

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on July 20, 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*

BETWEEN:

UNIVERSITY OF TORONTO

- and -

S [REDACTED] J [REDACTED]

REASONS FOR DECISION

Hearing Dates: August 10, 2018 and October 4, 2018

Members of the Panel:

Ms. Sara Zborovski, Barrister and Solicitor, Chair
Professor Michael Evans, Faculty Panel Member
Ms. Yusra Qazi, Student Panel Member

Appearances:

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

In Attendance:

Ms. Laurie O'Handley, Academic Integrity Specialist, Faculty of Arts & Science

Hearing Secretary:

Mr. Christopher Lang, Director, Appeals, Discipline and Academic Grievances, University of Toronto (August 10, 2018)

Ms. Tracey Gamerio, Associate Director, Appeals, Discipline and Academic Grievances, University of Toronto (October 4, 2018)

Not in Attendance:

Mr. S [REDACTED] J [REDACTED], the Student

1. This panel of the University Tribunal held a hearing on October 4th, 2018 to consider the charges brought by the University of Toronto (the “**University**”) against Mr. S [REDACTED] [REDACTED] J [REDACTED] (the “**Student**”) under the *Code of Behaviour on Academic Matters, 1995* (the “**Code**”).

A. Preliminary Issue: Proceeding in the Absence of the Student

2. The hearing was scheduled to begin at 9:45 am on August 10th, 2018. At that time, Discipline Counsel advised that neither the Student nor a representative of the Student had responded to the Notice of Hearing.

3. Discipline Counsel made submissions on proceeding with the hearing in the absence of the Student. He advised the Tribunal that the following attempts had been made to provide notice of the charges and hearing to the Student:

- i. On April 18th, the University sent the charges as issued to the Student to his utoronto email address, the email address provided by him in ROSI.
- ii. On June 15th, the University attempted to contact the Student by email at his utoronto email address to advise that he had been charged with certain offences under the Code and that a hearing had been scheduled to take place on August 10th at 9:45. This correspondence to the Student also advised that no hard copies of documents would be provided by courier because he had not listed a current or permanent address in ROSI. The Student did not respond to any of this correspondence. No “bounce back” message was received indicating that the email could not be delivered.

4. As of the August 10th hearing date, the Student had not responded to any of the above-noted correspondence.

5. However, in light of the limited attempt to provide notice to the Student, i.e., only through his utoronto account, the Tribunal adjourned the hearing to October 4th, 2018 to provide additional time for the Student to respond to notice of the hearing.

6. At the hearing on October 4th, Discipline Counsel advised of the following additional attempts which had been made to contact the Student to advise of the new hearing date:

- i. On August 10th, 2018, the Office of Governing Council sent the charges in this matter on the Student by email to the email address that the Student had provided in ROSI. No “bounce back” message was received indicating that the email could not be delivered.
- ii. Assistant Discipline Counsel, was advised by Mike Wiseman, acting Director, Information Security, Information Technology Services at the University that the last login to the Student’s utoronto account was September 21st, 2018 at 12:09 and that the account has not been forwarded to another email account.
- iii. A student in Assistant Discipline Counsel's office contacted Owens OnLine, the company that placed the request to verify the academic credentials of the Student to determine if they had additional contact information for the Student but was advised that the company has not had any direct communication with the Student and no contact information for him.
- iv. On August 20th, 2018, Assistant Discipline Counsel sent a letter by overnight courier to the Student at the address provided in ROSI attaching the Notice of Hearing for the continuation of the hearing on October 4th at 1:45 pm, the revised charges, correspondence from the Office of Governing Council, the Code and the University Tribunal *Rules of Practice and Procedure* (the “Rules”). On August 21st, 2018 the courier advised Assistant Discipline Counsel’s office that they received no answer at the address, that the concierge confirmed that the Student

lived at the address but would not accept the courier package. Assistant Discipline Counsel subsequently followed up by sending a letter to the Student by mail to this same address enclosing the Notice of Hearing for the continuation of the hearing on October 4th at 1:45 pm and the revised charge.

7. Pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* (the “**Act**”) and Rule 17 of the **Rules**, where reasonable notice of an oral hearing has been given to a party in accordance with the Act and the party does not attend the hearing, the Tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.
8. The University requested that the Tribunal proceed with this hearing in the absence of the Student.
9. Pursuant to Rule 9, a Notice of Hearing may be served on a student by various means, including by sending a copy of the document by courier to the student’s mailing address in ROSI or by emailing a copy of the document to the student’s email address in ROSI.
10. The University’s Policy on Official Correspondence with Students expressly states that students are responsible for maintaining a current and valid postal address and email account on ROSI. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis.
11. The onus of proof is on the University to demonstrate that it provided a student with reasonable notice of the hearing.
12. Based on totality of the attempts made to provide notice to the Student, and particularly given the evidence that the Student had accessed his utoronto account subsequent to notice of the charges and hearing being sent thereto, the Tribunal concluded that the Student was given reasonable notice of the hearing in compliance with the notice requirements of the Act and the Rules.

13. The Tribunal therefore determined on October 4th, 2018 that it would proceed to hear the case on its merits in the absence of the Student, and the hearing proceeded on the basis that the Student was deemed to deny the Charge made against him.

B. The Charge and Particulars

14. The Revised Charges and Particulars were detailed in a letter dated July 20, 2018 and are set out below:

- i. 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 which purported to be a degree certificate from the University of Toronto dated June 12, 2015 ~~2005~~, contrary to section B.I.3(a) of the Code.

Particulars

- ii. You were a registered student in the Faculty of Arts, University of Toronto, from Fall 2011 to Winter 2015. You accumulated 9.0 earned credits. You did not graduate from the University of Toronto.
- iii. You circulated and made use of a document that purported to be your degree certificate from the University of Toronto dated June 12, 2015 ~~2005~~.
- iv. You forged this document and falsely represented your academic history and status.
- v. You knew that this document was forged, altered, and/or falsified when you circulated or made use of it.
- vi. You had an obligation to provide accurate and truthful information and not to misrepresent your academic record.

C. The Evidence

15. The University called the evidence of Mr. Terry Johnston, Assistant Director of the Office of Convocation at the University. The Office of Convocation is responsible for annual convocation ceremonies and for the reissue of degrees and diplomas and the verification of the graduation status of the University alumni.

16. The University accepts third-party requests to confirm degrees through the University of Toronto Confirmation of Degree Website. Mr. Johnston monitors the email account to which requests are made.

17. Mr. Johnston advised the Tribunal that on December 1st, 2017 a confirmation of degree request was received from Armi Pineda of Owens OnLine requesting confirmation of a degree conferred in 2015 on the Student. Mr. Johnston advised that he reviewed the University's records and, on December 4th, 2017, sent an email to Mr. Pineda advising that no degree had been granted to the Student.

18. Mr. Pineda responded to Mr. Johnston providing an image of the University degree that the Student had provided for verification (the "**Purported Degree**"). Mr. Johnston responded to Mr. Pineda and reiterated that the University had no record of conferring a degree on the Student.

19. Mr. Johnston forwarded his correspondence with Mr. Pineda, including the image of the Purported Degree he received to Sana Kavar on December 5th, 2017.

20. The University called the evidence of Ms. Sana Kavar, Manager of the University's transcripts center. Ms. Kavar's duties include the responsibility for responding to requests for confirmation of transcripts. Ms. Kavar explained the process for third-party verification of transcripts.

21. Ms. Kavar confirmed for the Tribunal that she had received a copy of an email exchange between Mr. Johnston and Armi Pineda of Owens OnLine. Ms. Kavar advised that

she is familiar with Owens OnLine and has handled several previous requests from that company.

22. Ms. Kwar advised the Tribunal that she accessed the Student's academic record and the University's academic history for the Student. Ms. Kwar determined that the University had never conferred a degree on the Student and that the Student had only completed 9 credits and was serving a three-year suspension for poor academic performance in December 2018.

D. Decision of the Tribunal.

23. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that the academic offence charged has been committed by the Student.

24. The Student was charged with two offences under Section B.I.3(a) of the Code, which reads:

It shall be an offence for a [...] student [...] knowingly: to forge or in any other way alter or falsify any academic record, or to utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form.

25. The Tribunal determined that the evidence clearly established that the Purported Degree provided by the Student to Owens OnLine was false.

26. Having concluded that the Purported Degree was a forgery, and given that it was circulated and/or made use of by the Student, as evidenced by the fact that the Student provided it to Owens OnLine, the Tribunal found it more likely than not that the Student was responsible for circulating and making use of the forged record.

27. The Tribunal found 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.I.3(a) of the Code.

E. Penalty

28. The matter continued with a hearing on the appropriate sanction. The University requested that the Tribunal make an order immediately suspending the Student for up to five years, and recommending to the President of the University that he recommend to the Governing Council that the Student be expelled from the University.

29. The panel reviewed a number of Tribunal decisions presented by the University. These cases establish the importance of the University as an educational institution and as a degree-granting body, and emphasize that members of the public must be able to rely on degree certificates allegedly issued by the University as being accurate. These decisions establish that the forgery or falsification of an academic record, including a transcript, is an offence of the utmost seriousness because such falsification both undermines the credibility of the University and of other students who have legitimately earned their grades and degrees.

30. Additional considerations of the Tribunal included that the Student's conduct was premediated and egregious, and that the Student did not respond to correspondence from the University or its counsel, nor did he attend the Hearing or send anyone on her behalf. As a result there were no mitigating circumstances for consideration.

31. The Tribunal deliberated and concluded that, under the circumstances, it was appropriate to make a recommendation for expulsion.

F. Conclusion

32. The Tribunal orders that the Student is guilty of 1 count of knowingly forging, altering, or falsifying, an academic record, or uttering, circulating, or making use of such an academic record, contrary to section B.I.3(a) of the Code;

33. The Tribunal orders that the following sanctions 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 the Tribunal's order or until Governing Council makes its decision on expulsion, whichever comes first, and that a corresponding notation be placed on her 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.

34. The Tribunal also ordered, that the case be reported to the Provost for publication of a notice of this decision and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto this 17th day of December 2018



Ms. Sara Zborovski, Co-Chair