

Note:

Even though 1986/87-07 is not a “Tribunal” decision under the *Code of Behaviour on Academic Matters*, it has been included here because it is an academic discipline case.

Mr. H. graduated from the University of Toronto in 1978. In 1984 he applied for a job and submitted a purported B.A.Sc., M.A.Sc., and a reference letter. All were determined to be forgeries. The case was heard by a special “Judicial Board” appointed by the Governing Council, in a procedure similar to that employed in **1979/80-18** and **1980/81-19** (the former is a decision on a preliminary objection to the Judicial Board’s jurisdiction, the latter is the decision on the merits). The Tribunal had previously ruled that it did not have jurisdiction under the *Code of Behaviour on Academic Matters*: **1978/79-11**.

Paul J. Holmes
Judicial Affairs Officer
June 2004

UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL
DECISIONS AND REASONS OF A JUDICIAL BOARD
RESPECTING CHARGES MADE AGAINST

Mr. H.

On Thursday, April 16th, 1987, a Judicial Board heard three charges made by the University against Mr. H. The members of the Board were Professor Roger L. Beck, Ms. Cynthia Chambers, Mrs. Mary Kent, Dean A. R. Ten Cate, Professor Roger M. Savory and Professor Richard Risk (Chair). The University was represented by Mr. Donald Guthrie, Q.C; Mr. H. did not appear and was not represented. Evidence for the University was given by Dr. Daniel Lang, the Assistant Vice-President (Planning) and University Registrar, Professor H. L. Williams, who was a Professor in the Faculty of Applied Science and Engineering at the time the events alleged in the charges occurred, and Mr. H. J. Boyce, who was in the business of recruiting engineers at the time the events occurred.

The Board was appointed to hear the charges by the Governing Council under its general power to delegate. (The term "judicial board" does not appear in the University of Toronto Act; it is simply a useful term that has been used by the Council to describe committees of this kind.) The charges contemplate the exercise of the power of the Governing Council to,

...cancel, recall or suspend the degree...of any graduate of the University...guilty of any infamous or disgraceful conduct or of conduct unbecoming a graduate of the University...

This power is ultimately derived from section 48(c) of the University of Toronto Act (1947), which gave this power to the Senate. The power was given to the Governing Council by section 2(14) of the University of Toronto Act (1971).

The three charges all alleged the same conduct by Mr. H. . The first alleged that it was "infamous", the second alleged that it was "disgraceful", and the third alleged that it was "conduct unbecoming."

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The conduct alleged in the charges was divided into three distinct parts, and a description can best begin by saying that Mr. H. was an undergraduate student at the University in the Faculty of Applied Science and Engineering between 1974 and 1978, and was granted a degree of Bachelor of Applied Science on June 8th, 1978. (He applied to be admitted to the graduate programme for the following year, and was rejected.) The three parts of the conduct were,

1. Mr. H. used a copy of his Bachelor's degree that gave June 6th, 1976 as the date of graduation (not June 8th, 1978), knowing that the date had been wrongfully altered.
2. Mr. H. made use of a purported diploma from the University that appeared to certify that he had been granted a degree of Master of Applied Science on June 8th, 1978, knowing that this diploma was a forgery.
3. Mr. H. made use of a forged letter of recommendation about him from Professor H. L. Williams, knowing that the letter was a forgery.

The first topic considered by the Board was notice. As we have said, Mr. H. did not appear and was not represented. Mr. Guthrie told us that the University had heard nothing from him about the charges. He described the efforts that the University had made to serve Mr. H., and presented two affidavits as evidence of these efforts, one made by his secretary and the other by a member of a firm of solicitors in Hong Kong.

Mr. H. was a resident of Hong Kong who came to Canada for his last year of secondary school and to attend the University. While Mr. Hung was a student here he lived at a rooming house. He gave an address in Hong Kong as his home, and Mr. Guthrie retained lawyers in Hong Kong to search for him there. In turn, they retained a firm that made inquiries of that sort, but their efforts were entirely unsuccessful. In the end, Mr. Guthrie sent copies of the notice of hearing by both ordinary and registered mail to the address Mr. H. had given as his home address, to him in the care of his father, and to the mailing address (a box number) he had used while he was at secondary school. He also arranged to have a notice to Mr. H. published twice in a Hong Kong newspaper, the "Hong Kong Standard".

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We have concluded that the University made reasonable efforts to find Mr. H. and serve him, and we have therefore decided to consider the University's evidence and submissions and to make a decision. However, we realize that Mr. H. may not have received the notice and may someday ask the University to reconsider his case and make a decision that undoes our decision. The decision to reconsider is obviously not for us to make. It must be made by others when the time comes, if it ever comes. We do, though, wish to say that we realize Mr. H. may have something to say, either as a denial of our findings of fact or as mitigation, and we would be sympathetic to a request to open our decision and make a different one, if what he has to say is credible and persuasive.

The evidence presented by the University about the misconduct can best be described by beginning in the early summer of 1984. Mr. Boyce testified that he was in Hong Kong recruiting engineers for sales jobs, and placed an advertisement in local newspapers. Among the applicants he interviewed was Mr. H. (or a person presenting himself as Mr. H.), who gave him copies of three documents,

1. a diploma certifying he had received a degree of Bachelor of Applied Science from the University on June 6th, 1976,
2. a diploma certifying he had received a degree of Master of Applied Science on June 8th, 1978, and
3. a letter of recommendation from Professor Williams.

The two diplomas appear to be the regular University diplomas. The letter of recommendation says that Mr. H. worked with Professor Williams as an undergraduate and for two years as a graduate student. It describes Mr. H. as "one of my best students," and elaborates this assessment with a list of sterling qualities and the conclusion that "his work is outstanding and [he will] always out-perform most of his class-mates."

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Mr. Boyce concluded that Mr. Hung was not appropriate for a sales job, but kept his documents. About a year later, in May 1985, he was looking for someone for a research job. He chose Mr. H. from his files as an attractive possibility, and telephoned Professor Williams to make a routine check on the recommendation. Both of them must have been startled by the conversation, because Professor Williams told Mr. Boyce that he had not written the letter. The two met, and Professor Williams made copies of the diplomas and the letter and Mr. Boyce identified Mr. H. from the picture on his departmental record as the person who had spoken to him in Hong Kong. (Mr. Boyce later threw his copies out in disgust. We add this fact simply because he told us he did, and to say that we have no doubt that it is of no consequence at all.)

Professor Williams testified that he did not write the letter, and he added much detail to demonstrate that he could hardly have written it and forgotten. He had only a few graduate students during these years. He remembered Mr. H., but as an undergraduate who had performed in an indifferent way in the one course he had taken from him. He said he had never written such a fulsome letter for anyone, and that the form of the letter was not the form he or his secretary used and the signature was not his, either in its style or the form of the name. Last, the letterhead was not the letterhead used in the Department at the time the letter was dated. The letter was written on letterhead that had been used years before, and it had been made obsolete by changes in postal codes. The remaining stock had been put to use as scrap paper.

The crucial facts are established beyond any reasonable doubt. The diploma for the Bachelor's degree was wrongfully altered, the diploma for the Master's degree was a forgery, and the letter of recommendation was also a forgery. There was no evidence that Mr. H. had done the altering and forging, but he could not have believed that any of the three documents was what it seemed to be. We have sought to imagine any missing or weak links in the narrative, and the only possibility we can imagine is that someone might have impersonated Mr. H. for the interview

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with Mr. Boyce in Hong Kong. The picture in the departmental record is small, and Mr. Boyce had interviewed a large number of applicants, but considering the evidence we heard, we are convinced that this possibility of impersonation or some other mistake in identity is remote, at least.

We come now to the most difficult issue. What is the appropriate sanction? The University asked us to make four orders,

1. to find Mr. H. guilty of the charges,
2. to recall Mr. H.'s degree,
3. to strike Mr. H.'s name from the list of graduates, and
4. to record the first three orders on Mr. H.'s transcript.

We have no doubt that Mr. H. is guilty of the charges. That is, he did the alleged acts, and they are infamous, disgraceful and conduct unbecoming. Having made this finding, the second of the requested orders is the crucial one. The decision to take away a graduate's degree is a grave measure. It has been done only once before, and then it was done because the graduate had plagiarized parts of a thesis. (On one other occasion, proceedings were begun, but the accused graduate surrendered the degree, and the proceedings were terminated.) Here the degree was properly earned, and the improper conduct occurred after it was granted. We have, though, concluded that the requested orders should be made, and we have reached this conclusion without dissent or doubt. Mr. H.'s conduct was immoral: the documents were forgeries and they were used with the intention of deceiving Mr. Boyce. This immoral conduct was closely related to the University and the degree it had given. It was not, for example, a crime that had nothing to do with the University apart from the trivial fact that it was committed by one of its graduates. Mr. Hung's conduct abused the degree he had been given, and the name and integrity of the University. His misrepresentations might predictably and easily have harmed the name that he wrongfully sought to use. The University gave the degree to Mr. H., and his conduct towards that degree has made it entirely appropriate that the University take it away from him.

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The result of our order will not be that Mr. H.'s name and academic record are expunged from the records of the University. He will still be shown to have passed all the courses that earned him the Bachelor's degree, but the record will show that the University has taken the degree away. We are not certain whether there are any differences among our powers to "cancel", "recall", and "suspend." We use the term "recall" because it seems the most appropriate.

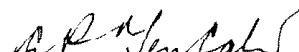
In short,

1. Mr. H. is guilty of the charges made by the University.
2. Mr. H.'s degree of Bachelor of Applied Science, granted on June 8th, 1978, is recalled.
3. Mr. H.'s name is to be stricken from the list of graduates of the University of Toronto.
4. The first three decisions are to be recorded on Mr. H.'s transcript.

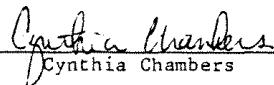
We decided to make no recommendations about what steps, if any, should be taken to make our conclusions known. It seems to us that this type of decision is more appropriately made by the University's administration.



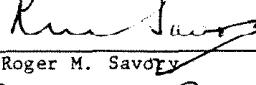
Roger L. Beck



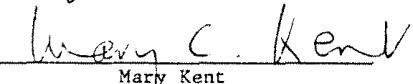
A. Richard Ten Cate



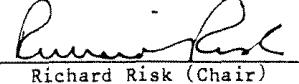
Cynthia Chambers



Roger M. Savory



Mary Kent



Richard Risk (Chair)