

**THE UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION**

IN THE MATTER OF charges of academic misconduct made on May 17, 2013,

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 –

N [REDACTED] R [REDACTED] [REDACTED]

REASONS FOR DECISION

Hearing Dates: September 13, 2013

Members of the Panel:

Mr. John A. Keefe, Barrister and Solicitor, Chair
Professor Wayne Enright, Department of Computer Science, Faculty Panel Member
Ms. Sanea Tanvir, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel for the University, Paliare Roland Barristers
Mr. Jeff Marshman, Legal Case Worker for the Student, Downtown Legal Services
Ms. N [REDACTED] R [REDACTED], the Student

In Attendance:

Dr. Kristi Gourlay, Manager of Office of Academic Integrity, Faculty of Arts and Science
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Ms. Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

1. A hearing was held on September 13, 2013, by the Trial Division of the University Tribunal to consider twelve charges under the *University of Toronto Code of Behaviour on Academic Matters, 1995* (the “Code”) laid against Ms. N [REDACTED] R [REDACTED] (the “Student”) by letter dated May 17, 2013, from Professor Jay Pratt, Acting Vice-Provost, Faculty and Academic Life.

2. The Student, N [REDACTED] R [REDACTED] attended the hearing with a legal representative from Downtown Legal Services. The hearing proceeded on the basis of an Agreed Statement of Facts and a Joint Submission on Penalty.

Charges

3. The Notice of Hearing is dated August 21, 2013. There are twelve charges in total. They are summarized below. The charges relate to four separate emails sent by the Student to four separate professors, each dated April 9, 2013. It is alleged that the emails and their attachments contained false or falsified information. Specifically, they each contained the same statement that the Student had been granted conditional acceptance to the Pharmacology and Toxicology Graduate Program at the University of Toronto and each attached what purported to be the Student’s academic record that on its face purported to be a formal University record which was falsified, forged and contained a false record of the Students academic performance.

4. The background leading to these emails is that the Student was applying to the Master of Science program in Pharmacology (the “**Graduate Program**”) with the Department of Pharmacology and Toxicology at the University of Toronto (the “**Department**”). It was a requirement of the Graduate Program that the Student complete a thesis. In order to meet this requirement, each student was required to have graduate supervisor. The graduate supervisor’s role is to take primary responsibility for assisting the student to complete the research and thesis requirements of the Graduate Program. The statement contained in the emails that the Student had been given conditional acceptance to the Graduate Program was false. At the time the letters were written, the Department had not accepted the Student into the Graduate Program. The Student had been advised that her application would be placed “on hold” pending receipt of her final grades for the winter 2013 term. The University record which was attached to the emails was falsified and contained false information. It was a forged document in that it purported to be

an official University of Toronto transcript setting out the Student's results. In fact, it was not an official transcript and the course grades were not consistent with the Students performance in these courses.

5. By the fall of 2012 term, the Student had accumulated 15.5 credits and had a cumulative GPA of 1.90. The transcripts submitted by the Student to the Professors showed a cumulative GPA of 3.88. The grades shown on the transcripts showed very high marks in the A and A+ category, whereas, in fact, her actual marks were much lower.

6. The Student sent the identical email to four different professors requesting that they act as her graduate supervisor.

7. The Student was charged with three separate charges relating to each of the four emails, thereby making the total number of charges twelve.

8. In the Agreed Statement of Facts, the Student indicated that she was willing to plead guilty to charges 1, 2, 4, 5, 7, 8, 10 and 11. Counts 1, 4, 7 and 10 relate to the false information contained in the emails. These charges were laid under s. B.i.1.(a) of the Code which provides that it shall be an offence for a student knowingly:

- (a) *to forge or in any other way alter or falsify any document or evidence required by the University, or to utter, circulate or make use of any such forged, altered or falsified document, whether the record be in print or electronic form;*

9. Charges 2, 5, 8, and 11 relate to the false academic record attached to the four emails addressed to the professors. Those charges were laid under S. B.i.3.(a) of the Code which provides that it shall be an offence for a faculty member and student knowingly:

- (a) *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;*

10. Counts 3, 6, 9 and 12 relate to the four emails and false academic records and allege a form of general misconduct, fraud and misrepresentation, contrary to s. B.i. 3.(b) of the Code, which provides that it shall be an offence for a faculty member and student alike knowingly:

- (a) *to engage in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind;*

11. After reviewing the background facts and the Agreed Statement of Facts, the panel expressed its concern with respect to whether the emails (which relate to charges 1, 4, 7 and 10) could properly be characterized as documents that are forged, altered or falsified. We noted that the documents themselves are not forged, altered or falsified. The information contained in the documents is false, fraudulent and a misrepresentation, but the documents themselves are not falsified.

12. After some discussion and deliberation, the University and the Student agreed to amend the Agreed Statement of Facts, so that the Student would plead guilty to charges 3, 6, 9 and 12 under s. B.1.3.(b) of the Code, in relation to the emails instead of charges 1, 4, 7 and 10. She would also plead guilty to counts 2, 5, 8 and 11, under s. B.i.3.(a) in relation to the academic histories. The University and the Student both consented to these changes. The Tribunal was assured that these changes would have no bearing on the proposed disposition in the Joint Submission on Penalty.

13. After reviewing the emails, the attachments to them and the Agreed Statement of Facts, the Tribunal deliberated and advised that it was prepared to accept a guilty plea to charges 3, 6, 9 and 12 relating to the emails and counts 2, 5, 8, and 11, relating to the academic histories. On this basis, the University agreed to withdraw charges 1, 4, 7, and 10.

Sanction

14. The parties then submitted a Joint Submission on Penalty. The University and Student jointly submitted that, in the circumstances of this case, it would be appropriate for the University to impose the following sanction:

- (a) a five-year suspension from the University of Toronto;
- (b) a notation of the sanction on the Student's academic record and transcript for a period of seven year;
- (c) that the case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and a sanction imposed in the University of Toronto newspapers, with the name of the student withheld.

15. The Student acknowledged that she had signed the Joint Submission on Penalty freely and voluntarily, knowing of the potential consequences.

16. The Joint Submission on Penalty was signed by the Student, on August 26, 2013 and by the University Assistant Discipline Counsel, on August 29, 2013.

17. After considering the submissions of the University, and the Student, the Tribunal deliberated and concluded that it was prepared to accept the Joint Submission on Penalty.

Sanction and Reasons:

18. In accepting the sanction set out in the Joint Submission on Penalty, the Tribunal considered submissions of University counsel and the legal representative of the Student as well as the cases referred to by both parties. The Tribunal noted that there is a high threshold for rejecting a joint submission on penalty. The Tribunal was referred to case law in the courts and other decisions of the Tribunal. The Tribunal accepts that rejecting a joint submission on penalty would be limited to cases where the Tribunal concluded that to accept the joint submission would bring the administration of justice into disrepute. The Tribunal concluded that in this case, it was appropriate to accept the Joint Submission on Penalty.

19. The Tribunal concluded that the penalty agreed to by the parties in the Joint Submission on Penalty achieves the appropriate balancing of all the relevant sentencing principles, the most important of which, we will set out below.

20. The Student was in her final year of her academic career at the University. In fact, she only has one credit remaining in order to graduate. At the earliest possible opportunity, the Student acknowledged her wrongdoing. She cooperated throughout. She attended the hearing. She pleaded guilty. At the hearing, she expressed her genuine remorse for what she had done and her understanding of the mistake she had made.

21. With respect to the offence itself, this is a first offence. The Student had no prior record of academic misconduct. The Student was currently enrolled at George Brown College in a related health care field. The Tribunal recognized that, based on the agreed sanction, she will not be able to complete her academic work and to graduate for at least five years, which is a significant penalty in the circumstances.

22. The offence of forging an academic transcript is viewed by the University as at the most serious end of the range of sanctions. In the absence of some of the mitigating factors referred to above, the sanction could very well have been expulsion. Forging or falsifying an academic history is among the most serious offences a student can commit. The University's reputation and credibility depends on the reliability of its official records. This type of offence is detrimental to the University and it is important that others are deterred from engaging in similar conduct. The Tribunal also noted that considerable planning and deliberation went into the falsification of the academic records in this case. The alteration of the marks was not insignificant. It was widespread and there was a considerable disparity between the results set out in the falsified academic records and to her actual results.

23. The falsification of records of transcripts strikes at the heart of the honesty and integrity which is at the core of the academic experience and evaluation. In the Decision of University Tribunal in the matter of A■■■ K■■■ G■■■ (Case #508; October 14, 2008), a Judicial Board established by the Governing Council stated as follows at paragraph 18:

“As to the nature of the offence and the detriment to the University, we note that the integrity of the University as an educational institution and as a degree-

granting body is fundamental to the academic relationship. Many important third parties, including potential employers, members of the public and other institutions of higher education rely on records of transcripts and of degrees as correctly representing the academic achievements of those to whom they are awarded. Falsification of records of transcripts and of degrees strikes at the heart of the honesty and integrity which is at the core of the academic experience and evaluation. It undermines not only the credibility of the University but also the credibility of other students who have legitimately achieved the marks and degrees recorded in such records. It is important that when confronted by such falsification, the University treat, and be seen to treat, such conduct very serious.”

24. Similarly, in the University of Toronto vs. S [REDACTED] D [REDACTED], (Case #637; May 2007), at paragraph 53 the Tribunal stated:

“What can be said overall is that this Tribunal and its predecessors have, by and large, treated the falsification of an academic record as a most serious offence, striking directly at the core values of the University, and demonstrating a fundamental failure to act with the integrity and the necessary shared values of honesty and standards which members of the University community must display and adhere to. Expulsion from the University or recall of the degree has more often than not been the penalty imposed for falsified reporting. One sees in the cases some emphasis on the deception of third parties as particularly offensive conduct and of course this is present in this case. Acts of falsification and deception like these are intentional and purposeful and, as here, there is no room for any suggestion of mere negligence or even recklessness as mitigating features.”

25. University Counsel provided us with a chart setting out the range of penalties imposed for forgery in other cases coming before the Tribunal. It is clear from a review of this chart that, in many cases, including those involving first offenders, expulsion is quite common.

26. Overall, we believe that the imposition of a five year suspension as agreed to in the Joint Submission on Penalty in this case, is appropriate in these circumstances. It is the highest possible penalty short of expulsion.

27. Accordingly, the Tribunal concluded that the agreed sanctions in the Joint Submission on Penalty were appropriate and we agreed to accept them.

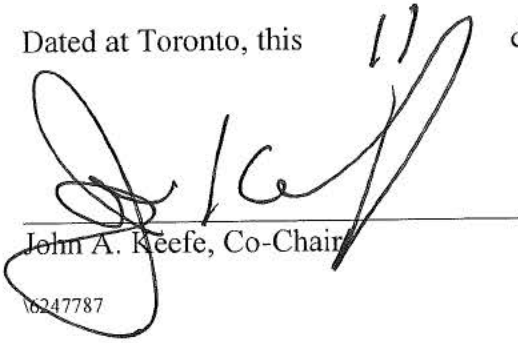
28. Prior to finalizing the disposition of the penalty phase at the hearing, the Tribunal noted that the Joint Submission on Penalty contemplated a five year suspension commencing on the day the tribunal made its Order. The Tribunal noted that if the suspension took effect from the day of the hearing, the Student would, in fact, be suspended for more than five years because the Tribunal was sitting on September 13, 2013, which is after the commencement of the 2013-2014 winter term. Accordingly, the Tribunal, with the consent of the University and the Student, amended the Joint Submission on Penalty to provide that the suspension and the notation of the sanction would commence on August 26, 2013, which is the date of the Student's signature on the Joint Submission on Penalty.

Conclusion

29. Accordingly, the Panel imposes the following sanctions:

- (i) a five year suspension from the University of Toronto to commence on, August 26, 2013;
- (ii) a notation of the sanction be recorded on her academic record and transcript for a period of seven years to commence on August 26, 2013; and
- (iii) this case be reported to the Provost for publication of a notice of decision of the Tribunal and the sanctions imposed in the University of Toronto newspapers, with the name of the student withheld.

Dated at Toronto, this 11 day of October, 2013.



John A. Keefe, Co-Chair

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