

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on November 23, 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, 1971*, S.O. 1971, c.56 as amended S.O. 1978, c. 88

BETWEEN:

THE UNIVERSITY OF TORONTO

– AND –

M [REDACTED] N [REDACTED]

Hearing Date: March 5, 2018

Members of the Panel:

Ms. Sana Halwani, Barrister and Solicitor, Chair
Professor Faye Mishna, Faculty Panel Member
Mr. Andrey Lapin, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barrister
Professor Luc De Nil, Vice-Dean Students, School of Graduate Studies
Ms. Donna Liu, Multidisciplinary Engineering Design Activities and Operation Assistant,
Department of Mechanical & Industrial Engineering

In Attendance:

Krista Osbourne, Administrative Clerk & Hearing Secretary Appeals, Discipline and Faculty Grievances
Mr. Graham Henry, Articling Student (Observer), Lenczner Slaght
Mr. Sean Lourim, IT Support, Office of the Governing Council

I. Charges and Procedural History

1. The Trial Division of the Tribunal held a hearing on March 5, 2018 to address the following charges brought by the University of Toronto (the “University”) against M [REDACTED] N [REDACTED] (the “Student”) under the Code of Behaviour on Academic Matters (the “Code”):

- 1) On or about June 16, 2017, you knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of such forged, altered or falsified record, namely a document that purported to be your Transcript and Academic History, which you submitted as part of your application for an internship (the “Purported Transcript”), contrary to section B.I.3(a) of the *Code*.
- 2) In the alternative, by submitting the Purported Transcript as part of your application for an internship on or about June 16, 2017, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, contrary to B.I.3(b) of the *Code*.

II. Notice

2. The Student was not in attendance at the hearing and, as a result, Ms. Lie addressed the issue of notice. Three affidavits were presented that outlined the various efforts to make contact with the student and provide him notice of the hearing. They are as follows:

- a. The affidavit of Ms. Krista Osbourne, sworn February 27, 2018.
 - i. Ms. Osbourne is the Administrative Clerk and Hearing Secretary, Appeals, Discipline and Faculty Grievances in the Office of the Governing Council at the University of Toronto.
 - ii. On November 23, 2017, she served the Student with a letter regarding the charges that were filed against him, together with copies of the charges, the *Code of Behaviour on Academic Matters*, the *Rules of Practice and Procedure* and a pamphlet for Downtown Legal Services.

These documents were served by email and by courier. The email did not “bounce back” and the courier package was not returned as undelivered.

- iii. On January 11, 2018, Ms. Osbourne served Mr. N [REDACTED] with the Notice of Hearing for a hearing on Monday, March 5, 2018 at 5:45 pm, together with a copy of her letter of November 23, 2017 and enclosures. These documents were served on the Student by email and courier. No “bounce back” message was received from either of the student’s emails and Ms. Osbourne received confirmation from the courier that the package was successfully delivered to the Student’s mailing address and signed for.
 - iv. On February 26, 2018, Ms. Osbourne sent an email to the Student to remind him of his upcoming hearing and to request that he advise if there were any attendees from his side. No “bounce back” message was received.
 - v. Ms. Osbourne did not receive a response from the Student to any of her correspondence.
- b. The affidavit of service of Ray Patykewich, a process server, sworn March 1, 2018.
- i. On February 28, 2018, at approximately 4:30 p.m. Mr. Patykewich served the Student with the Letter dated February 26, 2018, Charges dated November 23, 2017, and Notice of Hearing dated January 11, 2018 by leaving a copy of each with him personally at his home address. He was able to identify the Student by means of verbal identification.
- c. The affidavit of Janice Patterson, sworn March 2, 2018.
- i. Ms. Patterson is a legal assistant to Tina Lie at Paliare Roland Rosenberg Rothstein LLP who acts as Assistant Discipline Counsel to the University of Toronto.
 - ii. Ms. Patterson is advised by Professor Luc De Nil, Vice-Dean, Students, and believes that the Office of the Dean, School of Graduate Studies, attempted to contact the Student at his University of Toronto email

address from September to October 2017 regarding the allegation of academic misconduct that is the issue of the charges in this matter.

- iii. On December 6, 2017, Ms. Lie sent an email to the Student at his University of Toronto email address, introducing herself and advising him that important correspondence would be sent to that email account in the future.
 - iv. On January 3, 2018, Ms. Patterson sent Mr. N [REDACTED] a letter from Ms. Lie enclosing a letter and disclosure brief relating to this matter, as well as another copy of the charges and a copy of the University's Policy on Official Correspondence with Students. This package was sent by email and by courier to his Mailing Address. Ms. Patterson did not receive a "bounce back" message indicating that her email could not be delivered. The disclosure package has not been returned to her office.
 - v. On January 5 and 11, February 20 and March 1, 2018, Ms. Lie sent emails to the Student at both his University of Toronto email account and his Gmail email account regarding the hearing.
 - vi. Ms. Patterson made three phone calls to the Student at the phone numbers provided to the University. When given the opportunity to leave a message, the voice mail message identified the Student. Ms. Patterson identified herself reminded him of the scheduled hearing, asked that he check his email accounts, and request that he return her call to schedule a meeting. The Student did not return her calls.
 - vii. On January 5 and February 26, 2018, Ms. Lie sent emails to Mike Wiseman, Acting Director, Information Security, Information Technology Services, at the University of Toronto, requesting information about the last time that someone accessed the Student's University of Toronto email account. Mr. Wiseman responded that the last login to the email account was November 14, 2017 at 6:33 pm.
3. Upon review of the evidence, the Panel was satisfied that notice had been adequately provided to the Student and decided to proceed with the hearing despite his absence.

III. Summary of Evidence

4. The Student was a registered student at the University of Toronto Faculty of Applied Science and Engineering from Fall 2011 to Winter 2015. He was then conferred a Bachelor of Applied Science degree in June 2015.
5. The Student entered the School of Graduate Studies in Winter 2016 and enrolled in the Master of Engineering Program.
6. On June 16, 2017, the Student submitted an application, by email, for an internship organized through the University. As part of this application, the Student submitted a document that purported to be his Transcript and Academic History from the University of Toronto.
7. This application was received by Ms. Donna Liu, the Multidisciplinary Engineering Design Activities and Operation Assistant. Ms Liu testified at the hearing that, when she receives any application package, she does a preliminary screen to ensure eligibility.
8. The Student's application form said that he was registered as a student and would continue to be registered after the internship (which was a pre-condition for the internships at issue). However, Ms. Liu saw in his submitted transcripts that he had completed 11 graduate courses. Ms. Liu knew from prior experience that, typically, if someone has completed 10 or more graduate courses, they are eligible to graduate and would not therefore continue to be registered at the University.
9. Ms. Liu forwarded the Student's application to Professor Chi-Guhn Lee, the Interim Chair of the Department of Mechanical & Industrial Engineering. An investigation into the transcripts was then conducted by David Duong, Graduate and Undergraduate Student Coordinator and Brenda Fung, Graduate Program Administrator. Ms. Fung compared the Transcript submitted by the Student with the Student's transcripts on the ROSI system, and determined that numerous grades had been changed.
10. At the hearing, Ms. Lie provided the panel with both versions of the transcripts. Professor Luc De Nil, Vice-President of School of Graduate Studies testified as to the differences he had identified and explained the notations he had made on the copies presented to the panel. There were noticeable differences between the two transcripts. While some grades had been lowered, the vast majority were dramatically improved.

IV. Finding on Charges

11. Following deliberation and based on the testimony of the witnesses and the documents in the University's Book of Documents, the Panel concluded there was clear and convincing evidence that, on a balance of probabilities, the Student had circulated or made use of a forged, altered or falsified record, namely a document that purported to be his Transcript and Academic History. Although the Panel could not know whether the Student had himself falsified his transcript (as he could have elicited the help of another person), it was clear that the Student had circulated or made use of the falsified record. Charge 1 was therefore proven, and the Panel found the Student guilty in respect of that charge.
12. Given that finding of guilt the University withdrew charge 2.

V. Finding on Penalty

13. Appendix C of the University of Toronto's Code of Behaviour on Academic Matters states that, absent exceptional circumstances, the Provost will recommend that the Tribunal recommend a student be expelled where the student has forged or falsified an academic record, including a transcript or unofficial report of grades.
14. Accordingly, the University requested the following penalty
 - a. A recommendation to the President to recommend to the Governing Council that the Student be expelled;
 - b. A suspension of up to five years pending the decision on expulsion;
 - c. A notation on his transcript corresponding to the suspension and, once granted, a permanent notation as to the expulsion; and
 - d. Posting of the decision in the campus press with the Student's name withheld.
15. Ms. Lie urged this panel to consider the seriousness of the offence and the harm done to the reputation of the University when students forge academic records. She argued that the alterations done to the Student's academic records were extensive and the deceit in submitting them in his internship application had been intentional. By his actions, Ms. Lie maintained that the Student had undermined the trust that employers and the community

put in the University's academic records, and that the trust between the Student and the University was irretrievably broken.

16. Further, Ms. Lie highlighted the fact that the Student, despite having received notice, had not participated in the investigation or appeared before the Panel. Ms. Lie argued that the Student has therefore not shown any remorse, not presented any character evidence and not raised any mitigating factors to warrant a more lenient sanction.
17. Finally, Ms. Lie brought the Panel's attention to Ms. Liu's testimony where she had explained that it was not possible for her to review every application for internships with the detail needed to catch potential forgeries. If she had not identified the error in the number of classes completed, this forgery may have gone undetected. Ms. Lie argued that, in circumstances such as this, where the type of offence is difficult to detect, there is a greater need for deterrent sanctions.
18. The Panel accepted the seriousness of the offence of forging academic documents and the detrimental impact this kind of behaviour has on the reputation and integrity of the University. As stated in *University of Toronto and R. W.*, (Case No. 502, April 18, 2008).

Members of the public, other degree-granting institutions, companies and other employers rely on transcripts and degree certificates for what they represent. ... The falsification of documents not only undermines the credibility of the University but also all other students who achieve their degrees legitimately.¹

19. The Panel considered the fact that this is the Student's first offence. However, given the seriousness of the offence and the complete lack of engagement in the discipline process, the Panel decided that a recommendation of expulsion was appropriate in this case and consistent with the previous decisions of this Tribunal. As such, the Panel accepted the University's recommendations on penalty.

¹ *University of Toronto and R. W.* (Case No. 502, April 18, 2008) at para 16.

VI. Decision of the Panel

20. At the conclusion of the hearing on penalty, the Panel conferred and made the following order:
- a. That the Student is guilty of forging or in any other way altering or falsifying an academic record, and/or uttering, circulating or making use of such forged, altered or falsified record, contrary to section B.1.3(a) of the *Code*;
 - b. That the following sanctions shall be imposed on the Student:
 - i. The Student be immediately suspended from the University of Toronto for a period of up to 5 years from the date of this order or until Governing Council makes its decision on expulsion, whichever comes first, and that a corresponding notation be placed on his academic record and transcript; and
 - ii. 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
 - c. That this case be reported to the Provost, with the Student's name withheld, for publication of a notice of the decision of the Tribunal and the sanctions imposed.

DATED at Toronto, April 3, 2018



Sana Halwani, Chair