

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on June 15, 2023,

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 -

H [REDACTED] Z [REDACTED]

REASONS FOR DECISION

Hearing Date: October 27, 2023, via Zoom

Members of the Panel:

Shaun Laubman, Chair

Dr. Maria Rozakis-Adcock, Faculty Panel Member

David Lio, Student Panel Member

Appearances:

Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Abby Craswell, Representative for the Student, Downtown Legal Services

Hearing Secretary:

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

In Attendance:

H [REDACTED] Z [REDACTED]

1. The Trial Division of the University Tribunal heard this matter against H [REDACTED] Z [REDACTED] (the “Student”) on October 27, 2023, by videoconference.
2. The Student was in attendance.
3. The Student faced the following charges:
 - a. On or about April 13, 2023, you knowingly had another person personate you at the final examination in ECO359H1S (the “Course”), contrary to section B.I.1(c) of the Code.
 - b. In the alternative, on or about April 13, 2023, you knowingly obtained unauthorized assistance in connection with the final examination in the Course, contrary to section B.I.1(b) of the Code.
 - c. In the further alternative, on or about April 13, 2023, 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 examination in the Course, contrary to section B.I.3.(b) of the Code.
4. An Agreed Statement of Facts (“ASF”) was presented to the Tribunal for consideration at the liability phase. The relevant portions of the ASF are:
 - a. The Student acknowledges that he received a copy of the charges, waives the reading of the charges, and pleads guilty to all charges;
 - b. The Provost agrees that if the Tribunal returns a conviction on charge #1, the Provost will withdraw charges #2 and #3;
 - c. The Student accepts that he has been provided with reasonable notice of the hearing in this matter;

- d. The Student first registered as a student in the Faculty of Arts & Science at the University of Toronto in Fall 2019. The Student has earned 20.0 credits;
- e. In Winter 2023, the Student enrolled in the Course, which was taught by Anton Tsoy;
- f. The Course syllabus included the following with respect to academic integrity (at pages 3-4):

Academic integrity Academic integrity is one of the cornerstones of the University of Toronto. It is critically important both to maintain our community which honours the values of honesty, trust, respect, fairness and responsibility and to protect you, the students within this community, and the value of the degree towards which you are all working so diligently. According to Section B of the University of Toronto's Code of Behaviour on Academic Matters <https://www.academicintegrity.utoronto.ca>, which all students are expected to know and respect, it is an offence for students:

- To obtain unauthorized assistance on any assignment.
 - To provide unauthorized assistance to another student. This includes showing another student completed work (e.g., an answer on a test).
 - To falsify or alter any documentation required by the University. This, includes, but is not limited to doctor's notes.
 - To use or possess an unauthorized aid in any test or exam (e.g., a cell phone).
 - To continue writing when the time is up in any test or exam.
- To submit a medical note to get out of a test when the student is not actually sick. There are other offenses covered under the Code, but these are by far the most common. Please respect these rules and the values which they protect. For

useful tips for avoiding academic misconduct, please visit the website of the Office of Student Academic Integrity at <https://www.artsci.utoronto.ca/current/academicadvising-and-support/student-academic-integrity>

- g. The final examination was worth 45% of students' final grades in the Course. It was administered in person on April 13, 2023 from 2:00 pm to 5:00 pm. Students had three hours to write the exam. Students were required to complete the exam on their own.
- h. Students were required to write their own examinations. They were required to provide proof of their identity, as verified through the photographs on their Student IDs, to the invigilators during the exam.
- i. During the exam, the instructor and exam invigilators noticed several peculiarities regarding the person who wrote the exam using the Student's ID. These included:
 - i. Prior to the commencement of the exam, during the Chief Presiding Officer ("CPO") Gabriel Briex's announcements warning students not to read or write anything until the start of the exam, the person who wrote the exam using the Student's ID (the "Exam Writer") was observed by Anthony Gagnon, another invigilator, actively reading the exam paper, which was placed on students' desks before the start of the exam. The Exam Writer appeared to be holding the exam paper up at an unusual angle.
 - ii. During the exam, the CPO noticed a metallic object in the Exam Writer's right ear. The CPO questioned the Exam Writer about the object and was told that it was a hearing aid. The CPO asked to take a photograph of the "hearing aid" which the Exam Writer refused, stating that the "aid" could not be removed.

- iii. When the Exam Writer handed in his exam paper, the instructor, Anton Tsoy, noted that he did not resemble the photograph on the Student's ID. When the instructor asked the Exam Writer to take a photograph of him holding the ID, the Exam Writer ran away. The instructor noted that the Exam Writer who wrote the exam was skinny and had long hair, whereas the person in the ID photograph had short hair and was less skinny. The instructor also noted that the Exam Writer had a button on his shirt, which resembled a button that he had observed in other cases where students or exam writers had used a hidden camera during an exam.
- j. In view of the above, the instructor and invigilators suspected that the Student had someone write the exam for him.
- k. The Student denies any knowledge of any objects that the Exam Writer may have had on him during the exam, including any possible "hearing aid" or camera.

Meeting with the Dean's Designate

- l. On May 9, 2023, the Student met with Professor Howard Yee, the Dean's Designate for Student Academic Integrity for the Faculty of Arts & Science. The Student admits that Professor Yee read him the required warnings from the Code of Behaviour on Academic Matters.
- m. At the meeting, the Student admitted that he did not write the final examination but had someone else write the exam for him. He said that he was sorry and regretful, and explained that he was not doing well in the Course and that his grandmother, who he was close to, had passed away the previous year. She was in China at the time and he felt regret that he could not return home to be with her. He said that the person who wrote the exam for him (the Exam Writer) was a friend. His name was Kevin Wang

and he was not a University of Toronto student. The Student denied paying his friend. He said that they had a good relationship, and he had let Kevin stay at his apartment previously.

- n. The Student confirms that the statements he made to the Dean's Designate were true and accurate.

Admissions and acknowledgements

- o. The Student admits that:
 - i. he knew that he was required to write the final exam himself and he was not permitted to have anyone assist him during the final exam;
 - ii. he knowingly had someone personate him and write the final exam for him;
 - iii. he is guilty of having another person personate him at the final exam, contrary to section B.I.1(c) of the Code; and
 - iv. he is guilty of obtaining unauthorized assistance in connection with the final exam, contrary to section B.I.1(b) of the Code.
 - p. The Student acknowledges that the Provost has made no representations to him regarding what penalty she will seek in this proceeding.
 - q. The Student acknowledges that he is signing this ASF freely and voluntarily, knowing of the potential consequences he faces, and does so with the advice of counsel.
5. Neither the Provost nor the Student presented any further evidence during the Offence stage of the hearing.

6. Based on the ASF and the Student's admissions therein, the Tribunal found the Student guilty of charge 1 – knowingly having another person personate him at the final exam, contrary to section B.I.1(c) of the Code. In accordance with the ASF, the Provost withdrew charges 2 and 3.

Penalty

7. At the Penalty phase of the hearing, the Student and Provost submitted a Joint Submission on Penalty ("JSP") for the Tribunal's consideration. The JSP proposed the following penalty:
 - a. a final grade of zero in the Course in Winter 2023;
 - b. the Student will be suspended from the University of Toronto for a period of 5 years from the date of the Tribunal's order;
 - c. this sanction will be recorded on the Student's academic record and transcript for a period of 10 years from the date of the Tribunal's order; and
 - d. the parties agree that it is appropriate for this case to 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.
8. An additional feature of the JSP was the Student's undertaking that, after the completion of his suspension, he will not register for any courses at the University of Toronto and/or apply for admission to any programs at the University of Toronto (the "Undertaking").
9. The parties submitted an Agreed Statement of Facts on Penalty ("ASFP") for the Tribunal's consideration, which is reproduced in substantial part below:

Prior offence

- a. The Student has committed one prior academic offence that was resolved through minutes of settlement.
- b. In Fall 2019 and Winter 2020, the Student registered in MAT137Y1 ("MAT137").
- c. Students in MAT137 were evaluated on the basis of 10 problem sets, 4 term tests and a final exam. The 10 problem sets were all submitted online and were spread across both terms (Fall 2019 and Winter 2020). They were originally worth a total of 10% of students' final grades. However, as a result of the covid19 pandemic and following a class vote, the grading scheme was changed so that the problem sets would be worth a total of 15% of students' grades. Students were allowed to write problem sets with a partner. Students were required to work independently or with their partner when writing solutions.
- d. On February 27, 2020, the Student submitted Problem Set 8 in MAT137. The Student submitted the problem set individually.
- e. Chegg.com is a subscription based website that allows students to post problems to the site, which are then answered by so-called "experts". Subscribers are also able to access the questions and answers posted by others on the site.
- f. In marking the Student's answers to Questions 1(a), (b) and (c) of Problem Set 8, the teaching assistants and instructors determined that there were substantial similarities between the Student's answer and the answers to those questions that had been posted on Chegg.com. They suspected that the Student had plagiarized or obtained unauthorized assistance from Chegg.com.

- g. On August 18, 2020, the Student met with Professor Francois Pitt, Dean's Designate for Academic Integrity regarding the allegation of academic misconduct in Problem Set 8 in MAT137. During the meeting, the Dean's Designate gave the Student the warning he is required to give under the Code. The Student denied looking at Chegg.com or collaborating with any other students. He maintained that the answers he had written were his.
- h. Given the Student's denial, the matter was forwarded to the Vice-Provost for review.
- i. On December 10, 2020, charges were filed against the Student under the Code in connection with the allegation of academic misconduct in Problem Set 8 in MAT137.
- j. On January 31, 2021, the charges were resolved the Student. The Student admitted that he knowingly representing as his own an idea or expression of an idea or work of another in Problem Set 8 in MAT137, contrary to section B.I.1(d) of the Code and signed minutes of settlement.
- k. As set out in the minutes of settlement, in light of the Student's admission, the matter was referred back to the Faculty of Arts and Science and the Faculty of Arts and Science imposed a sanction of:
 - i. a grade of zero on all problem sets (worth 15%) in MAT137; and
 - ii. a transcript annotation until December 31, 2021.

The Student's circumstances

- l. The Student has advised the University of the following:
 - i. He is an international student. He was very close to his grandmother, who was living in China. In the fall of 2022, the

Student's grandmother passed away. The Student felt very guilty for not being with his grandmother during this time.

- ii. His education was very important to his grandmother and the Student felt pressure to complete his studies and to graduate. He was worried about failing the ECO359H1 course, which would have the effect of delaying his graduation.
- iii. He understands that what he did was wrong and is remorseful for his conduct.
- iv. Since June 2023, the Student has been under the care of a psychiatrist.
- v. Having completed 20.0 credits, he does not anticipate needing to complete any further courses in order to graduate.

Acknowledgements

- m. The Student acknowledges that he is signing this ASFP freely and voluntarily, knowing of the potential consequences he faces, that he has been given the opportunity to seek the advice of counsel before doing so, and that he has obtained such advice.
10. The Provost presented a chart summarizing past decisions with varying degrees of similar circumstances to provide the Tribunal with an indication of the range of sentences that have been meted out for the offence of personation, including cases where the student had prior convictions.
11. The Provost's submissions focussed on the deference to be shown to JSP in light of the *University of Toronto and M.A.* decision, (Case No. 837, December 22, 2016). The Tribunal was satisfied that the agreed upon sanction was within the range of appropriate penalties given the nature of the offence and the Student's

past conviction. Therefore, there was no reason to depart from the JSP because of a concern that it would be contrary to the public interest or would bring the administration of justice into disrepute.

12. Even without the JSP, the 5-year suspension would likely have been the appropriate penalty to impose given the nature of the offence and the aggravating and extenuating factors present in the case. The 10-year notation on the Student's transcript was on the higher end of the range for the cases summarized in the chart prepared by the Provost, however, it was agreed upon by the parties and the Tribunal did not see cause to interfere with that agreement.
13. As stated in the *University of Toronto and Z.T.* decision, (Case No. 758, December 4, 2015 (Sanction)), at para. 6, personation is a very serious offence. It can be difficult to catch and strikes at the heart of academic integrity by undermining the evaluation process and fairness to other students.
14. On the other hand, there were mitigating factors in this case, including the Student's early admission of guilt and cooperation in the discipline process. The Student was dealing with the death of his grandmother at the time of the final exam in the Course. As well, there was evidence of mental health issues, although it was not established that those issues were present at the time that the offence was committed.
15. The Student had completed the requisite credits to graduate but is now prevented from doing so until the completion of his suspension. That delay is a significant penalty and will hopefully provide the Student with time to consider the consequences of his decisions.
16. One final note regarding the Undertaking. The Tribunal asked if it was being asked to rely on the Undertaking since it was referenced in the JSP but was not a term in the proposed form of Order. The Provost confirmed that it was not asking to have the Undertaking reflected in the Order or enforced by the Tribunal.

17. In the Tribunal's opinion this was the appropriate decision. The Undertaking did not form any part of the Tribunal's decision. The Code does not provide for a penalty like the Undertaking and we do not believe we would have the jurisdiction to impose such a penalty. Whether the Undertaking is enforceable is not an issue we are asked to determine.

18. In accordance with the JSP, the following penalty is imposed on the Student:

- a. a final grade of zero in the Course in Winter 2023;
- b. the Student will be suspended from the University of Toronto for a period of 5 years from the date of the Tribunal's order;
- c. this sanction will be recorded on the Student's academic record and transcript for a period of 10 years from the date of the Tribunal's order; and
- d. this case is to 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.

Dated at Toronto, this 7th day of February, 2024

Original signed by:

Shaun Laubman
On behalf of the Panel