

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on April 12, 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:

UNIVERSITY OF TORONTO

- and -

A [REDACTED] S [REDACTED]

REASONS FOR DECISION

Date of Hearing: August 22, 2017 and October 17, 2017

Members of the Panel:

Ms. Amanda Heale, Chair
Professor Dionne Aleman, Faculty Panel Member
Mr. Harvey Lim, Student Panel Member

Appearances:

Mr. Robert Centa, Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Emily Home, Counsel, Paliare Roland Rosenberg Rothstein LLP (October 17, 2017)
Mr. R [REDACTED] S [REDACTED], the Student's Representative
Ms. Lucy Gaspini, Manager, Academic Success and Integrity, Office of the Dean, UTM
Professor Divya Maharajh, (Course Instructor) UTM (August 22, 2017)

In Attendance:

Mr. Christopher Lang, Director, Appeals, Discipline, Faculty Grievances (August 22, 2017)
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline, Faculty Grievances (October 17, 2017)
Ms. Sandra Nishikawa, Tribunal Co-Chair (Observer, August 22, 2017))
The Student's Mother
Ms. Alexandra Di Blasio, Academic Integrity Assistant, Office of the Dean, UTM
Mr. Sean Lourim, IT Support, Office of the Governing Council
Mr. Anwar Kazimi, Office of the Governing Council (Observer, October 17, 2017)

Introduction

1. A hearing before the University Tribunal (the “Tribunal”) was convened on August 22, 2017 to consider the Charges (as defined below) against the Student, A [REDACTED] S [REDACTED] (the “Student”).

The Charges

2. The charges against the Student (the “Charges”) related to two separate incidents as follows:

A. Research Methods

1. On or about April 10, 2015, you knowingly submitted academic work, namely, a research report titled “Poor Driving Habits and Young Males: A Strong Influence?” that contained concocted references to one or more sources, contrary to section B.I.1(f) of the *Code*.

2. In the alternative, on or about April 10, 2015, you knowingly engaged in a form of cheating, academic dishonesty or misconduct not otherwise described in the *Code* in order to obtain an academic advantage in connection with a research report titled “Poor Driving Habits and Young Males: A Strong Influence?”, contrary to section B.I.3(b) of the *Code*.

The particulars related to these charges are as follows:

- (a) At all material times, you were a registered student at the University of Toronto Mississauga. In term 20151, you enrolled in CCT208H5 – Writing & Research Methods in Communication (“Research Methods”), which was taught by Divya Maharajh.
- (b) On or before April 10, 2015, students in the Course were required to submit a research report, which was worth 30% of the final grade.

- (c) You submitted a research report titled “Poor Driving Habits and Young Males: A Strong Influence?” in completion of this Course requirement. You included direct quotes in the paper that you attributed to:
- (i) “University of Queens Professor David Lake” from a source that you cited as Lake, David. “The Mindset of Media.” University of Queens, 2008. Web. –Feb 2015.
 - (ii) “Harvard Professor Jill Thompson” from a source that you cited as Thompson, Jill. “Driving Habits of Young Males.” (2011) Harvard University. Web. March 2015.
- (d) Neither the Lake nor the Thompson source exists. You concocted these sources, which you knowingly included in your research report. You did so to obtain an academic advantage.

B. April 9 Letter

3. On or about October 1, 2015, you knowingly altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such altered or falsified document, namely, a letter dated April 9, 2015, from the Vice-Dean Undergraduate of the University of Toronto (“April 9 Letter”), contrary to section B.I.1(a) of the Code.

4. On or about October 1, 2015, you knowingly altered or falsified an academic record, and/or uttered, circulated or made use of such altered or falsified academic record, namely, the April 9 Letter, contrary to section B.I.3(a) of the Code.

5. In the alternative, on or about October 1, 2015, you knowingly engaged in a form of cheating, academic dishonesty or misconduct not otherwise described in the *Code* in order to obtain an academic advantage in connection with your request that the Provost consider the

sanction imposed by the Vice-Dean against you for an act of academic misconduct, contrary to section B.I.3(b) of the *Code*.

The particulars related to these charges are as follows:

- (a) At all material times, you were a registered student at the University of Toronto Mississauga.
- (b) On April 9, 2015, Kelly Hannah-Moffat, Vice-Dean, Undergraduate sent you a letter, which imposed a sanction against you after you had admitted that you had committed an act of academic misconduct, plagiarism, in CCT200H5F 2014(9).
- (c) On October 1, 2015, you wrote to the Provost requesting that she consider the sanction imposed against you.
- (d) You knowingly altered or falsified the letter that Vice-Dean Hannah-Moffat had sent to you and knowingly included that altered or falsified letter in support of your request for consideration:
 - (i) understanding that the University of Toronto required evidence to be presented in order to obtain evaluate your request for consideration;
 - (ii) with the intention that the University of Toronto rely on the letter in considering whether or not to grant your request for consideration; and
 - (iii) in an attempt to obtain an academic advantage.

Process

3. The hearing of this matter (the "Hearing") took place over two days on August 22 and October 17, 2017. The University was represented by Discipline Counsel Mr. Robert

Centa. The Student appeared at the hearing represented by his father, Mr. R [REDACTED] S [REDACTED] (the "Student's Representative"), who is not a lawyer.

4. The Panel reminded the Student's Representative that he could not act as both an advocate and a witness in the proceeding. As such, he was informed, and indicated that he understood, that any factual statements made by him in his submissions to the Tribunal would not constitute evidence in the proceeding, and would not be considered by the Panel for the truth of their contents, nor would factual statements put to witnesses unless those statements were adopted by those witnesses.

The Evidence

Research Methods

5. Counsel for the Provost called Professor Divya Maharajh, who testified as follows:

- (a) She is a sessional lecturer at the University and was the instructor in CCT208H5, a course titled Writing and Research Methods in Communication (the "Course").
- (b) Professor Maharajh has taught the Course approximately 30 times.
- (c) The Student was enrolled in the Course.
- (d) One of the assignments in the Course was a research proposal (the "Research Proposal") setting out a proposed research project. The Assignment was to include references to scholarly sources and a bibliography.
- (e) The Student submitted a Research Proposal, which described, in specific terms, two studies that the Student purported to have come across by researching his proposed topic.
- (f) The Research Proposal was reviewed and graded by Ryan Mitchell, the teaching assistant in the Course.
- (g) The Student was assigned a grade of 63% for the Research Proposal, and was given the feedback that the bibliography portion of the assignment was incomplete and formatted incorrectly.
- (h) The Research Proposal was followed in the Course by a research report assignment (the "Report"), which was to summarize the research conducted pursuant to the Research Proposal, along with the conclusions reached from that research. One of the requirements of the Report was that it include reference to at least three academic sources. The Report was worth 30% of the final grade in the Course.

- (i) On or about April 10, 2015, the Student submitted his Report. It was also reviewed and graded by Mr. Mitchell.
- (j) Mr. Mitchell reviewed and annotated the Report, but the graded Report was never returned to the Student. Instead, Mr. Mitchell brought the Report to Professor Maharajh's attention, indicating that he believed that the Student had concocted two of the academic references in the Report (the "Purported Sources"). The Purported Sources had also been referred to in the Research Proposal.
- (k) Professor Maharajh was unable to locate any trace of the Purported Sources, either through google searches or through using the research databases of the University.
- (l) Professor Maharajh sent an email to an academic advisor (the "Academic Advisor Email") in the department indicating that she suspected the Student had committed an academic offence, and stating that she had made three attempts to schedule a meeting with the Student to discuss the matter, without success.
- (m) Professor Maharajh believed that she had attempted to contact the Student by email, but indicated that she was no longer in possession of emails from that time period as she regularly purges her inbox of older emails to stay within the inbox size limits.

6. On this basis, the Provost asked the Panel to conclude that the Purported Sources did not exist, and had been concocted.

7. Professor Maharajh was cross-examined by the Student's Representative. The Student's Representative put to Professor Maharajh that the acceptance by herself and Mr. Mitchell of the Research Proposal suggested that the references cited therein were acceptable. Professor Maharajh agreed with the Student's Representative that the sources referenced in the Research Proposal were also required to be used in the Report, but questioned whether the Purported Sources could be considered academic references at all, given that, in her view, they did not exist.

8. The Student's Representative also highlighted that one portion of the written feedback form provided to the Student in respect of the Research Proposal, which was completed using a "drop-down list" of pre-set choices, stated that the citations in the Student's Research Proposal were "comprehensive and correct", leading the Student to believe that his academic references had been approved. Professor Maharajh rejected that this was the implication of the statement, suggesting that the incorrect "drop-down choice" had been selected, and pointing out that the statement was inconsistent with the portion of the form that stated the bibliography in the Research Proposal was incomplete and incorrectly formatted.

9. The Student's Representative also challenged the credibility of Professor Maharajh's evidence that she believed she had attempted to contact the Student by email to discuss the alleged academic misconduct, noting that her explanation for having deleted the purported emails was inconsistent with the production of the Academic Advisor Email. Mr. Centa indicated that there was no evidence that the Academic Advisor Email had been located in Professor Maharajh's files (as opposed to from another source such as the recipient of the email), and that therefore the factual foundation for this assertion had not been established.

10. The Student testified at the Hearing, but did not offer any evidence, oral or documentary, that the Purported Sources in fact existed. The Student's Representative offered the unsupported explanation that the Purported Sources were "web sources" that no longer existed.

April 9 Letter

11. The Provost called Ms. Lucy Gaspini, who testified as follows:

- (a) Ms. Gaspini's role at the University is to manage academic integrity cases at UTM, and she is responsible for maintaining paper and electronic files in the office.
- (b) Ms. Gaspini is also responsible for generating sanctioning letters for the signature of the Vice Dean of Students, which sanctioning letters are then sent to students in respect of academic offences.
- (c) On April 6, 2015, the Student met with the Dean's designate for Academic Integrity in respect of an allegation of academic misconduct that is otherwise unrelated to the allegations at issue in the Hearing (the "Meeting").
- (d) Ms. Gaspini did not attend the Meeting. Minutes of the Meeting were taken, and certain forms were completed setting out the offence and the sanction. At the Meeting, the Student admitted to having committed an academic offence, and a sanction was agreed.
- (e) Shortly after the Meeting, Ms. Gaspini prepared a sanctioning letter (the "April 9 Letter") that set out the sanction for the admitted offence. The April 9 Letter was prepared by Ms. Gaspini based on pre-existing templates and the forms completed and minutes taken at the Meeting.
- (f) The April 9 Letter was approved and signed by the Vice Dean of Students, scanned by Ms. Gaspini, and sent by Ms. Gaspini in .pdf format to the Student by email.
- (g) The Student indicated to Ms. Gaspini that he believed that the sanction as

described in the April 9 Letter was incorrect. In particular, the April 9 Letter stated that the Student would receive a mark of zero (0) on the assignment in question, and that he would receive a further reduction of 25% on his grade in the course in question. The Student indicated that he believed that, at the Meeting, he'd been told that he would receive a mark of zero on the assignment in question, but not a further reduction on his grade in the course.

- (h) Ms. Gaspini reviewed the materials from the Meeting and confirmed to the Student that the April 9 Letter was consistent with what had been agreed at the Meeting.
- (i) In October, 2015, the Student exercised his right to ask the Provost (delegated to the Vice-Provost) to consider the sanction that had been imposed by the Vice Dean of Students.
- (j) In doing so, the Student made written submissions to the Provost, and included with his written submissions what he purported to be the April 9 Letter (the "Purported April 9 Letter").
- (k) When Ms. Gaspini reviewed the purported sanctioning letter that the Student had included with his submissions to the Provost, she noticed that the line that described the annotation that would appear on the Student's transcript was truncated, so that the "close quotation" was missing, as were the beginning and end dates of the annotation. Ms. Gaspini's initial reaction was the error must have been hers, and she was dismayed. However, upon retrieving the original letter from her files, she found that the line had not been truncated in the original.
- (l) On closer review of the Purported April 9 Letter, Ms. Gaspini noted a second discrepancy between that document and the April 9 Letter she had sent to the Student, which was that the word "further" was missing from the portion of the sanction that described the reduction of the Student's grade in the Course.
- (m) Other than as part of the submission to the Provost received from the Student, the Purported April 9 Letter did not appear anywhere in Ms. Gaspini's files.
- (n) Ms. Gaspini concluded that the Purported April 9 Letter had been altered from the April 9 Letter that she had generated and sent to the Student.
- (o) Ms. Gaspini's conclusion was relayed to the Vice Dean of Students, who communicated it to the Student.

12. On this basis, the Provost asked the Panel to conclude that the Student had either altered or falsified a document required by the University, or had circulated or made use of a falsified document.

13. Ms. Gaspini was cross-examined by the Student's Representative. Much of the cross-examination focused on the allegation that the Student's Representative was improperly excluded from the Meeting on the purported basis that he was "not a lawyer". The Student's Representative apparently took the position that the evidence and factual foundation of the current allegation of falsification was derivative of a breach of the Student's procedural rights with respect to the Meeting to discuss the separate allegation of academic misconduct. In any event, Ms. Gaspini did not accept the account of those events put to her by the Student's Representative. In particular, Ms. Gaspini testified that, when the Student and the Student's Representative appeared at her office before the Meeting, she spoke with the Student alone to ask him whether he wished to have his father attend the Meeting. Ms. Gaspini testified that the Student replied to her that he did not wish his father to attend. Ms. Gaspini testified that she informed the Student's Representative that he could not attend the Meeting, but did not offer an explanation why. Ms. Gaspini indicated that this was the approach she always took in circumstances where a student's parent wished to attend a meeting regarding an allegation of academic misconduct, in order to protect the privacy of the student. When asked whether he had told Ms. Gaspini that he did not wish his father to attend the Meeting, the Student stated that he did not recall.

14. The Student's Representative suggested to Ms. Gaspini that a .pdf document could not be altered once it had been sent. Ms. Gaspini rejected this assertion, stating that she believed it could be done, although she had never done so herself.

15. Although the Student denied having falsified or altered the Purported April 9 Letter, he accepted and acknowledged that it differed in the identified ways from the April 9 Letter, and that the April 9 Letter was indeed the letter he had received from Ms. Gaspini following the Meeting. The Student offered no explanation for the discrepancy.

16. The Student also asserted that there would be no academic advantage to be gained from the removal of the word "further" from the sanction described in the April 9 Letter, given that this would not have resulted in the Student receiving a passing grade in the Course.

Decision

Research Methods

17. The evidence leads the Panel to conclude on a balance of probabilities that the Student knowingly submitted academic work that contained concocted references to one or more sources. In particular, the Panel inferred from Professor Maharajh's uncontradicted testimony that she was unable to locate any trace of the Purported

Sources, together with the absence of any evidence tendered by the Student that the Purported Sources had in fact existed, that they were indeed concocted.

April 9 Letter

18. The evidence similarly leads the Panel to conclude on a balance of probabilities that the Student knowingly altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such altered or falsified document. The Student's assertion that he had not altered the April 9 Letter when he submitted the Purported April 9 Letter to the Provost, in the face of Ms. Gaspini's evidence and the Student's own acceptance that the letter that he submitted to the Provost (that is the Purported April 9 Letter) differed from the sanctioning letter that he had received from Ms. Gaspini, is simply not credible. The evidence supports a finding on the balance of probabilities that the Student either altered the April 9 Letter himself and submitted the Purported April 9 Letter to the Provost, or knowingly circulated or made use of such altered letter when he made his submission to the Provost.

Penalty

19. Counsel for the University made submissions as to the appropriate sanction. Counsel sought a final grade of zero in the Course, a penalty of a suspension of the Student from the University for up to five years and a recommendation to the President of the University that he recommend to the Governing Council that the Student be expelled from the University.

20. With respect to the proposed sanction of a final grade of zero in the Course, Counsel submitted that such a sanction in similar matters that have come before the Tribunal is nearly universal.

21. With respect to the requested sanction of a recommendation of expulsion, Counsel submitted that the circumstances of this matter militated overwhelmingly in favour of expulsion. Both offences in this case, which are the Student's second and third offences, are very serious, as they involve calculated dishonesty on the part of the Student.

22. The Student's concoction of the Purported Sources was an offence committed within days of the Meeting in respect of a separate, admitted academic offence. Counsel submitted that the disciplinary proceeding in that separate matter clearly had no effect on the Student's behaviour. Moreover, the submission of the Purported April 9 Letter was an offence of falsification committed six months later, and, indeed, in the course of the University's disciplinary process itself.

23. Counsel pointed the Panel to a number of Tribunal decisions involving falsified University documents in which a recommendation of expulsion was made. Although in each of those cases there was a distinguishing feature in that the falsified or fabricated

document was submitted to a third party, the essence of the offence was the same: the student altered or falsified a University document in order to obtain a benefit to which he or she was otherwise not entitled. The Tribunal has generally imposed a recommendation of expulsion in such cases in the absence of mitigating circumstances and/or a joint submission on penalty made by the University and the student. Counsel therefore submitted that it was incumbent on the Student to introduce evidence of mitigating circumstances.

24. The Student's Representative made submissions with respect to the Student's good character, including his general volunteerism and willingness to help others, along with his involvement with the University girls' volleyball team. These submissions were not supported by any evidence, and although they were not entirely disregarded by the Panel, it was very difficult for the Panel to weigh them against the significant factors militating in favour of the sanction requested by the University.

25. The Panel accordingly determined that the sanction requested by the University was appropriate, and made the following order.

Order

The University Tribunal orders:

26. The Student is guilty of one count of the academic offence of altering or falsifying any document or evidence required by the University, or uttering, circulating or making use of any such document, contrary to section B.I.1(a) of the *Code of Behaviour on Academic Matters*;

27. The Student is guilty of one count of the academic offence of knowingly submitting academic work that contained references to one or more sources which had been concocted, contrary to section B.I.1(f) of the *Code of Behaviour on Academic Matters*;

28. The following sanctions shall be imposed on the Student:

- (a) he shall receive a final grade of zero in the course CCT208H5; and
- (b) he shall be suspended from the University for up to 5 years from the date of the Tribunal's decision.

29. The Tribunal recommends to the President of the University that he recommend to the Governing Council that the Student be expelled from the University; and

30. 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 January 15, 2018

A handwritten signature in black ink, appearing to read 'A. Heale', written over a horizontal line.

Ms. Amanda Heale, Chair