

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on December 5, 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 -

C ■ M ■ J ■

REASONS FOR DECISION

Hearing Dates: May 24, 2017 and July 10, 2017

Members of the Panel:

Ms. Sara Zborovski, Barrister and Solicitor, Chair
Dr. Chris Koenig-Woodyard, Faculty Panel Member
Ms. Ashley Barnes, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland, Barristers
Professor Eleanor Irwin, Dean's Designate, University of Toronto Scarborough
Mr. Terry Johnston, Associate Director, Office of Convocation (July 10, 2017)

In Attendance:

Mr. Christopher Lang, Director, Office of the Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council
Ms. Larissa Leong, Articling Student, Norton Rose Fulbright (May 24, 2017)

Not in Attendance:

Mr. C ■ M ■ J ■

1. This panel of the University Tribunal held a hearing on May 24, 2017 and July 10, 2017 to consider the charges brought by the University of Toronto (the “**University**”) against Mr. O ■ M ■ J ■ (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 1:45 on May 24th 2017. 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. She advised the Tribunal that the following attempts had been made to provide notice of the charges and hearing to the Student:

- i. On September 1, 2016, the Office of the Dean & Vice-Principal Academic sent a letter to the Student advising of an allegation of a possible academic offence, and requesting that the Student arrange an appointment to discuss the matter at his earliest convenience. Follow-up correspondence was sent again on September 23rd and October 18th.
- ii. On December 5, 2016, the Office of the Vice-Provost, Faculty and Academic Life served the charges on the Student by email to the two email addresses that the Student had provided in the University of Toronto Repository of Student Information (“**ROSI**”). One was a yahoo account, and the other the Student’s utoronto account.
- iii. On December 6, 2016, the Office of Appeals, Discipline and Faculty Grievances, University of Toronto served the Student with a letter regarding the charges 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 by email to his yahoo and utoronto email accounts. These documents were also sent twice by courier to the mailing address in the Student's ROSI account. The Office received a "bounce back" message from the yahoo account indicating that the email could not be delivered. No "bounce back" message was received from the Student's utoronto account. The courier packages were returned to the Office as undelivered with a notation that it was the "wrong address".

- iv. On January 24, 2017 Discipline Counsel sent additional correspondence by email (including another copy of the charges) to the Student's two email addresses in ROSI and by courier to the mailing address in the Student's ROSI account. Discipline Counsel received a "bounce back" from the yahoo account indicating that the email could not be delivered. No "bounce back" message was received from the Student's utoronto account. The courier package was subsequently returned to Discipline Counsel's office as undelivered.
- v. Discipline Counsel also considered that the Student's ROSI account contained a "permanent address" (different from the one to which the courier packages referred to above were sent). This permanent address was incomplete (it did not provide a street name) and when Discipline Counsel searched the included postal code on the Canada Post website, the site indicated that "the postal code cannot be found".
- vi. Discipline Counsel sent additional emails to the Student's yahoo and utoronto email addresses on January 3, 2017, March 27, 2017 and April 5, 2017. "Bounce back" messages were received from the yahoo account indicating that each of the messages could not be delivered.

- vii. On April 5, 2017, the Office of Appeals, Discipline and Faculty Grievances, University of Toronto served the Student with the Notice of Hearing, together with a copy of the letter of December 6, 2016 and enclosures (which included the charges) by email to the Student's yahoo and utoronto accounts. A "bounce back" message was received from the yahoo account indicating that the message could not be delivered.
- viii. On April 6, 2017, Discipline Counsel contacted Mike Wiseman, Acting Director, Information Security, Information Technology Services at the University asking Mr. Wiseman to advise her of the last date on which someone accessed the Student's utoronto account and if the account was currently forwarded to another email address. On April 10, 2017, Mr. Wiseman advised that the Student's utoronto account was forwarded to a hotmail account as of December 1, 2005 and as a result, there would be no mail in the Student's utoronto account.
- ix. On April 7, 2017, Discipline Counsel attempted to contact the Student by calling the telephone number in his ROSI account. No one answered the call and a message indicated that the corresponding voicemail had not been initiated. Discipline Counsel called again on April 11th and was greeted by a voicemail greeting that said "you have reached" followed by a beep. Discipline Counsel left a message requesting a return phone call. Repeat calls were made and voicemails left on April 12th and May 19th.
- x. On May 16, 2017, Discipline Counsel sent an email to the Student at his utoronto and hotmail accounts attaching another copy of the Charges and the Notice of Hearing. No bounce back message was received from either of these accounts in response to Discipline Counsel's email.

- xi. On May 18, 2017, Discipline Counsel sent an email to Meredith Williams, the individual from the Kreller Business Information Group (“**Kreller**”) who first contacted the University regarding the Student. Discipline Counsel advised that the University had been trying to contact the Student and asked for his current contact information. As of the May 24th hearing date, Discipline Counsel had not received a response from Kreller.
 - xii. On May 18, 2017, Discipline Counsel also sent a courier package to an address in Manila which was included on a consent signed by the Student and provided to Kreller (which was provided to the University with the original request for confirmation that the Student had obtained the indicated degree). On May 23, 2017, Discipline Counsel received confirmation that the package had been successfully delivered on May 22nd.
- 4. As of the date of the May 24th hearing date, the Student had not responded to any of the above-noted correspondence.
- 5. In light of the very recent attempt to provide notice to the Student at the address in Manila, the Tribunal adjourned the hearing to July 10th to provide additional time for the Student to respond to notice of the hearing.
- 6. At the hearing on July 10th, Discipline Counsel advised of the following additional attempts which had been made to contact the Student to advise of the new hearing date:
 - i. Discipline Counsel conducted a wide variety of internet searches to determine if there were additional methods for getting in contact with the Student. None of these resulted in a reliable means of contacting the Student.

- ii. Additional attempts were made to contact Kreller but these did not result in the receipt of any additional information regarding the Student, including any further contact information for him.

7. Pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* (the “**Act**”) and Rule 17 of the University of Toronto Rules of Practice and Procedure (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, including particularly the attempts made following the May 24th hearing, 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 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 Charges and Particulars were detailed in a letter dated December 5, 2016 and are set out below:

- i. In or around August 2016, 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 degree in your name purportedly from the University of Toronto contrary to Section B.I.3(a) of the Code.

Particulars

- ii. You were a registered student at the University of Toronto Scarborough (“**UTSC**”) and were enrolled in courses at UTSC from Fall 2004 to Fall 2005.
- iii. By the end of Fall 2005, you had accumulated 1.5 credits. You have not enrolled in any courses at the University of Toronto since Fall 2005. You have not graduated from the University of Toronto.
- iv. On August 25, 2016, the University of Toronto Office of Convocation received an email from Kreller Business Information Group, an international due diligence investigation company, seeking to confirm a degree. Kreller advised that [you] (DOB: December **, 1982) had reported receiving a Bachelor of Science degree from the University of Toronto on June 22, 2009 and attached a copy of a degree (the “**Degree**”). The Degree had your name and indicated that you had obtained a Bachelor of Science from the University of Toronto on June 22, 2009.

- v. Kreller also provided a copy of an Authority for Release of Information form, dated June 14, 2016, that was signed by you.
- vi. The University of Toronto Office of Convocation matched the name and month and year of birth to you. However, you had not been conferred a degree by the University of Toronto. On August 25, 2016, the Office of Convocation advised Kreller that no degree had been granted to you.
- vii. The Degree was forged. You have not graduated from the University of Toronto.
- viii. You forged or in any other way altered or falsified, and/or uttered, circulated, or made use of the Degree, including by providing it to Kreller or a client of Kreller for degree verification purposes.

C. The Evidence

15. The University called the evidence of Mr. Terry Johnson, Assistant Director at the Office of Convocation at the University. His duties included the responsibility for providing confirmation of degrees issued by the University.

16. On August 25, 2016, Mr. Johnson received an email from Meredith Williams at Kreller, addressed to the Office of Convocation General Inquiry, advising that she was conducting a routine background check on the Student who reported that he received a Bachelor of Science degree from the University of Toronto on June 22, 2009. Ms. William's email attached a "Provided Certificate/Diploma", i.e. the Degree. Ms. Keller advised that she attempted to verify the provided education with AuraData who reported "No File Found". Ms. Keller inquired whether the provided Degree was genuine.

17. By email of the same date, Mr. Johnson responded to Ms. Williams that the University was not able to find any evidence of the Degree having been granted by the University to the Student, suggesting that the electronic copy that was attached to her email was not a valid University diploma.

18. At the hearing, Mr. Johnson explained how he determined that the Degree provided was not a valid University diploma. Among other things, Mr. Johnson noted that the date on the diploma was June 22, 2009 however, he confirmed that 2009 graduation ceremonies ended on June 19th and accordingly, it would have been impossible for a diploma to have been issued on June 22, 2009.

19. Mr. Johnson investigated further and determined that the Student had most recently been enrolled in courses at UTSC from Fall 2004 to Fall 2005.

20. The University presented a copy of the Student's Academic History which indicates that he received 1.5 credits during his time at UTSC.

D. Decision of the Tribunal.

21. 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.

22. The Student was charged with an offence 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.

23. The Tribunal determined that the evidence clearly established that the Degree provided by the Student to Kreller was false.

24. Having concluded that the 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 Kreller and provided an Authority for Release of Information form authorizing Kreller to contact the University to confirm the accuracy of the Degree, the Tribunal found it more

likely that not that the Student was responsible for circulating and making use of the forged record.

25. 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

26. 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.

27. 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 diploma, 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 degrees.

28. Additional considerations of the Tribunal included that the Student's conduct was premediated and egregious, and that the Student did not respond to any attempts to contact him and as a result there were no mitigating circumstances for consideration.

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

F. Conclusion

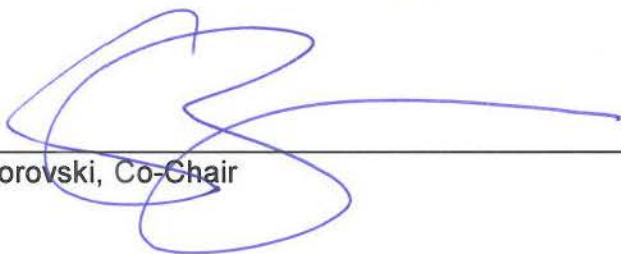
30. The Tribunal orders that the Student is guilty of the academic offence of altering or falsifying an academic record, and/or uttering, circulating or making use of such forged, altered or falsified record, contrary to section B.I.3(a) of the Code;

31. 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 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

32. 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 5th day of October 2017



Ms. Sara Zborovski, Co-Chair