

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on August 13, 2019 and December 2, 2019
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 -

T [REDACTED] L [REDACTED] (the “Student”)

REASONS FOR DECISION

Hearing Dates: December 11, 2019 and January 30, 2020

Members of the Panel:

Mr. Andrew Pinto, Chair (as he then was*)
Professor Ken Derry, Faculty Panel Member
Ms. Natasha Brien, Student Panel Member

Appearances:

Ms. Lauren Pearce, Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Angela Guo, Mandarin Legal Services, Paralegal for the Student
Mr. T [REDACTED] L [REDACTED] (“the Student”)

Hearing Secretary:

Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances,
University of Toronto

*The Honourable Justice Andrew Pinto was appointed as a Judge of the Superior Court of Justice of Ontario, shortly after this hearing occurred.

A. Charges

1. The Trial Division of the Tribunal heard this matter on December 11, 2019 and January 30, 2020, to consider charges brought against the Student by the University of Toronto under the *Code of Behaviour on Academic Matters, 1995* (“the *Code*”).
2. There were two sets of charges filed against the Student, and the parties agreed both could be dealt with by this Panel during these proceedings.
3. The initial set of charges were detailed in a letter to the Student from Professor Heather Boon, Vice-Provost, Faculty & Academic Life, dated August 13, 2019, as follows:
 1. In or around March 2019, 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 that purported to be a reference letter from Professor Tom Fairgrieve, which you submitted to King’s College London (the “Fairgrieve Letter”), contrary to section B.i.3(a) of the *Code*.
 2. In the alternative, by submitting the Fairgrieve Letter to King’s College London in or around March 2019, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, contrary to section B.i.3(b) of the *Code*.
 3. In or around March 2019, 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 that purported to be a reference letter from Professor Mark Ebden, which you submitted to King’s College London (the “Ebden Letter”), contrary to section B.i.3(a) of the *Code*.
 4. In the alternative, by submitting the Ebden Letter to King’s College London in or around March 2019, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order

to obtain academic credit or other academic advantage of any kind, contrary to section B.i.3(b) of the *Code*.

The particulars related to charges 1 to 4 are as follows:

- a) At all material times, you were a registered student at the Faculty of Arts and Science, University of Toronto.
 - b) In approximately March 2019, an application for admission to King's College London was submitted on your behalf. As part of your application to King's College London, the Fairgrieve Letter and the Ebden Letter were submitted on your behalf.
 - c) The Fairgrieve Letter and the Ebden Letter are academic records. They were not completed by Professors Fairgrieve and Ebden, respectively. They were forged, altered, or falsified. They falsely represented your academic record at the University of Toronto, including your cumulative grade point average.
 - d) By submitting the Fairgrieve Letter and the Ebden Letter to King's College London, or permitting them to be submitted on your behalf, you uttered, circulated or made use of a forged, altered or falsified academic record.
 - e) The Fairgrieve Letter and the Ebden Letter were submitted to King's College London in support of your application for admission and so that you could obtain an academic advantage.
 - f) The Fairgrieve Letter and the Ebden Letter were submitted in circumstances where you knew that they contained false information, and that they had been forged, altered or falsified.
4. The second set of charges were laid by Professor Heather Boon, Vice-Provost, Faculty & Academic Life, on December 2, 2019, and are as follows:
1. In or around March 2019, 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 that purported to be a transcript of consolidated academic record from the University of Toronto (the “Transcript”), which you submitted to King’s College London, contrary to section B.i.3(a) of the *Code*.

2. In the alternative, by submitting the Transcript to King’s College London in or around March 2019, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, contrary to section B.i.3(b) of the *Code*.

The particulars related to charges 1 and 2 are as follows:

- a) At all material times, you were a registered student at the Faculty of Arts and Science, University of Toronto.
 - b) In approximately March 2019, an application for admission to King’s College London was submitted on your behalf. As part of your application to King’s College London, the Transcript was submitted on your behalf.
 - c) The Transcript is an academic record. The Transcript was forged, altered or falsified. The Transcript falsely represented your academic history at the University of Toronto.
 - d) By submitting the Transcript to King’s College London, or permitting the Transcript to be submitted on your behalf, you uttered, circulated or made use of a forged, altered or falsified academic record.
 - e) The Transcript was submitted to King’s College London in support of your application for admission and so that you could obtain an academic advantage.
 - f) The Transcript was submitted in circumstances where you knew that it contained false information, and that it had been forged, altered or falsified.
5. There were some preliminary issues dealt with by then Chair Andrew Pinto (now Justice Pinto) through case conferences outside the formal hearing dates. These issues related to the

use of an interpreter, order of witnesses, and the timing of the hearing dates and submissions on various issues, among other issues. There is no need to go through these as they were resolved by the Chair at the time and were not relevant for our decisions during the hearing.

6. The parties also submitted a partial Agreed Statement of Facts (“ASF”), narrowing the factual items in dispute. The partial ASF is as follows:

1. This matter arises out of charges of academic misconduct filed on August 13, 2019 and December 2, 2019 by the Provost of the University of Toronto (the “Provost” and the “University”) under the *Code of Behaviour on Academic Matters* (the “Code”). The Provost and the Student have prepared this Agreed Statement of Facts (“ASF”) and a Joint Book of Documents (“JBD”). The Provost and the Student agree that:
 - a) each document contained in the JBD may be admitted into evidence for all purposes, including for the truth of the document’s contents (unless otherwise indicated in this ASF), without further need to prove the document; and
 - b) if a document indicates that it was sent or received by someone, that is prima facie proof that the document was sent and received as indicated (unless otherwise indicated in this ASF).
2. The Student admits that he received a copy of both sets of Charges. The Charges dated August 13, 2019 are included in the JBD at **Tab 1**. The Charges dated December 2, 2019 are included in the JBD at **Tab 2**. The Student and the Provost agree that both sets of Charges should be consolidated and heard together by the University Tribunal, both with respect to the merits and the appropriate sanction.
3. The Student admits that he received a copy of the Notice of Hearing in this matter and that he has received reasonable notice of this hearing. A copy of the Notice of Hearing is included in the JBD at **Tab 3**.

A. The Student's Academic History

4. The Student's academic record, dated June 5, 2019, is included in the JBD at **Tab 4**.
5. Since the Fall 2015 academic term, the Student has been enrolled in the Faculty of Arts and Science at the University. He has completed 19.5 credits towards a Bachelor's Degree in Statistics, and has a cumulative GPA of 2.52.
6. In the Winter 2017 academic term, the Student was enrolled in CSC108 – Introduction to Computer Programming (“CSC108”), which was taught by Professor Tom Fairgrieve. A copy of the syllabus for CSC108 is included in the JBD at **Tab 5**. The Student received a final grade of 84% (A-) in CSC108.
7. In the Fall 2017 academic term, the Student was enrolled in STA302 – Methods of Data Analysis I (“STA302”), which was taught by Professor Mark Ebden. A copy of the syllabus for STA302 is included in the JBD at **Tab 6**. The Student received a final grade of 66% (C) in STA302.
8. In the Winter 2018 academic term, the Student was enrolled in STA305 – Design SCI Studies (“STA305”), which was also taught by Professor Ebden. A copy of the syllabus for STA305 is included in the JBD at **Tab 7**. The Student received a final grade of 75% (B) in STA305.

B. The Student's Request for a Reference Letter

9. On October 8, 2018, the Student contacted Professor Fairgrieve to request a reference letter to support his applications for admission to graduate school. Professor Fairgrieve declined to provide the Student with the requested reference letter.
10. A copy of this email exchange between the Student and Professor Fairgrieve is included in the JBD at **Tab 8**.

C. The Falsified Reference Letters

11. On May 29, 2019, Professor Fairgrieve was contacted by Diane Nicholson, an Admissions Officer at Kings College London. Ms. Nicholson asked Professor Fairgrieve to confirm that he had written a reference letter in support of the Student's application for admission to King's College London. A copy of Ms. Nicholson's email is included in the JBD at **Tab 9**.
12. Attached to Ms. Nicholson's email was a reference letter in respect of the Student, dated March 27, 2019, which purported to be from Professor Fairgrieve (the "Fairgrieve Letter"). However, Professor Fairgrieve did not write the Fairgrieve Letter and the signature it contained was not his. A copy of the Fairgrieve Letter is included in the JBD at **Tab 10**, and is admitted for all purposes but for the truth of its contents, and is not admitted as proof that it was authored or sent by Professor Fairgrieve.
13. Professor Ebden was also contacted by Ms. Nicholson on May 29, 2019. Ms. Nicholson asked Professor Ebden to confirm that he had written a reference letter in support of the Student's application for admission. A copy of Ms. Nicholson's email is included in the JBD at **Tab 11**.
14. Attached to Ms. Nicholson's email was a reference letter in respect of the Student, dated March 22, 2019, which purported to be from Professor Ebden (the "Ebden Letter"). However, Professor Ebden did not write the Ebden Letter and the signature it contained was not his. A copy of the Ebden Letter is included in the JBD at **Tab 12**, and is admitted for all purposes but for the truth of its contents, and is not admitted as proof that it was authored or sent by Professor Ebden.

D. Acknowledgements

15. The Student acknowledges that:
 - a) the Provost has provided him with the opportunity to obtain legal representation, and that he has obtained that representation; and

- b) he is signing this freely and voluntarily, knowing of the potential consequences he faces. freely and voluntarily, knowing of the potential consequences he faces.
7. The Tribunal found this to be a complex case and a difficult decision. All parties agreed that false documents – namely the Transcript, the Fairgrieve Letter, and the Ebden Letter – were sent to King’s College London in support of an application for admission in the name of the Student. All parties also agreed that the Student’s parents hired an agent (“GESG China”) to submit this application for admission to King’s College London, as indicated by Exhibit 3 (the signed contract presented in the JBD Tab 1). The central question in dispute facing the Tribunal was whether or not the Student knowingly participated in the submission of false documents to King’s College London, or alternatively whether or not the Student knew, or ought to have known, that false documents had been submitted in his name as part of the application, and he did nothing to correct the problem.
8. The Tribunal found that the Student presented no compelling evidence, but rather presented evidence that was exceptionally weak and circumstantial in nature, to support his claim that only his parents – and particularly his mother – were involved in the application to King’s College London together with GESG China, and that the Student was not involved in any way and had no knowledge of this arrangement or application.
9. The Tribunal acknowledges that the University presented largely circumstantial evidence in support of its case against the Student. However, the circumstantial evidence presented by the University was compelling and, taken together, highlighted several key inconsistencies, unexplained coincidences and problems with the Student’s arguments, including the following:
 1. One of the false reference letters (the Fairgrieve Letter) was submitted in the name of the professor that the Student had in fact asked for a reference letter from.

2. The Student initially testified he had never hired or “worked with” an agent to apply for admission to any school. However, in the Student’s email to Professor Fairgrieve he states that if the professor agrees to provide a letter of reference, “...my adviser will send you a link of it” (JBD Tab 8). The Student also admitted that he had in fact worked with agents in the past – together with his parents – in his applications to high school and to undergraduate university programs, including the University of Toronto.
3. The Student changed his official University of Toronto email address on March 22, 2019, this being the same date as was provided on the Ebden reference letter.
4. The Student testified that he deleted his WeChat history on May 30, 2019. This was the day after he was contacted by Khai Truong of the University of Toronto Department of Computer Science, alleging that he submitted a false reference letter from a faculty member (Exhibit 17).
5. The Student testified that after receiving the email from Khai Truong, he immediately called his mother because his first thought was that she was involved in this situation regarding the false reference. According to the Student’s mother, when her son called her after receiving the email from Truong, he asked her if she had submitted graduate applications in his name to universities in the U.K. However, Truong’s email makes no mention of the fact that the letter was submitted in relation to an application or that it involved the U.K. (or any other country) in any respect.
6. After the Student contacted his mother about the email from Truong, his mother took a screenshot in May 2019 of the payment made to GESC China (Exhibit 18). However, she took no other screenshots of any chats she had with GESC China, chats that she claimed showed that the Student had no knowledge of their arrangement. The Student’s mother told the tribunal that she then lost her cell phone in August 2019, which is why she no longer has a record of her communications with GESC China.

7. The Student refused to provide the University with permission to obtain the full application materials from King's College London, despite two written requests to the Student in November 2019 (Exhibit 4, JBD Tab 2), evidence that could have potentially proved exculpatory for him if it supported his account of the events.
10. The Tribunal found that the points above are too coincidental, and taken together, demonstrate the Student at a minimum ought reasonably to have known what had transpired. The above evidence is therefore most readily and coherently explained by, and consistent with, the University's theory of the case – that the Student knew, or ought reasonably to have known, that false documents had been submitted in his name as part of a graduate application to King's College London.
11. Following deliberation based on the evidence – including the ASF, JBD, and all materials presented during the hearing by the Student and the University – the Student was found guilty of forging, altering, fabricating, uttering and circulating falsified records contrary to section B.I.3(a) of the *Code*, namely Charges 1 and 3 of the first set of charges as set out above, and Charge 1 of the second set of charges. The University then withdrew Charges 2 and 4 of the first set of charges, and Charge 2 of the second set of charges.
12. The Student's representative lead brief evidence at the sanction phase, including short testimony via videoconference from a friend of the Student. Prior to closing submissions on sanction, the Chair asked whether there was the possibility of the parties agreeing to a Joint Submission on Penalty and asked if it would assist if they could take a few minutes to confer.
13. The parties returned with a Joint Submission on Penalty as follows:
 1. This matter arises out of the charges of academic misconduct filed by the Provost of the University of Toronto (the "Provost") on August 13, 2019 and the additional charges filed on December 2, 2019 (collectively, the "Charges"), both under the *Code of Behaviour on Academic Matters, 1995* (the "*Code*"). The Provost and the Student have prepared this Joint Submission on Penalty ("JSP").

2. The Student understands that the University Tribunal may depart from the recommendations contained in this JSP and may impose sanctions against him as set out in the *Code*.

A. *Joint Submission on Penalty*

3. The Provost and the Student submit that, in consideration of all the circumstances of the case, the University Tribunal should impose the following sanction on the Student:
 - a) a suspension from the University of Toronto for a period of up to four years, until December 31, 2023; and
 - b) a notation of the sanction on the Student's academic record and transcript for a period of up to five years, until December 31, 2024.
4. The parties agree that this case shall 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.

B. *Acknowledgments*

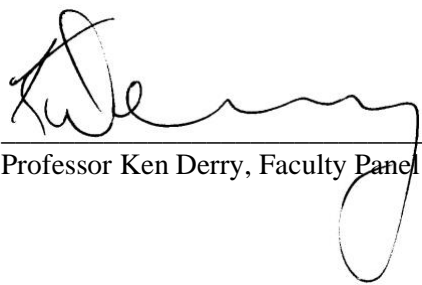
5. the Student acknowledges that:
 - a) the Provost has provided him with the opportunity to obtain legal representation and advice, and that he has obtained that representation and advice; and
 - b) he is signing this JSP freely and voluntarily, knowing of the potential consequences he faces and knowing that the Tribunal is not bound by this JSP and has the discretion to impose a different penalty, including one that is more severe than the JSP recommends.
14. As set out in the Discipline Appeals Board decision in *The University of Toronto and M. A.* (Case No. 837, December 22, 2016), a joint submission on penalty “may be rejected by a panel only in circumstances where to give effect to it would be contrary to the public interest

or would bring the administration of justice into disrepute” (para 25). The threshold for rejecting a jointly proposed sanction is therefore high. The threshold was not met in this case, and the panel accepted the JSP.

15. First, the offences were very serious, and as such required a significant sanction for the purposes of general and specific deterrence.
16. Second, based on the parties’ submissions and the case law as presented, the jointly proposed sanctions were within a range that was consistent with other similar cases. The panel therefore concluded that the penalty proposed in the JSP was not unreasonable.
17. Third, there were mitigating factors that supported the proposed sanctions in place of graver penalties. Although the offences were serious, the Student demonstrated some level of cooperation by entering into a partial ASF, and also showed some level of acceptance, insight and remorse at the sanction phase, after being found guilty, by apologising and entering into a JSP.

Prior to these Reasons being drafted, Justice Andrew Pinto was appointed a judge of the Superior Court of Justice of Ontario. Therefore, the decisions were made by the full panel, but these reasons were issued by the remaining two Panel members.

Dated at Toronto this 29th day of July, 2020



Professor Ken Derry, Faculty Panel Member

Natasha Brien

Ms. Natasha Brien, Student Panel Member