

UNIVERSITY OF TORONTO

UNIVERSITY TRIBUNAL

IN THE MATTER OF charges of academic dishonesty filed on November 19, 2018,

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 am. S.O. 1978, c. 88

B E T W E E N:

THE UNIVERSITY OF TORONTO

- and -

Y■■■■ W■ (the “Student”)

REASONS FOR DECISION

Hearing Date: June 17, 2019

Members of the Panel:

Ms. Shantona Chaudhury, Chair

Professor Lynne Howarth, Faculty Panel Member

Mr. Abdulwahab Sidiqi, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Mr. Daniel Goldbloom, Goldbloom Law, Counsel for the Student

In Attendance:

The Student

Hearing Secretary:

Jennifer Dent, Associate Director, Appeals, Discipline & Faculty Grievances

1. On June 17, 2019, this Panel of the University Tribunal held a hearing to consider the charges brought by the University of Toronto (the “**University**”) against Ms. Y■■■■ W■■ (the “**Student**”) under the *Code of Behaviour on Academic Matters, 1995* (the “*Code*”).
2. The Student attended the hearing, represented by Mr. Daniel Goldbloom.

I - THE CHARGES

3. The charges against the Student were detailed in a letter to the Student dated November 19, 2018, as follows:
 1. On or about January 16, 2017, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in an assignment titled “Assignment 1: Close Looking Exercise, Image 4” (“Assignment 1”) that you submitted in partial completion of the requirements for VCC101H5: Introduction to Visual Culture (the “Course”) contrary to section B.I.1(d) of the *Code*.
 2. On or about January 16, 2017, you knowingly obtained unauthorized assistance in an assignment titled “Assignment 1: Close Looking Exercise, Image 4” (“Assignment 1”) that you submitted in partial completion of the requirements for the Course contrary to section B.I.1(b) of the *Code*.
 3. On or about March 6, 2017, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in an assignment titled “Images of Canadian Prosperity in Still Photography: Close Reading of Carol Payne’s ‘How Shall We Use These Gifts?’” (“Assignment 2”) that you submitted in partial completion of the requirements for the Course contrary to section B.I.1(d) of the *Code*.
 4. On or about March 6, 2017, you knowingly obtained unauthorized assistance in an assignment titled “Images of Canadian Prosperity in Still Photography: Close Reading of Carol Payne’s ‘How Shall We Use These Gifts?’” that you submitted

in partial completion of the requirements for the Course contrary to section B.I.1(b) of the *Code*.

5. In the alternative, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind in the Course, contrary to section B.I.3(b) of the *Code*.

II – LIABILITY

(i) The Evidence

4. The parties provided the Panel with an Agreed Statement of Facts (“ASF”), a Joint Book of Documents (“JBD”), and Joint Submission on Penalty, and proposed that the matter be disposed of accordingly.

5. In the ASF, the Student pleaded guilty to Charges 1 and 3. She confirmed that she did so freely and voluntarily, knowing of the potential consequences she faced, and with the advice of legal counsel.

6. The Student also agreed to the following relevant facts.

7. At all material times, the Student was a student at the University of Toronto Mississauga (“UTM”).

8. The Student first registered at the UTM in the Fall of 2016. As of July 31, 2018 she had earned 1.0 credits, with a cumulative GPA of 1.00. She has not attended classes at the University since the end of the 2017 Winter term.

9. In Winter 2017, the Student was enrolled in VCC101H5: Introduction to Visual Culture, taught by Professor Kajri Jain (the “Course”).

10. Students in the Course were provided with a Course Outline providing relevant details about the Course. Page 10 of the Course Outline contained a section about academic integrity that made it clear that using someone else’s ideas or words without appropriate acknowledgement and obtaining unauthorized assistance in any assignment constitute academic dishonesty.

11. Students in the Course were required to write two papers, which were to be submitted to Turnitin.com. The first paper was due January 16, 2017, worth 8% of the Course mark, with a subsequent revision of that paper worth an additional 4%. The second paper was due on March 6, 2017, and was worth 15% of the Course mark. Students were not expected to conduct research for their two papers. Rather, the assignments required visual analysis based solely on a description of an image.

12. The Student submitted her first paper (“Assignment 1”), titled “Assignment 1: Close Looking Exercise, Image 4” as required on January 16, 2017. She received a mark of 80% for Assignment 1.

13. A screenshot of the electronic properties for Assignment 1 revealed that the author of the document was someone named “Shazia”.

14. Ms. W█ submitted her second paper (“Assignment 2”), titled “Images of Canadian Prosperity in Still Photography: Close Reading of Carol Payne’s “How Shall We Use These Gifts?”” as required on March 6, 2017. She received a mark of 72% for Assignment 2.

15. No unusual electronic properties were found in connection with Assignment 2.
16. In addition to the two papers, students in the Course were required to write a mid-term test on February 13, 2017 and to submit nine weekly reading journal posts. The Student wrote the mid-term test on February 13, 2017, earning a mark of 25%. The mid-term required written essay style answers.
17. Copies of Assignments 1 and 2, as well as the Student's mid-term test and reading journal entries, were included in the JBD.
18. In marking the Student's Assignment 2, one of the teaching assistants for the Course noticed a marked difference in language and writing style in Assignment 1 and Assignment 2 as compared to the Student's mid-term test answers and her reading journal entries. In contrast to the mid-term and reading journal entries, Assignments 1 and 2 appeared to be much more sophisticated in ideas, writing style, language and grammar.
19. By an email letter of February 7, 2018, the Student was invited to attend a meeting with the Dean's Designate on February 28, 2018 in accordance with the *Code*.
20. The Student attended a meeting with Professor Richard Green, Dean's Designate, on February 28, 2018. At the beginning of the meeting Professor Green read the Dean's warning at section C.I.6(a) of the *Code*, reminding the Student that anything she said at the meeting could be admissible in evidence at a Tribunal hearing. During the discussion about her Assignment 1 and Assignment 2, the Student admitted that she had purchased both of the Assignments from "Shazia" for \$40 per page. She explained that Shazia was a student and a friend on WeChat, but

that she did not know her last name. The Student signed two Academic Integrity: Student Forms in which she indicated that she believed she was guilty of committing an academic offence.

21. The Student admits that she knowingly:

- (a) submitted Assignment 1 as if it was her own, knowing that she had not written Assignment 1, but that she had purchased it from a third party;
- (b) submitted Assignment 2 as if it was her own, knowing that she had not written Assignment 2, but that she had purchased it from a third party; and
- (c) that she did so in order to obtain an academic advantage in respect of both assignments and thus in the Course.

22. The Student admitted that contrary to section B.I.1(d) (or alternatively section B.I.3(b)) of the *Code*, she knowingly represented as her own an idea or expression of an idea, and the work of another in each of her Assignment 1 and Assignment 2 that she submitted in the Course to fulfil the academic requirements of the Course.

23. On the basis of the agreed facts and the documents, Assistant Discipline Counsel asked the Tribunal to accept the Student's guilty plea with respect to Charges 1 and 3. Counsel to the Student made no oral submissions on liability, save for confirming that the Student was pleading guilty to these Charges and agreed to the facts as set out in the ASF.

(ii) Decision of the Panel

24. The onus is on the University to establish on a balance of probabilities, using clear and convincing evidence, that the academic offence charged has been committed by the Student.¹

25. The Panel reviewed the copies of the documents provided and noted that there is indeed a marked difference between the quality of work in the Student's mid-term test and handwritten reading journal entries, as compared to Assignments 1 and 2 and the typed reading journal entries. In response to an inquiry from the Panel, counsel for the Student advised that the handwritten reading journal entries were done in class, and the typed ones were done at home. Again in response to an inquiry from the Panel, Assistant Discipline Counsel confirmed that no charges of academic misconduct had been laid with respect to the typed reading journal entries.

26. Upon review of the ASF, the documents provided in the JBD, and upon hearing the submissions of counsel, the Panel was satisfied on a balance of probabilities that the University had proven the elements of Charges 1 and 3. The Panel therefore accepted the Student's guilty plea with respect to these Charges.

27. In light of the Tribunal's finding with respect to Charges 1 and 3, the University advised that it was withdrawing Charges 2, 4, and 5.

III - SANCTION

28. As noted above, the parties provided the Tribunal with a Joint Submission on Penalty (JSP), which is appended to these reasons as "Appendix A". Assistant Discipline Counsel also provided

¹ A.S. [Case No. 858; DAB – Appeal 2; April 18, 2019] at para 55.

the Tribunal with a Book of Authorities in support of the JSP. Both Assistant Discipline Counsel and counsel to the Student made oral submissions with respect to penalty.

29. In the JSP, the University and the Student submitted that in the circumstances of this case, it was appropriate that the Tribunal impose the following sanctions on the Student:

- (a) a final grade of zero in the course VCC101H5 in the 2017 Winter term;
- (b) a suspension from the University of Toronto commencing June 17, 2019 for a period of five years, to end June 16, 2024; and
- (c) a notation of this sanction on her academic record and transcript from the date of the order until June 16, 2026 or her graduation from the University of Toronto, whichever occurs first.

30. The parties also agreed that this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University of Toronto newspapers, with the name of the Student withheld.

31. The Student acknowledged that the University advised her of her right to obtain legal counsel, and that she did so. The Student further acknowledged that she signed the JSP freely and voluntarily, knowing of the potential consequences she faced and knowing that the Tribunal would not be bound by the JSP and had the discretion to impose a different penalty, including one that is more severe than the JSP recommends.

32. In oral submissions, Assistant Discipline Counsel noted that purchasing academic work for a fee and then submitting that work in order to obtain academic credit is one of the most serious academic offences that a student can commit. Assistant Discipline Counsel advised that the University was not seeking expulsion as a sanction in this case because the Student had

admitted to the conduct and had co-operated with the discipline process, specifically by entering a plea of guilty and agreeing to the ASF, JBD, and JSP; the Student's co-operation was a mitigating factor that the Tribunal should consider in deciding the appropriate sanction. Assistant Discipline Counsel submitted that on the other hand, the Tribunal should also consider that the Student in this case committed not just one, but two instances of misconduct. Assistant Discipline Counsel acknowledged, however, that these multiple instances of misconduct did not have the 'aggravating' force of a prior offence for which a student has been disciplined.

33. On the basis of these submissions, Assistant Discipline Counsel asked the Panel to impose the sanctions set out in the JSP.

34. Counsel to the Student submitted that in determining the appropriate penalty, the Tribunal should consider a number of mitigating factors. The Student has no previous record of discipline. She has never before been sanctioned by the University. She admitted guilt early on and fully co-operated with the discipline process, volunteering information such as the fact that she had purchased the work from 'Shazia' and the price she paid for it. Counsel to the Student submitted that, were it not for the admission of guilt, the University's case might have been difficult to prove, as the difference between the quality of her 'in-class' work and 'at-home' work might be explained by her difficulties with the English language. Counsel to the Student submitted that were it not for the Student's admissions, the only piece of evidence suggesting that she did not write the Assignments herself was the meta-data with respect to Assignment 1 listing the document's author as 'Shazia', and that on its own, this might not be enough to prove that the Student did not write the Assignments herself.

35. On the basis of these submissions, counsel to the Student asked the Panel to impose the sanctions set out in the JSP.

Decision of the Panel

36. The determination of an appropriate penalty for academic misconduct is within the discretion of the Tribunal and will depend on an application of the relevant factors and principles to the particular circumstances of the case. In determining the appropriate sanction, the Tribunal should consider: 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 offense; and f) the need to deter others from committing a similar offence.²

37. The Tribunal is not obliged to accept a joint submission on penalty. Nonetheless, the jurisprudence confirms that the Tribunal should accept a joint submission on penalty unless exceptional circumstances apply: a joint submission on penalty may be rejected by a panel only where to give effect to it would be contrary to the public interest or would bring the administration of justice into disrepute.³

38. Having considered the JSP and the submissions of Assistant Discipline Counsel and counsel to the Student in the present case, this Panel agreed to impose the sanctions provided for in the JSP.

² *University of Toronto and Mr. C* [Case No. 1976/77-3, November 5, 1976] at p 12.

³ *P.H.Q.* [Case No. 982; May 8, 2019] at para 23; *A.D.* [Case No. 972; September 26, 2018] at para 26, (citing the decisions of the Discipline Appeals Board in *M.A.* [Case No. 837; December 22, 2016], and *S.F.* [Case No. 690; October 20, 2014]; *Z.Z.* [Case No. 918; March 28, 2017] at paras. 20-21.

39. The Panel accepts that, as this Tribunal has repeatedly held, “purchased essay” offences are among the most serious offences that a student can commit in a university setting. These offences involve planned and deliberate deception. Moreover, they can be difficult to detect and to prove. A severe sanction is therefore required. The case law confirms that expulsion should be considered a likely, perhaps the most likely, sanction for “purchased essay” offences.⁴

40. The Panel also recognizes that on the agreed facts in the present case, the Student committed the offence not just once, but twice.

41. However, the Panel also accepts that prompt acknowledgment of wrongdoing⁵ and co-operation with the discipline process⁶ may justify the imposition of a sanction less severe than expulsion. In the present case, the Student’s early admission of misconduct, her guilty plea, and her co-operation with the discipline process should be taken into account as mitigating factors. Such co-operation renders the university discipline process easier for all concerned. The Panel also notes that the Student appeared at the hearing, and that through her admissions, plea, and the submissions of her counsel, recognized her wrongdoing.

42. The Panel expresses no opinion as to whether the University’s case would have been provable were it not for the Student’s admissions. The Panel does, however, accept that the Student’s co-operation has made the discipline process more efficient and less arduous for all concerned.

⁴ *S.C., N.R.H., M.K.K.* [Case No. 596, 597, 598 November 23, 2011] at paras 104-109.

⁵ *K.K.H.* [Case No. 602, May 6, 2011] at para 43.

⁶ *P.H.Q., supra* at para 254.

43. The Panel finds that there are no exceptional circumstances in the present case that would warrant rejection of the JSP, and finds that the sanctions set out in the JSP should be imposed.

44. The Panel thanks Assistant Discipline Counsel and counsel to the Student for their helpful submissions and their co-operation in this case.

IV - ORDER OF THE TRIBUNAL

45. For the above reasons, the Panel made the following Order on June 17, 2019:

2. **THAT** Ms. W█ is guilty of two counts of the academic offence of plagiarism, contrary to sections B.I.1(d) of the *Code of Behaviour on Academic Matters*;
3. **THAT** the following sanctions shall be imposed on Ms. W█:
 - (a) a final grade of zero in the course VCC101H5 in the 2017 Winter term;
 - (b) a suspension from the University of Toronto commencing June 17, 2019 for a period of five years, to end June 16, 2024; and
 - (c) a notation of this sanction on her academic record and transcript from the date of this order until June 16, 2026 or her graduation from the University of Toronto, whichever occurs first.
4. **THAT** this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the student withheld.

Dated at Toronto this 12th day of September, 2019

A handwritten signature in blue ink, appearing to read "Shantona Chaudhury". The signature is highly stylized with large, overlapping loops and flourishes.

Shantona Chaudhury, Co-Chair

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on November 19, 2018,

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 am. S.O. 1978, c. 88

BETWEEN:

THE UNIVERSITY OF TORONTO

- and -

Y [REDACTED] W [REDACTED]

JOINT SUBMISSION ON PENALTY

NO. 3

**THE UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO**

AND

Y [REDACTED] W [REDACTED]

..... This Exhibit is produced by

the University

this 17 day of June, 2019

.....
[Signature]

1. For the purposes of this hearing under the *Code of Behaviour on Academic Matters* ("Code"), the Provost of the University of Toronto (the "Provost") and Y [REDACTED] W [REDACTED] (the "Student") have prepared this Joint Submission on Penalty ("JSP").

2. The Provost and the Student submit that, in all the circumstance of this case, it is appropriate that the University Tribunal impose the following sanctions on the Student:

- (a) a final grade of zero in the course VCC101H5 in the 2017 Winter term;
- (b) a suspension from the University of Toronto commencing June 17, 2019 for a period of five years, to end June 16, 2024; and
- (c) a notation of this sanction on her academic record and transcript from the date of the order until June 16, 2026 or her graduation from the University of Toronto, whichever occurs first.

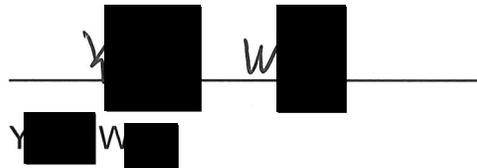
3. The parties agree that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University of Toronto newspapers, with the name of the Student withheld.

Acknowledgements

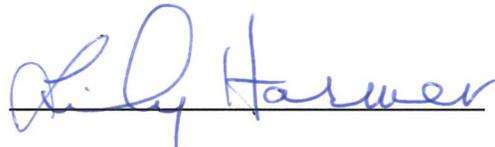
4. The Student acknowledges that:

- (a) the Provost has advised her of her right to obtain legal counsel, and she has done so; and
- (b) she is signing this JSP freely and voluntarily, knowing of the potential consequences she faces and knowing that the Tribunal is not bound by this JSP and has the discretion to impose a different penalty, including one that is more severe than the JSP recommends.

Signed on June 17, 2019.

A signature line with a horizontal line. The signature is redacted with black boxes. There are small handwritten letters 'Y' and 'W' above the line, and 'Y' and 'W' below the line.

Signed on June 17, 2019.

A handwritten signature in blue ink that reads "Lily Harmer".

Lily Harmer
Assistant Discipline Counsel
University of Toronto