

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on March 21, 2017 and July 31, 2017,

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*, S.O. 1971, c. 56 as amended S.O. 1978, c. 88

B E T W E E N

UNIVERSITY OF TORONTO

- and -

M [REDACTED] N [REDACTED]

REASONS FOR DECISION

Date of Hearing: October 30, 2017

Members of the Panel:

Mr. F. Paul Morrison, Chair
Professor Faye Mishna, Faculty Panel Member
Mr. Harvey Lim, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers
Mr. Ian M. Shemesh, Paralegal, Representative for the Student, Shemesh Paralegal Services
Ms. Lucy Gaspini, Manager, Academic Success and Integrity, Office of the Dean, UTM
Ms. Alexandra Di Blasio, Academic Integrity Assistant, Office of the Dean, UTM

In Attendance:

Mr. M [REDACTED] N [REDACTED], the Student (Via Skype)
Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Appeals, Discipline and Faculty Grievances
Ms. Sandra Nishikawa, University Tribunal Co-Chair (Observer)
Mr. Brian Alexic, IT Support, Office of the Governing Council

The Process

4. The hearing was scheduled to proceed at 1:45 p.m. on October 30, 2017. At that time, the Student was not in attendance. His legal representative, Mr. Shemesh advised that the Student had misunderstood the day of the hearing and, as a result, was at that time approximately one and a half hours from the hearing room.

Mr. Shemesh further advised that the Student wished to proceed with the hearing and was content to attend by Skype. The Tribunal was advised that those facilities were available to the Student and were available in the hearing room. Accordingly, suitable arrangements were made and the Tribunal made an Order pursuant to sections 47-48 of the *Rules of Practice and Procedure* of the Tribunal that the hearing proceed with the Student in attendance by Skype.

The Hearing

5. The Student entered a plea of Guilty to Charge 1 and to Charge 3 of the Charges, and entered a plea of Guilty to Charge 1 of the Additional Charges. Counsel for the University indicated that if findings of Guilt were made by the Tribunal, the University would withdraw Charges 2 and 4 of the Charges and Charge 2 of the Additional Charges.
6. The hearing proceeded by way of an Agreed Statement of Facts, which was entered as Exhibit 1 at the hearing, as executed by both the Student and counsel for the University.
7. The pertinent extracts from the Agreed Statement of Facts are as follow:
 - 5) From Fall 2015 to present, the Student has been enrolled as a student at the University of Toronto, Mississauga campus (the "University"). As of Fall 2017, the Student had accumulated 6 academic credits at the University, with a CGPA of 2.55. A copy of the Student's current academic record ("ROSI Transcript") is included in the JBD at Tab 4.
 - 6) In Fall 2015 the Student was enrolled in CHM110H5 — Chemical Principles 1 ("CHM Course"). A copy of the CHM110 Course syllabus is included in the JBD at Tab 5. Professor Judith Poe taught the CHM Course and Clarissa Sooklal was the Teaching Assistant ("TA").
 - 7) CHM Course requirements included five lab experiments and reports, each worth 5% of the final CHM Course mark. Each experiment required the Student to conduct lab work. The results of the Student's lab work was required to be reviewed by the TA in the lab, with the key results highlighted and the document initialed by that TA. A true copy of relevant excerpts from the CHM Course Manual setting out these requirements is included in the JBD at Tab 6.
 - 8) The CHM Course Manual includes the following excerpts:

Laboratory and Tutorial Schedule (p. 3)...

"All lab reports and writing assignments must be submitted in hard copy.

Note that lab reports and writing assignments are due in your practical/tutorial class in the weeks noted in the schedule...

4. The Laboratory Notebook... (p. 33-34)

d. Before leaving the laboratory, have your pages of data initialed by your demonstrator...

h. The Data Sheets from this Manual must be attached at the end of the report...

8. Integrity and Ethics in the Laboratory (p. 35)

Do not compromise your integrity. Only honest and original work is acceptable in CHM110H...

A person who alters their data is of no use in the scientific community. As well, the academic penalties for such behaviour are severe, the minimum penalty being a mark of zero for that experiment and the notation of an academic offence on your official academic record

....

- 9) Experiment 3: *Identification of an unknown acid by pH titration* ("Experiment 3") was performed on October 20, 2015. The lab report was due to be handed in on October 27, 2015. A true copy of the Student's Pre-lab Questions for Experiment 3 are included in the JBD at Tab 7.
- 10) On October 20, 2015 the TA was supervising the CHM Course lab for Experiment 3. She was using a specific black pen that day, she highlighted students' final results with a unique purple highlighter, and she initialed the students' data sheets. True copies of two sample data sheets showing the black pen, the purple highlighter and the TA's initials are included in the JBD at Tab 8.
- 11) On October 27, 2015 the Student submitted his lab report for Experiment 3, with attached data sheet. A true copy of the Student's lab report for Experiment 3 and data sheet are included in the JBD at Tab 9.
- 12) The TA reviewed the Student's lab report on October 28, 2015. The TA noticed that the data sheet attached to the Student's lab report was written in blue ink and his final results were highlighted in a noticeably different purple marker ("Data Sheet"). She reviewed her initials on the Data Sheet and noticed that the initials were quite different from her own initials and the initials were written in blue ink. She also reviewed the Student's Data Sheet and observed that it did not appear to include actual data collected in the lab because the graphs made it look like the Student had completed perfect titrations yet he ended up getting the wrong acid, which would be an unexpected result.
- 13) The TA reported that she believed that the Student had forged her initials on his Data sheet, and her suspicions about the contents of his Data Sheet, to Professor Poe on

October 28, 2015. A true copy of the TA's report to Professor Poe is included in the JBD at Tab 10.

- 14) Professor Poe reviewed the Student's Data Sheet and observed:
 - (a) the data collected was very good. As a result, she would have expected the Student's calculations using those data to have resulted in a correct conclusion about the identity of the unknown solution that he was trying to identify, yet it did not; and
 - (b) when comparing the Student's Data Sheet to other sample data sheets submitted by other students in the course for the same lab, she also noticed the following:
 - (i) neither the point on Figure 1 at pH-9.6 nor any of the points of Figure 1 at volumes in excess of 25 ml. appear in the list on the Data Sheet; and
 - (ii) the temperature on the Student's Data Sheet is recorded as 73 F, whereas the temperature on the other sample data sheets is 25 C.
- 15) The Student met with Professor Poe on November 6, 2015 to discuss her concerns with his Data Sheet.
- 16) In Winter 2016, the Student was enrolled in SOC100 — Introduction to Sociology (SOC Course). Professor Baker taught the SOC Course. A true copy of the SOC Course syllabus is included in the JBD at Tab 11.
- 17) The SOC Course syllabus contained a paragraph about academic honesty and referenced the *Code*. Students were given information about expectations of academic integrity, and in particular about plagiarism and writing resources. Specifically, the SOC Course syllabus states that "students will be required to submit their course essays to Turnitin.com for a review of textual similarity and detection of possible plagiarism."
- 18) The SOC Course required an Assignment to be submitted both online to Turnitin.com by 4:00 p.m., and as a paper copy, on March 8, 2016 (the "Assignment"). The Assignment was worth 20% of the SOC Course mark. The SOC Course syllabus stated that students were not allowed to use any materials other than the textbook and lectures.
- 19) An assignment session was held on February 9, 2016 to provide instruction and guidance about the Assignment to students. Professor Baker's handwritten lecture notes provide more detail about the explicit instructions she would have given to students about not consulting anything but course material and being sure to cite the course material appropriately. A true copy of the presentation from the SOC Course Assignment Session on February 9, 2016 is included in the JBD at Tab 12, together with a true copy of Professor Baker's handwritten lecture notes which accompany the presentation, which are included in the JBD at Tab 13.
- 20) Students were provided with a document entitled "Writing Assignment" setting out the requirements for the Assignment. Under the heading "Formatting Instructions" it

stated: "You are required to cite the textbook properly...". Under the heading "In-text Citation Format", the second point states: "You are required to use the ASA in-text citation format...", and students were referred to the SOC 100 Writing Assignment Style Guide. A true copy of the Writing Assignment is included in the JBD at Tab 14. A true copy of the SOC100 Writing Assignment Style Guide is included in the JBD at Tab 15.

- 21) The Student submitted his assignment, called Deviant behaviour: Stealing, on March 8, 2016 to Turnitin.com at 01:29 p.m. ("Essay"). A Turnitin Originality Report revealed that his Essay had a 62% similarity index, with 50% matched to a student paper. A true copy of the Essay and Turnitin.com Originality Report are included in the JBD at Tab 16.
- 22) Professor Baker compared the Essay against the student paper identified in the Turnitin report as Match #1, which was submitted by J. N. in a previous offering of the SOC100 course. The Essay contained several passages of text that repeated text word for word from the paper submitted by Jacqueline Nguyen, titled Norms and Deviation in the Western Culture ("Source Paper"). The highlighted text from the Student's Essay conforms word for word to the Source Paper, but it is not put in quotation marks and is not attributed to any source at all. A true copy of the Essay, highlighted to show text copied from the Source Paper, is included in the JBD at Tab 17. A true copy of the Source Paper, highlighted to show text copied in the Essay, is included in the JBD at Tab 18.
- 23) Professor Baker determined that the Student's final course grade in the SOC Course, without a mark for the Essay, would be 42%. A true copy of the mark breakdown is included in the JBD at Tab 19.
- 24) Professor Baker met with the Student on March 22, 2016 to discuss his Essay.
- 25) In Winter 2017 the Student was enrolled in MGT120H5S — Financial Accounting I ("MGT Course"). Professor Catherine Seguin taught the Course. A true copy of the MGT Course syllabus is included in the JBD at Tab 20.
- 26) The MGT Course evaluations included a requirement that students write a final examination worth 45% of the MGT Course mark ("MGT Exam"). The MGT Exam was held on April 22, 2017 at 17:00 for two hours in multiple rooms.
- 27) The Student did not request any accommodations for any aids to be used during the MGT Exam. The front page of the MGT Exam stated:

"Aids: Non-Programmable Calculators

The University of Toronto Mississauga and you, as a student, share a commitment to academic integrity. You are reminded that you may be charged with an academic offence for possessing any unauthorized aids during the writing of an exam. Clear, sealable, plastic bags have been provided for all electronic devices with storage, including but not limited to: cell phones, SMART devices, tablets, laptops, calculators, and MP3 players. Please turn off all devices, seal them in the bag provided, and place the bag under your desk for the duration of the examination. You will not be able to touch the bag or its contents until the

exam is over.

If during an exam, any of these items are found on your person or in the area of your desk other than in the clear, sealable, plastic bag, you may be charged with an academic offence. A typical penalty for an academic offence may cause you to fail the course..."

A true copy of the front page of the Student's MGT Exam is included in the JBD at Tab 21.

- 28) Gerard Otiniano and Mark Belan, Chief Presiding Officers ("CPO"s) both invigilated the MGT Exam on April 22, 2017 from 5:01 p.m. to 7:01 p.m. in Gym C in the Davis Building at the University of Toronto Mississauga Campus ("UTM").
- 29) Formal announcements are made approximately two minutes before final examinations commence and are read word-for-word from a document titled "Examinations, Instructions for Chief Presiding Officers (CPOs)" ("CPO Instructions"). Mr. Otiniano read the formal announcements from pages 4 and 5 of the CPO Instructions, which includes the following paragraphs regarding cell phones:

...3. The University of Toronto Mississauga and you, as a student, share a commitment to academic integrity. You are reminded that you may be charged with an academic offence for possessing any unauthorized aids during the writing of an exam. Clear, sealable, plastic bags have been provided for all electronic devices with storage, including but not limited to: cell phones, SMART devices, tablets, laptops, calculators, and MP3 players. Please turn off all devices, place these items in the clear sealable plastic bag provided, and place the bag under your desk for the duration of the examination. You will not be able to touch the bag or its contents until the exam is over. During an exam, if any of these items are found on your person or in the area of your desk other than in the clear, sealable, plastic bag, you may be charged with an academic offence. A typical penalty for an academic offence may cause you to fail the course..."

12. Last Call — This is your Final opportunity to remove any unauthorized aids or electronic devices, including cell phones, from your possession. If you now realize that you have a cell phone or other such device on your person, please secure it in the clear, sealable, plastic bag provided and place it under your desk. Note that should, during the exam, an electronic device be found on your person or in the area of your desk other than in this clear, sealable, plastic bag, you may be charged with an academic offence; the penalty of which may result in your failure of the course..."

A true copy of the CPO Instructions are included in the JBD at Tab 22.

- 30) The Student wrote the MGT Exam in Gym C on April 22, 2017.
- 31) At approximately 5:53 p.m. the Student signed out for a washroom break. At that time a cell phone was found in the Student's possession by the CPO Gerard Otiniano. The cell phone was concealed in the Student's pocket. The cell phone power was turned off. The cell phone, a Sony Xperia, was confiscated at 5:54 p.m. At approximately 5:57 p.m. the Student signed back in from the washroom break.

- 32) The CPO's Mr. Otiniano and Mr. Belan completed the anomaly report with details about the cell phone that was confiscated from the Student. A true copy of the completed anomaly report is included in the JBD at Tab 23.
- 33) Mr. Belan prepared a Possession of an Unauthorized Aid During a Final Exam form ("Form"). After the Student finished writing the MGT Exam, at approximately 7:01 p.m., Mr. Belan went over the form with the Student after which the Student signed the Student Acknowledgement and Release of Unauthorized Aid on the bottom half of the Form ("Acknowledgement"). The Acknowledgement confirmed that the Student was found with an unauthorized aid that was confiscated during the exam, and stated "I understand that I will be contacted by the Office of the Dean regarding this matter." A true copy of the Form and Acknowledgement is included in the JBD at Tab 24.
- 34) Mr. Belan returned the Student's phone to him after he had signed the Acknowledgement.
- 35) The Student attended a Dean's Meeting on August 8, 2016 by Skype to discuss the allegations against him with respect to CHM110 and SOC100. At this meeting the Student:
 - (a) acknowledged receipt of the letter and the *Code*, and heard the Dean's Warning and the potential sanctions; and
 - (b) pleaded guilty to:
 - (i) forging the contents of the Data Sheet and the TA's initials for Experiment 3 in the CHM Course; and
 - (ii) the offence of plagiarism in the Essay he submitted for academic credit in the SOC Course.
- 36) The Student attended a second Dean's Meeting on May 29, 2017 to discuss the allegations against him with respect to MGT120. At this meeting:
 - (a) he acknowledged receipt of the letter and the *Code*;
 - (b) Professor Georges read the Dean's Warning and the potential sanctions;
 - (c) the Student pleaded guilty to the offence of possession of an unauthorized aid in MGT120. A true copy of the Admission of Guilt form for the MGT120 Course is included in the JBD at Tab 25.
- 37) The Student admits that he knowingly:
 - (a) forged, altered or falsified all or some of the contents of the Data Sheet, and forged the TA's initials and purple highlighting on the last page of the Data Sheet in the CHM Course, which he submitted for academic credit in the CHM Course in the Fall 2015, contrary to s. B.I.1(a) of the *Code*;
 - (b) represented as his own an idea or expression of an idea and the work of another in his Essay, which he did not acknowledge in the Essay, which he

submitted for academic credit in the SOC Course in Winter 2016, contrary to s. B.I.3(d) of the *Code*; and

- (c) used or possessed an unauthorized aid in the MGT Exam in the MGT Course, contrary to s.B.I.1(b) of the *Code*.
8. In sum, the evidence contained in the Agreed Statement of Facts, disclosed that the Student admitted guilt to 3 different offences in 3 different courses committed in 3 different academic semesters. The evidence fully supported the Student's plea of guilt entered at the commencement of the hearing. Having considered all of the evidence including the Student's admissions and pleas of guilty, the Tribunal made a finding of Guilt on Charge 1 and on Charge 3 of the Charges, and on Charge 1 of the Additional Charges.
9. Upon the Tribunal advising of its findings of Guilt, counsel for the University withdrew Charge 2 and Charge 4 of the Charges and Charge 2 of the Additional Charges.

Penalty

10. Upon the aforesaid findings of Guilt having been entered, the Student and the University filed a Joint Submission on Penalty, executed by both.
11. In its pertinent parts, the Joint Submission provided as follows:
- 2) The Provost and the Student submit that, in all the circumstances of this case, the University Tribunal should impose the following sanctions on the Student:
 - (a) A final grade of zero in the following courses:
 - (i) CHM110H5 in 2015 Fall;
 - (ii) SOC100H5 in 2016 Winter; and
 - (iii) MGT120H5 in 2017 Winter.
 - (b) A suspension from the University to commence on the date of this Order until October 29, 2020;
 - (c) A notation of the sanction on his academic record and transcript from the day the Tribunal makes its order to October 29, 2021.
 - 3) The parties agree that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University newspapers, with the name of the student withheld.
12. The Tribunal recognizes the principles of law applicable to its consideration of a joint submission on penalty. A joint submission should only be rejected in circumstances where to give effect to it would be contrary to the public interest or would bring the administration of justice into disrepute. It is not the function of the Tribunal to determine whether or not it agrees with the sanction proposed. Rather, the Tribunal's task is to determine whether the outcome falls within a range of reasonable outcomes, recognizing the institutional value,

efficiency and importance of outcomes that are achieved through joint penalty submissions.

13. The Tribunal considered the circumstances of this case, including that the Student has no prior record of discipline or sanctions. He has cooperated with the process throughout, including participation in meetings with the Dean and his acknowledgment of guilt.
14. In all of these circumstances, the Tribunal had no difficulty accepting the joint submission on penalty.

Order

15. The Tribunal issued the following Order:
 - 1) THAT the Student is guilty of one count of forgery, one count of plagiarism and one count of possession of an unauthorized aid, contrary to sections B.I.1(a), B.I.1(d) and B.I.1(b) of the *Code of Behaviour on Academic Matters*;
 - 2) THAT the Student receive a final grade of zero in each of the following courses:
 - (a) CHM110H5 in 2015 Fall;
 - (b) SOC100H5 in 2016 Winter; and
 - (c) MGT120H5 in 2017 Winter.
 - 3) THAT the Student be suspended from the University for a period of three years, commencing on October 30, 2017 and ending on October 29, 2020;
 - 4) THAT the sanction be recorded for a period of four years on Mr. N. [REDACTED]'s academic record and transcript to the effect that he was sanctioned for academic misconduct, commencing on October 30, 2017 and ending on October 29, 2021; and
 - 5) 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 at Toronto, Ontario, this 30 day of November, 2017



F. Paul Morrison, Chair