

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL**

IN THE MATTER OF charges of academic dishonesty made on March 26, 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, S.O. 1971, c.56 as amended S.O. 1978, c. 88

BETWEEN:

THE UNIVERSITY OF TORONTO

and

M [REDACTED] K [REDACTED]

REASONS FOR DECISION

Members of the Panel:

Ronald G. Slaght, Q.C.	Chair
Graham Trope	Faculty Panel Member
Melany Bleue	Student Panel Member

Appearances:

Robert A. Centa	Counsel for the University of Toronto
Zak Muscovitch	Counsel for M [REDACTED] K [REDACTED]

Introduction

[1] The trial division of the University Tribunal held a hearing on Thursday, October 30, 2008 into a series of charges brought by the University against Ms. K [REDACTED]. A copy of the Charges is annexed to these Reasons as Appendix "A".

[2] The charges concern allegations that Ms. K [REDACTED] had forged and falsified three documents, all dated July 10, 2007, found at Tabs 8, 9 and 10 of the Joint Book of Documents, Exhibit 2, which she had then submitted as part of an application made to obtain Post Admission Transfer Credits (PATC). The documents included what was purported to be a certified transcript of an academic record from Ivan Franko National University in the Ukraine ("IFNU"), what purported to be a certified curriculum for a course, "Cervantes", from IFNU and a document purporting to be a certified syllabus for "Politics and Society in Latin America" also from IFNU, all documents of the nature and kind that are required by the Transfer Credits Section Office of the University of Toronto when considering an application for PATC.

[3] The matter proceeded on a plea of guilty to Charges 1, 4 and 6 and a contested hearing on the sanction to be imposed. Mr. Centa, for the University, reviewed the Agreed Statement of Facts, which had been signed by Ms. K [REDACTED]. Ms. K [REDACTED] acknowledged the truth of the Statement, and the Tribunal accepted the guilty plea and entered a finding of guilty to Charges 1, 4 and 6. The University then withdrew the other charges.

[4] The matter then continued with a hearing into the appropriate sanction. The University advised the Panel it was seeking the ultimate penalty, expulsion from the University. The University called no evidence but relied upon the Agreed Statement of Facts.

[5] Mr. Muscovitch for Ms. K [REDACTED] advised the Panel that his client would make no attempt to justify her conduct or admit to anything less than the most serious offence but, in all the circumstances, the need to protect the integrity of the academic setting, and satisfy the general principles of sentencing adopted by the Tribunal in other cases, could be satisfied here by a lengthy suspension in the range of four to five years. Mr. Muscovitch argued that Ms. K [REDACTED] was but one credit from obtaining her degree, and having regard to the evidence that the Panel would hear, expulsion was not a sanction the Tribunal should impose.

[6] Ms. K [REDACTED] gave evidence and Mr. Muscovitch filed an outline of her evidence with the Tribunal. As well, three letters were entered on consent, a letter (Exhibit 3) dated October 7, 2008 from Vasily Hnatov, a doctor of naturopathic medicine, a letter (Exhibit 4) dated August 22, 2008 from Dr. Romana Fagan, Ms. K [REDACTED]'s family physician, and a character reference (Exhibit 5) dated October 2, 2008 from Natalia Yatsenko who is the superintendent of the building where Ms. K [REDACTED] lives.

[7] Following the evidence, the Panel heard comprehensive submissions from Messrs. Centa and Muscovitch and after a period of deliberation advised the parties it was reserving its decision and would release its decision and Reasons as soon as possible.

Background and Agreed Facts

[8] The essential facts of this matter were contained in the Agreed Statement of Facts and can be stated briefly.

[9] M[REDACTED] K[REDACTED] first registered at the University of Toronto in the Faculty of Arts and Science in 2001, planning to complete a Specialist Program in Spanish. The Panel was provided with a copy of Ms. K[REDACTED]'s academic record in the Joint Book of Documents. As at October 30, 2008, the date of the hearing, Ms. K[REDACTED] had completed 19 of 20 academic credits needed to graduate in her selected program.

[10] In the course of obtaining her credits, in September 2005, Ms. K[REDACTED] had enrolled in POL 305Y – Politics and Society in Latin America. She had obtained a copy of the course outline but subsequently dropped that course after about one month of classes. The course outline was provided to us at Tab 4 of the Joint Book of Documents.

[11] In Winter 2007, Ms. K[REDACTED] had registered in SPA 454 HIS – Cervantes and the Golden Age of Narrative, and had obtained a copy of the course outline for that course (available only to those registered in the course). That outline was provided to us at Tab 5 of the Joint Book of Documents.

[12] As emerged as an important fact, Ms. K[REDACTED] attended only one class in the Cervantes course. Successful completion of SPA 454 HIS was a prerequisite and compulsory in order to graduate with the specialist designation in Spanish, the program in which she was enrolled.

Post Admission Transfer Credits

[13] Ms. K [REDACTED] had come with her family to Saskatchewan from the Ukraine when she was 17. The evidence showed that she has returned to the Ukraine on a number of occasions, and she expressed in her evidence a wish ultimately to live and work in that country. She had studied both at the University of Saskatchewan and at INFU in the Ukraine prior to enrolling at the University of Toronto.

[14] The University of Toronto will, in appropriate circumstances, grant students credit for academic work completed at other institutions. The usual practice is that students will apply for transfer credits when granted admission to the University, but the University will also grant credit, known as a Post Admission Transfer Credits (PATC), after a student has been admitted to the University.

[15] There is an on-line process in place and a Transfer Credit Office to which applications are made. An application for PATC must include a copy of the course description for each course for which the student is seeking credit, an official transcript from the institution where the student took the course, a certification that all the information being provided is true, accurate and complete, and a consent that the University of Toronto may confirm the accuracy of any information with the other institution.

Ms. K [REDACTED] applies for PATCs

[16] In August 2007 Ms. K [REDACTED] obtained information from the TCS office about how to apply for a PATC. There was email messaging back and forth about the process.

On September 10, 2007 Ms. K [REDACTED] made an application for PATC and asked that the University provide her with academic credit for two courses, Cervantes, and Politics and Society in Latin America, courses that she claimed to have taken between May and July 2007 at IFNU in L'viv, Ukraine.

[17] In support of her application, she certified that the information she was providing was true, accurate and complete and consented to the University of Toronto confirming the accuracy of the information. She submitted the three documents, dated July 10, 2007 described in these Reasons at paragraph 2.

[18] Ms. K [REDACTED]'s attempt to deceive the University appears to have quickly unravelled. The TCS Office contacted a Professor, Ana Perez-Leroux, who was the undergraduate coordinator of the Department of Spanish and Portuguese in Toronto, and who identified that the IFNU Cervantes Outline submitted by Ms. K [REDACTED] was a verbatim translation of the U of T Cervantes Outline (with a few grammatical errors).

[19] Following this, the University confirmed with the Vice-Rector of Academic Affairs at IFNU that the purported IFNU documents were fraudulent.

Subsequent Events

[20] When first confronted, in December 2007, Ms. K [REDACTED] expressed surprise and asserted that she had taken the two courses in the Ukraine.

[21] Ms. K [REDACTED] met with Professor Dewees, the Dean's Designate for Academic Integrity in the Faculty in February 2008. She admitted then that the IFNU transcript, the IFNU Cervantes Outline and the IFNU Politics Outline were forged and falsified

documents. She explained in February that she had taken a couple of non-credit, general interest courses in the Ukraine in the summer of 2007 and had asked the instructor to provide her with academic documentation to support a request for PATC. The instructor had initially refused to do so but she had offered a bribe if he would produce the documents. The instructor had then agreed to assist her and had provided the forged and falsified academic records.

[22] That remained the state of matters until not long before this hearing, when the University forwarded a draft Agreed Statement of Facts containing the admissions made in February 2008. Ms. K [REDACTED] then stated that she had misled the Dean's Designate during the February 2008 meeting, and in fact she was not in the Ukraine at all during the summer of 2007, took no courses there and that her story about the instructor and the bribe were untrue.

[23] It appears instead, that she had asked a Ukrainian friend to help her by creating the forged documents. She provided her friend with copies of the U of T Cervantes Outline and the U of T Politics Outline and her friend then created the forgeries. No money changed hands.

[24] A copy of the forged and falsified transcript of the academic record (Tab 8 of the Joint Book of Documents) with its false seal is attached to these Reasons at Appendix "B".

Ms. K [REDACTED]'s Evidence

[25] When she enrolled at the University of Toronto in 2001 she had obtained transfer credits for her work at the University of Saskatchewan and at IFNU in the Ukraine. She had been enrolled here since 2001 mostly as a part-time student, working to support herself and enable her attendance at University.

[26] Ms. K [REDACTED] described, supported by the letters from the health practitioners, Exhibits 3 and 4, severe symptoms of depression, and anxiety leading to panic attacks over the period of her University attendances. She described these as triggered by the requirements for class participation, a basic requirement in language classes, and manifested by shortness of breath and, indeed, her having to remove herself from class from time to time. As she approached her tenth year at university, her purpose became to obtain a degree and then return to the Ukraine where, she advised the Panel, a degree was a necessity to obtain any sort of meaningful employment.

[27] In evidence upon which the Tribunal ultimately put great reliance, Ms. K [REDACTED] candidly admitted that the course requirements in the Cervantes course were too heavy for her, that she could not meet the demands of the course and for this reason she had attended only one class, and had obtained the syllabus. She did not see how she could pass that course.

[28] She admitted in her evidence she had no excuse for what she has done and feels ashamed and angry at herself. She also clearly admitted that she set about a course of fraudulent conduct over a period of months starting in July 2007, involving her friend in

creating the false documents (on the basis that she thought he would do a better job than she in creating the forged materials).

[29] Ms. K [REDACTED] was also forthright in cross-examination. She agreed she had enrolled in "Cervantes" at U of T twice and confirmed that she dropped the course in February 07 because she couldn't handle the material and couldn't keep up. She enrolled again September 2007, that is just at the time she had completed her PATC applications for credit for the fictional Cervantes and Poli Sci courses. She did not follow through on this occasion either. She was hedging her bets.

[30] Ms. K [REDACTED], as detailed above, had given much evidence in her direct examination about her health issues, including depression, anxiety and panic attacks, and the letters submitted from her naturopath and family physician recorded these conditions, as well as some apparent physical allergies that she suffered from seasonally.

[31] What emerged from these letters and Ms. K [REDACTED]'s evidence however was that at the material time, July through September 2007, when the false documents were created with the assistance of her friend and submitted to the TCS office for PATC, Ms. K [REDACTED] was well, physically and mentally. Speaking to that period the naturopath, Dr. Hnatov said "as of now M [REDACTED] is in good physical and emotional state".

[32] When questioned about this, Ms. K [REDACTED] acknowledged that she was not affected by any physical or mental disorder or her range of symptoms when carrying out her fraudulent plan but rather her motivation was the recognition that because of anxiety, depression and panic attacks that she experienced while attending class and particularly approaching a rigorous course such as Cervantes, she had concluded that she would not

be able to complete her course. This was the reason she entered into the fraudulent and deceptive scheme we have described.

[33] Ms. K[REDACTED] also confirmed that, while it had been recommended to her that she seek psychiatric or psychological assistance, as a matter of choice she preferred homeopathic and herbal remedies and had never sought such assistance. Nor had she approached the University in an attempt, on account of her disability, to ameliorate the course requirements including class participation requirements.

Submissions

[34] Mr. Centa, for the University, reiterated the University's position that the facts and circumstances in this matter warranted Ms. K[REDACTED]'s expulsion from the University and a permanent notation on her record. He reviewed the applicable sentencing principles and sought to draw parallels to this case from the facts and language contained in earlier Tribunal Decisions. Falsification of an academic record has always been considered to be the most serious conduct and Tribunals consistently, but not in every case, have decided that expulsion is the appropriate penalty in such cases.

[35] He argued that both the need to protect the integrity of the University setting, where trust must be the hallmark of shared values, and the need for deterrence, mandate the most severe penalty. Mr. Centa reviewed the facts, and the deliberate and intentional scheme conceived by Ms. K[REDACTED] and carried out with the assistance of a third party over an extended period. This was not a case of a spontaneous act borne out of desperation or some act of recklessness which could be, if not justified, at least explained in a more general context.

[36] In an effective submission, Mr. Muscovitch challenged the University's approach to this case, emphasizing that the Code provides a range of penalties for every offence and that the Panel should avoid imposing an automatic penalty for fabricating transcripts in this case. Ms. Kalandruk had obtained 19 credits over a ten year period, mostly as a part-time student while working, striving to get her degree, the best evidence of her good character.

[37] While candidly admitting that her health was not the cause of her actions Mr. Muscovitch submitted that nonetheless she had displayed a period of weakness, an exception to her otherwise good behaviour over a long period, and this should justify a severe but not the ultimate penalty.

[38] Ms. K[REDACTED] had admitted the offence, pleaded guilty, made no effort to justify her conduct at this hearing and she should be given the opportunity to complete what she had almost completed. She had expressed remorse, and these factors should justify a lesser sentence.

[39] Mr. Muscovitch also sought to draw a distinction with reference to some of the previous cases, between the fabrication of an entire degree or a full academic record, on the one hand, and the less serious offence, in his submission, of fabricating records with respect to one or two courses.

Decision

[40] After careful consideration, the Tribunal is unable to give effect to Mr. Muscovitch's submissions. In our view, the planned and deliberate nature of this offence,

with its complexities, carried out over a period of months in circumstances where Ms. K [REDACTED] could have withdrawn from her plan at any time, involving a third party with a view to maximizing the scheme's chances of success and her continued deceptions when first confronted and again in fabricating her wholly fictitious explanation including the insistence that she had in fact taken the two courses in the Ukraine leave us in the position that expulsion is the only justified response by this Tribunal.

[41] Moreover, there is more to the deliberate nature of this conduct than just the time it took to obtain the materials and put together the fraudulent documents, engage with the TCS office and ultimately submit a false application for a PATC. In this case, we find that Ms. K [REDACTED] had reached her own conclusion that she could not successfully complete the requirements of course SPA 454 HIS – Cervantes, at this institution. She thus conceived this plan and carried it out in an effort to obtain the two half credits that she needed and, without the fraudulent PATC, she would never attain.

[42] Thus, in our view, while the falsified transcript was in respect of two courses only and not an entire academic record or multiple falsifications of a transcript, nonetheless the effect of Ms. K [REDACTED]'s actions in this case is the same – this fabrication was in the nature of a fabricated degree or University transcript in that it was designed to accomplish the same purpose, namely, obtaining a degree that otherwise would not be obtained.

[43] For these reasons and particularly to protect the integrity of the University community, the compelling need to signal and to underscore the deterrent effect and reiterate that such conduct will and must meet with the most severe reaction when

uncovered, the Tribunal will recommend to the President that Ms. K [REDACTED] be expelled from the institution, and a permanent notation to that effect be made on her academic record.

[44] A word about character. Much was made in argument about this criterion, one of the sentencing principles the Tribunal routinely addresses, arising from Chelin. We are sympathetic to Ms. K [REDACTED] in this sense. As with many students, she was able to muster only modest evidence to put before the Tribunal, in the form of a letter from her building superintendent. She has no access, as Mr. Muscovitch put it, to the titans of corporate Canada or the leaders of the law or other places. She came to the Tribunal and, as we observed her demeanor, honestly admitted her failings and took no efforts to excuse or otherwise justify her conduct. While the medical evidence before us led us to the conclusion that any mental or physical disabilities she suffers were not causative of her conduct but rather a reason for it, nonetheless this Panel believes something must have been going on or is going on with Ms. K [REDACTED] because she appeared to us to show some insight into her actions and a genuine remorse for her conduct.

[45] We do hope Ms. K [REDACTED], who came here to deal with what she had done in a forthright manner, can go on to a productive life. She has displayed a side of character that should permit this. Nonetheless, on the facts of this matter, we were unable to reach a conclusion other than the one we have expressed in these Reasons.

Conclusion

[46] We therefore recommend to the President that Ms. K [REDACTED] be expelled from the University and that a permanent notation of this expulsion be recorded on her academic record.

[47] The Panel thanks counsel for their assistance with this difficult matter.

Date:

Nov. 5/08

Ronald G. Slaght, Q.C.

Chair

Graham Trope

Faculty Panel Member

Melany Bleue

Student Panel Member

APPENDIX "A"

UNIVERSITY OF TORONTO

M [REDACTED] K [REDACTED] (991 820 302)

CHARGES

Note: Wherever in the *Code of Behaviour on Academic Matters, 1995* ("Code") an offence is described as depending on "knowing", the offence shall likewise be deemed to have been committed if the person ought reasonably to have known.

1. In August or September 2007, you 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 document that purported to be a transcript of academic record from Ivan Franko National University of L'viv ("IFNU"), contrary to Section B.I.1(a) of the Code.

2. In the alternative, In August or September 2007, you knowingly forged or in any other way altered or falsified an academic record, or uttered, circulated or made use of any such forged, altered or falsified record, namely, a document that purported to be a transcript of academic record from IFNU, contrary to Section B.I.3(a) of the Code.

3. In the further alternative, in August or September 2007, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a document that purported to be a transcript of academic record from IFNU contrary to Section B.I.3(b) of the Code.

4. In August or September 2007, you 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

document that purported to be a "Program of educational course "Cervantes", from IFNU contrary to Section B.I.1(a) of the Code.

5. In the alternative, in August or September 2007, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a document that purported to be a "Program of educational course "Cervantes", from IFNU contrary to Section B.I.3(b) of the Code.

6. In August or September 2007, you 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 document that purported to be a syllabus for "Politics and Society in Latin America", from IFNU contrary to Section B.I.1(a) of the Code.

7. In the alternative, in August or September 2007, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting to the University of Toronto a document that purported to be a syllabus for "Politics and Society in Latin America", from IFNU contrary to Section B.I.3(b) of the Code.

Particulars

8. Since 2001 you have been enrolled at the University of Toronto.

9. In August 2007 you applied for post-admission transfer credits. You submitted at least three documents in support of your application for post-admission transfer credit:

- a. a document that purported to be a transcript of academic record from IFNU
- b. a document that purported to be a program of educational course "Cervantes" from IFNU; and
- c. a document that purported to be a syllabus for "Politics and Society in Latin America" from IFNU.

10. Each of the documents you submitted to the Faculty of Arts and Science was not an official document from IFNU. You either forged, falsified or altered these three documents or had them forged, falsified or altered at your request.

11. You submitted these forged, falsified or altered documents in support of your request for post-admission transfer credit. You submitted these documents knowing them to be forged, altered or falsified.

UKRAINE MINISTRY OF EDUCATION

Ivan Franko National University of Lviv**Transcript of the academic record****Transcript No. 000345**

Issued to M [REDACTED] K [REDACTED]

From May 22, 2007 through July 10, 2007

This document states that from May 22 to July 2007 M [REDACTED] K [REDACTED] has been a part-time student of the Foreign Languages Department at Lviv State University. During this academic period the above mentioned student has taken the following lessons and lectures as well as written the final examinations for the following courses:

Subject	Hours	Midterms	Final
1. Cervantes	26	Pass	4
2. Politics of Latin America	27	Pass	4

Date of issue July 10, 2007

Secretary of the Foreign Languages Department, Mrs. Doha L.M.

Signature

Seal





ЛВІВСЬКИЙ НАЦІОНАЛЬНИЙ УНІВЕРСИТЕТ

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AUG 28 2007

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