

**THE UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION**

IN THE MATTER of charges of academic dishonesty made on October 23, 2007,

AND IN THE MATTER OF the *University of Toronto Act*, 1971, S.O. 1971, c. 56 as amended S.O. 1978, c. 88

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters*, 1995

B E T W E E N:

THE UNIVERSITY OF TORONTO

- AND -

M (M) S

Hearing Date: October 21, 2009

Members of the panel:

- Mr. John A. Keefe, Barrister and Solicitor, Chair
- Professor Graeme Hirst, Department of Computer Science, Faculty Panel Member
- Ms. Elena Kuzmin, Student Panel Member

Appearances:

- Ms. Lily Harmer, Assistant Discipline Counsel of the University of Toronto, Paliare Roland Barristers
- Ms. Elaine Ishibashi, Associate Registrar, Faculty of Arts and Science
- Dr. Kristi Gourlay, Manager of Student Academic Integrity, Faculty of Arts and Science
- Professor Sam Solecki, Dean's Designate for Academic Integrity, Faculty of Arts and Science

In Attendance:

- Ms. M S , the Student, not in attendance
- Ms. Betty-Ann Campbell, Law Clerk, Paliare Roland Barristers
- Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances, Office of Governing Council

REASONS FOR DECISION

1. The University Tribunal was convened on Wednesday, October 21, 2009 to hear charges under the *Code of Behaviour on Academic Matters*, 1995 (the "Code"), against Ms M S (the "Student"). The Student was informed by letter dated October 23, 2007 from Professor Edith Hillan, Vice-Provost, Academics, that she had been charged with academic offences as set out in the attached charges. (Schedule A)
2. The original Notice of Hearing was sent to the Student on October 29, 2008 with a proposed hearing date of the January 14, 2009. There were many attempts to schedule a hearing and adjournments were requested. A hearing was scheduled for June 16, 2009. The Student requested an adjournment of the June 16, 2009 hearing and did not attend that hearing. The June 16, 2009 hearing was adjourned on conditions set out in the Endorsement of the Chair of the Tribunal, Rodica David, one of which was that a hearing date would be scheduled which would be peremptory to the Student, meaning that no further adjournments would be entertained, and that the hearing would have to proceed at that time.
3. Notice of Hearing was sent to the Student on August 27, 2009 setting Wednesday, October 21, 2009 at 5:30 p.m. as the date of the hearing.
4. The Student did not attend the hearing on October 21, 2009 and no request was made for an adjournment.
5. The Tribunal considered whether to proceed in the absence of the Student. The Tribunal concluded that the Student was provided with adequate notice of the hearing and decided to proceed with the hearing in the absence of the Student.

THE EVIDENCE

6. University Counsel submitted a book of documents including the original charges which, together with the particulars of the charges as set out in the original notice to the Student dated October 23, 2007, are set out in Schedule A.
7. The University's first witness was Elaine Ishibashi, Associate Faculty Registrar. Ms Ishibashi's gave evidence of the background leading to the Student's request for deferred examinations for each of courses RLG200Y1 and SOC339H1, course work extension for each of courses RLG200Y1, SOC339H1, SOC205Y1 and SOC356Y1 and late withdrawal for SOC348H1.
8. In support of these various requests, the Student submitted a document dated Friday, May 11, 2007, which is a standard form University of Toronto, Faculty of Arts and Science document entitled "Petition to the Committee on Standing".
9. The Petition was accompanied by a letter from the Student dated Friday, May 11, 2007 which described the reason for the request. The Student indicated that she had been in a serious car accident on February 8, 2007 and severely injured her lower back which made it difficult for her to complete her courses.
10. The Student submitted a further letter on Wednesday, May 15, 2007 which supported her request for a late withdrawal in SOC348H1. In support of her Petition, the Student enclosed two medical certificates, an Auto Insurance Standard Invoice and an accident report.

11. One of the medical certificates was dated February 12, 2007. The medical certificate is a standard form University of Toronto Student Medical Certificate which was signed by the Student on February 12, 2007. It was purportedly signed by Dr. G. Murtoza, on February 12, 2007. A second standard form University of Toronto Student Medical Certificate was also submitted. It was signed by the Student on March 19, 2007 and was purportedly signed by Dr. G. Murtoza on March 19, 2007.
12. The Petition was also supported by an auto insurance standard invoice dated February 12, 2007 purportedly signed by Dr. Murtoza. This document indicated that an accident had occurred involving the Student on February 8, 2007.
13. The Petition was also supported by a document entitled "RBC Insurance Traffic Accident Report Form". This form referenced an accident on February 8, 2007 and contained information concerning the police officer's name and badge number and a police report number.
14. Ms Ishibashi testified that she issued a Petition Decision on June 20, 2007 granting late withdrawal without academic penalty in connection with course SOC348H1. In respect of the other courses, she asked the Student to provide further documentation indicating her inability to attend the final examinations due to ill health noting that the medical certificates were dated February and March.
15. The Student then submitted a third University of Toronto Student Medical Certificate dated June 22, 2007 signed by the Student and purportedly signed by Dr. Murtoza, but the doctor's signature was not dated.

16. Representatives of the University made further inquiries of the doctor's office because the physician's CPSO number was not on the medical certificate. Representatives of the University contacted the clinic and were advised that the Student had not been in the clinic on any of the dates indicated and that Dr. Murtoza had never treated her.
17. Kristi Gourlay, Manager, Office of Student Academic Integrity then investigated further. She testified at the hearing that she contacted the office manager at the clinic where Dr. Murtoza worked and was told that Dr. Murtoza did not see the Student on any of the dates indicated and had not seen her at all and that he did not complete the Certificates. Ms Gourlay faxed a note to a representative of the clinic asking him to review the various medical certificates and the auto insurance standard invoice and to advise if the signatures were those of Dr. Murtoza.
18. Jeff Levy of Springdale Complete Medical Centres in Brampton, Ontario responded by facsimile transmittal on September 4, 2009 with a note from Dr. Golan Murtoza indicating that he did not see the Student on February 12, 2007, March 19, 2007, or on June 22, 2007. In the note Dr. Murtoza stated "in fact, I have never seen a M S ". He also indicated that the signatures on the medical certificates were not his.
19. Ms Gourlay also contacted the Peel Regional Police Force and was advised that the information contained on the accident report was incorrect. The badge number did not match the name of the officer and there was nothing in their system to verify the details of the accident.
20. The Tribunal noted that the evidence of Ms Gourlay in connection with the statements from the police, as well as some of the other information obtained from the medical clinic

was hearsay. The Tribunal noted that although the evidence was, strictly speaking, hearsay, the Tribunal is not governed by the strict rules of evidence and it would admit the evidence subject to weight.

21. After the initial investigation, the Student was advised by letter dated September 4, 2007 that she was entitled to meet with the Dean or his representative. The meeting was originally scheduled for Wednesday, September 19, 2007, but it occurred on September 20, 2007.
22. Professor Sam Solecki, the Dean's Designate for Academic Integrity testified that, at a meeting on September 20, 2007, the Student admitted that the documents were forged and acknowledged that by submitting the documents to the University that she had committed offences under the Code.
23. Professor Solecki testified that, at the outset of the meeting, he gave the Student a warning indicating that any statements made by the Student could be used against the Student in a subsequent proceeding.
24. Professor Solecki testified that the Student attended at the meeting by herself and the meeting took the better part of 30 minutes. It became apparent during the course of the meeting that the Student was assisted in the preparation of the forged documents by an accomplice who worked at the clinic. The Student was reluctant to give the name of the accomplice. In the course of the meeting, the Student acknowledged that the documents had been forged and that, by submitting the documents, she had committed offences under the Code. Professor Solecki testified that the Student's demeanour at the meeting was one of "remarkable confidence".

25. Following the meeting, on October 5, 2007, Professor Solecki wrote to the Student confirming the substance of the meeting including the following statement:

“During our discussion, you admitted that all five of the documents had been forged and acknowledged that by submitting them you had committed offences under the Code”

Tribunal’s Conclusion on the Evidence

26. The Tribunal concluded that the Student’s admission corroborated all of the other evidence submitted at the hearing.
27. Upon the basis of all the evidence, the Tribunal concluded that it was appropriate to register a conviction in respect of counts 2, 3, 6, 10, 11 and 13(a). In registering the convictions on these counts, the Tribunal took into account the concept of double jeopardy and that the auto insurance standard invoice was not an academic record or official University document. This is true, as well, for the RBC Insurance Accident Report. Although these are not official University documents, submitting them with the Petition is a form of fraud or misrepresentation. For this reason, the Tribunal concluded that a conviction on count 13(a) was appropriate.

Tribunal’s Conclusion on the Appropriate Penalty

28. The Student’s conduct clearly violated all of the University’s Policies and Guidelines with respect to ethical conduct. The Tribunal considered the Student’s conduct to be at the most serious end of the spectrum in terms of the principle of integrity of the reputation of the University.

29. The Tribunal considered numerous cases before other panels of the University's Tribunal that considered sentencing guidelines in matters of academic offences. These cases set out the following sentencing criteria:
- (a) the character of the person charged;
 - (b) the likelihood of the 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.
30. The Tribunal also considered several cases submitted by University Counsel dealing with other cases involving forgery. Although not binding and recognising that each case is unique, it is clear that forgery is treated as one of the most serious offences in the University environment and most cases result in expulsion.
31. In this case, conduct involved a deliberate plan to deceive the University by submitting several forged documents, which included forged signatures of a physician on medical certificates. The Student submitted three forged medical certificates and one insurance report with a forged signature of the doctor.
32. The panel also took into account the conduct of the Student in connection with the hearing itself. The Student did not appear at the hearing and, as a result, the Tribunal was not in a position to consider any mitigating circumstances. The only mitigating factor is that the Student is a first offender.

33. The Tribunal also took into account the numerous attempts to schedule a hearing and the conduct of the Student in connection with that process which demonstrated a lack of respect for the University and its processes.
34. The Student did not come forward and take responsibility for her actions or provide the Tribunal with any explanation for her conduct. The Tribunal was not in a position to consider any mitigating circumstances or any indication that the Student had any willingness to abide by the University's Guidelines or its Code of Conduct in the future.
35. Under the circumstances, the Tribunal concluded that it was appropriate to make a recommendation of expulsion.

CONCLUSION

36. The Tribunal recommends the following sanctions:
 - (1) That the President recommend to Governing Council that the Student be expelled from University.
 - (2) If this recommendation is accepted, that a permanent notation of the expulsion be recorded in the Student's academic record.
 - (3) Pending the decision of the Governing Council, that the Student be suspended from the University for a period of five (5) years with a corresponding notation on the Student's academic record and transcript for that same period.
 - (4) That a grade of zero be assigned to the Student in course numbers RLG200Y1, SOC339H1, SOC205Y1, SOC356Y1; and SOC348H1.

- (5) That the decision be reported to the Provost for publication in the University's newspaper with the Student's name withheld.

DATED February 3, 2010



John Keefe
The Chair

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