

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on January 4, 2018,

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 -

Z [REDACTED] Z [REDACTED]

REASONS FOR DECISION

Hearing Dates: March 21, 2018

Members of the Panel:

Mr. R.S.M. Woods, Barrister and Solicitor, Chair
Dr. Maria Rozakis, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers

In Attendance:

Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances
Ms. Lucy Gaspini, Manager, Academic Success & Integrity, Office of the Dean, UTM
Ms. Alexandra Di Blasio, Academic Integrity Assistant, Office of the Dean, UTM
Mr. Sean Lourim, IT Support, Office of the Governing Council

Not in Attendance

Mr. Z [REDACTED] Z [REDACTED] the Student

The Charges

1. ██████████ ██████████ (the “**Student**”) was charged with the following academic offences:
 1. On or about June 24, 2014, the Student did knowingly forge or in any other way alter or falsify an academic record, and/or did utter, circulate or make use of such forged, altered or falsified record, whether the record be in print or electronic form, namely an Official Transcript from Simon Fraser University submitted with an application for admission to the University of Toronto (the “**University**”), contrary to section B.I.3(a) of the *Code*.
 2. In the alternative to paragraph 1, on or about June 24, 2014, the Student did knowingly engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code*, in order to obtain academic credit or other academic advantage of any kind, by submitting an Official Transcript from Simon Fraser University with an application for admission to the University which was forged, altered or falsified, contrary to section B.I.3(b) of the *Code*.
2. A panel of the Trial Division of the University Tribunal (the “**Tribunal**”) heard the charges on March 21, 2018.

Non-Attendance of the Student

3. The Student was not present when the hearing started at the scheduled time of 5:45 p.m. Counsel for the University, Ms. Harmer, advised us that she did not believe that the Student would be attending the hearing. After recessing the hearing for 15 minutes, during which time the Student did not appear, Ms. Harmer requested that we order that the hearing proceed in the Student’s absence.
4. Under sections 6 and 7 of the *Statutory Powers Procedure Act* (the “**Act**”), and Rule 17 of the Tribunal’s Rules of Practice and Procedure (the “**Rules**”), the Tribunal may proceed in the absence of a party where reasonable notice of an oral hearing has been given in accordance with the Act and the Rules, and the party does not attend the hearing.
5. Ms. Harmer submitted that this was just such a situation. She adduced evidence of the Student’s email address, postal mailing address, and telephone number in the University’s Repository of Student Information (“**ROSI**”). Under the Rules, documents sent to a student at the address in ROSI are deemed to have been properly served. In particular, under Rule 9 of the Rules:

9. Charges, notices of hearing, disclosure, material for use on motions, orders, and reasons for decision may be served on a student or sent to a student:

- (a) by personal service,
- (b) by sending a copy of the document by courier to the student's mailing address contained in ROSI, or to the student's representative, if such representative has confirmed its authority to accept service, and service shall be effective on the day the document is delivered by the courier;
- (c) by e-mailing a copy of the document to the student's e-mail address contained in ROSI, or to the students' representative, if such representative has confirmed its authority to accept service, and service shall be effective on the day the document is sent by e-mail; or
- (d) by any other means authorized under the University's Policy on Official Correspondence with Students.

6. Ms. Harmer provided us with an affidavit from Krista Osbourne of the University's Office of Appeals, Discipline and Faculty Grievances. Ms. Osbourne affirmed that on February 9, 2018, she had sent a copy of the notice of hearing for today's hearing to the Student's email address on ROSI. She followed that up by sending a copy of the notice of hearing to the Student's mailing address on ROSI by courier on February 12, 2018. The courier made two attempts to deliver the notice of hearing, neither of which were successful. On the second attempt, someone answered the door. That person informed the courier that the Student had moved out eight months ago. Ms. Osbourne attempted to call the Student on February 20, 2018, using the telephone number the Student had provided on ROSI. Someone answered the telephone, but indicated that she had the wrong number.

7. We also received affidavit evidence that Ms. Harmer unsuccessfully attempted to contact the Student using the email address in ROSI shortly before the hearing. None of her email communications bounced back. There was also evidence that the Student's University of Toronto email address was still in place, and had been accessed as late as July 2017, which was after the University began investigating the circumstances that led to the charges before us.

8. Based on all the evidence before us, we were satisfied that the Student had reasonable notice of this hearing and were prepared to order that the hearing proceed in the Student's absence.

The Evidence

9. To substantiate the charges, the University provided us with affidavits from Lynda Onorati and Laura Ferlito. Ms. Onorati is the Senior Admissions Specialist, Enrolment Services at the Office of the Registrar at the University. Between October 5, 2015 and November 11, 2016, Ms. Ferlito was the Assistance Registrar, Academic Standards & Petitions at the University's Mississauga Campus ("**UTM**").

10. Ms. Onorati's evidence was that in April 2014 the Student applied to transfer from Simon Fraser University ("**SFU**") to UTM. His application for transfer indicated that he had been studying at SFU in Burnaby, British Columbia where he had been enrolled in a Bachelor of Arts program majoring in Economics for the period January 2012 to April 2014.

11. In support of the transfer application, the Student provided a transcript (the "**Transcript**") which appeared to be an official SFU transcript. The Transcript indicated that the Student was in a Bachelor of Arts program with an Economics Major, and had successfully completed 25 courses with a grade point average of 3.13.

12. Based on the information and documentation provided to it, the University offered to admit the Student as an Honours Bachelor of Arts student for the Fall/Winter 2014-2015 session. The Student accepted that offer on August 8, 2014. The Student enrolled in courses at UTM in the Fall 2014 and Winter 2015 sessions, but has not been in any courses since then.

13. In September 2016, Neil Neebar, Associate Registrar, Records, Registration and Graduation at UTM contacted Ms. Onorati, asking her about the authenticity of an SFU transcript for another student. This led Ms. Onorati to contact SFU about the authenticity of transcripts submitted by about six students who had transferred from SFU to the University, including the Student.

14. Ms. Onorati telephoned SFU on September 16, 2016. She spoke to Rella Ng, whom Ms. Onorati identified as Associate Registrar at SFU. Ms. Onorati forwarded the six suspect transcripts to Ms. Ng. She asked Ms. Ng. to check their authenticity.

15. Ms. Ng's email response was that none of the transcripts were authentic. In the case of the Student's transcript, Ms. Ng indicated that it was signed by someone who had left SFU as of the transcript's date, and lacked the name and title of the person signing it, something which an authentic transcript would have. Ms. Ng indicated in a subsequent email that the Student had never attended SFU.

16. Ms. Ferlito's evidence was that on September 28, 2016 she received an email from Mr. Neebar forwarding emails from Ms. Ng at SFU dealing with three transcripts Mr. Neebar had questioned. In her email, Ms. Ng indicated that the Transcript was not authentic. She repeated the issues she had identified to Ms. Onorati. She also pointed out that the Transcript included SFU's other campus addresses on its transcript key, something SFU did not do.

Decision on the Merits of the Charges

17. While we would have preferred direct evidence from an SFU witness, in the absence of any evidence challenging the authenticity of the emails from Ms. Ng, or her ability to comment on the genuineness of the transcript provided to her, we find that the evidence before us establishes that the Transcript was forged. By providing it to the University as part of the application for admissions as a transfer student, the Student breached section B.I.3(a) of the Code.

18. Counsel for the University advised us that in light of our decision on the first charge, the University was withdrawing the second one.

Sanction

19. After delivering our decision on liability, we proceeded to the penalty phase of the hearing. Counsel for the University did not adduce any additional evidence, relying instead on a series of decisions in which prior Tribunal panels have ordered that students who have forged transcripts be suspended for up to five years and recommended that they be expelled from the

University. While noting that the Student had no prior record of any academic offences, based on the gravity of the offence and previous decisions of this Tribunal, Ms. Harmer asked us to make that same order and recommendation in this case.

20. In *J.Z* [Case No. 928, June 5, 2017], a panel of this Tribunal noted that it had considered the following principles in deciding to suspend a student for up to five years and to recommend the student's expulsion where the student had been found to have provided to York University a forged transcript purporting to be from the University:

First, forgery or falsification of academic records is among the most serious academic offences: *N.R.* [Case No. 714; October 11, 2013], at para. 22; *D.D.* [Case No. 593; September 3, 2010] at para. 9; *M.K.* [Case No. 491; November 5, 2008], at para. 43. Such misconduct undermines the integrity of the University's academic mission. It misrepresents a student's accomplishments. If undetected, it may result in the student obtaining a benefit which he or she does not deserve, deprive another more deserving student of that benefit, and tarnish the reputation of the University, and by extension, that of other students, alumni, and faculty: *A.K.G.* [Case No. 508; October 14, 2008], at para. 18.

Second forgery may be difficult to detect. Some forgeries are crude and easily revealed. But others are more cunning. To the untutored eye, the 2015 transcript here appears to be genuine. Deterrence is thus a significant consideration. The fact that the 2015 transcript purported to be an official transcript from the University (rather than, say, an unofficial printout without the security features of an official transcript) compounds the gravity of the offence.

Third, by its nature, forgery is only rarely an offence that can occur through a student's negligence or inadvertence. It is usually the product of planning and knowing participation, not a moment of weakness or poor judgment. That was the case here.

Given these considerations, the cases commonly impose the most serious sanction a recommendation of expulsion other than in exceptional circumstances: *N.R. supra*, para. 25. This sanction has been imposed even where the Student participated in the discipline process, agreed to a joint statement of facts or joint statement on penalty or showed remorse.

Regardless of whether the fabricated transcript is an "outgoing" transcript purporting to be an official University transcript being sent to another academic institution (as in this case, and in *C.A.*), or a potential or current employer (as in *S.M.* and *S.D.* [Case No 406, May 1, 2007]; an "incoming" transcript purporting to be an official transcript sent to the University from another academic institution (as in *M.T.M.* [Case No. 496; April 30, 2008], *A.K.* [Case No. 523; January 14, 2009] and *M.K.*); or an "internal" transcript used by a student at the University

applying to another program at the University (as in *D.D.* at para. 2), the gravity of the offence is severe. [See paras. 19 to 23]

21. We agree with those principles and the Tribunal's comments about them.
22. Without any evidence from the Student, who failed to participate in the discipline process or the hearing before us, we have no evidence of the Student's character, no explanation for the Student's conduct, and no evidence of any mitigating circumstances.
23. Considering the principles outlined in *J.Z* and the lack of any evidence from the Student, we agree that the sanction the University seeks against the Student is warranted, and is the appropriate sanction to impose in this case.
24. The Tribunal therefore makes the following order:
 - (a) the hearing may proceed in the absence of the Student;
 - (b) the Student is guilty of one count of forgery, contrary to sections B.I.3(a) of the *Code of Behaviour on Academic Matters*;
 - (c) the Student be immediately suspended from the University for a period of up to five years;
 - (d) the Tribunal recommends to the President of the University that he recommend to the Governing Council that the Student be expelled from the University;
 - (e) a permanent notation shall be placed on the Student's academic record and transcript; and

- (f) 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 this 17th day of April, 2018.



R. Seumas M. Woods, Chair