate Office received a letter from NED, confirming the authenticity of the Student's degree. This verification letter was unsolicited and it contradicted the information contained in NED's previous correspondence of October 4, 2007.
- xi. On March 12, 2008, Assistant Discipline Counsel for the University wrote to NED for clarification regarding the conflicting information about the Student's academic standing and credentials.
- xii. NED delivered the following response in a letter dated March 25, 2008:

"We have no doubt to say that there is no educational record of the Student found in the Examinations Department of NED University and the copies of Degree and Transcript of Academic Records sent to us are found to be fake and forged.

Please note that the Student has never enrolled at NED University and the Enrolment number NED-03 8711/99 2000 does not exist and never issued to any student of this University. Moreover, the letter regarding "Verification of Educational Document" annexed with your letter is fake and bogus."

- xiii. On April 3, 2008 the University of Toronto filed charges against the Student under the Code.
 - xiv. The Student admits that he knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of any such forged, altered or falsified academic record, contrary to section B.I.3.(a) of the *Code*. In particular, he admits that:
 - a. in or about March 2006, he submitted the signed Application in which he certified that he had obtained a Bachelor of Engineering Degree from NED when, in fact, he had never enrolled at NED;
 - b. in or about March 2006, he submitted the Transcript purportedly issued by NED which was, in fact, a forgery;
 - c. in or about March 2006, he submitted the Diploma purportedly issued by NED which was, in fact, a forgery.
 - xv. The Student further admits that he 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, contrary to section B.I.1.(a) of the Code. In particular he admits that:
 - a. On or about January 24, 2008, he submitted or caused to be submitted to the University the Verification Letter purportedly written by an NED official confirming the authenticity of the Transcript and Diploma when, in fact, the Verification Letter was a forgery that had not been authored by a representative of NED; and
 - b. He did so for the purpose of concealing his academic misconduct associated with the forged and/or falsified Application, Transcript and Diploma.
- [8] The Student was given the opportunity to obtain independent legal advice prior to signing the Agreed Statement of Facts.

Decision of the Tribunal

- [9] The Tribunal was satisfied on the basis of evidence and the Student's admission of guilt, and, therefore, registered a conviction on charges 1, 2, 3 and 4. The University withdrew the remaining charges.

Penalty Phase

- [10] The parties submitted a Joint Submission on Penalty, in which they jointly recommended that:

- a. The Tribunal recommend to the President that he recommend to Governing Council that the Student be expelled from the University;
- b. Pending the decision of the Governing Council, the Student be suspended from the University for a period of five years.

[11] In addition, the University requested that a report of the decision be made to the Provost for publication in the University's newspaper with the Student's name withheld.

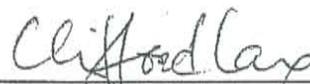
[12] The panel asked for clarification on the difference between a suspension and an expulsion, to which discipline counsel responded that expulsion does not permit the student to automatically return to the University after a set period time.

[13] The panel noted that the Student was admitted under false pretences since his admittance was based on forged documents. His admittance had negative consequences for the next best legitimate applicant who was rejected. In short, the Student's admittance to the University of Toronto is illegitimate and, therefore, the Tribunal sees no alternative but to recommend expulsion for one who was admitted under false pretences.

[14] The Joint Submission on Penalty was accepted and the panel recommends the following sanctions:

1. that the President recommend to Governing Council that the Student be expelled from the University of Toronto;
2. that pending the decision of the Governing Council, the Student be suspended from the University for a period of five years; and
3. that the decision in this case be reported to the Provost for publication in the University's newspaper with the Student's name withheld.

Dated at Toronto this 30th day of April, 2008



Mr. Clifford Lax, Chair

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on May 9, 2005;

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 -

I. A.

Members of the Panel:

- **Michael Hines**, Co-Chair
- **Dipka Das**, Student Panel Member
- **James Rini**, Faculty Panel Member

Appearances:

- **Mr. Robert Centa**, Assistant Counsel
- **Mr. I. A.**, the Student, did not appear

[1] The Trial Division of the University Tribunal was convened on March 19, 2007 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "Code") laid against the Student by letter dated May 9, 2005 from Professor Edith Hillan, Vice-Provost, Academic.

[2] The Vice-Provost's letter advised the Student that he had been charged with two offences concerning an essay that he had submitted to fill the course requirements of PHL235H5F. Specifically, he was charged with plagiarism under section B.I.1(d) and

academic dishonesty contrary to section B.1.3(d) of the Code of Behaviour on Academic Matters, 1995 ("Code").

[3] The matter proceeded before the Tribunal on September 26, 2005. However, the hearing was adjourned due to the absence of the Student. The hearing was reconvened on September 21, 2006. Once again, the Student was not present. A further adjournment was granted peremptory to March 19, 2007. Once again, the Student was not present. However, by this time, the Assistant Discipline Counsel for the University of Toronto had reached an Agreed Statement of Facts with the Student concerning the matters in question. That Agreed Statement of Facts is reproduced immediately below.

[4] Exhibit 5:

University of Toronto

and

I. A.

Agreed Statement of Facts

- i. In September 2001, the Student registered at the University of Toronto.
- ii. In Fall 2004, the Student enrolled in PHL235H5, Philosophy of religion: Readers and Writers of Sacred Texts ("Course"), which was taught by Prof. Nandita Biswas Mellamphy.
- iii. On October 20, 2004, the Student handed in "Yahweh of the Book of J", in partial completion of course requirements ("Paper"). The Paper was worth 30% of the final grade of the course.
- iv. The Student admits that several passages of the Paper were taken verbatim or virtually verbatim, and without attribution, from various Internet sources.
- v. The Student admits that in the Paper, he knowingly represented as his own an idea or expression of an idea and/or the work of another, contrary to section B.I.1(d) of the Code.
- vi. The Student admits that he is guilty of charge #1 of the Charges filed by the Provost on May 9, 2005, pursuant to the Code of Behaviour on Academic Matters.

Signed in Toronto on March 19, 2007.

I. A., the Student

Signed in Toronto on March 19, 2007

Robert A. Centa
Assistant Discipline Counsel
University of Toronto

- [5] On the basis of this Agreed Statement of Facts, the Panel reached a finding that the Student was guilty under charge #1 as listed in the Notice of Hearing. On consent, charge #2 was withdrawn.
- [6] The Panel was advised further that the Student had also agreed to a Statement of Facts concerning penalty. That Agreed Statement of Facts is now reproduced immediately below.
- [7] Exhibit 7:

University of Toronto and I. A.

Agreed Statement of Facts and Joint Submission on Penalty

- i. On May 13, 2002, the Student admitted the offence of plagiarizing a term paper submitted for credit in WRI203H. The Student waived his right to an interview with the Associate Dean, and accepted a sanction of a zero on the assignment, and a further reduction of his final grade in WRI203H by 14%. His transcript was annotated for a period of two years from May 1, 2002, to April 30, 2004.
- ii. The Student was eligible to apply for graduation from the University as of June 2005. He has not been enrolled in the University since that time.
- iii. A hearing into this matter was originally scheduled for September 26, 2005, but was adjourned.
- iv. The University of Toronto and the Student submit to the Tribunal that the appropriate penalty in all the circumstances of this case is that the Student
 - (a) receive a zero in the Course;
 - (b) be suspended from the University for a period of three years, with the suspension to run from September 26, 2005 to September 26, 2008; and
 - (c) have his academic record and transcript bear a notation of these academic offences until September 26, 2008.

The University of Toronto and the Student submit that the University should publish these offences with the Student's name withheld.

Signed March 19, 2006.

I. A., the Student

Robert A. Centa
Assistant Discipline Counsel
University of Toronto

- [8] As reflected in paragraph 4 of the Agreed Facts, the parties had reached an agreement on the appropriate penalty in all of the circumstances of the case. The Panel reviewed this agreement and concluded that it did, indeed, reflect an appropriate penalty.
- [9] Accordingly, the Panel hereby imposes the following sanctions, namely that the Student:
- (a) shall receive a 0 in PHL235H5F
 - (b) shall be suspended from the University for a period of three years, with the suspension to run from September 26, 2005 to September 26, 2008 and
 - (c) shall have his academic record and transcript bear a notation of these academic offences until September 26, 2008
- [10] In reaching this decision, the Tribunal was mindful of the comments of the Ontario Court of Appeal in the case of R. v. Tsicos, 2006 CanLII 33849 (Ont. C.A.).

I certify that this is the decision of the Panel:

DATED at Toronto this *6th* day of *July*, 2009.



Michael A. Hines

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on October 23, 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. B.

Members of the Panel:

- Ms. Julie Hannaford, Chair
- Professor Marc Lewis, Faculty Panel Member
- Mr. Alex Kenjeev, Student Panel Member

Appearances:

- Mr. Rob Centa, Assistant Discipline Counsel,
- Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity

- Mr. Max Shapiro, Student Representative for Mr. A. B., Downtown Legal Services
- Mr. A. B., the Student

REASONS FOR DECISION

[1] The Student was charged with a number of offences under the *Code of Behaviour on Academic Matters* (“the Code”). At the opening of his hearing, the Student pleaded guilty to the following:

CHARGE # 1: *On or about April 5, 2007, you knowingly represented as your own idea or expression of an idea, and/or the work of another in connection with your paper on globalization submitted for academic credit in POL103Y1Y, contrary to section B.I.1. (d) of the Code.*

CHARGE # 4: *On or about May 8, 2007, you knowingly represented as your own idea or expression of an idea, and/or the work of another in connection with your paper on globalization submitted for academic credit in POL103Y1Y, contrary to section B.I.1. (d) of the Code.*

[2] The University withdrew the following alternative charges:

CHARGE # 5: *In the alternative, contrary to section B.I.3. (b) of the Code, you did knowingly engage 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, by:*

- a. submitting you paper on globalization on or about April 5, 2007, in partial fulfillment of the course requirements in POL103Y1Y; and/or*
- d. submitting a further paper on globalization on or about May 8, 2007, in partial fulfillment of the course requirements in POL103Y1Y.*

[3] As a result, the Tribunal heard evidence in respect of the following charges, to which the Student pleaded not guilty:

CHARGE # 2: *On or about April 5, 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, a University of*

Toronto Student Medical Certificate submitted with your paper on globalization in POL103Y1Y, contrary to section B.I.1. (a) of the Code.

CHARGE # 3: *On or about April 5, 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, a letter purportedly from the University of Toronto Accessibility Services, submitted with your paper on globalization in POL103Y1Y, contract to section B.I.1. (a) of the Code.*

CHARGE # 5: *In the alternative, contrary to section B.I.3. (b) of the Code, you did knowingly engage 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, by:*

- b. submitted a forged or altered University of Toronto Medical Certificate on or about April 5, 2007; and/or*
- c. submitting a forged or altered letter from University Accessibility Services on or about April 5, 2007.*

[4] This hearing spanned a period commencing July 2, 2008, and concluding November 24, 2008. The Tribunal found the Student guilty in respect of Charges #2, #3, and in respect of the alternative charges in #5 b. and c. above.

[5] The following are the reasons for the Tribunal's finding. Because of the way in which this hearing evolved and because of the developments related to the delivery of evidence, these reasons describe the hearing as it progressed from one date to another.

BACKGROUND

- [6] The Student began studying at the University of Toronto in the Faculty of Arts and Science in the fall of 2001. Initially, he registered in the transitional year program, and in 2004, he registered in the first year program at Woodsworth College. At some point, as reflected in the Student's academic record, he was placed on a one year academic suspension, and in August 2005, he was encouraged to take the opportunity to consider his academic plans and goals and to work on his reading and writing skills.
- [7] In the academic year 2006-2007, the Student enrolled in a course (POL103Y1Y) called "Canada in Comparative Perspectives". This course was taught by Professor Rodney Haddow and Professor Haddow was assisted by Mr. Luc Turgeon. The course was designed to introduce students to the study of politics, and it was taught on Tuesdays from 6:00 p.m. to 8:00 p.m. Evaluation in the course was structured around two essays, one fall term test, and a final examination. Ten percent of the total grade of one hundred percent was assigned to tutorial participation. According to the course outline, twenty percent of the total grade was allocated to the fall term essay, seventeen percent of the total grade was allocated to the fall term test (an in-class test), twenty percent was allocated to the winter term essay, and the final examination was worth thirty-three percent.
- [8] The course outline provided for a strict schedule and penalty scheme. Late papers were penalized at the rate of two percent per weekday. The course outline provided for the dates upon which papers were due. The last date for submission of second term work was described as April 13th. Exceptions to the penalty scheme were to be made only with proper documentation.
- [9] The work in question in this matter relates to the winter term essay, an essay that was required to be eight to ten pages long, and that was due on March 13, 2007.
- [10] The second term essay assignment was the subject matter of a separate handout, and it appeared on the course webpage as well. The topics for the written paper were set out in this separate handout. There were five topics from which to choose. In each case, where a

topic was assigned, students were given text resources, and were required to identify and use two other book length sources or the equivalent thereof.

- [11] As with most other courses at the University of Toronto, students were warned about the consequences of failure to cite quotations, paraphrases, and borrowed ideas. Students were informed that failure to do so would constitute plagiarism, something which is the subject of a severe penalty. The course outline also contained a reference to the importance and necessity of referencing borrowed ideas, quotations, and paraphrases. In addition, the course outline and second term essay assignment referenced a guide on plagiarism circulated at the beginning of the course. Students were invited to consult with the teaching assistant or with Professor Haddow about any questions they had about what ought to be footnoted and how it should be footnoted.
- [12] Sometime on April 5, 2007, an essay bearing the student number of the Student was submitted to the Department of Political Science drop box. This “April 5th essay” contained verbatim and nearly verbatim excerpts from unacknowledged sources. These excerpts were not attributed appropriately with the use of quotation marks. The Student admits that the April 5th essay is plagiarized.
- [13] The April 5th essay was accompanied by a note from the University of Toronto Accessibility Services Department, which note was dated March 13, 2007. This letter is signed by Dr. Pearl Levey, a learning disabilities specialist. The letter asks for an accommodation with regard to the Student, namely delivery of his paper on March 23rd, rather than March 13th. In fact, Dr. Levey had provided a letter for the Student in which an extension was sought until March 20th, not March 23rd. The Student agrees that the Accessibility Services letter from Dr. Levey has been altered, but he says he did not make the alteration to the letter.
- [14] In addition to the Accessibility Services letter from Dr. Levey, a medical certificate was submitted with the April 5th essay. The medical certificate that was submitted indicated that Dr. S. Goldhar provided medical services to the Student on April 5, 2007, and stated that he was “unable to complete the assignment (due on 13/03/07) due to medical symptoms and unable to concentrate”. Dr. S. Goldhar is the Student’s treating physician, and Dr. Goldhar did treat the Student on January 14 and March 3, 2005, March 13, May

18, October 23, October 31 and November 16, 2006, February 12, June 13, June 29, July 10 and September 26, 2007 and as well January 9, 2008. Dr. S. Goldhar did not attend the Student on April 5, 2007. The Student agrees that the medical certificate submitted along with the April 5th essay is not authentic and that he did not see a medical professional on April 5, 2007. The Student says that he did not make the alteration.

- [15] Mr. Turgeon reviewed the April 5th essay, and concluded that substantial portions of it were plagiarized. He so advised Professor Haddow. These concerns were discussed by Mr. Turgeon and Professor Haddow, and these discussions set in motion a series of events, and an evolving series of explanations, which further evolved over the course of the hearing, as explained below.
- [16] Professor Haddow and the Student engaged in e-mail correspondence beginning in late April, 2007. As well, the Student and Mr. Turgeon exchanged messages. All of these messages were about the April 5th essay.
- [17] On May 8, 2007, the Student attended a meeting with Professor Haddow to discuss the concerns about his paper. At that meeting, the Student submitted an essay (“the May 8th essay”) which he said was the one that should have been submitted rather than the April 5th essay.
- [18] The May 8th essay was almost entirely plagiarized. The Student admitted that the May 8th essay was plagiarized.
- [19] On May 16, 2007, the Student sent an e-mail message to Professor Haddow, attaching another essay, this one purporting to be the “second term essay” that he intended to submit.
- [20] The Student attended a Dean’s meeting on July 17, 2007, and a second Dean’s meeting on August 20, 2007.
- [21] It is important to recognize that the Student did not dispute that the April 5th essay and the May 8th essay were plagiarized. However, the essence of the his explanation was that, at least with respect to the April 5th essay, it was handed in by mistake. In other words, the Student said that he was obliged, because of his schedule and urgent airline

flight, to ask a friend to hand in the paper for him. The friend printed the wrong document, and apparently, also altered the medical certificate and the letter from Accessibility Services and handed these documents in to Professor Haddow.

- [22] The Student said that the individual to whom he entrusted the printing and submission of these documents had some kind of animus towards him, and this is why the documents that were printed were wrong and the medical and accessibility certificates were altered.
- [23] At the July 17th meeting with Mr. Nicholson, the Student said that this individual (named “Ethan Jopen” or “Ethan Jopez”), did it “on purpose”, and did it “against him”. According to Mr. Nicholson, the Student said that he had had a debate about women in parliament with Mr. Ethan Jopen (or Mr. Ethan Jopez), and that he (“Ethan Jopen” or “Ethan Jopez”) was “weird” and also had had access to the Student’s home. When asked about the whereabouts of this individual named “Ethan”, the Student said Ethan was in British Columbia. The Student had no way of getting in touch with Ethan.
- [24] The University ultimately contacted an individual named “Ethan O.”. He submitted an Affidavit in the proceeding, in which he said that he certainly knew A.B. but had no contact with him at the relevant time (April 2007) except that he did provide some assistance to the Student with regard to an essay he was writing. He denied categorically handing in a paper or delivering any academic work on behalf of the Student. He also denied altering a medical note or any other note from a third party.
- [25] The Student had made contact with Mr. Ethan O. at some point after these Dean’s meetings, and so had the University.
- [26] By the time of the second Dean’s meeting in August, 2007, it is clear that Ethan O. had been identified and had denied any role in these events.
- [27] At the time of the hearing, which commenced on July 2, 2008, it was the contention of the Student that in fact he was not referring to Ethan O. at all but rather to an individual named “Dennis”. Dennis apparently was also known as “Dig Dog”.
- [28] An adjournment was sought and obtained for the purposes of attempting to identify and find an individual who went by the name of “Dennis” or “Dig Dog”.

- [29] The Tribunal reconvened on September 29, 2008, after the adjournment that was sought and obtained on July 2, 2008. The Tribunal heard evidence from the Student at this hearing, as the University had concluded its evidence in the case.
- [30] The Student explained during his direct examination that he did not personally hand in the April 5th essay, that the May 8th essay was submitted in error and that the May 16th essay was the essay that ought to have been submitted all along. The Student explained in his direct evidence that he had difficulty with respect to writing and some other medical problems, and was registered with Accessibility Services. The Student explained that he frequently saw Dr. Levey, and that in fact, he was not in Canada on April 5, 2007, when his paper was submitted. Moreover, he explained that he was working on the paper that was to be handed in at the Robarts Library on April 4th and in the very early morning hours of April 5th. In fact, he went from the Robarts Library to the airport.
- [31] As he was pressed for time, he approached the individual he described as “Dennis”, gave him his USB key at the Robarts Library, asked Dennis to print out the paper and hand it in for him, because there was no one else to hand the paper in for him. He said he knew Dennis from his history class, and that Dennis was also known as “Dig Dog”.
- [32] According to the Student, he gave Dennis the USB key on which the paper was stored. A.B. said that Dennis is the one who likely made the changes to the medical certificate and the letter, and he said that he was “shocked” when he learned that these documents had been altered, something that he did not learn about until the Dean’s meeting.
- [33] The Student explained that the May 8th essay was in fact mistakenly handed to Professor Haddow during his meeting with him on May 8th, because he was nervous and was unaware of what he was handing to Professor Haddow.
- [34] According to the Student, this May 8th essay was in fact a draft of something he was working on with an individual named “George”.
- [35] The Student explained that much of the confusion arising from the discussions he was having with Mr. Nicholson and Professor Haddow, and the confusion about the names are a result of his dyslexia. This, according to the Student, causes him to mix up dates and names. Moreover, he was nervous and flustered in these meetings, and he felt pressured.

- [36] In essence, the Student informed the Tribunal that “Dennis” was the only person available in the Robarts Library in the early morning hours of April 5, and he was the only person he knew who could help him hand in the paper, and so he asked Dennis to help him out - even though he had had a fight with Dennis only two weeks before the request to Dennis to print off and hand in the paper for him.
- [37] At the conclusion of the Student’s direct examination, a further adjournment was sought.
- [38] The basis for the adjournment was that Mr. Centa, on behalf of the Provost, wished to examine the USB key to which the Student was referring in his direct examination. It was determined that the USB key still existed, that it was available, and on the consent of all parties, the matter was adjourned so that the USB key could be properly analyzed and examined on terms satisfactory to all parties.
- [39] The case next convened on November 24, 2008. At this point, the USB key had indeed been examined and analyzed, and the evidence of Betty-Ann Campbell, a law clerk with the firm Paliare Roland Rosenberg Rothstein (the solicitors acting on behalf of the University of Toronto) was tendered on the consent of all parties.
- [40] The Student admitted that he did not disagree with the contents of the evidence of Betty-Ann Campbell (which became exhibit 5).
- [41] The essence of the evidence of Ms. Campbell is two-fold. First, Ms. Campbell’s evidence makes it clear that the April 5th essay was created between the hours of 9:04 p.m. on April 4, 2007 and 2:35 a.m. on April 5, 2007 and that it was heavily altered to disguise the fact that it was almost entirely plagiarized. Second, the May 8th essay appears to have gone through several iterations, in March, 2007, and this essay also contained passages reproduced from unattributed online sources. It is also replete with editing, whereby certain words are substituted with synonyms, and there are some voice changes, notably the substitution of the pronoun “I” for the collective “we”. In other words, Ms. Campbell’s evidence makes it clear that the April 5th essay and the May 8th essay underwent significant alterations in order to disguise the existence of plagiarism.
- [42] Finally, Ms. Campbell’s evidence makes it abundantly clear that the May 16th essay was created beginning on May 9, 2007 at the very earliest.

- [43] When confronted with these various pieces of evidence, and the plagiarism replete in the April 5th and the May 8th essay, the Student's explanation evolved to say that first, these documents "are not my work" and/or that these documents are or were exam study notes, not papers. In any event, whatever the changes were to the April 5th essay and the May 8th essay, the Student denied that he made any of those changes.
- [44] The Student stated, under cross-examination, that the paper that he intended to submit all along is the one that is referred to as the "May 16th paper".
- [45] At the end, the problem with the Student's evidence is that the essay that was supposed to be submitted "all along" and which he said ought to have been submitted by "Dennis" on April 5th, did not come into existence until, at the earliest, May 9th.
- [46] Further, it is hard to imagine why those documents which were identified as "study notes" by the Student (and it is unclear as to whether all of the wrongly handed in documents were study notes or only some of them) would be so painstakingly doctored in order to disguise plagiarism, if they were what they purported to be – study notes.
- [47] Rather, it appears that the Student confounded the extraction of the true story line by changing key elements of his narrative at each step of the way. Further, the Student confounded the issue of which document was intended to be a study note, rather than a plagiarized essay, and which document was the real essay that ought to have been handed in, by adding a third party, someone named "Dennis" or "Dig Dog", as the individual who set out to negatively affect the Student by handing in the wrong paper, doctoring the paper, and then doctoring medical certificates and/or Accessibility letters.
- [48] It is hard to imagine why an individual, who wished to do harm to the Student, would alter an Accessibility Services letter to extend the time within which he had to submit the paper. This simply does not make sense. It cannot be that the Student was the victim of a miscreant (whether he was named "Dennis" or "Dig Dog" or "Ethan Jopen" or "Ethan Jopez") when the purported miscreant is alleged to have forged or altered a medical certificate in order to provide a medical foundation for the late delivery of the paper. Surely, if someone was out to "get" the Student (as he says the purported miscreant was), they would have done the very opposite, namely refused to hand in the certificate, or alter

the certificate in order to eradicate the foundation for the late delivery of the paper. Even if someone did favourably alter a medical certificate or Accessibility Services note in order to get someone in trouble, it would stand to reason that such a person would make the forgery as obvious as possible in order to ensure that the victim got caught. Here, the forgeries were very difficult to detect and, indeed, went undetected until after other irregularities prompted the University to look at them more closely.

[49] At the end of this long hearing, after three hearing dates, the Tribunal was left with a layered story, that had evolved over a series of days, which resolved into the general proposition that someone, between the hours of 9:00 p.m. and 2:00 a.m. on April 4 to April 5, 2007, altered the Student's April 5th essay, then somewhere in or around that time, altered a letter from Accessibility Services at the University of Toronto, and created a false medical certificate, both of which were designed to extend the time for delivery of a paper by the Student. The problem with this explanation is that it does not make sense when viewed against the painstaking analysis of the USB key (on which the paper was composed) and the logs at the University related to the use of the computer facilities at the Robarts Library.

[50] The evidence, and in particular the evidence arising from the examination of the USB key, simply does not support any of the explanations provided by the Student. The Tribunal prefers the submission of the University, namely that the Student was placed in a position whereby he needed to explain certain papers and events associated with the failure to properly cite or reference sources. It is hard to dispute the painstaking analysis conducted by Ms. Campbell in respect of the USB key. Simply put, the essay that was intended by the Student (apparently) to be handed in to Professor Haddow "all along", namely the May 16th essay, could not possibly have been in existence before April 5, 2007. The pillars upon which the Student's explanations rested in respect of the papers, of the chicanery of which he says he was the victim, and of the confusion on his USB key cannot be adequately explained. Conversely, the failure of this explanation to hang together, in the face of the various analyses to which it was subjected, inclined the Tribunal to be convinced that the Student played the only role in the submission of the papers and the medical certificate and the Accessibility Services letter and that he was the only person who altered these documents. The Student's explanation about the various

essays was subjected to and filtered through the prisms of scientific and rational analysis, and, as a result, his explanation simply did not hold water. And, it is on that basis that the conclusion arose that the Student's explanation about the Accessibility Services Letter and the Medical Certificate did not ring true. And, it is on this basis that the Tribunal came to be convinced that the Student himself altered the Accessibility Services Letter and the Medical Certificate. This is an indirect way of arriving at the conclusion, and the evidence upon which the conclusion of the Tribunal is based is indirect. The absence of direct evidence is not, however, a bar to conviction. The duty of the Tribunal is to consider all the evidence, direct and indirect, to view it in its totality and to filter the evidence through the prism of common sense. The evidence that was elicited, viewed in its totality, cannot but lead to one conclusion, namely that the Student did indeed submit plagiarized work, alter both an Accessibility Services Note and a Medical Certificate, and repeatedly lie about doing all of these things. The evidence also shows that, in weaving his web of lies, the Student did not hesitate to implicate other innocent individuals.

[51] For these reasons, the Tribunal concluded that the Student was guilty of the offences, as set out at the beginning of these reasons.

Reasons on Sanction

[52] On January 22, 2009, the panel convened to hear submissions with regard to penalty. It is important to note that the hearing on January 22, 2009 had been previously convened for November 28, 2008. However, the Student was not available and did not attend. His counsel could not assist the Tribunal with regard to the reason for the non-attendance, and in order to provide the Student and his counsel ample time to confer and to attend at the hearing, the date of January 22, 2009 was scheduled.

[53] The Student did not attend at the penalty hearing. Again, his counsel was unable to advise as to the reasons.

[54] The Tribunal heard submissions from discipline counsel on sanction. On behalf of the Provost, Mr. Centa asked the Tribunal to impose the following sanction:

1. An assignment of a grade of zero in POL103Y

2. A recommendation to the President to recommend to Governing Council that the Student be expelled
3. That decision be reported to the Provost for publication in the University's newspaper with the Student's name withheld

[55] After deliberating, the Tribunal imposed the above sanction. The following are the Tribunal's reasons for the penalty.

[56] It is true that there is a range of penalties available to the Tribunal after a finding of guilt. These penalties are connected to the nature of the charges and, of course, to the findings in those charges.

[57] There is now a substantial body of jurisprudence developed by the Tribunal with respect to penalty. The foundational case with regard to penalty is that of the decision commonly referred to as "Mr. C.", dated November 5, 1976. In that decision, John Sopinka Q.C. (as he then was) states, "...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. The classical components of enlightened punishment are reformation, deterrence and protection of the public. In applying these criteria, a tribunal should consider all of the following:

- 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."*

[58] In this case, the Tribunal focused on the following:

1. There were four acts that gave rise to the charges and the conviction. They included the plagiarized essay delivered on April 5th; the further plagiarized essay delivered on May 8th; the falsified Accessibility Services note; and the falsified medical certificate.

2. These plagiarized documents and the falsified note and certificate all occurred within a very short timeframe.
3. In addition, the essay that was provided on May 8th was submitted at a meeting held to discuss concerns about the April 5th essay and plagiarism evident in it.
4. The fact that there are four separate, discrete instances whereby documents were either plagiarized or altered, all within a short period of time, makes the conclusion that these instances of plagiarism and forgery of documents were part of a pattern, if not a deliberate plan.

[59] The reason why the acts of plagiarism are made more significant relates to the use by the Student of the Accessibility Services offered at the University of Toronto.

[60] Part of the ethos of the University of Toronto relates to the recognition that not all students come to the University with the same levels of linguistic and/or learning competencies. In order to create a level learning field, then, the University of Toronto, at its own expense, has established a network of services and organizations designed to assist those students with learning and language difficulties to participate at the same level as other students in the University. In essence, the role of the University of Toronto's Accessibility Services is to ensure that students admitted to the University are able to participate and learn and obtain their education without fear of being held back by challenges associated with learning competencies or language difficulties.

[61] In order to promote the assistance that the University of Toronto has provided to such students, it has become a practice across the University to accept, at face value, medical notes and Accessibility Services requests and letters. In the absence of such acceptance, the University's support for those students who face various challenges will be significantly undermined.

[62] Of course, it is also true that the provision of Accessibility Services and other services to students, including medical services, and the acceptance of notes, certificates, and letters from these services, is part of the relationship of trust between the University and the student. This relationship of trust is part of the wider relationship of trust that goes hand

in hand with the expectation of ethical behaviour and fair treatment within the general University population.

- [63] In considering the likelihood of a repetition of an offence, the intertwined use and abuse of the Accessibility Services by the Student, together with the repeated plagiarism, played a significant role.
- [64] When a student engages in both plagiarism and a misuse of the University policy related to accommodation of students, and when, in addition, the student in defence implicates another student (which is what occurred in this case), the need for deterrence by way of a penalty becomes important.
- [65] It is true that the Student pleaded guilty in respect of part of the charges, but, in doing so, he did not take responsibility either in whole or in part for either that to which he pleaded guilty, or to those charges upon which he was found guilty. In his testimony, he demonstrated no remorse or insight into his offences. While it is true that he was entitled to require the University to prove its case, the Student cannot be given any credit for insight and/or remorse in the course of his testimony. He demonstrates no insight or remorse for even those charges upon which he has pleaded guilty.
- [66] For this reason as well as the fact that there was a pattern of four incidents of plagiarism and altered documents, the Tribunal concluded that there was a very high likelihood that the Student would repeat the offence, and that there must be little to no prospect of rehabilitation, especially in light of the failure of the Student to exhibit either insight or remorse for those charges to which he pleaded guilty.
- [67] Finally, as noted above, the Student was given not one but two opportunities to attend at the penalty hearing. He chose to attend neither.
- [68] In the absence of the Student attending for either of the penalty hearings (both of which were scheduled to allow him to have time to prepare and attend), the Tribunal concluded that the Student was prepared not only to lie and cheat in order to gain an academic advantage but was also prepared to implicate other students as excuses or scapegoats, (which in this case was unsuccessful) and to abuse the very services (Accessibility Services) put in place to assist him, and resorted to by him for assistance in the past.

[69] It is notable that this matter proceeded over a series of many evenings. The panel was obliged to hear evidence and retain and consider very complex volumes of evidence over a series of months.

[70] In the result, the Tribunal was unanimous in its determination of guilt, because the evidence was highly convincing in that regard.

Reasons on Cost

[71] At the request of a member of the panel, submissions as to costs were requested. The decision of the panel is not to award costs, although such an avenue is available to it.

[72] It should be noted that the University in making its submissions respecting costs has also taken the position that no costs are being requested.

[73] As an addendum to these reasons, the Tribunal attaches the submissions of the University respecting costs, and concurs that this is not an appropriate case where costs ought to be awarded.

DATE

Julie K. Hannaford

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on October 23, 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. B.

SUBMISSIONS OF THE UNIVERSITY REGARDING COSTS

1. On January 22, 2009, the University Tribunal requested that the University provide it with submissions dealing with two matters:
 - a. the jurisdiction of the University Tribunal to award costs of a proceeding; and
 - b. whether, in the circumstances of the case, the University's wished to seek costs of the proceeding against A.B.
2. The University submits that, while the Tribunal has the jurisdiction to award costs of proceedings, in all the circumstances of this case the University is not requesting that the Tribunal do so.
3. The University Tribunal takes its jurisdiction from the University of Toronto *Code*

of Behaviour on Academic Matters ("Code"). The Code confers jurisdiction on the Tribunal to award costs of proceedings at trial. Section C.II.(a)17(b) provides:

Where it is considered to be warranted by the circumstances, the chair of a hearing may in his or her discretion award costs of any proceedings at trial, and may make orders as to the party or parties to and by whom and the amounts and manner in which such costs are to be paid.

4. Thus, the University submits that the chair of a hearing has clear jurisdiction to award costs where she or he considers it appropriate to do so.

5. This jurisdiction has been exercised, albeit infrequently. Most recently, in the 2006 case of the University of Toronto and P.D., the University Tribunal did make a costs order against the student. I have attached a copy of the reasons for decision to these submissions.

6. P.D. was charged with falsifying and circulating two academic records in November 2003 and January 2004. The Tribunal found P.D. to have committed the offences and recommended that he be expelled from the University.

7. The Tribunal, at the request of the University, made an award of costs against the student. In particular, the Tribunal ordered the student to pay \$1,660.96 to the University in compensation for disbursements incurred by the University to locate and serve the student, who had evaded service. The Tribunal noted:

At the conclusion of the hearing, counsel for the University asked the Panel to award the cost of external disbursements incurred by the University in its efforts to contact the Student and set a hearing date. The panel heard submissions from the University regarding the lengthy and expensive nature of those efforts and had an opportunity to review the Tribunal's decision in the case of Mr. K, which was similar in many respects. Counsel for the University took the Panel to

section C.11.a.17(b) of the Code which sets the Tribunal's authority to award costs.

The University noted that, in the end, the Student had cooperated with the University and, as a consequence, they were not asking the Panel to award the University's total costs, but only its external disbursements. The University indicated that they were seeking \$1660.96.

The Student, through his counsel, did not contest the University's request; he only asked that, if the Panel awarded costs, he be allowed six months from the date of the hearing or the decision of the Governing Council on the Panel's recommendation of expulsion to remit payment. The University asked that the deadline for payment be set as February 15, 2007, six months from the date of the hearing.

The Panel, after deliberating, unanimously accepted the University's request and ordered the Student to pay costs of \$1660.96 to the University on or not later than February 15, 2007.

8. Thus, not only does the University Tribunal have jurisdiction to award costs of all or part of the proceedings before it, it has exercised that jurisdiction fairly recently.

9. However, in the circumstances of this case, the University does not seek an award of costs. A.B.'s conduct during the proceedings was troubling. In particular, his unannounced decision not to attend the hearing on November 28, 2008, significantly inconvenienced the panel, Ms. Smart, and counsel. It also delayed the proceeding by almost two months.

10. Moreover, his failure to attend the peremptory hearing on January 22, 2009, again without advance notice, showed a troubling unwillingness to engage with the University discipline process.

11. There is no doubt that the University incurred costs directly related to A.B.'s failure to attend without notice. In particular, the University incurred costs related to the scheduling of the aborted hearing on November 28, 2008, as well as costs thrown away

for its counsel to prepare for and attend for that hearing and it is our submission that this type of conduct could reasonably support an award of costs within the jurisdiction of the Tribunal.

12. However, having considered all of the circumstances, the University does not ask for an award of costs in this case.

13. Finally, the University wishes to emphasize that nothing in these submissions should be taken as a criticism of Mr. Shapiro or DLS.

All of which is respectfully submitted on January 27, 2009

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 July 10, 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 -

F. M.

Members of the Panel:

- Mr. Andrew Pinto, Chair
- Professor Annette Sanger, Faculty Panel Member
- Mr. Song Li, Student Panel Member

Appearances:

- Mr. Robert Centa, Assistant Discipline Counsel
- Professor Grant Allen, Vice-Dean, Undergraduate, Applied Science and Engineering
- Ms. Betty-Ann Campbell, Law Clerk, Paliare Roland

Preliminary

- [1] The Trial Division of the University Tribunal was convened on January 12, 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, 2008 from Professor Edith Hillan, Vice-Provost, Academic.
- [2] The Student did not attend the hearing and was not represented by counsel.

Notice of Hearing

- [3] Thirty minutes after the time at which the hearing was scheduled to begin, the Student had not appeared. Discipline counsel for the University proposed to proceed in the Student's absence.
- [4] The Tribunal heard submissions with respect to the University's request to proceed in the absence of the Student.
- [5] Ms. Betty-Ann Campbell described the efforts made by discipline counsel to serve the Student. Using the contact information entered by the Student into ROSI (Repository of Student Information) as well as information provided by Ms. Barbara McCann, Registrar, Faculty of Applied Science and Engineering, Ms. Campbell testified that a disclosure brief was prepared and couriered to the Student on July 29, 2008. The courier company did not report any difficulty in delivering the package, nor was the package returned as "undeliverable". Ms. Campbell confirmed that the Student never responded to the disclosure brief.
- [6] Other efforts included emails sent to the Student on October 22, 2008 and December 10, 2008, in which Ms. Campbell requested that the Student indicate preferred dates on which to hold a hearing. The Student did not respond to these emails, nor did they bounce-back as "undeliverable".
- [7] Ms. Campbell identified a third email message dated December 17, 2008 in which Ms. Campbell provided the Student with supplementary disclosure material and reminded him of the upcoming hearing on January 12, 2009. The Student did not respond to this email, nor did it bounce-back as "undeliverable".
- [8] Mr. Centa, upon contacting the family home at the number listed in ROSI, was given an alternate email address for the Student. The panel was shown an email message, also dated December 17, 2008, from Mr. Centa to the Student at the alternate email address. Ms. Campbell, who was copied on the message, testified that the Student did not respond to this message, nor did it bounce-back as "undeliverable".
- [9] Mr. Centa then referred the panel to a Book of Legislation and University Policies. Contained therein is the *Policy on Official Correspondence with Students*, dated May 1, 2006, which places on all University of Toronto students a positive obligation to 1) keep current their mail and email addresses in ROSI; 2) check their utoronto email accounts for official University correspondence; and 3) check their home mailing address for documents that have been mailed or delivered by the University. Students are deemed to have received knowledge of documents delivered by one or more of these methods.
- [10] Members of the panel were also given a copy of the *Statutory Powers Procedure Act (SPPA)* and were directed to Section 6, which deals with Notice, and to Section 7, which permits tribunals to proceed in the absence of a party, provided reasonable Notice has been given. In light of the previous testimony, discipline counsel argued that reasonable

Notice had been given and, therefore, the hearing should proceed in the absence of the Student.

- [11] The panel concluded that it was satisfied that discipline counsel had made all reasonable attempts to provide the Student with Notice of the hearing and, therefore, it permitted the hearing to proceed in the Student's absence.

Hearing on the Facts

[12] The charges are as follows:

- i. In or about late December 2007, you knowingly forged or in any other way altered or falsified a document required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a mid-term examination, submitted for academic credit in ECE302, contrary to Section B.i.1.(a) of the *Code*.
- ii. In the alternative, in or about late December 2007, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind, by altering a mid-term examination you had previously submitted in ECE302, and then requesting a re-evaluation of the mid-term examination, contrary to Section B.I.3.(b) of the *Code*.
- iii. On or about January 21, 2008, you knowingly forged or in any other way altered or falsified a document required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a term test, submitted for academic credit in ECE334, contrary to Section B.i.1.(a) of the *Code*.
- iv. In the alternative, on or about January 21, 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, by altering a term test you had previously submitted in ECE334, and then requesting a re-evaluation of the mid-term examination, contrary to Section B.I.3.(b) of the *Code*.

[13] Particulars of the charges are as follows:

ECE302

- i. You were, at all material times, a student in ECE302 taught by Professor Shahrokh Valaee.
- ii. In or about late December 2007, you submitted to Professor Valaee for re-

marking a forged mid-term examination which you altered to reflect a higher grade than that which you had originally received.

iii. At no time did you disclose that you had altered the examination.

ECE334

iv. You were, at all material times, a student in ECE334 taught by Professor Glenn Gulak.

v. On or about January 21, 2008, you submitted to Professor Gulak for re-marking a forged term test which you altered to reflect a higher grade than that which you had originally received.

vi. At no time did you disclose that you had altered the test.

[14] Professors Liang and Valaee, co-instructors of ECE302, were called to testify before the Tribunal.

[15] Professor Liang testified that Professor Valaee approached him about a mid-term examination booklet that Professor Valaee had discovered under his office door and to which had been affixed a Post-It note from the Student. In the note, the Student requested that his mid-term examination be re-graded.

[16] Professor Liang cross-checked the marks noted on the cover of the examination booklet with those recorded on the course spreadsheet and noted significant discrepancies. On the course spreadsheet it was recorded that the Student had earned 18 out of a possible 50 marks; whereas, the examination booklet submitted by the Student indicated that the Student had earned 38 out of 50 marks. Professor Liang then consulted with the teaching assistants (TAs) who had marked the examinations. The TAs informed Professor Liang that the markings on the examination booklet were not their own, although they had been crafted to appear similar.

[17] The panel was given the opportunity to review the exam re-grade request that had been given to Professor Valaee by the Student.

[18] Discipline counsel showed Professor Liang a string of email exchanges he had had with the Student, beginning with his email to the Student on January 14, 2008, in which he asked the Student to meet with him and Professor Valaee to discuss the mid-term re-grade request. The Student, in his response dated February 6, 2008, denied that he had asked for a re-grade of his mid-term. Instead, the Student claimed that he had requested a re-grade of Quiz #8.

[19] Professor Liang was asked if he had the original mid-term examination booklet, to which he responded that he did not. The original had been returned to the Student. Professor Liang further testified that he had been present at the Dean's Designate Meeting on