

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on November 1, 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 S.O. 1978, c. 88*

B E T W E E N:

THE UNIVERSITY OF TORONTO

- AND -

S [REDACTED] M [REDACTED]

Date of Hearing: January 9, 2014

Members of the panel:

Ms. Julie Rosenthal, Barrister and Solicitor, Chair

Professor Charmaine Williams, Factor-Inwentash Faculty of Social Work, Faculty Panel Member

Ms. Ching (Lucy) Chau, Student Panel Member

Appearances:

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

Mr. Adam Goodman, Barrister and Solicitor, for the Student

Mr. S [REDACTED] M [REDACTED], the Student

In Attendance:

Professor Luc De Nil, Dean's Designate, School of Graduate Studies

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

Reasons for Decision

Introduction – The Charges

1. The Trial Division of the University of Toronto Tribunal was convened on January 9, 2014 to consider charges advanced by the University against S ■■■ M ■■■ (the “Student”) under the *Code of Behaviour on Academic Matters*. The charges were as follows:

- (1) In 2012, you knowingly submitted academic work containing a purported statement of fact that had been concocted, which violated section B.I.1(f) of the *Code*.
- (2) In the alternative, in 2012, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind, which violated section B.I.3(b) of the *Code*.

2. The Student attended at the hearing and was represented by counsel.

The Agreed Statement of Facts

3. At the outset of the hearing, Discipline Counsel advised that the University and the Student had entered into an Agreed Statement of Facts.

4. As part of the Agreed Statement of Facts, the Student pleaded guilty to both charges. In addition, as part of the Agreed Statement of Facts, the Provost agreed that, if a conviction were entered by the Tribunal on charge 1, the Provost would withdraw charge 2.

5. The salient facts are as follows.
6. In the Summer session of 2010, the Student was admitted to the School of Graduate Studies in the Master of Science program in the Department of Physiology.
7. In 2012, the Student submitted his Masters' thesis, in partial completion of the requirements for the Master of Science degree.
8. The thesis was accepted and, in November 2012, the University conferred the Master of Science degree on the Student.
9. In July 2013, a revised version of the Student's thesis was published in a peer-reviewed journal. The Student was listed as the lead author with a number of co-authors.
10. In August 2013, the Student advised Dr. Denise Belsham that he had fabricated much of the data contained in the thesis. The fabricated data also appeared in the published journal article. As a result, Dr. Belsham contacted the journal to request that the article be withdrawn.
11. The Student also sent an email to Patricia Brubaker, the Associate Chair (Academic) in the Department of Physiology. In that email, the Student described in some detail the nature of his research, as well as the specific parts of his thesis that he had fabricated or misrepresented. The Student also admitted that, in order to avoid detection, he deliberately overwrote some of the original files that were used to obtain data.
12. The Tribunal reviewed the Agreed Statement of Facts and the documents filed in connection therewith.

13. The Tribunal also heard from the Student who again admitted the facts set out above, namely, that:

- (a) he had fabricated and/or altered much of the data contained in his thesis;
and
- (b) in order to avoid detection, he deliberately overwrote some of the original template files that he had used to obtain data.

14. We note that, had the Student not advised Dr. Belsham that he had fabricated the data in his thesis, it is not unlikely that the entire matter would have gone undetected. We also note that the Student cooperated fully throughout the disciplinary process, appears fully to appreciate the seriousness of his misconduct, and expressed deep remorse.

Analysis

(a) Jurisdiction

15. As a preliminary matter, the Tribunal considered the question of its jurisdiction to hear the matter, given that the Student was no longer enrolled at the University. In that respect, the Tribunal considered section B.I.4 of the *Code*, which states as follows:

A graduate of the University may be charged with any of the above offences committed knowingly while he or she was an active student, when, in the opinion of the Provost, the offence, if detected, would have resulted in a sanction sufficiently severe that the degree would not have been granted at the time that it was.

16. In the present case, had the Student's offence been detected while he was an active student, the Student would have received a grade of zero in his thesis course and,

as a result, his degree would not have been granted at the time that it was. Accordingly, we find that the Tribunal has jurisdiction pursuant to section B.I.4 of the *Code*.

(b) *The Offence*

17. Section B.I.1(f) of the *Code* states as follows:

It shall be an offence for a student knowingly:

...

(f) to submit any academic work containing a purported statement of fact or reference to a source which has been concocted.

18. In light of the facts admitted to by the Student, as set out in the Agreed Statement of Facts and as confirmed by the Student at the hearing, the Tribunal finds that the Student violated section B.I.1(f) of the *Code*, in that he knowingly submitted academic work – namely, his Master’s thesis – that contained a purported statement of fact that had been concocted – namely, the data and research results presented in his thesis.

19. Given the Provost’s stated intention to withdraw the second charge if a conviction were entered on the first charge, the Tribunal refrains from considering the second charge.

Penalty

20. The University and the Student submitted a Joint Submission on Penalty. The Joint Submission on Penalty proposed the following:

- (1) that the Tribunal recommend to the President that he recommend to Governing Council that it cancel and recall the Student’s Master of

Science degree (pursuant to section C.II.(b)1(j)(i) of the *Code*), which degree was conferred in November 2012;

- (2) that a final grade of zero be assigned in the course RST999Y – Research/Thesis, pursuant to section C.II.(b)1(g) of the *Code*;
- (3) that a permanent notation of this sanction be placed on the Student's academic record and transcript;
- (4) that the Tribunal report this case to the Provost who may publish a notice of the decision of the Tribunal and the sanctions imposed, with the Student's name withheld.

21. With respect to the cancellation of the Student's degree, the Tribunal's jurisdiction to impose such a penalty is conferred by section C.II.(b)1(j)(i) of the *Code*, which states as follows:

One or more of the following sanctions may be imposed by the Tribunal upon the conviction of any student:

...

- (j) (i) recommendation to the Governing Council for cancellation, recall or suspension of one or more degrees, diplomas or certificates obtained by any graduate . . . who, while enrolled, committed any offence which if detected before the granting of the degree, diploma [or] certificate . . . would, in the judgment of the Tribunal, have resulted in a conviction and the application of a sanction sufficiently severe that the degree, diploma [or] certificate . . . would not have been granted.

22. As submitted by Discipline Counsel, this provision contemplates that the Tribunal can recommend the cancellation and recall of a student's degree, in those cases where a

student has committed an offence that, had it been detected before the granting of the degree, would have resulted in the degree not being granted.

23. In the present case, given the seriousness of the offence, we are satisfied that, had the offence been detected before the Student received his degree, the degree would not have been granted. Accordingly, we find that we have jurisdiction to impose the penalty sought.

24. With respect to whether the penalty should be imposed, we are mindful of the fact that the proposed penalty was the subject of a Joint Submission. Although such a Joint Submission is not binding, the Tribunal should only depart from it in very limited circumstances. Specifically, the Tribunal should only depart from the Joint Submission where the acceptance of the Joint Submission would bring the administration of justice into disrepute. (See, in this regard, *The University of Toronto v. S.M.*, Case No. 696; September 12 2013, at para. 24.)

25. This is not such a case. The Tribunal considered the following criteria relevant to the imposition of a sanction:

- (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 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.

26. In particular, we have considered the following facts.

27. The offence committed by the Student is very grave indeed. A Master's thesis is an important piece of academic work. And the Student's misconduct resulted in a Master's thesis that was fundamentally compromised by false data. The seriousness was magnified by the fact that the thesis (including the fabricated data) was published in a peer-reviewed journal. The withdrawal of the article, given the circumstances, necessarily resulted in harm to the University's reputation – something that is obviously detrimental to the University community as a whole. There is no doubt of the need to ensure that the penalty imposed serves as a deterrent in the future.

28. We are, however, mindful of the mitigating factors, including the important fact that it was the Student himself who voluntarily brought the misconduct to the University's attention. We also take note of the Student's cooperation in the disciplinary process and his expressions of remorse, which we accept as genuine. We have no reason to fear a repetition of the offence by the Student.

29. Considering all of the foregoing, the penalty sought appears appropriate in the circumstances.

30. Moreover, an examination of the jurisprudence reveals that the recommended penalty has been imposed in other cases involving similar offences. For example, in the

case of *The University of Toronto v. J.D.* (Case No. 456; August 16 2007) (as in the present case), the student fabricated or falsified data that he included in his Master's thesis. In addition, the student in the *J.D.* case (as in the present case) authored a publication that included that fabricated data. And the student in the *J.D.* case (as in the present case) voluntarily brought his misconduct to the attention of his supervisor. The facts are, accordingly, remarkably similar to those in the present case. And we note that, in the *J.D.* case, where the student was currently enrolled in a Ph.D. program at the university, the penalty imposed was as follows:

- (a) a recommendation that the student's Master of Science degree be cancelled and revoked;
- (b) suspension of the student for a period of six months;
- (c) assignment of a grade of NCR in the student's thesis course; and
- (d) a permanent notation on the student's transcript with respect to the degree cancellation and the grade of NCR for the thesis course.

31. We have also considered the case of the *University of Toronto v. S.G.* (Case No. 588; July 28 2011). In that case, the tribunal found that the student had knowingly incorporated into his master's thesis a number of false statements which were essential to the integrity of the thesis. The penalty imposed was as follows:

- (a) assignment of a grade of zero in the student's thesis course;

- (b) a recommendation that the student's Master of Science degree be cancelled and revoked;
- (c) a permanent notation on the student's transcript; and
- (d) a recommendation that the case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the student's name withheld.

32. In other words, the penalty imposed in that case was identical to that sought in the joint submission in the present case.

33. Accordingly, we find that the penalty sought in the present case is consistent with that imposed in other cases with similar facts.

34. For all of the foregoing reasons, the imposition of the penalty sought would not bring the administration of justice into disrepute. There is, therefore, no reason to depart from the joint submission.

Conclusion

35. For all of these reasons, the Tribunal imposes the following penalty.

- (a) The Tribunal recommends to the President that he recommend to Governing Council that it cancel and recall the Student's Master of Science degree, which was conferred in November 2012.
- (b) The Tribunal orders that a final grade of zero be assigned in the course RST9999Y – Research/Thesis.

- (c) The Tribunal orders that a permanent notation of this sanction be placed on the Student's academic record and transcript.

36. The Tribunal further directs that this case be reported to the Provost who may publish a notice of this decision and the sanction imposed, with the Student's name withheld.

Dated at Toronto, this 19th day of February, 2015.



Julie Rosenthal, Co-Chair