

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on October 28, 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 -

J. W. [REDACTED]

REASONS FOR DECISION

Hearing Date: April 3, 2017

Members of the Panel:

Ms. Johanna Braden, Barrister and Solicitor, Chair
Professor Louis Florence, Faculty Panel Member
Ms. Alexis Giannelia, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers
Mr. Nathan Korneberg, Paralegal, Juslaw Legal Services

In Attendance:

Ms. Lucy Gaspini, Academic Integrity & Affairs, Office of the Dean, University of Toronto
Mississauga
Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, Office of the Appeals,
Discipline, Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Not In Attendance:

Ms. J. W. [REDACTED], the Student

1. The Trial Division of the University Tribunal was convened on April 3, 2017, to consider charges brought by the University of Toronto (the "University") against Ms. J [REDACTED] W [REDACTED] (the "Student") under the *University of Toronto Code of Behaviour on Academic Matters*, 1995 (the "Code").

The Charges and Particulars

2. The Charges and Particulars alleged against the Student are as follows:

CHARGES

December 11, 2015 Petition

1. On or about December 11, 2015, you knowingly falsified evidence required by the University of Toronto ("University"), namely, a Petition Form, which you submitted to the University of Toronto Mississauga in support of your request for academic accommodation in MAT240H5F ("MAT240"), contrary to Section B.I.1(a) of the *Code*.
2. On or about December 11, 2015, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a University Verification of Student Illness or Injury Form dated December 11, 2015 ("December 11 VOI"), which you submitted to the University in support of your request for academic accommodation in MAT240, contrary to Section B.I.1(a) of the *Code*.
3. On or about December 11, 2015, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a Medical Absence Report from NewHope Health Network dated December 11, 2015, which you submitted to the University in support of your request for academic accommodation in MAT240, contrary to Section B.I.1(a) of the *Code*.

4. In the alternative to charges 1, 2, and 3 above, on or about December 11, 2015, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit of other academic advantage of any kind, in connection with the submission of the following documents, contrary to Section B.I.3(b) of the *Code*:
- (i) Petition form dated December 11, 2015 ("December 11 Petition");
 - (ii) December 11 VOI; and
 - (iii) Medical Absence Report dated December 11, 2015 from NewHope Health Network;

December 17, 2015 Petition

5. On or about December 17, 2015, you knowingly falsified evidence required by the University, namely, a Petition Form, which you submitted to the University of Toronto Mississauga in support of your request for academic accommodation in MAT233H5F ("MAT233"), contrary to Section B.I.1(a) of the *Code*.
6. On or about December 17, 2015, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a University Verification of Student Illness or Injury Form dated December 16, 2015 ("December 16 VOI"), which you submitted to the University in support of your request for academic accommodation in MAT233, contrary to Section B.I.1(a) of the *Code*
7. In the alternative to charges 5 and 6 above, on or about December 16 and 17, 2015, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit of other academic advantage of any kind, in connection with the submission of the following documents, contrary to Section B.I.3(b) of the *Code*:
- 1. Petition form dated December 17, 2015 ("December 17 Petition"); and

2. December 16 VOI.

Particulars of the charges are as follows:

- a. At all material times you were a student at the University of Toronto and were registered in MAT 240 and MAT 233 (the "Courses").
- b. On December 11, 2015, you submitted a petition in which you sought an academic accommodation to defer an examination in MAT240, which was originally scheduled for December 11, 2015.
- c. In support of your December 11, 2015 Petition you provided the following information and documentation:
 - (i) You stated that the reason for the petition was because you had a fever that day and were uncomfortable, and that the doctor suggested that you could not attend the MAT240 exam;
 - (ii) The December 11 VOI which indicated that you had been seen by Dr. John P. Winston, ENT Specialist, on December 11, 2015, and that he had signed the December 11 VOI.
 - (iii) The Medical Absence Report on NewHope Health Network letterhead, indicating that you were seen in their offices by John P. Winston on December 11, 2015, and that you had activity limitations.
- d. You were not seen by a Dr. John P. Winston, or any physician, on December 11, 2015. You purchased the December 11 VOI and the Medical Absence Report from a third party, knowing that you had not visited a physician and that the information contained in those documents was false.
- e. On December 16, 2015, you submitted a petition in which you sought an academic accommodation to defer an examination in MAT233 which was originally scheduled for December 16, 2015.
- f. In support of your December 16, 2015 Petition you provided the following information and documentation:

- (i) You stated that the reason for the petition was because you had a fever that day and were uncomfortable, and that the doctor suggested that you could not attend the MAT233 exam; and
 - (ii) The December 16 VOI which indicated that you had been seen by Dr. John P. Winston, ENT Specialist, on December 16, 2015, and that he had signed the December 16 VOI.
 - g. You were not seen by a Dr. John P. Winston, or any physician, on December 16, 2015. You purchased the December 16 VOI from a third party, knowing that you had not visited a physician and that the information contained in the document was false.
 - h. You knew that the information contained in each of your December 11 Petition and your December 17 Petition, together with the documents submitted in support of those petitions in the form of the December 11 VOI, the Medical Absence Report, and the December 16 VOI, had been forged or altered and contained false information when you submitted them in an attempt to obtain academic accommodation.
3. The Student was not present. Through her representative she admitted Charges 1, 2, 3, 5, and 6. Those admissions were reflected in writing, in an Agreed Statement of Facts that had been signed by the Student. In light of the Student's admissions (which the Tribunal accepted), the University sought and obtained leave to withdraw the alternative Charges 4 and 7.

The Evidence

4. The evidence before the Tribunal was submitted through an Agreed Statement of Facts, which provided as follows.
- 1. This hearing arises out of charges of academic misconduct filed by the Provost of the University of Toronto (the "Provost") under the Code of Behaviour on Academic Matters ("Code"). For the purposes of this hearing, the Provost and the

Student have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD").

2. The Provost and the Student agree that:
 - a. each document contained in the JBD may be admitted into evidence at the Tribunal for all purposes, including to prove the truth of the document's contents, without further need to prove the document; and
 - b. if a document indicates that it was sent or received by someone, that is prima facie proof that the document was sent and received as indicated.

A. *Notice of hearing, charges and admission of misconduct*

3. The Student admits that she received reasonable notice of the hearing. The notice of hearing is included in the JBD at Tab 1.
4. The Student admits that she received a copy of the charges filed by the Provost on October 28, 2016. The charges are included in the JBD at Tab 2.
5. The Student waives the reading of the charges filed against her, and pleads guilty to charge #1, charge #2, charge #3, charge #5 and charge #6.
6. If the Tribunal convicts the Student on charges #1, 2, 3, 5 and 6, the Provost will withdraw charges #4 and 7.
7. A copy of the Student's academic record dated March 20, 2017, is found in the JBD at Tab 3. At all material times the Student was a registered student at the University of Toronto Mississauga ("UTM"). The Student first registered at UTM in Fall 2013. As at the end of the 2016 Fall term she had earned 11.0 credits, with a cumulative grade point average of 1.82. The Student is currently enrolled in the Winter 2017 term.

MAT240

8. In the 2015 Fall term the Student was enrolled in MAT240 – Algebra 1 ("MAT240 Course"). Dr. Jaimal Thind taught the MAT240 Course. A copy of the course syllabus for the MAT240 Course is included in the JBD at Tab 4.

9. Students in the MAT240 Course were required to write a final examination which was worth 40% of the MAT240 Course mark. The MAT240 Course final examination was scheduled for December 11, 2015 ("MAT240 Exam"). A copy of the MAT240 Exam is included in the JBD at Tab 5.
10. The Student did not write the MAT240 Exam on December 11, 2015.
11. Students who miss an exam may petition to write a deferred exam. If illness is cited as the reason for missing a final exam, students are required to file supporting documentation in the form of a standard Verification of Student Illness or Injury form ("Medical Verification"). The Medical Verification form must show that the physician was consulted on the day of the missed exam or the next day. Students are warned that if it is determined that information provided for a petition is altered or misrepresented, a student can be held accountable under the *Code of Behaviour on Academic Matters*. A copy of the information about petitions which is made available to UTM students by the Office of the Registrar is included in the JBD at Tab 6.
12. The Student submitted an on-line Petition Form at 11:43 p.m. on December 11, 2015, Petition #45766, requesting that she be permitted to write a deferred exam in MAT240. She stated that she had a fever and was uncomfortable and "the doctor suggested that I could not attend the exam" ("MAT240 Petition"). A copy of the MAT240 Petition is included in the JBD at Tab 7.
13. The Student submitted the following documents in support of the MAT240 Petition:
 - a. Verification of Student Illness or Injury form dated December 11, 2015, purporting to verify a serious incapacity on academic functioning from December 11, 2015 to December 12, 2015, bearing the name and signature of John P. Winston, ENT Specialist, CPSO # 77179 ("MAT240 Medical Verification"); and
 - b. A Medical Absence Report from NewHope Health Network at 3550 Victoria Park Avenue, Toronto, dated December 11, 2015, bearing a

stamp for John P. Winston, M.D. ENT Specialist ("Medical Absence Report").

- c. Copies of the MAT240 Medical Verification and the Medical Absence Report are included in the JBD at Tab 7A and 7B respectively.

MAT233

14. In the 2015 Fall term the Student was also enrolled in MAT233 – Calculus of Several Variables ("MAT233 Course"), which was taught by Professor Jacopo De Simoi. A copy of the course syllabus for the MAT233 course is included in the JBD at Tab 8.
15. Students in the Mat233 Course were required to write a final examination which was worth 40% of the MAT233 Course mark. The MAT233 Course final examination was scheduled for December 16, 2015 ("MAT233 Exam"). A copy of the MAT233 Exam is included in the JBD at Tab 9.
16. The Student did not write the MAT233 Exam on December 16, 2015.
17. The Student submitted a petition on December 17, 2015 requesting that she be permitted to write a deferred exam in MAT233H5F (Petition #46092), indicating that she had a fever and was uncomfortable, and "the doctor suggested I cannot attend to complete the test" ("MAT233 Petition"). A copy of the MAT233 Petition is included in the JBD at Tab 10.
18. In support of the MAT233 Petition the Student submitted a Verification of Student Illness or Injury form dated December 16, 2015 indicating incapacitation from December 16 to December 17, 2015 ("MAT233 Medical Verification"). This form was again signed by John P. Winston, ENT Specialist, CPSO #77179. A copy of the MAT233 Medical Verification is included in the JBD at Tab 10A.

Investigation

19. In addition to the medical documents received from the Student purporting to be from Dr. John P. Winston, in December 2015 the Registrar's office received

medical notes from three other students which were signed by a Dr. John P. Winston. Each of these students was seeking to defer a final exam.

20. Investigation by Laura Ferlito, Assistant Registrar, Academic Standards & Petitions, indicated the following:
 - a. No match was found for Dr. John P. Winston on the College of Physicians and Surgeons of Ontario public register or All Doctor Search webpage. A printout from the All Doctors Search page on the CPSO website is included in the JBD at Tab 11A;
 - b. the CPSO registration number 77179 is not associated with Dr. John P. Winston, but with a Dr. Pascal Croteau. A printout of the Registration Number Search page on the CPSO website is included in the JBD at Tab 11B;
 - c. an online search for NewHope Health Network revealed nothing. A printout of Ms. Ferlito's Google search for New Hope Health Network Toronto is included in the JBD at Tab 11C;
 - d. an online search for 3550 Victoria Park Avenue, Toronto, turned up a number of businesses, but none were NewHope Health Network. A printout of Ms. Ferlito's Google search for 3550 victoria park ave, Toronto, Ontario is included in the JBD at Tab 11D; and
 - e. a first phone call to the phone number on the Medical Absence Report for NewHope Health Network got no answer and no voicemail, while a second call yielded a voicemail box that was full.
21. Given the number of documents with Dr. John P. Winston's name received by the Registrar's office, Campus Police was asked to investigate and to interview each of the students who had submitted such documents, including the Student. The Student's interview with the UTM campus police took place in early February, 2016. After first telling the police that she had seen a valid registered physician, the Student admitted that she purchased the supporting medical documentation for her MAT240 Petition and for her MAT233 Petition.

B. Meeting with the Dean's Designate

22. The Student attended a meeting with Michael Georges, Dean's Designate, on April 5, 2016. At that meeting the Student admitted that she had not seen a doctor on either of December 11, 2015 or December 16, 2015. Rather, she stated that she had paid something over \$100 to obtain the supporting medical documents for each of the MAT240 Petition and the MAT233 Petition.

C. Admissions and Acknowledgement

23. The Student admits that, by submitting the MAT240 Petition and supporting MAT240 Medical Verification and Medical Absence Report claiming to have missed the MAT240 Exam due to illness, in order to seek an academic accommodation:
- a. she knowingly forged or falsified a document or evidence required by the University in respect of the MAT240 Petition, and knowingly circulated or made use of that MAT240 Petition, contrary to section B.I.1(a) of the Code;
 - b. she knowingly forged or falsified a document or evidence required by the University in respect of the MAT240 Medical Verification, and knowingly circulated or made use of that MAT240 Medical Verification, contrary to section B.I.1(a) of the Code;
 - c. she knowingly forged or falsified a document or evidence required by the University in respect of the Medical Absence Report, and knowingly circulated or made use of that Medical Absence Report, contrary to section B.I.1(a) of the Code; and
 - d. she engaged in a form of cheating, academic dishonesty or misconduct, or made a misrepresentation in respect of the MAT240 Petition and its supporting documentation in order to obtain an academic advantage, contrary to section B.I.3(b) of the Code;

24. The Student further admits that, by submitting the MAT233 Petition and supporting MAT233 Medical Verification Report claiming to have missed the MAT233 Exam due to illness, in order to seek an academic accommodation:
- a. she knowingly forged or falsified a document or evidence required by the University in respect of the MAT233 Petition, and knowingly circulated or made use of that MAT233 Petition, contrary to section B.I.1(a) of the Code;
 - b. she knowingly forged or falsified a document or evidence required by the University in respect of the MAT233 Medical Verification, and knowingly circulated or made use of that MAT233 Medical Verification, contrary to section B.I.1(a) of the Code; and
 - c. she engaged in a form of cheating, academic dishonesty or misconduct, or made a misrepresentation in respect of the MAT233 Petition and its supporting documentation in order to obtain an academic advantage, contrary to section B.I.3(b) of the Code.

Decision of the Tribunal on the Charges

5. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that one or more of the academic offences charged has been committed by the Student.
6. In this case, the Student admitted to 5 of the Charges relating to two separate exams. Although the Student was not present, she was represented at the hearing by a representative. Her admissions were made in writing. The Tribunal was satisfied that the Student's admissions were voluntary, informed and unequivocal. Further, the evidence contained in the Agreed Statement of Facts and accompanying documents clearly proved the admitted Charges.

7. In light of the Tribunal's finding, Charges 4 and 7 were withdrawn by the University.

Decision of the Tribunal on Penalty

8. There was some additional evidence on penalty, also admitted by way of an Agreed Statement of Facts on Penalty. That evidence established that the Student had been sanctioned for a prior academic offence.
9. Specifically, on August 31, 2015, the Student had admitted guilt at a dean's meeting to the charge of plagiarizing an assignment in the 2014 Fall term. She was assigned a grade of zero for the assignment and a twelve-month notation on her transcript that her mark had been reduced due to academic misconduct. That notation expired September 1, 2016. The Student was advised by the Vice-Dean, Undergraduate to contact a staff member from the Academic Skills Centre to assist with a strategy to help her with her future academic work and goals. In addition, the Student was cautioned not to commit another academic offence, and that any subsequent allegations of such misconduct are usually referred to the Tribunal.
10. There was a joint submission on penalty, in which both parties requested that this Tribunal impose the following sanctions on the Student:
 - (a) a final grade of zero in MAT240H5 (Fall 2015);

- (b) a final grade of zero in MAT233H5 (Fall 2015);
 - (c) a suspension from the University for three years and eight months, from May 1, 2017 to December 31, 2020; and
 - (d) a notation of the sanction on her academic record and transcript for five years from the date the Tribunal makes its order.
10. The parties also submitted that it would be appropriate for the Tribunal to report this case to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University newspapers, with the name of the student withheld.
11. The Tribunal considered the principles and factors relevant to sanction set out by this Tribunal in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976). While the determination of an appropriate penalty in every case by the Tribunal will depend on an individual assessment of these principles and factors, it is important to have general consistency in the Tribunal's approach to sanction so that students are treated fairly and equitably.
12. The Tribunal considered the factors and principles and factors relevant to sanction set out by this Tribunal in *University of Toronto and Mr. C, supra*.
- (a) The character of the Student: the Student did not attend the hearing, and no clear reason was given as to why she did not attend. She did have a representative present at the hearing, who made admissions on the

Student's behalf. The Student also made these admissions in writing to the Tribunal, and had made them earlier to the Dean's Designate. The Tribunal recognizes these admissions are a sign the Student now takes responsibility for her misconduct.

- (b) The likelihood of a repetition of the offence: the Tribunal was concerned that this was not the Student's first offence, and that the five Charges involved not just one but two separate incidents of deliberate deception. The Student submitted falsified and forged medical documentation for one exam. She then waited five days, and did it again. A significant penalty is required to ensure specific deterrence.
- (c) The nature of the offence committed: this was a deliberate and repeated offence of dishonesty, undertaken for the sole purpose of misleading the University and gaining academic advantage. The Student was initially successful in deceiving the University. Had it not been for the greed of the person selling the medical documentation in the name of "Dr. John P. Winston", and the fact that similar documents were sold to multiple students, it is possible the Student might not have been caught.
- (d) Any extenuating circumstances surrounding the commission of the offence: the Tribunal accepts that by admitting her misconduct, the Student has shown remorse and responsibility. Apart from that, no extenuating circumstances were evident.

- (e) The detriment to the University occasioned by the misconduct: the University wasted scarce resources processing the Student's false requests for accommodation, investigating the false doctor, and prosecuting this matter. That the University had to spend time searching for the non-existent "Dr. John P. Winston" is disturbing. The University should be able to trust that students who seek medical accommodations during exams do so in good faith. The University's system is a fair one. When students take advantage of the University's processes for medical accommodation, as this Student did not just once but twice, a laudable and important system of medical accommodation is damaged to the detriment of the University and students alike. It breeds cynicism and distrust.
- (f) The need to deter others from committing similar offences: deliberate falsification must always be denounced and deterred. Dishonesty like this is hard to detect. Sanctions must be sufficiently severe to send all students the message that the University's system of medical accommodation is not to be undermined.
13. In addition to considering the factors from *Mr. C., supra*, the Tribunal considered other cases of this Tribunal in similar circumstances, involving students making use of forged or falsified information. While certain aspects of the sanction are consistent across all cases (a final grade of zero for the affected course or courses), there is some variation in the other components of the sanction, depending on the particular circumstances of the student and the particular

balance of aggravating and mitigating factors. The sanctions imposed in such cases all included grades of zero in the affected cases. On the more lenient end, the sanctions included suspensions as low as two years (for a first offence involving one forged medical certificate) and as high as five years. On the more stringent end, some cases involving egregious, sustained dishonesty warranted a recommendation of expulsion. The joint submission proposed by the parties in the present case is fairly within that range.

14. The Tribunal also considered that it ought to defer to joint submissions. While the Tribunal retains the discretion to reject joint submissions in appropriate cases, the fact that adversarial parties have been able to agree on the appropriate sanction is a good indication in and of itself that the appropriate balance of interests has occurred. The Tribunal should not reject a joint submission just because it might have imposed a somewhat different penalty had the matter proceeded on a contested basis.
15. The Tribunal found the proposed sanction was in the range of sanctions imposed in other cases, and was fair and reasonable in light of the factors and principles relating to sanctions generally. It sends a strong message to this Student and to the student body as a whole, while still giving the Student a reasonable opportunity to resume her academic career at the University should she choose to do so. The sanction allows the Student to complete her courses for the Winter 2017 term, and to pick up again at the start of the Winter 2021 term. The Tribunal accepts that the suspension will have significant consequences for the Student

personally, and hopes very much that she is able to make the best of her third chance.

16. In all of the circumstances, the Tribunal is satisfied that the following Order is appropriate:

1. **THAT** the Student is guilty of five counts of knowingly forging or falsifying documents or evidence required by the University of Toronto, and circulating or making use of the forged or falsified documents or evidence, contrary to section B.I.1(a) of the *Code of Behaviour on Academic Matters*;
2. **THAT** the Student receive a final grade of zero in MAT240H5F and MAT233H5F in Fall 2015;
3. **THAT** the Student be suspended from the University for a period of three years and eight months, commencing on May 1, 2017 and ending on December 31, 2020;
4. **THAT** the sanction be recorded for a period of five years on the Student's academic record and transcript to the effect that she was sanctioned for academic misconduct, commencing on April 3, 2017 and ending on April 2, 2022; and

5. **THAT** 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 31st day of May, 2017



Ms. Johanna Braden, Chair