

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on October 21, 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

- and -

T [REDACTED] Z [REDACTED]

REASONS FOR DECISION

Hearing Date: March 24, 2022, via Zoom

Members of the Panel:

Ms. Harriet Lewis, Chair

Professor Margaret MacNeill, Faculty Panel Member

Mr. David Allens, 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

Hearing Secretary:

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

Not in Attendance:

Mr. T [REDACTED] Z [REDACTED]

1. This panel of the University Tribunal held a hearing on March 24, 2022 to consider the charges brought by the University of Toronto (the “University”) against Mr. T [REDACTED] Z [REDACTED] (the “Student”) on October 21, 2020 under the *Code of Behaviour on Academic Matters*, 1995 (the “Code”). The charges concern academic misconduct in respect to the taking of a final exam in MAT 137YI, a first-year calculus course, on or about April 16, 2020. Particulars of the charges are set out below.

A. Preliminary Issue: Proceeding in the Absence of the Student

2. The hearing was scheduled to begin at 1:45 p.m. on Thursday, March 24, 2022, by videoconference, but as per usual practice, the panel waited 15 minutes to see if the Student attended. At that time, Assistant Discipline Counsel advised that neither the Student nor a representative of the Student were present. The University requested that the Tribunal proceed with the hearing in the absence of the Student and for the reasons which follow, the Tribunal agreed to proceed.

3. Pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* (the “Act”) and Rule 17 of the *University Tribunal Rules of Practice and Procedure* (the “Rules”), where reasonable notice of an oral hearing has been given to a party in accordance with the Act and the party does not attend the hearing, the Tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding. The onus of proof is on the University to demonstrate that it provided a student with reasonable notice of the hearing.

4. The Tribunal had before it, affidavit materials prepared by Assistant Discipline Counsel in a “Book of Documents (Notice)” introduced and marked as Exhibit #1 at the hearing. Exhibit #1 sets out the history of the contact with the Student since evidence was found of his academic misconduct which was included in a Discipline Case Report containing notes of a meeting between the Student and Professor Francois Pitt, the Dean’s designate. The Discipline Case Report was prepared by Christine Di Matteo who

was present at the hearing and provided evidence about that meeting at which the Student denied having committed the alleged offence.

5. Exhibit #1 also contains the March 22, 2022 Affidavit of Ms. Samanthe Huang, an Administrative Assistant with the Office of Appeals, Discipline and Faculty Grievance, attesting to the numerous attempts made between March and December 2021 by the University and Assistant Discipline Counsel to arrange a hearing with the Student. Copies of correspondence about scheduling between the University and the Student and Assistant Discipline Counsel and the Student, were attached to that affidavit.

6. Ms. Huang's affidavit and attachments showed the following:

- i. The Student agreed to a number of dates but in each case requested adjournments for various reasons. For example, he requested an in person hearing although he was residing outside of Canada. He said he needed to return to Toronto to recover vindicating evidence he left in his Toronto residence but couldn't come for a period of time. Once in Toronto, he said he needed to deal with burst pipes in his home. On other occasions he expressed the wished to retain counsel, said he had to return to his home country for leg surgery and thereafter needed time to recuperate from that surgery.
- ii. The Student finally agreed to an electronic hearing for a date to be set in February 2022 and February 25, 2022 was set as the hearing date. Ms. Huang served the Student with a Notice of Electronic Hearing for that date along with all of the hearing materials.
- iii. Attached to Ms. Huang's affidavit was an email from the Student on February 18, 2022, to request that the hearing be adjourned stating as a reason that he had "a cold and mental illness".

7. On February 22, 2022, Ms. Huang requested, through Assistant Discipline Counsel, the Provost's position on the request for a further adjournment. After consulting with Assistant Discipline Counsel, the Provost made submissions to the Chair of this Tribunal who was originally booked to hear the case, requesting that the Student's hearing be rescheduled for March 24, 2020 at 1:45 p.m. peremptory on the Student. The request was granted and the Chair made an order that the hearing be scheduled for that date and time.

8. The Student was immediately notified of the Chair's order and on February 25, 2022 was served with a "Notice of Electronic Hearing on March 24, 2022 at 1:45 p.m. (EST)" (the Notice") along with an updated set of the hearing materials.

9. That the Student received the Notice and materials was confirmed in an affidavit of Andrew Wagg, sworn on March 18, 2022. Mr. Wagg is an Incident Report Architect at Information Security, Information Technology Services at the University.

10. Mr. Wagg deposed that Information Technology Services manages the email accounts used by the University's students and that the Microsoft 365 Exchange portal used by the University automatically records each time someone accesses a particular university-issued email account. On March 18, 2022 he checked the portal records to determine the last time someone used the account password to access the email account g■■.z■■■■@mail.utoronto.ca, the account issued to the Student. Mr., Wagg found that the account was last accessed on March 16, 2022, at 12:04 local Toronto time.

11. Based on the evidence filed, the Tribunal determined that the Student had accessed the Notice and materials on March 16, 2022 and thus had formal notice of the hearing date.

12. Based on the totality of the interactions with the Student in respect to scheduling the hearing, the Notice given to the Student in February that the hearing would be peremptory on him, and the evidence that the Student's email, containing the final Notice

and materials, was accessed shortly before the hearing date; the Tribunal concluded that the Student was given reasonable notice of the hearing in compliance with the notice requirements of the Act and the Rules.

13. The Tribunal therefore determined it would proceed to hear the case on its merits in the absence of the Student, and the hearing proceeded on the basis that the Student was deemed to deny the charges made against him.

B. The Charges and Particulars

14. The Charges and Particulars were detailed in a letter to the student in 2020 and copied with the Notice of Hearing served on him on February 25, 2022. They are as follows:

- i. On or about April 16, 2020, you knowingly represented as your own an idea or expression of an idea or work of another in the final exam in MAT137Y1 (the “Course”) contrary to section B.I.1(d) of the Code.
- ii. In the alternative, on or about April 16, 2020, you knowingly obtained unauthorized assistance in connection with the final exam in the Course, contrary to section B.I.1(b) of the Code.
- iii. In the further alternative, on or about April 16, 2020, 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 the final exam in the Course, contrary to section B.I.3(b) of the Code.

Particulars

1. At all material times you were a student enrolled at the University of Toronto, Faculty of Arts & Science.
2. In Fall 2019 and Winter 2020, you enrolled in MAT137Y1 (Calculus).

3. Students in the course were required to write a final exam worth 20% of their final grade. Due to the Covid19 pandemic, the final exam was administered as a 24-hour online exam. The only aids to which students were allowed to refer were their own notes, their own term work, course videos, all other official course materials, the textbook and WolframAlpha.
4. On or about April 16, 2020, you submitted your final exam in the Course.
5. You submitted your final exam:
 - (a) To obtain academic credit;
 - (b) Knowing that it contained ideas, expressions of ideas or work which were not your own, but were the ideas, expressions of ideas or work of others, including the author(s) of answers that were posted on Chegg.com which is a website that allows subscribers to post questions on the site and to view questions and answers posted on the site (the "Chegg Source"); and
 - (c) Knowing that you did not properly reference the ideas, expressions of ideas or work that you drew from the Chegg Source or from others;
6. You knew that Chegg Source was not an authorized source to which you were allowed to refer in completing the final exam.
7. You knowingly obtained unauthorized assistance from the Chegg source or from others.
8. You knowingly submitted your final exam with the intention that the University of Toronto rely on it as containing your own ideas or work in considering the appropriate academic credit to be assigned to your work.

C. The Evidence

15. Affidavit evidence on behalf of the University was given by Christina Di Matteo, an Academic Integrity Specialist with the Student Academic Integrity (“SAI”) Office of the Faculty of Arts and Science of the University; Asif Zaman, an Assistant Professor, Teaching Stream in the Department of Mathematics who in the Fall of 2019 and Spring of 2020 was the course coordinator for the Course; and Thomas Mackay, who at that time was the Director of Faculty Governance in the Faculty of Arts and Science at the University. Ms. Di Matteo was present in the hearing and Professor Zaman and Mr. Mackay were available to be called should the Tribunal have questions for them.

16. The substance of the allegations against the Student were contained in the affidavit of Professor Zaman. The Course “is a first- year course, designed to provide students with a foundational understanding of calculus as a prerequisite for upper level calculus courses” and the Student was one of 1,100 students who remained in the Course at the time of the final exam. That exam was moved online in March 2020 because of the Covid19 pandemic and the grading scheme was altered such that the final exam was to be worth 20% of the final grade.

17. Professor Zaman noted that from the outset of the Course, the students were advised about the standards of academic integrity and what was and was not acceptable assistance. Specifically, students were warned about using tutoring companies, online homework websites or education centres to assist with the course work. The students were also told about ways of getting acceptable help through access to instructors and TAs during office hours and the existence of the departmental Math Learning Centre established to help first year students. At the beginning of the Course in the Fall of 2019, he had also sent all students an announcement entitled “A word of caution”, warning students about online tutoring services and the risks of being penalized for academic misconduct if they relied on solutions provided on such sites.

18. The final exam was administered online as an open book exam and the instructions for taking the exam included a clear explanation about the resources which could and could not be consulted during the exam. Specifically, students were instructed

that they may only use their own notes, term work, course videos, other official course materials, the textbook and WolframAlpha. The “Do Not” list was extensive, limiting communication with others (except course instructors) during the exam period and specifically warning students not to use “answers, solutions, term work or notes of anyone else”. Students were warned that instructors would be “carefully investigating every single paper” and that penalties for academic dishonesty could range from a failure in the course to expulsion from the University. Students were required to sign an academic integrity statement on the cover page of the exam, and the Student signed that statement.

19. Professor Zaman described the website “Chegg.com”, as an online subscription service that allows subscribers to post questions and receive answers to the questions “within 30 minutes”. Following the exam, Instructors and TAs in the Course found a number of questions and answers from the final exam posted on the Chegg.com site during the 24 hours period of the exam. Among these were the questions and answers for 14, 15(a), 15(b), 15(c), 15(d), 16(a) and 16(b) on the Student’s exam.

20. Professor Zaman’s affidavit described the similarities between the Student’s answers to those questions in some detail. In some cases, the answers were incorrect and even “nonsensical”. In others, they included symbols or notations that were not taught in the Course. In yet others, the Student’s answers were identical to those on Chegg.com, but the Student did not provide the required justification for using the steps that were used to reach the answer. In Professor Zaman’s opinion, the fact that Mr. Z█████’s answers took the same approach, with the same or very similar steps to the Chegg.com answers was suspicious and, given the number and degree of the similarities, was “unlikely to have been coincidental”.

21. That the answers were not coincidental and were more likely than not taken from Chegg.com, was confirmed by the affidavit of Mr. Mackay. As he noted, Chegg.com has an “Honor Code” which states that its services are not intended to be used for cheating or fraud. Chegg.com permits instructors to request an “honor code investigation” so that instructors can determine whether in fact any individual subscriber has accessed the

Chegg.com system at a certain time with specific questions and has accessed specific answers to those questions.

22. According to Mr. Mackay, Randy Boyagoda, Vice-Dean, Undergraduate, at the Faculty of Arts & Science submitted a request to Chegg.com for an investigation with respect to the Course, identifying that the final exam in the Course had been posted on the site and noting that solutions posted had been found in some of the answers submitted by students. In response, Chegg.com provided an Excel spreadsheet providing details of the “askers” and “viewers”, as well as hyperlinks to the questions and answers that were posted and accessed during the period of the final exam in the Course.

23. Appended as an exhibit to Mr. Mackay’s affidavit was a chart showing that a user identifying himself as G █████ Z █████ with the email address g █████ ztc@outlook.com from the University of Toronto accessed solutions during the exam time to questions 14, 15(a), (c), (d) and 16 (a) and (b). As Assistant Discipline Counsel noted, “ztc” in the above noted email address corresponds to the initials of the Student’s Chinese name: Z █████ T █████.

24. After retiring to consider the evidence before us, the Tribunal determined that the Student had accessed Chegg.com for answers during the exam period and used those answers in place of his own. He had thereby knowingly represented as his own idea or work, that of another, and was guilty of contravening section B.I.1(d) of the Code (Charge #1).

E. Penalty / Sanction

25. After advising Assistant Discipline Counsel of our finding on the merits, the matter continued with a hearing on the appropriate sanctions. The Tribunal had been advised at the outset of the hearing that if the Student were to be found guilty of Charge 1, Charges 2 and 3 should be considered to be withdrawn.

26. The University requested that the Tribunal order that the Student be given a grade of zero in the Course; that he be suspended for a period of four years from the date of the order; that a notation be placed on his student record until his graduation and that the decision be reported to the Provost for publication with the Student's name withheld.

27. In support of the requested penalty, the University submitted a second affidavit of Ms. Di Matteo sworn February 11, 2022, in which she noted that according to the SAI records, the Student had committed two prior offences, each of which was for submitting plagiarised materials in assignments. Specifically, in Fall Term 2019 the Student admitted to plagiarism in an assignment in course CSC108H1, for which he received a departmental level sanction of zero in the assignment. In the Winter term 2020, the Student admitted to plagiarism in an assignment submitted in AST201H1. The matter was resolved at the divisional level with a zero on the assignment, further reduction of the final course grade of 9 marks, and a notation on the transcript.

28. Assistant Discipline Counsel referred the Tribunal to a Summary of Cases contained in a Book of Authorities. The summary showed a list of 12 recent Tribunal decisions, listing the offence, whether there were prior offences, whether the student in each case had participated in the disciplinary hearing, and the sanction that was imposed. In six of these cases the student had also used Chegg.com.

29. We were referred to the factors for determining an appropriate sanction in the leading case of *University of Toronto v. Mr. C.* (Case #1976/77-3, November 1976). The factors set out in that case are, the character of the person charged, the likelihood of a repetition of an offence, the nature of the offence, 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 a similar offence.

30. We noted that the Student had pleaded guilty to the same offence on two previous occasions, indicating he had not learned from that experience. He chose not to plead guilty in this case and provided unbelievable explanations for both delaying the hearing

and explaining his exam results, which we found to be dishonest. He did not appear at his hearing despite evidence that he was aware of it taking place and had been made aware of his right to seek assistance in putting forward any case on the merits or arguments on penalty to address any extenuating circumstances which might affect our decision. In his absence and on the facts as we know them, including that he had used a paid service to facilitate his cheating, we had no basis on which to consider a lesser penalty than that requested by the University. We agreed that because of the previous offences and because a paid service was used to commit the misconduct, there was a sound basis for imposing a four-year suspension rather than the three years that had been imposed in the examples given of the other cases involving Chegg.com.

31. The Mr. C case and those which follow it note the importance of the University as an educational institution and a degree-granting body and emphasize that members of the University and the public alike must be able to rely on the academic integrity of the University's evaluation processes. Using unauthorized aids is cheating and allowing cheating to go unsanctioned is unfair to the other students who abide by the rules and regulations. In this case, in a class of over 1,000 students, most will have earned their grades, be they pass or fail, without unauthorized aids. If not sanctioned, cheating undermines the grades of all of the honest students and devalues the University's degrees.

32. After considering all of the evidence and submissions, the Tribunal concurred with and accepted the University's recommendation on sanctions.

F. Conclusion

33. The Tribunal has found that the Student is guilty of the academic offence of representing as his own an idea or expression or of an idea or work of another in the final exam in MAT137Y1 contrary to section B.I.1(d) of the Code. The Tribunal ordered that the following sanctions be imposed on the Student:

- i. The Student be given a grade of zero in Course MAT127Y1; and
- ii. The Student be suspended from the University of Toronto for a period of 4 years from the date of the Tribunal's order; and
- iii. A notation of the penalty be placed on the Student's transcript from the date of the order until the Student's graduation from the University.

34. The Tribunal also ordered that this case be reported to the Provost for publication of a notice of this decision and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto this 5th day of April, 2022

Original signed by:

Ms. Harriet Lewis, Chair
On behalf of the Panel