

UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION

Members of the Panel:

Rodica David, Q.C., Co-Chair

Maria Kang, student, Faculty of Arts and Science

Professor Jason Nolan, Faculty of Arts and Science, Division of the Environment

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

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

AND IN THE MATTER of disciplinary charges against Mr. R.

No one appearing for the student

Linda R. Rothstein and *Robert A. Centa*, for the University of Toronto

REASONS FOR DECISION

[1] A hearing of the Trial Division of the University Tribunal was convened at 5:00 p.m. on Tuesday, February 19, 2002, in the Falconer Room, Simcoe Hall, to consider the following charges laid against Mr. R. under the *Code of Behaviour on Academic Matters* by the Vice-President and Provost, Professor Adel Sedra:

1. Between January 26, 2001, and February 6, 2001 you did knowingly forge or in any other way alter or falsify any academic record, and/or did knowingly utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form contrary to Section B.I.3(a) of the *Code of Behaviour on Academic Matters, 1995*. In particular, you wrote Davies Ward Phillips & Vineberg LLP and informed it that you received an A on your first-year December Contracts exam when you in fact received a B+ on that exam, and/or that you received a B+ on your first-year December Torts exam when you in fact received a C on that exam, and/or that you received a B+ on your first-year December Constitutional Law exam when you in fact received a B on that exam.
2. Between January 26, 2001, and February 6, 2001 you did knowingly forge or in any other way alter or falsify any academic record, or did knowingly utter, circulate or

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- make use of any such forged, altered or falsified record, whether the record be in print or electronic form contrary to section B.I.3(a) of the *Code of Conduct on Academic Matters, 1995*. In particular, you wrote Torys and informed it that you received an A on your first-year December Contracts exam when you in fact received a B+ on that exam, and/or that you received a B+ on your first-year December Torts exam when you in fact received a C on that exam, and/or that you received a B+ on your first-year December Constitutional Law exam when in fact you received a B on that exam.
3. Between January 26, 2001, and February 6, 2001 you did knowingly forge or in any other way alter or falsify any academic record, or did knowingly utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form contrary to section B.I.3(a) of the *Code of Behaviour on Academic Matters, 1995*. In particular, you wrote Blake, Cassels & Graydon LLP and informed it that you received an A on your first-year December Contracts exam when you in fact received a C on that exam, and/or that you received a B+ on your first-year December Constitutional Law exam when you in fact received a B on that exam.
 4. Between January 26, 2001, and February 6, 2001 you did knowingly forge or in any other way alter or falsify any academic record, or did knowingly utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form contrary to section B.I.3(a) of the *Code of Behaviour on Academic Matters, 1995*. In particular, you wrote Goodmans LLP and informed it that you received an A on your first-year December Contracts exam when you in fact received a B+ on that exam, and/or that you received a B+ on your first-year December Torts exam when you in fact received a C on that exam, and/or that you received a B+ on your first-year December Constitutional Law exam when you in fact received a B on that exam.
 5. Between January 26, 2001, and February 6, 2001, you did knowingly forge or in any other way alter or falsify any academic record, or did knowingly utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form contrary to section B.I.3(a) of the *Code of Behaviour on Academic Matters, 1995*. In particular, you wrote McCarthy Tétrault LLP and informed it that you received an A on your first-year December Contracts exam when you in fact received a B+ on that exam, and/or that you received a B+ on your first-year December Torts exam when you in fact received a C on that exam, and/or that you received a B+ on your first-year December Constitutional Law exam when you in fact received a B on that exam.
 6. Between February 15 and February 21, 2001, you did knowingly forge or in any other way alter or falsify any academic record, or to utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form contrary to section B.I.3(a) of the *Code of Behaviour on Academic Matters, 1995*. In particular, you forged, altered or falsified the marks recorded on your Contracts, and/or Torts, and/or Constitutional Law examination booklets and uttered, circulated

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or made use of these forged, altered or falsified marks by providing them to Torys in support of your application for a summer job.

7. Between February 19 and February 21, 2001, you did knowingly forge or in any other way alter or falsify any academic record, or did knowingly utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form contrary to section B.I.3(a) of the *Code of Behaviour on Academic Matters, 1995*. In particular, you forged, altered or falsified the marks recorded on your Contracts and/or Torts and/or and [sic] Constitutional Law examination booklets and uttered, circulated or made use of these forged, altered or falsified marks by providing them to Davies Ward Phillips and Vineberg LLP in support of your application for a summer job.

[2] Mr. R. did not appear at the hearing. Upon hearing the evidence of Paul Holmes, Secretary of the University Tribunal, the Panel was satisfied that Mr. R. had received adequate notice of the hearing.

[3] An Agreed Summary of Facts dated August 28, 2001 and signed by Mr. R. and Ms. Rothstein was admitted into evidence. The Agreed Summary of Facts provided the following details:

1. “Mr. R.” was a first-year student in the Faculty of Law (“Faculty”) during academic year 2000-2001. In December 2000, Mr. R. wrote first-term tests. These tests would count for 20% his [sic] final grade if it would raise the grade he would otherwise obtain based on the final exam. These tests were commonly referred to as “fail-safe” tests.

Background Facts

2. Each year many first year students apply for and receive jobs at legal clinics, governments, law-firms, and public interest advocacy organizations. The Law Society of Upper Canada established procedures governing the recruitment of first-year students for Summer 2001 positions in Toronto.
3. This year, as in previous years, prospective employers asked first-year students to include the results of their first-term tests as part of their applications.
4. Notwithstanding the prospective employers’ continued interest in the grades, the Faculty chose to continue its past practice of neither issuing a statement of grades for the first-year tests, nor verifying such results. The Faculty’s Career Development Office informed all students of these decisions and instructed students who wished to submit their grades to append a list of their results to their application.
5. Shortly after the application deadline, several students told members of the Faculty’s administrative staff that other students had misrepresented their marks when applying for summer jobs. Staff at the Faculty investigated these reports and found

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discrepancies between the results reported by students and those contained in the students' academic records.

6. As a result of this initial investigation, Mayo Moran, Associate Dean of the Faculty, sent an e-mail to the entire first-year class on February 8, 2001. Associate Dean Moran reminded students of their obligations under the *Code of Behaviour on Academic Matters* ("Code") and in particular, s. B.I.3.
7. On February 14, 2001, Dean Ron Daniels sent an e-mail to all first-year students indicating that the Faculty was conducting a comprehensive investigation into allegations that first-year students had misrepresented their first-term test grades to law firms. The Dean strongly advised students who had misrepresented their grades to withdraw their applications immediately.
8. On February 16, 2001, Associate Dean Moran informed all first-year students that the Faculty had decided to issue a "Report on First Term Test Results" to students wishing to obtain such a report. She also informed students that they could expect prospective employers to ask for this Report during the job interview scheduled for the next week.

Facts specific to Mr. R.

9. On or before January 26, 2001, Mr. R. applied to several law firms to obtain a 2001 summer position. His application package included a cover letter and an undergraduate transcript, but did not include any reference to his law school first-term test results.
10. Subsequently, Mr. R. received e-mails from at least five law firms requesting that he provide the results of his first-term tests to them. The firms made their requests well before the Faculty decided to release the Report on First Term Test Results.
11. Mr. R. responded to the firms' request by sending a form letter to each of the following five law firms: Davies Ward Phillips & Vineberg ("Davies"); Torys; Blake Cassels & Graydon; Goodmans; and McCarthy Tétrault. In each letter, Mr. R. wrote "I received an A on my Property and Contracts exams, a B+ in Torts and Constitutional, and a B in Criminal Law and Civil Procedure."
12. In three courses Mr. R. reported a higher mark to the firms than he actually received. The discrepancies are set out in the following table:

<u>Course (Professor)</u>	<u>Result Recorded by Faculty</u>	<u>Mr. R.'s Report</u>
Contracts (Prof. Davis)	B+	A
Torts (Prof. Réaume)	C	B+
Constitutional (Prof. Choudhry)	B	B+

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13. On or about February 9, 2001, two law firms, Torys and Davies, offered Mr. R. interviews. The interviews were scheduled for February 19 and 20, 2001. Between February 15 and the interviews, both firms asked Mr. R. to provide the Faculty's Report on First-Year Test Results.
14. Mr. R. did not provide the Report of First Year Test Results. Instead, he provided both firms with photocopies of his examination booklets. Prior to photocopying the booklets, Mr. R. forged, altered or falsified the grades on three of his examination booklets so that they would reflect the following alterations:
 - a. **Constitutional Law:** Prof. Choudhry wrote a "B" on the first page of booklet number 2. Mr. R. added a "+" behind the "B" to turn his actual result of "B" into a result of "B+"
 - b. **Torts:** Prof. Réaume recorded a "C" result on a mark sheet that was not attached to the examination booklet that he provided to the firms. He wrote a "B+" on the first page of the booklet.
 - c. **Contracts:** Mr. R. wrote his exam in blue ink. Prof. Davis wrote a "B+" inside a circle at the end of Mr. R.'s written answer, on the fourth last page of booklet number 2. The next three pages of the booklet are blank. Mr. R. rewrote the last page of his answer on the last page of the booklet in black ink. Mr. R. wrote an "A" in a circle at the bottom of the page. Mr. R. included the page marked with the "A" on the copy of the examination booklets he submitted to the law firms. Mr. R. did not include a photocopy of the page containing the result assigned by Prof. Davis.
15. Mr. R. delivered copies of his altered examination booklets to Davies and Torys.
16. Mr. R. met with Dean Ron Daniels on Monday April 2, 2001, pursuant to section C.I.(a)(5) of the *Code*. Before the meeting started Dean Daniels warned Mr. R. as required by section C.I.(a)(6) of the *Code*. During this meeting Mr. R. formally admitted that he had committed an academic offence under the *Code*.
17. On April 20, 2001, Dean Daniels asked Prof. Sedra, Vice-President and Provost, to lay charges under the *Code*.
18. On June 5, 2001, Prof. Sedra sent a letter to Mr. R. informing him that he was thereby charged with academic offences as set out in an enclosure to that letter. The charges [were] attached as Exhibit "A" to [the] Summary of Facts.
19. Mr. R. [acknowledged] that he is guilty of violating section B.I.3(a) of the Code. Specifically, Mr. R. acknowledge[d] that he is guilty of each charge contained in Exhibit "A" [to the Agreed Summary of Facts].

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[4] Based on the evidence contained in the Agreed Summary of Facts as detailed above, the Panel was satisfied that Mr. R. is guilty of the charges laid by the Vice-President and Provost.

[5] A Joint Submission with Respect to Sanction dated August 28, 2001 and signed by Mr. R. and Ms. Rothstein was submitted to the Panel. The Panel considered the Joint Submission and rendered an oral decision as to penalty.

[6] The Tribunal was of the view that this is an extremely serious offense when all the facts are read together. It is important that Mr. R. be appropriately sanctioned. From the point of view of the University, this type of conduct cannot be taken lightly. A message must be sent, not only to other students, but also to the public more generally that the University of Toronto is an institution of the highest standards and expects honesty from its students. Employers must be able to rely on the representations made by University of Toronto students and graduates. For these reasons, the Tribunal imposes the following sanctions upon Mr. R.:

1. That Mr. R. be suspended from attendance at the University for a period of five years effective September 1, 2001;
2. That the above sanction be recorded in Mr. R.'s Academic Record for a period of five years commencing September 1, 2001; and,
3. That this case should be reported to the Provost for publication in the University newspapers, with the name of the student withheld.

February 26, 2002

I certify that this is the decision of the Panel

Rodica David

Rodica David, Q.C.