

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on August 7, 2015
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 am.

B E T W E E N:

THE UNIVERSITY OF TORONTO

- and -

J [REDACTED] W [REDACTED] [REDACTED] K [REDACTED] [REDACTED] [REDACTED]

REASONS FOR DECISION

Hearing Date: December 15, 2015

Members of the Panel:

Ms. Johanna Braden, Barrister and Solicitor, Chair
Professor Louis Florence, Faculty Panel Member
Mr. Jeffery Couse, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers

In Attendance:

Ms. Emma Thacker, Associate Director, Graduate Affairs, School of Graduate Studies
Ms. Krista Osbourne, Appeals, Discipline and Faculty Grievances, Office of the Governing Council

Not In Attendance:

Mr. J [REDACTED] W [REDACTED] K [REDACTED], Student

1. The Trial Division of the University Tribunal was convened on December 15, 2015, to consider charges brought by the University of Toronto ("the University") against Mr. J [REDACTED] W [REDACTED] K [REDACTED] ("the Student") under the *University of Toronto Code of Behaviour on Academic Matters*, 1995 ("the Code").

Preliminary Issue: Proceeding in the Absence of the Student

2. The Student was neither present nor represented. The University called evidence establishing that the Student had been served with the Notice of Hearing dated November 4, 2015 and the Charges dated August 7, 2015 that the Student had expressly admitted in writing that he had received reasonable notice of the hearing, and that the Student requested that the Tribunal proceed in his absence as he did not want to attend or participate further in the proceedings. In light of the Student's admissions, the Tribunal proceeded in the absence of the Student.

The Charges and Particulars

3. The Charges and Particulars alleged against the Student are as follows.

1. From 2012 to 2014, you knowingly submitted academic work in the form of a Committee Meeting Report and in a Conference Poster containing a purported statement of fact that had been concocted, which violated section B.I.1(f) of the Code.

2. In 2014 you knowingly submitted laboratory data logs containing a purported statement of fact that had been concocted, which violated B.I.1.(f) of the Code.

3. In the alternative, from 2012 to 2014, 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 of the charges are as follows:

4. At all material times you were a student in the MSc Mechanical and Industrial Engineering program in the School of Graduate Studies, Department of Mechanical and Industrial Engineering, at the University of Toronto.
5. In 2014, you submitted a Committee Meeting Report in relation to your thesis titled Substrate Stiffness-dependent Effect of Oxidative Stress on Proteoglycan and Glycosaminoglycan Expression By Valvular Interstitial Cells in vitro ("Committee Meeting Report").
6. In 2014 you contributed to and co-authored a Conference Poster titled Versican is Markedly elevated During the Early Pathogenesis of Murine Aortic Valve Disease ("Poster").
7. You knowingly fabricated, altered, manipulated, mislabelled or misrepresented the data and research results you presented in the Committee Meeting Report and in the Poster.
8. You presented data in the Committee Meeting Report and in the Poster knowing that it contained purported statements of fact that had been concocted and/or knowing that you had engaged in a form of cheating, academic misconduct, fraud or misrepresentation in order to obtain academic credit or advantage.
9. In 2014 you submitted data logs which were intended to record the time you spent in the laboratory conducting research ("Data Logs").
10. You knowingly concocted the information in the Data Logs to make it appear that you had been present in the lab, when you were not present at those times.

11. You provided the concocted Data Logs to your thesis supervisor knowing that the data was false and misleading in order to convince your thesis supervisor that you were present in the lab after he raised concerns with you about your ability to conduct research given your consistently observed absence from the lab.

12. You presented the Data Logs knowing that they contained purported statements of fact that had been concocted and/or knowing that you had engaged in a form of cheating, academic misconduct, fraud or misrepresentation in order to obtain academic credit or advantage.

4. Counsel for the University indicated that if the Tribunal made a finding against the Student on Charges 1 and 2, the University would withdraw Charge 3.

The Evidence

5. Although the Student was not present, he admitted in writing the truth of Charges 1 and 2. The evidence in this case was presented through an Agreed Statement of Facts, which is reprinted here without attachments.

1. This matter arises out of charges of academic misconduct filed by the Provost of the University of Toronto (the "University") under the *Code of Behaviour on Academic Matters* ("Code"). The University and J████ W█████████ K████ ("Mr. K████") have prepared this Agreed Statement of Facts ("ASF"). The University and Mr. K████ agree that:

- a. each document attached to this ASF may be admitted into evidence at the Tribunal for all purposes, including for the truth of its contents, without further need to prove the document; and
- b. if a document indicates that it was sent or received by someone,

that is *prima facie* proof that the document was sent and received as indicated.

2. [REDACTED] W[REDACTED] K[REDACTED] ("Mr. K[REDACTED]") admits that he received a notice of hearing for December 15, 2015 at 9:45 am, and that he received reasonable notice of the hearing. The notice of hearing is included in the JBD at Tab 1.
3. Mr. K[REDACTED] admits that he received a copy of the charges filed by the Provost, which are included in the JBD at Tab 2.
4. Mr. K[REDACTED] waives the reading of the charges, and hereby pleads guilty to charges 1 and 2.
5. The Provost agrees that if the Tribunal convicts Mr. K[REDACTED] on charges 1 and 2, the Provost will withdraw charge 3.
6. Mr. K[REDACTED] graduated from the University with a Bachelor of Applied Science in Engineering Science in June 2012 with Honours.
7. Mr. K[REDACTED] registered at the School of Graduate Studies, University of Toronto in the M.A.Sc. program in Fall 2012. Mr. K[REDACTED] enrolled in a Master of Applied Science, Mechanical & Industrial Engineering ("M.A.Sc.") degree program. A description of the program is included in the JBD at Tab 3.
8. Students in M.A.Sc. are required, within 24 months from the start of the program, to:
 - a. complete 2.5 full-course equivalents (FCEs);
 - b. complete JDE 1000H (CR/NCR); and
 - c. successfully defend a thesis at an M.A.Sc. oral exam.

9. Students are also required to:
 - a. attend 70% of MIE Seminar Series (SRM 3333Y) lectures in the first year;
 - b. conduct research over the 24 months to prepare and defend their thesis; and
 - c. complete the program requirements as published in the calendar from the year they started the program.
10. Dr. Craig Simmons was Mr. K█████'s supervisor in his M.A.Sc. program. Dr. Simmons therefore met regularly, usually biweekly, with Mr. K█████ to review his progress and to assist him to plan his work and studies.
11. Dr. Simmons is the Principal Investigator in the Cellular Mechanobiology Laboratory ("Lab"), an interdisciplinary lab affiliated with the Department of Mechanical and Industrial Engineering, the Faculty of Dentistry, the Institute of Biomaterials and Biomedical Engineering, and the Heart & Stroke/Richard Lewar Centre of Excellence. The Lab investigates how cells respond to mechanical forces and other microenvironmental stimuli. The objective is to predict and control the behaviour of cells for therapeutic applications.
12. Mr. K█████ had previously worked in Dr. Simmons's Lab during his undergraduate studies, and returned to work in the Lab as a Master's student in September, 2012.
13. Dr. Simmons received significant external funding for the research work conducted in his Lab.
14. While enrolled in the M.A. Sc. program Mr. K█████ received funding through an Ontario Graduate Scholarship for the 2013 – 2014 year.

15. For Mr. K█████'s M.A.Sc. studies, he worked as part of a group working on a project researching heart valve cells, in particular proteoglycan production by valve interstitial cells, which Mr. K█████ had also been involved with as an undergraduate (the "Heart Valve Project"). This work required Mr. K█████'s regular ongoing presence in the Lab.
16. Mr. K█████ made slow progress in his Lab work. This was discussed on numerous occasions in his regular meetings with Dr. Simmons, at which Dr. Simmons attempted to provide strategies and encouragement to Mr. K█████ to assist him to become more productive.
17. Mr. K█████ showed research data in the form of western blots and High Performance Liquid Chromatography ("HPLC") data images to Dr. Simmons at their meetings to provide evidence of the work he claimed to be doing on the Heart Valve Project.
18. In addition to his regular meetings with Dr. Simmons, Mr. K█████ was required to attend annual meetings with his supervisory committee ("Committee"). This Committee consisted of Dr. Simmons, Dr. Hinz and Dr. You. At the supervisory Committee meetings Mr. K█████ was required to present his overall research plan, his progress to date, and his plans for the coming year.
19. Mr. K█████ attended his first meeting with his Committee on November 26, 2013.
20. In the time leading up to a second Committee meeting on September 3, 2014, Mr. K█████ exchanged emails with Craig Simmons in which they discussed Mr. K█████'s research as it pertained to the drafting of a report he was preparing to submit to his Committee at their meeting with him. An exchange of such emails between August 25, 2014 and September 2, 2014 is included in the JBD at Tab 4.

21. Mr. K█████ attended a Committee meeting on September 3, 2014. At this meeting he presented a Committee Meeting Report entitled "Substrate Stiffness-dependent Effect of Oxidative Stress on Proteoglycan and Glycosaminoglycan Expression by Valvular Interstitial Cells in vitro" ("September 3, 2014 Report"). A copy of the September 3, 2014 Report is included in the JBD at Tab 5.
22. The September 3, 2014 Report included the following
 - (a) A description of an experimental plan designed to test a specific hypothesis that the "presence of ROS is essential for the early formation of PG/GAG rich lesions during CAVD progression", with a number of related sub-hypotheses and five specific objectives ("Experimental Plan").
 - (b) The Experimental Plan involved detailed laboratory work and evaluation using western blotting and other scientific methods.
 - (c) A description of western blotting and other scientific work that Mr. K█████ claimed to have done, and a progress report on the data obtained from this research.
 - (d) A detailed conclusion about the results of the research work described to have been conducted.
 - (e) A timeline for tasks to be completed going forward.
23. Mr. K█████ also presented a slide deck at the September 3, 2014 meeting in which he summarized data and research results. A copy of those slides is included in the JBD at Tab 5.
24. On September 4, 2015, Dr. Simmons asked Mr. K█████ to send to a colleague, Mark Blaser, Mr. K█████'s data showing "that versican is upregulated with ROS so that he can incorporate it into his poster (which you are a co-author on). He may need an example blot + the

quantification, so please send both." Mr. K█████ sent the requested data, which was incorporated into a Poster which was presented at a conference in September 2014 ("Poster"). The Poster named seven co-authors, including Mr. K█████, Dr. Simmons and Mr. Blaser. A copy of the Poster is included in the JBD at Tab 6.

25. Leading up to and at the September 3, 2014 meeting, which took place a full two years after Mr. K█████ had started the M.A. Sc. Program, the Committee concluded that Mr. K█████'s progress in his research was slow, and that his understanding of his project was not up to par. Mr. K█████ claimed to have been experiencing technical difficulties with his work as well as personal issues which had slowed his progress.
26. Dr. Simmons attempted to refer Mr. K█████ to resources within the University to assist Mr. K█████ with any personal issues he might be dealing with. Mr. K█████ advised Dr. Simmons that he would seek such help as suggested.
27. Dr. Simmons learned from a colleague in the Lab that Mr. K█████ had not been observed to have been spending much time in the Lab. Dr. Simmons discussed this with Mr. K█████. Mr. K█████ explained that he had been working in the Lab after hours, and elsewhere at a Core Lab facility. To address this issue Dr. Simmons instituted a reporting program in which he required Mr. K█████ to produce weekly Lab attendance logs, as well as evidence of new data obtained from his work in the Lab, at their individual weekly meetings.
28. From then on, Mr. K█████ brought data in the form of Lab notebooks, western blots and other data images, and attendance logs, for Dr. Simmons to review. Mr. K█████ provided this information to Dr. Simmons to show that he was attending regularly and working full-time hours at the Lab or another Core Facility lab, and that he was producing new data while there.

29. On November 4, 2014, Dr. Simmons learned that Mr. K█████ had not been in the Lab during the hours Mr. K█████ had claimed to have been there. He met with Mr. K█████ that same day.
30. Mr. K█████ advised Dr. Simmons that virtually all of the data Mr. K█████ produced during the course of his time in his M.A. Sc. Program had been fabricated by Mr. K█████, as had the attendance logs Mr. K█████ had been providing to show his attendance in the Lab. A copy of the electronic files containing fabricated data that Mr. K█████ provided to Dr. Simmons on November 5, 2014 is included in the JBD at Tab 7.
31. Mr. K█████ also produced his Lab notebook for Dr. Simmons at that time. The Lab notebook was mostly blank.
32. Mr. K█████ has not participated in the M.A.Sc. program since November, 2014.
33. Mr. K█████ met with the dean's designate on May 5, 2015 to discuss this offence. At the dean's meeting Mr. K█████ admitted to falsifying data and misconduct during his thesis research in the M.A.Sc. program, specifically that:
 - a. he started fabricating data six months into the M.A.Sc. program after encountering difficulties in his research early on, in order to keep up with the flow of the research he was reporting on in his meetings with Dr. Simmons;
 - b. he presented the concocted data in meetings with Dr. Simmons;
 - c. all of the research data included in Section 7, "Progress Report" of the Committee Meeting report dated September 3, 2014 (Tab 1) was fabricated using Photoshop, Excel and Microsoft Word, and only took him about an hour to concoct;
 - d. the concocted data was used in the Poster; and

- e. the concocted data was used in a grant application.
34. Mr. K█████ admits the truth of the admissions he made at the Dean's meeting as summarized above.
35. Mr. K█████'s concoction of fabricated data affected his colleagues, Dr. Simmons, and the University in that:
- a. the research conducted in the Lab was compromised;
 - b. the reputation of everyone working in the Lab, the M.A. Sc. program, and the University as a whole was significantly compromised;
 - c. the fabricated data could not be used in grant renewal applications for work in the Lab
 - d. it wasted the time of Dr. Simmons and the supervisory committee;
 - e. it wasted grant funds that the Lab had received and the scholarship funds received by Mr. K█████;
 - f. the integrity of the data published in the Poster at the September, 2014 conference was compromised.
36. Mr. K█████ admits he knowingly concocted, fabricated, altered, manipulated, or misrepresented:
- a. the data and research results he provided to Dr. Simmons and the Committee, and that was included in:
 - i. the September 3, 2014 Report, and
 - ii. in the Poster, and
 - b. the Lab data and attendance logs,

- contrary to section B.I.1(f) of the Code; and that he did so to convince Dr. Simmons that he was progressing in his M.A.Sc. Program as required.
37. Mr. K█████ admits that he knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit, contrary to section B.I.3(b) of the Code.
38. Mr. K█████ acknowledges that:

- a. the Provost advised him of his right to obtain legal counsel and that he either obtained that advice or waived his right to do so; and
- b. he is signing this ASF freely and voluntarily, knowing of the potential consequences he faces.

Decision of the Tribunal on the Charges

6. In light of the Student's admissions and the evidence led at the hearing, the Tribunal found that the Student had engaged in academic misconduct as alleged in Charges 1 and 2 in that:

- (a) From 2012 to 2014 he knowingly submitted academic work in the form of a Committee Meeting Report and in a Conference Poster containing a purported statement of fact that had been concocted, violating section B.I.1(f) of the Code; and
- (b) In 2014 he knowingly submitted laboratory date logs containing a purported statement of fact that had been concocted, which violated BI.1(f) of the Code

7. The evidence in the Agreed Statement of Facts and Joint Book of Documents established clearly that the Student had knowingly and repeatedly concocted data over a six-month period, that he presented this concocted data to his thesis supervisor and

others, and that this concocted data was used in a conference poster and a grant application.

8. In light of the Tribunal's finding on Charges 1 and 2, Charge 3 was withdrawn.

Decision of the Tribunal on Sanction

9. The Tribunal was presented with a joint submission on sanction, which asked the Tribunal to impose the following sanctions on the Student.

- (a) a five-year suspension from the University to commence on the day the Tribunal makes its order;
- (b) the Tribunal recommend to the President that he recommend to the Governing Council that Mr. K [REDACTED] be expelled from the University; and
- (c) 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.

10. The Tribunal considered the factors and principles and factors relevant to sanction set out by this Tribunal in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976).

- (a) The character of the Student: while the Student did not attend the hearing in person to give evidence, he did make admissions of misconduct. He made these admissions to his thesis supervisor, to the Dean's Designate, and to this Tribunal. The Tribunal recognizes these admissions are a sign the Student takes some responsibility for his misconduct. The Tribunal also recognizes that the Student had successfully obtained one degree from the University before this misconduct occurred.

- (b) The likelihood of a repetition of the offence: there was no evidence led that would lead the Tribunal to conclude one way or another on this factor.
- (c) The nature of the offence committed: this is a significant aggravating factor. The deliberate, repeated concoction of data strikes at the very heart of academic integrity. It is hard to imagine an offence more disruptive to academia.
- (d) Any extenuating circumstances surrounding the commission of the offence: there was some evidence in the Agreed Statement of Facts that the Student was challenged by "personal issues". His thesis supervisor attempted to refer the Student to resources that could help. We do not know whether the Student availed himself of these resources, or what connection his personal issues had to his misconduct. Another mitigating factor considered by the Tribunal is that this was the Student's first academic offence.
- (e) The detriment to the University occasioned by the misconduct: the Student's fabricated work found its way on to a poster that had the names of innocent parties attached to it. All their reputations were affected. The research conducted in the Lab was compromised. Grant funds and scholarship funds were wasted. The integrity of the University was damaged.
- (f) The need to deter others from committing similar offences: as the deliberate concoction of data is such a serious academic offence, the need for general deterrence is profound.

11. In addition to considering the factors from *Mr. C., supra*, the Tribunal considered other cases of this Tribunal in similar circumstances: *University of Toronto and S [REDACTED] M [REDACTED]* (Case 736, February 19, 2015); *University of Toronto and M [REDACTED] K [REDACTED]* (Case 634, December 14, 2011 and March 22, 2012); *University of Toronto and S [REDACTED] G [REDACTED]* (Case 588, July 28, 2011); and *University of Toronto and Mr. J.D.* (Case 456,

undated). These show that there is a range of sanctions that have been imposed in fabrication cases, depending on the particular circumstances of the student and the particular balance of aggravating and mitigating factors. The joint submission proposed by the parties in the present case is fairly within that range.

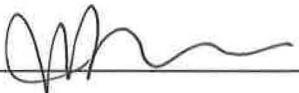
12. The Tribunal also considered that it ought to defer to joint submissions. While the Tribunal retains the discretion to reject joint submissions in appropriate cases, the fact that adversarial parties have been able to agree on the appropriate sanction is a good indication in and of itself that the appropriate balance of interests has occurred. The Tribunal found the proposed sanction was in the range of sanctions imposed in other cases, and was fair and reasonable in light of the factors and principles relating to sanctions generally.

13. Accordingly, the Tribunal is satisfied that the following Order is appropriate.

1. **THAT** the hearing may proceed in the absence of Mr. K█████.
2. **THAT** Mr. K█████ is guilty of two counts of submitting academic work containing a purported statement of fact that had been concocted, contrary to section B.I.1(f) of the *Code of Behaviour on Academic Matters* ("Code").
3. **THAT** the following sanctions shall be imposed on Mr. K█████:
 - (a) Mr. K█████ be immediately suspended from the University from the date of this Order for a period of five years, commencing on December 15, 2015 and ending on December 14, 2020, or until Governing Council makes its decision on expulsion, whichever comes first; and
 - (b) the Tribunal recommends to the President of the University that he recommend to the Governing Council that Mr. K█████ be expelled from the University.

4. THAT 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 15th day of February, 2016



Ms. Johanna Braden, Chair