

UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION

Members of the Panel:

Sherry Liang, Co-Chair

Philip Berger, faculty member, Faculty of Medicine

Penny Schincariol, student member, Faculty of Arts and Science

IN THE MATTER of the *University of Toronto Act, 1971*, S.O. 1971, c. 56, as amended;

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

AND IN THE MATTER of disciplinary charges against D.F.

D. F., representing himself

Linda R. Rothstein and *Robert A. Centa*, for the University of Toronto

In attendance:

Ian McDonald, Associate Dean, University of Toronto at Scarborough

Sherylin Biason, University of Toronto at Scarborough

Heather Pagan, University of Toronto at Scarborough

BACKGROUND

[1] A hearing of the Trial Division of the University Tribunal was convened at 5:00 p.m. on Tuesday, April 2, 2002, in the Falconer Room, Simcoe Hall, to consider seven charges laid against D.F. under the *Code of Behaviour on Academic Matters, 1995* by the Vice-President and Provost, Professor Adel Sedra. At the commencement of the proceedings Ms. Rothstein advised the panel that count numbers two, four, five and seven had been withdrawn by the University, such that the following charges remained before the Panel:

1. THAT on or about July 1, 2001, you knowingly counseled another member, Ms. Heather Pagan, to commit to be a party to an offence contrary to s. B.II.1(a)(iv) of the *Code [of Behaviour on Academic Matters, 1995]*. Specifically, you knowingly counseled Ms. Pagan to knowingly evaluate your academic work by reference to any criterion that did not relate to its merit, to the time within which it was to be

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- submitted or to the manner in which it was to be performed, contrary to s. B.I.2(c) of the *Code of Behaviour on Academic Matters, 1995* (“Code”).
3. THAT on or about July 1, 2001, you knowingly counseled another member, Ms. Heather Pagan, to commit or be a party to an offence contrary to s. B.II.1(a)(iv) of the *Code*. Specifically you knowingly counseled Ms. Pagan to knowingly falsify an academic record, namely your results in FSL100H1F contrary to sections B.II.1(a)(iv) and B.I.3(a).
 6. THAT on or about July 1, 2001, you, having knowingly engage [sic] 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, contrary to s. B.I.3(b) of the *Code*.³

[2] Mr. F. has been enrolled at the University of Toronto at Scarborough since the fall of 1997. He remained enrolled until July 1, 2000 when he commenced a one-year suspension for academic misconduct. He re-enrolled in May of 2001 in FSL100H, and as of October 2001 he had completed 12 credits and had enrolled for four additional credits. FSL100H was a first-year French course taught by Ms. Heather Pagan.

[3] An e-mail dated July 1, 2001, from Mr. F. to Ms. Pagan was admitted into evidence. The text of the e-mail was as follows:

Hi Heather! This is [D.F.] from your FSL100 class. First, thanks for the great semester... I really feel I learned and had fun in the course, plus you were very leanient to me for my absences. I was so surprised on the exam and in-class essay I was really able to write a short passage (despite obviously still with many spelling and grammar errors but at least I think you get my point).

Have you marked the finals yet? If so, how did I do? I'm pretty confident I at least passed at around 60%, n'est pas? However, if there's something I can to improve that mark to an A or A-, I really would. That's because I'm graduating after the summer. My current cumulative GPA is around 2.6; that's not very competitive if I ever plan to take MBA in two years which requires at least a 2.7 (minimum application!). I'm also taking another full-year course right now and yes, obviously trying very hard to achieve high grades.

Would it be rude to ask you, Heather if you're willing to help me upgrade my FSL100 mark? I can compensate you this around \$100 - \$200 (I'm not a rich guy) which I can drop off to you anytime. Anyhow, if you're not willing to, it's no problem and please don't feel offended. It's just merely a request from a very desperate student!

You can reply to me either by e-mail or contact me by phone:

H: (xxx) xxx-xxxx

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C: (xxx) xxx-xxxx

Yours truly,
[D.F.]

[errors copied from the original]

[4] Ms. Pagan did not accept Mr. F.s offer.

[5] As required by the *Code*, Mr. F. met with Associate Dean Ian McDonald on January 10, 2002. During that meeting Mr. F. admitted that he committed an academic offence under the *Code*.

[6] Mr. F. pled guilty to counts one, three and six.

REASONS FOR DECISION (Delivered Orally)

[7] After consideration, the Panel found Mr. F. guilty of counts one and three. In view of the fact that Mr. Fung was found guilty of academic misconduct described in the *Code*, the Panel found Mr. Fung not guilty of count six.

[8] The Panel heard evidence and submissions from Mr. F. and the University on the question of appropriate sanctions. The University submitted that Mr. F. should be expelled.

[9] The Panel imposed the following sanctions:

1. A five-year suspension;
2. This sanction shall be recorded on the student's academic record and transcript for ten years; and,
3. Recommended that the case be reported to the Provost to publish a notice of the decision of the Tribunal and the sanctions imposed with the name of the student withheld.

[10] The Panel was not of the view that general deterrence was critical on the facts of this case given the Panel's opinion that the incidence of this type of conduct is likely rare. At the same time, the Panel did not minimize the severity of the offence. Although the Panel does not place the conduct at the farthest end of the spectrum, as submitted by the University, the Panel felt that the sanction imposed recognized the seriousness of this conduct.

[11] The Panel did not find many extenuating facts in this student's favour to justify leniency, however the Panel was satisfied that a five-year suspension along with a ten-year notation is substantial. Even once, and if, Mr. Fung returns to the University, the continuation of the

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notation on his record for up to a further five years will serve as a reminder to him of the offence and will reduce the likelihood of re-occurrence.

[12] Given his young age the Panel saw a potential for rehabilitation to a standard of academic conduct compatible with the University's expectations. To this end, the Panel strongly suggested that Mr. F. seek professional guidance and counseling during his suspension.

April 24, 2002

I certify that this is the decision of the Panel

Sherry Liang

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Co-Chair