

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

IN THE MATTER OF charges of academic dishonesty filed on November 8, 2018 and July 11, 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

B E T W E E N:

THE UNIVERSITY OF TORONTO

– AND –

H [REDACTED] W [REDACTED] (the “Student”)

REASONS FOR DECISION ON SANCTION

Hearing Date: May 29, 2020, via Zoom

Members of the Panel:

Mr. Dean F. Embry, Barrister and Solicitor, Chair
Professor Lynne Howarth, Faculty Panel Member
Ms. Julie Farmer, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. H [REDACTED] W [REDACTED], the Student
Mr. Giancarlo Gillespie, the Student’s Representative, Downtown Legal Services

Hearing Secretary:

Mr. Christopher Lang, Director, Office of the Appeals, Discipline and Faculty Grievances

I. CHARGES AND FINDING

1. The Trial Division of the Tribunal held a hearing on February 21, 2020 to address the following charges brought by the University of Toronto (the “University”) against the Student under the *Code of Behaviour on Academic Matters* (the “Code”):

November 8, 2018 Charges:

1. On or about April 21, 2017, having an intent to commit the offence of forging or in any other way altering or falsifying an academic record, you did or omitted to do something for the purpose of carrying out that intention, contrary to sections B.I.3(a) and B.II.2 of the *Code*.
2. In the alternative, on or about April 21, 2017, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind, contrary to section B.I.3(b) of the *Code*.

July 11, 2019 Charges:

3. On or about December 3, 2018, you knowingly represented as your own an idea or expression of an idea or work of another in an assignment that you submitted in ENG308Y5 (“Course”) entitled “The two contrary state of the Human Soul presented by Blake” (“Essay”), contrary to section B.I.1(d) of the *Code*.
4. In addition or in the alternative, on or about December 3, 2018, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind, contrary to section B.I.3(b) of the *Code*, in connection with your Essay.
5. In a Decision On Finding dated May 27, 2020, the Panel found that all charges against the Student had been proven on a balance of probabilities. The Hearing continued on May 29, 2020 so that the parties could make submissions as to sanction. The University proceeded only on the first of each set of charges.

II. SUMMARY OF FACTS

2. The facts underlying the findings of guilt were reviewed in detail in the above noted Decision On Finding. What follows is a brief summary of the facts as found.
3. The Student faced two sets of charges, but only one set, those concerning the April 21, 2017 conduct, were contested.
4. The uncontested set of charges concerned conduct that took place on December 3, 2018. The panel found that in the 2018 Fall and 2019 Winter term the Student was enrolled in ENG308Y5Y, Romantic Poetry and Prose. A requirement of the course was the submission of a term paper worth 20% of the final mark. The Student included verbatim or nearly verbatim text and ideas in that term paper without proper attribution and represented the ideas of another person as her own and in doing so committed plagiarism contrary to section B.I.1(d) of the *Code*.
5. As above, the allegation related to April 21, 2107 conduct were contested. With regard to those charges, after hearing the evidence and submissions, the Panel found that on or about April 21, 2017 the Student placed an online order for two items from the website getstamps.ca. The first item was a self-inking customized rectangular stamp and the second was a 2 inch diameter seal embosser.
6. Both of these items contained text and design elements almost identical to the stamps and embosser used by the Office of the Registrar of the University of Toronto Mississauga.
7. The stamp cost \$37.29 before tax and shipping. The embosser cost \$61.05 before tax and shipping for a total cost \$98.34.
8. The retailer, suspicious of the order, contacted University officials who confirmed that the order had not been made by anyone at the University. The Student, therefore, never received the stamp and seal. Nevertheless, the Panel found that in taking the actions necessary to order the items the Student intended to receive the stamp and seal and use them to forge or falsify documents for some sort of material gain. The Student was found guilty of having an intent to commit the offence of forging or in any other way altering or falsifying an academic record, you did or omitted to do something for the purpose of carrying out that intention, contrary to sections B.I.3(a) and B.II.2 of the *Code*.

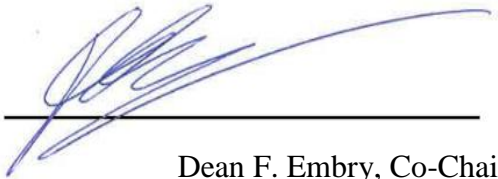
Submissions on Penalty

9. There was a Joint Submission on Penalty, in which both parties requested that the Panel make an order including the following sanctions: a final grade of zero in ENG308Y5 in the 2019 Winter term, a three year suspension beginning August 18, 2020 and a notation on the Student's academic record and transcript for a period of 4 years beginning May 29, 2020. It was agreed by the parties that the suspension should begin on August 18, 2020 to allow the Student to finish her courses and therefore be eligible to graduate once the suspension is lifted.
10. The University provided a Book of Documents on Sanction that included supporting documents and caselaw. The Student's representative provided a Book of Authorities on Sanction. Both Books provided guidance in the range of penalties and considerations for joint submissions on penalty.
11. There is a high threshold required for a Tribunal Panel to deviate from a joint submission on penalty. The Decision from the Discipline Appeals Board in *The University of Toronto and M. A.* (Case No. 837, December 22, 2016) affirms that *R. v. Anthony-Cook*, 2016 SCC 43 applies with respect to joint submissions on penalties at a Tribunal. That is, the Tribunal should impose a penalty jointly submitted unless doing so "would be fundamentally contrary to the interests of the University community and objectively unreasonable or unconscionable" (para. 29).
12. In addition to the fact of a joint submission, the submissions of the parties focused on four major factors: the character of the Student, the likelihood of repetition of offences, the nature of the offences and the detrimental effect the offences had on the University.
13. With regard to the character of the Student it is noted that the Student has no prior finding of academic dishonesty. Further, the Student's admission of guilt in relation to the plagiarism offence must be considered an indication of remorse and a willingness to take responsibility.
14. On the other hand, there was no admission of guilt and therefore no indication of remorse or willingness to take responsibility as it related to the more serious offence of acquiring the stamp and seal with an intention to forge documents. Further, the Panel was not provided with any further mitigating circumstances that would explain the Student's behaviour.

15. The Panel was asked to consider the sequence of events that led to the charges. Specifically, the University noted that the Student had meetings with the Dean in April and August 2017 in relation to the April 2017 offences regarding the stamp and seal. The Student was therefore well aware of those allegations when she went on to commit a further offence of plagiarism in December of 2018. The University asked the Panel to consider this sequence of events as it relates to the character of the Student and the likelihood of future offending.
16. While it is disturbing that the Student committed a further offence at a time when allegations of other offences were already outstanding it must be remembered that at the time the December 2018 offence was committed a finding of guilt in relation to the April 2017 offences had yet to be made. To treat the sequence of events as an aggravating factor would amount to improperly treating the April 2017 offence as a “prior offence” in the absence of a finding of guilt. The Student had not yet been through the process that has now resulted in the findings of guilt and sanction. It is hoped that having now been through the process there is a low likelihood of a repetition of the offences.
17. The nature of the offences is a significant factor. Plagiarism is a serious offence that strikes at the very core of the relationship between the University and its students. Without taking away from the seriousness of that offence it must be said that the attempted forgery offence is of a much more serious nature. The plan to research and acquire an official looking stamp and seal was deliberate and premeditated. Perhaps more importantly, although the plan was foiled, the potential mischief that could have been wrought with the stamp and seal had the plan succeeded would have been extensive.
18. This potential goes directly to the detrimental effect of the offences. As noted in the evidence, the University uses its stamp and seal to authenticate and verify all manner of official documents. Although the plan did not come to fruition there was a massive potential detrimental effect to the University that must be deterred.
19. Taking all these factors into account the Panel finds that the joint submission proposed by the parties is an appropriate one. The Panel therefore orders that:
 - a. Ms. W■■ shall receive a final grade of zero in ENG308Y5 in the 2019 Winter term;

- b. Ms. W■■ be suspended from the University from August 18, 2020 until August 17, 2023;
- c. a notation shall be placed on Ms. W■■'s academic record and transcript for a period of 4 years, from May 29, 2020 to May 28, 2024; and
- d. 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, the 24th day of August, 2020



Dean F. Embry, Co-Chair