

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on October 7, 2015,

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:

UNIVERSITY OF TORONTO

– and –

H [REDACTED] M [REDACTED]

DECISION and REASONS

Date of Hearing: March 15, 2016

Members of the Panel:

Mr. Paul Morrison, Barrister and Solicitor, McCarthy Tetrault, Chair
Dr. Chris Koenig-Woodyard, Department of English, Faculty Panel Member
Mr. Adam Wheeler, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Dr. Kristi Gourlay, Manager Office of Academic Integrity, Faculty of Arts and Science

In Attendance:

Professor Donald Dewees, Dean's Designate for Academic Integrity, Office of the Dean, Faculty of Arts and Science
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
Ms. Virginia Fletcher, Law Clerk, Paliare Roland Rosenberg Rothstein LLP
Professor Stavroula Andreopoulos, Course Coordinator and Instructor

Not in Attendance:

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

INTRODUCTION

1. The Trial Division of the University Tribunal was convened on March 15, 2016 to hear charges under the University of Toronto *Code of Behaviour on Academic Matters* (the "Code") brought against the student, H [REDACTED] M [REDACTED] (the "Student"). The Student was properly advised of the hearing by email dated February 3, 2016, marked as Exhibit 1 at the Hearing.
2. The Student did not appear at the Hearing. On the application of counsel for the University, the Tribunal ordered that the hearing could proceed in the absence of the Student.

THE CHARGES

3. The charges against the Student, including Particulars thereof are as follows:
 - On or about December 11, 2014, you knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in connection with the final examination in BCH210H ("Exam" and "Course" respectively), contrary to sections B.I.1(b), B.II.1(a) and B.II.2 of the *Code*.
 - On or about December 11, 2014, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* to obtain academic credit or other academic advantage of any kind, in connection with the Exam, contrary to section B.I.3(b) of the *Code*.

Particulars

The particulars of the offences charged are as follows:

- (a) At all material times you were a student registered at the University of Toronto in the Faculty of Arts & Science.
- (b) In Fall 2014 you enrolled in the Course, which was taught by Stavroula Andreopoulos and Sian Patterson.
- (c) You wrote the Exam on December 11, 2014, which was worth 30% of the Course mark. No aids were allowed in the Exam.
- (d) At the beginning of the Exam you signed a Test and Exam Services Student Declaration (Sign-In) sheet in which you acknowledged that you were not in possession of any unauthorized aids or unauthorized electronic devices.
- (e) The Exam was a restricted exam, in that you were required to hand in the Exam question paper at the end of the Exam, with your name and student number written on it.
- (f) During the Exam you posted the contents of the Exam on Facebook, where it was available to other students enrolled in the Course, including students who were writing the Exam at the time and other students who had not yet written the Exam.

THE EVIDENCE

4. On application of counsel for the University, the Tribunal granted leave to proceed by way of the filing of Affidavit evidence.

The University filed a substantial amount of Affidavit evidence, as follows:

- Affidavit of Virginia Fletcher, a law clerk at the firm Paliare Roland Rosenberg Rothstein LLP
- Affidavit of Stavroula Andreopoulos, Course Coordinator and an Instructor/Lecturer for Biochemistry 1: Proteins, Lipids and Metabolism. This course, numbered BCH210H, is the course that was involved in the charges against the Student.
- Affidavit of Candice King, a student in the Course.
- Affidavit of Michelle Annicchiarico, a student in the Course.
- Affidavit of Kristi Gourlay, the Manager and Academic Integrity Officer at the Office of Student Academic Integrity in the Faculty of Arts and Science at the University.
- Affidavit of Lesa Smith
Affidavit of Leah Edwards
Affidavit of Jordanne Amos
Affidavit of Danielle Di Carlo
Affidavit of Aastha Sahnii
Affidavit of Marina Bourlak

All of these witnesses served as invigilators with Test and Exam Services at the University and served as invigilators in connection with the Exam in question with respect to the Charges.

DISCUSSION/FINDINGS

5. The Student sat for the Exam in the Course on December 11, 2014.
6. There is evidence that the Student has a medical condition as a result of which the University provided for special allowances for the Student to take the Exam. There is evidence that he has a blood pressure condition called Cold Urticaria which causes his blood vessels to constrict and, by reason of which any kind of drop in ambient temperature will cause severe pain. As a result, he was allowed to wear his parka during the examination and was allowed to take the examination in a private carrel. He was also allowed significant additional time within which to complete the examination.
7. Prior to sitting for the examination, the Student signed a Test and Exam Services Student Declaration. The Declaration provides as follows:

BY SIGNING BELOW, I ACKNOWLEDGE AND CONFIRM THAT:

- If I have been granted permission to write the test or exam at any time other than the time of the regularly-scheduled class sitting, I certify that I have not received any prior indication about the content of the test or exam, nor will I reveal the content of the test or exam to anyone until the regularly-scheduled class sitting of the test or exam has ended.
 - The official time is determined by the clock on the wall in the invigilators' office. My authorized writing time will be determined based on the clocks on the walls only, and not on any other clocks in the Test/Exam Centre (e.g. the computer, my watch, etc.).
 - I am not in possession of any unauthorized test/exam aids (such as notes) or unauthorized electronic devices (such as a cell phone) in my pockets or on my person. I understand that possession of an unauthorized test/exam aid or an unauthorized electronic device during a test or an exam is an academic offense that carries a significant penalty.
8. The evidence is that the Student signed in for the Exam at 4:35 p.m. on December 11, 2014 and signed out at 10:25 p.m. That is, he took almost six hours to complete the examination.
 9. Ms. Candice King, a student in the Course, signed in for the examination during its normally scheduled time, 7 o'clock p.m. – 10 o'clock p.m. on December 11, 2014. She finished the examination early and left the examination room approximately 30 minutes before the Exam was over. As she was proceeding to the streetcar, she checked her mobile phone and found a Facebook post on the Facebook Group page for the Course. The Facebook post was a virtual reproduction of the examination that she had just finished. It was posted to the Facebook Group page at least a half hour prior to the scheduled time for completion of the examination. The post indicated that it was posted by H [REDACTED] M [REDACTED], i.e., the Student. Ms. King immediately sent an email to the Course Instructor, Professor Andreopoulos at 9:40 p.m., advising Professor Andreopoulos that the examination had been posted on the Facebook Group page. Thereafter, at the request of Professor Andreopoulos, Ms. King forwarded the Facebook post to her.
 10. The evidence of the invigilators records a number of instances of suspicious activity by the Student while he was signed in for the examination. He took at least seven breaks during the examination. One of the invigilators, Ms. Bourlak, checked the Student's examination carrel while the Student was on a break. She found nothing other than the test materials. Shortly after the Student returned to his carrel, Ms. Bourlak checked his exam locker and observed only a slim wallet and a pair of headphones. There was no cell phone in the locker.
 11. As the Student was leaving the examination area after having signed out at 10:25 p.m. Ms. Bourlak continued to watch the Student. She observed him take his cell phone out of his parka and make a phone call as he was leaving the Exam area.
 12. Through the windows of his examination carrel, the invigilators were able to observe the Student in the carrel. A number of the invigilators observed unusual and suspicious behaviour by the Student during the course of the examination. On a number of

occasions, he was observed looking at something in his parka, or looking down into his jacket, rather than writing the exam.

13. Another instance of suspicious behaviour was the following. One of the Student's many breaks was at 5:27 p.m. This break was for a total of 43 minutes, of which 28 minutes were spent in the washroom and 15 minutes on couches. While he was in the washroom for 28 minutes, the invigilator, Ms. Di Carlo, listened for washroom noises. She did not hear any water running in the sink, nor any toilet being flushed.
14. The totality of the evidence leads the Tribunal to the conclusion that the Student posted the examination to the Facebook Group page for the Course while the Exam was still in progress. The evidence leads to the conclusion that the Student did so using his mobile phone, which he retained on his person during the course of the examination, hidden from the invigilators and contrary to his signed Test and Exam Services Student Declaration.
15. In so doing, the Student contravened s. B.i.1(b), s. B.ii.1(a) and s. B.ii.2 of the University's *Code of Behaviour on Academic Matters* and the Tribunal so finds.
16. The Tribunal received submissions from counsel for the University as to the appropriate sanction. Having received those submissions and considered the evidence and the authorities cited by counsel for the University, the Tribunal issued an Order as set out hereinafter.

ORDER

- 1) **THAT** the hearing may proceed in the absence of Mr. M [REDACTED];
- 2) **THAT** Mr. M [REDACTED] is guilty of one count of unauthorized aid / assistance, contrary to sections B.I.1(b), B.II.1(a) and B.II.2 of the *Code of Behaviour on Academic Matters*;
- 3) **THAT** Mr. M [REDACTED] receive a final grade of zero in BCH210 in Fall 2014;
- 4) **THAT** Mr. M [REDACTED] be suspended from the University for a period of two years, commencing on March 15, 2016 and ending on March 14, 2018;
- 5) **THAT** the sanction be recorded on Mr. M [REDACTED]'s academic record and transcript to the effect that he was sanctioned for academic misconduct, for a period of three years from the date of this Order, to March 14, 2019, or until his graduation from the University, whichever is earlier; and
- 6) **THAT** this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the student withheld.

Dated May 12, 2016



F. Paul Morrison
Chair