

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty filed on November 4, 2021,

**AND IN THE MATTER OF** the University of Toronto *Code of Behaviour on Academic Matters, 2019,*

**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] L [REDACTED]

**REASONS FOR DECISION**

**Hearing Date:** September 28, 2022, via Zoom

**Members of the Panel:**

Ms. Dena Varah, Chair  
Professor George Cree, Faculty Panel Member  
Mr. Dylan Dingwell, Student Panel Member

**Appearances:**

Mr. William Webb, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP  
Mr. Joseph Berger, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

**Hearing Secretary:**

Ms. Nadia Bruno, Special Projects Officer, Office of Appeals, Discipline and Faculty Grievances

**Not In Attendance:**

Mr. M [REDACTED] L [REDACTED]

1. The Trial Division of the University Tribunal was convened on September 28, 2022 (the “Hearing Date”) to consider the charges brought by the University of Toronto (the “University”) against M■■■■ L■■■ (the “Student”).

## **PART 1 - CHARGES**

2. The Student is charged with three offences under the University of Toronto *Code of Behaviour on Academic Matters, 2019* (the “Code”):

**Charge 1:** On or about December 7, 2020 you knowingly used or possessed an unauthorized aid and/or obtained and/or provided unauthorized assistance in connection with Assignment 3 in CSC108H1F: Introduction to Computer Programming (the “Course”), contrary to B.I.1(b) of the *Code*;

**Charge 2:** On or about December 7, 2020, you knowingly represented as your own idea or expression of an idea or work in another in Assignment 3 in the Course contrary to B.I.1(d) of the *Code*; and

**Charge 3:** In the alternative to the above charges on or about December 7, 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 Assignment 3 that you submitted in the Course, contrary to B.I.3(b) of the *Code*.

3. Assistant Discipline Counsel advised that Charge 3 is in the alternative. If the Student is found guilty of either Charge 1 or Charge 2, Charge 3 will be withdrawn.

## **PART 2 - PROCEEDING IN THE ABSENCE OF THE STUDENT**

4. Assistant Discipline Counsel attended the hearing date. The Student did not attend. The evidence of Laurie O’Handley, Academic Integrity Specialist with Student Academic Integrity (“SAI”) at the Faculty of Arts and Sciences at the University of Toronto was tendered by way of affidavit affirmed on September 21, 2022.

5. Ms. O’Handley affirmed that in April 2021, SAI received allegations that a number of students had committed academic misconduct in Assignment 3: Exploring the Twitterverse (“Assignment 3”) in the Course. The Student was one of those students.

6. On May 19, 2021, SAI emailed the Student regarding the academic integrity allegations against him. The Student was invited to meet with the Dean’s Designate for Academic Integrity with SAI to discuss the allegations against him. A follow up email was sent on May 28, 2021, after SAI received no response to its email of May 19, 2021.

7. As the Student did not respond to the emails, the Dean’s meeting scheduled for June 2, 2021, was cancelled. The meeting was rescheduled for July 15, 2021. SAI sent an email to the Student on June 25, 2021, advising of the new date. The Student did not respond to this email. As a result, SAI sent a letter to the Student on July 19, 2021, advising that the case was being forwarded to the Vice-Provost for review and recommendations that charges be laid.

8. The evidence of Samanthe Huang, Administrative Assistant with the Office of Appeals, Discipline and Faculty Grievances (“ADFG Office”) at the University was tendered by way of affidavit sworn September 21, 2022.

9. After charges were filed, Ms. Huang served the Student on November 4, 2021, with the

letter regarding the charges that were filed against him by way of email to the email address that the Student had provided in the Repository of Student Information (“ROSI”).

10. Ms. Huang followed up with a Notice of Electronic Hearing for a hearing on September 28, 2022, by way of email of August 3, 2022. A revised Notice of Electronic Hearing was sent by email on August 24, 2022.

11. Ms. Huang did not receive a bounce back to any of her emails, which indicated that they could be delivered.

12. Natalia Botelho, an Assistant at the law firm, Paliare Roland Rosenberg Rothstein LLP (“Paliare Roland”), provided an affidavit affirmed September 22, 2022.

13. In that affidavit, Ms. Botelho outlined additional attempts she or Ms. Harmer, the former Assistant Discipline Counsel with carriage of his matter, made to contact the Student. This includes early emails in November and December 2021, in which Ms. Harmer attempted to engage the Student in discussions about the charges. A disclosure letter was sent by email on February 16, 2022, by an articling student at Paliare Roland. Ms. Harmer sent a follow up email on March 24, 2022, again trying to engage the Student in discussions.

14. By the summer of 2022, there were additional emails regarding scheduling with the Student as well as the emails aforementioned that had gone from the ADFG Office with the Notices of Electronic Hearing.

15. Ms. Harmer attempted to call the Student at the number that the Student had provided in ROSI. Ms. Harmer received a voice mail recording of a female voice that identified the mailbox as belonging to “Bella”.

16. On September 22, 2022, Paliare Roland arranged for a courier to deliver a package to the Student at the address provided for in ROSI. A male adult at the address indicated that the Student did not live at that address.

17. Finally, Ms. Botelho emailed the Student on September 22, 2022, advising that the Provost would rely on affidavits at the hearing and asking whether the Student intended to cross-examine on any of them.

18. The Student never replied to any correspondence from the University or from Paliare Roland.

19. Based on the extensive attempted correspondence with the Student, at the email address and telephone number that the Student provided for in ROSI, the Panel is satisfied that pursuant to the *Statutory Power and Procedures Act* and the University Tribunal's *Rules of Practice and Procedure* (the "Rules") the Student received reasonable notice of the hearing date.

20. The Rules provide that service is effected by sending a copy of the document to the Student's mailing address contained in ROSI or by emailing a copy to the email contained in ROSI. Both of these steps were taken numerous times.

21. The hearing proceeded in the absence of the Student.

### **PART 3 - THE FACTS UNDERLYING THE CHARGES**

22. The Student was enrolled in the Course in the fall 2020 term,. The Course was taught online by Jacqueline Smith ("Professor Smith").

23. Assignment 3 was worth 9.5% of the grade in the Course and required students to practice

working with structured files, practice building and using dictionaries, as well as other problem breakdown into sub-tasks and functions. The Student submitted his work on December 7, 2020, using MarkUs.

24. The Course syllabus included a section entitled “Academic Integrity”. The section referred and directed students to the Code. It also specifically instructed students to never look at another student’s assignment, show other students their assignments, solutions or drafts or seek help of websites like Chegg.com or online tutors. Professor Smith also advised students during the Course to complete assignments independently.

25. In reviewing the Student’s assignment, Professor Smith noticed that it was similar to an assignment submitted by another student. Professor Smith used the MOSS software, which identified extensive similarities between the two assignments. Professor Smith then herself reviewed the assignments and generated a line by line comparison. She identified that the answers given by the two students were highly and unusually similar for most of their 300 lines of code and even included certain things that were not discussed in the Course.

26. Professor Smith further discovered that Assignment 3 had a match with another student enrolled at the University of Toronto’s Mississauga campus. It was Professor Smith’s professional opinion that the “extensive similarities” in the assignments of the two students were “too great and too unusual to be coincidental”.

27. As noted above, the Student never answered any requests to discuss these issues. By contrast, the other student met with the Dean’s designate on July 15, 2021, to discuss the allegations. In this meeting, the other student admitted to sharing a screenshot of her work for Assignment 3 with other students in the Course in a group chat. She was sanctioned for this

offence.

#### **PART 4 - FINDINGS ON LIABILITY**

28. The Panel was satisfied that the evidence establishes that the University has proven on a balance of probabilities the facts to support a conviction on Charges 1 and 2. As a result, Charge 3 was withdrawn by the University.

29. The evidence establishes without question that there were highly unusual similarities between the assignment submitted by the Student and the assignment submitted by another student. Professor Smith's evidence is that most of the 300 lines of code were "highly and unusually similar" and also included matters that were not discussed in the Course. These two things in combination make it extremely unlikely that the similarities were due to chance. It is far more likely that, in contravention of the Code, the students shared their work and produced similar assignments. There is therefore little doubt that Charge 1 was made out on the evidence.

30. The more complicated question was whether or not Charge 2 was established by the evidence. Charge 2 relies on the Student having represented another's ideas or expressions as his own, rather than the less specific question in Charge 1 as to whether or not there was unauthorized aid either obtained or provided. Therefore, in order to make out Charge 2, the Panel had to be satisfied that it was more likely than not that the Student had used another student's work rather than collaborated on the assignment or shared his work.

31. The Panel accepted the admission by the other student that she had shared a screenshot of her work with others. It was therefore more likely than not, that she had shared the work with the Student who had then used it, representing it as his own idea or expression. The evidence on this point was not perfect, nor was it tested. That said, the question is merely whether on a

preponderance of the evidence, the Panel was satisfied that this was the more likely flow of assistance. On a whole, the Panel was satisfied. This is also in the face of no evidence of any kind from the Student.

32. The Panel is also satisfied that even if Charge 2 had not been made out, the penalty for Charge 1 alone would be identical to the penalty that it imposed on the Student for both Charges 1 and 2, which is set out below. Therefore, if the Panel is wrong on a review of the evidence and its conclusion with regard to Charge 2, the sanction is unaffected

#### **PART 5 - SUBMISSIONS ON PENALTY**

33. Assistant Discipline Counsel seeks the following sanctions be imposed on the Student:

- a) a final grade of zero in the course CSC108H1F in Fall 2020;
- b) a suspension from the University of Toronto for a period of two years from September 1, 2022 to August 31, 2024; and
- c) a notation of the sanction on his academic record and transcript from the date of the Tribunal's order to August 31, 2025.

34. Assistant Discipline Counsel referred to Appendix "C" to the Code, which provides a guide to sanctions. This guide provides that in the case of a first time academic offence such as plagiarism, the University will seek a two-year suspension. Although this is not binding on the Panel, it provides the expectation for students and consistency in penalties sought.

35. Assistant Discipline Counsel noted that the proposed suspension in this case was slightly under two years to allow the Student to enrol for Fall classes in 2024. If the suspension went for



two full years, it would actually require that the Student not be enrolled in the University for longer than two years.

36. Assistant Discipline Counsel submitted that the nature of the offence is serious, and that the detriment to the University occasioned by the offence and the need to deter others is central. Assistant Discipline Counsel did not seek to rely on any aggravating factors. Assistant Discipline Counsel acknowledged that this was the Student's first offence.

37. As the Student did not provide any evidence or submissions, there was nothing before the Panel regarding the character of the Student or other mitigating factors on penalty.

38. Assistant Discipline Counsel relied on eight precedents in which students had committed similar offences. The precedents did not readily distinguish between plagiarism or unauthorized assistance, as the offences are considered similar under the factors that dictate the penalty. In the cases relied on by Assistant Discipline Counsel, a two-year suspension was the minimum penalty imposed for this type of offence.

### **DECISION ON PENALTY**

39. The Panel carefully considered the facts of the case, the factors to consider on penalty and the facts of this case. The Panel is aware that prior Tribunal decisions are not binding on it, but that they do offer guidance for the Panel on penalties imposed on other students in similar circumstances. There is a value in consistency in penalties.

40. The seminal case of *Mr. C* outlines the factors that the Panel should consider in determining the appropriate penalty:

- a) The character of the person charged;

- b) The likelihood of repetition of the offence;
- c) The nature of the offence committed;
- d) Any extenuating circumstances surrounding the commission of the offence;
- e) The detriment to the University occasioned by the offence; and
- f) The need to deter others from committing a similar offence.

*(University of Toronto v. Mr. C. Case No. 1976/77-3, November 5, 1976, at p. 15)*

41. In this case, the Panel agreed that the appropriate penalty is the one sought by Assistant Discipline Counsel. It is fair that the penalty be just under two years, backdated to September 1, 2022, as the Student will not be able to obtain credit from the University for two years. He will be able to enrol again for the Fall semester in 2024.

42. There is no evidence of any mitigating or aggravating factors in this case nor any evidence about the character of the Student. The penalty must therefore be focused on the nature of the offences and the need for deterrence. The nature of the offences and their impact on the University require that the penalty be significant. It is oft stated how serious the offences of plagiarism and unauthorized assistance are in the university setting. There is good reason for this: these offences undermines the very foundation of academic integrity and result in a profound unfairness to students who work diligently and independently to earn their credits. If left unchecked, these offences can undermine the credibility of the institution and the degrees it confers.

43. Students are informed at every turn – from the Code to course syllabi – that plagiarism will not be tolerated. Where students commit this type of offence, they cannot claim ignorance – the

University has delivered the message of its expectations, and the seriousness of the offence repeatedly and clearly.

44. The offence in *The University of Toronto and G.L.* (Case No. 1262, February 22, 2022) (“G.L.”) was comparable to the one in this case. Two students provided a strikingly similar answer to a question on an assignment in a Math course. In that case, the original answers appear to have been copied from the website Chegg.com. The student did not participate in the process and there was no evidence of mitigating factors. The Panel in *G.L.* imposed slightly less than a two-year suspension to allow the student to re-enroll in the University at the two-year mark.

45. Several other cases with similar facts impose two-to-three-year penalties, which vary slightly with factors including the participation of the student, the nature of the offence and aggravating factors such as previous offences. A sanction of at least two years for unauthorized assistance and/or plagiarism is both standard and reasonable.

46. There is no basis in this case for a different penalty than the one outlined by the Code and imposed in numerous precedents. The offence is no less serious than those in the cases relied by Assistant Discipline Counsel, all of which impose at least two years for unauthorized assistance and/or plagiarism. Given the notice provided by the Code, the Student himself could expect no different penalty in the circumstances.

47. The appropriate length of suspension in this case is two years.

## **PART 6 - THE ORDER**

48. The University Tribunal orders:

- a) a final grade of zero in the course CSC108H1F in Fall 2020;

- b) a suspension from the University of Toronto for a period of two years from September 1, 2022, to August 31, 2024; and
- c) a notation of the sanction on his academic record and transcript from the date of the Tribunal's order to August 31, 2025.

49. 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 19<sup>th</sup> day of December, 2022

Original signed by:

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Dena Varah, Chair  
On behalf of the Panel