

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic misconduct filed on April 22, 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 am. S.O. 1978, c. 88*

B E T W E E N:

THE UNIVERSITY OF TORONTO

- and -

W [REDACTED] K [REDACTED]

REASONS FOR DECISION

Hearing Date: March 28, 2022, via Zoom

Members of the Panel:

Ms. Alexandra Clark, Chair

Professor Glen Jones, Faculty Panel Member

Ms. Madison Kerr, Student Panel Member

Appearances:

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

Mr. W [REDACTED] K [REDACTED]

Hearing Secretary:

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

1. The Trial Division of the University Tribunal was convened on March 28, 2022, to consider charges brought by the University of Toronto (the “University”) against Mr. W [REDACTED] K [REDACTED] (the “Student”) under the University of Toronto *Code of Behaviour on Academic Matters*, 1995 (the “Code”).

The Charges and Particulars

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

1. In or about Fall 2020, 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 3, 2015, contrary to section B.I.3(a) of the *Code*.
2. In addition and in the alternative, in or about Fall 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, contrary to section B.I.3(b) of the *Code*, in connection with a document which purported to be a degree certificate from the University of Toronto dated June 3, 2015.

Particulars of charges

1. You have been a registered student in the University of Toronto Mississauga since Fall 2008. You have not graduated from the University of Toronto.
2. You circulated and made use of a document that purported to be your degree certificate from the University of Toronto dated June 3, 2015, in support of an application for employment.
3. You forged this document and falsely represented your academic history and status and/or you knew that this document was forged, altered, and/or falsified when you circulated or made use of it.
4. You had an obligation to provide accurate and truthful information and not to misrepresent your academic record.

The Student’s Plea

3. The Student was present at the hearing, and he admitted to Charge 1. This admission was reflected in a written Agreed Statement of Facts (“ASF”).

The Evidence

4. The key portions of the ASF are set out below.
- a) The Student first registered at the University of Toronto, Mississauga in Fall 2008. After the 2011 Winter term he was suspended for one year due to his low marks. As of March 9, 2021, he has accumulated 20.5 credits and a cumulative GPA of 2.25.
 - b) Mintz Global Screening (“Mintz”) is a company that provides background verification and screening solutions for its customers.
 - c) On Friday, December 11, 2020, Nasira Siddika at Mintz sent an email to the Office of Convocation seeking confirmation that the Student had been conferred a Bachelor of Arts degree by the University in 2015. She provided the Student’s date of birth.
 - d) The Office of Convocation reviewed the University of Toronto’s records and found the Student was the only student with the name and date of birth provided by Mintz.
 - e) On December 15, 2020, the Office of Convocation responded to Ms. Siddika at Mintz that no degree had been granted to the Student by the University. Ms. Siddika subsequently provided a copy of a degree certificate from the University of Toronto for an Honours Bachelor of Arts dated June 3, 2015 and bearing the Student’s name (“Degree Certificate”). She asked the Office of Convocation to “re-check to verify information regarding graduation”. The Office of Convocation reviewed the University of Toronto’s records again but did not find any evidence that a degree had been conferred on the Student.
 - f) On December 16, 2020, Samantha Smith, Assistant Director of the Office of Convocation, sent an email to Ms. Siddika advising her that she had no record that

the University of Toronto had conferred a degree on the Student. She further stated that the electronic copy of the Degree Certificate forwarded by Ms. Siddika was not a valid University of Toronto degree certificate.

- g) On December 16, 2020, Ms. Smith forwarded the emails from Ms. Siddika and the Degree Certificate to Michelle Kraus, Associate Registrar, Academic Standards, Financial Aid and Advising at the University of Toronto, and to Vladimir Soloviev, Associate Registrar, Records, Registration and Graduation, for further investigation.
- h) Mr. Soloviev reviewed the University of Toronto's records. He determined that the Student had not yet graduated and the Degree Certificate was not legitimate. Mr. Soloviev reported his findings to Ms. Kraus and Ms. Smith.
- i) Ms. Kraus forwarded the Degree Certificate and related emails and information to the Office of the Dean.
- j) On February 4, 2021, Professor Michael Lettieri, Vice Dean's office, sent a letter to the Student to advise him that he had received a report alleging that he had committed an academic offence by providing a falsified degree certificate to Mintz. Professor Lettieri asked the Student to attend a Dean's meeting to discuss the allegations
- k) The Student attended a meeting with the Dean's Designate, Professor Charles Elkabas, on February 17, 2021, via Zoom. Michelle Kraus was also in attendance. The Student admits that this meeting took place in a manner consistent with the requirements of the *Code*.
- l) At that meeting, when shown the Degree Certificate, the Student confirmed that his name was on the Degree Certificate but that he had not yet graduated from the University. He said the following:
 - i. The Degree Certificate was a forged document;

- ii. He took a photo of the degree certificate conferred by the University on his brother, without his brother's knowledge, and using Photoshop, he replaced his brother's name with his own name;
- iii. He was in a difficult financial situation. His father had lost his job and his mother and brother's hours of work had been reduced, so he was looking for work. He applied for a full-time position at KPMG. The information he provided in his job application was "exaggerated a lot". He was selected for the position. When Mintz asked for a copy of his degree he panicked and forged the Degree Certificate.
- iv. The Student apologized and expressed remorse for what he had done.

Admissions

- m) The Student admits that he knowingly:
 - i. misrepresented his academic status by altering and falsifying a copy of another person's degree certificate to make it appear that it was his degree certificate and that he was a graduate of the University when he was not, in the form of the Degree Certificate; and
 - ii. circulated that altered and falsified Degree Certificate as part of his application for employment.

Decision of the Tribunal on the Charges

5. The Provost tendered the ASF and a Joint Book of Documents, both of which were filed with the Student's consent and which were marked together as an exhibit in the hearing. The contents of the Joint Book of Documents confirmed the contents of the ASF as summarized above.

6. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that the academic offences charged have been committed by the Student.

7. In this case, the Student admitted to Charge 1, and the Tribunal confirmed with the Student that his admission was voluntary, informed and unequivocal. Further, the evidence contained in the ASF and accompanying documents clearly proved that the Student had knowingly forged a degree certificate and had made use of this forged document as part of a job application.

8. In light of the Tribunal's finding regarding Charge 1, Charge 2 was withdrawn by the Provost.

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 suspension from the University for five years from the date the Tribunal makes its order; and
- b) a notation of the offence on the Student's academic record and transcript from the date of the Tribunal's order until the Student's graduation from the University.

10. The parties also submitted that it would be appropriate for the Tribunal to report this case to the Provost for publication of a notice of the decision of the Tribunal and of the sanctions imposed, with the name of the Student withheld.

Decision of the Tribunal on Penalty

11. 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 agreed on the appropriate sanction is a strong indication that the appropriate balancing of interests has occurred.

12. In this case, the Student tendered a book of documents relating to his personal circumstances at the time of the offence. We reviewed these documents and marked the book of

documents as further exhibit in the hearing. The Student also addressed the Tribunal, providing an explanation of those circumstances and expressing remorse for his actions.

13. In summary, the Student represented that:

- (a) Both he and his family experienced significant financial hardship brought on by the COVID-19 pandemic. More specifically, his father was the main breadwinner of the family and was laid off from his job due to public health requirements, while his mother and siblings had their hours of work reduced;
- (b) The Student himself had been working in a health clinic affiliated with Shoppers' Drug Mart and was also laid off due to public health requirements;
- (c) The family members were forced to spend a great deal of time together in the family home during the public health lockdowns, magnifying pre-existing familial conflicts, particularly between the Student and his father;
- (d) The Student stated that he was frantic to find a new position which would allow him to move out of the family home and avoid further familial conflict;
- (e) He admitted that he had photographed and photoshopped a degree certificate belonging to his brother in order to support his application for a position with KPMG;
- (f) He stated that he was immediately remorseful for his actions and recognized that they were wrong. He stated that he is very close to achieving the final credits required to finish his degree and hopes to do so in the future.
- (g) The documents included in his book of documents included a letter from his father's employer evidencing the layoff described above. A co-worker and friend of the Student's at the clinic confirmed the clinic's closure due to public health measures and testified to the Student's work ethic and skill at his position. A social worker provided evidence of the Student's difficult financial and emotional position within the family home. There was also a medical note attesting to the

fact that the Student had been under strain at the time of the offence and that his judgment was consequently impaired. The Provost did not oppose the tendering of this evidence.

14. 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 admitted his offence when first confronted with it, entered into an agreed statement of facts and a joint submission on penalty with the Provost, attended and participated in the Tribunal's hearing, and accepted responsibility for his actions. This is his first academic offence, and he is very close to completing his program. The Student tendered evidence that he has been trustworthy and hard working in his previous employment, and the Tribunal notes that he has shown persistence in pursuing his studies at the University even while working to support himself.
- (b) The likelihood of a repetition of the offence: the Student accepted that his actions in providing a forged degree certificate were profoundly wrong and indicated that he understood the seriousness of the offence. The Tribunal notes that the Student admitted to the offence at the first opportunity in his meeting with the Dean's Designate, but remains concerned that the offence may not have come to light if the prospective employer had not employed a verification service to check on the Student's academic qualifications.
- (c) The nature of the offence committed: all instances of academic dishonesty are serious, and the forging of an academic qualification is particularly serious. As many prior decisions of this Tribunal have noted, presenting a falsified degree certificate in order to secure employment is one of the most serious academic offences that a student can commit. As expressed in the decision of *University of Toronto and Y.Z.* (Case No. 687, July 16, 2013) "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 coming from the University undermine the University's credibility and reputation, and require the University to establish an elaborate system of checks and verifications".

- (d) Any extenuating circumstances surrounding the commission of the offence: as summarized above, the Student led evidence of a number of circumstances that he says led to the commission of the offence, including both economic and emotional pressures imposed by the earliest days of the COVID-19 pandemic. In particular, he presented evidence that he was desperate to secure new employment that would allow him to live independently and escape from a very difficult family situation.
- (e) The detriment to the University occasioned by the offence: as discussed above, the offence of forging a degree certificate from the University can devalue its reputation for academic excellence, and is profoundly unfair to all students who fully complete their degree programs.
- (d) The need to deter others from committing similar offences: deliberate dishonesty must always be denounced and deterred in order to protect the academic integrity of the University.

15. In addition to the factors from the *Mr. C.* case, the Tribunal considered other cases of this Tribunal dealing with similar offences. The Provost submitted a Book of Authorities including sixteen decisions from this Tribunal regarding offences involving falsified documents such as transcripts and degree certificates. 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.

16. In this case, counsel for the Provost noted that a significant number of the decisions presented imposed a sanction of expulsion from the University. The authorities did, however, include at least two cases, namely *University of Toronto and N.R.* (Case No. 714, October 11, 2013) and *University of Toronto and Y.Z.* (Case No. 687, July 16, 2013), both of which imposed a penalty of a 5 year suspension and a 7 year notation. Ms. Harmer was able to identify aggravating factors

in nearly all of the cases presented, including the fact that the accused students had not taken responsibility for their actions, or had committed more than one offence.

17. The Tribunal was satisfied, however, that the facts of this case did not warrant expulsion, and that a 5 year suspension was an appropriate penalty on the facts of this case. The Tribunal was persuaded by the Student's expressions of remorse, his acceptance of responsibility for his offence, and the significant difficulties that he was experiencing at the time of the offence.

18. We did, however, have a number of questions for Provost's counsel concerning the joint proposal for a notation on the Student's academic record and transcript until his graduation from the University. Based on the authorities presented by the Provost, it appears that a 5 year suspension had generally been accompanied by a 7 year notation. When questioned about the difference here, where a notation "until graduation" was proposed, Provost's counsel was not able to point to an express discussion of this issue in the existing case law. We believe, however, that one of the central purposes of the notation is to ensure that future professors and invigilators are aware of the Student's disciplinary history and are able to provide appropriate scrutiny of the Student's work. There is no desire, however, for this sanction to follow the Student for a lengthy period of time once he has served his suspension and then completed his studies. We also note that the Student is very close to completing his degree.

19. In this case, and in light of this central purpose and of the significant mitigating factors that we have discussed above, we were prepared to agree that a notation "until graduation" was flexible and would fulfill the aims of the sanction. The joint submission therefore does not bring the administration of justice into disrepute and is not otherwise contrary to the public interest. It strikes a fair balance between the mitigating and aggravating factors.

20. In all of the circumstances, the Tribunal is satisfied that the following order is appropriate:

1. 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*.

2. The following sanctions shall be imposed on the Student:
 - (i) a suspension from the University for five years from the date the Tribunal makes its order; and
 - (ii) a notation of the offence on his academic record and transcript from the date of this order until his graduation from the University.

3. That this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and of the sanctions imposed, with the name of the Student withheld.

Dated at Toronto this 3rd day of May, 2022.

Original signed by: _____

Ms. Alexandra Clark, Chair

On behalf of the Panel