

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on September 20, 2023,

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters*, 2019,

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:

UNIVERSITY OF TORONTO

- and -

Z [REDACTED] N [REDACTED]

REASONS FOR DECISION

Hearing Date: February 22, 2024, via Zoom

Members of the Panel:

Joelle Ruskin, Chair

Professor Michael Evans, Faculty Panel Member

Laiba Butt, Student Panel Member

Appearances:

William Webb, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Nadia Bruno, Special Projects Officer, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:

Z [REDACTED] N [REDACTED]

I. Introduction

1. The Trial Division of the University of Toronto (the “Panel”) was convened on February 22, 2024, to consider charges brought by the University of Toronto (the “University”) against Z■■■■ N■■■ (the “Student”) under the University of Toronto’s *Code of Behaviour on Academic Matters, 2019* (the “Code”).
2. As discussed below, the Student did not attend the hearing, and the hearing proceeded in his absence.
3. For the reasons set out in this decision, the Student was found guilty at the hearing of having knowingly used and possessed an unauthorized aid and obtaining unauthorized assistance, contrary to section B.I.1(b) of the Code.

II. The Charges

4. At all material times, the Student was enrolled at the University of Toronto Mississauga.
5. The Student was charged for offences relating to one course; namely: MGT220H5S (hereinafter referred to as “MGT”):
 - i. On or about February 14, 2023, you knowingly used or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the term test in MGT, contrary to section B.I.1(b) of the Code (“Charge 1”).
 - ii. On or about February 14, 2023, you knowingly represented as your own an idea or expression of an idea or work of another in connection with the term test in MGT, contrary to section B.I.1(d) of the Code (“Charge 2”).
 - iii. In the alternative, on or about February 14, 2023, 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 the term test in MGT, contrary to section B.I.3(b) of the Code (“Charge 3”).

(together, the “MGT Charges”)
6. In his submissions, Mr. Webb advised the Panel that the University would withdraw Charge 2 and Charge 3 if the Student was found guilty of Charge 1.

III. Preliminary Issue: Proceeding in the Absence of the Student

7. The hearing was scheduled to begin at 1:45 p.m. on February 22, 2024, via Zoom. Neither the Student nor a representative on the Student's behalf were logged onto the Zoom link at that time.
8. The Panel held the matter down until 1:56 p.m. at which time Assistant Discipline Counsel proceeded to make submissions on the issue of notice.
9. Rules 13, 14, 17 and 21 of the University Tribunal's *Rules of Practice and Procedure* (the "Rules"), sections 6 and 7 of the *Statutory Powers Procedure Act* (the "SPPA") and the University's *Policy on Official Correspondence with Students* dated September 1, 2006 provide the framework for a determination as to whether reasonable notice has been provided to a student such that the Panel can proceed with the hearing despite his or her absence.
10. Rule 13 provides that "Charges, notices of hearing, disclosure material for use on motions or hearings, orders, and reasons for decision may be served on a student or sent to a student" by, among other things, "sending a copy of the document by courier to the student's mailing address contained in the Repository of Student Information ("ROSI") . . . and service shall be effective on the day the document is delivered by the courier" or "by e-mailing a copy of the document to the student's e-mail address contained in ROSI . . . and service shall be effective on the day the document is sent by e-mail."
11. Rule 17 provides that "the Secretary shall provide the University with reasonable notice of a hearing and shall deliver such notice to the student's last known ROSI email address." In this case, the Notice of Electronic Hearing was sent by email to the Student's utoronto email address on September 20, 2023.
12. Rule 21 of the Rules provides: "Where notice of a virtual hearing, an in-person hearing, a hybrid hearing, or a written hearing has been given to a party in accordance with this Part, and the party does not attend at or does not participate in the hearing, the panel may proceed in the absence of the party or without the party's participation and the party is not entitled to any further notice in the proceeding."

13. 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.
14. 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.
15. To meet its onus of proof that the Student was provided with reasonable notice of the hearing, the University relies on:
 - i. the Affidavit of Ms. Alexiya Blair ("Ms. Blair"), a legal assistant at the law firm of Paliare Roland, dated February 14, 2024 (the "Blair Affidavit"); and
 - ii. the Affidavit of Mr. Andrew Wagg ("Mr. Wagg"), the Manager, Incident Response at Information Security, Information Technology at the University of Toronto, dated February 25, 2024 (the "Wagg Affidavit").
16. The Blair Affidavit provides evidence that on March 6, 2023, the Student attended a Dean's Designate with Ms. Alexandra Chee, an Academic Integrity Specialist in the Office of the Vice-Principal Academic and Dean at the University of Toronto Mississauga ("Ms. Chee"). Also present at the Dean's Designate Meeting was Professor Seguin, a Dean's Designate for academic integrity ("Prof. Seguin"). The Dean's Designate Meeting was to discuss the allegations in this matter. The Student attended with a paralegal.
17. Following the conclusion of the Dean's Designate Meeting and on the same day (March 6, 2023), Ms. Chee emailed the Student to his University of Toronto email address to advise him that the Academic Integrity Specialist in the Dean's Office would be forwarding the matter to the Tribunal for resolution. This warning was also provided to the Student verbally during the course of the meeting.

18. The Blair Affidavit details the repeated efforts following the Dean's Designate Meeting to provide notice to the Student regarding the MGT Charges and the Notice of Virtual Hearing, which was emailed on December 20, 2023. These efforts were made by email, cell phone and by courier over the course of September 20, 2023 to February 2024.
19. More particularly, the Blair Affidavit provides:
 - a. On September 20, 2023, the Office of the Vice-Provost, Faculty and Academic Life served the charges to the Student by email to his University of Toronto email address;
 - b. On September 20, 2023, Mr. Webb emailed the paralegal that attended the Dean's Designate Meeting with the Student to ask whether he still acted for the Student, and whether he was available for a call to discuss next steps. Later that same day, he spoke to the Student's paralegal on a without prejudice basis. Mr. Webb then sent the Student's paralegal a disclosure brief. The Student's paralegal confirmed receipt of disclosure that same day;
 - c. On September 20, 2023, the Office of Appeals, Discipline and Faculty Grievances ("ADFG Office") sent the Student a letter about the charges and a pamphlet for Downtown Legal Services;
 - d. On October 24, 2023, the Student's paralegal informed Mr. Webb that he tried to contact the Student by email and text message, that he was unable to reach the Student, and that he was withdrawing his representation because he was no longer able to reach the Student;
 - e. On October 24, 2023, Mr. Webb emailed the Student to introduce himself and suggest that they have a call to discuss the case and next steps;
 - f. On December 11, 2023, Mr. Webb emailed the Student about scheduling a hearing date. Mr. Webb advised that if he did not hear back by December 18, 2023, the University would request that a hearing date be scheduled;
 - g. On December 14, 2023, Mr. Webb emailed the Student a disclosure letter and a disclosure brief;
 - h. On December 19, 2023, Mr. Webb emailed the ADFG Office to request that a hearing be scheduled for February 22, 2024. The next day, the ADFG Office issued a Notice of Virtual Hearing to take place via zoom on February 22, 2024. The Student was copied on these emails.

- i. On January 3, 2024, Mr. Webb called the cellular number that is listed for the Student in ROSI; no one answered; and he left a message that stated he was as Assistant Discipline Counsel to the University of Toronto, the Student had been charged with academic offences, a virtual hearing had been scheduled for February 22, 2024, at 1:45 p.m. (EST), via Zoom, the Student should check his email for further details, the Student should contact him by email or telephone, and that the hearing could proceed in his absence if he did not attend;
 - j. On January 3, 2024, Mr. Webb emailed the Student a supplementary disclosure brief;
 - k. On January 15, 2024, Mr. Webb's office arranged for a courier to deliver a package to the Student at the Student's mailing address in ROSI. The courier package contained a letter from Mr. Webb and a cover email from the ADFG with attached copies of the Notice of Electronic Hearing and the charges in this matter;
 - l. On January 16, 2024, the courier company sent Mr. Webb's office a confirmation that stated the package was delivered to the Student's mailing address that same day;
 - m. On February 7, 2024, Mr. Webb sent the Student a copy of the affidavits that the University intended to rely on at the hearing in this matter; and
 - n. On February 13, 2024, Mr. Webb called the cellular number that is listed for the Student in ROSI; no one answered; and he left a message that stated he was as Assistant Discipline Counsel to the University of Toronto, the Student had been charged with academic offences, a virtual hearing had been scheduled for February 22, 2024, at 1:45 p.m. (EST), via Zoom, the Student should check his email for further details, the Student should contact him as soon as possible, and that the hearing could proceed in his absence if he did not attend.
20. The Wagg Affidavit provides that the last time someone accessed the Student's utoronto email account was on November 14, 2023 at 9:47 a.m., local Toronto time (the "Last Email Login").
21. Accordingly, the Last Email Login was *after*:
- i. Ms. Chee's email to the Student on March 6, 2023 advising that she was forwarding the matter to the Tribunal for resolution;
 - ii. the service of the MGT Charges by email on September 20, 2023; and

- iii. the email on October 24, 2023 from Mr. Webb introducing himself and suggesting that he and the Student have a call to discuss the MGT Charges.
- 22. The Blair Affidavit confirms that the Student was aware of the allegations that led to the MGT Charges as he had attended, with his legal representation, the Dean’s Designate Meeting on March 6, 2023. Indeed, as discussed later in this decision, the Student admitted guilt at the Dean’s Designate Meeting.
- 23. In the *University of Toronto v. J.Z.* (Case No. 1406, May 24, 2023) and the *University of Toronto v. Y. L.* (Case No. 1239, March 17, 2022) (“Y.L.”), the Panels were satisfied that it was more likely than not that the students in those cases had made a deliberate choice to avoid any official communications from the University after engaging in initial interactions with their instructors regarding the allegations of academic misconduct.
- 24. In the *University of Toronto v. S.Y.* (Case No. 1539, May 17, 2024), the Panel observes that a student cannot derail the disciplinary process by remaining silent and refusing to participate.
- 25. In this case, based on the evidence presented, the Tribunal was satisfied that the University had discharged its obligation to provide reasonable notice to the Student regarding the MGT Charges and the hearing scheduled for February 22, 2024. The Student was aware from the Dean’s Designate Meeting that the matter was being referred to the Tribunal. The University made repeated efforts following the Dean’s Designate Meeting to communicate with the Student using email, phone calls and a courier package. Accordingly, the Panel found that the Student was given reasonable notice under the Rules. The Tribunal therefore ordered that the hearing should proceed in the Student’s absence.

IV. Summary of the Evidence

The Charges

- 26. The University presented three affidavits with evidence to support its case at the offence phase:
 - i. Affidavit of Kathy Falk, dated January 24, 2024 (the “Falk Affidavit”). Ms. Falk is a Professor in the Department of Management at the University of Toronto Mississauga.

- ii. Affidavit of Denis Chu, dated January 23, 2024 (the “Chu Affidavit”). Mr. Chu is a Special Constable with Campus Safety at the University of Toronto Mississauga.
 - iii. Affidavit of Alexandra Chee, dated February 7, 2024 (the “Chee Affidavit”). Ms. Chee is an Academic Integrity Specialist in the Office of the Vice-Principal Academic and Dean at the University of Toronto Mississauga.
27. The University’s evidence was unchallenged and established the following facts:
- a. The Student was enrolled in MGT. The Student did not attend any lectures from January 1, 2023 to February 14, 2023.
 - b. The MGT term test was administered in-person on February 14, 2023 (the “MGT Term Test”). There were approximately 25 students in the room during the MGT Term Test.
 - c. During the MGT Term Test, Professor Falk heard a voice coming from near the Student.
 - d. Professor Falk approached the Student and asked whether he had a cell phone. The Student motioned with his hand for her to leave him alone. Professor Falk started to leave, but heard the voice again and asked the Student whether he had a cell phone. The Student again motioned with his hand for her to leave him alone.
 - e. On closer inspection of the Student, Professor Falk noticed an earpiece with a wire protruding from under the Student’s shirt. Professor Falk asked the Student to leave the room and accompanied him.
 - f. In the hallway, the Student initially denied that he had anything in his shirt and appeared, to Professor Falk, as pretending to faint in a fairly dramatic fashion. The Student said he was not feeling well. Professor Falk’s impression was that the Student was in not, in fact, ill.
 - g. The Student was walked over to the Health Counselling Centre.
 - h. The Student was met at the Health Counselling Centre by Mr. Chu, a Special Constable with Campus Safety at the University of Toronto Mississauga.
 - i. Mr. Chu – on meeting the Student – saw a wired earphone device taped under the collar of the Student’s shirt.
 - j. Mr. Chu asked the Student about the device, and the Student made the following admissions:

- i. The device was to communicate with another person to assist him on MGT Term Test;
 - ii. The Student had paid \$500 to this third party to provide him with answers on the MGT Terms Test; and
 - iii. The Student had met the third party on the online platform WeChat.
- k. The Student provided Mr. Chu with the device and the name and contact information for the third party.
- l. The Student denied that he needed medical assistance.

The Dean's Designate Meeting

- 28. In February 2023, Ms. Chee emailed the Student to request that he attend a Dean's Designate Meeting to discuss the allegations that he committed an academic offence in MGT.
- 29. On March 6, 2023, the Student attended a Dean's Designate Meeting via videoconference about the allegations that the Student committed an academic offence on MGT Term Test. As set out above, the Student attended with a paralegal.
- 30. At the start of the meeting, Ms. Chee gave the Student the warning that is required by the Code. Ms. Chee stated that the Student was entitled to seek advice, or to be accompanied by counsel at the meeting, before making, and was not obliged to make, any statement or admission, but if he made any statement or admission in the meeting, it may be used or receivable in evidence against him in the hearing of any charge with respect to the alleged offence. Ms. Chee advised the Student of the sanctions that may be imposed under section C.i.(b) of the Code.
- 31. During the meeting, the Student made the following admissions:
 - a. The Student had advertised on WeChat for help in January 2023 with MGT Term Test scheduled for February 14, 2023;
 - b. The Student described the third party as a "friend" whom he met on WeChat but could not provide the exact name of his friend or contact information. The Student indicated that the third party did not attend the University;

- c. The Student confirmed that the third party was sufficiently familiar with the content of the MGT Term Test to help him;
 - d. The Student paid the third party \$500;
 - e. During MGT Term Test, the Student wore an earpiece device connected by physical wire to a cell phone in his pocket;
 - f. The Student received a phone call from the third party during MGT Term Test to communicate with him/her about the test.
32. At the end of the meeting, Ms. Chee explained the general Tribunal process to the Student and encouraged him to retain counsel for the hearing. Ms. Chee also advised the Student during the Dean's Designate Meeting that the matter would be referred to the Tribunal.
33. After the meeting, and on the same date, Ms. Chee emailed the Student providing written confirming that the matter would be referred to the Tribunal for resolution.

Admissions and Acknowledgment

34. The Student admits that in January 2023, a month prior to the MGT Term Test on February 14, 2023, the Student advertised for assistance regarding the MGT Term Test, paid in advance the sum of \$500 for that assistance, and, implemented that pre-arranged and purchased assistance during the MGT Term Test in real-time by utilizing a disguised unauthorized earphone device to call the third party.

V. Findings on Charges

35. The onus is on the University to establish on a balance of probabilities, using clear and convincing evidence, that the Student has committed the academic offences as charged.
36. In this case, the Tribunal was provided with ample evidence to support the charges, which included observations of the Student attempting to use the unauthorized aid during the term test to receive unauthorized paid assistance from a third party on the receiving end of his cell phone. The evidence included photos of the earpiece device. The earpiece device appears to be modified – at the point it would have protruded from the Student's shirt – with an adjustment strap in a light-beige tone, which appears to be designed to resemble the skin tone of a fair-complexioned individual.

37. The Student made admissions to Mr. Chu regarding his seeking out a third party assistance to assist him in real-time to cheat on the MGT Term Test and to his paying \$500 to a third party on account of this “plan”, and to his wearing a device to carry out this intention.
38. The Student admitted guilt at the Dean’s Designate Meeting.
39. Accordingly, the Tribunal found the Student guilty of Charge 1; Charge 2 and Charge 3 were therefore withdrawn by the University.

VI. Finding on Penalty

40. Once the Panel had made a determination on Charge 1, the University requested the following penalty for the offence:
 - i. a recommendation to the President of the University that the President recommend to the Governing Council that the Student be expelled from the University;
 - ii. immediately suspending the Student from the University for a period of five years from the date of the Order or until Governing Council makes its decision on expulsion, whichever comes first, and that a corresponding notation be placed on the Student’s academic record and transcript;
 - iii. a final grade of zero in MGT; and
 - iv. reporting the decision to the Provost for publication of the decision and the sanctions imposed, with the name of the Student withheld.
41. To support this proposed penalty, Assistant Discipline Counsel referred to *Provost’s Guidance on Sanctions* found as Appendix “C” to the Code, which provides a guide to sanctions. Assistant Discipline Counsel also made submissions on the relevant factors in determining the appropriate sanctions and the typical penalty for similar cases by drawing the Panel’s attention to various other cases similar to this case.
42. The Panel noted that the Provost’s Guidance includes a provision that a Tribunal would be requested to recommend that a student be expelled where, the student “*has submitted academic work that the student has purchased, in whole or in part, unless that student has demonstrated through her or his cooperation, or otherwise, that a lesser penalty is appropriate.*”

43. Although the Student in this case did not submit purchased academic work *per se*, Mr. Webb made submissions that it is the *commercial* element of the unauthorized assistance in this particular case (*i.e.*, the Student seeking out and *paying* for a third party to provide assistance in real-time on the MGT Term Test) that results in this matter being captured by the above referenced provision of the *Guidance on Sanctions*.
44. The Panel accepts that the commercial element – be it the purchase of an essay or the payment for unauthorized assistance – discloses a student’s deliberate and pre-planned intention to cheat. In other words, providing financial consideration in advance in exchange for unauthorized assistance ought to attract parallel consideration by the Panel as does purchasing an essay and submitting it for credit.
45. Mr. Webb made submissions that absent compelling mitigating evidence on behalf of the Student and the Student’s full cooperation through his participation in the Tribunal, an expulsion was the appropriate sanction on Charge 1.
46. The Panel was referred to Discipline Appeals Board decision in the *University v. S.C., N.H., M.K.* (Case No.596, 597, 598, November 23, 2011) in which the Appeals Board provides a broad set of factors for panels to make reference to for guidance in determining the appropriate sanction in “purchase essay” cases, which, again, this Panel was prepared to treat as apposite to this case due to the commercial element of the Student’s payment for the unauthorized assistance on the MGT Term Test.
47. At paragraphs 136 to 138, the Appeals Board offers the following guidance regarding an offence of “purchase essay”:

136. The Tribunal should therefore approach sentencing in such cases with the working assumption that expulsion from the institution is the sanction that is best commensurate with the gravity of the offence. There is no absolute rule, however, and whether or not expulsion results will depend upon many factors, as revealed in the particular case. Prime among these will be to analyze and understand the facts of that particular case. Under what circumstances was the essay purchased and submitted. What degree of intent and deliberation was involved. What recognition that the conduct was grave and wrong can be seen in the student. Was anyone else involved. Were there influences that can legitimately influence the penalty. What were the subsequent events - did the student admit guilt or attempt to continue the fraud. Is there anything particularly egregious or saving about the case or are there other facts that may ameliorate what is otherwise conduct to be condemned.

137. Has the student learned anything from the entire matter. Are there true expressions of remorse, regret and apology, although these even if accepted, will rarely blunt the force of the offence itself. Are there extenuating circumstances and can these be seen to be relevant to the ultimate sanction.

138. The answers to these questions, even if positive in many respects, may not blunt the presumption of expulsion, but they may, and each review will produce its own result.

48. In determining sanction, the Panel is directed to consider the *University v. Mr. C* (Case No.1976/77-3, November 5, 1976) factors to achieve the goals of reformation, deterrence and protection of the public. The Tribunal is required to consider these factors and determine what weight to give to each factor based on the facts of the case:
- a. The character of the person charged;
 - b. The likelihood of a repetition of the offence;
 - c. The nature of the offence committed;
 - d. Any extenuating circumstances surrounding the commission of the offence;
 - e. The detriment to the University occasioned by the offence; and
 - f. The need to deter others from committing a similar offence

Applying the Factors to this Case

49. In this case, the Panel's starting point is that the appropriate penalty for a finding of guilt on Charge 1 with the aggravated factor of a commercial element is a recommendation of expulsion. The Panel has considered whether there are mitigating or extenuating factors in this case to result in a lesser sanction.

Character/Extenuating Circumstance

50. The Student elected not to participate at the hearing. There was therefore no positive character evidence for the Panel to consider.
51. The Panel takes note that when the Student attended at the Dean's Designate Meeting and was asked for the name and information of the third party who he paid to provide assistance to him during MGT Term Test, he said he did not know his/her name and contact information. The Student's representations were not consistent with the evidence of Mr. Chu indicating that the Student had this information readily available and, in fact, earlier provided it. Although minimal weight was placed on it, the Panel viewed the Student's

withholding of information about this third party from Ms. Chee as deliberate and specifically non-cooperative/obstructionist.

52. The Panel also takes note of Professor Falk's evidence that when she approached the Student twice during MGT Term Test asking him if he had a cell phone, the Student motioned with his hand for her to go away on each occasion. When Professor Falk asked him to leave the room with her, he initially pretended to faint.
53. The Student's participation in this matter was limited to his attendance at the Dean's Designate Meeting. Accordingly, any evidence related to "extenuating circumstances" of the Student surfaces from the evidence of Ms. Chee.
54. In Ms. Chee's Affidavit, she recounts the explanation offered by the Student as to why he resorted to outside help instead of completing the term test himself. The Student provided the following explanation:

... he was taking seven courses at the time; his parents were facing financial issues related to the pandemic; he wanted to graduate as soon as possible; he had trouble focusing on his tests; he was feeling frustrated, depressed, and pressured; this was his final semester; and his parents would not be able to support him much longer. Professor Seguin asked the Student whether there was anything else that he wanted her to know, and the Student said that he cheated and he wished that the University would give him another chance to correct this mistake and take courses next semester.
55. To the extent that the Student was overloading with seven (7) courses rather than six (6) courses, the Panel takes note that the Student received a specific warning when his petition to increase his load to seven courses was granted that he would not receive special treatment, in effect, as a result of feeling burdened by the workload.
56. Although the Student indicated to Professor Seguin that he wished for the University to give him another chance to correct his mistake, there is no evidence of the Student expressing remorse for his actions or of his offering an apology. The Panel agrees with the Discipline Appeal Board's statement in *University of Toronto v. D.S.* (Case No. 451, August 24, 2007) that "a guilty plea in and of itself, is not an expression of remorse or an indication of appreciation of the level of gravity of an offence" (at para. 24).
57. While the Student attended a Dean's Designate Meeting, he did not cooperate any further in this process by speaking with Assistant Discipline Counsel, preparing an Agreed

Statement of Facts or submitting joint submissions on sanction. In the absence of participation by the Student, the Panel is unable to properly assess individual rehabilitation.

58. In summary, the Panel had no evidence before it in terms of good character evidence or even an expression of regret at the penalty hearing that would counterbalance the very deliberate planned academic dishonesty of the Student. The limited evidence on extenuating circumstances was given little weight, and the Panel did not find that these “reasons” were sufficiently compelling or extenuating, especially absent further detail and corroborating evidence, to result in a lesser sanction.

Likelihood of Repetition

59. While the Panel gave serious consideration to the fact that this was the first offence of the Student, it had no indication that the Student meaningfully appreciated his wrongful conduct nor did the Panel have comfort that he would not reoffend.

Nature of the Offence

60. With respect to the nature of the offence, counsel for the University submitted that that the Student’s conduct required premeditation, a commercial element (“purchase”), and the admitted use of disguised technology to obtain assistance during MGT Term Test.
61. The Student admitted to advertising on WeChat for assistance in January 2023 - a month prior to MGT Term Test. According to the evidence of Professor Falk, the Student did not attend class during that same period (January 2023 to February 2023). Rather than attend class and prepare for the MGT Term Test, the Student was seeking outside help to cheat.
62. The Student paid \$500 to secure the real-time assistance.
63. The Student taped a wire to his body underneath his shirt and the earpiece device appears to be modified – at the point it would have protruded from the Student’s shirt – with an adjustment strap in a light-beige tone, which appears to be designed to resemble the skin tone of a fair-complexioned individual.
64. The offence in this case required deliberate planning and subterfuge.

Detriment to the University and Deterrence

65. In the above-referenced Appeal Boards decision, the Appeal Board made the following observation regarding “purchase essay” offences:
146. In our judgment, sentencing in purchased essay cases, and certainly in this one, must consider two of the C sentencing principles to be paramount over all the others. These are the detriment to the University occasioned by the offence of purchasing essays, and the need deter others from committing a similar offence. These offences strike deeply at the roots of the institution, and must be deterred with an emphasis on these objective elements of the sentencing matrix.
66. With advancements in technology, the University (as can be gleamed from recent tribunal hearing decisions) has seen a proliferation of cases that reflect deliberate, calculated attempts to cheat on tests using covert technological devices that provide real-time unauthorized assistance.
67. The Panel reviewed the recent cases of the *University of Toronto v. Q.C.* (Case No.1505, November 24, 2023) (“Q.C.”), the *University of Toronto v. S.Y.* (Case No.1539, May 17, 2024) (“S.Y.”), the *University of Toronto v. X.Z.* (Case No. 1541, April 18, 2024) (“X.Z.”), the *University of Toronto v. X.S.* (Case No. 1559, November 13, 2024 (Finding)) (“X.S.”)¹, the *University of Toronto v. T.D.* (Case 1560, June 3, 2024) (“T.D.”) and the *University of Toronto v. J.M.* (Case 1573, October 30, 2024) (“J.M.”) all of which involve the use of technological devices to provide real-time unauthorized assistance to students. In many cases, it was the astute observations of invigilators that resulted in the Students’ attempted “spy craft” being discovered.
68. Reliance on pre-planned schemes and covert devices to furnish students with “real-time” paid assistance to defeat the University’s efforts to protect against cheating (e.g., different versions of exams, invigilators observing the students, and the requirement to leave electronic devices outside the exam room, etc.) represent extremely serious breaches of academic integrity. These offences strike at the core values of the University. Among other things, students that exploit advances in technology for their attempted academic gain must have the means to pay for it (the cost of the technology and the expense of the assistance).

¹ At the time of rendering this decision, no decision on sanction had yet to be released.

Undoubtedly, deeper pockets pay for more covert technology that is harder for the University to detect.

69. The Tribunal agrees with the following findings from Q.C., which is the first reported tribunal decision dealing with the unauthorized use of a miniature camera and earpiece in order to obtain assistance during a test.

49. With respect to the detriment to the University and the need for deterrence, obtaining unauthorized assistance on a test, generally, is an extremely serious offence that harms the institution and the academic process. It is a serious breach of academic integrity and can be seen as an attempt to defraud the University. Obtaining real-time assistance using a hidden camera and earpieces is taking things to a new level, one that has only been possible in very recent years as technology once reserved to spy novels has become readily available to anyone. The fact that the Student was caught in this instance is a testament to Professor Murdock's vigilance in monitoring her students' progress and spotting anomalies.

50. The associated penalty for what occurred here must act as general deterrent against this kind of surreptitious behaviour. Accordingly, it is important to send a strong message to the community that this will not be tolerated.

70. The Tribunal also agrees with the following findings from J.M.

52. With respect to the detriment to the University and the need for deterrence, obtaining unauthorized assistance on a test, generally, is an extremely serious offence that harms the institution and the academic process. It is a significant breach of academic integrity and can be seen as an attempt to defraud the University.

53. The Tribunal reflected on various cases, including those concerning personation (where another person completes all the academic work for a student) and the purchasing of academic work, including the use of spy technology and purchased essays. The Tribunal found that in the circumstances of this case, the element of premeditation was a highly relevant factor that warranted recommending expulsion rather than solely imposing a suspension. A recommendation of expulsion and an immediate order of suspension is reasonable and appropriate in the circumstances and is consistent with prior decisions of this Tribunal.

71. In J.M. the Student was charged with, among other things, knowingly using and/or possessing an authorized aid or aids and/or obtaining unauthorized assistance in connection with a final exam. In that case, the Student admitted to having knowingly used and possessed unauthorized aid (by pre-arranging a tutor to provide her with real-time assistance on her smart watch), but denied that a confirmed payment to the tutor was for the specific assistance on that test (which the University alleged) but rather a token of

appreciation more generally for his assistance. The Student in that case did not have any prior offences, provided a plea of guilty plea and participated in the Tribunal process (although her participation was not, in all aspects, cooperative). The Tribunal recommended expulsion.

Sanction

72. The Panel considered all relevant factors and the facts of this case and finds that the goal of general deterrence is paramount in this case.
73. Where expulsion was not recommended in the above-referenced cases of Q.C., X.Z., and T.D. (cases that involved a Student using covert technology to obtain unauthorized assistance), the Panel notes that one or more of the following factors was present: (1) the Student cooperated with the University at the hearing stage and showed remorse; and/or (2) there were extenuating factors in the case that mitigated in favour of a lesser sentence. These factors were not present in this case. Had the Student participated here, there may have been evidence of mitigating factors that may have militated against the recommendation for expulsion.
74. The Panel gave meaningful consideration to the fact this was a first-time offence by the Student that took place toward the end of his academic career; however, this factor was not sufficient to tip the balance in favour of a lesser sentence.
76. For these reasons, the Tribunal accepts the Provost's submissions on sanction, and signed an order after the hearing imposing the following sanctions on the Student:
 - I. a recommendation to the President of the University that the President recommend to the Governing Council that the Student be expelled from the University;
 - II. immediately suspending the Student from the University for a period of five years from the date of the Order or until Governing Council makes its decision on expulsion, whichever comes first, and that a corresponding notation be placed on the Student's academic record and transcript;
 - III. a final grade of zero in MGT220H5S; and

- IV. reporting the decision to the Provost for publication of the decision and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto this 12 day of December, 2024

Original signed by:

Joelle Ruskin, Chair
On behalf of the Panel