

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on October 6, 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

BETWEEN:

UNIVERSITY OF TORONTO (the “University”)

- and -

T■■■■ J■■■■ (the “Student”)

REASONS FOR DECISION

Hearing Date: July 26, 2021, via Zoom

Members of the Panel:

Ms. Johanna Braden, Chair

Professor Ernest Lam, Faculty Panel Member

Ms. Parsa Mahmud, Student Panel Member

Appearances:

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

Mr. Nick Di-Biase, Representative for the Student, Downtown Legal Services

The Student

In Attendance:

Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

1. The Trial Division of the University Tribunal was convened on July 26, 2021, 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*").

The Charges

2. The Charges and Particulars alleged against the Student are as follows.

Charges

1. On or about April 17-21, 2020, you knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in a final exam in MGEC11H3: Introduction to Regression Analysis (the "Course"), contrary to section B.I.1(b) of the *Code*.
2. On or about April 17-21, 2020, you knowingly aided and assisted other students in the Course to use or possess an unauthorized aid or aids or obtain unauthorized assistance, contrary to sections B.I.1.(b) and B.II.1(a)(ii) of the *Code*.
3. In addition and 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, contrary to section B.I.3(b) of the *Code*, in connection with your final exam in the Course.

Particulars:

1. At all material times you were a student at the University of Toronto Scarborough.
2. In Winter 2020 you were enrolled in the Course.
3. Students in the Course were required to write and submit a final take-home exam between April 17 and 21, 2020, worth 45% of the final mark in the Course ("Final Exam"). You submitted your Final Exam to complete this requirement.
4. You were required to write your Final Exam independently without the use of any aids or assistance.

5. You did not write your Final Exam independently, but instead you knowingly posted questions 1, 2, 5 and 6 from the Final Exam to an online website Chegg.com (“Chegg”) and requested that Chegg provide answers to those questions.
6. You sought aid and assistance from Chegg by posting questions 1, 2, 5 and 6 from the Final Exam to Chegg and asking a Chegg “expert” to post answers to those questions.
7. After you posted questions 1, 2, 5 and 6 of the Final Exam to Chegg, Chegg posted answers to those questions (“Chegg Answers”).
8. You used the Chegg Answers provided by Chegg to assist you to answer questions 1, 2, 5 and 6 on the Final Exam.
9. The answers which you provided on your Final Exam for questions 1, 2, 5 and 6 are virtually the same as the Chegg Answers.
10. The questions you posted to Chegg and the Chegg Answers provided to those questions were available to anyone, including other students in the Course, who subscribed to Chegg.com.
11. You knowingly obtained and/or provided unauthorized assistance in connection with the Final Exam in the Course.

The Student’s Plea

3. The Student was present and represented by the University’s community legal clinic, Downtown Legal Services. The Student admitted all charges. These admissions were reflected in a written Agreed Statement of Facts (“ASF”), which had been signed by the Student. In response to questions from the Tribunal, the Student agreed that he understood the charges and understood the nature and effect of his plea.

The Evidence

4. The evidence before the Tribunal was presented by an ASF and Joint Book of Documents (“JBD”). Most of the key portions are reproduced here, without the

documents referred to therein, and with amendments and redactions made as necessary to avoid identifying the students involved.

1. The Student has been enrolled in University of Toronto Scarborough since the Fall 2016 term. As of July 13, 2021, he had completed 20.0 credits and had a CGPA of 2.46.
2. In the Winter 2020 academic term, the Student was enrolled in MGEN11H3: Introduction to Regression Analysis (the “Course”), which was taught by Professor Ambarish Chandra.
3. The Course syllabus emphasized the importance of academic integrity. It stated on page 4 that students who were found to have engaged in academic dishonesty, including abetting or otherwise assisting in misconduct, would be subject to academic discipline
4. Students in the Course were required to write a final exam in April 2020 (the “Exam”). Due to the COVID-19 pandemic and resulting closure of the University, the Exam was provided to students in a take-home format. Professor Chandra provided students with the Exam questions on April 17, 2020 and set a deadline for submission of April 21, 2020. The Exam was worth 45% of the Course mark.
5. The cover page of the Exam contained two strong statements about academic integrity:

The University of Toronto's *Code of Behaviour on Academic Matters* applies to all University of Toronto Scarborough students. The *Code* prohibits all forms of academic dishonesty including, but not limited to, cheating, plagiarism, and the use of unauthorized aids. Students violating the *Code* may be subject to penalties up to and including suspension or expulsion from the University.”

In submitting this exam in Quercus under my name, I confirm that my conduct during this exam adheres to the Code of Behaviour on Academic Matters. I confirm that I did NOT act in such a way that would constitute cheating, misrepresentation, or unfairness, including but not limited to, using unauthorized aids and assistance, collaborating with another person, impersonating another person, and committing plagiarism.

6. The Exam consisted of 11 original questions, which Professor Chandra created solely for the Exam.
7. The Student wrote the Exam during the time allowed and submitted his Exam on April 21, 2020.
8. Soon after April 21, 2020, Professor Chandra searched the text of the Exam online to ensure no students in the Course had posted it online. He discovered that nine of the 11 Exam questions had been posted to Chegg.com (“Chegg”) seeking help to solve the questions.
9. Chegg.com is a subscription-based website that allows students to post problems to the site (“Askers”), which are then answered by so-called “experts”. Subscribers are also able to access the questions and answers posted by others on the site (“Viewers”). Chegg.com has an “Honor Code”, in which it states that its services are not intended to be used for any sort of cheating or fraud. Chegg.com permits instructors to request an “honor code investigation” for alleged violations of its “code”.
10. Professor Chandra’s initial review of Chegg indicated that question 2 of the Exam had been answered by a Chegg user. While the full text of the answer was unavailable without a Chegg subscription, the first 20 or so words were visible without a subscription (“Chegg Partial Answer to Question 2”). A copy of the information Professor Chandra found online on Chegg in his initial search containing part of the answer to question 2 of the Exam is included in the JBD.
11. Professor Chandra checked the Exam answers received from all thirty-five of the students in the class and discovered that the Student and Y.Z., another student in the Course, had submitted identical answers to question 2. Those identical answers also matched the Chegg Partial Answer to Question 2. In Professor Chandra’s view, it was extremely unlikely that these answers were identical by coincidence, given their length, grammatical issues, and unusual phrasing. A copy of Y. Z.’s Exam is included in the JBD.

12. Professor Chandra contacted the Student by email on April 29 and 30, 2020 to discuss the Exam. When he did not receive a response, he forwarded the case to the Chair of the Department of Management.

13. At that time, Professor Chandra was only aware of a possible breach of academic integrity by the Student in connection with question 2 of the Exam, as he had only the information available to him that he had been able to find through his initial internet search where he found the Chegg Partial Answer to Question 2.

14. The Student attended a first meeting with the Dean's Designate, Professor Nick Cheng, on June 11, 2020 to discuss the similarity of his answer to question 2 of the Exam to Y. Z.'s answer to question 2 of the Exam, and to the Chegg Partial Answer to Question 2. The meeting was conducted in accordance with the requirements of the *Code*. The meeting was adjourned to allow the Student to contact Professor Chandra.

15. The Student attended a continuation of his meeting with the Dean's Designate on June 25, 2020. At that time, he admitted that he had committed an academic offence in respect of question 2 of the Exam by accessing and receiving unauthorized assistance from Chegg during the final Exam in the Course. He was not asked about and did not provide any information about any of his other Exam answers to questions 1, and 3 through 11.

16. At his Dean's meeting on June 25, 2020, the Student stated the following:

- (a) He originally wanted to use Chegg for the textbook, but one thing led to another, and he came across an answer to the Exam, which he then used to answer question 2 of his Exam;
- (b) He used Chegg from time to time for homework help;
- (c) He did not post the question to the Exam, he just searched it and found it;
- (d) Where answers to questions were not provided by Chegg, he answered them himself; and
- (e) It must have been the other student whose answer to the question was similar to his who posted the question to Chegg.

17. On August 17, 2020, Nisha Panchal, Student Conduct & Academic Integrity Officer, on behalf of Professor James Donaldson, Vice-Dean of Recruitment, Enrolment & Student

Success at UTSC, requested that Chegg provide the solutions posted on Chegg for questions 1 through 8 of the Exam, and to identify the users that posted, answered, and accessed the questions.

18. Ms. Panchal then engaged in an email exchange with Chegg to provide additional information, during which she identified questions 1, 2, 3, 5, 6, 7, and 8 of the Exam as being in issue.

19. On August 19, 2020, Chegg provided Excel spreadsheets in response to Professor Donaldson's request showing "Asker detail" and "Viewer detail", indicating the Chegg accounts that had posted, answered, and viewed the Exam questions ("Chegg Data"). The Chegg Data assigned unique identifiers and other specific information for both Askers and Viewers as follows:

- a. A Question ID number for each question posted by an Asker and/or viewed by a Viewer;
- b. Date and time a question was posted by an Asker or viewed by a Viewer;
- c. Date and time an answer was posted;
- d. Asker user ID;
- e. Asker first and last name, email ID, IP address, and school name;
- f. The text of questions posted;
- g. The text of answers provided;
- h. View date;
- i. Viewer user ID;
- j. Viewer first and last name, email, IP address and school name.

20. Chegg subsequently provided additional Asker data in respect of Exam questions 9 and 11, and indicated "no viewer data found". A copy of all the Chegg Data provided by Chegg about the Exam is included in the JBD.

21. The UTSC Academic Integrity office forwarded the Chegg Data to Professor Chandra for his review. From this Chegg Data Professor Chandra observed in respect of the Student's possible involvement:

- a. An account with the email address eventually identified as an email address the Student used when posting in Chegg (Student's Email") had posted 3 questions that matched questions 2, 5, and 6 of the Exam on April 20 and 21, 2020.
- b. The answers the Student's Email submitted for the Exam for questions 1, 2, 5, and 6 matched in whole or in part the answers for those questions posted on Chegg.
- c. The Student's Email was listed as a viewer multiple times for Exam questions 1, 2, 5, 6, and 8 on Chegg on April 20 and 21, 2020.

22. Professor Chandra suspected that the Student's Email belonged to the Student based on the high degree of similarity of his answers to questions 1, 2, 5 and 6 with the answers posted on Chegg for those questions, and because the Student's Email shared the Student's initials.

23. An analysis of the Chegg Data indicates that three students (including the Student) posted ("asked") the following Exam questions seeking answers to those questions:

- 1 – posted by J.Z.;
- 2 – posted by each of J.Z. and the Student;
- 3 – posted by J.Z.;
- 5 – posted by the Student;
- 6 – posted by the Student;
- 7 – J.Z.;
- 8 – posted by A.K.;
- 9 – posted by A.K.; and
- 11- posted by A.K.

24. A chart summarizing the relevant Chegg Data, and indicating which of the answers posted on Chegg were the same or very similar to the Exam answers given by the Student, Y.Z. and A.K., is included in the JBD.

25. A chart comparing the Exam answers given by each of the Student, A.K. and Y. Z. with the answers in the Chegg Data for questions 1, 2, 5, 6, 8 and 11 is included in the JBD.

26. The Student's answer for question 11 closely matches the answer given by A.K. to question 11. The Student does not know A.K. He does not specifically recall copying his answer for question 11 from Chegg, but accepts that it is very likely that he did so given the similarity of his answer with A.K.'s answer.

27. In Professor Chandra's view, it was highly unlikely that these similarities occurred by coincidence, given the length, level of detail, and unusual phrasing of the Exam answers as well as the fact that many of them were wrong in the same specific ways. In particular, in his view the answer given to question 2(a) by the Student was nonsensical in the same way as the answer given by A.K. Similarly, the Student's answer in 2(b) contained a typo "R2" rather than "R^2" in the same place in the text as in the answer provided by Chegg, Y. Z. and A.K.

28. The Student now admits that he knowingly:

- a. did not write the Exam independently as required, but instead accessed Chegg to obtain unauthorized assistance while working on the Exam, and that in doing so he:
 - i. used the Student's Email to access Chegg at that time;
 - ii. posted questions 2, 5 and 6 to Chegg requesting answers for those questions for use on the Exam;
 - iii. viewed Chegg using the Student's email on each of the multiple occasions indicated in the Chegg Data, including in connection with Exam questions 1, 2, 5, 6, 8 and 11;
 - iv. used the answers posted on Chegg in his Exam answers for questions 1(a), 1(b), 2(a), 2(b), 5, 6 and 11; and
- b. in seeking answers to Exam questions 2, 5 and 6 by posting them to Chegg he provided unauthorized aid and assistance to other students in the Course who were also writing the Exam.

Decision of the Tribunal on the Charges

5. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that one or more of the academic offences charged has been committed by the Student.

6. In this case, the Student admitted the Charges. The Tribunal was satisfied that the Student's admissions were voluntary, informed and unequivocal. Further, the evidence contained in the ASF and accompanying documents clearly and thoroughly proved that the Student used an unauthorized aid and obtained unauthorized assistance when he turned to Chegg for assistance with his final exam. Although the Student may not have necessarily intended to aid other students, the Tribunal accepts that by posting exam questions and seeking input on how to answer them, the Student effectively aided and assisted other students in the course who subscribed to Chegg and could see the answers posted to the questions asked by the Student.

7. Accordingly, the Tribunal found the Student was guilty of Charges 1 and 2. Charge 3, being in the alternative, was withdrawn by the University.

Evidence on Penalty

8. On consent of the parties, further evidence was filed relevant to the issue of penalty. This evidence showed that the Student had admitted to academic misconduct once before. Specifically, during the 2019 Winter term, the Student admitted to having plagiarized an essay worth 15% of his grade in an Introduction to Metaphysics course. The Student had been sanctioned with a grade of zero on the essay and a one-year notation on his academic record. That sanction was conveyed with a letter from the University in which the Student was warned, "I trust it is clear that the University regards with great seriousness all acts of academic dishonesty and why they cannot be tolerated. I hope you have learned from this unfortunate experience and nothing similar will happen again."

Submissions on Penalty

9. There was a joint submission on penalty, in which both parties requested that the Tribunal make an order including the following sanctions:

- (a) a final grade of zero in the course MGEC11H3 in 2020 Winter;

- (b) a suspension from the University for three years from July 26, 2021 to July 25, 2024;
- (c) a notation of the sanction on the Student's academic record and transcript for four years from the date the Tribunal makes its order to July 25, 2025; and
- (d) that this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the Student's name withheld.

Decision of the Tribunal on Penalty

10. The Tribunal is aware of the value in respecting and deferring to joint submissions. While the Tribunal retains the discretion to reject joint submissions in appropriate cases, the fact that adversarial parties have been able to agree on the appropriate sanction is a good indication in and of itself that the appropriate balancing of interests has occurred. The Tribunal should only depart from joint submissions where it feels that the proposed sanction is so far outside the range of appropriate outcomes that it would bring the administration of justice into disrepute.

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

- (a) The character of the Student: the Student attended the hearing and admitted his wrongdoing. Although he did not admit the full extent of his guilt at the earliest opportunity, he did eventually make a full confession. The Tribunal recognizes that the Student has shown some insight and remorse. The Tribunal also recognizes that the Student has earned all the credits required for graduation, and improved his grades as he progressed

in his courses. However, balanced against these mitigating factors, is the Student's prior act of plagiarism.

(b) The likelihood of a repetition of the offence: the Student's representative submitted that the offence could not be repeated, as the Student had already earned all the credits needed for graduation. This provides little comfort. The Tribunal would prefer that students avoid repeating offences because they have learned their lesson, not because they are technically prohibited from re-offending. As noted above, it is troubling that this was the Student's second offence. However, the Tribunal is hopeful that this process has brought home the message that dishonesty and academic misconduct is not a path to success and must be avoided.

(c) The nature of the offence committed: the Covid-19 pandemic has amplified the importance of trust. Online learning provides more opportunities for students to cheat. In this case, Professor Chandra and the University had to go to considerable lengths to detect and uncover the extent of the Student's misconduct. By cheating on his exam, the Student undermined the grades-based system of evaluation and broke the honour code that is essential to modern learning.

(d) Any extenuating circumstances surrounding the commission of the offence: the exam took place in April 2020, when Ontario was in the beginning of the first pandemic lock-down and people were seized with fear and uncertainty for their own health and the health of their loved ones. The Student may have felt the effects of this stress acutely. However, he did not respond to this stress in a healthy way. When he cheated on his exam, the Student sacrificed his integrity and his future.

(e) The need to deter others from committing similar offences: cheating on exams must always be denounced and deterred in order to protect the academic integrity of the University. In today's online world, it is all too easy for students to find new outlets for unauthorized assistance. Students must understand that this kind of misconduct will have serious repercussions, so that they will be dissuaded from the temptation to cheat when under pressure.

12. In addition to the factors from the *C. case, supra*, the Tribunal considered other cases of this Tribunal in similar circumstances. The University submitted a Book of Authorities including many cases from this Tribunal of offences involving similar misconduct. No two cases are identical, and the Tribunal is not bound by past decisions. However, the Tribunal strives to develop a consistent body of case law so that students are treated fairly and equitably.

13. The joint submission in this case was squarely within the range of sanctions imposed in similar cases. It does not bring the administration of justice into disrepute and is not otherwise contrary to the public interest. It strikes an appropriate balance between the mitigating and aggravating factors.

14. The suspension means that even though the Student has earned the credits required to graduate, he will not be able to enjoy many of the rewards of that accomplishment until his period of suspension is at an end. It is a meaningful but fair sanction.

15. In all of the circumstances, the Tribunal is satisfied that the following Order is appropriate:

1. **THAT** [the Student] is guilty of one count of the academic offence of using or possessing an unauthorized aid, contrary to section B.I.1(b) of the Code.
2. **THAT** [the Student] is guilty of one count of the academic offence of aiding and assisting other students to use or possess an unauthorized aid or obtain unauthorized assistance, contrary to sections B.I.1(b) and B.II.1(a)(ii) of the Code.
3. **THAT** the following sanctions shall be imposed on [the Student]:
 - a. a final grade of zero in the course MGEC11H3 in 2020 Winter;
 - b. a suspension from the University for three years from July 26, 2021 to July 25, 2024; and

- c. a notation of the sanction on Mr. J [REDACTED]' academic record and transcript for four years from the date the Tribunal makes its order to July 25, 2025.

4. **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 5th day of November, 2021

Original signed by: _____

Ms. Johanna Braden, Chair

On behalf of the Panel