

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on July 13, 2020

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 -

D [REDACTED] L [REDACTED] (the “Student”)

REASONS FOR DECISION

Hearing Date: November 19, 2020, via Zoom

Panel Members:

Ms. Alexi Wood, Chair
Professor Ernest Lam, Faculty Panel Member
Ms. Sophie Barnett, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Novalee Davy, Downtown Legal Services, University of Toronto

Hearing Secretary:

Mr. Christopher Lang, Director, Office of the Appeals, Discipline and Faculty Grievances, University of Toronto

A. OVERVIEW

1. On November 19, 2020, a Panel of the University Tribunal convened to hear the Provost's allegations that the Student violated the *Code of Behaviour on Academic Matters* (the "*Code*"). By letter dated 13 July 2020, the charges against the Student were that:

- a. On or about February 25, 2020, the Student knowingly used or possessed an unauthorized aid in the mid-term exam in FAH338H1S: Art and Consumers in the Renaissance (1400-1700) (the "Art History Course") that she wrote in partial completion of the requirements for the Art History Course contrary to section B.I.1(b) of the *Code*.
- b. In the alternative to paragraph (a), on or about February 25, 2020, [the Student] engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in connection with the final exam in FAH338H1S in order to obtain academic credit or other academic advantage of any kind in the Art History Course, contrary to section B.I.3(b) of the *Code*.
- c. The particulars related to the charges are as follows:
 - (i) At all material times, the Student was a registered student at the University of Toronto Scarborough.
 - (ii) In Winter 2020, the Student registered in the Course.
 - (iii) Students in the Course were required to write a mid-term exam (the "Mid-Term Exam").
 - (iv) No aids were allowed in the Mid-Term Exam.

- (v) On or about February 25, 2020, [the Student] wrote the Mid-Term Exam for credit in the Course.
- (vi) During the Mid-Term Exam, the Student was found in possession of notes relevant to the subject matter of the Mid-Term Exam.

2. The parties provided the Panel with an Agreed Statement of Facts (“ASF”), that the Student acknowledged she signed freely and voluntarily, knowing the consequences she faced, and with the advice of counsel. In the ASF, the Student confirmed she had received a copy of the charges. After hearing the submissions of counsel for both parties and reviewing the facts outlined in the ASF, the Panel found that the Student had committed the offence referenced in paragraph 1(a) above, specifically that the Student had knowingly used or possessed an unauthorized aid or obtained assistance contrary to section B.I.1(b) of the *Code*. As a result of this finding, the Provost agreed to withdraw the charge in paragraph 1(b) above.

3. The Student also signed an ASF for Penalty, again, freely and voluntarily, knowing the potential consequences she faced, and with the advice of counsel.

4. The Panel agreed to impose the penalty agreed to by the parties in a joint submission on penalty and ordered that:

- a. the Student receive a grade of zero in FAH338H1S in the 2020 Winter term;
- b. the Student be suspended from the University for three years from September 1, 2020 to August 31, 2023; and
- c. a notation appear on the Student’s academic record and transcript from the day the Tribunal makes its order to the date on which the Student graduates from the University.

5. The Panel noted, however, that the Provost could have sought a more severe sanction, given the Student's past conduct and findings of misconduct.

6. At the conclusion of the Hearing, the Panel made its order with reasons to follow. These are the reasons.

B. AGREED FACTS

7. At all material times, the Student was registered at the University of Toronto Scarborough campus. As of September 3, 2020, the Student had earned 13 credits and had a GPA of 2.51.

8. In the fall of 2018, the Student was enrolled in ENG463H5F: Seminar: British Literature to the 19th Century (the "British Literature Course"). The Student admitted to two separate plagiarism offences relating to the British Literature Course. In the first instance, the Student admitted to committing plagiarism in a Response Essay worth 10% of the final mark. In the second instance, the Student admitted to plagiarism in the Final Paper worth 35% of the final mark.

9. As a result of these two instances of plagiarism, the Student received a grade of zero in the British Literature Course, a four-month suspension, and a notation in her academic record to remain until her convocation date, withdrawal from the program or program termination.

10. The Student was also warned in writing that if she committed another offence while a student at the University, the consequences would likely be significantly more severe.

11. In the Winter of 2020, the Student enrolled the Art History Course. The syllabus for the Art History Course clearly reminded students of their academic integrity obligations including the prohibition on plagiarism and cheating. The Student received a copy of the syllabus.

12. While the Student was writing the Mid-Term Exam in the Art History Course, the Course Teaching Assistant ("TA") noticed that the Student had what appeared to be notes on her lap (the "Notes"). While the Panel

was not provided with the Notes, the parties agreed that the Notes were helpful and relevant to the Mid-Term Exam. Both the Professor and the TA observed the Student copying information from the Notes to her Mid-Term Exam.

13. The Professor asked the Student to return her exam booklet and leave the Mid-Term Exam. Despite her previous suspension and clear written warning, the Student subsequently admitted that she did knowingly use or possess an unauthorized aid in the Mid-Term Exam, contrary to section B.I.1(b) of the *Code*.

C. FINDING OF GUILT

14. Based on the evidence submitted by way of the ASF, and hearing the submissions from counsel for both parties, the Panel is satisfied, based on clear and convincing evidence, that the Student knowingly used or possessed an unauthorized aid or obtained assistance contrary to section B.I.1(b) of the *Code*.

D. PENALTY

15. The parties provided a Joint Submission on Penalty.

16. A joint submission on penalty should only be rejected in circumstances where giving it effect would be contrary to the public interest or would bring the administration of justice into disrepute. The Panel must determine if the outcome falls within a reasonable range of outcomes, recognizing the institutional value, efficiency and importance of outcomes that are achieved through such joint submissions. The Panel's role is not to determine if it would impose the same penalty as that proposed by the parties.¹

17. The parties submitted the appropriate penalty ought to be that:

- a. The Student receive a grade of zero in FAH338H1S in the 2020 Winter term;

¹ See for e.g. the case of SM (Case No 819, June 8, 2016) and the case of AK (Case No 881, May 30, 2017).

- b. The Student be suspended from the University for three years from September 1, 2020 to August 31, 2023; and
- c. A notation appear on the Student's academic record and transcript from the day the Tribunal makes its order to the date on which the Student graduates from the University.

18. The Panel was provided with several cases from which the Panel concluded that the Penalty "falls within a reasonable range of outcomes."

19. While the Panel's role is not to determine if it would impose the same penalty as that proposed by the parties, in this case, the Panel is of the opinion that the Provost could have sought a more severe penalty, including a longer suspension or a notation on the Student's record that continues past her graduation from the University. However, the penalty is not contrary to the public interest nor would it bring the administration of justice into disrepute. The Panel therefore orders the penalty proposed by the parties.

E. CONCLUSION

20. This Panel orders that:

- a. The Student is guilty of the academic offence of knowingly using or possessing an unauthorized aid or obtaining assistance contrary to section B.I.1(b) of the *Code*.
- b. The following sanctions will be imposed on the Student:
 - (i) a final grade of zero in FAH338H1S in the 2020 Winter term;
 - (ii) a suspension from the University for three years from September 1, 2020, to August 31, 2023;

- (iii) a notation on the Student's academic record and transcript from the day the Tribunal makes its order to the date on which the Student graduates from the University; and
- (iv) 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, March 4, 2021.



Alexi Wood, Chair