

UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION

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 the Student.

Members of the Panel:

Mr. Raj Anand, Chair
Professor Melanie Woodin, Faculty Panel Member
Ms Sujata Pokhrel, Student Panel Member

Appearances:

Rob Centa, for the University of Toronto
Mark Lapowich, appearing on behalf of the Student
The Student

Witnesses:

None

BACKGROUND

[1] The Trial Division of the University Tribunal was convened on August 31, 2005 to consider charges brought under the *Code of Behaviour on Academic Matters, 1995* laid against the student by letter dated August 26, 2003 from the Deputy Provost and Vice-Provost, Faculty, Professor Vivek Goel.

[2] The letter of August 26, 2003 contained the following set of charges:

1. On or about May I, 2002, you did knowingly forge or in any other way alter or falsify a document or evidence required by the University, or knowingly uttered, circulated or made use of any such forged, altered or falsified document, namely, your mid-term examination in MGT330 given on February 27, 2002, contrary to section B.1.1.(a) of the Code.
2. On or about May I, 2002, you did knowingly forge or in any other way alter or falsify an academic record, namely, your mid-term examination in MGT330 given on February 27, 2002, or you did utter, circulate or make

use of such forged, altered or falsified record contrary to section 5.1.3.(a) of the Code.

3. In the alternative, on or about May 1, 2002, you did knowingly submit a forged, altered or falsified mid-term examination in MGT 330 to Dr. Schmitz with the intent to attempt to falsify or alter your academic record, being your course results in MGT 330 contrary to section B.1.3.(a) and 8.11.2 of the Code.
4. In the further alternative, on or about May 1, 2002, you did knowingly obtain unauthorized assistance in an academic examination or term test, namely the mid-term examination in MGT330 given on February 27, 2002, contrary to section B.1.1(b) of the Code.
5. In the further alternative, on or about May 1, 2002, you did knowingly engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind, namely, you re-submitted your midterm examination in MGT330 given on February 27, 2002, which had been altered, contrary to section B.1.3.(b) of the Code.
6. In the further alternative, on or about May 1, 2002, you did knowingly attempt to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind, namely, you resubmitted your mid-term examination in MGT330 given on February 27, 2002, which had been altered, contrary to section B.1.3.(b) and B.11.2 of the Code.

[3] The particulars of the charges outlined in the letter of August 26, 2003, were as follows:

1. In the spring of 2002 you were a student in MGT330, taught by Dr. John Schmitz.
2. On or about February 27, 2002, you wrote a mid-term examination in the course, for which you received a mark of 25.5 out of 36 on the multiple choice part and 21.5 out of 64 on the short answer part, for a total of 47 out of 100. The mid-term examination was worth 20% of the final mark in the course.
3. On or about May 1, 2002, you met with Dr. Schmitz. You told him that there had been an addition error made when calculating the grade on your mid-term examination.
4. You provided Dr. Schmitz with a document that purported to be your mid-term examination. This document contained answers and marks that had either been forged, altered or otherwise falsified. This document contained forged, altered or otherwise falsified marks totaling 86 marks.

[4] At the commencement of the hearing, the Student pled guilty to the first charge, and the University withdrew the remaining charges.

[5] The parties submitted an Agreed Summary of Facts, the most salient details of which are summarized as follows:

1. The University of Toronto admitted (the “Student”) as a degree student to New College in the Winter term of academic year 1996-97. The Student received a Bachelor of Science degree in June 2000, which was awarded with distinction, and then commenced studies toward a Bachelor of Commerce degree. A copy of the Student’s academic record as of August 23, 2005, is attached to this Agreed Statement of Facts at Tab 1.
2. In January of 2002, the Student enrolled in MGT 330H, taught by Dr. John Schmitz.
3. Dr. Schmitz set a mid-term examination for February 27, 2000, which was worth 20% of the final grade in the course. The exam consisted of both multiple choice questions (Part A - 36 marks) and short answer questions (Part B - 64 marks).
4. Dr. Schmitz’s teaching assistant marked the examinations and recorded the marks awarded to each student on each question in a spreadsheet. The Student received a grade of 47 out of 100, having earned 25.5 marks in Part A and 21.5 marks in Part B.
5. Dr. Schmitz returned the examinations to the students on March 6, 2002, and spent one hour of class time going over the examination answers. Several students approached Dr. Schmitz to discuss their marks on the exam, which had an average score of 60.5%. The Student did not approach Dr. Schmitz at this time.
6. On May 1, 2002, almost two months after the mid-term examinations were returned, Dr. Schmitz met with the Student and another student to discuss the pending final examination.
7. During this meeting, the Student asked Dr. Schmitz to look at the Student’s mid-term examination paper. The Student told Dr. Schmitz that the marks had been added incorrectly. The Student handed Dr. Schmitz a document purporting to be the Student’s mid-term examination (the “May 1 Exam”). A copy of the May 1 Exam is attached to this Agreed Statement of Facts at Tab 2.
8. The cover of the May 1 Exam indicated that the Student received 30 marks in Part A and 17 marks in Part B for a total of 47 marks. As set out in the chart below, the May 1 Exam contained 86 marks:

	The Student's February 27 test marks as recorded by TA	Cover of May 1 Exam	Marks written inside May 1 Exam
Part A Multiple Choice	25.5	30	30
Question 1	7		9
Question 2	0		8
Question 3	1.5		8
Question 4	1		10
Question 5	3		5
Question 6	3		6
Question 7	0		3
Question 8	6		7
<u>Part B sub-total</u>	21.5	17	56
<u>Total</u>	47	47	86

9. The Student admits that the May 1 Exam was not the examination the Student submitted on February 27, 2002, and that the Student did not earn 86 marks.
10. The Student admits that he forged, altered and falsified the May 1 examination, which the Student presented to Dr. Schmitz for the purpose of obtaining academic advantage.
11. The Student admits that the Student is guilty of charge 1 contained in the charges filed by the University of Toronto, a copy of which is attached to this Agreed Statement of Facts at Tab 3.
12. Specifically, the Student admits that on or about May 1, 2002, the Student knowingly forged or in any other way altered or falsified a document required by the University, and knowingly uttered, circulated and made use of any such forged, altered or falsified document, namely, a mid-term examination in MGT330 given on February 27, 2002, contrary to section B.I.1.(a) of the Code of Behaviour on Academic Matters.

[6] Following extensive submissions from counsel to the University, during which he led the Panel through the Agreed Summary of Facts, and following submissions from the counsel for the student, wherein he communicated the Student's acceptance of the University's presentation of the facts, the Panel deliberated and accepted the Student's plea and entered a verdict of guilty.

[7] The parties then submitted a set of Agreed Facts Relevant to Penalty and a Joint Submission on Penalty. According to the Joint Submission:

1. The University of Toronto and the Student submit to the Tribunal that the appropriate penalty in all the circumstances of this case is that the Student:
 - a. receive a zero in the course MGT 330;
 - b. be suspended from the University for a period of one year from July 1, 2005 to June 30, 2006; and
 - c. have his academic record and transcript bear a notation of this academic offence for one year from July 1, 2005 to June 30, 2006

2. The University of Toronto and the Student submit that the Tribunal should report this case to the Provost who may publish a notice of the decision of the Tribunal and the sanction or sanctions imposed with the Student's name withheld.

[8] Counsel for the University led the Panel through the terms of the Joint Submission on Penalty, highlighting in particular the medical evidence in the case reviewed and accepted by the University, and the history of similar and supporting cases.

[9] After deliberation, the Panel accepted the proposed Joint Submission on Sanction and imposed the following sanction on the Student:

1. That the Student receive a zero in the course MGT 330;
2. That he be suspended from the University for a period of one year from July 1, 2005 to June 30, 2006;
3. That his academic record and transcript bear a notation of this academic offence for one year from July 1, 2005 to June 30, 2006; and
4. That the details of the case be reported to the Provost for publication with the Student's name withheld.

**REASONS FOR SANCTION
(DELIVERED ORALLY)**

[10] The panel unanimously accepts the Counsels' Joint Submission on Penalty and these are the reasons in support of that acceptance.

[11] We have in this case a significant academic offense - falsifying a form of evaluation - and even though it was an evaluation which comprised a small part of the individual course, it is a serious matter to substitute a falsified or forged document for a test in an apparent attempt to secure a higher grade after the fact.

[12] The Student has acknowledged that page 1 of the subsequently submitted exam, as well as some portions of the answers and the grades contained in the document, were altered. This process clearly required premeditation and, in our view, undoubtedly has a

significant impact on the integrity of the University and its processes which must be vindicated through an appropriate penalty.

[13] Despite that fact, the Student is obviously an able student and we view it as important that he be able to recommence and conclude his studies. We see the Joint Submission on Penalty as achieving that result while at the same time exacting a serious penalty:

- a zero in the course
- a one year suspension, back dated modestly, roughly from this point forward
- a 1 year notation on the Student's record
- reporting of the case to the Provost

[14] We were gratified to hear and to take into account the mitigating factors before us:

- the Student's recognition and acceptance of responsibility in the form of a guilty plea
- the serious and significant psychiatric difficulties, supported by medical evidence which was reviewed and was acceptable to the university
- the character references on the Student's behalf
- and the evidence of motivation and involvement in the University

[15] These factors demonstrate that the Student is a good candidate for rehabilitation and it is certainly hoped that this penalty will balance the needs of deterrence and rehabilitation under the terms which have been agreed to and which this panel accepts.

[16] Those are our reasons.

DATED this _____ day of November, 2005.

Date

Chair

866057.2