

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on December 14, 2016 and on or about April 27, 2016,

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:

UNIVERSITY OF TORONTO

- and -

K T
[REDACTED]

REASONS FOR DECISION

Date of Hearing: July 28, 2017

Members of the Panel:

Ms. Amanda Heale, Chair
Professor Pascal van Lieshout, Faculty Panel Member
Ms. Alanis Ortiz Espinoza, Student Panel Member

Appearances:

Mr. Robert Centa, Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Naomi Greckol-Herlich, Counsel for the Student

In Attendance:

Ms. Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, UTM
Ms. Alexandra Di Blasio, Academic Integrity Assistant, UTM
Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of the Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, IT Support, Office of the Governing Council
Mr. Douglas Harrison, Tribunal Co-Chair, Observer

Not in Attendance:

Mr. K ■ T ■ ■ ■ ■, the Student

Introduction

1. A hearing before the University Tribunal (the “Tribunal”) was convened on July 28, 2017 to consider the Charges (as defined below) against the Student, K ■ T ■ ■ ■ ■ (the “Student”).

The Charge

2. The charges against the Student (the “Charges”) are as follows:
- (a) On or about April 27, 2016, you knowingly used or possessed an unauthorized aid in an examination, or you obtained unauthorized assistance in an examination, in the course of ECO460H5S 2016(1) (“the Course”), Section B.I.1(b) of the Code.
 - (b) In the alternative, on or about April 27, 2016, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind, which violated section B.I.3(b) of the Code.

Particulars

3. The particulars of the offences charged are as follows:
- (a) At all material times you were a registered student at the University of Toronto Mississauga.
 - (b) In Winter 2016, you enrolled in the Course – Introduction to Financial Risk Management, which was taught by professor Simiao Zhou.
 - (c) On or about April 27, 2016, you attended and wrote a deferred examination in the Course.
 - (d) You had a sheet containing notes relevant to the Course in your possession during the examination, contrary to the exam rules.
 - (e) You knowingly possessed an unauthorized aid, namely, the notes, during the examination and/or you knowingly received unauthorized assistance from them during the examination.

- (f) By possessing the notes during the examination, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain an academic advantage in the Course.

Agreed Statement of Facts

4. The hearing proceeded on the basis of an Agreed Statement of Facts (the "ASF"), which was marked as Exhibit 1. The parties also presented a Joint Book of Documents (the "JBD") that is referred to in the ASF, which was marked as Exhibit 2. A summary of the agreed facts follows.

5. In Winter 2016, the Student enrolled in ECO460H5S (Introduction to Financial Risk Management) (the "Course"), which was taught by Simiao Zhou. A copy of the Course syllabus is included in the JBD at Tab 4.

6. On April 27, 2016, starting at 9:00 a.m., the Student wrote his deferred final examination in the Course. Due to the evaluation methods employed in the Course, the final exam would be worth either 50% or 30% of his final grade: students were required to write both a midterm and a final and the evaluation on which they received a higher grade on would be worth 50% of their final grade while the other would be worth 30%.

7. Students were not permitted to have any aids other than a non-programmable calculator in the final examination. The first page of the examination paper advised students that they may be charged with an academic offence for possessing any unauthorized aids during the writing of an exam. A copy of the Student's examination paper, and the formula and Scantron sheet provided for the exam, are included in the JBD at Tab 5.

8. During the exam, one of the two Chief Presiding Officers, Mr. Joel Cahn, was alerted by another student that the Student was covertly checking a crumpled piece of paper. Mr. Cahn approached the Student and found an unlined piece of paper with handwritten answers to "problem set 2" and "problem set 3" concealed under the Student's examination paper.

9. When questioned, the Student claimed that he had written on the unlined paper during the exam.

10. Mr. Cahn confiscated the unlined paper at approximately 11:40 a.m. A copy of this paper is included in the JBD at Tab 6.

11. At approximately 11:45 a.m., the Student approached Mr. Cahn and asked him to “just let it go.” The Student also disclosed that he had a prior academic offence on his record and feared this would “destroy him.”

12. Mr. Cahn completed an examination anomaly report describing the events. A copy of this report is included in the JBD at Tab 7.

13. On May 12, 2016, the Student met with Professor Pierre Desrochers, Dean’s Designate for Academic Offences. the Student acknowledges that Professor Desrochers gave him the warning that was required to be given under the *Code*.

14. During this meeting, the Student admitted to using an unauthorized aid during the final exam in the Course, on April 27, 2016. A copy of the Admission of Guilt – Academic Offence sheet signed by the Student is included in the JBD at Tab 8.

Findings on Charges

15. Following deliberations and based on the ASF and the JBD, the Panel concluded that the first charge (as outlined in paragraph 2 above) had been proven with clear and convincing evidence on a balance of probabilities, and accepted the guilty plea of the Student in respect of that charge. The Panel was advised that if the Tribunal convicts the Student on the first charge, the University would withdraw the alternative charge.

Penalty

16. The University and the Student submitted an Agreed Statement of Facts and Joint Submission on Penalty (the “JSP”), which was marked as Exhibit 4. In the JSP, the parties submitted that the Tribunal should impose the following sanctions on the Student:

- a) a final grade of zero in ECO460H5S;
- b) a three-year suspension from the University of Toronto, to start from the date the Tribunal makes its order; and
- c) a notation of the sanction on the Student’s academic record and transcript for four years.

17. The parties also submitted that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University newspapers, with the name of the Student withheld.

18. Counsel for the University provided submissions on the high threshold required for a Tribunal to deviate from a joint submission on penalty. 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).

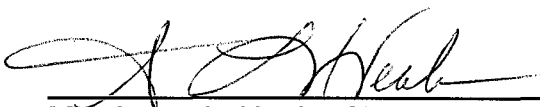
19. In the Panel’s view, the joint submission in this case is reasonable. In particular, the Panel took into consideration the seriousness of the offence and the fact that this was not the Student’s first offence. As reflected in the JSP, the Student had previously been sanctioned for two prior offences, in one case the possession of an unauthorized aid in an examination, and in the other the receipt of unauthorized assistance on an assignment.

20. However, there were also mitigating factors to consider. The Student had cooperated in the process and entered into the ASF and JSP, thereby showing insight and remorse.

21. Having regard to the above, and based on its review of similar cases presented by counsel, the Panel agreed that the recommended sanctions are appropriate in the circumstances, and made the following order:

- a) The Student is guilty of one count of the academic offence of using or possessing an unauthorized aid, contrary to section B.I.1(b) of the Code of Behaviour on Academic Matters.
- b) the following sanctions shall be imposed on the Student:
 - i. a final grade of zero in ECO460H5S;
 - ii. a suspension from the University for three years from May 15, 2017; and
 - iii. a notation of the sanction on his academic record and transcript for 4 years from May 15, 2017.
- c) this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the Student withheld.

Dated at Toronto, this 27th of October, 2017,



Ms. Amanda Heale, Chair