

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on October 14, 2021,

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

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

B E T W E E N:

THE UNIVERSITY OF TORONTO

- AND -

Y [REDACTED] L [REDACTED]

REASONS FOR DECISION

Hearing Date: February 8, 2022, via Zoom

Panel Members:

Mr. Christopher Wirth, Chair
Professor Ernest Lam, Faculty Panel Member
Ms. Jihyun Kwon, Student Panel Member

Appearances:

Mr. William Webb, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Lily Harmer, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Ms. Krista Kennedy, Administrative Clerk & Hearing Secretary, Appeals, Discipline and Faculty Grievances

Not in Attendance:

[REDACTED]

1. A Panel of the Trial Division of the University Tribunal was convened on February 8, 2022 by videoconference to consider charges brought by the University of Toronto (the “University”) against ██████████ (the “Student”) under the University’s *Code of Behaviour on Academic Matters, 1995* (the “Code”).

Preliminary Issue: Proceeding in the Absence of the Student

2. The hearing was scheduled to begin at 9:45 a.m. Neither the Student, nor anyone on the Student’s behalf, were logged onto the Zoom link at that time. The Panel waited until 10:00 a.m. to start the hearing. The University then requested that the Panel proceed with the hearing in the Student’s absence.
3. Pursuant to Rule 16 of the *University Tribunal Rules of Practice and Procedure* (the “Rules”), notice of an electronic hearing must include the date, time, place and purpose of the hearing; a reference to the statutory authority under which the hearing will be held; information about the manner in which the hearing will be held; and a statement that if a person does not attend the hearing, the Panel may proceed in the person’s absence. Rule 17 provides that where notice of an electronic hearing has been given to a person and that person does not attend the hearing, the Panel may proceed with the hearing in the party’s absence. The Rules conform to sections 6 and 7 of the *Statutory Powers Procedure Act* (the “SPPA”), which set out the notice requirements.
4. Pursuant to Rule 9, a notice of hearing may be served on a student by various means, including by emailing a copy of the document to the student’s email address contained in the University’s Repository of Student Information (“ROSI”).
5. The University’s *Policy on Official Correspondence with Students* dated September 1, 2006 expressly states that students are responsible for maintaining on ROSI a current and valid mailing address and University-issued email account, and that “[f]ailure to do so may result in a student missing important information and will not be considered an acceptable rationale for failing to receive official correspondence from the University.” Students are expected to monitor and

retrieve their email on a frequent and consistent basis. Students have the right to forward their University issued email account to another email account, but remain responsible for ensuring that all University email communications are received and read.

6. The onus of proof is on the University to establish that it provided the Student with reasonable notice of the hearing in accordance with these Rules.
7. In this case, the University provided evidence relevant to service by way of the evidence of five witnesses: Laurie O’Handley (“Ms. O’Handley”), an Academic Integrity Specialist with Student Academic Integrity at the University, Andrew Wagg (“Mr. Wagg”), an Incident Report Architect at Information Security, Information Technology Services at the University, Justine Cox (“Ms. Cox”), of the Office of the Vice-Provost, Faculty & Academic Life at the University, Samanthe Huang (“Ms. Huang”), an Administrative Assistant with the Appeals, Discipline and Faculty Grievances Office, Office of the Governing Council at the University and Natalia Botelho (“Ms. Botelho”), an Assistant at the law firm of Paliare Roland Rosenberg Rothstein LLP. These five witnesses provided their evidence by affidavit, which were accepted by the Panel pursuant to Rule 61 of the University Tribunal’s *Rules of Practice and Procedure* (the “Rules”).
8. The contents of the affidavits (without Exhibits) of these five witnesses are set out below:

a) Evidence of Ms. O’Handley

9. Ms. O’Handley’s affidavit provides as follows:
 1. I am an Academic Integrity Specialist with Student Academic Integrity (“SAI”) at the University of Toronto (the “University”). As such, I have personal knowledge of the matters set out in this affidavit. Where I do not have personal knowledge of a matter, I state the source of my information and I believe it to be true.
 2. SAI is the office at the Faculty of Arts and Science that is responsible for investigating allegations of academic misconduct and arranging for students who

are facing such allegations to meet with the Dean or Dean's Designate in accordance with the process set out in the *Code of Behaviour on Academic Matters* (the "Code").

A. Academic history

3. [REDACTED] first registered at the University in Fall 2017. [REDACTED] served a one-year academic suspension in 2019-2020. To date, [REDACTED] has earned 1.5 credits with a cumulative GPA of 0.31. [REDACTED] is currently serving a three-year academic suspension, which commenced following the Winter 2021 semester, due to his low cumulative GPA. At present, [REDACTED] is eligible to return to the University in May 2024. I have attached a copy of [REDACTED] academic history dated January 10, 2022, to my affidavit as **Exhibit A**.

B. Instructor contact with the student

1. Professor Robert Gazzale, one of the instructors for ECO101 H1F: Principles of Microeconomics (the "Course"), has advised me that on October 19, 2020, he emailed [REDACTED], stating that a version of Term Assessment 2 was provided to a commercial tutoring service, and that he had concerns about the similarity of the assessment that [REDACTED] completed and the commercial tutoring service's study guide. Professor Gazzale has advised me that [REDACTED] responded via email on October 22, 2020. I have attached a copy of this email thread, which Professor Gazzale provide to SAI, to my affidavit as **Exhibit B**.
2. Professor Gazzale has advised me that, on October 26, 2020, he met with [REDACTED] to discuss allegations of academic misconduct.

C. Attempts to contact the student

3. On December 9, 2020, SAI emailed [REDACTED] to request that he meet with the Dean's Designate to discuss the allegations of academic misconduct on December 15, 2020. On December 14, 2020, SAI emailed [REDACTED] a reminder about the meeting scheduled for the next day. [REDACTED] did not respond to either email. I have attached a copy of the email thread between SAI and [REDACTED] to my affidavit as **Exhibit C**.

4. On December 22, 2020, SAI emailed ██████ to request that he meet with the Dean's Designate to discuss the allegations of academic misconduct on February 2, 2021. On and February 1, 2021, SAI emailed ██████ a reminder about the meeting scheduled for the next day. ██████ did not respond to either email. A copy of these emails is included in the email thread attached to my affidavit as Exhibit C.
5. The matter was subsequently forwarded to the Vice-Provost.

D. SWS Activity Log

6. On February 1, 2022, I obtained a copy of the Student Web Services Activity Log ("SWS Activity Log") for ██████ from the Repository of Student Information ("ROSI"). The SWS Activity Log shows that ██████ last logged onto the University's online portal on October 27, 2020 at 20:52:45. I have attached a copy of the SWS Activity Log to my affidavit as **Exhibit D**.

b) Evidence of Mr. Wagg

10. Mr. Wagg's affidavit provides as follows:
 1. I am an Incident Report Architect at Information Security, Information Technology Services at the University of Toronto (the "University"). As such, I have knowledge of the matters contained in this affidavit. Where I do not have direct knowledge of a matter contained in this affidavit, I state the source of my knowledge and I believe it to be true.
 2. Information Technology Services provides many services to the University, including management of the email accounts used by students. To access an email account one needs to input both the user's login id and the password for that account. The Microsoft 365 Exchange portal automatically records the last time someone accessed a particular university-issued email account. This is denoted with the code "LastUserActionTime." The LastUserActionTime log only updates when someone logs in to a university-issued email account.
 3. On January 10, 2022, at the request of William Webb, Assistant Discipline Counsel for the University, I checked the portal records to determine the last time someone

accessed the email account [REDACTED]. In order to view the LastUserActionTime log, I ran a PowerShell script.

4. I determined that the last time someone accessed this e-mail account was on October 29, 2020 at 3:13:20 AM, local Toronto time.

c) Evidence of Ms. Cox

11. Ms. Cox's affidavit provides as follows:

1. On October 14, 2021, I served [REDACTED] with the charges issued by Professor Heather Boon. I served the charges on [REDACTED] by e-mail to [REDACTED], which was the e-mail address [REDACTED] provided to the University of Toronto in ROSI.
2. Attached as **Exhibit A** is a copy of [REDACTED] ROSI.
3. Attached as **Exhibit B** is a copy of the email and charges that was sent to [REDACTED] on October 14, 2021.

d) Evidence of Ms. Huang

12. Ms. Huang's affidavit provides as follows:

1. I am an Administrative Assistant with the Appeals, Discipline and Faculty Grievances Office ("ADFG Office"), Office of the Governing Council, University of Toronto (the "University") and, as such, have knowledge of the matters contained in this affidavit.
2. On October 15, 2021, I served [REDACTED] (the "Student") with a letter regarding the revised charges that were filed against him, together with copies of the revised charges, the *Code of Behaviour on Academic Matters*, the *Rules of Practice and Procedure* and a pamphlet for Downtown Legal Services. I served the Student with these documents by email at [REDACTED], which is the e-mail address that the Student had provided in the Repository of Student Information ("ROSI"). A copy of my email and letter of October 15, 2021 (without any other enclosures) is attached to my affidavit as **Exhibit "A"**.

3. On January 3, 2022, I received an email from William Webb, an associate at Paliare Roland, requesting to schedule an electronic hearing for the Student for Tuesday, February 8, 2022 at 9:45 am. The Student was copied on Mr. Webb's email.
4. On January 3, 2022, I responded to Mr. Webb's email advising that the Notice of Electronic Hearing would be issued in due course. A copy of my email exchange with Mr. Webb is attached to my affidavit as **Exhibit "B"**.
5. On January 3, 2022, I served the Student with the Notice of Electronic Hearing for a hearing on February 8, 2022 at 9:45 am, together with copies of my letter of October 15, 2021 and enclosures (which included the revised charges) by email. I advised the Student that the hearing would be conducted using the Zoom videoconferencing platform and I provided the Student with the coordinates to access the videoconference. A copy of my email of January 3, 2022 and the Notice of Electronic Hearing (without any other enclosures) is attached to my affidavit as **Exhibit "C"**.
6. All of my emails to the Student were sent to [REDACTED], which is the email address that the Student had provided in ROSI. I did not receive a "bounce back" message to any of my emails, indicating that they could not be delivered.
7. I have not received a response from the Student to any of my correspondence. To the best of my knowledge, the Student has not contacted my office.

e) Evidence of Ms. Botelho

13. Ms. Botelho's affidavit provides as follows:

1. I am an assistant at the law firm of Paliare Roland Rosenberg Rothstein LLP ("Paliare Roland"). I work with Lily Harmer, a partner at Paliare Roland, who currently acts as Assistant Discipline Counsel for the University of Toronto. Ms. Harmer is prosecuting the charges filed against [REDACTED] on behalf of the Provost. As such, I have knowledge of the matters set out in this affidavit. Where my

information is based on information and belief, I have stated the source of that information and that I believe it to be true.

A. ██████████ contact information

1. On November 23, 2021, at the request of William Webb, an associate at Paliare Roland, the Student Academic Integrity (“SAI”) office at the Faculty of Arts and Science, University of Toronto, provided my office with a copy of the current contact information for ██████████ in the University’s Repository of Student Information (“ROSI”). A copy of ██████████ ROSI record dated November 23, 2021, is attached to my affidavit as **Exhibit “A”**.
2. On January 6, 2022, at the request of Mr. Webb, the SAI office provided my office with a copy of the current contact information for ██████████ in ROSI. A copy of ██████████ ROSI record dated January 6, 2022, is attached to my affidavit as **Exhibit “B”**.
3. In ██████████ ROSI record dated January 6, 2022, his official email address is listed as ██████████ (the “█████████ Email”).
4. A copy of ██████████ academic record as of January 10, 2022, is attached to my affidavit as **Exhibit “C”**.

B. Service of revised charges and disclosure to ██████████

5. On October 14, 2021, the Office of the Vice-Provost, Faculty and Academic Life served the revised charges in this matter on ██████████ by email to the ██████████ Email. A copy of the email and revised charges is attached to my affidavit as **Exhibit “D”**.
6. On October 20, 2021, Ms. Harmer sent an email to ██████████ at the ██████████ Email to introduce herself. Ms. Harmer advised ██████████ that important documents and correspondence would be sent to his mail.utoronto.ca email address. A copy of Ms. Harmer’s email (on which I was copied) is attached to my affidavit as **Exhibit “E”**.
7. On November 5, 2021, Mr. Webb sent ██████████ an email at the ██████████ Email attaching a letter from Ms. Harmer to ██████████ dated November 5, 2021 (the

“Disclosure Letter”), a disclosure brief relating to this matter, and a copy of the University’s *Policy on Official Correspondence with Students*. A copy of the email and the Disclosure Letter (on which I was copied), without other attachments, is attached to my affidavit as **Exhibit “F”**.

8. On November 8, 2021, Mr. Webb sent ██████ an email at the ██████ Email attaching the Disclosure Letter and a revised disclosure brief. A copy of the email (on which I was copied), without any attachments, is attached to my affidavit as **Exhibit “G”**.

C. *Emails to ██████ regarding the hearing*

9. On December 6, 2021, Mr. Webb sent an email to ██████ at the ██████ Email regarding scheduling a hearing date in this matter. Mr. Webb advised ██████ that if he did not hear back from ██████ regarding his availability by December 13, 2021, Mr. Webb would request a hearing date to be scheduled. A copy of the email (on which I was copied) is attached to my affidavit as **Exhibit “H”**.

10. On January 3, 2022, Mr. Webb sent a follow-up email to ██████ at the ██████ Email advising that he would be requesting a hearing to be scheduled for Tuesday, February 8, 2022 at 9:45 am. A copy of the email (on which I was copied) is attached to my affidavit as **Exhibit “I”**.

11. On January 3, 2022, Mr. Webb and the Office of Appeals, Discipline and Faculty Grievances (“ADFG”) had an email exchange regarding the request for a hearing date of February 8, 2022 at 9:45 am. ██████ was copied on this email at the ██████ Email. A copy of the email exchange (on which I was copied) is attached to my affidavit as **Exhibit “J”**.

12. On January 3, 2022, the ADFG sent an email to ██████ at the ██████ Email. The ADFG issued the Notice of Electronic Hearing to take place via zoom on February 8, 2022 at 9:45 am. A copy of ADFG’s email (on which I was copied) and the Notice of Electronic Hearing is attached to my affidavit as **Exhibit “K”**.

D. *Attempts to contact ██████ by telephone*

13. I am advised by Mr. Webb that he made attempts to call [REDACTED] on November 23, 2021 at the phone number [REDACTED], which is the number that [REDACTED] had provided in ROSI. I am advised by Mr. Webb that:
- (a) a man answered the phone and stated that he did not know anyone named [REDACTED] or [REDACTED];
 - (b) he called [REDACTED] again, and that he spoke with the same man who stated he did not know anyone named [REDACTED] or [REDACTED];
 - (c) he reviewed the number that he dialed, and verified that he dialed [REDACTED] on both occasions.
14. I am advised by Mr. Webb that he reviewed [REDACTED] ROSI record, dated January 6, 2022, on that same date to determine whether [REDACTED] had updated his phone number. [REDACTED] phone number in the November 23, 2021 ROSI record and the January 6, 2022 ROSI record are both [REDACTED]. I am advised that Mr. Webb did not call [REDACTED] on January 6, 2022 because [REDACTED] had not updated his number.

E. Attempts to contact [REDACTED] by courier

15. On January 7, 2022, our office arranged for a courier to deliver a package to [REDACTED] at [REDACTED] (the "[REDACTED] Address"), which is the mailing address that [REDACTED] had provided in ROSI. The courier package contained a letter from Ms. Harmer dated January 7, 2022, the Notice of Electronic Hearing and cover email from Samanthe Huang dated January 3, 2022 (which contained the Zoom details to access the hearing), and the revised charges in this matter. A copy of Ms. Harmer's letter (without any enclosures) and the courier delivery notification email are attached to my affidavit as **Exhibits "L"** and **"M"**.
16. On January 10, 2022, I spoke to the courier company regarding the delivery of our package on January 7, 2022 at the [REDACTED] Address. The courier company advised me that the courier arrived at the [REDACTED] Address, which is an English speaking school called [REDACTED], and was told by an individual to leave the package on the main table.

17. On January 12, 2022, our office arranged for a courier to deliver a package to [REDACTED] at [REDACTED] (the "[REDACTED] Address"), which is the permanent address that [REDACTED] had provided in ROSI. The courier package contained a letter from Ms. Harmer dated January 11, 2022, the Notice of Electronic Hearing and cover email from Samanthe Huang dated January 3, 2022 (which contained the Zoom details to access the hearing), and the revised charges in this matter. A copy of Ms. Harmer's letter (without any enclosures) and the courier delivery notification email are attached to my affidavit as **Exhibits "N"** and **"O"**.
18. On January 14, 2022, I spoke to the courier company regarding the delivery of our package on January 12, 2022 at the [REDACTED] Address. The courier company advised me that the courier arrived at the [REDACTED] Address, which is an apartment building. The entrance to the apartment building was locked. The courier was able to enter the apartment building and left the package in front of the Canada Post box where other packages were piled up.
19. [REDACTED] had not provided an apt. # in ROSI for the [REDACTED] Address.
20. [REDACTED] has not provided any other addresses in ROSI.

F. University's attempts to contact [REDACTED]

21. The file that our office received from the Vice-Provost indicates that the following attempts were made to contact [REDACTED] about the allegations of academic misconduct in issue:
 - (a) Between December 9, 2020 to February 1, 2021, SAI sent emails to [REDACTED] at [REDACTED] about the allegation of academic misconduct. A copy of these emails is attached to my affidavit as **Exhibit "P"**.
 - (b) On March 17, 2021, SAI sent an email to [REDACTED] at [REDACTED] to advise that the matter would be forwarded to the Vice-Provost. A copy of the email is attached to my affidavit as **Exhibit "Q"**.

G. Affidavits

22. On February 1, 2022, Mr. Webb sent ██████ a copy of the affidavit of R. Gazzale. Mr. Webb stated that the University would rely on the affidavit at the hearing. Mr. Webb also stated that Professor Gazzale would attend the hearing and be available for cross-examination. I have attached a copy of Mr. Webb's email (without attachment), on which I was copied, to my affidavit as **Exhibit "R"**.

H. Communication from ██████

23. To date, our office has not received any communication from ██████
14. The evidence is that the Student has not received actual notice of the Charges, of the disclosure or of the Notice of Electronic Hearing. However, the Rules do not require actual notice. The University can serve the Student, but cannot make the Student actually read what is served.
15. The University did everything it could reasonably have done to contact the Student and did take the steps it was required to under the Rules. Given the Student's academic suspension and his interactions with Professor Gazzale concerning the allegations of academic misconduct, the Tribunal was satisfied it was more likely than not that the Student had made a deliberate choice some time ago to avoid his University-issued email and turn his back on any official communications from the University. That choice has consequences.
16. Therefore, in light of the evidence and the submissions of Assistant Discipline Counsel, the Panel was satisfied that the Student had been given reasonable notice of the hearing in compliance with the notice requirements of the SPPA and the Rules. The Panel decided to hear the case on its merits in the absence of the Student.

Charges and Particulars

17. The revised charges alleged against the Student as filed by the Provost on October 14, 2021 are as follows:

1. On or about October 18 and 19, 2020, you knowingly used or possessed an unauthorized aid or obtained unauthorized assistance in Assessment #2 in ECO101H1F (20209) ("Course"), contrary to section B.I.1(b) of the Code.
 2. In the alternative, on or about October 18 and 19, 2020, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind in connection with Assessment #2 in the Course, contrary to section B.I.3(b) of the Code.
18. The particulars related to charges 1 and 2 are as follows:
1. At all material times, you were a registered student in the Faculty of Arts & Science, University of Toronto.
 2. In Fall 2020, you enrolled in the Course, which was taught by Professor Robert Gazzale.
 3. On October 18 and 19, 2020, you wrote Assessment #2, which was worth 10.5% of the final grade in the Course. Due to the COVID-19 pandemic, the assessment was administered online in an unsupervised setting.
 4. You knew that you were not permitted to collaborate with other persons during the assessment.
 5. You knowingly obtained unauthorized assistance from a paid tutor while completing Assessment #2.
 6. While completing Assessment #2, you knowingly engaged in a form of cheating, academic dishonesty or misconduct in order to obtain an academic advantage.

The Student's Position

19. Given that the Student was not present nor represented, he was deemed to have denied the charges. As a result, the hearing proceeded on the basis that the University bore the burden of proving the charges on the balance of probabilities.

Overview

20. In addition to the previously identified affidavits, the University tendered the evidence of one witness, Professor Robert Gazzale (“Professor Gazzale”), an Associate Professor whose course the Student was in who provided his evidence by affidavit, which was accepted by the Panel pursuant to Rule 61 of the University Tribunal’s Rules. Professor Gazzale also testified at the hearing to supplement his affidavit.
21. After careful deliberation, and having considered all the evidence, the Panel found that on the balance of probabilities the evidence is sufficiently clear, cogent and convincing to discharge the burden of proof on the University and found that the Student had committed academic misconduct.

The Evidence

The contents of Professor Gazzale’s affidavit (without Exhibits) is set out below along with any pertinent evidence from his examination in chief.

a) Evidence of Professor Gazzale

22. Professor Gazzale’s affidavit provides as follows:
 1. I am an Associate Professor, Teaching Stream in the Department of Economics at the University of Toronto. As such, I have personal knowledge of the matters set out in this affidavit. Where I do not have personal knowledge of a matter, I state the source of my information and I believe it to be true.
 - A. The Course**
 2. In Fall 2020, Professor Abdollah Farhoodi and I taught ECO101H1F: Principles of Microeconomics (the “Course”). The Course is an introductory course on microeconomics that aims to introduce students to the economist way of thinking. I have attached a copy of the syllabus to my affidavit as **Exhibit A**.
 3. ██████████ was a student in the Course.

4. The syllabus stated that students were required to read the *Code of Behaviour on Academic Matters*. The syllabus also contained a specific direction that students were not permitted to receive assistance on any assessment or activity that counted for their course grade:

8 Academic Integrity

The over-arching rule is simple. For an assessment or activity that counts towards your course grade:

- You may not receive assistance from another individual. This includes, but is in no way limited to, any online forum or other digital communications as well as any tutoring or assistance service.

[...]

5. Students in the Course were evaluated based on: participation (worth 20%), entry tasks (worth 1%), quizzes (worth 16%), 5 term assessments (each worth 10.5%), and a final assessment (worth 10.5%).

B. Term Assessment 2

6. When I created Term Assessment 2, I wrote 77 different questions. 40 questions were multiple-choice, and 37 questions required students to provide a numeric answer. I organized the 77 questions into 17 question pools according to subject matter. A question pool contained anywhere from 3 to 10 questions. Quercus randomly selected one or more questions from each pool, and assigned those questions to a student.
7. Each student received 23 questions for Term Assessment 2. The first question on every assessment was the same—it asked students to confirm that they understood that they must complete their rough work on paper, and upload a scan of their rough work to Crowdmark within 30 minutes of completing the assessment on Quercus. The remaining 22 questions were randomly assigned from the 17 question pools.
8. On October 18 and 19, 2020, students in the Course were required to write Term Assessment 2, which was worth 10.5% of the final grade in the Course. Students had 90 minutes from the time they chose to start to write the assessment between October 18, 2020 at 7:00 p.m. and October 19, 2020 at 7:00 p.m. Students only

gained access to the Term Assessment 2 questions when they began the assessment. I have attached a copy of the Term Assessment 2 instructions to my affidavit as **Exhibit B**.

9. Term Assessment 2 was an open book assessment. The instructions stated that the following aids were allowed:

Allowed Aids: non-programmable calculator, class material including textbook, videos, problem sets, tutorial material etc.

10. The instructions also contained a lengthy statement on academic integrity, which included the following statement:

- This is an individual assignment. You CANNOT discuss ANY graded work with ANYONE—this includes classmates, friends, family, tutors (paid or unpaid), neighbours, literally anyone. Checking websites for answers, posting your work for others to use, collaborating, soliciting/receiving answers, stating false or misleading information related to assessments, etc., are examples of actions violate Academic Integrity. Unintentional mistakes or confusion is not a defence. Ask us if you're unsure.

11. On or about October 18, 2020 at 8:02 p.m., ██████ submitted his Term Assignment 2. ██████ took 63 minutes to complete Term Assignment 2. I have attached a copy of ██████ Term Assessment 2 to my affidavit as **Exhibit C**.

12. On or about October 18, 2020, ██████ submitted his rough work to Crowd Mark. I have attached a copy of ██████ rough work to my affidavit as **Exhibit D**.

13. ██████ received a grade of 52 out of 60 on his Term Assignment 2.

C. *Easy Edu*

14. On October 19, 2020, a student in the Course notified me that she attended a review session that provided solutions to questions that were similar to the questions on Term Assessment 2 (the “Review Session”). I met with the student on Microsoft Teams and she told me that Easy Edu, a commercial tutoring service, held the Review Session and provided students with a copy of a study package. After we met, the student sent me a copy of the study package, which contains 22 questions (the “Study Package”). I have attached a copy of the study package to my affidavit as **Exhibit E**.

15. I reviewed the Study Package and found that each one of the 22 questions in the Study Package corresponded directly with one of the questions that I had written for Term Assessment 2. The questions in the Study Package were substantially the same as the questions that I wrote, but contain superficial differences. For example, whereas one of my questions asks about the marginal cost of phone plans, the corresponding question in the Study Package asks about the marginal cost of Netflix plans.
16. At the time when I reviewed the Study Package, only 849 students out of the 1831 students in the Course had written Term Assessment 2.
17. After I had matched the 22 questions in the Study Package with the questions that I wrote, I downloaded the Term Assessment 2 files for these 849 students from Quercus. I ran these files through a statistical software program called Stata to determine who had received which questions.
18. ██████ was the only student of these 849 students who had been assigned each one of the 22 questions that corresponded with the Easy Edu Study Package. While other students in the Course received one or more of the 22 questions in the Study Package on their version of the assessment, only ██████ version of the assessment contained all 22 questions in the Study Package. I have attached an excerpt from my academic integrity report on ██████ that compares the questions ██████ received and the questions in the Study Package to my affidavit as **Exhibit F**.
19. After all 1831 students in the Course submitted Term Assessment 2, I performed the same analysis to determine whether any other students had been assigned the same 22 questions as ██████ I downloaded all of the student's files from Quercus and ran them through Stata to determine who had received which questions. Again, ██████ was the only student in the entire Course that had been assigned each of the 22 questions that corresponded with the Easy Edu Study Package.
20. On October 19, 2020, I emailed ██████, stating that a version of Term Assessment 2 was provided to a commercial tutoring service, and that I had concerns about the similarity of the assessment that he completed and the commercial tutoring service's study guide.

21. █████ sent me an email on October 22, 2020, in which he admitted that he paid a tutor to check his answers during the assessment period. █████ stated:

Dear professor

I feel so sorry that I missed the email last time. I had really struggling life this period of time.

Firstly I want to say I didn't know anything about commercial tutoring service providing term assessment 2.

I was a little overwhelmed with this course, and missing term assessment 1 and missing numerous quiz and tutorials, I felt like I needed some extra help with this test. So I paid for a tutor to check my answers as I did the assessment. But I didn't know if he is part of any relationship that you mentioned in the email.

I know this is wrong and I honestly regret it. But I don't know anything about commercial tutoring service. I am trying very hard in this course and struggling as well. I know now to not get tutor help during test time, but this course is very important to me and I want to work on it honestly. I really hope you can give me a second chance.

█████

[Emphasis added]

22. I have attached a copy of █████ email to my affidavit as **Exhibit G**.

D. The Study Package and the Review Session

23. Later that week, a student emailed me a link to a YouTube video of the Easy Edu Review Session. The YouTube video shows that Easy Edu held the Review Session via Zoom at 9:08 p.m. EST on October 18, 2020, which was within the assessment period. Based on the Zoom attendance list, at least 180 students attended at least part of the Review Session. I have attached a screen shot of the Review Session that shows the session began at 9:08 p.m. EST on October 18, 2020 to my affidavit as **Exhibit H**.
24. The document properties of the Study Guide show that it was created on October 18, 2020 at 8:46 p.m. The document properties show that there are four different authors: Kevin, Amy, Bruce, and Elvin. The author's last names are not provided. I have attached a copy of the document properties to my affidavit as **Exhibit I**.
25. In my view, four people could have easily modified the questions from the form in which they appear on █████ assessment to the form in which they appear in the Study Guide in one hour. In my view, one proficient person could complete this

same task in an hour. The questions on Term Assessment 2 were first year economics questions, and the changes to the questions were superficial. For example, whereas Question 2 on ████████ Term Assessment 2 asks about the marginal cost of phone plans, the corresponding question in the Study Package asks about the marginal cost of Netflix plans. Each of the superficial similarities can be seen in my academic integrity report that is attached to my affidavit as Exhibit G.

26. In addition, four people could easily come up with solutions to the 22 questions in one hour for the Review Session. Again, one proficient person could complete this task in an hour. I gave students 90 minutes to complete Term 2 Assessment on the assumption that they were somewhat new to the study of microeconomics. In any event, ████████ completed Term Assessment 2 in 63 minutes.

E. The instructor meeting

27. I met with ████████ on October 26, 2020 to discuss his Term Assessment 2.
28. The matter was subsequently forwarded to the Student Academic Integrity office.

F. Course performance

29. ████████ only completed one out of the five term assessments (Term Assessment 2), and one of the twelve quizzes in the Course. He also received a grade of 6.67/100 for his participation grade. ████████ completed no other academic work in the Course. I have attached a copy of ████████ grades on Quercus to my affidavit as **Exhibit J**.
23. In addition to his affidavit, Professor Gazzale also testified in chief that:
 - (a) He has been with the University since 2012 and received his PhD from the University of Michigan in 2004.
 - (b) The instructions for Term Assessment #2 were clear and were designed to ensure that those who took it would not discuss it with those who took it later so that they could have an advantage.

- (c) All the questions on Term Assessment #2 were new questions that year.
- (d) Prior to Term Assessment #2 there were five quizzes held along with tutorials every week. However, the Student's only participation was in one tutorial where he received a partial participation mark of one-third of the participation credit. In addition, the Student only completed one of the quizzes before taking Term Assessment #2.
- (e) He had reviewed the Quercus logs for the Student and up to the week prior to Term Assessment #2, the Student had not accessed the website for this Course and only did so in the week before Term Assessment #2 during which time there was a reasonable amount of activity, but not an extremely high amount.
- (f) In Professor Gazzale's view, given that the Course was taught at a high level and idiosyncratic, unless a student entered the Course with a strong knowledge in the subject area, given this level of preparation in Quercus, it would be highly unlikely that a student could do well on Term Assessment #2.
- (g) The student who contacted him on October 19, 2020 did so by email and expressed her concerns that by attending the Easy Edu review session she would be considered to have committed an academic offence.
- (h) By the evening of October 19, 2020, only seventy students had completed Term Assessment #2, so there were many who could still have obtained an advantage from the Easy Edu review session.
- (i) The Easy Edu review session started at 9:00 p.m. which was two hours after the permitted start time for Term Assessment #2. He was able to view the recording of the review session and to take screenshots from it. These screenshots allowed him to identify the fact that there was up to one hundred and eighty different people using different names registered and attending the review session. He then proceeded to match the names with

the student roster in his Course and this led to over one hundred students from it who were at the review session. Because Term Assessment #2 was worth more than 10% of the Course mark, the sanctions involved were above the economics department's level and so over one hundred cases were sent to the Dean to be dealt with. Most acknowledged their conduct and received a zero in the Course and a temporary notation on their transcript.

- (j) In Professor Gazzale's view, it would have been fairly straightforward to have made the modifications to the questions in the time that was available. The only variable would be the number of people who would have to be involved, but certainly one or two people could come up with the minor variations to the questions which were made. In that regard, his review of the Easy Edu document shows that there were four individuals identified as the authors of it.

- 24. The Panel had no questions for Professor Gazzale and this concluded the University's evidence.

University's Submissions

- 25. Assistant Discipline Counsel submitted that Professor Gazzale's evidence along with the Student's admissions, support a finding on the balance of probabilities that the Student committed the academic offences as alleged. In that regard, the Panel was asked to draw the inference that the Student provided his twenty-two questions from Term Assessment #2 to Easy Edu, a commercial tutoring service and that it was more likely than not that the Student knew or ought to have known that it would use this to assist other students to cheat.

Standard of Proof

- 26. The onus is on the University to establish, based upon clear and convincing evidence on a balance of probabilities, that the academic offences charged have been committed.

Decision of the Tribunal

27. Based on the evidence and the submissions by counsel for the University, the Student was found guilty of one count of knowingly using or possessing an unauthorized aid or obtaining unauthorized assistance in Assessment #2 in ECO101H1F (20209) (the "Course"), contrary to section B.I.1.(b) of the Code and of one count of knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind in connection with Assessment #2 in the Course, contrary to section B.I.3(b) of the Code as alleged in Charges 1 and 2 filed by the Provost on October 14, 2021.

Reasons for Decision

28. Although Term Assessment #2 was an open book assessment, the instructions provided to students for it clearly stated which aids were allowed and also contained a lengthy statement on academic integrity which clearly instructed the students that it was an individual assignment which they could not discuss with anyone including their classmates, friends, family, tutors (paid or unpaid), neighbours, literally anyone, and that posting the work for others to use, collaborating, soliciting/receiving answers, were all examples of actions which would violate academic integrity. Students were also instructed to ask if they were unsure.
29. When Professor Gazzale was advised by another student to the fact that Easy Edu, a commercial tutoring service had held a review session and provided students with a copy of a study package for Term Assessment #2, a copy of which he obtained, Professor Gazzale was able to determine that of the twenty-two questions contained in the study package, they were essentially identical to the questions which he had prepared for Term Assessment #2. In addition, he was able to determine that it was only the Student who had received these twenty-two random questions. When Professor Gazzale contacted the Student by email to confront him with respect to the concerns he had, the Student responded with an

email on October 22, 2020 in which he admitted that he had paid a tutor to check his answers during the assessment, that he knew that this was wrong and that he regretted it.

30. On October 18, 2020 at 8:02 p.m., the Student submitted his Term Assessment #2 which had taken him only 63 minutes to complete, which is 2.86 minutes per answer. For this he received a grade of 52 out of 60 (86%).
31. Prior to Term Assessment #2, the Student had a very low GPA and was on academic probation. His highest mark ever had been 61%, yet despite this and using only two-thirds of his allotted time to take Term Assessment #2, he was able to achieve a mark of 86% and to answer the questions in 2.86 minutes each.
32. Further, the evidence clearly established that the Student had only logged into the Course website one week before he took Term Assessment #2.
33. It was also clear from the evidence that Easy Edu had more than sufficient time following the 63 minutes it took the Student to complete Term Assessment #2, to revise the twenty-two questions and to prepare the study package which was then distributed to other students in the Course who were attending the Easy Edu review session for Term Assessment #2.
34. The Student clearly knew that he was not allowed to use the assistance of anyone including a commercial tutoring service to aid him in completing Term Assessment #2 nor was he to provide a copy of it to anyone.
35. Despite this, the evidence establishes and the Student has clearly admitted that he used the services of Easy Edu, a commercial tutoring service to assist him in completing Term Assessment #2. In addition, the Panel was satisfied that Easy Edu in turn, used the Student's copy of Term Assessment #2 to prepare its study package which was then distributed to other students in the Course for the review session which Easy Edu provided to them and that the Student knew or ought reasonably to have known that by his actions, Easy Edu would aid others in the taking of Term Assessment #2 using his copy of it.

36. As such, the Panel was satisfied on the balance of probabilities that the Student committed the academic offences of knowingly using or possessing an unauthorized aid or obtaining unauthorized assistance in Assessment #2 in ECO101H1F (20209) (the “Course”) contrary to section B.I.1(b) of the Code and that he also knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind in connection with Assessment #2 in the Course, contrary to section B.I.3(b) of the Code as alleged in Charges 1 and 2 filed by the Provost on October 14, 2021.

Sanction

The University’s Evidence

37. The University provided the Panel with a Book of Documents re: Sanction containing a number of prior decisions of this Tribunal and a chart summarizing them.

The University’s Submissions

38. Counsel for the University submitted that the proper sanctions to be imposed on the Student should be:
- (a) a final grade of zero in ECO101H1F (20209);
 - (b) a suspension from the University for five years from the date the Tribunal makes its order;
 - (c) a notation of the offence on his academic record and transcript for six years from the date of the Tribunal’s order; and
 - (d) that the Tribunal further order that this case be reported to the Provost for publication of a notice of the Tribunal’s decision and the sanction imposed, with the Student’s name withheld.

39. Assistant Discipline Counsel reviewed with the Panel the chart summarizing the sanctions which have been given to students by this Tribunal in prior similar cases. The first eight involved the purchasing of essays, while the remaining seven involved personation. They all demonstrated that the sanctions imposed were in a narrow range of either a five year suspension or expulsion, particularly where there had been prior offences or the student did not admit the offence.
40. Assistant Discipline Counsel then reviewed with the Tribunal the principles relative to sanction as set out in *The University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976) ("Mr. C."), namely:
- (a) The character of the Student;
 - (b) The likelihood of a repetition of the offence;
 - (c) The nature of the offence committed;
 - (d) Any extenuating circumstances;
 - (e) The detriment to the University caused by the misconduct; and
 - (f) The need for general deterrence.
41. Assistant Discipline Counsel submitted that by having provided Term Assessment #2 to a commercial tutoring service, this enabled it to help over one hundred other students cheat and the Student knew or ought to have known that his actions might aid others.
42. Further purchasing academic work is the most serious conduct a student can commit. As well, the detriment to the University and the need for general deterrence were the most important factors. However, there were mitigating factors as the Student had no prior offences and did admit to his conduct early on in his email in response to Professor Gazzale, and as such, a five year suspension was appropriate.

Sanction Decision

43. After deliberations, the Tribunal ordered that the following sanctions shall be imposed on the Student:
- (a) a final grade of zero in ECO101H1F (20209);
 - (b) a suspension from the University for five years from the date the Tribunal makes its order;
 - (c) a notation of the offence on his academic record and transcript for six years from the date of the Tribunal's order; and
 - (d) that the Tribunal further order that this case be reported to the Provost for publication of a notice of the Tribunal's decision and the sanction imposed, with the Student's name withheld.
44. An Order was signed at the hearing by the Panel to this effect.

Reasons for Sanction

45. The Tribunal considered the factors and principles relevant to sanction in *Mr. C*, supra, as set out above.
46. In addition to these factors, the Panel considered the other decisions of this Tribunal involving similar misconduct as contained in the University's Book of Documents on Sanction and the sanctions imposed. However, the Panel remained cognizant of the fact that no two cases are identical and that it is not bound by past decisions of this Tribunal. However, the Tribunal does try to develop a consistent body of cases so that students are treated fairly and consistently in similar circumstances.
47. By cheating on Term Assessment #2, the Student undermined the grades-based system of evaluation and broke the honour code that is essential to modern learning. In that regard, the pandemic and the resulting required online learning provides more opportunities for students to cheat, requiring the University to go to

considerable lengths to detect and uncover students' misconduct. Further, by providing it to a commercial tutoring service, he permitted it to assist over one hundred other students to cheat.

48. In today's online world, it is easy for students to find new ways to access unauthorized assistance and so any sanction must denounce cheating on tests and deter others in order to protect the academic integrity of the University. Students must understand that this kind of misconduct will have serious repercussions, so that they will be dissuaded from the temptation to consider cheating.
49. The Panel accepted the University's submission that by using a paid commercial tutoring service, the Student committed a serious form of academic misconduct, however, the Panel was satisfied that despite this aggravating factor, given the circumstances of this case including the Student's remorse as demonstrated in his interaction with Professor Gazzale where he admitted his conduct, while considering the range of sanctions provided by prior decisions of this Tribunal in similar circumstances, a five year suspension of the Student from the University rather than expulsion was appropriate.

Dated at Toronto, this 17th day of March 2022

Original signed by:

Mr. Christopher Wirth, Chair
On behalf of the Panel