

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL**

IN THE MATTER OF charges of academic dishonesty made on October 4, 2010;

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;

BETWEEN:

THE UNIVERSITY OF TORONTO

– AND –

L M

REASONS FOR DECISION ON CHARGES

Members of the Panel:

Mr. Ronald G. Slaght, Q.C., Barrister, Chair

Professor Bruno Magliocchetti, Department of Italian Studies, Faculty Panel Member

Ms. Alice Kim, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers

Mr. Lawrence Geffen, Barrister and Solicitor, Counsel for Ms. L. M

Witnesses:

Ms. L. M, the Student

Ms. Meredith Rappaport, Assistant, Test and Exam Services, Office of Space Management

Ms. Andrea Burden, Invigilator for final exam in HIS109Y1Y: The Development of European Civilization on European Civilization August 19, 2010

Dr. Chrystia Wynnyckyj, Invigilator for final exam in HIS109Y1Y: The Development of European Civilization on August 19, 2010

Mr. Anthony Cantor, Course Instructor for HIS109Y1Y: The Development of European Civilization

In Attendance:

Dr. Francis Ahia, Associate Director, Transitional Year Program

Ms. Jessica Latimer, Articling Student, Paliare Roland Barristers

Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances, Office of the Governing Council

- [1] This matter came on for hearing before this Tribunal on Tuesday, January 25, 2011. Ms. M stands accused of three Charges. The University alleges that Ms. M, in a final examination in the course HIS 109Y1Y written on August 19, 2010, committed plagiarism, knowingly representing as her own an idea or expression of an idea and/or the work of another, contrary to *the Code of Behaviour on Academic Matters, 1995* (the *Code*). The second charge is that Ms. M possessed and used an unauthorized aid during the examination, contrary to the *Code*, and the third is a general allegation that Ms. M knowingly engaged in a form of cheating and academic misconduct in order to obtain an academic credit, also contrary to the *Code*. The Charges are attached to these Reasons as Attachment 1.
- [2] The basic facts of the matter are easily stated.
- [3] Ms. M wrote the examination in a semi-private carrel, A11, an enclosed space with an open entrance. After she left the carrel and signed out of the examination centre, one of the invigilators in a routine inspection of the room, discovered two pages of Notes (marked 1 and 3) folded in a crumpled state on Ms. M's chair. The invigilators reviewed Ms. M's examination books, and found that paragraphs from the Notes which contained descriptions of a number of topics relevant to the course material, such as Capitalism, Calvinism, Fascism, and Imperialism, were reproduced virtually verbatim in answer to certain questions in Ms. M's written examination books.
- [4] The University called four witnesses, including two invigilators who were present during the examination and Anthony Cantor, who taught the course.

[5] Ms. M gave evidence in her own defence.

Ms. M's Evidence About the Source Material

[6] Ms. M in her direct evidence acknowledged that the passages called into question in her answer books had been sourced by her from the internet. She gave evidence that she had not been able to obtain all the recommended readings, that she felt more comfortable doing her research on the internet. Particularly, she understood that there would be questions on the final exam about the "isms" and she Googled various subjects such as these, saw much information and material and chose certain descriptions of the subjects that "made sense" to her. She then memorized these internet passages, and used this memorized work to answer the exam questions.

[7] Thus, for example, Calvinism was a subject reviewed in the course and which she thought might be on the exam. She Googled Calvinism, saw many entries, selected one that made sense to her, and when she saw that it was a subject she could choose to write about on the exam, she wrote what she had memorized from the internet.

[8] She did this for many of the mini-subjects she thought could be on the exam. When some appeared (at least 4 of them did) she followed the same practice; she wrote in her exam book the material she had memorized from the internet about that subject.

[9] Although Ms. M denied there had been any discussion about plagiarism during the course, there was abundant evidence that in the course syllabus, orally,

and frequently, students were both warned against plagiarism and referred to various sources, if they were in any doubt about what plagiarism is.

- [10] If Ms. M's evidence is to be accepted, then on any standard of proof, the University has satisfied its onus to prove plagiarism. What Ms. M wrote were not her own thoughts, ideas, analysis or even words. She wrote, according to her from memory and virtually verbatim, various memorized internet passages, without attribution. While some of the passages are relatively basic in their terms, others are more complex and in any event all are the ideas and the expression of the ideas of others.

- [11] Paragraph B.I. 1. (d) of the *Code* makes it an offence:

"to represent as one's own any idea or expression of an idea or work of another in any academic examination or term test or in connection with any other form of academic work, i.e. to commit plagiarism ...".

- [12] If Ms. M actually did what she said she did, she has committed the offence of plagiarism and is guilty of the charge against her laid under section B.I. 1. (d).

The Notes

- [13] The Notes, Exhibit 2 in their original form, consist of two typewritten pages, a copy of which is attached to these Reasons as Attachment 2. There are paragraphs numbered 1 to 5 on what is marked page 1 in the bottom left. The second page, marked 3, contains paragraphs 11 to 16. They were found by Chrystia Wynnycky, an invigilator working during the examination, who was on

her way to do a routine tidying up of Ms. M's carrel, after Ms. M had been signed out of the examination centre at 9:37 p.m.

- [14] Dr. Wynnyckyj told us that she went through the opening into the carrel, where the chair was slightly at an angle to the desk and saw the Notes lying on the chair. They were in a somewhat crumpled state, according to her evidence, folded a couple of times, as she described it, into something that looked to us like a pocket handkerchief, folded. This was about 9:50 p.m.
- [15] Dr. Wynnyckyj took the Notes to the invigilators' carrel where she and Andrea Burden, another invigilator, compared the Notes to Ms. M's exam booklets, handed in a few minutes before. They found examples of verbatim and almost word for word repetition of several paragraphs from the Notes in the exam books.
- [16] As it turns out, the Notes were identical to certain internet passages, that were subsequently found by University investigation and admitted into evidence on consent, and which Ms. M confirmed were the actual passages she had found and memorized from the internet.

The Examination

- [17] There was much evidence about steps taken to ensure the integrity of an examination, including signing in and signing out procedures, designed to prevent unauthorized aids being brought into examinations. Andrea Burden went through the safeguards and explained the forms and procedures. Ms. M was subjected to such measures, including pocket turnouts and face to face questioning. She signed forms certifying that she had no unauthorized aids, on two occasions in

this case by reason of a fire alarm that caused the evacuation and then return of the students who were then asked to sign another form once again certifying that no aids had been accessed or transported during the alarm period.

[18] Ms. M brought to the hearing the clothes she said she wore to the exam (no other witness could remember her dress), - short shorts, a sleeveless opaque top and sandals. The inference we were asked to draw was that it would not be possible for Ms. M to transport these Notes in all the circumstances of the security and her dress.

[19] In our view not much turns on any of this. The fact is the Notes were smuggled into the examination centre by someone, and they were found in Ms. M's carrel, on her chair. Their physical state when found, as described and as we observed, is consistent with an attempt to minimize their bulk at some point during the process.

The Onus of Proof

[20] The University alleges Ms. M brought the Notes into the examination to copy answers to questions she anticipated would be on the examination, and that she did so. For some reason, - carelessness, bad luck, whatever, two of the three pages of Notes were left behind.

[21] The University must satisfy us, on a balance of probabilities, with clear cogent evidence, that this is what occurred. See *University of Toronto v. X*, a decision of the Discipline Appeal Board, March 25, 2009 and *F.H. v. McDougall*, 2008 S.C.C. 53.

- [22] If this did occur, then there is no doubt that Ms. M is guilty of all charges: using an unauthorized aid, plagiarism, and academic misconduct.

The Evidence

- [23] The evidence is clear that no one saw the Notes prior to their being found at about 9:50, after Ms. M had left. No one saw Ms. M in possession of the Notes. She navigated the security process without incident. She signed, on two occasions, certifications that she had no unauthorized aids. In her evidence, she denied the Notes were hers, that she knew anything about them, how they came to be on her chair or that she did or would ever cheat on an examination.
- [24] On the other hand, Andrea Burden said that when she went to Ms. M's carrel to direct Ms. M to leave in the course of the fire alarm she observed Ms. M shuffling her papers and shoving some things under her papers.
- [25] She thought it odd both that Ms. M was one of only three students who had not immediately left the examination centre as directed and also about what seemed to be Ms. M's attempt to hide something. At the time, Ms. Burden could have looked into the latter issue more carefully, but the centre was then in the midst of a fire alarm and concerns with safety and evacuating the hall took priority in her mind. And after the alarm, the invigilators were extra busy dealing with the various tasks that had then to be completed because of the alarm.
- [26] There are some compelling facts surrounding the Notes and Ms. M's papers. It is essentially admitted, and we find as a fact, that the relevant internet references entered into evidence on consent, and the examination answers are

identical or virtually identical. This is evidence from which we may draw the inference that Ms. M used Notes she prepared from the internet to write the answers in her examination book.

[27] Ms. M says these answers were memorized, a prodigious feat but, we suppose, not an impossible one. Nonetheless if that is so it would have to be the case that Ms. M had memorized many additional excerpts from the internet, not just these few that actually appeared on the test and in the examination booklets.

[28] These specific paragraphs were selected by her from the many that were available to her on the internet. They also showed up in Notes which she denies putting together. The Tribunal is simply unable to accept her evidence that she had memorized this material in almost perfect fashion and that these answers were written from that memory bank, and that it is just coincidental or in the realm of the unexplained that these specific passages are also found in the Notes.

[29] Professor Cantor gave evidence that all but two of the paragraphs in the Notes were directly relevant to the issues in the course and were subjects that could be examined upon. The other two were at least tangentially relevant.

[30] In that respect, there were four students (of about 35 in total), including Ms. M writing the exam in HIS 109Y1Y that evening. None of the plagiarized material from the Notes appears in any of the examination books of the other three students.

[31] Moreover, two of the three left and signed out before Ms. M completed her examination. The fourth student was in a private room, B3, (i.e. a carrel with a closed door) across the aisle from Ms. M's carrel, A11.

- [32] We were taken to the answers written by student B3. By way of example, that student's answer to the question seeking a description and substantive discussion of Fascism is full and complete, sophisticated in its response and was awarded a mark of 5 out of 5. (Ms. M's plagiarized answer received a 1 out of 5.) We can see no basis for the suggestion made by Ms. M in evidence and Mr. Geffen in argument, that student B3 may have had these Notes up his sleeve for possible deployment, if necessary, and then they were abandoned by him in A11 at some point.
- [33] Moreover, student B3 was still writing his examination and did not sign out until 9:59, or about 9 minutes after the Notes were found on Ms. M's chair. On the basis of all this evidence, we find nothing from which to infer that any student, other than Ms. M, had any connection to these Notes.

Findings

- [34] On the basis of all the evidence we find that the Notes had relevance only to HIS 109Y1Y and only the four writing the examination in that course would have any interest in smuggling the Notes into the examination centre. We find no evidence to support the involvement of any of the other three students. None of their answers employed any material from the Notes. Two left before Ms. M, and one after the Notes were found. Student B3, the closest in proximity to Ms. M, received a mark of 90 on his examination, and his answers were comprehensive and clearly his own work. There is no basis to support that student's involvement in any manner whatsoever.

- [35] While Ms. M passed through the security measures, and denies any involvement with the Notes, we find that Ms. M brought the Notes into the examination centre and carrel A11 and used them in constructing answers to the questions asked on the examination.
- [36] The Notes were found in that carrel on her chair. There was no evidence that any other student ever entered that carrel and of course there was no evidence of any motivation in anyone else to perpetrate this fraud upon Ms. M.
- [37] Most importantly, the Notes, the examination answers and the internet passages Ms. M admits she used, are all virtually identical.
- [38] This evidence permits only one inference; that Ms. M did her work on the internet, found passages that made sense to her, reduced these materials to what was probably a three page set of Notes, smuggled the Notes into the examination centre and used them to write her examination.
- [39] Mr. Geffen argues that this makes no sense, because why would Ms. M or anyone, having done all that, proceed to leave the Notes in the very place where she was alone writing the exam. And why are there only two pages not three. In our view however, even the best laid plans can go awry. It is more probable that Ms. M left them behind in error, than is any other possible explanation for their presence on her chair.
- [40] Finally, we simply do not accept Ms. M's evidence that she had nothing to do with the Notes and that she wrote these verbatim excerpts from her memory only. We find these explanations not credible, and when her evidence is measured against the evidence taken as a whole, there is no substance to her position.

[41] Ms. M spoke sincerely about her difficulties in even being in a position to attend this University course, her wish to succeed, her desire to set an example for her son and to improve herself, all as reasons why she would not do what is alleged against her.


[42] Although not central to our conclusions, in our view, these very factors, are likely what motivated Ms. M to knowingly flout the rules, in an effort to pass this course, a goal which would otherwise likely elude her. Ms. M told us in her direct examination that she was not a scholar, an A student or even a B student.

Conclusion

[43] Ms. M is guilty of Charges #1 and #2, and in such circumstances we understand that the Provost will withdraw Charge #3.

[44] The Tribunal will reconvene to consider the appropriate penalty.

Dated at Toronto, this ³¹ date of January, 2011.



Ronald G. Slaght, Q.C.
Chair

ATTACHMENT 1



UNIVERSITY OF
TORONTO

OFFICE OF THE VICE - PROVOST, FACULTY & ACADEMIC LIFE

Via email

CONFIDENTIAL

October 4, 2010

Miss L M
L m @utoronto.ca
Student #:

Dear Miss M

On the advice of the University Discipline Counsel, I am writing to inform you that you are hereby charged with the offences as detailed on the attached.

By copy of this letter I have informed Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances, of the Academic Tribunal, who will be in touch with you regarding the Tribunal's proceedings.

Yours Sincerely,

Professor Edith Hillan
Vice-Provost, Faculty & Academic Life

EH/dsh

Encl.

cc: Christopher Lang
Robert Centa
Lauriann Wade

UNIVERSITY OF TORONTO
RE: L M

CHARGES

Note: Wherever in the *Code of Behaviour on Academic Matters, 1995* ("Code") an offence is described as depending on "knowing", the offence shall likewise be deemed to have been committed if the person ought reasonably to have known.

1. On or about August 19, 2010, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in an examination that you submitted for academic credit in HIS 109Y1Y (the "Course"), contrary to section B.I.1(d) of the *Code*.
2. On or about August 19, 2010, you knowingly possessed an unauthorized aid during, or obtained unauthorized assistance in connection with, an examination that you submitted for academic credit in the Course, contrary to section B.I.1(b) of the *Code*.
3. In the alternative, on or about August 19, 2010, 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 an examination you submitted for academic credit in the Course, contrary to section B.I.3(b) of the *Code*.

Particulars

4. At all material times, you were a registered student in the Transitional Year Program at the University of Toronto. In Summer 2010, you enrolled in the Course.
5. Students in the Course were required to write an examination ("Examination"). On or about August 19, you wrote the Examination in Semiprivate Exam Room A11 ("Room") in the Text/Exam Centre. No aids were permitted.

6. After you handed in your Examination answer booklets, a University invigilator discovered notes in the Room. The notes contained text that appeared verbatim or nearly verbatim in your examination answer booklets.
7. You knowingly included in your answers to the Examination ideas and expressions that were not your own, but were the ideas and expressions of others, which you did not acknowledge in the Examination.
8. You knowingly possessed an unauthorized aid, namely, the notes, or received unauthorized assistance from the notes during the Examination.

ATTACHMENT 2

1. Imperialism

The policy of forcefully extending a nation's authority by territorial gain or by the establishment of economic and political dominance over other nations.

The policy, practice, or advocacy of seeking, or acquiescing in, the extension of the control, dominion, or empire of a nation, as by the acquirement of new, esp. distant, territory or dependencies, or by the closer union of parts more or less independent of each other for operations of war, copyright, internal commerce, etc.

2. Capitalism

An economic system in which the means of production and distribution are privately or corporately owned and development is proportionate to the accumulation and reinvestment of profits gained in a free market

3. Fascism

A governmental system led by a dictator having complete power, forcibly suppressing opposition and criticism, regimenting all industry, commerce, etc., and emphasizing an aggressive nationalism and often racism.

4. Renaissance

the activity, spirit, or time of the great revival of art, literature, and learning in Europe beginning in the 14th century and extending to the 17th century, marking the transition from the medieval to the modern world.

adjective

5.

of, pertaining to, or suggestive of the European Renaissance of the 14th through the 17th centuries: Renaissance attitudes.

6.

noting or pertaining to the group of architectural styles existing in Italy in the 15th and 16th centuries as adaptations of ancient Roman architectural details or compositional forms to contemporary uses, characterized at first by the free and inventive use of isolated details, later by the more imitative use of whole orders and compositional arrangements, with great attention to the formulation of compositional rules after the precepts of Vitruvius and the precedents of existing ruins, and at all periods by an emphasis on symmetry, exact mathematical relationships between parts, and a general effect of simplicity and repose.

7.

noting or pertaining to any of the various adaptations of this group of styles in foreign architecture characterized typically by the playful or grotesque use of isolated details in more or less traditional buildings.

8.

noting or pertaining to the furnishings or decorations of the Renaissance, in which motifs of classical derivation frequently appear.

5. Reformation

The act of reforming; state of being reformed

11. Criticism

The rules and principles which regulate the practice of the critic; the art of judging with knowledge and propriety of the beauties and faults of a literary performance, or of a production in the fine arts; as, dramatic criticism.

12. Calvinism

Calvinism, the Protestant religious perspective associated with the work of John Calvin, includes both the teachings of Calvin and the later developments of his world view. Calvin's doctrine was catholic in its acceptance of the Trinity, human sinfulness, and the saving work of Jesus Christ. It was Protestant in its commitment to the final authority of the Bible, justification by Grace through faith alone, and the bondage of the will for Salvation. It was distinctly reformed in its stress on the omnipotent sovereignty of God, the need for discipline in the church, and the ethical seriousness of life.

13. Catholicism

Catholicism is a broad term for the body of the Catholic faith, its theologies and doctrines, its liturgical, ethical, spiritual, and behavioral characteristics, as well as a religious people as a whole. For many the term usually refers to Christians and churches belonging to the Roman Catholic Church in full communion with the Holy See.

14. Socialism

Socialism is an economic and political theory advocating public or common ownership and cooperative management of the means of production and allocation of resources.

In a socialist economic system, production is carried out by a free association of workers to directly maximize use-values (instead of indirectly producing use-value through maximizing exchange-values), through coordinated planning of investment decisions, distribution of surplus, and the means of production. Socialism is a set of social and economic arrangements based on a post-monetary system of calculation, such as labour time, energy units or calculation-in-kind; at least for the factors of production.

15. Communism

Communism is a sociopolitical structure that aims for a classless and stateless society with the communal ownership of property.

Karl Marx posited that communism would be the final stage in society, which would be achieved through a proletarian revolution and only possible after a transitional stage develops the productive forces, leading to a superabundance of goods and services.

16. Fanaticism

Fanaticism is misplaced enthusiasm, overzealous, no spiritual self control. Tillich: "fanaticism is the attempt to repress elements of one's own being for the sake of others. If the fanatic encounters these elements in somebody else, he fights against them passionately, because they endanger the success of his own repression. To be a fanatic is to emulate what one thinks as to those who actually have the true power. It is going too far because the spirit has not been trusted enough to know the limit

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION**

IN THE MATTER charges of academic dishonesty made on October 4, 2010;

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;

BETWEEN:

THE UNIVERSITY OF TORONTO

– AND –

L M

Hearing Date: February 17, 2011

Members of the Panel:

Mr. Ronald Slaght, Q.C. Barrister, Chair

Professor Bruno Magliocchetti, Department of Italian Studies, Faculty Panel Member

Ms. Alice Kim, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers

Ms. L M the Student

In Attendance:

Dr. Francis Ahia, Associate Director, Transitional Year Program

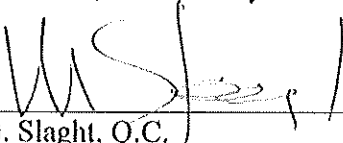
Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

- [1] In a written decision released on February 1, 2011 the Tribunal found Ms. M guilty of two charges under the *Code*. This panel found that Ms. M had surreptitiously transported an unauthorized aid into an examination, in the form of a three page Note containing relevant information which she had downloaded from the internet, which she then used to answer examination questions in the Course HIS 109 Y1Y. The hearing this evening is concerned with the penalty phase of this case.
- [2] The University called no evidence, but relied upon evidence given in the earlier proceeding, and made submissions to us. Ms. M, who was self-represented during this phase, gave evidence before us and also made submissions.
- [3] The University submits that the appropriate sanction in this case is a two year suspension from the University, a grade of zero in the course, a notation on Ms. M's record for the period of suspension, and publication in the usual manner with names redacted.
- [4] The panel has considered the submissions that you both have made and Ms. M's evidence on this sanction hearing. In all the circumstances, we are satisfied that the penalty the University is seeking should be imposed in this case. We therefore impose a two-year suspension from the university, a zero grade in the course, the publication without your name in the appropriate publication, and a transcript notation for the two year period of the suspension.
- [5] In her submission, Ms. M asks that we impose no period of suspension. She was prepared to acknowledge that she should have a zero grade in the course. For the brief reasons that I will give, we are unable to accept Ms. M's submission.

- [6] We are, to the extent of relevant cases, bound by those decisions. We have had the benefit of argument from Mr. Centa including a brief review of the sentencing principles emerging from those cases. I think it is fair to say that for a first-time offender, which Ms. M is, conviction of an offence of plagiarism alone results in a minimum penalty of a two-year suspension in such cases.
- [7] Of course in this case we found not only was there plagiarism, which tonight Ms. M has acknowledged, but we made the additional finding that an unauthorized aid was secretly brought into the examination room, and used. In her evidence tonight Ms. M still does not accept this tribunal's finding that that is what she did. Taking that additional offence into account and Ms. M's lack of acknowledgment into the mix, it seems to us that it is simply not possible to find any basis upon which the minimal two-year suspension could possibly be less than that.
- [8] In our view, on the basis of the offences we found and the evidence and submissions we heard tonight, a two-year suspension is indeed a minimal sentence for Ms. M's actions.
- [9] I will address briefly a couple of additional points which I think Ms. M did recognize in her evidence to us tonight. In a circumstance like this, it is particularly important that the core values of the University be protected and that there be not only some deterrence addressed specifically to Ms. M, but also an example given, so that the other students at the University will realize that when offences such as these are uncovered, there will be a penalty that is meaningful.

- [10] For that reason we believe that the two-year suspension is an appropriate message to be given, not just to you, Ms. M. but to be published around the University that when uncovered, this conduct will result in a severe sanction.
- [11] The other factor we would emphasize is that we did have a lot of evidence in this case about the procedures the University goes through in examination settings in order to prevent these occurrences. When, as happened here, perhaps by happenstance, those procedures result in the uncovering of events that we have found to offend the University's *Code*, it is important that a message be sent that there is a reason those procedures exist and there will be consequences if they are breached. For that reason as well we believe that a two-year suspension is a reasonable response to the facts of this case.
- [12] We accept that these events have had a devastating effect, as you describe it, upon you. We acknowledge that, but you will have another chance. You will have to serve a period of suspension. Your right to attend and perhaps be enrolled in the University has not been taken away from you; it has been suspended. Particularly in view of the continued denial that you maintain about the unauthorized aid and the Notes, we simply are unable to give effect to any submission that would lessen the usual penalty in circumstances like this, which is at least a two-year penalty.
- [13] For these reasons, then, we impose the penalty that the University has requested in this case.

Dated at Toronto, this 21st day of March, 2011.



Ronald G. Slaght, Q.C.
Chair