

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

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

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

BETWEEN:

THE UNIVERSITY OF TORONTO

- and -

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Members of the Panel:

- Ms. Lisa Brownstone, Chair
- Professor Ikuko Komuro-Lee
- Mr. Adrian Asselin, Student

Appearances:

- Ms. Lily Harmer, Assistant Discipline Counsel
- Dr. Kristy Gourlay, Manager, Office of Student Academic Integrity

- Ms. Sarah Crowder, Student Counsel, Downtown Legal Services
- Ms. M■■■■ C■■■■■, Student

- Mr. Max Shapiro, Observer, Downtown Legal Services

Preliminary

- [1] The Trial Division of the University Tribunal was convened on May 21, 2008 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters*, 1995 (the *Code*) laid against the Student by letter dated January 22, 2008 from Professor Edith Hillan, Vice-Provost, Academic.

Notice of Hearing and Charges

[2] The Charges are as follows:

1. On or about November 9, 2007, you did knowingly forge or in any other way alter or falsify any academic record, and/or did utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form, in that you forged and/or altered and/or falsified your academic transcript, contrary to section B.I.3.(a) of the Code.
2. In the alternative, on or about November 9, 2007, you did knowingly engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by forging and/or altering and/or falsifying your academic transcript, contrary to section B.I.3.(b) of the Code.
3. On or about November 23, 2007, you did knowingly forge or in any other way alter or falsify any academic record, and/or did utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form, in that you forged and/or altered and/or falsified your academic transcript, contrary to section B.I.3.(a) of the Code.
4. In the alternative, on or about November 23, 2007, you did knowingly engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by forging and/or altering and/or falsifying your academic transcript, contrary to section B.I.3.(b) of the Code.

[3] Particulars of the Charges are as follows:

1. At all materials times you were a student at the University of Toronto. In academic term winter 2006 you obtained a mark of 40 and a Grade F in ECO220Y.
2. You petitioned for late withdrawal without academic penalty from ECO220Y, which petition was refused.
3. On or about November 9, 2007, you held an employment position that gave you authorized access to ROSI, you accessed your ROSI record, and changed your status in connection with ECO220Y to a WDR. The record therefore showed after this change that the course had been withdrawn and/or dropped.
4. On November 23, 2007, you again accessed your ROSI record to cancel ECO220Y so that it did not appear on your academic transcript at all.
5. On or about November 23, 2007, you further backdated the cancellation of ECO220Y to February 19, 2007, the last official date to drop a full year course without penalty.

Agreed Statement of Facts

- [4] The Panel was provided with an agreed statement of facts, signed by the Student and counsel for the University. In summary, the Student admitted that, while working part-time in a clerical position that gave her access to ROSI, she, while alone in the office as other staff were at a meeting, accessed her own ROSI academic record. She initially changed her failing grade of 40 to a "WDR", so that her academic record made it appear that she had withdrawn from the course. Two weeks later, she was again working alone in the office and again, accessed her ROSI academic record. At this time, she cancelled the course from her academic record so that it did not appear at all and back-dated that cancellation to February 19, 2007 which had been the deadline for withdrawing from the course without penalty.
- [5] As a result of cancelling the course and expunging her failing grade from her academic record, the student's sessional GPA increased significantly, as did her cumulative GPA, exceeding the required minimum she needed to achieve to be able to graduate. When confronted with the alterations, the Student admitted that she had altered her ROSI academic record on November 9, 2007 and November 23, 2007.
- [6] The Student pleaded guilty to Charges 1 and 3. The University withdrew Charges 3 and 4.
- [7] Counsel for the University led the Panel through the Agreed Statement of Facts.

Decision of the Tribunal

- [8] Based on the Agreed Statement to Facts and the Student's guilty plea to Charges 1 and 3, the Tribunal found the Student guilty of those charges.

Sanction and Reasons

- [9] The Panel proceeded with a contested hearing into the appropriate sanction. The University filed no evidence for the sanction portion of the hearing. The Student testified on her own behalf, and filed a series of documents, which included her curriculum vitae, reference letters, high school records and awards, OSAP documents, print-outs related to extra-curricular involvement and a portion of a document indicating the Student's admission of her actions when confronted.
- [10] The Student testified about the circumstances that led up to and that were prevailing at the time that the actions occurred. She gave evidence about the difficult adjustment she had when moving here from abroad, the financial stresses that were operating upon her at the time, her extensive involvement in extra-curricular activities and in paid employment.
- [11] The University sought an order asking this Panel to recommend to the President that the student be expelled from the University; that there be a suspension imposed for 5 years

while the expulsion recommendations were in process; and that the Panel report this decision to the Provost.

- [12] The Student's representative submitted that the appropriate penalty was a lengthy suspension.
- [13] Both the University and the Student provided the Panel with Books of Authorities so that the Panel might have an opportunity to review several other decisions of the Tribunal in similar cases.
- [14] Counsel were agreed that the criteria to be considered when deciding on the appropriate sanction were those set out in the matter of the appeal of Mr. C (November 5, 1976). Those criteria are:
- (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.
- [15] In its submissions on penalty, the University focussed on the nature of the offence, the detriment to the University and the importance of general deterrence. The Student focussed on the character of the person charged, the likelihood of repetition of the offence, and the extenuating circumstances surrounding the commission of the offence. She acknowledged the need to deter others from committing a similar offence and submitted that this could be accomplished by a lengthy suspension.
- [16] In her submissions, counsel for the University reiterated the purpose of the *Code of Behaviour on Academic Matters* and the centrality of academic honesty to all of the work of the University, as well as to the integrity of the teaching and learning relationship. Counsel submitted that the Panel should take into account the values expressed in the preamble when considering the appropriate sanction.
- [17] In the University's submission, which the Panel accepts, the Student took advantage of a position of trust that she held due to her employment situation with the University. ROSI, the University's electronic record system, was described as the heart of the University. In the University's submission, the fact that the Student had deliberately gone into her own record not once but twice, and had carefully made the date for cancellation of the course the last possible date upon which cancellation was allowed with no penalty, displays a very deliberate course of conduct, twice, to ensure a result that advantaged the Student. The University also submitted that when one student is advantaged by cheating, other students are disadvantaged. The University acknowledged that the Student faced stresses

and difficulties, but submitted that these were of no other magnitude or character than those faced by many students at the University, and it is simply not acceptable to choose to cheat in order to deal with these stresses. There are other options open to students, such as getting counselling, or seeking a reduced course load, which are acceptable ways of dealing with these kinds of stresses.

- [18] In the University's submission, the nature of this offence is one of the most egregious that can be committed, and any forgery of an academic record is very, very, serious. Counsel for the University submitted, and the Panel accepts, that an aggravating circumstance in this case is that the Student accessed her academic record at its source, so that no proper record of her academic performance could ever be found or printed, had her actions not been discovered. This, in the University submission, is worse than tampering with a paper record while the electronic record remains intact and can be discovered at a later date. In the University's submission, both the University and others must be able to rely on the integrity of an academic transcript. The detriment to the University in this kind of conduct is enormous, especially when the Student acts from a trusted position. The need to deter others, in the University's submission, is of crucial importance.
- [19] On the Student's behalf, her representative made submissions that the Student was not asking to be excused, that she admitted the conduct right away when confronted and that she understood the gravity of the offence. While the Panel appreciates the submissions made by the Student's representative in this regard, the Panel does pause to note that in her testimony, the Student did not express any remorse or explicit understanding of the gravity of her actions.
- [20] In the Student's submission, the mitigating circumstances were that this was her first offence and that, otherwise, her character was consistent with the core values of the University. In her adjustment to a new country, and to multiple jobs, she performed admirably in ultimately satisfying her degree requirements and improving her GPA. She stressed the leadership positions that she had held, the fact that this offence occurred over a very short period of time and was relatively contained in scope, and that she admitted guilt early and fully co-operated with the University. In her submission, a suspension would be an effective deterrent, given that the Student had already been fired from her job and will undoubtedly have future employment options and continued studies affected by her actions. In her submission, the detriment to the University could be remedied by imposing a lengthy suspension of 4-5 years.
- [21] Following the parties' submissions on penalty, the Panel deliberated. The Panel also reviewed many of the cases supplied to it by both parties, and carefully considered whether a lengthy suspension could achieve the goals required of an appropriate penalty. The following were the aggravating circumstances considered:
- (i) these records are at the heart of the University's system;
 - (ii) the Student occupied a position of trust, and from that position chose a course of conduct to benefit herself and disadvantage others; and

(iii)the Student made this change at the source of the record so that the alteration would be permanent.

[22] The Panel also considered that the University must be in a position to rely on and protect the integrity of its records.

[23] The Panel also considered the mitigating circumstances which it considered to be that the Student was undergoing personal stresses and hardships, as well as that the alterations were relatively contained and made in a short period of time. The Panel was of the unanimous opinion that the aggravating factors were very serious and the conduct in these circumstances warranted the most serious penalty. Accordingly, the Panel unanimously recommends that:

1. The Tribunal recommend to the President of the University of Toronto that he recommend to Governing Council that the Student be expelled from the University;
2. Pending the decision of the Governing Council, the Student be suspended for five years; and
3. A report of the decision be made to the Provost for publication in the University's newspaper with the student's name and identifying features withheld.

[24] The following reasons were read orally at the hearing:

The Student was employed by the University in a position of trust. Due to this position, she had the privilege of access to ROSI, the system described by the University as the heart of its records. The Student misused this trust to her own gain, and therefore to the disadvantage of others. She did so in a way that sought to erase the record from the University computer system forever. The University must take all steps to protect the integrity of its records, so that others within and outside of the University community can rely on them. Although the Panel accepts that the Student had stressors in her life, the Panel does not accept that the choice of dealing with those stressors in this way is excusable.

8 July 2008
Date


Ms. Lisa Brownstone, Chair