

THE UNIVERSITY TRIBUNAL

THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty filed on December 9, 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:

THE UNIVERSITY OF TORONTO

- AND -

S [REDACTED] B [REDACTED]

REASONS FOR DECISION

Hearing Date: August 2, 2017

Members of the Panel:

Mr. Andrew Pinto, Barrister and Solicitor, Chair
Professor Louis Florence, Faculty Panel Member
Mr. Chad Jankowski, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers
Mr. Robert Sniderman, Student's legal representative, Law Student, Downtown Legal Services
Mr. S [REDACTED] B [REDACTED], the Student

In Attendance:

Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of the Appeals, Discipline and Faculty Grievances
Mr. Brian Alexic, Technology Assistant, Office of the Governing Council
Mr. Nader Hasan, Tribunal Co-Chair (Observer)
Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies

Preliminary

- [1] The Trial Division of the University Tribunal was convened on August 2, 2017 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the "Code") laid against the Student by letter dated December 9, 2016 from the Vice-Provost, Faculty & Academic Life of the University of Toronto.
- [2] The Student and the University entered into an Agreed Statement of Facts ("ASF") and an Agreed Statement of Facts and Joint Submission on Penalty ("ASF & JSP"), copies of which are attached to these Reasons as Appendix "A" and "B" respectively.

Hearing on the Facts

- [3] The charges against the Student were as follows:
1. On or about August 21, 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 document which purported to be your Complete Academic History from the University of Toronto, contrary to Section B.I.3(a) of the Code.
 2. On or about August 21, 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, your resume, which included a false report of your grade point average, contrary to Section B.I.3(a) of the Code.
 3. In the alternative, on or about August 21, 2016, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, contrary to Section B.I.3(b) of the Code.

Particulars of charges

4. In August 2016, you completed an application for the Hatch Graduate Scholarship for Sustainable Energy Research ("Application").
5. On or about August 21, 2016, in support of your Application, you submitted a document that you represented to be your Complete

Academic History from the University of Toronto. You knew that this document was forged, altered, and/or falsified. You knew that you had falsely represented that:

- (a) you received a grade of A in ECE1059H when in fact you received a final grade of B;
 - (b) you received a grade of A- in ECE1094H when in fact you received a final grade of B; and
 - (c) you received a grade of A in ECE1236 when in fact you received a final grade of B+.
6. On or about August 21, 2016, you knowingly submitted a resume in support of your Application. In this resume you falsely reported that you had earned a GPA of 3.8 out of 4.0 at the University of Toronto, which you knew was false.
7. You were required to submit evidence or documents to the University to support your Application. You had an obligation to provide the University with accurate and truthful information. You had an obligation not to provide forged or falsified documents in support of your requests.

[4] The Student, via the ASF, entered a guilty plea to charges 1 and 2.

Decision of the Tribunal on Charges

[5] Following deliberation, based on the facts set out in the ASF and a review of the documents contained in a Joint Book of Documents (“JBD”), the Tribunal accepted the Student’s guilty plea on charges 1 and 2. The University withdrew the third charge which was brought in the alternative. Consequently, the Student stood convicted on charges 1 and 2.

Penalty

[6] The matter then continued with a hearing into the appropriate sanction. As noted above, the University and the Student filed an ASF & JSP attached to these Reasons as Appendix B. The JSP involved a suspension from the University for five years and a notation of the sanction on the Student’s academic record and transcript for seven years.

[7] Discipline counsel presented a number of Tribunal decisions and submitted that the penalty in the JSP was consistent with the Tribunal’s jurisprudence concerning falsification of an academic record which is considered a very serious offence.

- [8] Here the Student admitted guilt at the Dean's Designate meeting and submitted a letter of apology. The Student participated fully in the academic discipline process by attending the hearing, retaining a legal representative and submitting an ASF admitting guilt, and an ASF & JSP regarding penalty. Discipline counsel agreed that the Student demonstrated insight into his actions and had expressed remorse. The Student's thesis supervisor had also provided a letter suggesting that this "experience has been a transformative moment in [the Student's] life, such that he has learned a lifelong lesson". The Student had fulfilled all the requirements of his degree so the likelihood of another offence was low.
- [9] Overall, the University submitted that the circumstances called for a serious penalty albeit one that still provided the Student with an opportunity to graduate from the University. The reason why the proposed suspension was to start from September 30, 2017 and not immediately was to permit the Student to transition his research work in order not to disadvantage other members of his research team and the incoming students.
- [10] The Student's legal representative submitted that the JSP was appropriate. While the nature of the offence *generally* resulted in a recommendation for expulsion, the specific facts required something less than the ultimate penalty. The Student had no prior discipline history, he acknowledged guilty early, and cooperated fully in the discipline process. He was a promising graduate student who, if the JSP was adopted, would be permitted to graduate in 2022. Until then, he would be forced to reflect very deeply on his conduct. The Student was genuinely remorseful.
- [11] The panel reviewed the cases presented by the University in its Brief of Authorities. The Tribunal has consistently held that "the parties ought to expect that a hearing panel will impose that [jointly submitted] sentence, unless to do so would be fundamentally contrary to the interests of the University community and objectively unreasonable or unconscionable" (*University of Toronto and M.A.* at para 24 (DAB Case No. 837, December 22, 2016).
- [12] The panel noted that, in *University of Toronto and S. D.* (Case No. 406 May 1, 2007), the student received a 3 year suspension where he provided a falsified academic history to an employer and where he had no prior offences and cooperated with the discipline process via an ASF and JSP with respect to one charge. Similar to the present case, in *S.D. supra*, the student also submitted a letter of apology and had presented a strong letter of support.

[13] The panel reasoned that, given that the Student had pleaded guilty to two charges, a 5 year suspension appeared consistent with *S.D.*, *supra* and the other cases presented by the University.

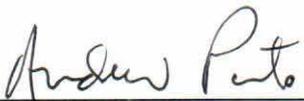
Decision of the Tribunal on Charges

[14] Here, based on the parties' submissions and the case law as presented, the panel concluded that the penalty proposed in the JSP was not unreasonable. In all the circumstances, the panel could not find a principled reason to reject the JSP and was therefore bound to agree with it.

[15] In light of the facts of this case, the admission of guilt by the Student, and the joint submission regarding penalty, the Tribunal accepts the JSP and imposes the following sanction:

1. **THAT** Mr. B [REDACTED] is guilty of two counts of the academic offence of altering or falsifying an academic record, or circulating such an academic record, contrary to section B.1.3(a) of the *Code of Behaviour on Academic Matters*.
2. **THAT** the following sanctions shall be imposed on Mr. B [REDACTED]
 - (a) a suspension from the University for five years commencing September 30, 2017; and
 - (b) a notation of the sanction on his academic record and transcript for seven years from the day the Tribunal makes its order.
3. **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 1st day of November, 2017.



Andrew Pinto, Co-Chair

APPENDIX A

Ex # 1.

THE UNIVERSITY TRIBUNAL THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on December 9, 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

B E T W E E N:

University of Toronto

- and -

S [REDACTED] B [REDACTED]

AGREED STATEMENT OF FACTS

1. This matter arises out of charges of academic misconduct filed on December 9, 2016 by the Provost of the University of Toronto (the "Provost") under the *Code of Behaviour on Academic Matters* ("Code"). The Provost and [REDACTED] B [REDACTED] have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD"). The Provost and Mr. B [REDACTED] agree that:

- (a) each document contained in the JBD may be admitted into evidence for all purposes, including for 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. *Charges and guilty plea*

2. Mr. B [REDACTED] admits that he received a copy of the charges filed by the Provost. The charges are included in the JBD at Tab 1.

3. Mr. B [REDACTED] admits that he received a copy of the notice of hearing in this matter and that he has received reasonable notice of this hearing. A copy of the notice of hearing is included in the JBD at Tab 2.

4. Mr. B [REDACTED] waives the reading of the charges filed against him, and pleads guilty to charges #1 and #2.

5. The Provost agrees that if the Tribunal convicts Mr. B [REDACTED] on charges #1 and #2, the Provost will withdraw charge #3.

6. At all material times, Mr. B [REDACTED] was a student in the Engineering program at the University of Toronto School of Graduate Studies in the Edward S. Rogers Sr. Department of Electrical and Computer Engineering. A true copy of Mr. B [REDACTED]'s current academic record is included in the JBD at Tab 3.

7. On August 21, 2016, Mr. B [REDACTED] applied for the Hatch Graduate Scholarship for Sustainable Energy Research in the amount of \$10,000 offered by the Faculty of Applied Science & Engineering (the "Scholarship"). The purpose of the Hatch Scholarship is as follows:

Purpose: These awards are intended to fund research and training of world-class researchers and engineers in the fields of recovery and utilization of energy derived sustainably from the sun and other sources; specifically in the areas of power generation from photovoltaic solar cells, wind turbines and hydraulic turbines, systems for the efficient utilization of thermal and electrical energy derived sustainably and energy storage by batteries, pumped hydro, molten salts, compressed air, and other means.

8. The funds Mr. B [REDACTED] would have received from the Scholarship may not have increased his total overall funding. He was guaranteed total income of \$37,530 and the \$10,000 from the Scholarship might have replaced 2/3 of his \$15,000 student fellowship funding. The Hatch Scholarship contains the following relevant disclaimer, which anticipates this outcome:

Please note, a successful applicant's other funding may be reduced. Individual policies and amounts will vary by department. We recommend you consult your graduate office for more information on implications for your graduate funding.

9. The application form directed applicants to provide:

1. Letter of Recommendation: A letter of recommendation from your immediate university supervisor (usually your thesis supervisor) must accompany the application.
2. Short Proposal: Write a short proposal, no longer than one page of text plus any figures. The proposal should touch on background, objective, work to date, and proposed work plan. Be sure to indicate its relevance to the area of sustainable energy.
3. Curriculum Vitae & Transcripts: Please provide your graduate-level university transcripts. Photocopies or unofficial copies obtained from university information systems are acceptable. Please send a copy of your academic CV.

10. Mr. B [REDACTED] submitted a package of information in application for the Scholarship. He submitted a letter of recommendation from his research supervisor, a research proposal, a resumé that listed his GPA as 3.8 out of 4.0 and a document titled "Complete Academic History," which purported to be an accurate and complete copy of his academic record as of August 21, 2016. A copy of the application package submitted by Mr. B [REDACTED] is included in the JBD at Tab 5.

11. When a faculty member reviewed the academic record submitted by Mr. B [REDACTED] the faculty member noticed that it indicated a higher grade than the faculty member had given to Mr. B [REDACTED] in that course.

B. Meeting with Dean's Designate

12. On October 17, 2016, Mr. B [REDACTED] met with Luc De Nil, Vice-Dean, Students, and Dean's Designate for Academic Integrity at the School of Graduate Studies. At the meeting, Mr. B [REDACTED] admitted that he had knowingly forged and falsified the academic record he submitted in the application for the Scholarship. In particular Mr. B [REDACTED] altered the grades in:

- (a) ECE1059H from B to A;
- (b) ECE1094H from B to A-;
- (c) ECE1236H from B+ to A;

C. Admissions and Acknowledgements

13. With respect to his application for the Scholarship, Mr. B [REDACTED] admits that:
- (a) he was required by the University to submit a complete and accurate copy of his academic record and not to misstate any aspect of his academic record and achievement;
 - (b) he knowingly forged or in any other way altered or falsified the academic record he submitted and uttered, circulated or made use of that forged or falsified record, contrary to section B.I.1(a) of the *Code*; and
 - (c) he knowingly falsified his academic record by misstating his GPA in his resumé, contrary to section B.I.1(a) of the *Code*.
14. Mr. B [REDACTED] acknowledges that:
- (a) the Provost has advised Mr. B [REDACTED] of his right to obtain legal counsel and that he has done so;
 - (b) he is signing this ASF freely and voluntarily, knowing of the potential consequences he faces, and does so with the advice of counsel; and
 - (c) that the Provost has made no representations to Mr. B [REDACTED] regarding what sanction the Provost will seek at the Tribunal.

Signed on March 20, 2017.

[REDACTED]
[REDACTED]

Signed on March 22, 2017.


Robert A. Centa
Assistant Discipline Counsel
University of Toronto

NO. 1

THE UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO

S [redacted] A [redacted]

This Exhibit is produced by
the University
this 2 day of August, 2017
K. Osbourne

APPENDIX B

Ex #3.

THE UNIVERSITY TRIBUNAL THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty filed on December 9, 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 am. S.O. 1978, c. 88

B E T W E E N:

The University of Toronto

- and -

S [REDACTED] E [REDACTED]

Agreed Statement of Facts and Joint Submission on Penalty

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 purpose of the sanction phase of the hearing, the Provost and [REDACTED] E [REDACTED] ("Mr. B [REDACTED]") have prepared this Agreed Statement of Facts and Joint Submission on Penalty ("JSP").

A. Joint Submission on Penalty

2. The Provost and Mr. B [REDACTED] submit that, in all the circumstances of the case, the University Tribunal should impose the following sanctions on Mr. B [REDACTED]:

- (a) a suspension from the University for five years commencing September 30, 2017; and
- (b) a notation of the sanction on his academic record and transcript for seven years from the day the Tribunal makes its order.

3. The parties agree that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed with the name of the student withheld.

B. Additional Facts

4. Mr. B [REDACTED] has fully cooperated with the academic discipline process with respect to this offence.

5. Mr. B [REDACTED] states that it will be necessary for him to work in the laboratory to transition his research work until September 30, 2017, in order not to disadvantage the other members of his research team and the incoming students.

6. Mr. E [REDACTED] acknowledges that the Provost advised him of his right to obtain legal counsel and that he obtained such advice.

7. Mr. E [REDACTED] understands that the University Tribunal may depart from the recommendations contained in this joint submission on penalty and may impose sanctions against him as set out in the Code.

Signed on July 24, 2017

[REDACTED]

S [REDACTED] E [REDACTED]

Signed on July 24, 2017



Robert A. Centa
Assistant Discipline Counsel
University of Toronto

NO. 3

THE UNIVERSITY TRIBUNAL
UNIVERSITY OF TORONTO

S. [REDACTED] B. [REDACTED]

This Exhibit is produced by
the University
this 2 day of August, 2017.
K. Osbourne