

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL**

IN THE MATTER OF charges of academic dishonesty made on May 25, 2016

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

J [REDACTED] O [REDACTED]

REASONS FOR DECISION

Hearing Date: September 22, 2016

Members of the Panel:

Paul Michell, Barrister & Solicitor, Chair
Dr. Chris Koenig-Woodyard, Faculty Panel Member
Sean McGowan, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel for the University
Professor Luc De Nil, Dean's Designate, Vice-Dean, Students, and Dean's Designate for Academic Integrity, School of Graduate Studies
Mr. Victor Kim, Law Student, Downtown Legal Services, for the Student

In Attendance:

Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Ms. J [REDACTED] O [REDACTED] the Student
Mr. John Darmody, Recording Technologist, Live Media
Ms. Vicki Vokas, Manager, Portfolio Services

A. Charges and Hearing

1. This panel of the University Tribunal held a hearing on September 22, 2016 to consider the charges brought by the University of Toronto against J [REDACTED] O [REDACTED] (the “Student”) under the Code of Behaviour on Academic Matters, 1995.

2. Those charges were detailed in a letter dated May 25, 2016, and are set out below:

1. On or about September 30, 2015, you did knowingly forge or in any other way alter or falsify a document or evidence required by the University, and/or did utter, circulate or make use of a forged, altered or falsified document, namely, a reference letter purportedly completed by Cheryl Pulling, contrary to Section B.I.1(a) of the Code.
2. In the alternative, on or about September 30, 2015, you did knowingly forge or in any other way alter or falsify an academic record, and/or did utter, circulate or make use of such forged, altered or falsified record, namely, a reference letter purportedly completed by Cheryl Pulling, contrary to Section B.I.3(a) of the Code.
3. In the further alternative, on or about September 30, 2015, you did knowingly engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, by submitting a reference letter purportedly completed by Cheryl Pulling, that had been forged, altered or falsified, contrary to Section B.I.3(b) of the Code.
4. On or about January 30, 2016, you knowingly represented as your own an idea or expression of an idea or work of another in a case study paper that you submitted in NUR1100 (Pathophysiology and Pharmacotherapeutics), contrary to section B.I.1(d) of the Code.
5. In the alternative, on or about January 30, 2016, you knowingly obtained unauthorized assistance in connection with a case study paper that you submitted in NUR1100, contrary to section B.I.1(b) of the Code.
6. In the further alternative, on or about January 30, 2016, 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 a case study paper that you submitted in NUR1100, contrary to section B.I.3(b) of the Code.
7. On or about February 2, 2016, you knowingly represented as your own an idea or expression of an idea or work of another in a paper that you submitted in NUR1022 (Research Design, Appraisal and Utilization), contrary to section B.I.1(d) of the Code.

8. In the alternative, on or about February 2, 2016, you knowingly obtained unauthorized assistance in connection with a case study paper that you submitted in NUR1022, contrary to section B.I.1(b) of the Code.
 9. In the further alternative, on or about February 2, 2016, 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 a case study paper that you submitted in NUR1022, contrary to section B.I.3(b) of the Code.
3. The Student is enrolled in the Master of Nursing program at the University's School of Graduate Studies in the Lawrence S. Bloomberg Faculty of Nursing.
 4. The Student attended the hearing. She was represented by Victor Kim of Downtown Legal Services.

B. Agreed Statement of Facts and Guilty Pleas

5. Ms. Lie and Mr. Kim advised that the University and the Student had agreed to a statement of facts, which they provided to the Tribunal, along with a joint book of documents.
6. In the Agreed Statement of Facts, the Student pleaded guilty to charges 1, 4, and 7. The University advised that if the Tribunal were to accept the guilty pleas, it would withdraw the other charges against the Student.
7. In essence, the Student agreed that while she was enrolled in NUR1100 (Pathophysiology and Pharmacotherapeutics), she plagiarized an assignment for the course in late January 2016. She also admitted that while enrolled in another course, NUR1022 (Research Design, Appraisal and Utilization), she plagiarized an assignment for that course only a few days later.
8. The syllabuses for both courses contained statements about academic honesty, and warned students about plagiarism.

9. The University reviewed the Turnitin reports for the Student's two assignments and concluded that passages in each had been taken verbatim or nearly verbatim without appropriate attribution to other sources.

10. After the plagiarism concerns arose in early February 2016, the University reviewed the Student's academic file. In the course of that review, the University became suspicious of a reference letter that the Student had submitted in support of her application for a scholarship. The University contacted the purported author of the reference letter, Cheryl Pulling, Associate Director of the Undergraduate Nursing Program at Queen's University, and sent her a copy. Ms. Pulling told the University that she was not the author of the reference letter.

11. The Student admitted that in late September 2015, she had forged the reference letter, which she then submitted in support of her application for the Audrey's Place Foundation Scholarship. The scholarship is funded by the Audrey's Place Foundation, but recipients are selected by the University Faculty Awards Committee. On the basis of the forged reference letter, the Student was awarded \$10,400 in scholarship funds, which was paid out to her before her forgery was discovered.

12. After reviewing the Agreed Statement of Facts and joint book of documents, the Tribunal deliberated. The Tribunal then advised the parties that it accepted the Agreed Statement of Facts, and that based on them, it was satisfied that on a balance of probabilities, the elements of charges 1, 4 and 7 had been proven. The Tribunal accepted the Student's guilty pleas to the three charges.

13. Given the Tribunal's findings on charges 1, 4, and 7, the University withdrew the other charges.

C. Penalty

14. The hearing then moved to the penalty phase. There was no Agreed Statement of Facts or joint recommendation regarding penalty.

15. The University did not lead any additional evidence during the penalty phase.

16. The Student testified on her own behalf. She was cross-examined by Ms. Lie. The Student did not call any other witnesses. No additional documents beyond those contained in the joint book of documents were tendered or admitted into evidence.

17. Following the Student's evidence, the Tribunal heard submissions on penalty from Ms. Lie and Mr. Kim.

18. After deliberation, the Tribunal advised that it would reserve its decision on penalty.

19. These are the reasons for the Tribunal's decision on penalty.

20. The University submits that the Tribunal should impose the following penalty:

- (a) the Student receive a final grade of zero in both NUR 1100 and NUR 1022;
- (b) a recommendation to the President of the University that he recommend to the Governing Council that the Student be expelled from the University;
- (c) pending the decision of the Governing Council, the Student be suspended from the University for a period of five years, with a corresponding notation on the Student's academic record and transcript for that same period;
- (d) a permanent notation of the sanction on the Student's University transcript; and
- (e) the decision be reported to the Provost, who may publish a notice of the decision of the Tribunal and the sanctions imposed, with the Student's name withheld.

21. The University had not initially sought the permanent sanction notation. The Tribunal adjourned the hearing so that Mr. Kim could discuss the matter with the Student and obtain instructions from her.

22. The Tribunal then reconvened, and Mr. Kim advised that the Student accepted that all of these sanctions—save for the recommendation of expulsion—were appropriate in the circumstances. As a result, the parties' submissions on penalty focused on whether this was an appropriate case for the Tribunal to recommend that she be expelled from the University.

23. For the reasons set out below, we are satisfied that in the circumstances, that sanction is appropriate here.

24. The parties structured their penalty submissions on the well-known factors set out by Mr. Sopinka QC almost 40 years ago in *Mr. C* [Case No. 1976/77-3; November 5, 1976]:

- (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.

25. The parties also referred to various Tribunal decisions applying those factors to cases involving forgery. We address the more pertinent decisions below.

D. Factors to Consider on Penalty**1. The Student's character**

26. All of the evidence of the Student's character came from her own evidence. She did not call any character witnesses, or any other witnesses. Nor did she submit any other character evidence.

27. The Tribunal's overall impression is that the Student has shown great resolve and drive in overcoming various disadvantages in her life, a subject we return to below. This makes her conduct at issue in this proceeding disappointing. The Student appears to be remorseful, and regrets having made what she described as a "horrible mistake." She is concerned by the effect her actions—and the sanctions that the Tribunal imposes—may have on her professional standing.

28. On the evidence, this is a mitigating factor.

2. The likelihood of a repetition of the offences

29. This factor is difficult to evaluate on this record. The Student has been at the University only since September 2015. On the one hand, the offences to which the Student pled guilty were her first offences at the University. On the other hand, the Student committed a serious offence—forgery—only a month into her program, and two plagiarism offences early in the second term of her program.

30. The Tribunal is concerned by the evidence that that Student relied on the forged reference letter twice, in support of separate applications for scholarships filed months apart. This suggests that specific deterrence is a significant concern. It is important to recall that the Tribunal is addressing three separate offences here.

31. On the evidence, this factor is neutral.

3. The nature of the offences committed

32. The Student's offences were serious. Forgery is among the most serious offences. But this should not overshadow that plagiarism is also a serious offence, a conclusion echoed in many decisions of this Tribunal, and in the Code. As discussed below, the Student committed each of the offences knowingly and deliberately, not through carelessness or inadvertence. The offences were the result of the Student's calculated conduct.

33. **Plagiarism.** Although the Student pleaded guilty to the two incidents of plagiarism with which she was charged, in her evidence before the Tribunal she sought to downplay the offences as having been the result of mere carelessness, which she had committed in an effort to complete the assignments, and because of her illness. The Tribunal does not accept this explanation.

34. First, in the Agreed Statement of Facts, the Student admitted that she "knowingly" committed plagiarism, contrary to the Code, with respect to both assignments. This is not consistent with her evidence at the hearing that she had been merely "careless" in doing so.

35. Second, the University conclusively showed that the first assignment was riddled with passages from a variety of sources which were not cited to their source of origin. Importantly, that evidence showed that the Student did not simply cut and paste passages from other sources but "carelessly" forget to include the relevant citations. In multiple instances, the offending passages included incorrect citations from different third sources. The natural inference, which we accept, is that the incorrect citations had been included in the assignment in an effort to mask the cutting and pasting. The evidence is inconsistent with mere carelessness on the part of the Student. We conclude that the plagiarism here was anything but careless. The plagiarism here was extensive,

intentional, and serious. Indeed, the Student eventually conceded in cross-examination that her plagiarism was intentional.

36. The second assignment did not contain as many plagiarized passages as the first one had. But that is because it was marred by a different type of plagiarism. Unlike the first assignment, it was highly dependent upon unattributed passages from another student's paper. The Student provided no credible explanation as to how this might have occurred through "carelessness". The Tribunal concludes that the second assignment was simply a different type of plagiarism, but no less serious than the first. We do not accept the Student's suggestion that her plagiarism regarding the second assignment was merely careless.

37. The Student's plagiarism was quickly revealed by Turnitin. In her evidence, the Student appeared to emphasize this point, suggesting that since she knew that her course assignments would be submitted for review by Turnitin, this tended to show that she could not have deliberately committed plagiarism. The Tribunal does not accept this argument. As just noted, the Tribunal does not accept the Student's explanation that her plagiarism was the product of carelessness.

38. **Forgery.** As noted above, the forgery here was a grave offence. The Student admitted to having knowingly composed a reference letter on a University department award reference form purporting to come from a faculty member at her undergraduate university, recommending her in glowing terms for a substantial scholarship. In doing so, she misled the University Faculty Awards Committee. Based in part on the forged reference letter, the Student was awarded the scholarship and received over \$10,000. The Student's forgery thus resulted in a direct financial gain to her.

39. The Student's testimony was that she had learned about the scholarship in late September 2015 from an email, and had applied for it only shortly before the deadline. She was told at that

point that she needed to submit a reference letter in support of her application. She said that even though she had contacted Ms. Pulling at Queen's earlier in the year to ask that she write her a reference letter in support of her application to the Master of Nursing program, and Ms. Pulling had done so, the Student was reluctant to contact Ms. Pulling again on short notice to ask for an additional reference letter in support of the scholarship application. As a result, the Student decided to forge a reference letter from Ms. Pulling. Her evidence was that she did not want to "hurt her chances" for the scholarship by not submitting a reference letter by the deadline. She did not ask Ms. Pulling to write a reference letter for her scholarship application.

40. The Student's explanation as to how she forged the reference letter was confusing. Initially, she appeared to suggest that she had composed the reference letter by cutting and pasting passages from previous reference letters that Ms. Pulling (or others) had written for her in the past—with the inference that the forged reference letter was largely derived from Ms. Pulling's own words, with some cosmetic surgery by the Student. On cross-examination, the Student conceded that previous reference letters written on her behalf had been sent directly to the University or others, rather than provided to her. She then claimed that she had composed the forged reference letter from her own words, including, she said, from reference letters that she had written for others in the past. In the Tribunal's view, the Student was seeking to downplay the significance of her forgery.

41. In her evidence, the Student also admitted that after she was awarded the scholarship, she had used the same forged reference letter in December 2015 or January 2016 to apply for a second (unnamed) scholarship. Again, she did not ask Ms. Pulling for a reference letter for that second scholarship. The Student said that her application for the second scholarship was unsuccessful. The Student had no real explanation as to why she had relied upon the forged reference letter a

second time. The University has not brought charges against the Student with respect to this use of the forged letter, and we express no view on that question here. However, the Tribunal considers it appropriate to take this second use of the letter into consideration in evaluating the Student's explanation as to why she forged the letter in the first place.

42. This evidence undermines any suggestion that in forging the letter to apply for the first scholarship, the Student was simply acting rashly. The Student testified that she had felt uncomfortable in having applied for, and been awarded, the first scholarship by relying on the forged reference letter. She said that "you reap what you sow," and that she had worried that her forgery would be discovered. For this reason, she said that she had not publicized the award of the scholarship with her friends and family. Even if the Tribunal were to accept this evidence, it is undermined by the Student's use of the same forged letter a second time several months later.

43. In obtaining a substantial scholarship on the basis of a forged reference letter, the Student deprived herself of the satisfaction of legitimate success. It is also likely that she deprived another student who did not cheat from obtaining the scholarship. The Tribunal does not and cannot know who that other student might be. But the Student's forgery likely deprived another student—who may have accomplished just as much, worked just as hard, and overcome circumstances just as challenging—of the scholarship. The Tribunal made a similar observation in *A. A. -A*. [Case No. 540; May 4, 2009] at para. 17, where it noted that obtaining admission to the University on the basis of a forged letter "could have denied other worthy candidates from being accepted had the forgery not been discovered."

44. In forging the reference letter, the Student also abused the trust of Ms. Pulling of Queen's. The Student used Ms. Pulling's name and reputation (and that of Queen's) without permission, and falsely attributed words and judgments to her.

45. The Student has not returned the \$10,400 that she received in scholarship funds. At the hearing, the Student expressed a willingness to repay those funds if she were to be "given the opportunity." As the Tribunal noted in *S.G.* [Case No. 697; January 17, 2014], at para. 6, without a plan to address this proposal, the Tribunal is unable to give it much weight. The Tribunal expressed its concern that the Student did not appear to have taken any steps to repay—or even discuss a schedule for repayment of—the scholarship funds. Mr. Kim confirmed that the Student has taken no concrete steps with the University to do so. The Tribunal has no jurisdiction under the Code to require repayment of the scholarship funds. However, in our view, in evaluating the Student's remorse, the Tribunal may take into account that there was no evidence that she has paid, promised to pay, or taken steps to repay, any of the scholarship funds she has received. She has had the "opportunity" to do so for months.

46. The forgery here was not a particularly sophisticated one. The forged reference letter was not signed, it has multiple grammatical errors, and it is written in a style which one would not normally associate with an academic reference. That said, it worked: had the Student not committed plagiarism, it seems unlikely that the University would ever have looked back at the letter and discovered the forgery. Even unsophisticated forgery can lead to a recommendation of expulsion in appropriate circumstances.

47. This factor weighs in favour of a recommendation of expulsion.

4. Any extenuating circumstances surrounding the commission of the offences

48. This was an area of disagreement at the penalty phase of the hearing. The Tribunal has considered and weighed the following circumstances.

49. ***Guilty plea.*** The agreed facts are that the Student admitted guilt when confronted about the offences, and that she pleaded guilty to the two instances of plagiarism and the forgery of the reference letter. In her evidence before the Tribunal, she acknowledged her wrongdoing, to a degree. She expressed regret and acknowledged that she had committed serious offences, although as the University points out, she did so only after the offences were discovered.

50. We accept that the Student's guilty pleas to the three charges are a mitigating factor. In pleading guilty, the Student cooperated with the University and saved it the burden and expense of seeking to prove those charges against her. Yet, as we have explained above, we were troubled by the Student's explanations of why she committed the offences. They were not the answers of a student who has truly taken responsibility for her actions. The Student's evidence on this point dilutes to some extent the mitigating effect of her guilty pleas.

51. ***Student's experience.*** These were not offences committed by a young and inexperienced student who simply became overwhelmed. The Student was a graduate student in her 30s, who had completed an undergraduate nursing degree from a leading university (Queen's University) and testified that she had completed multiple writing assignments while she was a student there. She had then worked as a nurse in different cities for more than a decade. She is a regulated health professional and accepts that she knew before coming to the University that professionalism, ethics, and honesty are fundamental principles.

52. ***Student's background.*** The Student testified in detail about the difficult circumstances of her childhood and youth. She, her mother, and her sisters are first-generation immigrants from Ghana. They were essentially abandoned by her father, and her evidence was that her father was physically and psychologically abusive while she was growing up, telling her, among other things, that she would never amount to anything. She grew up in very modest circumstances in Regent Park and was determined to advance herself through education and hard work. She said that she wanted to become a role model for others in her community.

53. The Student was determined to go to university, and became the first member of her family to do so. She graduated from the nursing program at Queen's in 2004, and has worked as a nurse since then. The Student's ability to overcome these barriers is remarkable and laudable. But as just noted, by the time she entered the Master of Nursing program, she was already a university graduate and had been working as a nurse for more than a decade.

54. ***Student's focus on marginalized communities.*** In recent years, the Student has focused her professional career on assisting clients from marginalized communities to obtain health care services. Her evidence is that she had wanted to pursue a graduate degree in nursing so that she could develop her skills, and was interested in teaching. The Tribunal admires the Student's devotion to work with clients from marginalized communities. But it is not persuaded that this is in itself a factor that should be given much weight in determining the appropriate penalty for the academic offences at issue here, since there is no apparent connection between the Student's work focus and the offences.

55. ***Student's parental responsibilities.*** The Student is a single mother with four young children. Her two eldest children attend school full-time, and the two youngest are in day care. The

Tribunal appreciates the challenges that the Student's parental responsibilities pose for her, but again, is not persuaded that this is a factor that should be given much weight in the circumstances. The Student did not establish any connection between her parental responsibilities and her commission of the offences.

56. ***Student's work and finances.*** The Student began the Master of Nursing program in September 2015 while working full-time. She testified that although she had obtained sufficient funding from OSAP to cover her tuition and fees, she felt that she needed to continue work full-time during her studies. Her decision to continue to work full-time while pursuing graduate studies at the University may have contributed to her stress and affected her health, but it cannot itself be a weighty mitigating factor, since the Student committed the first and most serious offence—the forgery—very early on in the school year. This is not a case where the evidence showed that the Student was driven by unexpected financial pressures to commit an offence.

57. ***Student's health.*** The Student testified that in December 2015 she became ill and was hospitalized. She says that she was diagnosed with cardiac ischemia—decreased flow of blood and oxygen to the heart muscle—although she provided no medical evidence or documents to the Tribunal. Where a student seeks to rely on health concerns as a mitigating factor, it is common for medical evidence, such as a letter from a medical professional, to be provided: *e.g.*, *S.P.* [Case No. 836; September 21, 2016] at para. 25. Absent such evidence, the Student's evidence was insufficient to enable the Tribunal to conclude that there is a direct relationship between the Student's health and her plagiarism offences.

58. When the Student returned to class in January 2016, she was on medication and wore a portable heart monitor. She attributed her heart troubles to the stress of carrying her employment,

educational, and parental responsibilities, and suggested that her two acts of plagiarism stemmed, at least in part, from her efforts to carry on in the face of her health issues. She testified that she was worried that she would lose her school year. The inference that she would have the Tribunal draw is that her plagiarism was carried out in a moment of weakness and poor judgment.

59. Even if the Tribunal were to accept this explanation (which it does not), it could not explain the Student's decision to forge the reference letter, which came in late September 2015, months before she became ill. The fact that a student may have a motive to plagiarize is not itself a mitigating factor. Taking an academic shortcut may sometimes seem to be a solution to a perceived problem in a student's life. It is not. The Tribunal must ensure that students appreciate that such shortcuts are not a legitimate option.

60. The bottom line is that in commencing the Master of Nursing program in September 2015, while continuing to work full-time and raising four young children by herself, the Student appears to have bitten off more than she could chew. The Student's program is a demanding one. Her evidence is that she was reluctant to ask for help. She said that she considered working part-time, but did not pursue that possibility. The evidence is that there were many sources of help available to the Student, had she asked for it. The Student accepted that she had not taken any steps to seek guidance or assistance as to how to deal with her challenges. Just as the Tribunal found in *R. A.-A.* [Case No. 450; July 17, 2009], at para. 2, and in *N.G.* [Case No. 658; July 5, 2012], at para. 30, there were options open to the Student other than cheating.

61. The Tribunal recognizes the challenges facing the Student. The combination of financial pressures, family responsibilities, health concerns, and academic requirements is a familiar one for

many students. The Student says she now appreciates that once she became ill, she should have taken time off rather than trying to press onwards.

62. These circumstances provide some context for her offences, and are, to varying degrees, mitigating factors.

5. The detriment to the University occasioned by the offences

63. In different ways, the University is vulnerable to, and suffers detriment from, the forgery and plagiarism offences that the Student committed here.

64. **Forgery.** The University relies on the integrity of the process by which students apply for scholarships. Although it is appropriate for the University to take measures to confirm with third parties that recommendation letters have been received from them (there is no evidence as to whether such steps were taken here), the reality is that it is not realistic to expect the University to devote significant resources to ensuring that reference letters purporting to come from third parties are genuine. As the Tribunal held in *M.K.* [Case No. 491; November 5, 2008], at para. 43, “such conduct will and must meet with the most severe reaction when uncovered.” This type of forgery also weakens the trust that the University must be able to place on the integrity of its reference process, both with respect to students and referees.

65. **Plagiarism.** The two plagiarism offences also caused harm to the University. The Tribunal has frequently observed that plagiarism is an offence that strikes at the heart of the academic integrity of the University. That is all the more so where the plagiarism is deliberate and conscious, rather than careless.

66. This factor weighs in favour of a recommendation of expulsion.

6. The need to deter others from committing similar offences

67. This factor weighs heavily in the circumstances of this case. In the Tribunal's view, a strong message must be conveyed to the University community that serious offences will not be tolerated, and that those who commit them will face serious sanctions.

68. **Forgery.** It is critical for the University that students be dissuaded from submitting false recommendation letters when seeking scholarships it administers. Forgery is often difficult to detect, thus requiring a strong deterrent when it is discovered.

69. **Plagiarism.** The integrity of the University is seriously undermined by plagiarism. The University's academic program is eroded when students' work product is not their own. Turnitin and other tools facilitate the detection of plagiarism, but they must be backstopped by meaningful penalties, particularly in cases where a student has committed more than one act of plagiarism.

70. The Tribunal is persuaded that a severe sanction is required where a student is guilty of both forgery and plagiarism to deter others who may contemplate similar misconduct.

71. This factor weighs in favour of a recommendation expulsion.

E. Application

72. As the Discipline Appeal Board stated in *D.S.* [Case No. 451; August 24, 2007], at para. 45, the weighing and balancing of the *Mr. C* factors is not a precise exercise, and depends on the facts of the particular case. There can be no mechanical test or mere counting of factors. That said, it is also appropriate that like cases should be decided alike, and that there should be general consistency in the approach of the Tribunal in imposing sanctions.

73. For the Student, Mr. Kim argued that this was an appropriate case for the Tribunal to provide the Student with a “second chance”, and directed us to the Tribunal’s decision in *R.K.* [Case No. 494; July 24, 2007]. That was an unusual case of forgery in which an anonymous letter had been sent to two teaching assistants at the University advising that a Hindu student’s tests had been intercepted (so that they had not been received by her instructors), allegedly because Muslim students had an animus towards the student based on her religion or national origin. It turned out that the letter was a fake that the student herself had written to suggest (falsely) that she was at the “center of a racially motivated conspiracy” and to excuse her failure to submit assignments.

74. In *R.K.*, the Tribunal noted, at p. 9, that the concept of a “second chance”—and the broader concept of reform—is “central to discussions of appropriate penalty.” The Tribunal shares this view. However, in this case, the Tribunal’s view—just as in *R.K.* itself—is that this is not an appropriate case for a second chance. The seriousness of the offences, their harmful effect on the University, the need for general (and to a degree, specific) deterrence, weigh heavily in the balance. In the Tribunal’s judgment, they outweigh the mitigating factors identified above.

75. The University provided the Tribunal with a large number of authorities (most concerning the offence of forgery) and a chart categorizing them. Mr. Kim made submissions seeking to distinguish the various authorities.

76. Our review of the authorities leads us to the following conclusions.

77. First, forgery is among the most serious academic offences. The usual penalty is a recommendation of expulsion, although in some cases a five year suspension has been imposed. As the Tribunal observed in *M.S.* [Case No. 488; February 3, 2010], at para. 30, “it is clear that

forgery is treated as one of the most serious offences in the University environment and most cases result in expulsion.”

78. Second, where forgery has been found, a student normally avoids a recommendation of expulsion only where there are significant mitigating factors, or where there is a joint recommendation on penalty, or both. As already noted, there is no joint recommendation on penalty here. And although, as discussed above, some mitigating circumstances are present, they are insufficient, in our view, to outweigh the effect of the other factors here. See *L.M.* [Case No. 808; February 1, 2016], at paras. 78-79.

79. Third, the addition of other serious offences—in this case, two separate instances of plagiarism—on top of forgery weighs in favour of a recommendation of expulsion. See *S.G.* [Case No. 711; May 11, 2015].

80. In the circumstances, the Tribunal’s view is that the factors weighing in favour of expulsion outweigh the mitigating factors. The seriousness of the offences and the need for deterrence are particularly compelling in this case.

81. Accordingly, the Tribunal finds that a recommendation that the Student be expelled (along with the additional terms sought by the University) is the appropriate sanction.

F. Conclusion on Penalty

82. For these reasons, the Tribunal concludes that the following penalty should be imposed on the Student:

- (a) the Student shall receive a final grade of zero in both NUR 1100 and NUR 1022;

- (b) the Tribunal recommends to the President of the University that he recommend to the Governing Council that the Student be expelled from the University;
- (c) pending the decision of the Governing Council, the Student shall be suspended from the University for a period of five years, with a corresponding notation on the Student's academic record and transcript for that same period;
- (d) a permanent notation of the sanction shall be made on the Student's University transcript; and
- (e) this decision shall be reported to the Provost, who may publish a notice of the decision of the Tribunal and the sanctions imposed, with the Student's name withheld.

Dated at Toronto, this 31st day of October, 2016.



Paul Michell, Chair