

UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION

IN THE MATTER OF charges of academic misconduct made on November 14, 2011;

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 amended S.O. 1978, c. 88.

BETWEEN:

THE UNIVERSITY OF TORONTO

- AND -

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REASONS FOR DECISION

Hearing Date: May 15, 2012

Members of the Panel:

Mr. Andrew Pinto, Barrister and Solicitor, Chair

Dr. Richard B. Day, Department of Political Science, Faculty Panel Member

Ms. Vy Nguyen, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers

In Attendance:

Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity, Faculty of Arts and Sciences

Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Preliminary

- [1] The Trial Division of the University Tribunal was convened on May 15, 2012 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the “Code”) laid against the Student by letter dated November 14, 2011 from Professor Edith Hillan, Vice-Provost, Faculty and Academic Life.
- [2] The Student did not attend the hearing; nor did a representative acting on the Student’s behalf. The Tribunal waited several minutes after the official start time of the hearing in case the Student and/or his representative arrived late, but no one appeared. The Tribunal questioned Discipline Counsel concerning the University’s efforts to bring the charges and the hearing to the Student’s attention. The University had included an Affidavit of Service in its Book of Documents which confirmed that the Student had been personally served on April 27, 2012 with the Notice of Hearing which appended the charges, as well as relevant supplementary documentation. The Tribunal was satisfied that the Student had been properly notified and determined that it would be appropriate for the hearing to proceed in the Student’s absence.

Hearing on the Facts

- [3] The charges against the Student were as follows:
1. In or about June 2010, you knowingly falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such falsified document, namely, a petition form seeking to defer for a second time a University of Toronto course examination in the course RSM220H1F, contrary to section B.I.1(a) of the Code.
 2. In June 2010, you knowingly uttered, circulated or made use of a forged, altered or falsified document or evidence required by the University of Toronto, namely, a University of Toronto Student Medical Certificate, dated June 23, 2010, which you submitted to the Faculty of Arts and Science Committee on Standing (“Committee”) in support of your request for academic accommodations or relief, contrary to section B.I.1(a) of the Code.
 3. In June 2010, you knowingly falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such falsified document or evidence, or uttered, circulated or made use of any such falsified document namely, a hand-written letter which you submitted to the Committee

in support of your request for academic accommodations or relief, contrary to section B.I.1(a) of the Code.

4. In July 2010, you knowingly uttered, circulated or made use of a forged, altered or falsified document or evidence required by the University of Toronto, namely, a University of Toronto Student Medical Certificate, dated July 21, 2010, which you submitted to the University in support of your request for academic accommodations or relief in RSM221H1S, contrary to section B.I.1(a) of the Code.

5. In August 2010, you knowingly falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such falsified document, namely, a petition form seeking to defer a University of Toronto course examination in the course RSM221H1S and to defer for a second time a University of Toronto course examination in the course ECO220Y1Y, contrary to section B.I.1(a) of the Code.

6. In August 2010, you knowingly uttered, circulated or made use of a forged, altered or falsified document or evidence required by the University of Toronto, namely, a University of Toronto Student Medical Certificate, dated August 20, 2010, which you submitted to the Committee in support of your request for academic accommodations or relief, contrary to section B.I.1(a) of the Code.

7. In August 2010, you knowingly falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such falsified document or evidence, or uttered, circulated or made use of any such falsified document namely, a letter which you submitted to the Committee in support of your request for academic accommodations or relief, contrary to section B.I.1(a) of the Code.

8. On August 18, 2010, you knowingly forged, altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of a forged, altered or falsified document or evidence, namely, a letter submitted in support of your petition seeking to be permitted to enrol in a full course-load in Fall 2010, contrary to section B.I.1(a) of the Code.

9. On August 26, 2010, you knowingly falsified a document or evidence sent to the University of Toronto, or uttered, circulated or made use of any such falsified document, namely, an email that you sent to Mily Van at University College in which you claimed that

the August 20, 2010 medical note was written by your doctor, contrary to section B.I.1(a) of the Code.

10. In September 2010, you knowingly uttered, circulated or made use of a forged, altered or falsified document or evidence required by the University of Toronto, namely, a University of Toronto Student Medical Certificate, dated September 7, 2010, which you submitted to the Committee in further support of your request to defer examinations in RSM221H1S and ECO220Y1Y, contrary to section B.I.1(a) of the Code.

11. In October 2010, you knowingly uttered, circulated or made use of any such forged, altered or falsified document or evidence required by the University of Toronto, namely, a University of Toronto Student Medical Certificate, dated October 22, 2010, which you submitted to the University in support of your request for academic accommodations or relief in RSM324H1S, contrary to section B.I.1(a) of the Code.

12. In January 2011, you knowingly falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such falsified document, namely, a petition form seeking a deferral, a second deferral, and a third deferral of University of Toronto course examinations in the courses RSM324H1S, RSM221H1S, and ECO220Y1Y respectively, contrary to section B.I.1(a) of the Code.

13. In or around January 2011, you knowingly uttered, circulated or made use of any such forged, altered or falsified document or evidence required by the University of Toronto, namely, a University of Toronto Student Medical Certificate, dated December 13, 2010, which you submitted to the Committee in support of your request for academic accommodations or relief, contrary to section B.I.1(a) of the Code.

14. On January 20, 2011, you knowingly forged, altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document or evidence, namely, a letter submitted in support of your petition seeking a deferral of one University of Toronto course examination and second deferrals of two University of Toronto course examinations in the courses RSM324H1S, RSM221H1S, and ECO220Y1Y, contrary to section B.I.1(a) of the Code.

15. On January 26, 2011, you knowingly falsified a document or evidence sent to the University of Toronto, or uttered, circulated or made use of any such falsified document, namely, an email that you sent to Michael Nicholson at University College in which you claimed that two of your medical notes were written by your family doctor and the other three were written at a walk-in clinic, contrary to section B.I.1(a) of the Code.

16. In February 2011, you knowingly uttered, circulated or made use of a forged, altered or falsified document or evidence required by the University of Toronto, namely, a University of Toronto Student Medical Certificate, dated February 14, 2011, which you submitted to the University in support of your request for academic accommodations or relief in RSM330H1S, contrary to section B.I.1(a) of the Code.

17. In February 2011, you knowingly uttered, circulated or made use of a forged, altered or falsified document or evidence required by the University of Toronto, namely, a University of Toronto Student Medical Certificate, dated February 14, 2011, which you submitted to the University in support of your request for academic accommodations or relief in RSM225H1S, contrary to section B.I.1(a) of the Code.

18. In February 2011, you knowingly uttered, circulated or made use of a forged, altered or falsified document or evidence required by the University of Toronto, namely, a University of Toronto Student Medical Certificate, dated February 28, 2011, which you submitted to the University in support of your request for academic accommodations or relief in RSM333H1S, contrary to section B.I.1(a) of the Code.

19. On April 28, 2011, you knowingly falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such falsified document, namely, a petition form seeking to defer three University of Toronto course examinations in the courses RSM225H1S, RSM330H1S, and RSM333H1S, contrary to section B.I.1(a) of the Code.

20. In April 2011, you knowingly uttered, circulated or made use of a forged, altered or falsified document or evidence required by the University of Toronto, namely, a University of Toronto Student Medical Certificate, dated April 13, 2011, which you submitted to the Committee in support of your request for academic accommodations or relief, contrary to section B.I.1(a) of the Code.

21. In April 2011, you knowingly forged, altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document or evidence, namely, a letter submitted in support of your request for academic accommodations or relief, contrary to section B.I.1(a) of the Code.

22. In the alternative to each of the charges above, 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 by submitting falsified or forged documents to the University of Toronto in support of various forms of academic accommodation or relief, contrary to section B.I.3(b) of the Code.

- [4] The University indicated that it was withdrawing charges 1, 2, 3 and 8 but proceeding with the other charges.
- [5] Discipline counsel provided an opening statement. The University alleged that the Student had committed academic misconduct by providing false medical documentation, academic petitions and personal statements that included 5 forged medical notes in support of the Student's missed work in Commerce. The medical notes had been purchased from an on-line commercial provider in order to support the Student's request for medical accommodation. The allegations involved 8 separate incidents spanning 3 different terms. Ultimately, the Student admitted to providing false documentation but not in respect of one of the three academic petitions he had submitted. Discipline counsel suggested, however, that all three academic petitions were false.
- [6] Two witnesses provided evidence on behalf of the University: Dr. Mike Nicholson, Associate Registrar, University College; and Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity, Faculty of Arts and Sciences.
- [7] Dr. Nicholson's office provides intake and analysis services in respect of academic petitions. These petitions may be in respect of requests to defer examinations, extend time for term work or other requests. The petition form requires the student to carefully review the form and explicitly acknowledge that the student has provided accurate and complete information with supporting documentation for the request. If there are concerns about the veracity of a student's academic petition, the office may follow up with the student or the provider of the documentation.

- [8] Dr. Nicholson's office became concerned when it appeared that an office stamp on a medical note that the Student had submitted was not authentic. A follow-up call to the medical clinic confirmed that there was an inconsistency between the Student's note and the information on file at the clinic. Dr. Nicholson eventually forwarded the documentation to the Student Academic Integrity Office.
- [9] Dr. Kristi Gourlay conducted further analysis of the Student's medical notes and academic petitions. She contacted the medical clinic and determined that a medical note with a physician's signature was not in fact signed by the physician in question and was therefore a forgery. Dr. Gourlay set up a meeting with the Student and the Dean's designate Prof. John Britton. Dr. Britton read the standard caution to the Student that anything he said at the meeting was admissible before the Tribunal. Eventually the Student admitted that he had purchased the medical notes from a commercial enterprise and that they were forged. The Student also admitted that two of the three academic petitions were false and that he had submitted false documentation in order to defer writing exams. The Student acknowledged that he had committed academic misconduct.
- [10] In his submissions concerning liability, Discipline counsel reminded the panel that the submission of academic petitions and medical notes is done on a self-reporting basis. The University does not have the means to authenticate every document. Yet, these notes relate to the important obligation of the University to accommodate students including under the *Ontario Human Rights Code*. The University has a duty of fairness to all students that the academic petition system is based on honesty and integrity.
- [11] Discipline counsel submitted that the Student's academic petition forms, personal statements and medical notes were all false. There was overwhelming evidence of academic misconduct even with respect to the third academic petition that the Student claimed was authentic. This was not a singular error in judgment since the false documentation spanned July 2010 to April 2011. Indeed, the Student did not dispute that he had committed academic misconduct.

Decision of the Tribunal on Charges

- [12] Following deliberation, based on the evidence presented by the two witnesses, the available documentation and submissions of Discipline Counsel, the Tribunal concluded that the Student was guilty and the Student stood convicted on charges 4 through 7 and 9 through 21.

Penalty

- [13] The matter then continued with a hearing into the appropriate sanction. The University sought the most serious penalty, a recommendation for expulsion of the Student.
- [14] The panel reviewed a number of Tribunal decisions presented by the University. In the University and Q. W. decision (Case 633; May 14, 2012), the Tribunal imposed a five year suspension of the student in circumstances where the student had submitted numerous forged academic petitions. That Tribunal noted that absent a joint submission on penalty, which the panel believed deserved deference, the panel would have given serious consideration to a more severe penalty. Similarly, in the University and Y. L. (Case 639; February 27, 2012), a joint submission on penalty resulted in the student receiving a five year suspension rather than being recommended for expulsion for submitting multiple false academic petitions.
- [15] Finally, in the University and X. D. (Case 636; January 24, 2012), the Tribunal recommended the student for expulsion in circumstances where she was found guilty of seven counts of misconduct (the student admitted four instances of forged certificates), and where the student did not participate in the hearing. Based on the above precedents, and based on the gravity of the present Student's misconduct, Discipline Counsel submitted that the appropriate sanction was recommendation for expulsion.
- [16] The panel received confirmation that the Student had no prior academic offence.
- [17] The Tribunal deliberated and concluded that a recommendation for expulsion was the appropriate sanction for the Student in the present circumstances.
- [18] The Student engaged in multiple instances of misconduct submitting numerous falsified medical notes, personal statements and academic petitions. The Student obtained the forged medical notes by purchasing them through an internet facility. This commercial aspect of the misconduct represented an aggravating factor because the student helped maintain a fraudulent industry that ensnares other students. While admitting to misconduct on several occasions the Student still attempted to mislead the University by suggesting, contrary to reason, that his third academic petition was authentic.
- [19] The Student's failure to participate in the hearing process necessitated the University going through the formal process of proving the commission of

the offence before the Tribunal. The Student's non participation resulted in the Tribunal's inability to gauge whether there were any mitigating factors in favour of the Student.

[20] The panel determined, consistent with the Tribunal's previous decisions, that submission of falsified medical documentation represents a very serious and fundamental breach of the academic *Code*. The medical verification and accommodation process is integral to the University's obligations under the *Human Rights Code* and to petitioning students and other students as well. The Student's conduct represented an attack on the integrity of that process and must be met with a very serious sanction in terms of general deterrence.

[21] In light of the facts of this case, the Tribunal imposes the following sanction:

1. Mr. Y■■■■ receive a final grade of zero (0) in each of the following six (6) courses:
 - (a) RSM221H
 - (b) RSM225H
 - (c) RSM324H
 - (d) RSM330H
 - (e) RSM333H
 - (f) ECO220Y
2. Mr. Y■■■■ be suspended immediately from the University for a period of up to 5 years, from the date of this Order;
3. The Tribunal recommends to the President of the University that he recommend to the Governing Council that Mr. Y■■■■ be expelled from the University; and,
4. That this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the student withheld.

DATED at Toronto, February 20th, 2013.



Andrew Pinto, Co-Chair