

**UNIVERSITY TRIBUNAL
The University of Toronto**

IN THE MATTER of charges of academic dishonesty made on October 24, 2008,

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,* as amended.

B E T W E E N:

UNIVERSITY OF TORONTO (the "University")

- and -

A. A-A. (the "Student")

Members of the Panel:

Ms. Roslyn M. Tsao, Chair
Professor Louis Florence, Faculty Panel Member
Ms. Elena Kuzmin, Student Panel Member

Appearances:

Mr. R. Centa, Assistant Discipline Counsel for University
No one appearing for the Student

In Attendance:

Ms. Lucy Gaspini, Academic Affairs Office, University of Toronto at Mississauga

Heard: April 14, 2009

Background

1. The Trial Division of the Tribunal heard this matter on April 14, 2009. The Student was charged on October 24, 2008 of the following:
 - (a) In August, 2007, the Student knowingly forged or in any other way 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, namely a letter purportedly

written by Dr. Zohreh Sotoodeh at the Arizona State University, contrary to Section B.I.1(a) of the *Code* .

- (b) In the alternative, in August, 2007, the Student 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 a letter purportedly written by Dr. Zohreh Sotoodeh at the Arizona State University to the University of Toronto, contrary to section B.I.3(b) of the *Code* .
2. The Student did not attend at the Hearing. The Tribunal waited 30 minutes after the scheduled commencement of the Hearing to allow for the Student to appear. The Student did not advise the University that he would not be attending this evening and, in fact, there has been no communication from the Student in relation to these charges.
 3. The University proposed to proceed in the Student's absence and, therefore, had the onus of satisfying the Tribunal that "reasonable notice" of the Hearing had been provided to the Student pursuant to the *Code* and the *Statutory Powers Procedure Act* ("*SPPA*"). Reasonable notice of the hearing must also include a warning to the Student that if he does not attend at the hearing, the tribunal may proceed in his absence and the Student will not be entitled to any further notice in the proceeding (s. 6(3)(b) of the *SPPA*) (the "Warning").
 4. The University presented evidence to the Tribunal with respect to the steps undertaken to communicate with the Student, advise him of the charges, provide notice of the Hearing and disclosure of materials, by calling Ms. Betty-Ann Campbell, a law clerk at the firm of Paliare Roland Rosenberg Rothstein LLP, the University's counsel.
 5. On or about October 30, 2008, Ms. Campbell was able to speak with the Student personally by telephone at his cell phone number. Ms. Campbell advised him of the pending charges and that further communication would be forthcoming. Ms. Campbell was also able to confirm with the Student his mailing address in North York and email addresses (2) as per his ROSI records. This was the only direct communication that Ms. Campbell was able to have with the Student.
 6. The University's efforts to advise the Student of the charges and of the Hearing consisted of, not only direct contact between Ms. Campbell and the Student on his cell phone, but also delivery of the requisite materials to the Student at both the address listed in his ROSI (Repository of Student Information) and at a residence address in Brampton, Ontario. Subsequent to her call with the

Student, Ms. Campbell again confirmed, with the Student's step-sister, that the ROSI cell phone number and e-mail address were correct.

7. Numerous e-mails to the Student's e-mail address(es) were sent, including an e-mail that had attached all relevant disclosure and the Notice of Hearing. None of these e-mails to the Student were returned to the sender (i.e. "bounced back") according to the evidence of Ms. Campbell.
8. Initially, a hearing date of March 10, 2009 had been set and the University had emailed and couriered Notice of the Hearing and other materials to the residence address in Brampton in advance of the Hearing, as per its obligations. Ms. Campbell happened to speak with the Student's stepmother at the residence on February 25, 2009. The stepmother confirmed that the courier package had been delivered to the residence in January, 2009 but that it had not been picked up by the Student because she and the Student were estranged. However, according to Ms. Campbell, the stepmother advised that the Student's step-sister would be delivering it to the Student "at some point". When faced with this actual knowledge that the courier package had not reached the attention of the Student, the University rightly adjourned the March 10, 2009 hearing date and scheduled a new Hearing date.
9. The Notice of Hearing (including the Warning) for April 14, 2009, the Charges and the University's Disclosure Brief were re-served by email and regular mail to the Student's ROSI addresses.
10. The Tribunal is satisfied after hearing the evidence of Ms. Campbell and the exhibits filed, that the Student has received reasonable notice of the charges and Notice of the Hearing. The fact that none of the e-mails to the Student were returned and that his step-sister confirmed his e-mail address to Ms. Campbell, satisfies the Tribunal that the Student has had actual notice of the charges and hearing or ought reasonably to have had such notice. The failure of the Student to review his e-mails or check his ROSI mailing address does not negate the University's efforts to effect proper service.
11. Accordingly, the Hearing may proceed without the Student.

Facts of the Case

12. The facts of this case are quite straightforward. The evidence of Ron Racioppo, Acting Assistant Registrar and Front-Line Services Supervisor at the Office of the Registrar at UTM testified as to the following:

- (a) In or about late August/early September, the Student submitted a Visiting Student Admission Application to the Registrar's Office. Mr. Racioppo explained that the Registrar's office will typically confirm that the Student is in good standing at the other North American University and requires an original Letter of Permission from the home institution ("LOP").
- (b) Mr. Racioppo contacted the Student by telephone to ask to provide an LOP since none was attached to his Application. The Student indicated that he would fax the LOP and Mr. Racioppo made it clear that an original would be required before his Application could be granted on a final basis. The Student faxed an LOP from Arizona State University to Mr. Racioppo.
- (c) After reviewing the Student's academic record at U of T and the faxed copy of the LOP, Mr. Racioppo contacted Arizona State University to verify the authenticity of the LOP which was purportedly signed by a Dr. Zohreh Sotoodeh. After sending Dr. Sotoodeh a copy of the LOP, Dr. Sotoodeh advised that the letter was not valid and that her signature appeared to have been forged.
- (d) Mr. Racioppo discussed the matter with Ms. Diane Crocker, the Registrar, and coincidentally, after meeting with her, the Student came into the office to inquire as to why his Application had not been approved. Mr. Racioppo asked the Student to wait while he had Ms. Crocker join them.
- (e) At this meeting the Student told them both that he did not have time to get the letter from the Arizona State University, so he made up the letter and signed it for Dr. Sotoodeh. Mr. Racioppo advised him that this matter would be sent to the Dean's office for investigation and Dr. Sotoodeh was apparently doing the same at the Arizona State University.
- (f) An Affidavit sworn on April 7, 2009 of Dr. Sotoodeh was tendered by the University into evidence. We accept the Affidavit evidence. We note that there is no prejudice to the Student by accepting the Affidavit, given that the Student is not in attendance at the Hearing and, therefore, does not require the opportunity to cross-examine Dr. Sotoodeh. In her Affidavit, Dr. Sotoodeh confirms that she did not write nor sign the LOP.

Decision of the Tribunal

13. Based on the evidence as tendered by Mr. Racioppo and the Affidavit of Dr. Zohreh Sotoodeh, the Tribunal finds that the Student is guilty of the charges before him. The University has withdrawn the second charge and accordingly, there is a finding of guilt on the first charge against the Student.

Penalty

14. The University has requested the Tribunal to recommend to the President of the University of Toronto that the student be expelled from the University.
15. The sanction of expulsion should be reserved for the most serious of academic offences and, in particular, where there is little prospect of rehabilitation.
16. The forgery of any document, in any context, is a serious and deliberate act of dishonesty. The forgery of the LOP by the Student demonstrates knowing and deliberate forethought without the regard to the integrity of either academic institution involved. In particular, the Tribunal notes the following:
 - (a) The Student has been previously found guilty of forgery at the University of Toronto in September, 2003. The Student pleaded guilty to that offence and received a one year suspension and a one year annotation on his transcript;
 - (b) The Student has had modest success at the University of Toronto. Although this factor, in itself, does not necessarily weigh in favour of expulsion, it has relevance in this case, given the previous academic offence; and
 - (c) The Student has not responded to the charges nor appeared at this Hearing to provide any submissions or displayed any remorse which might suggest that a lesser penalty is appropriate.
17. The Tribunal also agrees with the University that the Student may have caused a diversion of resources and, in tendering an Application with a falsified LOP, could have denied other worthy candidates from being accepted had the forgery not been discovered.
18. The integrity of the University and of academic institutions as a whole, is compromised when such deception is committed. This Student was seeking an enhancement to his academic

credentials from the University of Toronto based on a falsified document. It is possible, if not likely, that a student who would engage in such dishonesty at this juncture in his life will, as an alumnus, tarnish the University's credentials in future by his actions.

19. For the purpose of not only individual deterrence, but also for general deterrence, the Tribunal imposes the following penalty:
 - (a) The Tribunal recommends to the President that he recommend to the Governing Council that the Student be expelled from the University.
 - (b) A permanent notation on the Student's academic record will be made indicating that he has been expelled for academic misconduct.

Dated at Toronto, May 4, 2009

A handwritten signature in blue ink, appearing to read 'R. M. Tsao', with a long horizontal flourish extending to the right.

Roslyn M. Tsao, Co-Chair