

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on April 30, 2020,

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 (the “University”)

- and -

X [REDACTED] C [REDACTED] (the “Student”)

REASONS FOR DECISION

Hearing Date: February 1, 2021, via Zoom

Members of the Panel:

Ms. Johanna Braden, Chair
Professor Paul Kingston, Faculty Panel Member
Mr. Alex Erickson, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein, LLP

Hearing Secretary:

Ms. Krista Kennedy, Administrative Clerk & Hearing Secretary, Appeals, Discipline, and Faculty Grievances

Not in Attendance

The Student

1. A panel of the Trial Division of the University Tribunal (the “Panel”) was convened on February 1, 2021 to consider charges brought by the University against the Student under the *University of Toronto Code of Behaviour on Academic Matters, 1995* (the “Code”).
2. In accordance with an Order made by the Chair of this Panel on January 12, 2021, this hearing was held electronically via Zoom because of the danger posed to in-person hearings by the Covid-19 virus. The documents which eventually formed the record for this hearing were sent to the Panel electronically in advance of the hearing. Participants were able to hear one another throughout. The Panel was able to watch witnesses give their evidence so that their credibility could be fairly assessed.

Preliminary Issue: Proceeding in the Absence of the Student

3. The hearing was scheduled to begin at 9:45 a.m. Neither the Student, nor anyone on the Student’s behalf, were logged onto the Zoom link at that time. The Panel waited until 10:00 a.m. to start the hearing. The University then requested that the Panel proceed with the hearing in the Student’s absence.
4. Pursuant to Rule 16 of the *University Tribunal Rules of Practice and Procedure* (the “Rules”), notice of an electronic 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; information about the manner in 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 notice of an electronic hearing has been given to a person and that person does not attend the hearing, the Panel 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”), which set out the notice requirements.

5. 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").
6. The University's *Policy on Official Correspondence with Students* dated September 1, 2006 expressly states that students are responsible for maintaining on ROSI a current and valid mailing address and University-issued email account, and that "[f]ailure to do so may result in a student missing important information and will not be considered an acceptable rationale for failing to receive official correspondence from the University." Students are expected to monitor and retrieve their email on a frequent and consistent basis. Students have the right to forward their University-issued email account to another email account, but remain responsible for ensuring that all University email communications are received and read.
7. The onus of proof is on the University to establish that it provided the Student with reasonable notice of the hearing in accordance with these Rules.
8. In this case, the University provided evidence that the chronology relevant to service is as follows.
 - (a) The Student was first registered with the University for the Fall term in 2014. Her contact information on ROSI shows only her University-issued email address, a Mississauga mailing address and a local telephone number.
 - (b) At the end of the Winter term in 2017, the Student was placed on a one-year academic suspension. She has not enrolled in any classes at the University since then.
 - (c) January 31, 2018 appears to be the last time the Student logged on to her ROSI-listed email address.
 - (d) The incident giving rise to these charges took place August 23, 2019.

- (e) On August 26 and August 29, 2019, the Assistant Registrar of Academic Standards and Petitions sent emails to the Student to discuss the incident. The emails were delivered to the Student's email address, but the Student did not reply. The matter was therefore referred to the Academic Integrity Office.
 - (f) The Academic Integrity Office sent emails about the incident to the Student on January 15, 20 and 21, 2020. The Student was advised that if she did not respond to the Academic Integrity Office, her case would be forwarded to the Tribunal for resolution. The Student did not respond. The matter was referred to the Tribunal.
 - (g) On April 30, 2020 the Charges were sent to the Student's ROSI-listed email address.
 - (h) On November 9, 2020, further correspondence was sent to the Student's email address, including a disclosure brief and a copy of the University's *Policy on Official Correspondence with Students*.
 - (i) Further emails about this matter were sent to the Student's email address on November 30 and December 21, 2020 and January 4, January 5 and January 12, 2021.
 - (j) On January 12, 2021, an articling student working for Assistant Discipline Counsel attempted to reach the Student at the phone number listed in ROSI. She asked the individual who answered the phone to speak with the Student, and was advised that she had the incorrect phone number.
 - (k) On January 14, 2021 the Notice of Electronic Hearing was sent to the Student's email address.
9. The evidence is that the Student did not receive any of the emails sent to her by the University about this incident. She has not received actual notice of the Charges, of the disclosure or of the Notice of Electronic Hearing. However, the

Rules do not require actual notice. The University can serve the Student, but cannot make the Student actually read what is served.

10. This hearing took place in the midst of a global pandemic that has shut down many parts of the world. The Panel considered the possibility that there was a pandemic-related reason preventing the Student from accessing her email and/or participating in this hearing. However, the Student apparently stopped accessing her email account altogether on January 31, 2018, which was long before the pandemic began.
11. The University did not do everything it could have done to contact the Student (it did not, for example, attempt to contact her through the mailing address she provided on ROSI), but the University did take the steps it was required to under the Rules. The Panel was troubled by the absence of actual notice given to the Student, and was concerned that it has been almost four years since the Student was last enrolled in classes at the University. It may be that the *Policy on Official Correspondence with Students* could be clearer about the expectations of students once they leave the University. However, the Tribunal was satisfied it was more likely than not that the Student had made a deliberate choice some time ago to avoid her University-issued email and turn her back on any official communications from the University. That choice has consequences.
12. Therefore, in light of the evidence and the submissions of Assistant Discipline Counsel, the Panel 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 Panel decided 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 her.

The Charges

13. The charges against the Student, with particulars, are as follows.

Charges

1. In or about August 2019, 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 dated May 17, 2018 from the Office of the Registrar confirming that you were eligible to graduate with an Honours Bachelor of Commerce degree in June 2018, contrary to section B.I.3(a) of the *Code*.

2. In the alternative, in or about August 2019, 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*, in connection with a purported Confirmation of Enrolment letter dated May 17, 2018 from the Office of the Registrar confirming that you were eligible to graduate with an Honours Bachelor of Commerce degree in June 2018.

Particulars of charges

3. At all material times, you have been a student at the University of Toronto Mississauga (“University”).

4. In or about August 2019 you provided to the Canada Border Services Agency a document that purported to be a Confirmation of Enrolment letter dated May 17, 2018 from the Office of the Registrar confirming that you were eligible to graduate with an Honours Bachelor of Commerce degree in June 2018 (“Enrolment Letter”).

5. Contrary to the information contained in the Enrolment Letter:
 - (a) you have not fulfilled the requirements for admission to a degree from the University,
 - (b) you are not eligible to receive, did not request, and have not received a degree from the University, and
 - (c) you did not receive the Enrolment Letter from the University.
6. You provided the forged, altered and falsified Enrolment Letter knowing that it was forged, altered, and/or falsified when you circulated it by providing it to the Canada Border Services Agency.
7. You had an obligation to provide accurate and truthful information and not to misrepresent your academic record. You had an obligation not to provide forged or falsified documents to the Canada Border Services Agency.

The Evidence

14. The University's evidence was tendered through the affidavits of two witnesses, who were present via Zoom to give additional evidence as required.
15. The first witness was Mr. Richard Levin, who until September 2020 had been the University's Executive Director of Enrolment Services and University Registrar. His evidence was as follows.
 - (a) On August 23, 2019, Mr. Levin received an email from Albert Tang, whom Mr. Levin described as an Intelligence Officer at the Canada Border Services Agency ("CBSA"). Mr. Tang's email stated, "CBSA is currently conducting an investigation" and gave the Student's name and date of birth. Mr. Tang asked for Mr. Levin's assistance in verifying whether an attached document

purportedly issued by the University on May 17, 2018 (the “2018 Letter”) was “consistent with University of Toronto records as having been issued.”

- (b) Mr. Tang’s email also indicated that he had conducted a verification search through what Mr. Levin described as the Designated Learning Institution verification process, which is a process whereby Immigration, Refugees and Citizenship Canada sends the University’s Registrar’s Office a file of students with study permits to ensure those students are enrolled at the University. The Registrar’s Office then matches the file with their records and returns it. The Student’s file at the time referenced in the 2018 Letter was tagged “on probation”.
- (c) Mr. Levin looked at the 2018 Letter appended to Mr. Tang’s email. A copy of it was entered into evidence. It is dated May 17, 2018 and is printed on the letterhead of the Registrar of the University of Toronto Mississauga. It is addressed to the Student “for pickup”, with no address for the Student listed. The salutation is “To Whom it May Concern” and there is a “Re” line stating: “Eligibility to Graduate for [the Student]”. The body of the 2018 Letter purports to certify that the Student “has completed the requirements for an Honours Bachelor of Commerce degree which the Student has requested to have conferred at the June 2018 Convocation. The Student has completed the requirements for a Major Program in Marketing.” The 2018 Letter purports to be signed by Diane Crocker, Registrar and Director of Enrolment Management.
- (d) Mr. Levin checked the name and birthdate given to him by Mr. Tang against the University’s database, and only one student matched – the Student. By reviewing the 2018 Letter and the Student’s ROSI record, Mr. Levin quickly determined that the 2018 Letter was not an authentic document issued by the University. His reasons were as follows.
 - (i) The Student had earned 2 credits and had a CGPA of 0.30;

- (ii) The Student had not completed the requirements for an Honours Bachelor of Commerce degree, either at the time the 2018 Letter was allegedly written or subsequently;
 - (iii) The Student had not requested to have an Honours Bachelor of Commerce degree conferred at the June 2018 Convocation ceremony;
 - (iv) The Student had been suspended from the University at the time the 2018 Letter was purportedly written; and
 - (v) Diane Crocker, who purportedly signed the 2018 Letter, was not the Registrar and Director of Enrolment Management at the relevant time.
- (e) On August 23, 2019 Mr. Levin wrote to Mr. Tang via email and informed him that the letter received by the CBSA was not authentic. Mr. Levin's email to Mr. Tang was copied to the University of Toronto Mississauga's Registrar Office so that they could take further action in response to the letter.
16. Once the Registrar's Office received the email chain between Mr. Tang and Mr. Levin identifying the 2018 Letter as inauthentic, the matter was referred to Vladimir Soloviev, the Associate Registrar, Records, Registration and Graduation at the University of Toronto Mississauga. He was the second witness to appear at the hearing. Mr. Soloviev did not have any direct contact with Mr. Tang. He searched the University's records and compared them with the 2018 Letter. Like Mr. Levin, Mr. Soloviev concluded that the 2018 Letter was not an authentic University document for many of the same reasons. On August 26, 2019, Mr. Soloviev passed his findings on to the Assistant Registrar of Academic Standards and the Manager of Academic Integrity and Affairs, which initiated this discipline process.

Decision of the Panel on the Charges

17. The University bears the burden of proving on a balance of probabilities that the Student 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. The requirement that the Student act “knowingly” is made out if the Student ought reasonably to have known that the academic record in question had been forged, altered or falsified. The evidence must be clear, cogent and convincing.

18. The majority of the Panel found that the Student was guilty of uttering, circulating, and making use of a forged academic record. The 2018 Letter clearly meets the definition of an “academic record” as set out in Appendix A to the Code, and the record was clearly a fabrication. The Panel compared the 2018 Letter to the Student’s ROSI record, and there were multiple obvious and blatant discrepancies. The 2018 Letter was not issued by the University.
19. There was no evidence about how the 2018 Letter was forged or created, so no finding could be made against the Student in that regard. However, the majority of the Panel concluded it was more likely than not that the Student “circulated, uttered and/or made use of” the document. The evidence to support this was not perfect. The evidence that the 2018 Letter was submitted to the CBSA was hearsay evidence from Mr. Levin about what Mr. Tang communicated to him. Without more detailed and specific evidence, the Panel was left to infer from the circumstances that the 2018 Letter was submitted to the CBSA some time in 2019 to gain some sort of immigration-related advantage. Given that the Student had apparently been living in Canada while attending the University, but had then been placed on academic suspension, and given that the Student was the only person in the University’s database matching the name and birthdate submitted by Mr. Tang for verification, the majority of the Panel found it was more likely than not that the Student was the person who had submitted the false 2018 Letter to the CBSA.
20. Panel Member Erickson dissented. He agreed that the 2018 Letter was likely a falsified record, however, he could not find on a balance of probabilities that the Student had either falsified the record herself or uttered, circulated or made use of it. Panel Member Erickson’s reasons were as follows.
 - (a) This Tribunal only has jurisdiction over academic offences committed by students (or faculty) of the University. Therefore, there must be clear evidence

showing that the Student created and/or sent the 2018 Letter. Many people have the technical skill to create such a document.

- (b) In this case, there was no evidence of when or how Mr. Tang received the 2018 Letter, who purported to send it to him, the purpose the 2018 Letter was intended to serve, or anything else that would clearly tie the 2018 Letter to the Student.
- (c) Even assuming without clear evidence that the intent was to gain some sort of immigration-related benefit or advantage, it is possible that others connected to the Student were seeking this benefit or advantage without the Student's participation.
- (d) Panel Member Erickson would expect the University to investigate more rigorously the source of fabricated documents that the University receives from third parties. No one at the University had any contact with Mr. Tang about this matter other than a few cursory emails, and no effort was made to find out more about how Mr. Tang received the document, who he received it from, how he received it, or anything else other than the mere fact of the document.
- (e) There was an absence of cogent evidence explaining how and why the CBSA received the 2018 Letter, and therefore Panel Member Erickson was unable to find it was more likely than not that the Student was guilty of any form of academic dishonesty.

21. Accordingly, a majority of the Panel found the Student guilty of Charge 1. As Charge 2 was in the alternative, it was withdrawn by the University.

Decision of the Panel on Penalty

22. Although Panel Member Erickson dissented on whether the University had proven its case against the Student, he declared that he was able to participate in the penalty phase on the understanding that he should proceed as though he had found

the Student guilty. The University was advised of this, and the hearing proceeded to the penalty phase.

23. The University sought the most serious sanction this Panel can order: an immediate suspension of up to five years, coupled with a recommendation to the President of the University that he recommend to the Governing Council that the Student be expelled.
24. Since the academic dishonesty in this case does not relate to a specific course or courses, there was no rational basis for the Panel to impose grades of zero or to cancel credits. Rather, the Panel needed to decide what term of suspension to order, and whether to recommend expulsion
25. The Panel 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: there were no other academic offences on the Student's record. Her grades were very poor. She did not return from her year of academic suspension. She stopped checking her University-issued email in January of 2018. The Student seems to have cut all ties with the University some time ago. The Student was not present to give any evidence of her character beyond what is revealed by the record before us. Since the Student had no actual notice of this hearing, nothing about the Student's character could be inferred from her absence.
 - (b) The likelihood of repetition of the offence: while this was the Student's first offence, it was a momentous one. There is nothing in the record to suggest that the Student is remorseful or repentant. Again, not much weight can be placed upon this factor since the Student had no actual notice of this hearing.

- (c) The nature of the offence committed: this was an act of flagrant and deliberate dishonesty. The Student submitted to the CBSA a letter pretending to be a statement from the University that she was ready to graduate, when nothing could have been further from the truth. Not only did the Student lie about her academic status, she falsely represented that she had completed her degree requirements.
 - (d) Any extenuating circumstances: without the Student's participation, there is no evidence of extenuating circumstances for the Panel to consider. This cannot be held against the Student, as she had no actual notice of the hearing.
 - (e) The detriment to the University caused by the misconduct: third parties, including immigration authorities, need to be able to rely on records and letters issued by the University. Fraudulent records purporting to come from the University undermine the University's credibility and reputation, and require the University to establish an elaborate system of checks and verifications.
 - (f) The need for general deterrence: this is very a significant concern. Forged documents addressed "To Whom it May Concern" falsely purporting to be from the University can be circulated in multiple contexts, seeking multiple unearned benefits and advantages. Because these forgeries are sent to outside parties, they can be easy to fabricate and difficult to detect. It is very important for all students to realize that misrepresenting their University status to outside parties in such a fundamental way will have extremely serious consequences.
26. Although the Panel is not bound by previous cases of this Tribunal, and while each case must be decided on its own facts, it is useful for like cases to be treated alike so that all parties can come to hearings with a reasonable expectation of what kind

of penalty they can expect based upon the findings. The Panel reviewed eight cases involving forgeries similar to this one. In seven of those cases, students were suspended for a term of up to five years with a recommendation of expulsion.

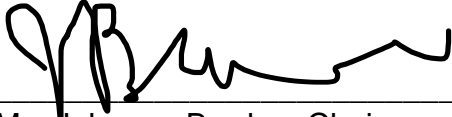
27. The Student's use of a forged letter that she passed on to the CBSA fundamentally broke trust with the University. Her actions were harmful to the University and to the students who depend upon a fair and efficient immigration system to live and study in Canada. In all the circumstances, the Panel determined that the most severe sanction was appropriate.

Order

28. This Panel of the Tribunal made an order as follows:

1. **THAT** the hearing may proceed in the absence of the Student;
2. **THAT** (with one Panel member dissenting) the Student is guilty of one count of knowingly 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;
3. **THAT** the Student shall be immediately suspended from the University for a period not to exceed to five years;
4. **RECOMMENDING** to the President of the University that he recommend to the Governing Council that the Student be expelled from the University; and
5. **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 3rd of May, 2021

A handwritten signature in black ink, appearing to be 'J. Braden', written over a horizontal line.

Ms. Johanna Braden, Chair
On behalf of the Panel