

**UNIVERSITY OF TORONTO  
UNIVERSITY TRIBUNAL - TRIAL DIVISION**

**IN THE MATTER** of charges of academic dishonesty being made on October 31, 2008;

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

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

**B E T W E E N:**

**UNIVERSITY OF TORONTO**

- and -

**M. S.**

Members of the panel:

- John A. Keefe, Chair
- Professor Lesley Lavack, Faculty Member
- Jamon Camisso, Student Panel Member

Appearances:

- Nick Shkordoff, Downtown Legal Services for the Student
- Robert Centa, Assistant Discipline Counsel for the University of Toronto

**REASONS FOR DECISION**

1. The University Tribunal was convened on Thursday, March 26, 2009 to hear six charges under the *Code of Behaviour on Academic Matters, 1995* (the “Code”) laid against the Student, by letter dated October 31, 2008 from Professor Edith Hillan, Vice-Provost, Academic of the University (the “Charges”).

2. At the outset of the hearing, the Tribunal was advised that the matter would proceed on an Agreed Statement of Facts dated March 26, 2009 (the "Agreed Statement of Facts").
3. The Student was present at the hearing. The Tribunal was advised that the Student was prepared to admit that he is guilty of academic misconduct as set out in charges #1 and #4 of the Charges and if the Tribunal was prepared to accept the plea, the remainder of the charges would be withdrawn.

### **The Charges**

4. The charges upon which the Student agreed to plead guilty are as follows:
  1. In or around June 2008, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or knowingly uttered, circulated or made use of any such forged, altered or falsified document, namely, your Assignment #2 in BIO260, which was written on or about February 28, 2008, contrary to section B.I.1(a) of the Code.
  4. In or about June 2008, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or knowingly uttered, circulated or made use of any such forged, altered or falsified document, namely, your Assignment #3 in BIO260, which was written on March 26, 2008, contrary to section B.I.1(a) of the Code.

### **The Agreed Statement of Facts**

5. The Agreed Statement of Facts was signed by counsel for the University and by the Student.
6. The Agreed Statement of Facts described the background facts as follows:
  - A. Background**
    - (a) In Fall 2004, the Student registered in the Faculty of Arts & Science at the University of Toronto. At all material times, he remained enrolled at the University.

**B. Facts Relating to Offences**

- (a) In the Spring of 2008, the Student enrolled in BIO260HIS — Concepts in Genetics, which was co-taught by Professors Davie Guttman and Wolfgang Moeder (“Course”).
- (b) Students in the Course were required to submit four written assignments, which were each worth between 10 and 15% of the final grade in the course (the “Assignments”).
- (c) On or about February 13, 2008, the Student submitted answers to Assignment #2.
- (d) On or about March 26, 2008 the Student submitted answers to Assignment #3.
- (e) In May 2008, the Student emailed Professor Guttman to indicate that there were discrepancies between the marks posted electronically on the course blackboard site for some of the Course assignments and the marks that he had actually received. Professor Guttman responded to the Student by email and listed the marks that he had recorded for him. In particular, Professor Guttman advised the Student that he had received a grade of 6.5 on assignment #2 and a grade of 8.0 on assignment #3.
- (f) On May 15, 2008, the Student replied to Professor Guttman and stated that he had received grades of 8.5 and 9 on assignments #2 and #3, respectively.
- (g) Professor Guttman contacted his teaching assistants to try and get to the bottom of the problem. The teaching assistant was Julian Northey. The Student had not picked up the marked version of the Course Assignments. Mr. Northey reviewed

the Course Assignments submitted by the Student and confirmed that the correct grades were posted on the course blackboard.

- (h) The Student then contacted Mr. Northey and asked to pick up the Course Assignments. Mr. Northey photocopied the front page of the Course Assignments, and left them to be picked up by the Student. The Student did pick them up.
- (i) The Student also contacted Peggy Salmon, the Course coordinator about the grade discrepancies. Ms. Salmon told the Student to bring in the Course Assignments so that she could review them and adjust the grades, if necessary.
- (j) In June 2008, the Student submitted versions of Assignment #2 and Assignment #3 to Ms. Salmon. Among other changes, he altered the grade from 6.5 to 8.0 in Assignment #2 and the grade from 8.0 to 8.5 in Assignment #3.
- (k) The Student admits that he knowingly altered Assignments #2 and #3 before resubmitting them to Ms. Salmon. He admits that the documents found at Tabs 7 and 8 are not the original documents he submitted for grading in the Course and that he altered the Course Assignments that he submitted in various ways so that it appeared he had earned more marks than he had actually received. He admits that he knowingly did so for the purpose of obtaining an academic advantage in the Course.
- (l) The Student admits that he altered or falsified and circulated an altered or falsified a document required by the University contrary to section B.1.1(A) of the Code and that he is guilty of charge #1 of the Charges.

- (m) The Student admits that he altered or falsified and circulated an altered or falsified document required by the University contrary to section B.1.1(A) of the Code and that he is guilty of charge #4 of the Charges.
  - (n) The Student acknowledges that the University has advised him to obtain independent legal advice before signing this Agreed Statement of Facts and that he has done so.
7. The Student acknowledged that the facts set out in the Agreed Statement of Facts were true and that he had executed the Agreed Statement of Facts voluntarily. On this basis, the Tribunal accepted the plea and found that the facts supported the finding of a contravention of two counts of the Code as set out in counts #1 and #4 of the Charges.

**Joint Submission on Sanction**

8. Following the determination by the Tribunal that it was prepared to accept the plea and make a finding of contravention of the Code, the parties then submitted to the Tribunal an Agreed Statement of Facts and Joint Submission on Penalty dated March 26, 2009 (“Joint Submission on Penalty”).
9. The following sanctions are recommended in the Joint Submission on Penalty:
- (a) impose a final grade of zero in the course BIO260HIS;
  - (b) suspend the Student from the University of Toronto for three years commencing May 1, 2011, and ending April 30, 2014;
  - (c) impose a notation on his academic record and transcript stating that he has been found to have committed academic offences, such notation to run from March 26, 2009, until April 30, 2015; and
  - (d) report this case to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed, with the Student’s name withheld.
10. The following facts are set out in the Joint Submission on Penalty:

- (a) The Student has previously admitted to committing one other academic offence for which he received a sanction at the Divisional Level.
- (b) On July 6, 2005, the Student admitted that he had committed an offence contrary to Code, in an examination in PSY100Y1Y.
- (c) That day, Professor Betty Roots, Dean's Designate for Academic Behaviour in the Faculty of Arts and Sciences at the University of Toronto, St. George Campus, sent a letter to the Student imposing a sanction in respect of the academic offence.
- (d) In May 2008, the Student was suspended from the University for three years for poor academic performance ("Academic Suspension"). The Academic Suspension will expire on or about April 30, 2011. The University and the Student agree that the suspension imposed by the Tribunal should commence after he has served the Academic Suspension.
- (e) The University and the Student agree that, but for the Academic Suspension, a longer period of suspension may have been appropriate in the circumstances of this case.

#### **Guidelines on Penalty**

- 11. After considering the Joint Submission on Penalty and all other relevant factors the Tribunal concluded that it would accept the recommended sanction.
  
- 12. The Factors to be considered when determining penalty are well established:
  - (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 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.<sup>1</sup>

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<sup>1</sup> In the Matter of the University of Toronto Code of Behaviour and an Appeal by Mr. C., November 1976 pg 12.

**Conclusion on Penalty**

13. The Student was in attendance at the hearing. He acknowledged his guilt. He appreciates the seriousness of his conduct.
14. The penalty proposed in the Joint Submission on Penalty involves a lengthy suspension when combined with his earlier Academic Suspension. It means that the Student will not be able to resume his studies at the University until 2014.
15. The most significant factor is the fact that the Student had been disciplined previously for conduct of a similar nature involving academic dishonesty.
16. The Tribunal also took into account the fact that the Student pleaded guilty, came before the Tribunal, openly expressed his recognition of the seriousness of his offence, and took full responsibility for his conduct. This supported the Tribunal's view that there was a good prospect of rehabilitation.
17. The Tribunal also considered the fact that there was a Joint Submission on Penalty. We were provided with cases dealing with the principles associated with the rejection or acceptance of a joint submission on penalty. Specifically, we were referred to the decision of the Ontario Court of Appeal in *R. v. Michael Tsicos* dated October 6, 2006<sup>2</sup> and the principle enunciated therein that, generally speaking, a joint submission on penalty should be accepted unless it would be contrary to the public interest or bring the administration of justice into disrepute to give effect to the joint submission. This sentencing principle has been adopted by the Tribunal in at least one case.<sup>3</sup>
18. Overall, the Tribunal considered that the Joint Submission on Penalty was reasonable and reflected a proper balance between recognizing the important principles of preserving ethical behaviour at the University in accordance with the University's standards while at

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<sup>2</sup>*Her Majesty the Queen v. Michael Craig Tsicos*, CAO, Oct. 11, 2006, Docket: C45531

<sup>3</sup> See *University of Toronto v. S.M.*, Oct. 6, 2008

the same time providing the Student with some opportunity in the future to resume his academic studies at the University.

19. The Tribunal wishes to emphasize that principles of honesty and integrity are fundamental requirements for membership in the University community. They must be respected. Disregard for these key principles must be dealt with severely. The Tribunal is satisfied that the Student recognizes the importance of these principles and that he has learned an important lesson from this experience.

**ORDER**

20. The panel imposes the following penalty:
- (a) a final grade of zero in the course BIO260HIS;
  - (b) suspension from the University of Toronto for three years commencing May 1, 2011, and ending April 30, 2014;
  - (c) notation on the Student's academic record and transcript stating that he has been found guilty of academic offences, such notation to run from March 26, 2009, until April 30, 2015; and
  - (d) a report to the Provost who may publish a notice of the decision of the University Tribunal and the sanctions imposed, with the Student's name withheld.

Date

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April 29, 2009

John Keefe, Chair

