Case No.: 1011

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty filed on March 19, 2019,

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 -

H[redacted] A[redacted] (the "Student")

REASONS FOR DECISION

Hearing Date: July 8, 2019

Members of the Panel:
Ms. Johanna Braden, Barrister and Solicitor, Chair
Professor Julian Lowman, Faculty Panel Member
Ms. Natasha Brien, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LPP

In Attendance:
Ms. Jennifer Dent, Associate Director, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance
The Student

1. The Trial Division of the University Tribunal was convened on July 8, 2019, to consider charges brought by the University of Toronto (the "University") against the Student under the *University of Toronto Code of Behaviour on Academic Matters,* 1995 (the "*Code*").

Preliminary Issue: Proceeding in the Absence of the Student

2. The hearing was scheduled to begin at 1:45 pm. Neither the Student, nor a representative on behalf of the Student, were in attendance. The Tribunal waited until 2 pm to start the hearing. The University then requested that the Tribunal proceed with the hearing in the Student's absence.

3. Pursuant to Rule 14 of the *University Tribunal Rules of Practice and Procedure* (the "*Rules*"), notice of an oral hearing must include the date, time, place and purpose of the hearing; a reference to the statutory authority under which the hearing will be held; and a statement that if a person does not attend the hearing, the panel may proceed in the person's absence. Rule 17 provides that where reasonable notice of an oral hearing has been given to a person and that person does not attend the hearing, the Tribunal may proceed with the hearing in the party's absence. The *Rules* conform to sections 6 and 7 of the *Statutory Powers Procedure Act* (the "*SPPA*").

4. Pursuant to Rule 9, a notice of hearing may be served on a student by various means, including by emailing a copy of the document to the student's email address contained in the University's Repository of Student Information ("ROSI").

5. The University's *Policy on Official Correspondence with Students* expressly states that students are responsible for maintaining on ROSI a current and valid University-issued email account. Students are expected to monitor and retrieve their email on a frequent and consistent basis.

6. The onus of proof is on the University to establish that it provided with Student with reasonable notice of the hearing in accordance with these *Rules*.

7. In this case, the University provided evidence that the Student had been served at his ROSI-listed email address with the Charges dated March 19, 2019; the Notice of Hearing dated May 7, 2019; and the Revised Notice of Hearing (changing only the name of the Chair, but not the date, time or location of the hearing) dated June 26, 2019. There was evidence that the Student had accessed his email account on June 6, 2019, providing him with actual notice of at least the Charges and the original Notice of Hearing, which included the date and time of the hearing. Counsel for the University advised that the Student had not been in contact.

8. There was a Second Revised Notice of Hearing dated July 3, 2019, changing the location of the hearing (but not the date or time). Although there was no affidavit of service regarding the Second Revised Notice of Hearing, counsel for the University gave assurances that it would have been delivered to the Student by email to his ROSI-listed email address.

9. In light of the evidence and the submissions of counsel for the University, the Tribunal was satisfied that the Student had been given reasonable notice of the hearing in compliance with the notice requirements of the *SPPA* and the *Rules*. The Tribunal therefore determined it would proceed to hear the case on its merits in the absence of the Student. The hearing proceeded on the basis that the Student was deemed to deny the Charges alleged against him.

The Charges

10. Two charges were laid against the Student, as follows.

    1. 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 Confirmation of Enrolment letter from the University of Toronto Mississauga dated June 23, 2017, contrary to section B.I.3(a) of the Code.

2. 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 Confirmation of Enrolment letter from the University of Toronto Mississauga dated September 6, 2017, contrary to section B.I.3(a) of the Code.

Particulars of charges

(a) You were a registered student in the University of Toronto Mississauga, from Fall 2015 to Fall-Winter 2016-2017. You earned 0.50 credits.

(b) You were not registered for Fall/Winter 2017-2018.

(c) You circulated and made use of documents that purported to be a Confirmation of Enrolment letter from the University of Toronto dated June 23, 2017, and September 6, 2017, in support of an application for the replacement of a study permit.

(d) You forged these documents and falsely represented your academic history and status in them.

(e) You knew that these documents were forged, altered, and/or falsified when you circulated or made use of them in support of an application for the replacement of a study permit.

(f) You had an obligation to provide accurate and truthful information and not to misrepresent your academic record.

The Evidence

11. The University's evidence regarding the Charges was submitted by way of two affidavits, both of which had been served on the Student. That evidence established the following facts.

(a) The Student had been registered at the University from Fall 2015 to Fall-Winter 2016-2107. He did not perform well academically, and earned only 0.5 credits during that time. He failed almost all of his courses. The Student was not registered for the Fall-Winter 2017-2018 session. His registration had been financially cancelled as of September 6, 2017.

(b) A Risk Assessment Officer at Immigration, Refugees and Citizenship Canada ("ICRCC") received two letters from the Student in support of the Student's application for a study permit replacement. The Student had apparently advised ICRCC that his study permit had been stolen and that he needed a new one so that he could remain in Canada lawfully.

(c) The two letters sent by the Student to ICRCC purported to be Confirmation of Enrolment letters from the University. They are forgeries. One letter contains the wrong student number and the name of a different student in the body of the letter. The second has a signature that is not of the person it purports to be. Both letters incorrectly state that the Student was registered at the University for the Fall-Winter 2017-2018 session.

12. Upon discovering these apparently forged Confirmation of Enrolment letters, the University tried many times to contact the Student through email and telephone. The Student did not respond to any of the University's emails. The University's

efforts to call the Student were in vain, as the phone number listed in the Student's ROSI record was not in service.

Decision of the Tribunal on the Charges

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

14. The Student was charged with two counts of violating section B.i.3(a) of the *Code*. That section reads:

> 3. It shall be an offence for a … 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.

15. In this case, the two letters were clearly forged or altered Confirmation of Enrolment letters. They were not genuine letters from the University. There was no direct evidence that the Student forged or altered them himself. The only evidence was the letters sent to ICRCC and then to the University for authentication. The Tribunal finds it is more likely than not that the Student, at the very least, circulated and made use of two falsified Confirmation of Enrolment letters so that he could fraudulently obtain a study permit replacement allowing him to remain in Canada.

16. The Tribunal was satisfied that the two forged Confirmation of Enrolment letters were "academic records" for the purposes of the *Code*. The definition of "academic record" contained in Appendix "A" to the *Code* includes "any other record or document of the University … used, submitted or to be submitted for the purposes of the University." Although Confirmation of Enrolment letters are typically used to satisfy third parties regarding a student's academic standing, they serve an

important purpose of the University. They represent an official control mechanism for verifying enrolment, so that only students registered with the University can claim the benefits associated with registration.

Sanction

17. The University submitted that the Tribunal should make the most serious order it can: a suspension of up to five years and a recommendation to the President, that he recommend to the Governing Council that the Student be expelled.

18. Since the academic dishonesty did not relate to a specific course, there was no basis for the Tribunal to impose grades of zero, or cancel credits. The relevant powers of the Tribunal in a case of this nature are to impose a period of suspension, up to five years, and to consider recommending to the President, that he recommend to the Governing Council that the Student be expelled.

19. The Tribunal considered the factors and principles relevant to sanction as set out by this Tribunal in *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976).

(a) The character of the Student: the Student did not attend the hearing. The Student made no effort to respond to the multiple outreach efforts of the University, including Assistant Discipline Counsel. The Student performed very poorly while at the University, although we cannot know whether this was lack of effort or something else.

(b) The likelihood of repetition of the offence: this was the Student's first academic offence. However, the dishonest conduct was repeated. He apparently said his study permit had been stolen. When his first forged letter did not work, he resorted to a second, more careful forgery. There is nothing in the record to suggest that the Student is remorseful or repentant.

(c) The nature of the offence committed: these were deliberate and careful falsifications. They could not have occurred by accident or neglect. They show calculated dishonesty over a period of more than two months.

(d) Any extenuating circumstances: as the Student declined to participate in this hearing, the Tribunal had no evidence of any extenuating circumstances.

(e) The detriment to the University caused by the misconduct: the University welcomes many international students. The participation of students from around the globe enriches the University and the world more generally. We can enhance the participation of international students by ensuring that their experience with immigration officials is as smooth, fair and efficient as possible. When people fake their University enrolment with immigration officials, they put honest international students at a disadvantage. They jeopardize the University's reputation, and undermine the University's efforts to accommodate and support international students.

(f) The need for general deterrence: this is a significant concern. Because confirmation of enrolment letters are sent to third parties, this type of offence is easy for people to fabricate and hard for the University to police.

20. A recommendation of expulsion is the most serious sanction this Tribunal can impose. The Tribunal considered whether a five-year suspension would be appropriate, and concluded it would not be. These were offences of deliberate dishonesty. The Student twice dragged the University's name into his efforts to obtain a favourable immigration status in Canada on fraudulent grounds. This is seriously harmful to the University's reputation and to the students who depend on a fair, efficient, orderly immigration system in order to be able to study and live in Canada lawfully.

21. Had the Student appeared and given credible, truthful evidence of compelling mitigating circumstances that helped to explain the misconduct, the Tribunal might have concluded differently. As the Student did not attend, the Tribunal found that the most severe sanction was the most suitable.

22. Accordingly, the Tribunal made an order as follows:

1. The hearing may proceed in the Student's absence;

2. The Student is found guilty of two counts 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 of Behaviour on Academic Matters*;

3. The Student shall immediately be suspended from the University for a period of up to five years;

4. 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

5. This case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto, this 7th day of October, 2019

Johanna Braden, Co-Chair