

**UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on February 27, 2014

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:

UNIVERSITY OF TORONTO (the "University")

- AND -

M ■ G ■ (the "Student")

REASONS FOR DECISION

Hearing Date: December 17, 2014

Panel Members:

Ms. Roslyn M. Tsao, Lawyer, Chair

Professor Ernest Lam, Faculty of Dentistry, Faculty Panel Member

Mr. Simon Czajkowski, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel for University, Paliare Roland Barristers

Dr. Brian Harrington, Instructor for CSCA08H3: Introduction to Computer Programming

Professor Eleanor Irwin, Dean's Designate for Academic Integrity at University of Toronto

Scarborough

Professor Wayne Dowler, Dean's Designate for Academic Integrity at the University of Toronto

Scarborough

No one appearing for the Student

In Attendance:

Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

1. The Trial Division of the Tribunal heard this matter on December 17, 2014. The Student was charged on February 27, 2014 as follows:
 - (a) *On or about October 19, 2012, you knowingly obtained unauthorized assistance in connection with Assignment #1 in CSCA08H3 (Introduction to Computer Programming) (the “Course”), contrary to section B.I.1.(b) of the Code.*
 - (b) *In the alternative, on or about October 19, 2012, you knowingly represented as your own an idea or expression of an idea or work of another in connection with Assignment #1 in the Course, contrary to section B.I.1.(d) of the Code.*
 - (c) *In the further alternative, on or about October 19, 2012, 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 Assignment #1 in the Course, contrary to section B.I.3.(b) of the Code.*
 - (d) *On or about November 30, 2012, you knowingly obtained unauthorized assistance in connection with Assignment #2 in the Course, contrary to section B.I.1.(b) of the Code.*
 - (e) *In the alternative, on or about November 30, 2012, you knowingly represented as your own an idea or expression of an idea or work of another in connection with Assignment #2 in the Course, contrary to section B.I.1.(d) of the Code.*
 - (f) *In the further alternative, on or about November 30, 2012, 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 Assignment #2 in the Course, contrary to section B.I.3.(b) of the Code.*

Absence of Student from Hearing

2. The Student did not attend at the Hearing. The Tribunal waited 15 minutes after the scheduled commencement of the Hearing to allow for the Student to appear.

3. The University presented evidence to the Tribunal confirming proper service of the Charges dated February 27, 2014 and Notice of Hearing dated November 11, 2014 (which contained the requisite warning for non-attendance) in accordance with Rule 9 (Part 3) of the *Rules of Practice and Procedure ("RPP")* by:
 - e-mailing a copy of the Charges to the Student's e-mail address contained in the Student's ROSI record on February 28, 2014;
 - sending a letter from counsel, enclosing a disclosure letter and brief relating to the matter, by e-mail to the Student and by courier to the Student's address as contained in the Student's ROSI record on May 21, 2014;
 - e-mailing the Student on November 10, 2014 to advise him of the hearing date of December 17, 2014; and
 - sending the formal Notice of Hearing issued on November 11, 2014 by courier to the Student's address on December 11, 2014 and leaving same with an adult member of the household, who advised that the Student was not home at the time but that she would give the package to the Student.
4. It is noted that there were a number of efforts to contact the Student by telephone at his ROSI contact telephone number and by email between May 21, 2014 and December 10, 2014. The emails did not "bounce back" on any occasion.
5. Accordingly, the Hearing proceeded in the absence of the Student.

Facts

6. The University tendered three (3) witnesses: Dr. Brian Harrington, Professor Eleanor Irwin and Professor Wayne Dowler.

Evidence of Dr. Harrington

7. Dr. Harrington was in his first year of teaching at the time of question at the University of Toronto, Scarborough campus. The Course, an introductory first year course, was

intended for computer science students who had no prior experience with writing computer code.

8. There were 500 students in the fall 2012 Course with 15 Teaching Assistants ("TAs") to run the labs/tutorials. There were two hour weekly sessions for the students to work with the TAs.
9. The Course evaluation comprised 9 labs, 4 exercises, 2 assignments, a midterm test and a final exam.
10. With respect to the Assignments, the Course Information Sheet stated:

*You are permitted, and in fact encouraged, to work with a partner on assignments. We also encourage you to change partners between assignments. You must register your partnership before you start working together on the assignment (see the assignments webpage for how). We expect that partners working together will use a team-programming approach similar to the one used in labs. Splitting the work and performing the tasks separately will not help prepare you for the tests and final exam. In extreme cases, you may wish to dissolve your partnership. To dissolve your partnership, you **must** contact the course instructor and your partner by email and be prepared to meet with the coordinator during office hours.*

11. The Course Information Sheet further addressed cheating as follows:

Please don't cheat. We want you to succeed and are here to help. Here are a couple of general guidelines to help you avoid plagiarism:

- *Never look at another group's assignment solution, whether it is on paper or on the computer screen. Never show another student (other than your partner) your assignment solution. This applies to all drafts of a solution and to incomplete solutions.*
- *The easiest way to avoid plagiarism is to only discuss the piece of work with your partner, the TAs, and the course instructor.*

12. Dr. Harrington explained his use of MoSS (Measurement of Software Similarity) Software to review the computer code submitted by students for their assignments in the detection of misconduct.
13. The MoSS Software compares the submitted samples of code (i.e., assignments from the entire class for a particular assignment) against each other (not against external samples).

MoSS will identify lines/sections of code in one student's (or permitted partnership's) submission that are statistically similar to other submitted code. MoSS will also give a percentage of the whole assignment that appears to be potentially "plagiarized" or unduly similar to other submitted assignments. The MoSS software also ignores similarities to base code that may have formed part of the assignment for all students.

14. In response to a question from the Panel, Dr. Harrington noted that a percentage in the range of 10 – 20% of similarity would be expected in an assignment and that higher percentages would raise suspicion.
15. Dr. Harrington also explained that he individually reviews those assignments identified by MoSS to independently determine whether to allege any misconduct.
16. The computer language being used in the Course was "Python" which is a very "open-ended", free-hand programming language. Dr. Harrington analogized coding in Python to be like writing prose in that there are many ways to do the same thing.

Assignment #1

17. For Assignment #1, all submitted assignments from the students in the Course (from all three campuses) were analyzed by MoSS.
18. The MoSS software detected that the Student's assignment/computer code was substantially similar (approximately 75%) to the assignment/computer code of another student, Mr. [L].
19. For Assignment #1, Dr. Harrington recalled that there were approximately 20-30 students, in total, who were identified by the MoSS software. As was and is his practice, Dr. Harrington would have emailed any students with suspicious assignments (within a week of the assignment) to request that the student come to speak to him about alleged misconduct in his/her assignment.
20. As the Student and Mr. [L] had not registered as partners for Assignment #1, the level of similarity in their computer code could not have been random in Dr. Harrington's view.

21. Dr. Harrington did not retain a copy of the email sent to the Student or a sample of such email for the Course in question to provide at the hearing. However, he stated that his email would have been in the nature and tone to encourage the student to come see him “first” and explain the situation. Dr. Harrington did not believe that his email would have said that the matter will be escalated to a higher level if there was no response.
22. In the event that a student did not respond, Dr. Harrington would refer the matter to Professor Nick Cheng, Chair's Designate, Department of Computer and Mathematical Sciences, for further action.
23. Dr. Harrington advised that all students except the Student, Mr. [L] and one other pair of students responded to his email. Those students who responded and met with him received a zero on the assignment if it was their first offence (as was likely the case given that the Course was a first year course), they admitted guilt and they accepted this penalty. These students were also given a stern warning during their meetings with him.
24. To date, in his three years of teaching, Dr. Harrington confirmed that all students whom he has emailed after determining that the MoSS software has identified misconduct, and who have come to speak with him, have all admitted their guilt. The Panel views this fact as confirmation that the MoSS software provides a reliable identification of misconduct.
25. The four students who did not respond to Dr. Harrington’s email after Assignment #1 would have had a “GWR” on their transcript until the matter was resolved. These students would also be referred to the Chair's Designate for follow up.
26. However, in the meantime, these students were still able to see the TA's scores for their assignments on the MarkUs (computer blackboard-type) system and would not know that there was no grade nor that their actual pending grade was “GWR”.

Assignment #2

27. For Assignment #2, the MoSS software identified significantly fewer suspicious assignments. Dr. Harrington recalls that there were approximately 3-5 pairs, being 6-10 students, who were flagged.
28. The MoSS software identified that the Student's Assignment #2 was suspiciously similar to that submitted by a partnership between Mr. [L] and Mr. [Y] ("L/Y partnership").
29. Dr. Harrington recalled that a student or students had come to see him before Assignment #2 was submitted to ask whether a group of three students would be permitted. Dr. Harrington recalls advising that only groups of two were permitted and had to be registered on the MarkUs system in advance. He would have told the group of three students or their representative that all prior work together would have to be destroyed and that any resulting group or student would need to "start again". When asked, Dr. Harrington could not recall whether the student/students who came to see him were any of the Student or Mr. [L] or Mr. [Y].
30. In Assignment #2, the Student only completed code for 2 of the 5 "functions". The MoSS software demonstrated (and is plainly evident upon examination) that the code for these 2 functions was near identical for these same 2 functions in the L/Y partnership assignment. Naturally, there was no match between the Student's assignment for the remaining 3 functions to those in the L/Y partnership because the Student did not complete those parts of the assignment.
31. Again, Dr. Harrington sent out an email after Assignment #2 to students identified by MoSS. Dr. Harrington also forwarded the names of the Student and Mr. [L] to Professor Nick Cheng, Chair's Designate, Department of Computer and Mathematical Sciences, with an indication that these two students had already been identified after Assignment #1 and did not respond to him at that time.
32. After that point, the investigation relating to the Student, Mr. [L] and Mr. [Y] was addressed by Professor Cheng.

33. The Student did not write the final examination in the Course. Mr. [L] and Mr. [Y] did write the final examination.

Evidence of Professor M.E. Irwin, Dean's Designate

34. Professor Irwin, as the Dean's Designate, became involved upon referral from Professor Nick Cheng, Chair's Designate, Department of Computer and Mathematical Sciences, to address allegations that Mr. [L] had committed two academic offences. Professor Cheng had spoken to Mr. [L] about the allegations.
35. A matter can be addressed at the departmental level only if the matter involves a first offence, the work in question is worth 10% or less of the course, the student admits to the offence and the penalty sought is, at most, a zero on the offending assignment.
36. In the case of Mr. [L], Mr. [L]'s misconduct involved two incidents and, therefore, could not be addressed at the departmental level. The alleged misconduct was:
- (a) that Mr. [L] failed to register as a pair in Assignment #1 though he worked on the assignment with the Student; and
 - (b) that Mr. [L] had worked together with Mr. [Y] and the Student, forming a group of three students for Assignment #2; that one or all of them went to tell Dr. Harrington that they were working as a group of three; that Dr. Harrington then told them that they had to stop working as a group of three and were to discard everything they had done and start again on their assignment; that, nevertheless, Mr. [L] did not discard the earlier work product in contravention of the direction in the Course outline and of Dr. Harrington.
37. Mr. [L] admitted and accepted that he had committed the above misconduct on both assignments.
38. It is noted that Professor Irwin was told by Mr. [L] that the three students worked together on Assignment #2 before dissolving the group.

39. By letter dated May 8, 2013 to Mr. [L], Professor Irwin confirmed his acceptance of the above misconduct and that such misconduct constituted an offence under Section B.I.1.(b) of the *Code*, being the use of unauthorized aid.
40. As she had not had the chance to speak to Mr. [L] "earlier" (ie., after Assignment #1), Professor Irwin treated the two offences as "concurrent" and imposed a sanction of a zero on each assignment.

Evidence of Professor W. Dowler, Dean's Designate

41. Professor Dowler, as (the other) Dean's Designate, became involved upon referral from Professor Nick Cheng to address allegations that Mr. [Y] had committed an academic offence. Professor Cheng interviewed Mr. [Y] with respect to the offence.
42. The matter of Mr. [Y]'s misconduct in Assignment #2 was referred to the Dean's Designate even though the assignment comprised only 10% of the Course grade and could have been dealt with at the departmental level because this student refused to admit guilt to Mr. Cheng.
43. At the Dean's Designate meeting, Mr. [Y] would not initially admit guilt and did not believe that he had committed an offence in Assignment #2.
44. Professor Dowler reviewed the MoSS evidence with Mr. [Y] and the student agreed that the Assignment #2 which he submitted with Mr. [L] was similar to that submitted by the Student. However, Mr. [Y], in his own "articulate" defence, felt that it was unfair that he and Mr. [L] had to destroy their earlier work because it was his position that the Student (who left the three party group) did not do anything and that he and Mr. [L] "did the work in good faith".
45. Professor Dowler emphasized to Mr. [Y] that the misconduct consisted of the collaboration with a third party in violation of clear instructions and the Course outline and that he, thereby, was a party to an offence.
46. Mr. [Y] ultimately accepted the logic of Professor Dowling's analysis and "very reluctantly" agreed that he had committed an offence in that regard.

47. Professor Dowler obtained Mr. [Y]'s acceptance that he should not have collaborated with a third person and further should have destroyed any earlier work product before starting again.
48. By letter dated April 18, 2013 to Mr. [Y], Professor Dowling confirmed his acceptance of the above-described misconduct. We note that Mr. [Y] did not accept that he had committed plagiarism as his position was that he and Mr. [L] had worked on the assignment and that the Student had not contributed.
49. Professor Dowler gave Mr. [Y] an admittedly light sanction amounting to one-half of the value of the assignment, being a 5% penalty on Assignment #2, after having some sympathy for Mr. [Y]'s circumstances.

Decision of the Tribunal

50. The Panel finds that the Student is guilty of an academic offence under section B.I.1(b) of the Code for knowingly obtaining unauthorized assistance in Assignments #1 and #2 of the Course.
51. It is clear and compelling from the MoSS software output and Dr. Harrington's evidence regarding his review of the Student's code as compared to the other students' code, that there was collaboration between the groups of students. In Assignment #1, the Student failed to register as a partnership in violation of the Course outline. In Assignment #2, the Student obviously collaborated with the other two students, as his 2 completed functions of computer code were near identical to the L/Y partnership.
52. The statements from the other two students during the Dean's Designate meetings were additional evidence in support of the MoSS software findings that the Student collaborated with Mr. [L] in Assignment #1, and with Mr. [L] and Mr. [Y] in Assignment #2.
53. We agree with both Professor Irwin's and Professor Dowler's characterization of the students' misconduct as being a failure to register as a partnership in Assignment #1 and a

failure to discard the earlier work of the group of three students in completing Assignment #2.

54. We apply this same analysis to characterize the misconduct of the Student and, therefore, find the Student guilty of obtaining unauthorized assistance.
55. For the reasons below relating to the reliability of the hearsay evidence of Mr. [L] and Mr. [Y] tendered by the University, we make it clear that the MoSS evidence as introduced by Dr. Harrington is more than sufficient to form the basis for our finding of misconduct against the Student.

Plagiarism Not Established

56. The Panel does not find that the University has met its onus in establishing that the Student has committed plagiarism (as would necessarily have to be characterized as being the representation of the work in the Assignments as the Student's own when it was based on the work of the other students).
57. The Panel raised its concern as to how we were to treat the statements made by Mr. [L] and Mr. [Y] where they may form an independent and uncorroborated basis for alleged misconduct. We are prepared to accept the hearsay evidence of the Dean's Designates relating to the context and disposition of these other two students where it is not the sole basis of the case against the Student. However, we are not prepared to accept such hearsay where it is the only evidence against the Student to establish plagiarism.
58. University counsel acknowledged that the statements of Mr. [Y] were hearsay and also confirmed, in closing submissions, that she was not tendering Mr. [Y]'s statements to establish that the Student contributed nothing to Assignment #2, which could presumably ground a finding of plagiarism. Rather, the University was relying on the hearsay statements as evidence of collaboration.

59. University counsel referred the Panel to the [R]¹ Decision in support of the University's proposition that the hearsay statements of another student during a Dean's Designate meeting are reliable. In [R], as in the case here, the Tribunal found that the hearsay statements of the other student were "additional evidence supporting our finding that the Student obtained and provided unauthorized assistance during the midterm test". In [R], as in the case here, there was other independent evidence to establish that the student had obtained unauthorized assistance. As such, we do not find it necessary to rely on the hearsay evidence to make our findings of guilt. We do not, likewise, find that the contradictory hearsay evidence can establish plagiarism.
60. In order to discharge its burden of establishing plagiarism in this case, it was incumbent upon the University to call one or both of the other students involved in the "group" for Assignment #1 and/or Assignment #2 who would testify that the Student copied their original source material. The hearsay evidence of Mr. [L] and Mr. [Y], as tendered through the Dean's Designates, actually contradict each other with respect to the Student's contribution to the computer code in Assignment #2. Furthermore, this evidence was not tested under oath and there may well have been a motive for Mr. [Y] to minimize the Student's participation given his initial firm denial of any misconduct on his part.
61. In particular, Mr. [L]'s statements, as conveyed by the Dean's Designate as hearsay evidence, indicated that the Student did participate in Assignment #1 and #2 until he exited the group, whereas Mr. [Y]'s statements, again conveyed to the Panel as hearsay evidence, indicated that the Student did not do anything in Assignment #2. The Panel did not have to reconcile this contradiction nor decide as to one version over the other given that all of this evidence was hearsay.

¹ R. Case #708; June 6, 2014

62. The Panel also notes that in Counsel's letter dated May 21, 2014 outlining its "Anticipated Evidence" to the Student², the evidence for Professor Dowler was anticipated to be:

Professor Dowler is expected to testify that on April 15, 2013, he met with Mr. [Y]. During their meeting, Mr. [Y] advised that he and Mr. [L] had worked on Assignment #2 in a group of three. He and Mr. Liang learned that they could only work on the assignment in pairs, but still submitted the assignment that they had worked on in the group of three. At the meeting, Mr. [Y] admitted that he had committed an academic offence in connection with Assignment #2. (emphasis added)

63. Furthermore, the "Anticipated Evidence" of Professor Irwin was stated to be:

*Professor Irwin is expected to testify that on May 8, 2013, she met with Mr. [L]. During their meeting, Mr. [L] explained that for Assignment #1, you and he worked together but did not register as partners. Mr. [L] also explained that for Assignment #2, Mr. [L], Mr. [Y] and you worked together. Although he was told by Dr. Harrington that he could only submit the assignment in pairs (and not as a group of three), he and Mr. [Y] submitted the Assignment #2 **that he and Mr. [Y] had worked on with you.** At the meeting, Mr. [L] admitted that he had committed an academic offence in connection with both Assignment #1 and Assignment #2. (emphasis added)*

64. The University confirmed that neither Mr. [L] nor Mr. [Y] had been summonsed to testify at the within hearing.
65. As such, we find that the Student would not have been alerted to the position raised at the hearing that Mr. [Y]'s statements to Professor Dowler were in the nature that the Student did not contribute anything to Assignment #2.
66. Without clear and convincing evidence that the Student plagiarized the work of Mr. [L] or of Mr. [Y], the Panel cannot find the Student guilty of the plagiarism charges.
67. The University withdrew the alternative charges.

Penalty

68. The University sought the following penalty:

² Exhibit 3, Tab C

- (a) a zero in the Course;
 - (b) a two (2) year suspension from the University commencing the date of the Order;
and
 - (c) a two (2) year notation of the sanction on the Student's academic record and transcript.
69. The Student has no prior record of academic misconduct and has not registered at the University since withdrawing from all courses in the 2013 Winter term (the term after the Course). The Student did not attend to write the final examination in the Course.
70. The University urged the Panel to consider this case to be akin to a plagiarism case such that a two-year suspension would be appropriate. With respect, the Panel is unable to accede to this recommendation for a number of reasons.
71. Firstly, for the reasons cited above, the University has not made out the requisite requirements for plagiarism.
72. Secondly, at its highest, the Panel is of the view that the Student's misconduct comprises:
- (a) in the case of Assignment #1, a failure to register as a partnership as required by Course rules; and
 - (b) in the case of Assignment #2, a collaboration among three (3) students instead of the two (2) student limit and the subsequent failure to destroy all collaborated code and start again.
73. Thirdly, the rationale for the University in seeking a two (2) year suspension in light of the sanctions given to the two other students (zero on both assignments in the case of Mr. [L] and a 5% penalty on Assignment #2 in the case of Mr. [Y]) is that the Student:
- (a) failed to attend at the Decanal level to address the charges;
 - (b) failed to respond to the University prior to Hearing;

(c) failed to attend at the Hearing,

with the cumulative effect being that the Student has failed to acknowledge his offence and exhibit remorse. The University counsel has invited the Panel to find this to be the "most significant" distinguishing factor between the Student's case and the other two students.

74. In the C.A.M. Decision³, the Discipline Appeals Board ("DAB") considered the "escalation of penalty" from the sanction that would have been imposed had the student not changed his guilty plea at the departmental level. The Dean's Designate had imposed the penalty of a zero in the course and no official recording of sanction on his transcript though his name was to be placed in the offence database as a second offender. The student later withdrew his admission of guilt after receiving the notice of penalty, necessitating a Tribunal hearing.
75. In C.A.M., the student was found guilty after a fully contested hearing and the Tribunal recommended expulsion. On appeal by the student, the majority of the DAB accepted that the student's conduct at the hearing warranted a significant escalation in penalty based on application of the C [REDACTED] factors as opposed to there being some separate aggravating factor based on whether the student triggered a hearing:

A student who acknowledges his or her fault and accepts the penalty reflects significantly on the assessment of the student's character, remorse and the likelihood of repetition of the offence. In other words, the more serious penalties imposed are a result of the application of the C [REDACTED] factors, not as an arbitrary penalty for the Student seeking a hearing. (emphasis added)⁴

76. Furthermore, the DAB held:

However, it is important that the sanction imposed upon conviction at the end of a contested hearing bear a rational relationship to the sanction previously established for an admission of the offence having regard to the impact of the conduct of the hearing on the factors that legitimately affect the sanctioning process. In noting this, we are not deferring to the

³ C.A.M Decision (D.A.B.), Case #684; June 3, 2014

⁴ Ibid, paragraph 56

*decisions at the decanal level, but holding the University to a consistent position in its dealings with the Student and in its assessment of the nature of the offence he committed. (emphasis added).*⁵

77. In this case, we have the benefit of not one, but two Dean's Designates addressing the same or similar matrix of facts and imposing sanctions at the Decanal level.
78. With this in mind, the Panel must still consider the C [REDACTED] factors in determining sanction with the understanding that the Student's failure to participate in the process may warrant an augmented or escalated penalty from what might have been imposed had the Student participated at the Decanal level, if available.
79. The Panel applies the C [REDACTED] factors to this case as follows:

(a) *character of the person charged*

We agree that, after the notable efforts by the Professor, Dean's office and Provost to contact the Student to review the matter, the Student's failure to respond tends to demonstrate a lack of acknowledgment and responsibility.

(b) *likelihood of repetition of the offence*

The University agreed that the offences herein were to be treated together as a "first offence" even though they were discrete instances. We agree with this as the Student did not have a warning/sanction conveyed to him (albeit because he did not respond to Dr. Harrington's first email) before Assignment #2. This is how Professor Irwin considered Mr. [L]'s case as well.

Given that the offence consists of the conduct set out at paragraph 72 above, the Panel is not convinced that the Student will commit the same conduct once apprised of this decision. However, it is again noted that the Student, in failing to respond to Dr. Harrington's first email regarding Assignment #1 has demonstrated a lack of responsibility which could well lead to his ignoring of what he might

⁵ Ibid, at paragraph 57.

view to be technicalities. It is noted that Mr. [L], the other student involved in Assignment #1, likewise, had not spoken to Dr. Harrington after Assignment #1 when sanctioned.

(c) *the nature of the offence committed*

The misconduct in this case, as outlined above, is not akin to plagiarism.

For Assignment #1, collaboration in groups of two was permitted in the Course and there is no evidence that the Student did not do the work. Accordingly, the misconduct was a failure to register as a group and is not as serious as other misconduct.

For Assignment #2, the group of three (3) students, including the Student ought to have discarded all work that the group had created and started again. However, there is no tested evidence that the Student did not do the work on the parts of the assignment that he did hand in and, therefore, the act of plagiarism was not proven. All three (3) students committed this same misconduct in failing to discard the previous code.

(d) *any extenuating circumstances surrounding the commission of the offence*

The Panel has no evidence relating to this factor to consider.

(e) *the detriment to the University occasioned by the offence*

see (c) above

(f) *the need to deter others from committing a similar offence*

It is trite to find that there is a need to deter others from committing similar offences, or any offences, for that matter. In sanctioning this Student, the Panel must be mindful that there is a spectrum of available sanctions between those

given to Mr. [L] and Mr. [Y] at the Decanal level and the two (2) year suspension that the University recommends.

80. The University tendered the [R] decision⁶ in support of its recommended two (2) year suspension. In [R], the student did not attend at the hearing. Mr. [R] was found guilty of obtaining unauthorized assistance from Mr. [I] by communicating with him or copying from his paper during a midterm test. Mr. [I] attended a meeting with the Dean's Designate and admitted guilt and was sanctioned with a final grade of 40% in the course and a notation on his transcript for 12 months. In contrast, the Tribunal imposed a sanction on Mr. [R] of a zero in the course, a two (2) year and five (5) month suspension and a notation for four (4) years.
81. It is notable in [R] that the University sought a two (2) year six (6) month suspension which the Tribunal found justification to reduce by one month to enable the student to re-enroll an academic term earlier, if the student wished to do so, displaying some compassion to [R] even though he did not attend the hearing.
82. It is also noted that in the case of [R], R had a prior offence whereas the Student does not.
83. The University rightly acknowledged that the Panel is not fettered in its discretion by any minimum sanction in these circumstances.
84. We are of the view that the misconduct in [R] is distinguishable in that collaboration in groups of two was, at least, permitted by the Course, whereas copying or communicating during a midterm test was clearly not permitted in [R].
85. After the above consideration of the C [REDACTED] factors and the University's submissions, the Panel imposes the following sanction:
 - (a) a zero in the Course;

⁶ Case #708; June 6, 2014

- (b) a six (6) month suspension from the University commencing the date of the Order; and
 - (c) a two (2) year notation of the sanction on the Student's academic record and transcript.
86. This sanction is "rationally connected"⁷ to the penalty given to the other two students at the Decanal level, with an augmentation arising from the Student's failure to engage in the disciplinary process.
87. The Panel signed an Order to this effect at the conclusion of the hearing.
88. The Tribunal is to report this decision to the Provost for publication of a notice of the decision of the Tribunal and of the sanctions imposed in the University's newspapers, with the name of the Student withheld.

Dated at Toronto, this 20th day of March, 2015



Roslyn Tsao, Co-Chair

⁷ See *C.A.M.* (Case #684; June 3, 2014), at paragraph 65 (D.A.B.)