

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on June 13, 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

- and -

■ ■ (D ■) H ■

REASONS FOR DECISION

Hearing Date: Wednesday, April 8, 2015

Members of the Panel:

Mr. Bernard Fishbein, Lawyer, Chair
Professor Bruno Magliocchetti, Department of Italian Studies, Faculty Panel Member
Ms. Alberta Tam, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, for the University of Toronto
Mr. Glenroy K. Bastien, Counsel for the Student
Mr. Horim Lee, the Student's former roommate
Mr. ■ ■ (D ■) H ■, the Student

In Attendance:

Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity, Faculty of Arts and Science
Mr. Anwar Kazimi, Assistant Secretary, Governing Council, Observer
Ms. Kim, the Student's mother
Mr. Christopher Lang, Director Appeals, Discipline and Faculty Grievances

[1] The University of Toronto ("the University") has charged the student, ■■■ (D■■■) H■■■ ("the Student"), with a violation of the *Code of Behaviour on Academic Matters, 1995* (the "Code") as follows:

1. On or about September 13, 2013, you knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of such forged, altered or falsified academic record, namely, a transcript that you submitted to a prospective employer, contrary to section B.1.3(a) of the Code.

Particulars of the offences charged are as follows:

1. At all material times you were a student at the University of Toronto, enrolled in the Management Specialist program, which is offered jointly by the Faculty of Arts and Science and Joseph L. Rotman School of Management ("Rotman").
2. On or about September 12, 2013, you submitted an application, through Rotman, to CAA's summer internship program. The application that you submitted attached a document that purported to be your transcript (the "Purported Transcript").
3. The Purported Transcript did not accurately reflect your complete academic record with the University of Toronto. In particular, it failed to include your academic history in Fall 2011 and Winter 2012.
4. You knew or ought to have known that the Purported Transcript did not contain your complete academic record. You deliberately omitted your academic history in Fall 2011 and Winter 2012 from the application package that you submitted to the prospective employer in order to increase your chances of securing employment with that employer.
5. By engaging in the above conduct, you knowingly forged, altered or falsified an academic record, and/or uttered, circulated or made use of such forged, altered or falsified academic record.

Violation of the Code

[2] At the hearing, counsel provided the Tribunal with an Agreed Statement of Facts signed by the Student and the University which provided as follows:

A. Notice of hearing, charges, guilty plea

2. Mr. H [REDACTED] admits that he received a notice of hearing for October 31, 2014, at 9:45 am, and that he received reasonable notice of the hearing. The notice of hearing is included in the JBD at Tab 1.

3. Mr. H [REDACTED] admits that he received a copy of the charges filed by the Provost, which are included in the JBD at Tab 2.

4. Mr. H [REDACTED] waives the reading of the charges, and hereby pleads guilty to charge #1.

5. Mr. H [REDACTED] has been a registered student at the University of Toronto since Fall 2011. Since Fall 2012, Mr. H [REDACTED] has been enrolled in the Management Specialist program, which is offered jointly by the Faculty of Arts and Science and Joseph L. Rotman School of Management ("Rotman Commerce"). A copy of Mr. H [REDACTED]'s current academic record and history is found in the JBD at Tab 3.

B. Application for Employment with CAA

6. On or about September 12, 2013, Mr. H [REDACTED] submitted an application for a summer internship program with the Canadian Automobile Association ("CAA").

7. Mr. H [REDACTED]'s application to the CAA (the "CAA Application") included:

- (a) a cover letter addressed to Larry Opaski, which is included in the JBD at Tab 4;
- (b) his curriculum vitae, which is included in the JBD at Tab 5; and
- (c) a document purporting to be his academic history with the University of Toronto (the "Purported Academic History"), which is included in the JBD at Tab 6. The Purported Academic History

included Mr. H█████'s academic record with the University of Toronto in Summer 2012, Fall 2012 and Winter 2013. However, it did not include Mr. H█████'s academic record in Fall 2011 and Winter 2012. The Purported Academic History included Mr. H█████'s accurate GPAs.

8. Mr. H█████ submitted the CAA Application to Rotman Commerce's Career Services office, which submitted it to CAA on Mr. H█████'s behalf.

9. Mr. H█████ did not obtain a summer internship position with CAA.

C. Report to the Office of Student Academic Integrity

10. In or around March 2014, Ernst & Young ("E&Y") contacted Cynthia Bishop, Director, Student Life, Career Services and Alumni, Rotman Commerce about a concern that it had with an application that Mr. H█████ had submitted to E&Y's Global Perspective Series. In preparing to meet with Mr. H█████ about E&Y's concern, Ms. Bishop reviewed the file that her office had for Mr. H█████, which included a copy of the CAA Application.

11. In reviewing Mr. H█████'s file and the CAA Application, Ms. Bishop realized that the Purported Academic History that Mr. H█████ had submitted to CAA through Rotman Commerce did not contain Mr. H█████'s full academic record with the University of Toronto, and specifically, omitted Mr. H█████'s academic record in Fall 2011 and Winter 2012.

12. On March 28, 2014, Ms. Bishop met with Mr. H█████ to discuss the concerns with respect to both the E&Y and the CAA applications.

13. Ultimately, the concern that E&Y had raised with Rotman Commerce (which prompted Ms. Bishop to review Mr. H█████'s file) was resolved. There are no allegations of academic misconduct arising from those concerns.

14. Ms. Bishop reported the matter relating to the Purported Academic History to the Office of Student Academic Integrity.

D. Meeting with Dean's Designate

15. On April 30, 2014, Mr. H [REDACTED] met with Professor John Britton, Dean's Designate for Academic Integrity for the Faculty of Arts and Science. Mr. H [REDACTED] admits that Professor Britton provided the warning that was required to be given to him under the *Code*.

16. Mr. H [REDACTED] admitted to Professor Britton that he had intentionally omitted his academic record from Fall 2011 and Winter 2012 in the Purported Academic History that he submitted to CAA. He admitted that he had violated the *Code* by knowingly forging or in any other way altering or falsifying the Purported Academic History.

E. Admissions

17. Mr. H [REDACTED] admits that he knowingly altered the Purported Academic History that he submitted as part of the CAA Application, in violation of section B.1.3.(a) of the *Code*.

18. Mr. H [REDACTED] admits that he altered the Purported Academic History in order to:

- (a) conceal his academic history in Fall 2011 and Winter 2012 from CAA, and specifically:
 - (i) his mark and grade for ECO100Y1 (Intro Economics); and
 - (ii) an annotation that appeared on his transcript at the time; and
- (b) to increase his chances of obtaining employment with CAA.

19. Mr. H [REDACTED] acknowledges that:

- (a) the Provost of the University of Toronto has made no representations or promises as to what sanction the Provost will seek in this case; and

- (b) he is signing this ASF freely and voluntarily, knowing of the potential consequences he faces, and does so having been given the chance to obtain the advice of legal counsel and having done so.

[3] As a result, the University submitted (unopposed by the Student) that the Student violated section B.1.3(a) of the *Code* by having “forged or in any other way altered or falsified an academic record, and ... made use of such forged, altered or falsified academic record”. The Tribunal unanimously so found.

Sanction/Penalty

[4] The panel then proceeded to deal with the sanction. Again, the panel was presented with an Agreed Statement of Facts (on Penalty) which is signed by the Student and the University. It provides as follows:

A. Events following Offence

1) Meeting with Dean’s Designate

3. On April 30, 2014, Mr. H [REDACTED] met with Professor John Britton, Dean’s Designate for Academic Integrity for the Faculty of Arts and Science, and Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity, regarding the allegation of academic misconduct at issue in this proceeding. Mr. H [REDACTED] admits that Professor Britton provided the warning that was required to be given to him under the *Code*.

4. Mr. H [REDACTED] met with Professor Britton and Dr. Gourlay for over an hour. During the first hour of their meeting, Mr. H [REDACTED] advised Professor Britton and Dr. Gourlay that:

- (a) students who were applying for summer positions were required to submit a resume, cover letter and unofficial transcript;
- (b) He copied and pasted his academic history from the Repository of Student Information to submit as his unofficial transcript;

- (c) he was "really rushed" and did not know at the time of his submission that his application package was missing a page of his academic history. In that respect, Mr. H [REDACTED] insisted that he did not deliberately exclude the page of his academic history and the omission was accidental;
- (d) he only learned of the excluded page from his academic history in late march 2014 from speaking with Cynthia Bishop, Director, Student Life, Career Services and Alumni at Rotman Commerce;
- (e) when the issue was brought to his attention by Ms. Bishop, he wrote a letter of apology to the employer (CAA) and provided a complete copy of his academic history to Rotman Commerce to submit to the employer; and
- (f) the employer (CAA) responded to the letter of apology by expressing appreciation for the fact that he was being forthcoming.

5. After over an hour of discussion with Professor Britton and Dr. Gourlay (in which he denied that he had deliberately omitted the page of his academic history) and two breaks to permit Mr. H [REDACTED] to think about his situation, Mr. H [REDACTED] admitted that he had deliberately omitted the page from his academic history in his application to CAA. He did so in order to exclude (a) his grade in ECO100 (which he had taken in Winter 2012) and (b) the annotation on his academic history which related to a prior act of academic misconduct in ECO100 (referred to below), both of which were on the missing page.

6. After admitting that he had deliberately omitted the page of his academic history, Mr. H [REDACTED] advised professor Britton and Dr. Gourlay that:

- (a) he was stressed at the time;
- (b) he had high ambitions and when his earlier incident of academic misconduct arose, he felt as though his dreams were crushed;

- (c) his parents were divorced his mom was supporting him and he felt as though he needed to work hard to find a job that did not require a high GPA ; and
- (d) he had definitely learned a big lesson from his earlier incident of academic misconduct.

7. Professor Britton ended the meeting by advising Mr. H [REDACTED] that he would be in touch with Mr. H [REDACTED] about next steps in the process, including whether Professor Britton would be forwarding the matter to the Provost.

2) Subsequent Statements regarding Letter of Apology

8. Mr. H [REDACTED] admits that his statements to Professor Britton and Dr. Gourlay on April 30, 2014 that (a) he had written a letter of apology and provided a complete copy of his academic history to Rotman Commerce to submit to CAA, and (b) CAA had responded to his letter of apology by expressing appreciation for the fact that he was forthcoming, were false. In fact, by the time of his meeting with Professor Britton and Dr. Gourlay, he had not written a letter of apology or provided a complete copy of his academic history to Rotman Commerce or to CAA.

9. On May 15, 2014, Mr. H [REDACTED] met with Ms. Bishop. During that meeting, Mr. H [REDACTED] advised Ms. Bishop that he was in the process of finalizing his letter of apology to CAA and that he would submit the letter and a complete copy of his academic history to Rotman Commerce in the upcoming days. Mr. H [REDACTED] and Ms. Bishop agreed that Rotman Commerce would then send the letter and academic history to CAA on Mr. H [REDACTED]'s behalf.

10. Despite advising Ms. Bishop that he would, Mr. H [REDACTED] did not submit a letter of apology and complete copy of his academic history to Rotman Commerce to send to CAA.

11. On May 29, 2014, Dr. Gourlay sent Mr. H [REDACTED] an email, in which she wrote:

Dear Mr. H [REDACTED],

Professor Britton is still considering how he wishes to resolve your most recent academic offence.

You told us at the meeting on April 30, 2014 that after meeting with Cynthia Bishop, you wrote an apology letter to the firm to which you sent the incomplete academic record, and that they responded indicating they appreciated that you were forthcoming about the matter. Professor Britton would like to see a copy of your letter to the firm as well as their response. Please forward that information to me by no later than 5pm tomorrow, Friday, May 30.

Sincerely,

Kristi Gourlay

12. The next day, on May 30, 2014, Mr. H [REDACTED] responded to Dr. Gourlay's email as follows:

Hi Kristi,

Thanks for your email – hope all is well on your end.

Yes, attached is the email and letter that were sent off to prospective employers. As for their responses, I received one response via email and chatted on the phone, met one of the recruiters in person where I was able to receive appreciative words from them – I notified Cynthia Bishop, Director of Rotman Commerce Program, about this in our meeting. For the other employer, I am still waiting to hear back – if I do not hear back soon, then I am preparing to visit and meet them in person to apologize. I will take corrective actions to ensure that I apologize and remedy the situation.

Again, sorry for the inconvenience and thank you for considering my case.

Hope to hear back from you soon.

Best Regards,

D [REDACTED] H [REDACTED]

13. Mr. H [REDACTED] attached the following Word documents to his email of May 30, 2014 to Dr. Gourlay:

- (a) an unsigned letter dated April 20, 2014 from Mr. H [REDACTED] addressed to "To whom it may concern", with the subject line, "Fall 2013 Application – Letter of Apology" (the "April 20 Letter");
- (b) an unsigned and undated letter from Mr. H [REDACTED] to "Katie";
- (c) an unsigned and undated letter from Mr. H [REDACTED] to "Rigel"; and
- (d) a document purporting to be an email from "Rigel" to Mr. H [REDACTED].

14. Copies of Dr. Gourlay's email of May 29, 2014 and Mr. H [REDACTED]'s response of May 30, 2014, together with the four attachments, are attached at **Tab 1**.

15. Mr. H [REDACTED] admits that:

- (a) none of the attachments to his email of May 30, 2014 contained the letter of apology that was sent to CAA, and in fact, he had not sent a letter of apology to Rotman Commerce or to CAA; and
- (b) he knew that his email of May 30, 2014 and attachments were misleading when he sent them.

16. Later that day, on May 30, 2014, Dr. Gourlay sent an email to Mr. H [REDACTED] to request clarification respecting the letter of apology to the CAA. She wrote:

Dear D [REDACTED],

Thank you for getting back to me. What we are looking for is your letter to the CAA summer internship program, and their response. I believe that letter would have been directed to Larry Opaski, to whom you submitted the misleading academic record. If that correspondence was done via email, please forward to me a copy of the emails.

Sincerely,

Kristi Gourlay

17. On June 2, 2014, Mr. H [REDACTED] responded to Dr. Gourlay's email as follows:

Good Morning,

Thanks for your email!

The mail that was addressed to CAA is as attached. Students were never told of the name Larry Opaski from the application website, so my letter was addressed to CAA Recruiting. I have not heard back from them yet and am still waiting for their response. Please let me know how I can follow up with you with regards to the next steps...!

Thanks in advance,

Best regards,

D [REDACTED] ([REDACTED]) H [REDACTED]

18. Mr. H [REDACTED] attached the same April 20 Letter to his email of June 2, 2014 as was attached to his email to Dr. Gourlay of May 30, 2014.

19. Copies of Dr. Gourlay's email of May 30, 2014 and Mr. H [REDACTED]'s response of June 2, 2014, together with the attached April 20 Letter, are attached at **Tab 2**.

20. Mr. H [REDACTED] admits that:

- (a) the attachment to his email of June 2, 2014 was not the letter of apology that was sent to CAA, and in fact, he had not sent a letter of apology to Rotman Commerce or to CAA; and
- (b) he knew that his email of June 2, 2014 and attachment were misleading when he sent them.

21. Despite his representations to Professor Britton, Dr. Gourlay and Ms. Bishop, Mr. H [REDACTED] has not submitted a letter of apology to Rotman Commerce or CAA regarding this matter.

22. On June 5, 2014, Professor Britton sent an email to Mr. H [REDACTED] summarizing their meeting of April 30, 2014 and subsequent events, and advising Mr. H [REDACTED] that he would be forwarding the matter to the Provost.

23. A copy of Professor Britton's letter to Mr. H [REDACTED] is attached at **Tab 3**. Mr. H [REDACTED] acknowledges that Professor Britton's letter accurately describes the contents of their meeting on April 30, 2014 and subsequent communications.

B. Prior Offence

24. In Winter 2012, Mr. H [REDACTED] was enrolled in ECO100Y1 (Introduction to Economics), which was taught by Dr. Gusatvo Indart. On or about February 17, 2012, Mr. H [REDACTED] wrote Term Test 3 in ECO100Y1, which was worth 16.67% of his final grade in the course.

25. On or about February 27, 2012, the graded Term Test 3 was returned to Mr. H [REDACTED]. Mr. H [REDACTED] received a mark of 80/100. The solution to the test was posted on the course website and students were given seven days from February 27, 2012 to submit their test papers for remarking, if they wished.

26. Mr. H [REDACTED] submitted his Term Test 3 to Dr. Indart for remarking within the seven day period. In his submission, Mr. H [REDACTED] indicated that the explanations to three of the multiple choice questions were marked incorrectly and questioned the marking of several multi-part questions.

27. Dr. Indart reviewed Mr. H [REDACTED]'s request to remark Term Test 3 and determined – with one exception – that for each of the questions that Mr. H [REDACTED] had identified for remarking, there was either no merit in the request or the answer appeared to have been altered after the test paper was returned to Mr. H [REDACTED]. The one exception related to one multi-part question, which was marked incorrectly for all students.

28. On March 7, 2012, before the remarked test papers were returned to students (including to Mr. H [REDACTED]) and before Dr. Indart discussed his concerns with Mr. H [REDACTED]'s test paper with him, Dr. Indart announced in class that some students appeared to be abusing the system by requesting a remarking of the test without proper cause and/or by submitting altered test papers for remarking. Dr. Indart also mentioned in class that he sometimes photocopied test papers before returning them to students in order to detect alterations.

29. Shortly after Dr. Indart's announcement in class, on March 7, 2012, Mr. H [REDACTED] contacted Dr. Indart to request an appointment. The next day, on March 8, 2012, Mr. H [REDACTED] met with Dr. Indart and admitted to altering some of his answers on the test paper that he had submitted for remarking. The matter was subsequently forwarded to the Dean's office.

30. On April 12, 2012, Mr. H [REDACTED] met with Professor Adrienne Hood, Dean's Designate for Academic Integrity for the Faculty of Arts and Science, and Dr. Gourlay regarding the allegation of academic misconduct. Mr. H [REDACTED] admits that Professor Hood provided the warning that was required to be given to him under the *Code*.

31. During the meeting on April 12, 2012, Mr. H [REDACTED] admitted that he had altered his test paper for Term Test 3 before submitting it for remarking, and he knew that it was wrong to do so. He explained that his parents were divorced and he was under a lot of pressure to take care of his sister and mother. He had studied very hard for Term Test 3, but suffered from test anxiety, and was ultimately disappointed with his grade. He was apologetic for his conduct. He described his conduct as shameful and explained that it was his shame that caused him to confess to altering the test paper to Dr. Indart. He stated that he had learned his lesson and the importance of ethics and integrity.

32. Professor Hood and Dr. Gourlay advised Mr. H [REDACTED] that the typical penalty for a serious offence of the nature that Mr. H [REDACTED] had committed was a zero in the course and a suspension of some length. However, Professor Hood advised Mr. H [REDACTED] that she appreciated the fact that he was honest with both her and Dr. Indart, including by proactively approaching Dr. Indart to admit his mistake. As a result, Professor Hood imposed a more lenient sanction of:

- (a) a zero for Term Test 3 and a further grade reduction equivalent to the value of the test (16.67%); and
- (b) an annotation on Mr. H [REDACTED]'s transcript from March 1, 2012 to February 28, 2014.

33. On April 17, 2012, Professor Hood sent an email to Mr. H [REDACTED], summarizing their meeting of April 12, 2012 and imposing the sanction described above. Professor Hood concluded her letter by stating:

I strongly recommend that you seek the advice of your registrar regarding your academic goals and how best to achieve them while adhering to the highest standard of academic integrity. If you suffer from test/exam anxiety, there are resources at the University to assist you in developing strategies to overcome this challenge.

While I trust that you have learned from this experience, this letter is a warning to you that all future academic work must be conducted in accordance with the rules and regulations of the University, with which you are expected to be familiar. If you should come to my attention again for another allegation of academic misconduct, the consequences will be much more severe.

34. A copy of Professor Hood's email is attached at **Tab 4**. Mr. H [REDACTED] acknowledges that Professor Hood's letter accurately describes the contents of their meeting on April 12, 2012.

35. On or about May 4, 2012, Mr. H [REDACTED] sent a letter to Professor Edith Hillan, Vice-Provost, Faculty and Academic Life, requesting reconsideration of the sanction imposed by Professor Hood. A copy of Mr. H [REDACTED]'s letter is attached at **Tab 5**.

36. On or about June 1, 2012, Professor Hood sent Professor Hillan a response to Mr. H [REDACTED]'s request for reconsideration of the sanction. A copy of Professor Hood's letter is attached at **Tab 6**.

37. On June 15, 2012, Professor Hillan dismissed Mr. H [REDACTED]'s request for reconsideration of the sanction. A copy of Professor Hillan's letter is attached at **Tab 7**.

38. By September 23, 2013, when Mr. H [REDACTED] submitted his summer job application to CAA, the annotation respecting his sanction for academic misconduct in ECO100 remained on his transcript. As set out above, Mr. H [REDACTED] admits that he deliberately omitted one page of his academic history from his

application to CAA in order to conceal from CAA both his grade in ECO100 and the annotation relating to his prior academic misconduct.

C. Current Academic Status

39. A copy of Mr. H [REDACTED]'s current academic record is attached at **Tab 8**. The transcript annotation respecting Mr. H [REDACTED]'s sanction for academic misconduct in ECO100 does not appear on the academic record because it was in place from March 1, 2012 to February 28, 2014, and as a result, it has since been removed. Nor does the transcript annotation appear on the academic record dated August 20, 2014, at Tab 3 of the Joint Book of Documents, for the same reason.

40. Mr. H [REDACTED] was scheduled to write four exams in the April 2014 examination period:

- (a) RSM333H1S, which Mr. H [REDACTED] took in Winter 2014;
- (b) RSM221H1F and RSM324H1F, which Mr. H [REDACTED] took in Fall 2013, but had deferred from the December 2013 exam period to the April 2014 exam period; and
- (c) RSM222H1S, which Mr. H [REDACTED] took in Winter 2013, but had deferred from the April 2013 exam period to the December 2013 exam period, and had deferred a second time from the December 2013 exam period to the April 2014 exam period.

41. Mr. H [REDACTED] did not write any of the above exams in April 2014. On or about May 5, 2014, Mr. H [REDACTED] submitted a petition, seeking to defer each of the above exams to a later date.

42. On July 3, 2014, Mr. H [REDACTED] was notified that his petition request was granted and that he could defer (or redefer) his RSM333H1S and RSM221H1F exams to the August 2014 exam period and his RSM222H1S and RSM324H1F exams to the December 2014 exam period. Mr. H [REDACTED] was also notified that he was restricted from further course enrollment until he resolved all four of his deferred exams. A copy of the notification is attached at **Tab 9**.

43. Mr. H [REDACTED] did not write his RSM333H1S and RSM221H1F exams in August 2014. On August 29, 2014, he was notified by Jennifer Blackett Assistant Registrar, Petitions at Woodsworth College, that he was restricted from further course enrollment until he resolved all four of his deferred exams. At the time, he was enrolled in a full course load for Fall 2014. A copy of the email from Jennifer Blackett to Mr. H [REDACTED] is attached at **Tab 10**.

44. Mr. H [REDACTED] was subsequently removed from all courses in Fall 2014.

45. Mr. H [REDACTED] has not written any of the exams in RSM333H1S, RSM221H1F, RSM324H1F or RSM222H1S. Mr. H [REDACTED] has been restricted from enrolling in any further courses since July 3, 2014. He has not enrolled in any courses at the University since Winter 2014.

D. Acknowledgements

46. Mr. H [REDACTED] acknowledges that:

- (a) the Provost has advised Mr. H [REDACTED] of his right to obtain legal counsel and that Mr. H [REDACTED] has done so; and
- (b) he is signing this ASF on Penalty freely and voluntarily, knowing of the potential consequences he faces, and does so with the advice of counsel.

[5] However, the University and the Student disagreed about the sanction that should be imposed on the Student in these circumstances. The University sought a penalty of:

- (a) a 3-year suspension;
- (b) a 4-year notation on the Student's transcript; and
- (c) an order of publication with the name of the Student withheld.

[6] The Student submitted that the appropriate sanction in the circumstances was a 2-year suspension (retroactive to September 2014) with a notation on the transcript for 2 to 3 years from the date of this decision.

Additional Evidence

[7] In addition to the Agreed Statement of Facts, the Student testified on his own behalf and called a further witness, Horim Lee.

[8] The Student gave extensive testimony about his background in the circumstances around the commission of these violations of the *Code*. There can be no question that the Student has had a challenging life. Born to privilege and wealth in Korea, the Student attended private schools of apparently the first order. His father, a prominent physician, demanded excellence of the Student. Unfortunately, the marriage between the Student's mother and father collapsed and the Student witnessed both the private and public verbal and physical abuse of his mother by his father. Ultimately, the Student and his mother and sister were abandoned by the father who found a new life with another woman and her children. His parents were divorced and apparently, the father was directed by the courts in Korea to pay support to the Student and his sister until they had completed university.

[9] In an attempt to establish a new life, the Student's mother together with the Student and his sister immigrated to Canada. In addition to the struggles of all immigrants arriving in a new land unable at first to speak the language, the father apparently ceased his support payments and there is ongoing litigation to this day about that. As a result, the Student and his family lived in somewhat dire straits in Coquitlam, British Columbia, while the mother struggled in order to support the Student and his sister. Notwithstanding these challenging circumstances, the Student quickly learned English and thrived. The Student was academically successful in Coquitlam, not only graduating with superior grades but also becoming the president of his student council class, driven both by the quest for success instilled in him in his early years in Korea and his desire to succeed and work, to improve life for his mother and sister. Ultimately, the Student determined a faster track to success would be to pursue a business degree at the Rotman School at the University rather than pursue studies for a medical degree locally. The Student moved to Toronto to attend the University but was constrained by his very limited financial resources to say nothing of being alone in a new city where he had no friends or family. He described his life as stressed by his drive for success and the many work and extracurricular activities that he undertook to achieve this success. It was in this set of circumstances that the Student's first

academic transgression occurred in his ECO100 course in March of 2012 when he falsely altered a term test which he submitted for remarking. The Student explained that he had been driven by his desire to progress faster than his friends and contemporaries in order to help his mother and once he realized his wrongdoing, he confessed to the Professor.

[10] At this time, the Student said he was overwrought with guilt and thought it was “the end of the world”. At that time, he then entered into a relationship with a female student at the University. At first, the relationship was supportive and helped him. However, the relationship, after this promising beginning, deteriorated into an increasingly jealous, possessive and abusive relationship, ultimately resulting in a physical altercation between them when the young woman attended at the Student’s university residence and assaulted him. This resulted in the involvement of the campus police and ultimately the Toronto Police. The Student told the panel of the difficulties of his girlfriend’s arrest, his resultant dealings with the police and the subsequent proceedings. Ultimately, a peace bond was obtained and the young woman was prohibited from seeing the Student. The altercation and arrest took place in October 2013, only weeks after the academic offence with which he was charged in this proceeding – which occurred during the emotional and tumultuous period preceding the assault.

[11] In addition, the Student told us about attending a seminar at Ryerson University in August 2013 advertised for “leaders in investment banking”. The seminar was to help people with job prospects, how to do resumes, how to structure interviews, etc. Among the speakers was a “star” investment banker, Mr. Hussein, who gave a lecture on how to present yourself to prospective employers. That advice, according to the Student, was always to present yourself in the best light that you could – if your GPA was less than 3.4, then don’t even mention it. If you could get your “foot in the door” then were asked to provide your GPA or an official transcript, you would do so, but you needed to get your foot in the door first. It was in this light the Student sought to explain the alteration of his transcript submitted to the CAA. The Student indicated that the CAA was asking for unofficial transcripts and accordingly he did not think that what he was presenting to them necessarily had to be the official transcript. He did not regard it as changing the transcript in the sense that he was not changing his grades. If someone asked for his official

complete transcript, the Student said he gladly would have provided it. In fact, at no interview (including the CAA) did anyone do that.

[12] In terms of the misleading nature of his conversations with the University concerning his apology letter to the CAA, the Student explained that he did write out a handwritten apology (which was filed as an exhibit) but his procrastinating and inability to face up to the situation caused him to wait until the last minute to send it. In fact, he “met” the deadline that Ms. Bishop imposed by sending it to her only three minutes before. Again, this was attributed to his stress and his inability to deal with all the things going on in his life at the time.

[13] We were also presented with medical evidence that the Student finally began to seek some medical assistance. The Student told us that was initiated when his University counselors thought he might be suicidal and as a result he began seeing Dr. Robert Friedman, psychiatrist at the University of Toronto’s Counselling and Psychological Services, on August 15, 2014 (after these charges of academic misconduct had been filed against him when the Dean’s Designate determined to refer the misconduct with respect to altering the transcript to the University Provost). Although the University did not object to the introduction of these medical and other reports, it did say it was not necessarily agreeing to their contents. In any event, the psychiatrist indicated that the Student had been seen on many occasions from August 15, 2014 to March 26, 2015 and was diagnosed with major depression and anxiety disorder. The panel was also presented with other recent medical reports confirming those diagnoses from his family general practitioner and also a recent episode where he was briefly kept overnight at the CAMH because of the risk of the Student causing harm to himself and possibly to others.

[14] The Student asserted that he is now dealing with his stress. With the help of his psychiatrist and doctors, he is learning techniques to calm himself and to cope. He is taking his medication and dealing with the program at CAMH. He said that he has learned from his mistakes and will not repeat such misconduct. Conceding that he had previously said that with respect to the first academic misconduct, he said this second incident is now different because it has been raised to a much more serious level involving these

proceedings at the Tribunal compelling him to hire a lawyer and now he was getting the help of a psychiatrist. He asserted that these types of incidents would never occur again.

[15] In cross-examination, the Student conceded that with respect to the earlier academic misconduct of submitting an altered test result in ECO100 for remarking, he wanted the University both to know he was remorseful and to take that into consideration to get a more lenient sanction (and which he fully understood is what happened). Equally, he conceded both that he understood the importance of academic integrity as well as the University resources that were available to him to cope with university life (and which he utilized at least in a limited fashion) – both of which had previously been stressed to him during his meeting and correspondence with the University with respect to that first academic misconduct. Equally, the Student conceded that even though he understood that he had received a lesser sanction for that first academic misconduct, he still was not satisfied with that lesser sanction and sought to appeal it (unsuccessfully) to yet reduce it further. The Student also conceded that when he confessed to the alteration of the quiz submitted for remarking, it was after the Professor had announced to the class that he had kept photocopies of some of the quizzes, so he appreciated there was a risk that he would be caught.

[16] Equally, with respect to the current and second academic misconduct, altering the transcript submitted to the CAA, the Student conceded that he had told the University that he had sent the letter of apology to the CAA because he wanted the University to believe he had remedied the situation (and wanted to receive, again, a lesser sanction) notwithstanding that it was not true. He conceded that there were several opportunities in the exchange of emails with the University for him to admit that he had not yet sent the letter of apology which he failed to do.

[17] Also, in cross-examination, several Facebook and LinkedIn postings were reviewed with the Student which showed that, notwithstanding all of the other students' difficulties, during Fall 2014 and Spring 2015 the Student was still involved in publicizing various of his extracurricular activities including the Hart House Investment Club – some of which when he was not enrolled or attending classes.

[18] The Student also called as a witness, Horim Lee, who was the Student's roommate in his first year. Mr. Lee testified about how the Student was perfectly normal at first but then deteriorated throughout the year, even trying to kill himself. Mr. Lee testified that he fully believed that the Student completely regretted his acts and that in ten years he would be hugely successful.

[19] In cross-examination, Mr. Lee conceded that he was unaware of the Student's attempts to mislead the University after he had admitted altering the transcripts submitted to the CAA (in particular his failure to submit letters of apology to the CAA notwithstanding he repeatedly asserted that he had) – but in any event, it did not change Mr. Lee's view of the Student and he still supported the Student.

Submissions

(a) The University

[20] As noted at the outset, the University sought a three-year suspension for the Student with a four-year notation on his academic record and the publication withholding the Student's name.

[21] The University asserted that the panel should take guidance from three areas:

- (a) the *Code* itself;
- (b) the factors listed in the seminal Tribunal decision of *Mr. C.* (Case No. 1976/77-3; November 5, 1976); and
- (c) the other jurisprudence of the Tribunal.

(i) The Code

[22] The University pointed us to Appendix "C" of the *Code* which contained the *Provost's Guidelines on Sanctions, Offences and Suggested Penalties For Students*, in particular in paragraph 3:

"Where a student has been previously convicted under the Code and commits another offence, the recommended sanction shall be from suspension for two years to expulsion from the University."

After observing that this was not the Student's first offence, the University conceded that it was only a guideline and not in any way binding upon the panel.

(ii) The Factors in the *Mr. C. Case*

[23] The University referred the panel to the frequently-cited passage in the *Mr. C.* case, at page 12:

“What then are the principles that this Tribunal should follow in dealing with an appeal from sentence? First, in my opinion, punishment is not intended to be retribution to get even, as it were, with the student for what he has done. It must serve a useful function. The classical components of enlightened punishment are reformation, deterrence and protection of the public. In applying these criteria, a tribunal should consider all of the following:

- 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;
- f) the need to deter others from committing a similar offence.”

The University reviewed these criteria (conceding that some of them overlapped). The University conceded that there was no order of significance to the criteria and the weight the Tribunal placed on any individual factor was in its discretion.

(a) Character of the Person Charged

[24] The University concedes that the Student has admitted his guilt, participated in this process and demonstrated some remorse, all of which point to a lesser penalty. However, the University further submits that there is a pattern in the Student's previous conduct demonstrating a willingness to be dishonest in order to obtain an advantage. When the Student altered a quiz and submitted it for remarking in ECO100 (which was not only a

serious offence but was a deliberate act that could not be attributed to inadvertence or carelessness), he ultimately did admit to the offence at an appointment he had made with the Professor involved. But that only occurred after the Professor announced in class that there was abuse of the remarking taking place and accordingly he had photocopied some papers so that there was a real risk that the Student would be caught. Although the Student proffered remorse in his meetings with the University afterwards, he admitted that he wished to obtain a more lenient sanction and did not wish to be suspended. Notwithstanding that a lesser sanction was imposed, or the letter which stressed the importance of honesty and integrity at the University and gave a clear warning that further misconduct would lead to more serious consequences, the Student still sought reconsideration of the sanction imposed (as he was clearly entitled to do) or to obtain a yet more lenient sanction. In the University's view, what this demonstrated was the Student's refusal to accept the seriousness and the consequences of his misconduct – he was prepared to admit guilt and apologize, just not accept the consequences.

[25] In the University's view, this pattern was demonstrated again with these current charges and this academic misconduct. At the meeting with the University initially, he did not admit to his guilt in altering the transcript. Ultimately he did admit that it was deliberate conduct on his part but then, tried to mitigate, if not avoid, the consequences by telling the University that he had apologized and remedied the situation. Even when repeatedly confronted with subsequent requests for the supporting documents, the Student persisted in maintaining that false story. In the University's view, this again demonstrated the repeated pattern of admitting guilt but not accepting the consequences of the conduct for which he had admitted guilt.

[26] The other letters of reference that the Student filed with respect to his character, in the University's view, could not be given very much weight. Leaving aside that none of the individuals appeared (in which case they could be subject to cross-examination), none of them clearly revealed the author's knowledge of the specifics of the Student's academic misconduct or the Student's persistence in covering it up in an attempt to avoid the consequences.

[27] In the University's submission, credit had already been given to the Student for his admissions and his remorse by the University seeking only a three-year suspension (a penalty more lenient than the circumstances would otherwise warrant – see previous Tribunal decisions discussed below), but that a three-year suspension was still warranted because there could be no certainty whether the Student actually understood or appreciated the seriousness of his misconduct.

(b) Likelihood of Repetition of the Offence

[28] The University again stressed that there could be no certainty with respect to the conduct of the Student in this regard also. The Student clearly expressed remorse and said that he would never engage in such misconduct again – but he had already said that before. In the University's submission, one could not help but be skeptical in these circumstances – particularly when the University had already taken him “at face value” in imposing a lesser sanction for the earlier academic misconduct. It was true that the Student was now obtaining psychiatric assistance and taking medication, but that was again already factored into why the University was seeking only a three-year suspension.

(c) The Nature of the Offence Committed and the Detriment to the University

[29] The University stressed that the falsification of a University academic record went to the heart of what the University was about. Transcripts and academic history were relied on not only by the University internally, but all those outside of the University. It was critical to the University that its academic records could be relied upon. The University pointed us to what the Tribunal had earlier written in the A ■■■ K ■■■ G ■■■ case (Case No. 508; October 14, 2008), at paragraphs 18 and 19:

18. As to the nature of the offence and the detriment to the University, we note that the integrity of the University as an educational institution and as a degree-granting body is fundamental to the academic relationship. Many important third parties, including potential employers, members of the public and other institutions of higher education rely on records of transcripts and of degrees as correctly representing the academic achievements of those to whom they are awarded. Falsification of records of transcripts and of degrees strikes at the heart of the honesty and integrity which is at the core of the academic experience and evaluation.

It undermines not only the credibility of the University but also the credibility of other students who have legitimately achieved the marks and degrees recorded in such records. It is important that when confronted by such falsification, the University treat, and be seen to treat, such conduct very seriously.

19. We agree with the observations made recently by the University Tribunal in a case involving the falsification of course records by a law student:

“What can be said overall is that this Tribunal and its predecessors have, by and large, treated the falsification of an academic record as a most serious offence, striking directly at the core values of the University, and demonstrating a fundamental failure to act with the integrity and the necessary shared values of honesty and standards which members of the University community must display and adhere to. **Expulsion from the University or recall of the degree has more often than not been the penalty imposed for falsified reporting.** One sees in the cases some emphasis on the deception of third parties as particularly offensive conduct and of course this is present in this case. Acts of falsification and deception like these are intentional and purposeful and, as here, there is no room for any suggestion of mere negligence or even recklessness as mitigating features.

[emphasis added]

[30] As a result, in the G [REDACTED] case, a suspension of 5 years was imposed. In the University's view, the fact that what was involved in the Student's misconduct was a falsification by omission (in the sense that he only omitted things from the transcript as opposed to actually changing his grades), is one of the factors that justified the University only seeking a three-year suspension as opposed to a higher one.

(d) Mitigating Circumstances

[31] The University conceded that there were some mitigating circumstances, such as the Student's admission of guilt, his demonstrated remorse and his cooperation and participating with this process, all of which worked in the Student's favour. Again, the University's submission was that these factors had already been considered by the University seeking a suspension of only three years. The University did not dispute the hardships the Student had faced (a letter from the Student's mother was filed with the panel) but such hardships did not necessarily dictate a sentence more lenient than the University proposed. Equally, although the University had permitted the introduction of the

medical evidence from the Student's psychiatrist and family doctor, they were all after the fact and none established (or even purported to establish) a connection between that and the commission of the academic offence which occurred well before any of the doctors were seen by the Student. The fact that the Student had difficulty coping with the pressure of the university life was part of the reality of university life – there are always pressures on students. Ultimately, the University position was that there was no significant or causal connection between the difficulties (such as the difficulties encountered by the Student before he left Korea or the impact of his failed relationship with his girlfriend) and the actual misconduct that the Student had engaged in. In any event, whatever their impact or connection, they had already been factored into the lesser sanction that the University was seeking.

(e) General Deterrence

[32] The University stressed that importance of sending a strong message that the falsification of records sent to third parties could not in any way be condoned or tolerated. It was crucial to the University that third parties could rely on University records. Even more significant was how difficult such misconduct was to detect generally. Even here, the misconduct only came to light as a matter of happenstance when another employer asked a question of the University – otherwise the Student's misconduct would never have been detected.

(f) Prior Tribunal Jurisprudence

[33] The University filed with the panel, copies of a number of previous Tribunal decisions all involving falsification of University records:

1. *University of Toronto and Mr. C.* (Case No. 1976/77-3; November 5, 1976)
2. *University of Toronto and A [REDACTED] K [REDACTED] G [REDACTED]* (Case No. 508; October 14, 2008)
3. *University of Toronto and D [REDACTED] D [REDACTED]* (Case No. 593; September 3, 2010)
4. *University of Toronto and S [REDACTED] D [REDACTED]* (Case No. 637; May 1, 2007)
5. *University of Toronto and Mr. A [REDACTED] F [REDACTED]* (Case No. 2004/05-07; May 16, 2005)

6. *University of Toronto and T [REDACTED] A [REDACTED]* (Case No. 726; April 8, 2014)
7. *University of Toronto and T [REDACTED] W [REDACTED]* (Case No. 762; November 18, 2014)
8. *University of Toronto and M [REDACTED] R [REDACTED]* (Case No. 714; October 11, 2013)
9. *University of Toronto and U [REDACTED] H [REDACTED]* (Case No. 613; April 5, 2011)
10. *University of Toronto and S [REDACTED] M [REDACTED]* (Case No. 510; March 28, 2006)
11. *University of Toronto and F [REDACTED] D [REDACTED]* (Case No. 441; Hearing: May 31, 2006 and August 15, 2006)
12. *University of Toronto and D [REDACTED] S [REDACTED]; Discipline Appeals Board* (Case No. 451; August 24, 2007)

[34] All of the cases, unlike the Student's situation, involved first offences. In all of them, like this case, there were no agreed or joint submissions on penalty. The majority of the cases imposed a sanction of recommended expulsion. The least penalty imposed was a suspension for three years – and that was only in the *D [REDACTED]* case where a law student had falsified some grades but by the time of the University hearing, the law student had already graduated. That case, in the University's view, was clearly distinguishable from this case. The panel, in *D [REDACTED]* notwithstanding that the University sought a revocation of that student's law degree, held the student's remorse and its concern about not ending the student's already-commenced career as a lawyer, warranted only a three-year penalty. In all of the other cases that did not result in a recommendation of expulsion, the suspension was for greater than three years, and usually five years.

[35] Ultimately, the University submitted that by limiting the sanctions to those it sought, it had factored in whatever mitigating factors there were and therefore its proposed sanctions ought to be imposed.

(b) The Student's Submissions

[36] Counsel for the Student reviewed the difficult circumstances that the Student, who was only 21 years old, had already endured in his life – from Korea where he witnessed the verbal and physical abuse of his mother, the disintegration of his parents' marriage, and being abandoned by his father, to the struggles of establishing a new life in Canada. Counsel reviewed the extreme stress the Student encountered in arriving alone at the

University far away from his adopted home and his struggles to survive as a student. In counsel's submission, what this past history demonstrated was not so much of a proclivity to mislead (as the University would have it) but the fact that he was just not very good at it – he “broke” easily and confessed to his wrongdoing readily. Whereas before the Student had little support, he had now been diagnosed with and was being treated for depression and anxiety disorder and that underlying condition ought to inform the panel about his earlier behaviour. With his new support, counsel submitted that the Student had good prospects for success in the future notwithstanding his exercise of poor judgment in a number of situations in the past – the Student always had a moral centre that had caused him to ultimately confess and admit to his misconduct.

[37] Counsel for the Student referred to the Supreme Court of Canada decision in *R. v. Proulx*, [2000] 1 S.C.R. 61 at para. 82 for the proposition of individual proportionality with respect to sentencing:

“82 This Court has held on a number of occasions that sentencing is an individualized process, in which the trial judge has considerable discretion in fashioning a fit sentence. The rationale behind this approach stems from the principle of proportionality, the fundamental principle of sentencing, which provides that a sentence must be proportional to the gravity of the offence and the degree of responsibility of the offender. Proportionality requires an examination of the specific circumstances of both the offender and the offence so that the “punishment fits the crime”. As a by-product of such an individualized approach, there will be inevitable variation in sentences imposed for particular crimes. ...”

[38] Counsel for the Student also reviewed the factors in the *Mr. C.* case. In terms of character, although the Student had demonstrated poor character in what he did, which was exacerbated by his trying to mislead the University, all of this has now been admitted and the Student entered into an agreed statement of facts. The Student's reasons for attempting to mislead the University were consistent with the now-established diagnosis of depression and anxiety disorder – the Student's desperate and ultimately futile attempt at avoidance. These now-diagnosed psychological problems now shed light on the Student's otherwise bizarre behavior. Unlike many of the previous decisions of the Tribunal referred

to by the University, the Student was present at this hearing and gave evidence, providing the panel an opportunity to assess his character. In counsel's submission, the Student was clearly sorry. In terms of why the Student should be believed now when he had made such assertions previously, counsel pointed out the fact that he was now receiving psychiatric care and was aware of his psychiatric problems and taking medication. He was now aware what was causing his difficulties and was now dealing with them. Counsel could not help but observe the irony of the situation that previously the Student's family and, in particular his mother, had been unable to visit him, but was now here to support him. With this support, his future prospects were also enhanced.

[39] Although the nature of the misconduct was serious, counsel submitted the Student's conduct was not really public and the University's reputation was really not sullied. More importantly, the conduct was not the most egregious of conduct – the Student had not altered his grades (unlike, for example, the G [REDACTED] case where there were 12 grade alterations) and had merely omitted the first page of the transcript and which he testified he would certainly have provided to anyone if asked.

[40] In counsel's submission, a truly proportionate penalty would be a suspension of only two years. Moreover, counsel urged that the suspension be retroactive to September 2014. Essentially, the Student had not been attending classes at the University since before Fall 2014 in what counsel described as a "self-suspension" so with the Student's proposed effective date, it would still amount to a two-year suspension.

Reply of the University

[41] The University in response stressed that whatever the medical evidence, there was absolutely no evidence that actually connected whatever the Student's problems presently to his previous conduct (nor could there really be since the doctors were not seen until well after the conduct had been committed). The University strongly disagreed with any characterization of the Student's absence from classes in 2014 as a "self-suspension" – the truth of the matter was the Student attempted to enroll and in the 2014 academic year was removed by the University's Registrar because he had not written the required make-up exams.

Decision

[42] This case has been difficult to decide. It is not a case where a Student denies his conduct (or fails to attend at a hearing requiring the University to still establish that misconduct). The Student has fully admitted his misconduct – both in agreed statements of fact and when cross-examined by counsel for the University.

[43] It is not a case where there is a hugely significant disparity between the sanction that the University wishes to impose and the sanction that the Student suggests he deserves. The disagreement is over one year of suspension – even with a suspension made retroactive as the Student urged, and is still only a disparity of approximately 20 months. We in no way question either the necessity for proportionality in sanction or the need for individualized sanction – “making the penalty fit the crime” as the Student’s counsel put it. However, whether we accept the University’s position, or we accept the Student’s position, there is no dispute that in the submissions of both parties, both have sought, in the unusual mixture of factors in this case, to make the penalty here fit the particular crime and circumstances of the Student.

[44] What this decision really turns on, in our view, is the ability or the wisdom of the Tribunal attempting to “fine tune” sanction. Although we do not wish to trivialize the difference between the position of the parties, it is not hugely divergent. The University recognizes that there are mitigating circumstances and has therefore reduced the penalty it seeks beyond what has been imposed in the overwhelming majority, if not all, of the prior Tribunal cases referred to us. The Student recognizes that he has committed serious misconduct that should bear some not insignificant sanction.

[45] In the end, we are not persuaded that the sanction the University seeks is either so disproportionate or so out of touch with the set of circumstances applying here, that it ought to be reduced any further. We say this for a number of reasons. First, we do not consider it accurate to characterize the Student’s failure to attend classes in 2014 as anything like a “self-suspension”. The Student sought to attend classes in 2014 (albeit to some degree to demonstrate that he was still enrolled in the University in connection with ongoing litigation in Korea concerning the father’s support obligations). The Student was removed simply because the Student had failed to write the required make-up examinations. In fact, the

Student had requested a deferral of his examinations a number of times and the University cooperated. The simple point is that the failure to attend classes in 2014 was not in any way discipline or sanction imposed by the University, nor was it out of any recognition of the Student that it should be part of any such discipline or sanction imposed by the University. It may be that the Student was psychologically unequipped to write such exams and attend the University at that time, but that would not be as a result of the misconduct, either because a penalty was imposed by the University or because the Student was in some way imposing some penance on himself. Accordingly, the difference then between the sanction sought by the University and the sanction sought by the Student is really only one year.

[46] More importantly, even denying any request by the Student to backdate the suspension, the suspension the Student seeks is only a two-year suspension. No Tribunal case that was referred to us has imposed that light a suspension in circumstances of this type of misconduct. The lightest sanction imposed in any decision referred to us (the *D* [REDACTED] case) was the three years that the University sought to impose. Moreover, in *D* [REDACTED], it was a first offence, not like the situation here. Moreover, all of the other cases referred to us imposed a suspension of at least five years and most of them recommended expulsion from the University. In the circumstances of this serious type of misconduct (and the Student has not denied the seriousness of the misconduct) and considering deterrence alone – a principle that requires a consistent message about the seriousness with which the conduct is regarded by the University community and the consequential penalty that will be imposed – we do not think that less than a three-year suspension would be appropriate.

[47] Again, we do not seek to be dismissive of the fact that the Student is now obtaining psychological treatment, medication and support to deal with his disorders. Even if we shared, whether over-optimistically or not, the Student's assertion that with this treatment he is not likely to repeat this kind of conduct, that is not completely responsive to the issues or concerns before us. The Student never asserted that his treatment for his psychiatric difficulties now completely exonerated him from the consequences of that misconduct – only the amount of suspension. Nor was the evidence put before us capable of exonerating the Student in such a fashion. As the University noted, it fell well short of connecting the actual misconduct to the post-conduct diagnosis of psychiatric difficulties. Although we are

empathetic to the challenges the Student has had to face and overcome in his life to date, sympathy for the Student is not, and cannot be, the only issue at stake here.

[48] In these circumstances, and after some considerable deliberation over the factors listed in the *Mr. C.* decision, it is our view that a proper weighing of those factors have led to what is an otherwise reduced suspension of only three years that the University seeks. Accordingly, in our view, that is the appropriate suspension.

[49] Accordingly, the Tribunal directs:

- (a) that the Student be suspended for a period of three years from the date of this decision;
- (b) that a notation be on his academic transcript for a period of four years ; and,
- (c) that the obligation of this decision be done by the University with the name of the Student withheld.

Dated at Toronto, this 14th day of May, 2015



Mr. Bernard Fishbein, Chair