

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on September 15, 2022, revised February 16, 2023,

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

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

B E T W E E N:

UNIVERSITY OF TORONTO

- and -

L [REDACTED] Y [REDACTED]

REASONS FOR DECISION

Hearing Date: March 3, 2023, via Zoom

Members of the Panel:

Shaun Laubman, Chair
Professor Kevin Wang, Faculty Panel Member
Ben Kitching, Student Panel Member

Appearances:

Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ryan Shah, Articling Student, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Samanthe Huang, Quasi- Judicial Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:

L [REDACTED] Y [REDACTED]

1. The Trial Division of the University Tribunal heard this matter against L [REDACTED] Y [REDACTED] (the “Student”) by videoconference.

2. For the reasons provided below, the Tribunal found the Student guilty of academic misconduct and imposed the following penalty:

- a. a recommendation to the President of the University that the President recommend to Governing Council that the Student be expelled from the University;
- b. a suspension from the University for a period of up to five years from the date of the Tribunal’s order or until Governing Council makes its decision on expulsion, whichever comes first, and that a corresponding notation be placed on the Student’s academic record and transcript; and
- c. that this case be reported to the Provost, with the Student’s name withheld, for publication of a notice of the decision of the Tribunal and the sanctions imposed.

3. The Student was charged as follows:

- a. In or about May 2019 and/or December 2019, you did knowingly forge or in any other way alter or falsify an academic record, or did utter, circulate, or make use of such forged, altered, or falsified record, namely a letter purportedly from Diane Crocker, Registrar and Director of Enrolment Management at University of Toronto Scarborough, dated May 24, 2019, which you provided to Canada Border Services Agency, contrary to section B.I.3(a) of the Code;
- b. In or about May 2019 and/or December 2019, you did knowingly forge or in any other way alter or falsify an academic record, and/or did utter, circulate, or make use of such forged, altered, or falsified record, namely, a document that purported to be an official transcript from the University of Toronto dated May 23, 2019, that was provided to Canada Border Services Agency, contrary to section B.I.3(a) of the Code;

- c. On or about March 26, 2018, you knowingly represented as your own an idea or the expression of an idea, and/or the work of another in Assignment 3 titled Research About the Effect of Religion on People’s Lives that you submitted in SOCA03Y3, contrary to section B.I.1(d) of the Code;
- d. On or about March 26, 2018, you knowingly submitted academic work containing a purported statement of fact and/or reference to a source which has been concocted in Assignment 3 titled Research About the Effect of Religion on People’s Lives that you submitted in SOCA03Y3 contrary to section B.I.1(f) of the Code;
- e. In addition, and in the alternative, you knowingly engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind in connection with:
 - i. a letter purportedly from Diane Crocker, Registrar and Director of Enrolment Management at University of Toronto Scarborough, dated May 24, 2019, which you provided to Canada Border Services Agency;
 - ii. a document that purported to be an official transcript from the University of Toronto dated May 23, 2019, that was provided to Canada Border Services Agency; and
 - iii. assignment 3 titled Research About the Effect of Religion on People’s Lives that you submitted in SOCA03Y3, contrary to section B.I.3(b) of the Code. (collectively referred to as the “Charges”).

4. The University advised that it was seeking guilty verdicts on charges (A)-(D) and that only charge (E) was in the alternative. The Tribunal found the Student guilty of charges (A)-(B) and (D) but not guilty of charge (C). In the result, the Student was convicted of:

- a. two counts of falsifying an academic record, contrary to B.I.3(a) of the Code of Behaviour on Academic Matters; and

- b. one count of concocting facts and references, contrary to B.I.1(f) of the Code of Behaviour on Academic Matters.

Proceeding in the Student's Absence

5. The Student did not attend the hearing. In fact, the Student did not participate at all during any stage of the discipline process.
6. The first decision reached by the Tribunal was to proceed with the hearing in the Student's absence notwithstanding the fact there was no direct evidence that the Student actually received notice of the charges against him or of the hearing.
7. The Student was enrolled at the University of Toronto Scarborough and took courses between the Fall 2016 and Fall 2018 semesters.
8. During the Winter 2018 semester, the Student committed an academic offence in the course, SOCA03Y3, Introduction to Sociology. That offence was the subject of some of the Charges.
9. Correspondence was sent to the Student between May 31 and August 10, 2018, in an effort to set up a Dean's Designate meeting regarding the allegations of an academic offence in connection with SOCA03Y3. The Student did not respond to any of the correspondence and did not ever attend a Dean's Designate meeting.
10. However, the Student was still at the University and accessing their University email account in 2018. It is reasonable to infer that the Student received the 2018 communications regarding the academic offence in SOCA03Y3, yet they chose to ignore them.
11. There were further repeated attempts to contact the Student beginning in 2022 after the subsequent offences of falsifying academic records had been committed. There was no response to these later attempts as well. However, by 2022, the Student was no longer at the University and the evidence was that the Student did not access their utoronto email account, to which the emails and letters regarding the academic charges were sent, after January 6, 2019.

12. The inference that can be drawn with respect to the 2018 communications is more difficult to make with respect to the 2022-2023 communications. By that time, the Student had not been enrolled at the University or used their University email account for several years.

13. The University made multiple efforts to contact the Student by email, mail and phone in 2022-2023 using the information it had on record. However, the evidence does not establish that any of those efforts were successful in actually giving notice to the Student of the Charges and the hearing. It is important to note, however, that the University Tribunal's *Rules of Practice and Procedure* ("Rules") do not require actual notice.

14. The University relied on rule 13 of the Rules regarding methods of service. It also relied on the University's *Policy on Official Correspondence with Students* dated September 1, 2006, which expressly states that students are responsible for maintaining on ROSI a current and valid mailing address and University-issued email account, and that "[f]ailure to do so may result in a student missing important information and will not be considered an acceptable rationale for failing to receive official correspondence from the University." Students are expected to monitor and retrieve their email on a frequent and consistent basis. Students have the right to forward their University-issued email account to another email account but remain responsible for ensuring that all University email communications are received and read.

15. The University also relied on the following cases where there was no evidence of actual notice, but the hearing still proceeded in the student's absence: the *University of Toronto and X.C.* (Case No. 1074, May 3, 2021) ("X.C.") at paras. 9-12 and the *University of Toronto and Y.L.* (Case No. 1239, March 17, 2022) at paras. 14-15. The X.C. case in particular bore similarities to this case.

16. While the Tribunal had concerns about the lack of evidence of actual notice, the Tribunal was satisfied that the Student was aware of the allegations in 2018 of an academic offence in SOCA03Y3 and elected not to participate in the process. It is reasonable to conclude that that decision to ignore allegations of academic misconduct carried forward in subsequent years. The Tribunal was also satisfied that the University had fulfilled its obligations to provide notice to the Student. Therefore, based on the authorities provided by the University and the University's

assurance that the Student could come back at a later date and seek a rehearing if they could establish sufficient grounds, the Tribunal determined that the hearing should proceed.

17. While the Tribunal was satisfied that the University met its burden to provide notice in this case, the University may want to consider obtaining alternative email addresses from students and not simply rely on the utoronto email account for purposes of service. For cases involving students who have not been enrolled at the University for a significant period of time, there may be circumstances where it is no longer reasonable to expect that the former student will be checking or updating their utoronto email or account information.

OFFENCES

18. The Charges related to two separate incidents, committed years apart.

THE ASSIGNMENT

19. The first occurred while the Student was enrolled at the University in the course SOCA03Y3. The following facts were established through the evidence of the instructor, Kathy Liddle:

- a. On or about March 27, 2018, the Student submitted an assignment, worth 10% of the course grade;
- b. The assignment required students to conduct a small research project. Specifically, students had to conduct a minimum of two short interviews with friends or relatives and then write up to a 2,000-word paper analyzing the responses received in their interview. Students had the choice between asking interviewees about their educational decisions, the role that religion plays in their lives or conflict arising from their social roles. Each topic had a list of approved questions to be asked of interviewees. Students were prohibited from approaching and interviewing strangers and were required to obtain the informed consent of interviewees through their completion of an informed consent form. Students were required to submit the completed informed consent forms of their interviewees alongside their assignment;

- c. The Student's assignment was about the role that religion plays in people's lives. However, instead of interviewing friends or relatives, the Student's assignment represented that the Student had conducted 85 interviews of subjects at the Intercontinental Hotel in Toronto. Instead of adhering to the list of approved questions, the Student's assignment contained its own list of 16 questions that were purportedly asked of interviewees;
 - d. The instructor noted that the Student's assignment was oftentimes incoherent and contained many grammatical errors and unusual vocabulary. However, at the same time, the assignment used headings that employed advanced qualitative research concepts not taught in the class; and
 - e. There were multiple sources cited in the Student's assignment. When the instructor reviewed the cited sources, the information in the sources did not match or relate to the information and subject matter in the Student's assignment.
20. Understandably, the instructor became suspicious that the assignment was not the Student's actual work.
21. The University alleged that the Student committed plagiarism with respect to the assignment and likely purchased the assignment from a third party. It also alleged that he used falsified and misleading citations to sources.
22. The University's evidence was unchallenged and accepted by the Tribunal. It clearly established that the sources cited in the Student's assignment were falsified and misleading. Accordingly, the Tribunal found the Student guilty of knowingly submitting academic work containing a purported statement of fact and/or reference to a source which has been concocted contrary to section B.I.1(f) of the Code.
23. The evidence did not establish plagiarism. There was no alternative source for the content of the assignment provided in the evidence nor was there any evidence that the assignment was purchased. The Tribunal was not shown any evidence of the Student's other written work in the course and so had no basis to evaluate whether or not the Student was capable of writing the content of the assignment. The Tribunal was not prepared to draw the conclusion that the assignment was

plagiarized on the basis of the content of the assignment alone. Accordingly, the Student was found not guilty of the offence of plagiarism contrary to section B.I.1(d) of the Code.

FALSIFIED ACADEMIC RECORDS

24. The second incident arose when the Student provided a falsified letter from the Registrar of the University of Toronto Scarborough and transcript to the Canadian Border Services Agency.

25. The following facts were established through the affidavit evidence of Richard Levin, the Senior Strategist in the Office of the Vice-Provost Students at the University:

- a. On December 6, 2019, the Canadian Border Services Agency contacted the University seeking to authenticate two documents pertaining to the Student:
 - i. a letter, dated May 24, 2019, purportedly written by Diane Crocker, stating that the Student had completed the requirements for an Honours Bachelor of Business Administration degree (the “CBSA Letter”); and
 - ii. a document, dated May 23, 2019, purporting to be the Student’s official University academic record (the “CBSA Transcript”). The CBSA Transcript indicated that the Student had earned a total of 20.5 credits with a Cumulative Grade Point Average of 3.25.
- b. A comparison of the CBSA Transcript to the Student’s actual transcript revealed that almost all of the information on the CBSA Transcript was inaccurate. For example, the CBSA Transcript had the Student attending the University in semesters when he was not enrolled, it showed he had earned 20.5 credits instead of the 4 he actually earned and it misrepresented that his CGPA was 3.25 when it was actually 1.55;
- c. The CBSA Letter falsely stated that the Student had “completed the requirements for an Honours Bachelor of Business Administration degree” when he had in fact only obtained 4 credits. It also purported to be from Diane Crocker despite the fact Ms. Crocker had retired by the date of the CBSA Letter.

26. The University's unchallenged evidence clearly established that the CBSA Letter and the CBSA Transcript were falsified. The Tribunal found the Student guilty of two charges of knowingly forging or in any other way altering or falsifying an academic record, and/or uttering, circulating, or making use of such forged, altered, or falsified record, contrary to section B.I.3(a) of the Code.

PENALTY

27. The Student was convicted of the Charges. At the penalty stage of the hearing, the University requested the following penalties:

- a. a recommendation of expulsion from the University;
- b. an immediate suspension of up to five years or until Governing Council makes its decision on expulsion; and
- c. publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the Student withheld.

28. In support of its position, the University submitted that the Charges were very serious. In particular, the offence of falsifying academic records threatens the University's integrity and reputation. Third parties need to be able to rely on the integrity of the University's records and attempts by students to pass off falsified documents as official records risks undermining the University's reputation if left unchecked.

29. The need for general deterrence takes on significant importance when fashioning the appropriate penalty for these serious charges.

30. The University provided the Tribunal with numerous cases where the penalty imposed was the recommendation of expulsion for falsifying academic records. These included similar cases such as the *University of Toronto and Y.Y.* (Case No. 1259, July 14, 2022) ("Y.Y.") and X.C. where the falsified records were submitted to the Canada Border Services Agency.

31. Applying the relevant considerations from the *Mr. C* (Case No. 1976/77-3, November 5, 1976) decision, the Tribunal was satisfied that the recommendation of expulsion was appropriate in this case for the following reasons:

- a. There was little evidence of the Student's character since he did not participate in the hearing. However, the fact that there were multiple offences and the seriousness of the forgery convictions reflected poorly on the Student's character;
- b. There is a significant likelihood of repetition. The Student committed multiple offences. He is no longer enrolled at the University and may believe that he is immune from penalty as a result. There is good reason to believe that that misconduct will continue absent the strongest of penalties;
- c. While the offence of concocting facts and references would not warrant expulsion, the two offences of falsifying academic records certainly do. As submitted by the University and discussed in multiple cases, including the Y.Y. and X.C. cases, falsifying academic records is amongst the most serious offence a student or former student can commit;
- d. There are no extenuating circumstances in this case; and
- e. As discussed above, the detriment to the University of the falsification offences and the strong need for general deterrence feature prominently in determining the appropriate penalty for this case. Both factors weigh heavily in favour of the most significant penalty available, which is the recommendation of expulsion.

32. For these reasons, the Tribunal accepted the University's recommendation and imposed the following penalty on the Student:

- a. a recommendation to the President of the University that the President recommend to Governing Council that the Student be expelled from the University;
- b. a suspension from the University for a period of up to five years from the date of the Tribunal's order or until Governing Council makes its decision on expulsion,

whichever comes first, and that a corresponding notation be placed on the Student's academic record and transcript; and

- c. that this case be reported to the Provost, with the Student's name withheld, for publication of a notice of the decision of the Tribunal and the sanctions imposed.

Dated at Toronto, this 6th day of June, 2023.

Original signed by:

Shaun Laubman, Chair

On behalf of the Panel