

**UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on February 2, 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 (the "University")**

**- AND -**

**B [REDACTED] L [REDACTED] (the "Student")**

**REASONS FOR DECISION**

**Hearing Date:** December 17, 2018

**Panel Members:**

Ms. Roslyn M. Tsao, Chair  
Professor Ken Derry, Faculty Panel Member  
Ms. Elizabeth Frangos, Student Panel Member

**Appearances:**

Ms. Lily Harmer, Assistant Discipline Counsel for University, Paliare Roland Barristers  
Ms. Brittany Smith, Counsel for the Student

**In Attendance:**

Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

**Not in Attendance:**

Mr. B [REDACTED] L [REDACTED] the Student

## Charges and Appearances

1. The Trial Division of the Tribunal heard this matter on December 17, 2018. The Student was charged on February 2, 2018 with 5 charges which relate to two occasions where the Student knowingly omitted details of his prior attendance at another post-secondary institution and conferral of a degree therefrom:
  - (a) Charge 1 alleges that the Student knowingly uttered or circulated a falsified "academic record", contrary to Section B.I.3(a) of the *Code*, namely, his online application to the University on or about June 29, 2015;
  - (b) Charges 2 and 3 relate to the same factual incident, alleging misconduct contrary to Section B.I.1(a) (falsifying of "any document or evidence required by the University") and Section B.I.3(b) ("general academic dishonesty"), respectively;
  - (c) Charge 5 alleges that the Student knowingly uttered or circulated a falsified "document or evidence required by the University", contrary to Section B.I.3(b) (*sic*)<sup>1</sup>, namely, an application for an NSERC research grant on or about February 23, 2017; and
  - (d) Charge 5 relates to the NSERC incident, alleging misconduct contrary to Section B.I.3(b).
2. The University and Student, through counsel, submitted an Agreed Statement of Facts dated December 17, 2017 ("ASF") wherein the Student admitted to knowingly committing an academic offence, contrary to Section B.I.3(a), by submitting a falsified academic record in his application for admission to the University (Charge 1).

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<sup>1</sup> Charge 4 of the Charges refer to Section B.I.3(b) though the narrative of this Charge 4 follows the language of Section B.I.1(a). As this charge was ultimately withdrawn, the Panel does not need to address whether there was proper notice of the charge being pursued.

3. The Student did not attend the hearing (as he was residing outside Canada) but was represented by counsel at the hearing.

## **Facts**

4. Pursuant to the ASF, the Student admitted the following facts:

### **Application to University**

- The Student attended at a post-secondary institution, "KPU" in British Columbia, from January 2009 to August 2012.
- In September, 2013, the Student attended another post-secondary institution in Canada ("Other University") and graduated with a Bachelor's degree in Science in May, 2015.
- In January, 2015, the Student applied to transfer from KPU to the University's Mississauga campus in Life Sciences ("UTM"), among other programs both at the University and another university, through the Ontario Universities Application Centre ("OUAC"), an online service.
- The OUAC application process for transfer students is set out in detail online and, in particular, confirms that the applicant must provide truthful, **complete** and correct information (emphasis added).
- Required information for the application process includes a student's complete secondary and post-secondary history and OUAC explains that this information is important as institutions normally consider all educational experiences to be part of a student's academic background.
- Applicants are required to arrange for submission of their transcripts from **each of** their post-secondary institutions previously attended (emphasis added).

- The Student admits to knowingly omitting all reference to his attendance at the Other University and the Bachelor's Degree conferred on him there. The Student further admits to knowingly failing to provide a transcript from the Other University.
- The University's website advises prospective students that applicants who have completed more than two years of university level study may only apply to the University for a degree in a **different field**.
- The Student was admitted to UTM as an Honours Bachelor of Arts student, as a transfer student from KPU, for the Fall 2015-2016 academic year.
- The Student had also applied to the University's computer engineering program but was not accepted. The Student wrote a letter of appeal to the Admissions Committee and stated that after his two years at KPU, he "returned back to the workforce" to explain the 3 years between KPU and his application to the University. The Panel notes that this statement was false and misleading given that he was not in the workforce the whole time but was rather completing a degree at the Other University for two of those academic years. More will be said of this in the section below in the sanctions phase.
- Although the Student requested and was granted transfer credits for his KPU courses, he did not request any transfer for credits from the Other University.
- After enrolment at UTM, the Student first elected to proceed with a "Specialist in Art History". However, in the following year, he changed this to a "Specialist in Biology, with a Major in Economics". He did not enrol in any Art or Art History courses while at UTM, instead he focused on biology courses. The Panel infers that the Student had an intention to pursue the specialization in Biology/Science and never Art History but had used Art

History as a way to mislead the University about his intentions to repeat an area of previous study.

- By the end of the 2018 Winter term, the Student had earned 21.0 credits with a cumulative grade point average of 3.99 in Biology.

### **NSERC Grant Application**

- In the Fall 2016/Winter 2017, the Student applied for an undergraduate student research award from NSERC<sup>2</sup>. The NSERC application required him to disclose all of his current and past post-secondary programs and provide official, up-to-date transcripts for all university programs.
- In the course of submitting the requisite documentation to NSERC, the Student disclosed to the Assistant to the Chair and Undergraduate Assistant in the Department of Biology at UTM that he had attended the Other University but had not included such information in his application to UTM.
- The Student admits in the ASF that he told a post-doctoral student at that time that he had withheld the information about the Other University in his application to UTM because "he wished for a second chance to do better academically and because he wanted to enhance his chances of being accepted by UTM." This admission by the Student confirms that the Student knowingly falsified his academic record at the time of his application to the University.
- The Student subsequently advised the department that he was declining the NSERC grant.

### **Dean's Meeting**

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<sup>2</sup> National Sciences and Engineering Research Council of Canada

- The Student met with the Dean's Designate ("DD") on July 17, 2017 to discuss the allegation that he had misrepresented his academic record in his application to UTM. The Panel notes that the Student denied to the DD that he had a degree or had ever attended the Other University, refused to provide written authorization to allow the DD to inquire of the Other University and claimed the right not to provide the information requested as it was the University's responsibility to prove he had done something wrong.

### **Confirmation of Degree from Other University**

- The Office of Academic Integrity at UTM was able to confirm that the Student had convocated at the Other University with a Science degree in Spring 2015 by finding the details of the graduating students from an internet search.

5. The following documents were admitted by the Student as evidence:

- (a) the Student's OUAC application of January 2015;
- (b) the OUAC 105 Application Instruction Book, including sections relating to "Reporting Previous Attendance at a University or College" and "Transcripts";
- (c) screenshots of the online application which the Student would have completed for his application, which included the following reminder, in red lettering;  
  
"Have you provided details on all institutions you have attended and/or are currently attending?"
- (d) undated letter from Student to University's Admission Committee of Computer Engineering Department (to appeal denial of admission) ("Appeal Letter"); and
- (e) Student's Application for an NSERC award from February 23, 2017.

### **Decision of the Tribunal**

6. Based on the ASF and review of the documentary evidence, the Panel finds the Student guilty of Charge 1.
7. In the course of submissions, the Panel asked Counsel for the University to assist by providing a copy of the University's "Policy on Access to Student Academic Records" which is referred to in the definition of "academic record" in Appendix "A" of the *Code*. Counsel kindly provided a copy of this Policy, as approved by Governing Council on June 16, 1983. Section 3(b)(ii) of this Policy provides that the "official student academic record" includes:

*Basis for a student's admission such as the application for admission and supporting documents.*

8. The University withdrew the remaining 4 charges.

### **Penalty**

9. The Student and University submitted a Joint Submission on Penalty ("JSP") in support of the following penalty:
  - (a) that the Panel recommend to the President of the University that he recommend to the Governing Council that the Student be expelled from the University; and
  - (b) that the Student be immediately suspended from the University for a period of up to 5 years from the date of the Order or until Governing Council makes a determination on expulsion, whichever is earlier; and
  - (c) a corresponding notation be placed on his academic record and transcript.
10. Although this matter was presented to the Panel by way of an ASF and Joint Submission on Penalty (both of which were submitted voluntarily by the Student after independent legal advice), we are still required to consider the *Chelin* factors to

support our decision on penalty: character of student, likelihood of repetition of the offence, nature of the offence committed, existence of extenuating circumstances, detriment to the university and general need for deterrence.

11. The Student has no prior history of academic misconduct at the University and the Student has proceeded at hearing by way of a guilty plea and joint submission on penalty.

12. Regarding character of the Student, his Appeal Letter is a window into his character. The letter sets out deliberate misrepresentations which, though not within the four corners of the offence before the Panel, provide insight into the lengths to which the Student went to mislead the University. In particular, the Student included the following statements in his Appeal Letter:

(a) *The decision to complete an undergraduate degree in computer engineering was not an easy one. For the past years, I have carefully planned both financially and academically to prepare myself for this journey.*

This statement is wholly designed to give the impression that the Student was away from his studies for 2-3 years (as he only listed his attendance at KPU some 2-3 years earlier as his last and most recent post-secondary school enrolment) when, in fact, he was actively pursuing a Bachelor of Science degree at the Other University.

(b) *Therefore, after two years at [KPU], I returned back to the workforce where I worked multiple jobs to save enough money for tuition.*

Again, this statement implies that the Student had to work to save money in the 2-3 years prior to his application to the University when, in fact, he was pursuing his studies at the Other University for 2 academic years.

13. In addition, the Student's responses at the DD meeting in July, 2017 also raise concerns about his character. His denial about attending the Other University and his



"catch-me-if-you-can" attitude speak volumes and mitigate against a finding of remorse from his guilty plea at this hearing.

14. On the issue of "likelihood of repetition", the Student's February 2017 application materials filed with the NSERC application are an indicator of his propensity to re-offend. The Application form clearly requests a full Academic Background and the Student only listed his UTM Program, neglecting to include KPU and the Other University. Upon being asked on March 27, 2017 to provide original transcripts in furtherance of his application, he promptly advised that he would decline such award on March 30, 2017.
15. The nature of the offence and detriment to the University are significant in that the place of another applicant was usurped by the Student through his misleading and falsified application. The University has an interest in protecting the integrity of the institution starting with its application processes.
16. With regard to general deterrence, the only practical remedy available is a recommendation for expulsion given that the Student's application for admission was based on false information and that the Panel has no jurisdiction to revoke his credits.
17. The cases provided by the University demonstrate that the requested penalty is in the appropriate range of sanctions in similar circumstances.
18. There is a very high threshold for departing from a joint submission on penalty requiring the Panel to find that the acceptance of same would be contrary to the public interest and bring the administration of justice in to disrepute. Counsel for the Student confirms the Student's affirmation of the joint submission as appropriate.
19. An Order was signed at the hearing by the Panel on the following terms:
  - (a) **THAT** the Student is guilty of one count 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 of Behaviour on Academic Matters*;

- (b) **THAT** the Student be immediately suspended from the University for a period of up to 5 years from the date of the Order or until Governing Council makes a determination on expulsion, whichever is earlier, and that a corresponding notation be placed on his academic record and transcript;
- (c) **THAT** the panel recommends to the President of the University that he recommend to Governing Council that the Student be expelled from the University; and
- (d) **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 27th day of February, 2019



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Roslyn Tsao, Co-Chair