

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on May 20, 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 -

J ■ W ■ X ■ (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 1: 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 stood the matter down for some hours, and began the hearing at 2:00 p.m. 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”).

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 2015. His contact information on ROSI shows only his University-issued email address, a Markham mailing address and a telephone number with a 289-area code.
 - (b) By the end of the Winter term in 2017, the Student had earned 3.5 credits and had a cumulative GPA of 0.66. He was placed on a one-year academic suspension. He has not enrolled in any classes at the University since then.
 - (c) February 2, 2018 appears to be the last time the Student logged on to his ROSI-listed email address.

- (d) The incident giving rise to these charges took place on August 15, 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 he did not respond to the Academic Integrity Office, his case would be forwarded to the Tribunal for resolution. The Student did not respond. The matter was referred to the Tribunal.
 - (g) On May 20, 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. The phone was answered with an automated message stating, "the number you have dialed does not accept phone calls" and the call was disconnected.
 - (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 him by the University about this incident. He 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 his email and/or participating in this hearing. However, the Student apparently stopped accessing his email account altogether in February of 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 him through the mailing address he 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 his University-issued email and turn his 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 him.

The Charges

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

Charges

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 degree certificate from the University of Toronto dated June 5, 2019, contrary to section B.I.3(a) of the *Code*.
2. In addition or in the alternative, 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 in connection with a document which purported to be a degree certificate from the University of Toronto dated June 5, 2019, contrary to section B.I.3(b) of the *Code*.

Particulars of charges

- (a) You have been a registered student in the University of Toronto Mississauga since Fall 2015. You earned 3.5 credits. You did not graduate from the University of Toronto.
- (b) You circulated and made use of a document that purported to be your degree certificate from the University of Toronto dated June 5, 2019.
- (c) You forged the degree certificate and falsely represented your academic status.

- (d) You knew that the degree certificate was forged, altered, and/or falsified when you circulated or made use of it.
- (e) You had an obligation to provide accurate and truthful information and not to misrepresent your academic record.

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 Samantha Smith, the Assistant Director of the Office of Convocation at the University. Her evidence was as follows.
 - (a) The Office of Convocation is responsible for (among other things) verifying the graduation status of University alumni. The site allows for third parties (such as prospective employers) to confirm the degree status and credentials of individuals.
 - (b) The University accepts third-party requests to confirm degrees through its Confirmation of Degrees website. This website is not for students to verify their own credentials (students are to go to the University's Transcript Centre and/or the Certification of Degree website for that). Rather, the Confirmation of Degrees website allows third parties to access publicly available information about a graduate's degree, diploma or certificate. The stated purpose of the website is to enable prospective employers to verify the credentials of graduates, minimize the risk of credential fraud and protect graduates from the illicit use of their designations by others.
 - (c) The form on the website requests that third parties provide the graduate's surname, student number, year of graduation, and type of credential. Requesters are required to provide their email address and to pay a \$20 fee

for the search results. Once that amount is paid, the request is processed instantly by the online service if all the entered information matches the data in the records system. Otherwise, third parties have the option to submit their requests via email.

- (d) On August 15, 2019, a person named Angela Coniam from a company called AuraData submitted a Confirmation of Degree request. Ms. Smith knows AuraData to be a third-party education verification service, and she testified that she is “very familiar” with them as a company that makes frequent requests for credential verification on behalf of employers wanting to verify the stated education credentials of applicants.
- (e) The AuraData request was for “[a first and last name matching the Student]” with a date of birth of May 25 (no birth year is required), a graduation year of 2019, and a degree of Bachelor of Arts. Ms. Smith reviewed the University’s records and found that the Student was the only student matching the name and date of birth entered by Ms. Coniam. Ms. Smith also found that the University had not granted the Student any kind of degree at any time. Rather, the Student had been placed on academic suspension at the end of the Winter 2017 term and had never returned to the University.
- (f) On August 16, 2019, Ms. Smith sent an email to Ms. Coniam, indicating that, “According to our records, no degree has been granted by the University of Toronto to [the Student]”.
- (g) On August 21, 2019, Ms. Coniam sent Ms. Smith another email, this time attaching a black and white degree certificate. A copy was provided to the Panel. The degree certificate is dated June 5, 2019 and purports to certify that the Student had fulfilled the requirements for a Bachelor of Business Administration degree (the “2019 Degree Certificate”). Ms. Smith searched the University’s electronic records again and did not find any evidence that a degree had been granted by the University to the Student. Ms. Smith emailed Ms. Coniam to advise her of the results of the search and suggested that the

2019 Degree Certificate was not a valid diploma. Ms. Coniam wrote back, "Thank you. We have advised our client."

16. On August 23, 2019, Ms. Smith forwarded her email chain with Ms. Coniam 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. His evidence was as follows.
 - (a) Mr. Soloviev testified that the 2019 Degree Certificate looked authentic on its face. However, he searched the University's records and confirmed it was not in fact an authentic document issued by the University. Mr. Soloviev noted that:
 - (i) The Student was in the first year of the Commerce program, having first registered in Fall 2015, been placed on academic probation at the end of Summer 2016, and been placed on a one-year academic suspension at the end of the Winter 2017 term after which he had not returned to take any more classes;
 - (ii) The Student had earned 3.5 credits and a cumulative GPA of 0.66;
 - (iii) The Student had not completed the requirements for a Bachelor of Business Administration degree; and
 - (iv) The Student had not graduated from the University, either in June 2019 or at any other time.
 - (b) 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 Panel found that the Student was guilty of uttering, circulating, and making use of a forged academic record. The 2019 Degree Certificate clearly meets the definition of an “academic record” as set out in Appendix A to the Code, and the degree was clearly a fabrication. The Panel accepted the evidence that the Student was the only one whose name matched the name on the certificate, and that the Student had not graduated from the University or received a degree certificate of any kind from the University. The 2019 Degree Certificate was a clever forgery (Mr. Soloviev testified that it had all the correct signatures and other details). It was not issued by the University.
19. There was no evidence about how the 2019 Degree Certificate was forged or created, so no finding could be made against the Student in that regard. However, the Panel concluded it was more likely than not that the Student “circulated, uttered and/or made use of” the 2019 Degree Certificate. The Panel inferred from the evidence that the Student had likely submitted the 2019 Degree Certificate to support an application for a job or other benefit, and that the institution to whom he had submitted the 2019 Degree Certificate then hired AuraData to verify the Student’s education credentials. There was no other reasonable explanation for how or why a company such as AuraData would pay money to verify the Student’s credentials.
20. Accordingly, 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

21. 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.

22. 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
23. 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. His grades were very poor. He did not return from his year of academic suspension. He stopped checking his University-issued email in February 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 his character beyond what is revealed by the record before us. As the Student had no actual notice of this hearing, this cannot be held against him.
 - (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, this cannot be given much weight since the Student did not have actual notice of this hearing.
 - (c) The nature of the offence committed: this was an act of flagrant and deliberate dishonesty. Instead of returning to the University and completing his degree, the Student lied about his academic status and either created a clever forged degree certificate or had someone else do so. He submitted the forged degree to obtain some sort of employment or other benefit. Credential fraud is a profoundly serious offence.

- (d) Any extenuating circumstances: without the Student's participation, there is no evidence of extenuating circumstances for the Panel to consider. We do not hold the Student's absence against him, as he had no actual notice of this hearing.
 - (e) The detriment to the University caused by the misconduct: third parties need to be able to rely on degrees issued by the University. Graduates need to know that their degrees confer meaningful benefits that can't be co-opted illegitimately. Fraudulent degrees 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. The 2019 Degree Certificate could easily have fooled many people for many years, and given the Student all kinds of unearned advantages. It was only because AuraData was hired to verify the Student's credentials that he was caught. It is crucial for all students to realize that misrepresenting their University status to outside parties in such a fundamental way will have extremely serious consequences.
24. 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 twelve cases involving forged degree certificates. In all of those cases, students were suspended for a term of up to five years with a recommendation of expulsion. All cases agree that a forged degree certificate is one of the most serious academic offences a student can commit.
25. The Student fundamentally broke trust with the University when he passed off a forged degree certificate as genuine. His actions were harmful to the University and to those with whom the Student was competing for jobs and opportunities. In

all the circumstances, the Panel determined that the most severe sanction was appropriate.

Order

26. This Panel of the Tribunal made an order as follows.

1. **THAT** the hearing may proceed in the absence of the Student;
2. **THAT** 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.1.3(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



Ms. Johanna Braden, Chair
On behalf of the Panel