

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on April 28, 2021,

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 -

M [REDACTED] M [REDACTED] H [REDACTED]

REASONS FOR DECISION

Date of Hearing: January 5, 2022, via Zoom

Members of the Panel:

Ms. Sabrina A. Bandali, Chair

Professor Marc Laflamme, Faculty Panel Member

Ms. Lauren Membreno-Lepore, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Mr. William Webb, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Ms. Adrianna Mills, Representative for the Student, Downtown Legal Services

Hearing Secretary:

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

In Attendance:

Mr. M [REDACTED] M [REDACTED] H [REDACTED]

Introduction

1. A hearing before the Trial Division of the University Tribunal (the "Tribunal") was convened on January 5, 2022 to consider charges brought by the University against M [REDACTED] M [REDACTED] H [REDACTED] (the "Student") under the University of Toronto's *Code of Behaviour on Academic Matters, 1995* (the "Code").

The Charges

2. The charges against the Student (the "Charges") are as follows:

- (a) On or about April 15, 2020, the Student knowingly used or possessed an unauthorized aid or obtained unauthorized assistance in connection with the final exam in CHM B42H3 (the "Course"), contrary to section B.I.1(b) of the Code ("**Charge No. 1**").
- (b) In the alternative, on or about April 15, 2020, the Student knowingly represented as their own an idea or expression of an idea or work of another in the final exam in the Course, contrary to section B.I.1(d) of the Code ("**Charge No. 2**").
- (c) In the further alternative, on or about April 15, 2020, the Student 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 the final exam in the Course, contrary to section B.I.3(b) of the Code ("**Charge No. 3**").

3. Particulars of the Charges are as follows:

- (a) At all material times the Student was a student enrolled at the University of Toronto Scarborough.
- (b) In Winter 2020, the Student enrolled in the CHMB42H3 (Organic Chemistry II), which was taught by Professor Effie Sauer.
- (c) As a result of the Covid19 pandemic, the final exam in the Course was administered online on April 15, 2020. The final exam was worth 48.5% of students' final grades. The final exam was open-book; however, students were not permitted to collaborate with one another or to consult with outside sources.
- (d) Chegg.com is a subscription based website that allows students to post problems to the site, which are then answered by "experts". Subscribers are also able to access the questions and answers posted by others on the site.
- (e) On April 15, 2020, during the final exam, the Student posted questions from the final exam on Chegg.com to solicit answers. The use of Chegg.com was not

authorized. In posting questions from the final exam on Chegg.com and reviewing the answers submitted, the Student sought to obtain and did obtain unauthorized assistance in the final exam.

- (f) The Student submitted the final exam:
 - (i) To obtain academic credit;
 - (ii) knowing that it contained ideas, expressions of ideas or work which were not their own, but were the ideas, expressions of ideas or work of others, including the authors of answers that were posted on Chegg.com (the "Chegg Sources"); and
 - (i) knowing that the Student did not properly reference the ideas, expressions of ideas or work that you drew from the Chegg Sources.
- (g) The Student knowingly submitted the final exam with the intention that the University of Toronto Scarborough rely on it as containing their own ideas or work in considering the appropriate academic credit to be assigned to their work.

Agreed Statement of Facts

4. The hearing proceeded on the basis of an Agreed Statement of Facts (the "ASF"). The key portions are summarized here.

The Student's Academic History

5. The Student first registered as a student at the University of Toronto Scarborough in Fall 2018. As of November 10, 2021, the Student has earned 16.0 credits.

The Course

6. In Winter 2020, the Student enrolled in CHMB42H3 (Organic Chemistry II) (the "Course"), which was taught by Professor Effie Sauer.

7. In early March 2020, due to the COVID-19 pandemic, the Course was moved online. Given the change to online learning, Professor Effie Sauer proposed a new grading scheme for the Course. Under the new scheme, students would be evaluated on

the basis of labs (worth 20%), tutorials (worth 8%), a term test (worth 15%), and a final exam worth (40%); the remaining 17% of the course was either allocated entirely to the final exam, or evenly between the term test and the final exam, whichever resulted in the highest grade for the student. The grading scheme changes were announced and voted on in lecture on March 13, 2020.

8. The syllabus contained a section on Academic Integrity (on page 5), which stated, among other things, that students were required to know the rules in the Code.

The Exam

9. Due to the COVID-19 pandemic, the final exam in the Course was administered online as an open-book exam on April 15, 2020 from 2:00 p.m. to 5:00 p.m. (the “Exam”).

10. Question 1 on the Exam required students to sign the following pledge of academic integrity:

We at the University of Toronto want you to feel proud of what you accomplish as students. Please respect all of the hard work you’ve done this year as you complete the following assessment of your learning by making sure that the work you do here is your own. We don’t expect you to score perfectly on this assessment and there will be some things that you may not know. Asking someone else for the answer robs you of the chance later to feel proud of how well you did because you’ll know that it wasn’t really your work that got you there. Success in university isn’t about getting a certain mark, it’s about becoming the very best person you can by enriching yourself with knowledge, strengthening yourself with skills, and building a healthy self-esteem based on how much you’ve grown and achieved. No one assessment captures that but your conscience will stay with you forever. Make yourself and your loved ones proud of the student that you are by conducting yourself honestly on this assessment.

I, [_____], University of Toronto student number [_____], pledge to honour myself and my community by assuring that the work I do on this assessment fully represents my own knowledge and ideas. I will feel proud of my work here when I am done because I know that it was my own and only mine.

11. Students were assigned 28 Exam questions, the majority of which were assigned at random. The questions that students received were taken from question “pools” (with

two questions per pool). Students were randomly assigned one of the two questions from the question pool.

12. On April 15, 2020, the Student wrote and submitted his Exam. The Student completed the academic integrity pledge.

Chegg.com

13. 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”). The webpage advertises that a “Chegg Study” subscription costs \$14.95/month and will allow subscribers to “take a photo of your question and get an answer in as little as 30 mins” from an “expert”.

14. Professor Sauer searched the text of the Exam online to ensure no students in the Course had posted it online. During the search, she found that nine of the questions from the Exam had been posted on Chegg.com.

15. Professor Sauer suspected that the Student had posted the questions because all of the nine questions on Chegg.com had been assigned to the Student. The nine questions came from question pools. Given the use of question pools, Professor Sauer determined that the odds of two students having the same nine questions on their exam were approximately 1 in 512. Professor Sauer also determined that there were substantial similarities between the Student’s answers to Questions 27(a) and 27(b) and the answers that had been posted on Chegg.com.

16. 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”.

17. The University requested that Chegg.com conduct an honor code investigation into the Exam questions that had been posted. Chegg.com provided the University with a copy of data that included the following information for the nine questions:

- (a) A Question ID number for each question posted by an Asker;
- (b) The date and time a question was posted by an Asker;
- (c) The date and time a question was answered;
- (d) The Asker User ID;
- (e) The Asker's first and last name, email ID, IP address, and school name; and
- (f) The text of the questions posted, and the text of the answers provided.

18. The Chegg.com data that the University received indicated that all of the questions were posted by a single user: controlthedopamine@gmail.com. The Chegg.com data shows that there is no first name, last name, IP address, or school name associated with the user controlthedopamine@gmail.com.

19. The matter was subsequently forwarded to the Office of the Dean.

Meeting with the Dean's Designate

20. On October 8, 2020, the Student met with Professor Nick Cheng, Dean's Designate for Academic Integrity. The Student admits that Professor Cheng read him the required warnings from the Code.

21. During the meeting, the Student admitted that he had obtained unauthorized assistance from Chegg.com. He admitted that he had posted nine questions from the Exam on Chegg.com, and that he had copied the answers to question 27. He explained that, at the time of the Exam, he was having a difficult time with the pandemic. He had lost his job and could not keep up with his studies, and he expressed regret for his actions.

22. The Student confirms that the statements he made to the Dean's Designate were true and accurate.

Admissions

23. The Student admits that he:

- (a) knowingly accessed Chegg.com to obtain unauthorized assistance while working on the Exam, and in doing so:
 - (i) he used controlthedopamine@gmail.com to access Chegg.com while he was working on the Exam;
 - (ii) he posted nine questions to Chegg.com and requested answers to those questions for use on the Exam;
 - (iii) he viewed answers that had been posted to Chegg.com, specifically the answers that had been posted to questions 27(a) and 27(b);
 - (iv) he used the answers that had been posted to Chegg.com in his Exam answers for questions 27(a) and 27(b); and
- (b) He is guilty of obtaining unauthorized assistance on the Exam.

Decision of the Panel on the Charges

24. 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.

25. In this case, the Student admitted and pled guilty to Charge No. 1. The Panel was satisfied that the Student's admissions were voluntary, informed and unequivocal. Further, the evidence contained in the ASF and supporting documentation provided a clear evidentiary basis for a finding of guilt.

26. Following deliberations and based on the ASF and its supporting documentation, the Panel concluded that Charge No. 1 had been proven with clear and convincing

evidence on a balance of probabilities, and accepted the guilty plea of the Student in respect of that charge. The Panel was advised that if the Student is convicted on Charge No. 1, the University would withdraw the alternative Charge Nos. 2 and 3.

Submissions on Penalty

27. The University and the Student submitted an Agreed Statement of Facts and Joint Submission on Penalty (the "JSP"). In the JSP, the parties submitted that the Tribunal should impose the following sanctions on the Student:

- (a) a final grade of zero in CHMB42H3 in Winter 2020;
- (b) the Student will be suspended from the University of Toronto for a period of 2 years and 4 months, commencing on May 1, 2022 and ending on August 31, 2024; and
- (c) this sanction will be recorded on the Student's academic record and transcript from the date of the Tribunal's order until graduation.

28. The parties also submitted that this case shall be reported to the Provost of the University of Toronto (the "Provost") for publication of a notice of the decision of the Tribunal and the sanction imposed, with the name of the Student withheld.

Decision of the Panel on Penalty

29. The Tribunal is aware of the value in respecting and deferring to joint submissions on penalty. As the Discipline Appeals Board determined in *The University of Toronto and M. A.* (Case No. 837, December 22, 2016), the threshold to reject a joint submission on penalty "may be rejected by a panel only in circumstances where to give effect to it would be contrary to the public interest or would bring the administration of justice into disrepute" (para 24).

30. In the Panel's view, the joint submission in this case is reasonable. The Panel considered the factors and principles relevant to sanctions set out by this Tribunal in

University of Toronto and Mr. C (Case No. 1976/77-3, November 5, 1976), namely the character of the Student, the likelihood of repetition of the offence, the nature of the offence committed, any extenuating circumstances surrounding the commission of the offence, the detriment to the University occasioned by the offence, and the need to deter others from committing similar offences (page 12).

31. In this case, the Panel considered in particular the serious nature of the offence, and the need for general deterrence, especially in the context of the shift to online learning. Balanced against these factors are the Student's cooperation in the process, early admission of the misconduct, and entry into the ASF and JSP, which demonstrate insight and that he is taking responsibility for his actions. He had no prior offences. The Panel also considered the extenuating circumstances of the COVID19 pandemic and resulting personal impacts on the Student.

32. Having regard to the above, and based on its review of similar cases presented by counsel, the Panel agreed that the recommended sanctions are reasonable in the circumstances, and made the following order:

- (a) the Student is guilty of one count of knowingly using or possessing an unauthorized aid or obtaining unauthorized assistance, contrary to section B.I.1(b) of the *Code*.
- (b) The following sanctions shall be imposed on the Student:
 - (i) a final grade of zero in CHMB42H3 in Winter 2020;
 - (ii) the Student will be suspended from the University of Toronto for a period of 2 years and 4 months, commencing on May 1, 2022 and ending on August 31, 2024; and
 - (iii) this sanction will be recorded on the Student's academic record and transcript from the date of the Tribunal's order until graduation.
- (c) This case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto, this 29th of March, 2022,

Original signed by: _____

Sabrina A. Bandali, Chair
On behalf of the Panel