THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on September 16, 2013

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.

B E T W E E N:

THE UNIVERSITY OF TORONTO

- AND-

D[redacted] F[redacted] Z[redacted]

REASONS FOR DECISION

Hearing Date: Wednesday, January 29, 2014

Panel Members:
Ms. Dena Varah, Barrister and Solicitor, Chair
Professor Ernest Lam, Faculty of Dentistry, Faculty Member
Mr. Blake Chapman, Student Member

Appearances:
Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Barristers

In Attendance
Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity, Faculty of Arts and Science, University of Toronto
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances, Office of the Governing Counsel

REASONS FOR DECISION

1. The Trial Division of the University of Toronto Tribunal was convened on January 29, 2014 to consider charges advanced by the University of Toronto (the "University") against D[redacted] F[redacted] Z[redacted] (the "Student") under the Code of Behaviour on Academic Matters (the "Code").

2. The Student did not respond to any correspondence from the University. Discipline Counsel provided an affidavit of service confirming that the Student was served with the Notice of Hearing at his University-issued email address, which meets the standard of service pursuant to the University Policy on Official Correspondence with Students. Discipline Counsel also advised the Panel that the Student had not registered for a course at the University since December 2012. The Panel waited for 15 minutes after the scheduled start time for the hearing and then proceeded in the Student's absence.

PART 2 - THE CHARGES

3. The Student is charged with seven offences under the Code:

(1) On or about April 5, 2012, you knowingly falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such falsified document or evidence, by representing that you had attended Huazhong University of Science and Technology from September 2001 to July 2003 in your application for post-admission transfer credit, contrary to Section B.I.1(a) of the Code.

(2) On or about April 12, 2012, you knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of such forged, altered or falsified record, namely, a document which purported to be your Undergraduate Academic Record from Huazhong University of Science and Technology, contrary to Section B.I.3(a) of the Code.

(3) On or about April 12, 2012, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a document that purported to be your official Undergraduate Academic Record from Huazhong University of Science and Technology, which you submitted in support of your application for post-admission transfer credit, contrary to Section B.I.1(a) of the Code.

(4) On or about April 12, 2012, you knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of such forged, altered or falsified record, namely, a document which purported to be an English translation of your Undergraduate Academic Record from Huazhong University of Science and Technology, contrary to Section B.I.3(a) of the Code.

(5) On or about April 12, 2012, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a document that purported to be an English translation of your official Undergraduate Academic Record from Huazhong University of Science and Technology, which you submitted in support of your application for post-admission transfer credit, contrary to Section B.I.1(a) of the Code.

(6) On or about April 27, 2012, you knowingly falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such falsified document or evidence, by representing that you had

attended Huazhong University of Science and Technology in support of your application for transfer credit, contrary to Section B.I.1(a) of the Code.

(7) In the alternative to each of the charges set out above, on the relevant dates indicated in each charge, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, contrary to Section B.I.3(b) of the Code.

4. Discipline Counsel advised that the University was not proceeding with charges (2) and (3).

5. Discipline Counsel further advised that if the Panel found the Student guilty of any of the other charges then the University withdrew charge (7).

PART 3 - THE FACTS UNDERLYING THE CHARGES

6. The Student was registered in the Faculty of Arts and Science at the University commencing in the fall term 2011.

7. The University filed the Affidavit of Tracy Wood, Assistant Faculty Registrar in the Transfer Credits office at the Faculty of Arts and Science at the University. As Ms. Wood was on leave at the time of the hearing, she was not available to testify. Discipline Counsel submitted that the University Tribunal Rules of Practice and Procedure permitted affidavit evidence to be filed to prove the truth of facts and documents. The Panel was satisfied that the facts contained in and documents attached to Ms. Wood's affidavit were admissible for the truth of their contents.

8. On April 5, 2012, the Student applied for post-admission transfer credits. The transfer credit request submitted by the Student indicated that he had attended Huazhong University of Science and Technology ("HUST"), and that he was requesting transfer credits because "some of the courses i need to take at UT are the same as the course i already took at HUST". The student listed eight courses he already took at HUST and for which he was seeking transfer credits.

9. In support of the transfer credit request, the Student submitted a copy of a transcript from HUST along with a course outline providing course descriptions of the courses purportedly completed by the Student at HUST. The transcript appeared to have an official stamp, which read "Jiang Hongyang Director of Archives Huazhong University of Science and Technology." The Student also submitted with the transcript a certificate of a notary public confirming that the copy of the transcript was a true copy of the original document.

10. Ms. Wood was concerned that the transcript indicated that the Student had completed these courses prior to his registration at the University. The Student should have applied to transfer these credits at the time he applied for admission to the University and not as post-admission transfer credits. Ms. Wood also noted that the Student did not include these post-secondary studies at the time of his application, which was contrary to his disclosure obligations.

11. Ms. Wood requested that the Student explain why he failed to disclose this information during the application process. He responded by letter received April 27, 2012, in which he stated that he did not know that he could transfer his

college credits to the University when he first enrolled. He stated that one of his friends had recently informed him that he could transfer these credits, which is why he applied for post-admission transfer credits. At the end of his letter he wrote, "I already had the knowledge I don't want to waste my time to study the same material again, I want to use the time to learn some new stuff."

12. Ms. Wood reviewed the Student's records and discovered certain inconsistencies, including that the dates the Student was allegedly at HUST overlapped with the time that he was attending high school in Ontario.

13. As a result, Ms. Wood contacted HUST by email to confirm the information provided to her by the Student. By email of January 16, 2013, Mr. HE Gang, Vice Director of the International Exchange Center at HUST advised that the Student's documents, including the contents and the stamps, were "fake". He followed up by email of January 17, 2013 that the School of Economics confirmed that there was no record of a student by the name of the Student in the year 2008. He also noted that the Academic Record submitted was not consistent with HUST's curriculum as some of the courses would only be available for second and third year students.

14. Ms. Wood met with the Student on February 11, 2013 to discuss her findings. At this meeting, the Student stated that he attended HUST in 2009-2010. Ms. Wood showed him the transcript he submitted, which he confirmed was his transcript from his time at HUST. After being told that the timelines did not make sense and that Ms. Wood had written to HUST to enquire about these

records, the Student admitted that he had not attended HUST. Ms. Wood then wrote a report to the Office of Student Academic Integrity documenting her findings and her meeting with the student.

15. Despite multiple attempts beginning in February 2013, the Office of Student Academic Integrity was unsuccessful in contacting the Student.

PART 4 - DECISION ON CHARGES

16. The Panel was satisfied that the facts supported conviction on charges 1, 4, 5 and 6. Charge 7 was therefore withdrawn and the Panel makes no findings in this regard.

17. Charge 1 was altered to remove the date the Student represented he had attended HUST. The Charge stated that he represented that he had attended there from September 2001 to July 2003. As it was not clear the exact dates upon which the Student purported to attend HUST, the Panel felt that the charge was not supportable with the date clause included.

18. On Charge 1, the facts support that the Student did not attend HUST, and that he represented that he took eight courses at HUST to the University in his application for post-admission transfer credits.

19. On Charges 4 and 5, the facts support that the Student forged the English translation of his purported Undergraduate Academic Record from HUST. Staff at HUST confirmed this. The Student submitted this transcript to support his application for post admission transfer credits.

20. With regard to Charge 6, the Student provided an explanation letter received by the University on April 27, 2012. The Student reiterated that he attended college in China, and that he was seeking to transfer those credits. This was untrue. The facts establish the components of this charge.

PART 5 - PENALTY

Submissions on Penalty

21. Discipline Counsel submitted that the appropriate penalty in this case is a suspension of five years to come into effect immediately, a recommendation to the President that he in turn recommend to the Governing Council that the Student be expelled from the University and the case be reported to the Provost, with the student's name redacted for publication of the Decision of the Panel and sanction imposed.

22. Discipline Counsel outlined the factors the Panel should consider in determining the appropriate penalty:

(a) the character of the person charged;

(b) the likelihood on repetition of the offence;

(c) the nature of the offence committed;

(d) any extenuating circumstances surrounding the commission of the offence;

(e) the detriment to the University occasioned by the offence; and

(f) the need to deter others from committing a similar offence.

(*In the Matter of the University of Toronto Code of Behaviour and an Appeal by Mr. C*, File 1976/77-3)

23. As the Student had not participated in the process, Discipline Counsel acknowledged that there is no evidence before the Panel of the character of the Student or of any mitigating factors on penalty. He also acknowledged that the offence was not likely to be repeated, as the Student is no longer registered with the University.

24. Discipline Counsel submitted that the nature of the offence, the detriment to the University occasioned by the offence and the need to deter others all support expulsion in this case. He argued that the offence was extremely serious, and violated the trust the University places in students in the admissions and credit transfer process. He noted that the University cannot reasonably verify every statement and document submitted by students, such that the detriment to the University occasioned by these offences is substantial. Given the significant trust placed in the students in these situations, there is a real need for general deterrence.

25. Discipline Counsel relied on sixteen precedents in which students had committed similar offences. In the precedents in which students forged documents and misrepresented their academic history for transfer credits or admission, students were expelled the vast majority of the time. He indicated

that he was not aware of a case such of this in which the student declined to participate in the process and received a penalty less than expulsion.

PART 6 - DECISION ON PENALTY

26. The Panel carefully considered the facts of this case, the factors in deciding penalty and the precedents put before it. It is aware that the prior Tribunal decisions, are not binding on it. These decisions do, however, offer guidance for the Panel on the penalties imposed on other students in similar circumstances. It has determined that the proper penalty in this case is a five-year suspension, a recommendation to the President that he recommend to the Governing Council that the Student be expelled and a publication of this decision with the Student's name redacted.

27. The Panel agreed with Discipline Counsel that the most important factors in this case are the nature of the offences, the detriment to the University occasioned by the offences and the need for general deterrence.

28. In *University of Toronto and M.K.* (Case Number 491; November 5, 2008), the student applied for post-admission transfer credits for two courses she claimed to have taken at a university in Ukraine. The student certified that the information she was providing was true and accurate. She submitted what purported to be a certified transcript of academic record, a document that purported to be a certified curriculum for one course and another document purporting to be a certified syllabus for the other course.

29. In *M.K.*, the student participated in the process and pled guilty to the central charges. She testified about health issues, including depression, anxiety and panic attacks, although the evidence established that she was well at the material time. The panel did not give effect to her submission, noting the "planned and deliberate nature of this offence" to circumvent course requirements by fraudulently obtaining two half credits. Referencing the need to protect the integrity of the University community and the need for deterrence, the panel recommended expulsion. It is of note that the student was only one credit away from meeting her graduation requirements.

30. *The University of Toronto v. A.K.* (Case Number 523; January 14, 2009), involved false statements in an admissions application as well as forged transcripts and course descriptions in an application for post-admission transfer credit, The student pled guilty to the charges and contested penalty. The student submitted evidence in support of mitigation, including letters from an endocrinologist and a psychological consultant speaking to the student's physical and emotional conditions. Although the panel found that the student appeared genuinely remorseful, it concluded that the evidence did not have a sufficient nexus to the circumstances to result in a lesser penalty. The panel recommended expulsion.

31. These cases are instructive as the offences are very similar to those at issue here. Although there are some factual differences, the material facts and the factors considered in determining penalty are all applicable here. In this case, the Student sought credits for eight courses, courses he would otherwise be

required to complete to earn his degree. Had he succeeded in his fraudulent conduct, he would have the same degree as his peers earned in less time with fewer credits. This is not only a profound unfairness to his peers, and the academic community at large, but also a detriment to the integrity of the degree issued by this institution. The gravity of this offence cannot be overstated.

32. In addition, the system of permitting post-academic transfer credits is a benefit to the student body. It permits students to take additional courses at other institutions and apply those credits to their degree requirements. However, as Discipline Counsel noted, the system is based on trust in that not every transcript or syllabus can be verified in the painstaking manner employed in this situation. The need for general deterrence is high as students must appreciate that this conduct will be met with the most severe response.

33. As the Student did not participate in the process, the panel could make no findings on his character or mitigating factors on penalty.

34. The panel notes that there were a limited number of precedents before it in which the students received lesser penalties of suspension, but those cases did not persuade the panel that a lesser penalty was appropriate in this case. In each of those cases, the students participated in the process, which permitted mitigating evidence to be before the panel, including the responsibility they took for their actions. In one case, there was compelling character evidence that persuaded the panel to suspend rather than revoke a degree of a university graduate convicted of misrepresenting his academic achievements to potential

employers. (*The University of Toronto and S[redacted] D[redacted]* {Case Number 637; May 1, 2007}).

PART 7 - ORDER

35. Accordingly, the Panel imposes the following penalty:

(a) The Student by suspended from the University for a period of 5 years effective immediately;

(b) A recommendation be made to the President that he recommend to the Governing Council that the Student be expelled from the University; and

(c) This case be reported to the Provost, with the Student's name withheld, for publication of a notice of the Decision and sanction imposed.

DATED at Toronto this 16th day of April, 2014.

Dena Varah, Co-Chair