

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty filed on March 28, 2022,

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:

UNIVERSITY OF TORONTO

- and -

H [REDACTED] M [REDACTED]

REASONS FOR DECISION

Date of Hearing: June 2, 2022, via Zoom

Members of the Panel:

Ms. Karen Symes, Chair

Professor Joseph Clarke, Faculty Panel Member

Mr. Dylan Dingwell, Student Panel Member

Appearances:

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

Mr. William Webb, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Mr. H [REDACTED] M [REDACTED]

Hearing Secretary:

Ms. Krista Kennedy, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances

Charges and Hearing

1. This Panel of the University Tribunal held a hearing, by Zoom, on June 2, 2022, to consider the charges brought by the University of Toronto (the “University”) against H [REDACTED] M [REDACTED] (the “Student”) under the *Code of Behaviour on Academic Matters, 1995* (the “Code”).
2. The charges against the Student are as follows:

Charges relating to Introduction to Financial Accounting:

- i. On or about March 24, 2021 you knowingly had someone personate you during an on-line test in MGT120HS5 ("Introduction to Financial Accounting"), contrary to section B.I.1(c) of the Code.
- ii. In the alternative, on or about March 24, 2021, you knowingly obtained unauthorized assistance during an on-line test in Introduction to Financial Accounting, contrary to section B.I.1(b) of the Code.
- iii. In the alternative to each of the charges above 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 during an on-line test in Introduction to Financial Accounting, contrary to section B.I.3(b) of the Code

Charges relating to The Environment:

- iv. On or about April 17, 2021, you knowingly obtained unauthorized assistance in connection with the final examination in the course ENV100Y5Y (20211) — ("The Environment"), contrary to section B.I.1(b) of the Code.
- v. In the alternative to each of charge 4, you knowingly did or omitted to do something for the purpose of engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage in the Environment, contrary to section B.I.3(b) of the Code.

The particulars for charges 1 to 3 are as follows:

- vi. At all material times, you were registered at the University of Toronto Mississauga and enrolled in the course Introduction to Financial Accounting, which was taught by Prof. Catherine Seguin.
- vii. Students in the Introduction to Financial Accounting were required to complete an online term test, which was worth 20% of the final grade in that course.
- viii. You knew that you were required to complete the term test yourself and that you were not permitted to obtain the assistance of anyone else during the term test.
- ix. You provided your Quercus login information to someone with the username Josep Gatue and the email address gatue63@yahoo.com.

- x. You paid this person around \$60 to complete the term test on your behalf and this person did so.
- xi. You knowingly had this person complete and submit the term test in your name. You did so in order to obtain academic credit and an academic advantage you did not earn.

The particulars for charges 4 and 5 are as follows:

- xii. At all material times, you were registered as a student at the University of Toronto Mississauga.
 - xiii. In Winter 2021, you enrolled in The Environment, which was taught by Prof. Monika Havelka and Prof. Barbara Murck.
 - xiv. The Environment had a final examination worth 40% of the final grade in that course.
 - xv. You knew that you were required to complete the final examination yourself and that you were not permitted to obtain the assistance of anyone else during the final exam.
 - xvi. During the final examination, you took pictures of the examination questions and forwarded them to a third party who provided answers to you. You knowingly received unauthorized assistance from this person to complete the final examination.
 - xvii. You paid \$400 for tutorial services, including receiving answers to the examination questions from a user identified on WeChat as a220fg.
 - xviii. You used dishonest means to obtain an unfair academic advantage. You knowingly received unauthorized assistance to complete the final examination.
3. The Student and Assistant Discipline Counsel, on behalf of the University, were able to reach an agreement and the hearing proceeded on the basis of an Agreed Statement of Facts (“ASF”). The Student provided further evidence on the issue of the appropriate penalty through *viva voce* testimony.
4. The Panel reviewed the ASF and the documents filed confirming the facts set out in the ASF before and during the course of the hearing. A summary of the agreed facts follows.

Evidence and Findings

- 4. The Student first registered as a student at the University of Toronto Mississauga in Fall 2020. As of March 15, 2022, he had earned 4.0 credits.

Introduction to Financial Accounting

- 5. In Winter 2021, the Student enrolled in MGT120H5S – Introduction to Financial Accounting, which was taught by Professor Catherine Seguin. The course was an introduction to the theory and concepts of financial accounting and students were expected to learn how to construct and interpret financial statements. Topics included an introductory understanding of accounting and the context within which accounting

occurs. A copy of syllabus for Introduction to Financial Accounting was attached to the ASF at Tab 4.

6. The second quiz in the Introduction to Financial Accounting was a 90-minute, on-line test conducted on Quercus on March 24, 2021. Professor Seguin made an announcement on Quercus reminding students what they were permitted to do and what they were prohibited from doing during the quiz. A copy of this announcement was attached to the ASF at Tab 5. It warned students that they must work individually:

It is expected that students will write in a private location with no other person present, and may not contact anyone during the test. No unauthorized aids may be present during any test or examination - this means no textbooks, cell phones, pagers, PDAs, audio players, discussion boards, messengers or other such items. Students may also not have other online resources open for the duration of the exam (this includes the etext, MyAccountingLab, and any discussion board or messenger). This is a university policy, and any violation may constitute an Academic Offence.

7. The Student submitted answers to the second quiz on March 24, 2021, using his UTORid <[REDACTED]>.
8. On April 5, 2022, someone using the user name "Josep Gatue" and the email address gatue63@yahoo.com sent a series of email messages to Professor Seguin. A copy of these messages was attached to the ASF at Tab 6. In the messages, Josep Gatue advised Professor Seguin that a student with the UTORid <[REDACTED]> had "relied on services of a third party in accounting exam recently concluded." One of the messages, which the Student admits that he sent, stated:

The **exam** will be held **online on Wednesday March 24, 2021, beginning at 8:10 p, EDT**. It will be 1.5 hours in length. it will cover material from Chapters 1 to 8. Also has 30 minutes to digitalizing and upload the work, so I assume we have 2H to do the exam.

There will be 16 multiple choice questions and 4 problems.

I need at least 80+ to achieve my goal, so please make sure you have the ability to do that. Also, the test must be submitted in handwritten with my ID on it. So, please give me some time to copy it down.

9. On March 21, 2021, the Student admits that he sent an email that to Josep Gatue that read "I also need some time to copy your work down with my handwriting. OK, I trust you. But please spend some more time on my exam so, I felt safer."
10. On March 30, 2021, the Student admits that he wrote an email to Josep Gatue that said "Man, the final is just being so important to me since you only got me a 62% this time, and I need an 85+ on the final for real, if you can't do it. It's OK, just tell me. Because otherwise, I can't even get into my major next year."

11. Professor Seguin attempted to contact the Student to discuss the matter, but he did not respond to her. The Student subsequently sent Professor Seguin a letter on April 12, 2021, which was attached to the ASF at Tab 7. The letter read, in part:

I completed this test on March 24 with limited preparation, as I didn't do enough practice questions given that many other exams were going on in the meantime. My time management was poor. I'm so afraid the grade in MGT120 may drop. Then, I found one friend who also studies in this type of course and i gave him my Quercus username and password, and after he got into the exam, he told me what the question came out and we discussed about the exam questions together. After the exam was done, we double checked the answer and my friend helped me submit the exam and I uploaded all of my draft papers with my ID on it to the quercus.

12. The letter also included the Student's expression of remorse and understanding of the serious nature of the academic misconduct. The Student stated:

In the end, I would like to apologize again to the school and the professor. This is the first time that I have been reported for violating the rules. I deeply regret my dishonest behaviors. I also realize the seriousness of violating the school's regulations. I hope the school can let me stay and continue my studying without being suspended. If I received suspension, this would be a huge strike to me and my family. Since I've always been a good student historically, It would be so frustrated and I don't know how should I communicate with my family members in the future. But I know wrong is wrong, you had to pay for the mistakes that you made, so I am willing to take integrity workshop or community service or probation as a mark to warn me. As long as I can stay, I will also work hard to avoid the same thing. I am proud that I can go to U of T campus last fall, and have been always dreaming about making more friends in that campus. I am fine with punishment of failing this course or retaking this course in summer, but please give me a chance to remedy my mistake and grow positively.

The Environment

13. In Winter 2021, the Student also enrolled in ENV100Y5Y - The Environment, which was taught by Professor Barbara Murck. This introductory environmental science course examines large-scale features of Earth, natural hazards, Earth's climate and weather systems, energy and mineral resources, human population growth, extinction and biodiversity, environmental toxins, vanishing soils and expanding deserts, forests, urban environmental management, and food resources. A copy of syllabus for The Environment was attached to the ASF at Tab 8.
14. The final examination in The Environment, which was worth 40% of the final grade, was held on-line via Quercus on April 17, 2021.
15. Professor Murck provided students with the examination cover sheet for the final examination three weeks prior to the date of the examination. It was also available throughout the final examination. It specifically warned students that they were not permitted to communicate with anyone during the final examination and that they were

not permitted to access any external apps or websites during the examination. The Student agrees that he received and read the examination cover sheet.

16. Because of concerns about academic misconduct during a term test held in December 2020, Professor Murck modified the design of the final examination. She used brand-new questions and constructed different versions of the final examination, so that students received equivalent but slightly different versions of the questions. There was, therefore, no way that a student writing the final examination could know about a question that was on a different version of the final examination, unless they had communicated with someone who had seen that different version of the final examination.
17. The Student submitted answers to the final examination on April 17, 2021. A copy of his final examination was attached to the ASF at Tab 9.
18. When the teaching assistant reviewed the Student's final examination answers, she recognized that he had answered questions from versions of the final examination that he did not receive and that his answers were identical to those of other students. The problems on the Student's examination included, but were not limited, to his answers to questions #3, 4, 6, and 8. In some of the Student's answers, he responded to a question that was not on the version of the examination he received. For example, on the Student's version of the examination question 4 read as follows:

SCENARIO:

For science fiction fans! Let's imagine that it's the future, and some amazing new technologies are making lots of things possible...

Questions about this scenario:

- 1) Let's say that seafloor mining is now possible, potentially adding to our reserves of metals. What kinds of challenges had to be overcome to develop this technology? What might be some of the benefits or drawbacks of mining on the bottom of the ocean? (3 marks)
 - 2) It's the future, and - following the trend towards urbanization of the population - almost 90% of the world's people are now living in urban centres. What factors caused all those people to move from rural to urban environments? What are some of the potential impacts of this? (There could be both positive and negative impacts.) (4 marks)
 - 3) In this future world, population growth has declined and the overall number of people has started to decline. However, people are using more resources than ever. What are some possible impacts of this, in the global context? What would Malthus have to say about this? (3 marks)
19. The Student submitted the following answer, which was to a completely different version of the question:

1) The Haber-Brosch process is a chemical process that can makes ammonia from nitrogen in the atmosphere. On the other hand, more chemical fertilizer will lead to less production. Nitrogen fertilizer will lead to environmental pressue. Only reasonable production and application of nitrogen fertilizer can improve crop yield

2) Once the gene is modified, on the on hand, it may causes a series of unknown stuctural and functional changes in the organism. On the other hand, the effects of the ransgenic operation of the organism can be passed on genetically. Safeft issues 1 food safety; lag effect, allergens, change in nutritional compostion. 2 Biosafety: the impact on biodiversity. 3 Environmental security: the impact on the stability of the ecosystem. Genetically modified Organisms(GMOS) may overreproduce because of one advantage of their genes, causing stress to the environment.

3) Green plants use the sun's light energy, assimiliate carbon dioxide(CO₂) and water (H₂O) to produce organic matter and release oxygen process, called photosynthesis. Water in the body ecaporates through the stomata. Since phoyosynthesis also consumes water, we need to drink at least 20 liters of water a day to stay healthy. If humans can photosynthesize the first thing that will happen is that the water cycle on Earth will intensify, competing with plants for sunlight Meeting with the Dean's Designate.

20. In addition, some of the Student's answers were identical to answers provided by four other students.

Meeting with the Dean's Designate

21. On June 30, 2021, the Student met with Professor Charles Elkabas, the Dean's Designate for Academic Integrity. The Student admits that Professor Elkabas read the required warnings from the *Code of Behaviour on Academic Matters* to him and that he knew and accepted that anything that he said during that meeting could be introduced into evidence against him at the Tribunal.
22. With respect to Introduction to Financial Accounting, the Student admitted that he had provided his Quercus login credentials to his friend, "Truman," a student at Western University. When confronted by the email messages that "Josep Gatue" had provided to Professor Seguin, the Student admitted that, in fact, he had written the messages and provided his login information to a "tutor" from a website called "Study pool." The Student admitted that he had paid \$50 to 60 for the service.
23. Professor Elkabas reminded the Student that he had provided a different version of events in his letter to Professor Seguin. The Student stated that the letter was accurate, except that he had paid the "tutor" from Study Pool to write the term test for him and had not received assistance from a friend.
24. The Student admitted to Professor Elkabas that he paid for the tutor from Study Pool personate him during the second term test in Introduction to Financial Accounting.

25. With respect to The Environment, the Student admitted that he paid about \$400 to a person to help him write the final examination. He communicated with this person during the final examination through the person's WeChat userid <a220fg>. The Student denied communicating with other students during the final examination. He said that he would message <a220fg> that he needed an answer to a question number, he would receive an answer, and he would copy and paste the answer into his examination answers. The Student stated that he did not read carefully either the questions on the examination or the answers provided to him as he was running out of time.
26. The Student admitted that he had paid to received unauthorized assistance during the final examination in The Environment.
27. The Student confirms that the statements and admissions he made about both courses to the Dean's Designate were true and accurate.
28. With respect to the course Introduction to Financial Accounting, the Student admits that:
 - (a) he knew that he was not permitted to have anyone assist him during the term test on March 24, 2021;
 - (b) he knowingly paid \$50 to \$60 and provided his Quercus credentials to someone from the Study Pool to personate him and to provide him with all of the answers to the Introduction to Financial Accounting term test held on March 24, 2021;
 - (c) he is guilty of having paid another person personate him during the Introduction to Financial Accounting term test held on March 24, 2021; and
 - (d) he is guilty of knowingly receiving unauthorized assistance during the Introduction to Financial Accounting term test held on March 24, 2021.
29. With respect to The Environment, the Student admits that:
 - i. he knew that he was not permitted to have anyone assist him during the final examination;
 - ii. he knowingly paid \$400 to someone to provide him with unauthorized assistance during the final examination; and
 - iii. he is guilty of knowingly receiving unauthorized assistance during the final examination.
5. The Student provided further evidence through oral testimony. The Student testified that he committed these academic offences in his freshman year, which was a difficult time for him. He was attending school remotely from China where he was in quarantine for most of the year. He testified that this was a struggle for him as he was isolated from the academic community and he had no friends to study with. He also testified that he was experiencing some family struggles resulting from the divorce of his parents a few years earlier. The Student testified that, in his freshman year, he was overwhelmed by the unfamiliar environment and did not understand how important academic integrity was. The

Student explained that since coming to Toronto in his second year, he has worked very hard to do better academically and to improve himself. He has achieved higher grades in his second year and has become part of the university community by making friends and participating in activities. The Student testified that this community is very important to him and he really did not want to leave the community or his friends. It was important to the Student that he be able to graduate with his friends. The Student told the panel that he does not want his freshman mistakes to cause irreversible errors for his whole life.

6. Following deliberations and based on the admissions made by the Student, the ASF and the supporting materials, the Panel concluded that charges #1 and #4 had been proven with clear and convincing evidence on a balance of probabilities, and accepted the guilty plea of the Student in respect of those charges. The Panel was advised that if the Tribunal convicted the Student on those charges, the University would withdraw Charges #2, #3 and #5 and those charges was so withdrawn.

Penalty

7. The University submitted that the following penalty is appropriate in the circumstances:
 - a. a final grade of zero in each of MGT120HS5 and ENV100Y5Y (2021);
 - b. a suspension from the University for five years commencing on June 2, 2022;
and
 - c. a notation of the offence on his academic record and transcript for six years commencing on June 2, 2022.
8. The University also submitted that this case should be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the name of the Student withheld.
9. The Student submitted that a lesser penalty was appropriate in the circumstances. The Student asked the Panel to consider a suspension of two to three years. The Student also asked that the offence not be noted of his transcript for six years (or a year longer than the period of suspension). The Student was concerned that the length of the suspension and notation on his transcript would unduly delay his ability to complete a degree and then pursue further education.
10. After reviewing the evidence, hearing submissions from both parties and deliberations, the panel concluded that the penalty recommended by the University was appropriate in the circumstances. The Panel determined that the penalty recommended by the Student was insufficient to address the conduct and resulting harm to the University in this case. In arriving at this decision, the Panel took into consideration the nature of the offence, the detriment to the University occasioned by the offence, the need to deter other students from acting in a similar manner, the character of the Student, and the circumstances surrounding the commission of the offence (*University of Toronto v. Mr. C. Case No. 1976/77-3, November 5, 1976* at p. 15).

11. The Student committed very serious offences. Preventing this type of offence from occurring is critical to ensuring that a University of Toronto degree is *earned* and cannot be bought. As set out in the Discipline Appeals Board decision in *The University of Toronto and S.C., N.R.H. and M.K.K. (“S.C.”)* (Case Nos. 596, 597 and 598, November 23, 2011), “purchased essay offences are about as serious as can be committed in a University setting,” (para 136). The Appeals Board explained the reasons for this at paras 104-105:

[104] We begin our analysis by explaining our views about the nature of the offence in this case. As previous decisions of this Board make clear, purchasing academic work for a fee and then submitting that work with a view to securing academic credit, has always been considered among the very most, to use the majority’s description, “egregious” offences a student can commit in the University environment. There are a number of reasons for this. First, in taking these steps, there is clear evidence of intention, deliberation and knowing deception, both in the planning, managing and completion of the offence, all of which occurs over a period of time, as in this case. As well, the act of paying for the services of another in this context, introduces a commercial element into the relationship of a student with the University, a factor very distant from the core values of an academic institution, where individual effort, intellectual thought and hard work are the hallmarks.

[105] Moreover, this particular variety of plagiarism is quite different and more severe than the usual appropriation of the work of another through internet sources or the many ways that existing work can be commandeered. With purchased work, as the advertising of The Essay Place makes clear, the student buys an original work, tailored to the specific subject and which will not be found through the increasing sophisticated antennae of professors and their electronic helpers.

12. The Appeals Board explained that, for this type of offence, the Tribunal should approach sentencing “with the working assumption that expulsion from the institution is the sanction that is best commensurate with the gravity of the offence,” (at para 136). That said, whether or not expulsion is appropriate will depend on a number of factors and the particular facts of the case. The University provided the panel with authorities on cases of purchased essays:
- i. *The University of Toronto and S.C., N.R.H. and M.K.K.* (Case Nos. 596, 597 and 598, November 23, 2011);
 - ii. *The University of Toronto and Y.S.* (Case No. 1035, October 30, 2019);
 - iii. *The University of Toronto and J.W.* (Case No. 1082, August 23, 2019);
 - iv. *The University of Toronto and P.H.Q.* (Case No. 982, May 8, 2019);
 - v. *The University of Toronto and Y.W.* (Case. No. 990, September 12, 2019);

- vi. *The University of Toronto and N.H.* (Case No. 996, May 7, 2019);
 - vii. *The University of Toronto and A.D.* (Case No. 972, September 26, 2018);
 - viii. *The University of Toronto and Z.Z.* (Case No. 918, March 28, 2017);
 - ix. *The University of Toronto and Z.Z.* (Case No. 862, August 23, 2016); and
 - x. *The University of Toronto and Y(A).T.* (Case No. 783, July 21, 2015)
13. The Panel considered the character of the Student. The Student admitted to the offences – this demonstrates insight and remorse into the misconduct. These were the Student’s first academic offences, however the conduct involved multiple offences in different courses. The University submitted that the Student’s admission of guilt is tempered by the fact that he initially lied and minimized the misconduct by saying that a friend had assisted him and that he only admitted to the misconduct when confronted with the evidence provided by the tutor who had turned him in. The Panel agrees with the University that this factual history is an aggravating factor that weighs in favour of a serious penalty.
14. The parties agree that there are mitigating factors present in this case. First, the Student has admitted to the offences. Second, the offences were committed in the Student’s first year at the University when he was struggling to adapt to a new environment. Third, the Student was experiencing family difficulties around the time of the offences. Finally, and most significantly in the opinion of the Panel, the offences were committed during the global Covid-19 pandemic. The Student was attending school remotely from China where he spent most of his freshman year in quarantine. The Student described how difficult it was to be completely isolated from the academic community and how much he struggled to study on his own. The Panel finds that Covid-19 has created exceptional circumstances and challenges for students and that the conduct of this Student cannot be examined without placing it in the context of the impact of Covid-19. Assistant Discipline Counsel agreed that the impact of Covid-19 was a mitigating factor in this case. Assistant Discipline Counsel submitted that, but-for the mitigating factors outlined above, the appropriate penalty would have been expulsion.
15. The Panel considered the likelihood of repetition of the offences. While these are the Student’s first academic offences, he committed multiple offences over a period of time in more than one course. The Student testified that he has learned from this experience and has worked hard to improve himself since these events. The Student also testified that, at the time the offences were committed, he did not have a clear understanding of the importance of academic integrity but he has since come to understand its importance. This self-reflection and statement of personal growth would normally assuage concerns about the Student engaging in similar conduct in the future. However, in the present case the Student’s testimony at the hearing must be considered in the context of the letter that he sent to Professor Seguin on April 12, 2021, following the first offence. The Student wrote that he felt deep regret for his behaviour and that he “realize[s] the seriousness of violating the school’s regulations.” The Student asked for a second chance, said he knew that “wrong

is wrong” and assured her that “as long as I can stay, I will also work hard to avoid the same thing.” Five days later, on April 17, 2021, the Student paid \$400 for unauthorized assistance on an exam. The Panel must weigh the sincerity of the Student’s expression of remorse and personal growth against this factual history. The Panel believes that there is a real risk of a repetition of similar offences in this case and that a significant penalty is required to address this concern.

16. During the hearing, the Panel asked about the rationale behind having a notation of the offence on the Student’s transcript for one year longer than the suspension itself (as the Student asked that this not be imposed). The rationale given was that the notation for an additional year once the Student returns to the University is a type of probation to ensure that the conduct is not repeated. As the notation is not permanent, once the Student has proven themselves for that year, their record is cleared of the offence. This rationale makes sense and is particularly appropriate in the present case given the facts outlined above.
17. In all of the circumstances, and having reviewed the cases provided by the parties, at the conclusion of the hearing, the Panel issued the following Order, which is hereby confirmed:
 - i. The Student is guilty of one count of the academic offence of personation, contrary to section B.I.1(c) of the *Code of Behaviour on Academic Matters*;
 - ii. The Student is guilty of one count of the academic offence of obtaining unauthorized assistance, contrary to section B.I.1(b) of the *Code of Behaviour on Academic Matters*;
 - iii. The following sanctions shall be imposed:
 - (i) a final grade of zero in each of MGT120HS5 and ENV100Y5Y (2021);
 - (ii) a suspension from the University for five years commencing June 2, 2022; and
 - (iii) a notation of the offence on his academic record and transcript for six years commencing June 2, 2022.
 - iv. This case shall be reported to the Provost for publication of a notice of the Tribunal’s decision and the sanction imposed, with the student’s name withheld.

Dated at Toronto this 31st day of August, 2022.

Original signed by:

Ms. Karen Symes, Chair
On behalf of the Panel