

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 167 OF THE ACADEMIC APPEALS COMMITTEE

September 22nd, 1993

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Wednesday, September 22nd, 1993 at 2:00 p.m. in the Flavelle Room, Faculty of Law, 78 Queen's Park Crescent at which the following were present:

Professor A. Weinrib (Vice-Chairman)
Professor J. Brailey
Professor J. T. Mayhall
Mr. M. Teper
Mr. A. Waugh

In Attendance:

Ms W.L., the appellant
Professor J. D. Baird, Associate Dean, for the School
Professor D. Waterhouse, Graduate Department of East Asian Studies

This is an appeal to the Academic Appeals Committee of the Governing Council by Ms W.L., a student in the School of Graduate Studies, Department of East Asian Studies, from the decision of the Applications and Memorials Committee of the School of Graduate Studies which dismissed an appeal of her grade in EAS 1338Y.

This Committee has decided that the student's appeal ought to be dismissed. Appeals to this Committee are by way of a new hearing. We did hear the evidence of both the appellant and the School of Graduate Studies. However, we think that the decision of March 31, 1993 of the Applications and Memorials Committee is correct, and we incorporate that decision with the decision of this Committee [Appendix "A"].

The two issues canvassed before us involve firstly, the erroneous recording of the mark and secondly, the form of the external reading of the paper involved in the course. On both matters, we agree with the resolution of the Applications and Memorials Committee. Along with the decision of that Committee, we attach as part of this decision the relevant parts of the letter of September 24, 1992 from the Associate Dean, Humanities, to the appellant setting out the procedure to be followed. The procedure set out is to be open for acceptance by the appellant for 15 days after the date of release of the decision of this Committee.

The appeal is dismissed.

Secretary

A.E. Weinrib
Vice-Chairman

September 30th, 1993

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APPENDIX "A"

**DECISION OF THE APPLICATIONS AND MEMORIALS COMMITTEE ON THE APPEAL OF
MS [W.L.]**

This is an appeal by Ms [W.L.], a candidate for the M.A. degree, enrolled in the Graduate Department of East Asian Studies, from the mark of B+ awarded in the course EAS 1338Y. In particular, the appeal has focused on a mark of B awarded in a term paper, "Some Comments on the Birth of Chinese Landscape Painting", submitted in that course. As a collateral issue, the mark for this paper was erroneously recorded as a final mark for the course. While this error had been corrected before the appeal reached this Committee, it may have had some adverse consequences for the student. The Committee will discuss this later in this decision.

The student's appeal was considered by the departmental Appeals Committee as an appeal of the B grade on the term paper referred to. After members of the Appeals Committee read the paper, the mark was upheld. The results of the appeal were communicated to Ms [W.L.] by a letter from the Departmental Chair, Professor Baek, dated August 11, 1992, and amplified by a further letter dated September 17, 1992. Essentially, the departmental committee felt that, while there were good ideas and insights revealed in the paper, it was gravely flawed by poor command of written English, by poor organization, and by lack of proper citation to references. This is also an encapsulation of the evidence given before us by the Course Instructor, Professor Waterhouse. Professor Dolezelova, a member of the departmental committee who read the paper for the purposes of the appeal to that committee, also referred to failure to refer to well-known secondary sources as a major failing. The Appeals Committee concluded that the B grade was "very generous". In her testimony before us, Professor Dolezelova was more pejorative in her expression of the paper's merits. She stated that she would have failed the paper.

The student then appealed to the Associate Dean, Humanities, Professor Baird, requesting that the paper in question be sent out for external review, and that the matter of the erroneous entry of the term paper mark as a final course mark be investigated. The Associate Dean did investigate the latter matter, and reported his conclusions to Ms [W.L.]. Although his letter of September 24, 1992 to Ms [W.L.] does not reveal his reasons for so doing, he exercised his discretion in favour of awarding an external reading of the term paper referred to above. His letter set out the procedure which was to be followed to accomplish this. This procedure was established by analogy to the School's published procedure for an external reread of an examination. Ms [W.L.] rejected the proposed procedure as unfair to her, in the particular circumstances, for the reasons set out in her letter of September 30. She then brought this appeal to this Committee.

In her appeal documentation, and in her oral submissions to us, Ms [W.L.] attributed her low grade on the term paper, "The Birth of Chinese Landscape Painting", to a personal antagonism towards her, on the part of Professor Waterhouse, the course instructor. As we understand the student's position, it is that an unpublished paper in progress, written by Professor Waterhouse, which she was given to read, suggested that ethnic or racial differences must be considered in studying and understanding the history of art. More particularly, in considering the concept of "beauty", Professor Waterhouse is said to have concluded that that concept was European in origin. Ms [W.L.], in her paper, was concerned to demonstrate that "beauty" was a very old Chinese concept. She concluded that Professor Waterhouse was "offended" by her position, as taken in class and in her paper, which challenged his own. She also concluded that his thesis in

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the article in question was racially discriminatory, and demonstrated an anti-Oriental bias. It is these factors which Ms [W.L.] believes led to the mark of B on the paper in question, and ultimately to the B+ course mark, both of which she believes are improperly low. She also still believes that the erroneous recording of the term paper mark as the final course mark was a deliberate action by Professor Waterhouse, that this action corroborates her allegation that he was retaliating against her, and that the "low" marks reflected that retaliation, not the merits of her work.

Professor Waterhouse denied that his evaluation was affected by any of the improper factors referred to by Ms [W.L.], or that he is racially prejudiced against any group. He pointed out that Ms [W.L.] herself, in her statement prepared for this Committee [at page A3], referred to the fact that he had, in his comments on the first term paper, referred to the portion said to have challenged his views as "the best part of this paper". His mark of B, which he had raised from an original mark of B-, was intended to reflect the strengths of her papers as well as the weaknesses referred to above.

Professor Waterhouse denies that the manner in which the mark for the paper was recorded as a final course mark was affected by any animosity towards Ms [W.L.]. On this matter, this Committee accepts the summary of events as related in the Associate Dean's letter to Ms [W.L.], dated September 24, 1992, elaborated by Professor Waterhouse's evidence before it, as accurate. EAS 1338Y is a two-term course, normally given in the terms commencing in September and January. Ms [W.L.] was allowed to enroll in this course commencing in January, 1991, the intention being that she would complete the second half in the term commencing in September, 1991. There was only one other student taking the course at that time, and by a special arrangement, that student was permitted to take the course as two half courses, taken in the same terms during which Ms [W.L.] proposed to take the full course. Neither of these special arrangements was communicated to SGS. Professor Waterhouse stated before us that his understanding was that Ms [W.L.] was also taking the course as two half-courses. His recollection is that this understanding arose through a conversation with the then Graduate Coordinator of the Department, Professor Ward. (Unfortunately, Professor Ward is absent on leave and not available to give us his own recollection of the source of the confusion.) Accordingly, what Ms [W.L.] correctly believed was a term paper in a two-term course was treated by Professor Waterhouse as the paper establishing the final course grade for the first half-course, and was reported by him accordingly as the grade for a course numbered EAS 1338S. When the Grade Submission Form reached SGS, the person processing the information, who knew of the course only as a two term course, treated the "S" suffix as an error, and replaced it with a "Y", recording the mark accordingly. Any transcripts issued after this time, before the correction was eventually made, would then reflect this error.

While an error of this nature suggests the need to tighten up the administrative procedures at both the Department and SGS levels, it does not have the sinister overtones attributed to it by Ms [W.L.], and the Committee finds that it does not in any way corroborate the allegation that Professor Waterhouse allowed improper considerations to influence his mark. As suggested above, the Committee accepts Professor Waterhouse's evidence that although his original recording of the mark as a final half-course mark was a mistake, it was done in good faith.

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This Committee finds that there is no basis for concluding that Professor Waterhouse allowed any improper consideration to influence the marks awarded by him with respect to the term paper in question or the final course mark in EAS 1338Y. In particular, it wishes to state emphatically that, on the material presented to it, there is no reasonable basis for an inference that Professor Waterhouse exhibited any racial bias.

Therefore, the allegation that the mark in EAS 1338Y was awarded on the basis of improper considerations is rejected by this Committee. The marks awarded to the two papers which formed the components of the course may, of course, still be too low, even though awarded in good faith. However, a reread, by other faculty members of the Graduate Department of East Asian Studies, of the paper against the marking of which really the only challenge was made before us has concluded that, at the very least, this was not so. This Committee declined to enter upon a reading of either paper. The members might have been able to form an impression of the level of English and the degree of the problem of citation alleged, but they could not judge the intellectual strength of the paper or the sufficiency of the research and bibliographic background.

As mentioned, the Associate Dean, Humanities, exercised his discretion in favour of awarding an external rereading of the paper. As the terms upon which he was prepared to proceed were not satisfactory to Ms [W.L.], this was never carried out. We are not prepared to say that the decision of the Associate Dean was an incorrect exercise of discretion. Members of this Committee are uncomfortable with the fact that, at the departmental appeal, the members of the departmental Appeals Committee were not given "clean" copies of the paper to read, but also received the instructor's comments. This might create some apprehension of unconscious bias on the part of the readers. We think it in the best interests of the University that the procedure suggested by the Associate Dean, Humanities, in his letter to Ms [W.L.] dated September 24, 1992, be treated as still open for acceptance by Ms [W.L.] for fifteen days after the date of release of this decision. This Committee believes that the procedure suggested by the Associate Dean is the correct one, by analogy to the University's existing rules for external examination rereads, and that no sufficient case has been made out to justify the departure from it requested by Ms [W.L.]. If Ms [W.L.] accepts the process as established in that letter, and complies with such reasonable time limits for completing the various steps set out therein as the Associate Dean, Humanities, may set, the reread of the term paper in question may proceed. To avoid any misunderstanding, we make it explicit that a reread may raise or lower the mark of the paper reread, and that any change in the term paper mark may have a consequential effect upon the final course mark.

If Ms [W.L.] does not elect to proceed with the reread on the terms set out above, or to complete her part of the steps in the process in a timely fashion, the appeal will be dismissed, and the term and final marks now recorded for her in EAS 1338Y will stand.

There is still the matter of the erroneous recording of a term mark as a final mark, on transcripts that were sent out at Ms [W.L.]'s request to other universities, as she applied for entrance to doctoral programmes and for funding. These recorded a lower final course mark than she actually received, and may have resulted in some prejudice to her. Ms [W.L.] also fears that the error may have caused some recipients, who were told by her that the course was still in progress, to doubt her veracity. We believe that, in justice to Ms [W.L.], the University should now do what it reasonably can to remedy the possible consequences of this error. When a final

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mark in EAS 1338Y is ultimately established, the Dean of SGS should, if requested by Ms [W.L.], write to any institution she indicates as having received the erroneous transcript, point out the error made by the University, and enclose a corrected transcript.