

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on April 27, 2016;

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 -

Q [REDACTED] Y [REDACTED] ([REDACTED])

REASONS FOR DECISION

Hearing Date: August 23, 2016

Members of the Panel:

Mr. Andrew Pinto, Barrister and Solicitor, Chair

Professor Ato Quayson, Professor of English and Director of the Centre for Diaspora and Transnational Studies, University of Toronto, Faculty Panel Member

Mr. Sean McGowan, Student Panel Member

Appearances:

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

Ms. Emily Home, Student-at-Law, Paliare Roland Barristers

Mr. Daniel Walker, Counsel for the Student, Bobila Walker Law LLP

In Attendance:

Ms. Q [REDACTED] Y [REDACTED], "the Student"

Professor John Carter, Dean's Designate for Academic Integrity

Mr. Christopher Lang, Appeals, Discipline and Faculty Grievances,
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Preliminary

- [1] The Trial Division of the University Tribunal was convened on August 23, 2016 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the “Code”) laid against the Student by letter dated April 27, 2016 from the Provost of the University of Toronto.
- [2] The Student and the University entered into an Agreed Statement of Facts (“ASF”) and an Agreed Statement of Facts and Joint Submission on Penalty (“ASF-JSP”), copies of which are appended to these Reasons (with attachments removed), as Appendix “A” and “B” respectively.

Hearing on the Facts

- [3] The charges against the Student were as follows:
1. On or about February 26, 2016, you knowingly used or possessed an unauthorized aid in an examination, or you obtained unauthorized assistance in an examination, in the course MIE210, contrary to section B.I.1(b) of the Code.
 2. In the alternative, on or about February 26, 2016, 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 an academic advantage in the course MIE210, contrary to section B.I.3(b) of the Code.
- [4] Discipline Counsel provided an overview of the ASF. The Student attended and wrote a midterm test with a smartphone in her possession during the test contrary to the rules. The midterm was worth 30% of the course grade.
- [5] The Student, via the ASF, entered a guilty plea to charge 1.

Decision of the Tribunal on Charges

- [6] Following deliberation, based on the facts set out in the ASF and a review of the documents contained in a Joint Book of Documents (“JBD”), the Tribunal accepted the Student’s guilty plea on charge 1. The University

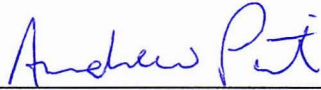
withdrew charge 2 which was brought in the alternative. Consequently, the Student stood convicted on charge 1.

Penalty

- [7] The matter then continued with a hearing into the appropriate sanction. As noted above, the University and the Student filed an ASF-JSP attached to these Reasons as Appendix B.
- [8] Discipline Counsel noted that the Student had three prior offences: two prior offences in MIE250, just one month apart; and an offence in MIE262, which was committed just three days after her meeting with professors in respect of her second offence in MIE250. However, Discipline Counsel also raised the mitigating circumstances of the abuse that the Student had suffered in her relationship with her husband during the relevant time period. The ASF-JSP proposed, *inter alia*, a three and a half-year suspension from the University.
- [9] Student's counsel did not take issue with these submissions.
- [10] Discipline Counsel presented the panel with a document summarizing similar cases where students stood convicted with several previous offences. In the *University of Toronto and L.W.* (Case No, 625, February 13, 2013), for instance, the student had two prior convictions and was convicted on two counts of plagiarism. That panel issued a four-year suspension to the student.
- [11] Here, the penalty proposed in the ASF-JSP was not unreasonable in light of similar cases and there was no principled reason to reject it.
- [12] In light of the facts of this case, the admission of guilt by the Student, and the joint submission regarding penalty, the Tribunal accepts the ASF-JSP and imposes the following sanction:
 - 1. THAT Ms. Y■■■■ shall receive a final grade of zero in the course MIE 210;
 - 2. THAT Ms. Y■■■■ be suspended from the University from August 23, 2016, to February 22, 2020;
 - 3. THAT the sanction shall be recorded on Ms. Y■■■■'s academic record and transcript from August 23, 2016, until February 22, 2021; and

4. THAT this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanction imposed, with the name of the student withheld.

Dated at Toronto, this 30th day of November, 2016.



Andrew Pinto, Co-Chair

APPENDIX A

THE UNIVERSITY TRIBUNAL THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on April 27, 2016,
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 am.

BETWEEN:

The University of Toronto

- and -

C [REDACTED] Y [REDACTED] ([REDACTED])

Agreed Statement of Facts

1. This hearing arises out of charges of academic misconduct filed by the Provost of the University of Toronto (the "Provost") under the Code of Behaviour on Academic Matters ("Code"). For the purpose of this hearing, the Provost and C [REDACTED] Y [REDACTED] ("Ms. Y [REDACTED]") have prepared this Agreed Statement of Facts ("ASF"), Joint Submission on Penalty ("JSP"), and Joint Book of Documents ("JBD"). The Provost and Ms. Y [REDACTED] agree that:

- (a) each document contained in the JBD may be admitted into evidence at the Tribunal for all purposes, including for the truth of the document's contents, without further need to prove the document; and
- (b) if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

2. Ms. Y [REDACTED] admits that she received a copy of the charges filed by the Provost. The charges are included in the JBD at Tab 1.

3. Ms. Y [REDACTED] admits that she has received reasonable notice of the hearing. The notice of hearing in this matter is included in the JBD at Tab 2.

4. Ms. Y [REDACTED] waives the reading of the charges filed against her and pleads guilty to both charges. Ms. Y [REDACTED] admits that she knowingly possessed and used an unauthorized aid, a cellphone, on February 26, 2016, during the mid-term examination in MIE 210.

5. The Provost agrees that if the Tribunal convicts Ms. Y [REDACTED] on charge #1, the Provost will withdraw the second charge.

6. Ms. Y [REDACTED]'s academic record dated May 3, 2016, is included in the JBD at Tab 3.

A. MIE 210

7. In the Winter 2016 semester, Ms. Y [REDACTED] was enrolled in MIE 201H1S, taught by Prof. Nasser Ashgriz (the "Course").

8. On February 26, 2016, Ms. Y [REDACTED] attended a midterm examination worth 30% of the final grade in the Course. Before the examination started at 6:00 p.m., students were asked to put their cellphones inside their bags and reminded that possession and use of electronic devices was prohibited during the examination.

9. Approximately 30 minutes after the examination started, the examination invigilator, Sepehr Farnaghi, observed Ms. Y [REDACTED] sitting at the back of the class, looking somewhere other than her answer sheet while writing. He approached Ms. Y [REDACTED] and

asked to see her examination sheet. At first, Ms. Y [REDACTED] refused to give her answer sheet to the invigilator. Eventually, she did hand over her answer sheet, which was concealing a cellphone.

10. The invigilator asked Ms. Y [REDACTED] to unlock her cellphone so that he could determine whether or not the cellphone contained information relevant to the examination, which would be some evidence that Ms. Y [REDACTED] was using the cellphone during the examination. Ms. Y [REDACTED] unlocked the cellphone and the invigilator observed that two applications were running on the screen of the cellphone.

11. The invigilator could not determine what applications were running because Ms. Y [REDACTED] held the cellphone in her hand. He asked Ms. Y [REDACTED] to give him the cellphone. She then swiped the applications to close them and only then handed the cellphone to the invigilator.

12. The invigilator spoke to Prof. Ashgriz, and returned to ask Ms. Y [REDACTED] to leave the exam. A copy of Mr. Farnaghi's notes is included in the JBD at Tab 4.

13. On March 16, 2016, Ms. Y [REDACTED] met with Prof. J. Carter, Dean's Designate for Academic Offences, and Ms. J. Haugan, Vice Dean of Undergraduate Studies. Ms. Y [REDACTED] admits that Prof. Carter provided the warning that was required to be given to her under the Code. In this meeting, Ms. Y [REDACTED] agreed she had used her cellphone during the midterm.

B. *Acknowledgements*


14. Ms. Y [REDACTED] acknowledges that:

- (a) the Provost advised her of her right to obtain legal counsel and that she obtained that advice; and
- (b) she is signing this ASF freely and voluntarily, knowing of the potential consequences she faces.

Signed on August 19, 2016

[REDACTED]
C Y [REDACTED]

Signed on August 19, 2016


Robert A. Centa
Assistant Discipline Counsel
University of Toronto

APPENDIX B

THE UNIVERSITY TRIBUNAL THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on April 27, 2016,
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AND IN THE MATTER OF the *University of Toronto Act*, 1971, S.O. 1971, c. 56 am.

B E T W E E N:

The University of Toronto

- and -

C [REDACTED] Y [REDACTED] [REDACTED]

Agreed Statement of Facts and Joint Submission on Penalty

1. This hearing arises out of charges of academic misconduct filed by the Provost of the University of Toronto (the "Provost") under the Code of Behaviour on Academic Matters ("Code"). For the purpose of the sanction phase of the hearing, the Provost and C [REDACTED] Y [REDACTED] ("Ms. Y [REDACTED]") have prepared this Agreed Statement of Facts and Joint Submission on Penalty ("JSP"). The Provost and Ms. Y [REDACTED] agree that:

(a) each document attached to the JSP may be admitted into evidence at the Tribunal for all purposes, including for the truth of the document's contents, without further need to prove the document; and

(b) if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

A. Joint Submission on Penalty

2. The Provost and Ms. Y [REDACTED] submit that, in all the circumstances of the case, the University Tribunal should impose the following sanctions on Ms. Y [REDACTED]:

- (a) A final grade of zero in the course, MIE 201;
- (b) A 3.5-year suspension from the University of Toronto to start from the date the Tribunal makes its order;
- (c) Notation of this offence on Ms. Y [REDACTED]'s academic record and transcript for 4.5 years; and
- (d) Publication of the offence and sanction with Ms. Y [REDACTED]'s name redacted.

B. Agreed Statement of Facts

1. Two Prior Offences in MIE 250H1

3. In the Fall 2014 semester, Ms. Y [REDACTED] was enrolled in MIE 250, which was taught by Dionne Aleman.

4. On November 14, 2014, Ms. Y [REDACTED] submitted a lab assignment worth 10% of the final grade in this course.

5. On November 20, 2014, Ms. Y [REDACTED] met with Prof. Matthew Mackay, Undergraduate Associate Chair of the Department of Mechanical and Industrial Engineering, and Carla Baptista, Undergraduate Coordinator and Counsellor, to discuss this assignment.

6. During this meeting, Ms. Y [REDACTED] admitted to committing the academic offence of plagiarism in the form of her lab project JAVA files.

7. In a letter dated November 28, 2014, which is attached to this JSP at Tab 4, Professor Mackay imposed the following penalty:

(a) A mark of zero on the assignment in question; and

(b) Adding Ms. Y [REDACTED]'s name to the central student offence database and placing a copy of the letter in her file.

8. Less than one month later, in December 2014, Ms. Y [REDACTED] submitted Project 5 in MIE 250, worth 15% of the final grade.

9. On December 16, 2014, Ms. Y [REDACTED] met with Prof. Aleman, her instructor in MIE 250, and Prof. John Carter, Dean's Designate for Academic Integrity. In this meeting, it was determined that Ms. [REDACTED] had received unauthorized assistance in Project 5, including, and beyond, using a decompiler to arrive at the solution code.

10. In a letter dated January 6, 2015, which is included in the JBD at Tab 6, Prof. Carter imposed the following penalty:

(a) A final grade of zero in the course; and

(b) Adding Ms. Y [REDACTED]'s name to the central student offence database as a 2nd offender and placing a copy of the letter in her student file.

2. Prior Offence in MIE 262

11. In Fall 2014, Ms. Y [REDACTED] was also enrolled in MIE 262. Ms. Y [REDACTED] wrote the final exam, worth 35% of the final grade, on December 19, 2014. This was three days after her meeting with Prof. Aleman and Prof. Carter for her second offence in MIE 250.

12. On January 9, 2015, Ms. Y [REDACTED] met with Prof. Carter and Prof. Aleman regarding the final exam. At this meeting, Ms. Y [REDACTED] admitted copying the answer of another student during the December 19 exam in MIE 262. A copy of the Academic Offence Meeting Notes from this meeting is included in the JBD at Tab 7.

13. By way of letter, sent January 12, 2015, and included in the JBD at Tab 8, Prof. Carter imposed the following penalty:

- (a) A final grade of zero in the course;
- (b) A 12-month suspension from the University of Toronto, effective immediately, unless Ms. Y [REDACTED]'s academic standing required her to withdraw from the University for 8 months, in which case the suspension would begin after the withdrawal period ended;
- (c) Refusing to consider other courses completed at other institutions during the periods of withdrawal or suspension for transfer credit at the University of Toronto; and
- (d) Placing Ms. Y [REDACTED]'s name in the central student database as a 3rd offender and a copy of the letter being placed in her file.

14. The letter also warned Ms. Y [REDACTED] that any subsequent academic offences would be referred to the Provost.

C. Mitigating Evidence

15. Ms. Y [REDACTED] states that she married her husband on February 7, 2015. After that, she reports that he became physically and emotionally abusive to her. She states that she separated from him in August 2015, but the emotional abuse and harassment continued well after that date.

D. Acknowledgements

16. Ms. Y [REDACTED] acknowledges that:

(a) the Provost advised her of her right to obtain legal counsel and that she obtained that advice before signing this JSP; and

(b) she is signing this JSP freely and voluntarily, knowing of the potential consequences she faces, and knowing that the University Tribunal is not bound by this JSP and has the discretion to impose a different penalty, including one that is more severe than is recommended in the JSP.

Signed on August 19, 2016

[REDACTED SIGNATURE]

Signed on August 22, 2016

[Handwritten Signature]

Robert A. Centa
Assistant Discipline Counsel
University of Toronto