

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on May 1, 2006;

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 -
Mr. J. D.

Members of the Panel:

Mr. Raj Anand, Chair
Professor James Rini, Faculty Panel Member
Ms. Sara Ageorlo, Student Panel Member

Appearances:

Ms. Lily Harmer, Counsel for the University of Toronto
Mr. Guy Giorno, Counsel for the Student
Mr. J. D. the Student

In attendance:

Professor Susan Pfeiffer, Dean, School of Graduate Studies, & Vice Provost, Graduate Education

Preliminary

[1] The Trial Division of the University Tribunal was convened on February 26, 2007 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the “Code”) laid against the Student by letter dated May 1, 2006 from Professor Edith Hillan, Vice-Provost, Academic.

[2] The panel of the Tribunal was made up of Mr. Raj Anand, outside legal counsel, Ms. Sara Ageorlo, a student; and Dr. Rini, a professor. Counsel for the University was Ms. Lily Harmer. The student attended the hearing and was represented by Mr. Guy Giorno.

Hearing on the Facts

[3] The charges are as follows:

1. Contrary to Section B.I.1(f) of the *Code of Behaviour on Academic Matters* (the *Code*), in or about 2002, you knowingly submitted academic work containing a purported statement of fact or reference to a source which had been concocted in your research data which formed part of your Master's thesis in RST9999Y.
2. Contrary to Section B.I.3(b) of the *Code*, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain credit or other academic advantage of any kind when, in or about 2002, you submitted academic work containing a purported statement of fact or reference to a source which had been concocted in the research data which formed part of your Master's thesis in RST9999Y.

[4] Particulars of the charges are as follows:

1. At all times you were a Master of Science student in the Department of Public Health Sciences, School of Graduate Studies, at the University of Toronto.
2. You were engaged in research at the University of Toronto, under the direction of Dr. Susan Tarlo.
3. During the course of your research you fabricated, falsified, or misrepresented data by various means including, but not limited to, by altering, fabricating and/or falsifying data with respect to:
 - a. the number of air samples obtained from symptomatic and asymptomatic sources;
 - b. the number of symptomatic and asymptomatic sources;
 - c. sputum samples; and
 - d. a subject's work status (collectively "fabricated data")
4. In September 2002, you submitted your thesis entitled "Evaluation of Asthma, Work-related Symptoms, Induced Sputum, and Exposures Among Medical Radiation Technologists" containing the results of your research, including the fabricated data, for academic credit in RST9999Y.
5. In December 2002, a final report entitled "Evaluation of work-related symptoms, asthma, sensitization and exposure among radiologic technologists", which contained the fabricated data, was submitted to the WSIB Research Advisory Council.

6. In 2002, you submitted an abstract containing the fabricated data to the American Journal of Respiratory and Critical Care Medicine that was published in the Am J Resp Crit Care Med., 2002, Vol. 165, A. 522.
7. In 2002, you submitted a manuscript entitled “Medical Radiation Technologist Exposure to X-ray Film Processing Chemicals”, which contained the fabricated data to the American Journal of Industrial Medicine.
8. In 2002, you submitted a manuscript entitled “Sputum cytology and serum glutaraldehyde antibodies in medical radiation technologists”, which contained the fabricated data, to the American Journal of Industrial Medicine.
9. Your research, thesis, abstract, report and manuscripts contained and/or were based on data you fabricated, falsified, or misrepresented as described above.

[5] Reading of the charges was waived. The charges, with the accompanying letter from Professor Edith Hillan, Vice-Provost, Academic, dated May 1, 2006, were entered as Exhibit 1.

[6] The student then entered a plea of guilty to the charges.

[7] Discipline counsel for the University introduced the *Agreed Statement of Facts* in two volumes. Volume 1 was entered as Exhibit 2 and Volume 2, *The Book of Documents*, was entered as Exhibit 3.

[8] Discipline counsel provided an overview of Exhibits 2 and 3:

1. In November 2002, the Student was awarded a M.Sc. in the Collaborative Program in Environment and Health.
2. In October 2004, the Student was accepted to the School of Graduate Studies to commence a doctoral program at the Institute of Medical Science in the summer of 2005. At the time of the hearing the Student was still registered in the doctoral program.
3. At some time in 2001, the Student altered the clinical data that he had collected in several ways:
 - a. he reported that he collected 32 air samples from 20 workplaces of symptomatic medical radiation technologists, when he had in fact obtained 36 air samples from 22 such workplaces;
 - b. he reported that he had obtained 16 air samples from 10 workplaces of asymptomatic medical radiation technologists, when in fact he had only obtained 12 air samples from 7 such workplaces;
 - c. he altered data for 4 of 55 induced sputum samples; and
 - d. he changed one result on a study subject to indicate that it had been performed while the subject was working, when the subject was in fact off work.

4. The Student altered the data because he felt that there were too few data in one of the comparison groups.
5. The altered research data formed part of the basis of the Student's M.Sc. thesis; the altered research data formed part of a final report to the WSIB Research Advisory Council; and the altered research data was included in two papers submitted for publication by two of the Student's thesis committee members.
6. As a member of the University, the Student was at all times bound by the University's "Policy on Ethical Conduct in Research" (*Policy*). By altering data, the Student acted contrary to that policy, particularly section 3(i), which states: "The University considers that the highest ethical standards in research would entail (although not exclusively) the accurate presentation and interpretation of experimental data and other factual information".
7. In August 2005, the Student voluntarily disclosed to three colleagues, two of whom had been on his thesis committee, that he had altered research data when producing his thesis in 2002. Following this disclosure, the Student provided his colleagues with corrected data.
8. Upon learning of the altered data, the Student's two thesis committee members analyzed the impact of the corrected research data on the overall outcome of the Student's research and concluded that the changes were not material to the outcome.

[9] Having completed the summary of the agreed statement of facts, discipline counsel requested that the panel accept the Student's guilty plea and find him guilty of the charges.

[10] The panel asked for more details regarding the Student's motives for altering the data, given the fact that the Student had not analyzed the research data prior to making the changes and, so, did not know if the changes would materially affect the outcome of his research.

[11] Discipline counsel reiterated that the Student admitted in the *Agreed Statement of Facts* that he hoped to achieve a better result. However, the *Statement* is silent on whether by "better result" the Student meant to achieve comparable sample sizes or to change the outcome of his research.

[12] The panel questioned whether the Student's guilty plea was a plea to both charges or to just the first charge, given that the formal admission in paragraph 37 of the *Statement* related only to the charge pertaining to section B.i.1(f) of the *Code*.

[13] Discipline counsel responded that both charges arose from the same offence. As such, the University withdrew the second charge pertaining to section B.i.3(b).

Decision of the Tribunal

[14] After deliberation, the panel accepted the Student's guilty plea to charge #1.

Penalty Phase

[15] The University submitted to the panel a *Joint Submission on Penalty*, Exhibit 4, to which both parties had agreed. The *Submission* suggested that the appropriate penalty in all circumstances is:

- a. recommendation by the Tribunal to Governing Council that the Student's Master of Science Degree, conferred November 2002, be cancelled and revoked;
- b. suspension of the Student from attendance at the University for a period of six months from the date of this hearing;
- c. assignment of a grade of NCR in RST9999Y for the 2002 summer term;
- d. notation on the Student's transcript to the effect that he was sanctioned for academic misconduct for a period of two years from the date of this hearing.¹

[16] In addition, the University and the Student submitted that the Tribunal should report the decision to the Provost for publication in the University's newspaper with the Student's name withheld.

[17] The University reviewed the possible sanctions provided for by the *Code* in section C.ii.(b), ranging from a reprimand to expulsion, as well as the provisions for ancillary penalties such as zero grades, suspensions and cancellation of degrees.

[18] The panel questioned what the impact of the cancellation and revocation of the Student's M.Sc. degree would be on his current status as a doctoral student. After consulting with Professor Pfeiffer, discipline counsel informed the panel that the Student's on-going registration status will be determined by the department/program in which he is currently registered. It was discipline counsel's understanding that the department is willing to have the Student continue in some capacity. It is likely that the Student will return after his suspension in the capacity of a master's student, rather than a doctoral student.

[19] Although a suspension of six months seems lenient in light of previous Tribunal decisions, the University explained to the panel that the Student's current supervisor believes that

¹ For clarity, the fact of the degree cancellation and the date it was cancelled, and the grade of NCR for RST9999Y in the 2002 summer term, shall remain on the student's transcript permanently.

six months is the longest that the Student can be absent from his research work. If he were to be suspended for a longer period of time, his work would have to be given to another researcher.

[20] The University understands the cancellation and revocation of a degree to be a very serious sanction. However, the University is prepared to recognize two important factors:

1. the Student reported the offence voluntarily
2. the behaviour was out of character for the Student

[21] The University placed a *Book of Authorities* before the panel so that it might have an opportunity to review several decisions of other panels of the University Tribunal.

1. Mr. C. (January 25, 2006) was charged with fabricating data. It was the opinion of the Tribunal that expulsion should be reserved for students who showed no possibility of rehabilitation. In deciding sanctions to be imposed, the panel sought to balance the seriousness of the offence with the opportunity for the student to reform by providing him with a second chance. Since it was determined that Mr. C. showed potential for reform, the Tribunal recommended a five-year suspension, a five-year notation, a grade of 0 in RST9999Y, and publication in the University's newspaper with the student's name withheld.

It was noted that there has only been one other revocation case on record:

2. Mr. R. (November 13, 1996) was charged with plagiarism in preparing his thesis. The Tribunal accepted the defendant's plea of guilty and, noting that the student had reported his offence voluntarily, recommended a cancellation of his degree, a five-year suspension, a six-year notation, and recommended publication in the University's newspapers with the student's name withheld.

[22] Discipline counsel reviewed with the panel the criteria for sanction first proposed by the late John Sopinka, Q.C. in the appeal of Mr. C. (November 5, 1976). According to these guidelines, the Tribunal should consider the following six criteria when deciding on an appropriate sanction:

- 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;
- f) the need to deter others from committing a similar offence.

[23] Prior to deliberation on sanction, defence counsel addressed the panel on two issues:

1. The Student's future registration status as a master's student, rather than a doctoral student, had been discussed, but without guarantee. At the time of the hearing, discussions had been of a hypothetical nature.
2. While deterrence and the integrity of the University's degrees are important factors to consider when recommending sanctions, it is equally important not to discourage students from coming forward and admitting misconduct. This is the only case on record wherein a student came forward and admitted academic misconduct, even though there was almost no possibility of his misconduct being discovered.

[24] The Student concluded the defence submission with an apology, a promise not to repeat his mistake, and a request for a second chance.

Sanction and Reasons

[25] As both parties stated, the fabrication of data, followed by the publication of the falsified data in published research papers and a thesis, are very serious offences. Actions of this kind undermine the integrity, reputation and credibility of the University, its academic staff and students, and its academic mission, as well as the public need to presume that a degree from the University is honestly earned. A serious penalty is warranted in order to vindicate the interests of both specific and general deterrence.

[26] In this case, the penalty is serious; the Student loses his masters degree and, apart from the accompanying stigma, the permanent notation means he will have to explain this cancellation in any university or employment application. The other terms result in forfeiture of his grade in research and thesis work, but do not prevent him from rehabilitating himself by resuming his studies.

[27] This case presents extenuating circumstances that are unique in our jurisprudence. The Student came forward, albeit after several years, and disclosed the full extent of the alterations he had made. But for his disclosure, the alteration of the data would not likely have been discovered. Only his conscience caused him to reveal his misconduct, and he did not leave it to the University to find out.

[28] The Student also cooperated fully with the University from that point onward, and expressed his remorse throughout, culminating in his frank statements to us at the hearing. These sentiments militate against the likelihood that this Student will repeat conduct of this kind.

[29] This case illustrated, in some respects, the difficulties that the parties must anticipate when they take the sensible step of shortening the hearing by negotiating an Agreed Statement of Facts and dispensing with live witnesses or other forms of confirmatory evidence. The panel had questions about two issues that were referred to in the Statement, and it was awkward for the parties to provide answers or supplementary information, in light of the carefully worded and final agreement that found expression in the Statement.

[30] First, the Statement assured the panel in paragraphs 29 to 33 that the Student's fabrications of data did not affect the validity of his research, which was then published jointly with members of the University's research team. There was no independent validation of this conclusion, and so to an extent, the nature of the detriment to the University was somewhat unclear. Second, on the issue of motive for his actions, the Statement made a bare reference in paragraph 10 that the Student had been "experiencing a great deal of stress, created by the research and his overall academic workload." There was no medical or other expert evidence, and stress in itself is not an unusual event in the course of academic life. This made it difficult for the panel to evaluate the weight to be given to this agreed fact as an extenuating circumstance.

[31] The panel considered these questions and announced its conclusion at the hearing that the joint submission of the parties as to penalty should be accepted for the reasons which we are now releasing.

[32] The Tribunal thanks the parties for their assistance at the hearing of this matter.

Raj Anand,
Chair