

THE UNIVERSITY TRIBUNAL

THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty filed on March 2, 2023,

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 -

H [REDACTED] Z [REDACTED]

REASONS FOR DECISION

Hearing Date: May 16, 2023, via Zoom

Members of the Panel:

Alexandra Clark, Chair
Professor Faye Mishna, Faculty Panel Member
Jennifer Chen, Student Panel Member

Appearances:

Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Joseph Berger, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP
Chew Chang, Representative for the Student, Chang Legal & Notary Public

Hearing Secretary:

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

In Attendance:

H [REDACTED] Z [REDACTED]

A. Charges

1. On May 16, 2023, this panel of the University Tribunal held a hearing to consider the charges brought by the University of Toronto (the “University”) against H [REDACTED] Z [REDACTED] (the “Student”) under the *Code of Behaviour on Academic Matters, 1995* (the “Code”).

2. Those charges were set out in a letter to the Student dated March 2, 2023, as follows:

1. On or about December 19, 2020, you knowingly had someone personate you at the final exam in MGAB03H3 (the “Course”), contrary to sections B.I.1(c) and B.II.2 of the *Code*.
2. In the alternative, on or about December 19, 2020, you knowingly obtained unauthorized assistance in connection with the final exam in the Course, contrary to sections B.I.1(b) and B.II.2 of the *Code*.
3. In the further alternative, on or about December 19, 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 you submitted in the Course, contrary to section B.I.3(b) of the *Code*.

3. The Student is currently an undergraduate student at the University of Toronto Scarborough (“UTSC”). She participated in the hearing and was represented by a Licensed Paralegal.

B. Evidence Tendered

4. The Provost tendered an Agreed Statement of Facts executed by the Student on April 30, 2023, and by Assistant Discipline Counsel on May 2, 2023 (the “ASF”) and an attached Joint Book of Documents (the “Joint Book”). The Student agreed that these documents should be accepted and reviewed by the panel. The summary of events set out below is drawn from the ASF and the Joint Book.

5. The Student has been enrolled at UTSC since the Fall 2019 term. She has completed 19.0 credits and has a cumulative grade point average of 2.81.
6. In the Fall 2020 academic term, the Student was enrolled in the Course, which bore the title “Introduction to Management Accounting”. The Course was taught by Professor Douglas Kong.
7. The Course’s syllabus emphasized the importance of academic integrity and provided a link to the Code. Further, on December 10, 2020, the Chair of the Department of Management sent a letter via the University’s intranet to all registered Management and Economics Students. This letter reminded students that all answers provided in their upcoming examinations, which would be held online due to the COVID-19 pandemic, should be their own answers. Students were provided a link to the Code and were reminded that receiving help during an examination or using answers provided by someone else was a violation of the Code.
8. The final exam in the Course took place on Saturday, December 19, 2020, from 8:00 a.m. to 10:00 a.m. Eastern Daylight Time and was administered online (the “Final Exam”). The Final Exam was weighted to account for a total of 40% of students’ final marks in the Course.
9. The Final Exam contained 10 multiple choice questions and 4 multi-part written questions, and was written using an online program called Quercus.
10. On December 19, 2020, at 9:17 a.m. while the Final Exam was in progress, Professor Kong received an email from an individual identifying herself as Jennifer. Jennifer wrote that she had been paid by a tutoring company to write the Final Exam for the Student. Jennifer provided Professor Kong with the Student’s log-in credentials including the Student’s Quercus username and password. Jennifer wrote that she felt guilty and that her actions were unfair to honest students

but that if she stopped writing the exam all of her salary owing from the tutoring company would be forfeited.

11. At approximately 9:33 a.m. on December 19, 2020, Professor Kong responded to Jennifer and asked that she not continue to write the Final Exam for the Student. Jennifer replied in an email to Professor Kong at 9:50 a.m. indicating that she had already submitted some answers on the Student's behalf. She said that she would let the remaining time to write the Final Exam elapse without submitting any further answers.

12. Professor Kong engaged in follow-up email correspondence with Jennifer to obtain additional information regarding the tutoring company. On December 23, 2020, Jennifer provided the following additional information:

- (a) A student could pay the tutoring company for exam writing services and the tutoring company would then assign a tutor to write his or her exam. The student would not be told who the exam writer would be and would not have any direct communications with the exam writer;
- (b) The tutoring company initially asked Jennifer to write two final exams for the Student (the Course and MGH02H3), but in the end Jennifer was only engaged to write the Final Exam; and
- (c) Jennifer did not know the full name of the tutoring company, and understood that it only operated online on WeChat, an instant messaging, social media, and mobile payment application. Jennifer had first seen an advertisement for the tutoring company on a "Yorkbbs" forum and had communicated with the tutoring company over WeChat.

13. The Student's Final Exam answers were submitted on December 19, 2020. Answers were submitted for all of the multiple-choice questions 1 through 10. Of the multiple-choice questions,

all but question 9 were answered correctly. The Student received a score of 22.5/25 on the multiple-choice questions. Questions 11 through 14 were short answer written questions. No answers were submitted on the Student's behalf for Questions 11 or 14. Answers were submitted on the Student's behalf for Questions 12 and 13 and the Student received scores of 8/10 and 4/27 respectively. The Student received an overall grade of 34.5/100 on the Final Exam.

14. On June 1, 2021, the Student met with Professor Christine Berkowitz, Dean's Designate for Academic Integrity at UTSC, to discuss the allegation that the Student had paid someone to write her Final Exam. The meeting was conducted over Zoom and the Student was joined at this meeting by legal counsel. The Student acknowledged that Professor Berkowitz had provided her with the Dean's warning contained in the Code.

15. The Student initially asserted that she had written the Final Exam on her own. After a brief recess, the Student returned to the meeting and admitted that she had paid someone to write the Final Exam for her.

16. The Student explained that she was under a significant amount of pressure from her parents to succeed and was nervous about doing poorly in the Course. The Student advised that she had received a grade of 29% in the Course's midterm exam and was concerned about failing the Course.

17. The Student said that, through an online advertisement, she had found a tutoring company to write the Final Exam for her. The Student indicated that she did not have any information about the specific individual whom the tutoring company had paid to write the Final Exam for her.

18. The Student admitted that she had not written the Final Exam. The Student admitted that she had committed an academic offence by paying for someone else to write the Final Exam for her. Specifically, she provided her Quercus username and password to the tutoring company so that someone paid by that company could write the Final Exam on her behalf.

19. In our view, the Provost's evidence, which was admitted on consent, establishes to the required standard of proof that the Student is guilty of Charge 1. In light of our finding regarding Charge 1, the Provost withdrew Charge 2 and Charge 3.

C. Sanction

20. The Provost sought an order imposing the following sanctions on the Student:

- (a) a final grade of zero in the Course;
- (b) a suspension from the University of Toronto for a period of five years from the date of the Tribunal's order; and
- (c) a notation of the sanction on her academic record and transcript from the date of the Tribunal's order to the date of her graduation from the University.
- (d) 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 in the University of Toronto newspapers, with the name of the Student withheld.

21. Assistant Discipline Counsel submitted a book of authorities, including a chart summarizing the sanctions imposed in the cases submitted. We found that these authorities provided a helpful summary of the sanctions that are normally imposed by the Tribunal in cases involving findings that a student has paid to have someone personate them in a test or final exam.

22. We are conscious that the Tribunal, in determining the appropriate sanction in a given case, should generally consider the factors set out in the decision of the *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976), namely (a) the character of the person charged; (b) the likelihood of a 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.

23. Cases such as the *University of Toronto and S.J.* (Case No. 1423, January 3, 2023), the *University of Toronto and F.Z.* (Case No. 1243, December 20, 2022), the *University of Toronto and P.L.* (Case No. 1211, September 23, 2021) and the *University of Toronto and M.A.* (Case No. 837, August 31, 2016) show that for students with no prior offences, and who entered into an agreed statement of facts with the Provost, a conviction for paying to have someone personate them in a test or exam invariably results in a mark of zero in the affected course. The cases tendered by Assistant Discipline Counsel likewise show that a suspension of five years, and an equivalent notation or a notation until graduation are generally imposed in addition to the mark of zero. We were therefore satisfied that the sanctions proposed by the Provost were proportional to those that have been awarded in similar cases.

24. On behalf of the Student, Mr. Chang pointed out that she had admitted the offence at the very outset of the disciplinary process in June of 2021. He stated that the Student was very remorseful for her actions and agreed with the penalties of a mark of zero in the Course, and of a notation until graduation.

25. He proposed, however, that the Student should receive a four year rather than a five year suspension. The reason for this proposal was that the Student had been waiting for just under two years for a hearing before the Tribunal, and that this period of waiting and uncertainty has been very stressful for the Student.

26. Assistant Discipline Counsel agreed that the wait for a hearing date in this case had been somewhat longer than normal due to a high volume of cases engendered by the COVID-19 pandemic. Mr. Chang acknowledged that he did not have any precedents to support his request for a four year suspension, and that all of the precedents provided by the Provost contained a suspension of at least five years.

27. The panel retired to consider the appropriate sanctions in this case. We decided to impose a suspension of five years rather than four years principally because the Student had been continuously enrolled in the University since the date of the offence and had, in fact, recently completed all of the courses required to complete her program.

28. While the wait for a hearing had undoubtedly been stressful for her, it had nevertheless allowed the Student to complete her studies. Given the gravity of the offence that she had admitted to, which is one of the most serious contemplated by the Code, we felt that a five year suspension was necessary to meet the goals of both specific and general deterrence in this case.

29. At the conclusion of the hearing, and for the reasons outlined above, we signed an order imposing the following sanctions on the Student:

- (a) a final grade of zero in the Course;
- (b) a suspension from the University of Toronto for a period of five years from the date of the Tribunal's order;

- (c) a notation of the sanction on her academic record and transcript from the date of the Tribunal's order to the date of her graduation from the University; and
- (d) 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 in the University of Toronto newspapers, with the name of the student withheld.

Dated at Toronto, this 17th day of July, 2023.

Original signed by:

Alexandra Clark, Chair
On behalf of the panel