

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

ADMISSION AND REGISTRATION COMMITTEE

IN THE MATTER OF: Allegations against A [REDACTED] A [REDACTED] J [REDACTED], under Regulation 9-1: Student Registration, Obligations and Standing, Section 13: Good Character on Registration, as amended

TO:

A [REDACTED] A [REDACTED] J [REDACTED]
[REDACTED]
[REDACTED]

AND TO: The Admission and Registration Committee

NOTICE OF REFERRAL FOR A HEARING

Pursuant to section 13 of Regulation 9-1, adopted by Council under the *Chartered Professional Accountants of Ontario Act, 2017* and the By-law governing the Chartered Professional Accountants of Ontario (“CPA Ontario”), I hereby request the Admission and Registration Committee to convene an oral hearing in respect of this application.

THE GROUNDS FOR THE REQUEST ARE:

1. The Applicant applied to be registered as a student with CPA Ontario on August 1, 2018. Having reviewed the application for registration, I am not satisfied that the applicant has provided evidence of good character as required under Regulation 9-1: Student Registration, Obligations and Standing, Section 13: Good Character on Registration.
2. The particulars are:
 - a. On July 14, 2008, the Applicant pleaded *nolo contendere* (“no contest”) to a charge of possession of marijuana in an amount greater than equal to 4 grams but less than 200 grams in Fort Bend County, Texas;
 - b. Having entered this plea, a judgment of guilt against the Applicant was deferred, the Applicant was placed on probation for a period of four years, and further proceedings against him were suspended for four years;
 - c. The terms of the Applicant’s probation required [REDACTED] (i) to avoid any use of dangerous drugs, controlled substances, marijuana and alcoholic beverages, and (ii) to avoid places of disreputable or harmful character;

- d. Over ■■■ term of probation, the Applicant repeatedly and willfully violated the terms of ■■■ probation, including by smoking marijuana and being in the presence of others who were smoking marijuana;
 - e. As a result of the Applicant's repeated violation of the terms of ■■■ probation, the Fort Bend County District Attorney moved to revoke the Applicant's probation and for an adjudication of guilt;
 - f. On September 25, 2012, the Applicant appeared before the Honorable Thomas R. Culver, III of the District Court of Fort Bend County, Texas on the motion brought by the District Attorney while under the influence of narcotics. As a result, Judge Culver revoked the Applicant's bond and remanded ■■■ to custody; and
 - g. On March 26, 2013, the Applicant was adjudged guilty of the possession of marijuana charge to which ■■■ had previously pleaded no contest and was sentenced to two years' imprisonment.
3. I have determined that the Applicant otherwise meets all the criteria to be registered as a student.

Date: November 25, 2019



Heidi Franken
Registrar

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

ADMISSION AND REGISTRATION COMMITTEE

IN THE MATTER OF: A good character hearing into A■■■■ A■■■■ J■■■■, an applicant for registration as a student with the Chartered Professional Accountants of Ontario pursuant to Regulation 9-1: Student Registration, Obligations and Standing, as amended.

TO: A■■■■ A■■■■ J■■■■

AND TO: Registrar, CPA Ontario

DECISION AND ORDER MADE JUNE 9, 2020

DECISION

Having heard and seen the evidence and submissions of the parties, the Tribunal is not satisfied that the applicant has provided evidence of good character as required under Regulation 9-1: Student Registration, Obligations and Standing and Section 13: Good Character on Registration.

ORDER

1. The application of A■■■■ A■■■■ J■■■■ to be registered as a student with CPA Ontario is denied.

DATED at Toronto this 9th day of June, 2020.



Gregory Hocking, CPA, CA, IFA
Admission and Registration Committee

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

ADMISSION AND REGISTRATION COMMITTEE

IN THE MATTER OF: A good character hearing into A [REDACTED] A [REDACTED] J [REDACTED], an applicant for registration as a student with the Chartered Professional Accountants of Ontario pursuant to Regulation 9-1: Student Registration, Obligations and Standing, as amended.

BETWEEN:

A [REDACTED] A [REDACTED] J [REDACTED] I

-and-

**REGISTRAR, CHARTERED PROFESSIONAL
ACCOUNTANTS OF ONTARIO**

Appearances:

For the Applicant, A [REDACTED] A [REDACTED] J [REDACTED] Present and Self-represented

For the Registrar Ashley Thomassen and Katie Archibald, Counsel

Heard: June 9, 2020

Release of written reasons: July 22, 2020

REASONS FOR THE DECISION MADE JUNE 9, 2020

I. BACKGROUND AND FACTS

[1] This hearing was held to determine whether the Applicant, A [REDACTED] A [REDACTED] J [REDACTED] (the "Applicant") was of good character at the time of the hearing and thereby met the requirements for admission as a student of the Chartered Professional Accountants of Ontario ("CPA Ontario"). The Applicant's good character was put into issue as a result of [REDACTED] criminal conviction on March 26, 2013 for possession of a controlled substance. [REDACTED]

application was referred by the Registrar to the Admission and Registration Committee ("ARC").

[2] On August 1, 2018, the Applicant applied to be registered as a student with CPA Ontario. The Applicant disclosed in [REDACTED] application that [REDACTED] had been convicted of a criminal offence. In the supplementary questionnaire dated November 9, 2018 (the "Questionnaire"), the Applicant disclosed [REDACTED] 2013 prior conviction.

[3] In the Questionnaire, CPA Ontario asked the Applicant to describe the circumstances of [REDACTED] criminal offence, including any mitigating factors. The Applicant responded as follows;

"There were four of us friends smoking cannabis, at nighttime, in one of the friend's neighborhood: specifically on my friend's out-of-town neighbor's front yard. Another random neighbor called the cops on us for suspicious activity. The cops showed up and searched all of us but only found drugs in one of the cars in which my wallet along with driver's license was also found. Only I was then immediately taken to county jail.

Mitigating factors: I had no prior criminal record. I was only 19 years of age and freshly in college. I genuinely feel remorse as I definitely should not have been smoking cannabis at night and out in the open like that with drugs in the car. I thought I was being "cool" but later got to realize how "un-cool" and ignorant I was."

[4] On October 13, 2007, the Applicant was charged in Fort Bend, Texas, with Manufacture and Delivery of a Controlled Substance.

[5] On July 14, 2008, the Applicant pleaded no contest to the lesser offence of Possession of a Controlled Substance. The Texas District Court deferred the judgment of guilt against the Applicant and [REDACTED] was placed on probation for a period of four years, with further proceedings against [REDACTED] suspended for four years (the "Probation Order").

[6] The terms of the Probation Order required the Applicant, among other things:

- a. to avoid the use of any dangerous drugs, controlled substances, marijuana and alcoholic beverages;
- b. to avoid places of disreputable or harmful character; and

c. to complete a drug/alcohol evaluation through an agency and abide by any treatment directives.

[7] Over the course of the next four years, the Applicant was found to have repeatedly violated the terms of [REDACTED] Probation Order. The Court record showed that the Applicant admitted in writing and/or tested positive for marijuana after random testing on the following dates, and gave the following explanations:

- July 14, 2010 – [REDACTED] admitted that [REDACTED] was in a “hot box” (a car where others were smoking marijuana) and the drugs were found in [REDACTED] system;
- September 20, 2010 – [REDACTED] admitted that [REDACTED] had smoked marijuana a couple of days before [REDACTED] tested positive;
- November 18, 2011 – [REDACTED] said that [REDACTED] had a few puffs of marijuana at a friend’s house;
- March 30, 2011 – [REDACTED] said that [REDACTED] smoked weed on March 15, 2011 and a couple days after that;
- February 28, 2012 – [REDACTED] admitted that [REDACTED] smoked a “cigaritio of dro (marijuana)”;
- April 13, 2012 – [REDACTED] admitted that [REDACTED] smoke “one-blunt” of marijuana; and
- May 10, 2012 – [REDACTED] admitted that [REDACTED] smoked marijuana out of a glass pipe.

[8] On May 16, 2012, the Fort Bend County District Attorney brought a motion to revoke the Applicant’s Probation Order and sought an adjudication of guilt. In a statement supporting this motion, the Community Supervision Officer prepared a report for the Court that set out the history of the Applicant’s probation violations (“Violation Report”). The Violation Report stated that when the Officer asked the Applicant why [REDACTED] repeatedly violated the Probation Order, [REDACTED] explained that [REDACTED] did not know when the tests were going to be given and [REDACTED] “didn’t understand why [REDACTED] was getting punished for using marijuana as the same as people who are using harder drugs and that [REDACTED] could stop using on [REDACTED] own but didn’t understand why it was such a big issue.” The Applicant told the Officer that treatment was not for [REDACTED] and that jail time would not be a deterrent.

- [9] On June 29, 2012, the District Attorney of the State of Texas and the attorney for the Applicant appeared before the Honourable Justice Sears and the Court was advised of the above-noted violations of the Probation Order. The Applicant was ordered to return to Court and indicate which residential treatment program [REDACTED] would be attending. The Applicant's attorney advised Justice Sears that the Applicant refused to enter any treatment program. Judge Sears instructed the Community Corrections Officer to file the Violation Report with the Court and the District Attorney's motion was set for September 2012.
- [10] On September 25, 2012, the Applicant appeared in Court before the Honourable Thomas R. Culver III. The first issue before the Court was the request by the Applicant's counsel to withdraw their representation of [REDACTED] and be removed from the record. The Applicant's counsel advised that the Applicant had previously agreed to attend a treatment facility, but [REDACTED] changed [REDACTED] mind. The Applicant denied that [REDACTED] gave those instructions to the attorney; however, [REDACTED] did not object to [REDACTED] counsel being removed from the record.
- [11] Justice Culver then tried to convince the Applicant to go to treatment, however, the Applicant said that [REDACTED] would not do so as [REDACTED] was not hurting anyone. The judge also recommended that the Applicant retain a new attorney as the penalty in the matter could be substantial; however, the Applicant advised the Court that [REDACTED] wanted to represent [REDACTED]. Before proceeding with the trial, Justice Culver requested that a drug test be performed on the Applicant during a break in the trial.
- [12] When [REDACTED] returned to speak to the matter before Justice Culver that day, the Applicant had tested positive for marijuana and [REDACTED] admitted to the Court that [REDACTED] used marijuana that morning at 7:30 AM and the day prior. Justice Culver revoked the Applicant's bond (which meant that [REDACTED] had to post a new bond for \$25,000) and the Applicant was remanded into custody. Justice Culver explained that the Applicant was going back to jail not because [REDACTED] probation was revoked (it was revoked on July 14, 2012) but because the bond that [REDACTED] was on was "obviously insufficient to protect society and you."
- [13] On March 26, 2013, the Applicant was adjudged guilty of possession of a controlled substance and [REDACTED] was sentenced to two years' imprisonment. The Applicant testified that [REDACTED] spent ten or eleven months in jail. When asked by counsel for the Registrar if [REDACTED] had any conditions imposed on [REDACTED] after [REDACTED] was released from custody, the Applicant testified

that there was no probation after ■■■ release and ■■■ believed that the probation ended after the conviction.

[14] While ■■■ was still subject to the Probation Order, the Applicant completed a degree at a community college and then transferred to Houston University, where ■■■ obtained a BA in Accounting in 2010. ■■■ testified that ■■■ was on the Dean's Honour List every year. During this period, the Applicant began tutoring other students and ■■■ started a tutoring business in 2011.

[15] The Applicant has lived in India since these events. ■■■ continues to run a tutoring business called Online Tutoring 101 where ■■■ teaches Math, English and other subjects to students online. ■■■ indicated that for the past year, ■■■ has coached children's basketball and ■■■ attends religious services regularly.

[16] During ■■■ good character hearing, the Applicant provided an explanation for ■■■ use of marijuana. ■■■ testified that ■■■ had been in a single vehicle accident on June 3, 2004 and suffered serious injuries, including an L5 fracture, a brain hemorrhage and collapsed lungs. The Applicant stated that ■■■ was in hospital on life support for two weeks.

[17] After ■■■ discharge from hospital, the Applicant testified that ■■■ doctor prescribed medication to alleviate ■■■ persistent back pain, however while this medication provided temporary relief, ■■■ did not like the side effects, which included nausea and sleepiness. On cross-examination, the Applicant advised that ■■■ only saw the doctor who prescribed this medication once. ■■■ went to physiotherapy for a couple of months after ■■■ hospitalization, but stopped two or three months later when ■■■ was able to function. The Applicant testified that ■■■ decided to use marijuana to alleviate ■■■ back pain. ■■■ advised that ■■■ did not consult a doctor about ■■■ use of marijuana and was able to buy the marijuana from friends.

[18] During ■■■ evidence, the Applicant attributed ■■■ several breaches of the Probation Order to ■■■ back injury. ■■■ indicated that between 2008 and 2012, when ■■■ was sentenced by Justice Culver, ■■■ used marijuana a few times a week.

[19] Counsel for the Registrar challenged the Applicant's evidence that ■■■ had used marijuana only for medicinal purposes. On cross-examination, she pointed out that in the Violation Report, the Applicant said that ■■■ could quit at any time. ■■■ did not mention the use of

marijuana for pain management. The Applicant testified that [REDACTED] could not recall [REDACTED] conversations with the officer.

- [20] The Applicant was also cross-examined about why [REDACTED] failed to mention [REDACTED] back injury to Justice Culver and in fact [REDACTED] appeared in Court under the influence of marijuana. The Applicant responded that [REDACTED] needed the marijuana that day for pain however [REDACTED] had no explanation for why [REDACTED] did not mention this to the Court, despite making lengthy submissions about other issues.
- [21] Counsel for the Registrar also questioned the Applicant about [REDACTED] Questionnaire (“There were four of us friends smoking cannabis” and “I thought I was being cool”) and [REDACTED] failure to refer to an alleged use of marijuana for pain as a mitigating circumstance. The Applicant testified that on the night of [REDACTED] arrest, [REDACTED] was using marijuana for pain and [REDACTED] friends were not smoking cannabis (contrary to [REDACTED] earlier testimony at the hearing and [REDACTED] statement in the Questionnaire). The Applicant said that [REDACTED] did not mention [REDACTED] car accident or the resulting back pain in [REDACTED] Questionnaire because [REDACTED] did not want to represent [REDACTED] as a victim.
- [22] On cross-examination, the Applicant indicated that the physiotherapy helped [REDACTED] and that [REDACTED] was 80% healed after about six months after the car accident. [REDACTED] was able to go back to playing sports (basketball) and [REDACTED] normal daily activities. [REDACTED] indicated that [REDACTED] still experienced pain from time to time. The Applicant indicated that [REDACTED] has had a prescription for marijuana for the past two years while living in Hyderabad, India and [REDACTED] produced a copy of that prescription.
- [23] With respect to [REDACTED] several refusals to obtain treatment for [REDACTED] drug use, the Applicant testified that [REDACTED] was not a drug addict and the programs were for people with addictions to hard drugs. Since [REDACTED] left Texas, the Applicant had not sought any treatment. After [REDACTED] conviction and while incarcerated, the Applicant testified that [REDACTED] was required to attend programs about drugs, however the focus was on harder drugs and were not for [REDACTED]
- [24] Counsel for the Registrar asked the Applicant about [REDACTED] remorse. [REDACTED] indicated that [REDACTED] regretted [REDACTED] actions and realized that [REDACTED] was trying to be cool and alleviate pain. [REDACTED] appreciated that marijuana was illegal in Texas and [REDACTED] should have moved somewhere where it was not illegal rather than break the law. [REDACTED] referred to [REDACTED] violations of [REDACTED] probation as “silly mistakes.”

- [25] One of the panel members asked the Applicant about what happened after [REDACTED] release from custody in early 2014. The Applicant testified that [REDACTED] did not go through parole because [REDACTED] went to India after [REDACTED] release. Asked how long after [REDACTED] release from jail [REDACTED] went to India, the Applicant responded that it was hours. When asked if [REDACTED] may have technically been on parole, the Applicant answered that [REDACTED] did not know because [REDACTED] was never introduced to [REDACTED] parole officer. When asked whether [REDACTED] had returned to the United States after [REDACTED] moved to India, the Applicant simply answered “no.” [REDACTED] was then asked why [REDACTED] had not returned to the United States and [REDACTED] testified that [REDACTED] had no reason to go back and wanted to live in Canada now.
- [26] After the Applicant gave evidence, one of [REDACTED] character witnesses testified that the Applicant had been deported from the United States to India. The panel asked the Applicant for confirmation of this fact and [REDACTED] admitted, for the first time in the hearing, that [REDACTED] had been deported from the United States to India.

Character Witnesses

- [27] The Applicant presented two character witnesses in support of [REDACTED] good character. Both witnesses knew [REDACTED] from college and university in Houston, Texas.
- [28] [REDACTED] worked in the telecom industry in New York and [REDACTED] testified that [REDACTED] had been friends with the Applicant since they met in university in 2006-2007. The Applicant was [REDACTED]'s first friend at the University of Houston and helped [REDACTED] navigate through university life and tutored [REDACTED] and [REDACTED] friends for free. [REDACTED] said that the Applicant was a “fixer, a helper and a saviour” and gave examples of situations where these qualities were exhibited. [REDACTED] testified that the Applicant's mother was a single parent living in Texas and she depended on the Applicant to help her through difficult times, particularly when she was dealing with the aftermath of a house fire where they lost everything. In terms of the Applicant's multiple breaches of the terms of [REDACTED] probation, [REDACTED] testified that [REDACTED] believed that the Applicant should have had better legal representation. They keep in touch by speaking on the phone once a week or so (and more frequently since the Covid-19 pandemic). While [REDACTED] was aware of the Applicant's criminal history, [REDACTED] indicated that [REDACTED] was not aware of the details until [REDACTED] heard them at the hearing. Toward the end of [REDACTED] evidence, [REDACTED] made mention of the fact that the Applicant had been sent back to India after [REDACTED] release from prison.

[29] ██████████ was currently working as an auditor for the City of Houston. ██████ testified that ██████ met the Applicant at community college and they had been good friends since that time. ██████████ spoke about the Applicant's energy and positive attitude. ██████ believed that the Applicant was brilliant at accounting and recalled the assistance that the Applicant had freely provided to other students. ██████████ indicated that the Applicant was vocally opposed to smoking and drinking. They had stayed in touch after the Applicant was deported to India. ██████████ also indicated that ██████ was aware of the criminal history of the Applicant, however ██████ had not seen any court documents and ██████ was not aware of all of the details discussed at the hearing.

II. ISSUES IN THIS HEARING

[30] The issue in this application was whether the evidence demonstrated on a balance of probabilities that the Applicant was of good character at the time of the hearing and could be registered with CPA Ontario.

III. DECISION

[31] The Panel found that the Applicant failed to establish on a balance of probabilities that ██████ was of good character at the time of the hearing and refused ██████ application for registration to CPA Ontario.

IV. REASONS FOR DECISION

Good Character Requirement in Regulations

[32] Under subsection 3.3 of Regulation 9-1, the Registrar shall register as a Student with CPA Ontario any individual who provides evidence of good character satisfactory to the Registrar. The Registrar shall not register an applicant without being satisfied that the registration will not put the public at risk or bring the reputation of the profession into disrepute (subsections 6.1 and 6.2 of Regulation 9-1).

[33] It is the applicant's responsibility to ensure that their application is complete and accurate (subsection 7.2 of Regulation 9-1).

- [34] If an applicant does not provide evidence of good character satisfactory to the Registrar, or if the evaluation of their application requires an assessment of the applicant's credibility, the Registrar shall refer the matter to an oral hearing before the ARC (sections 13 and 14 of Regulation 9-1). In referring the matter to the ARC, the Registrar is not making a decision about the applicant's good character, but rather they are finding that they have not been given sufficient evidence by the applicant to make a decision about good character or that the evidence provided on its face requires testing for credibility.
- [35] If the ARC determines that an applicant is not of good character, they shall make an order refusing the applicant's registration and may impose restrictions and conditions for reapplication if appropriate (section 19). If the ARC determines that the applicant has met the good character requirements, it shall make an order registering the applicant on such terms and restrictions as the Committee considers appropriate.

What is Good Character?

- [36] "Good character" is not defined in the Regulations, however it has been considered in CPA Ontario case law as well as case law from other regulators, such as the Law Society of Ontario. *Law Society of Upper Canada v Preyra*, 2000 CanLII 14383, is often cited for its definition of good character:

"That combination of qualities or features distinguishing one person from another. Good character connotes moral or ethical strength, distinguishable as an amalgam of virtuous attributes or traits which undoubtedly include, among others, integrity, candour, empathy and honesty."

- [37] In *Law Society of Upper Canada v Blackburn*, 2010 ONLSHP 112, the Panel quoted from Madam Justice Southin of the British Columbia Court of Appeal:

"[G]ood character" means those qualities which might reasonably be considered in the eyes of reasonable men and women to be relevant to the practice of law...Character...comprises...at least these qualities:

1. An appreciation of the difference between right and wrong; and

2. The moral fibre to do that which is right, no matter how uncomfortable the doing may be and not to do that which is wrong no matter what the consequences may be to oneself;
3. A belief that the law at least in so far as it forbids things which are *malum in se* must be upheld and the courage to see that it is upheld.

[38] Gavin MacKenzie, in his book *Lawyers and Ethics: Professional Responsibility and Discipline*, stated that the objectives of the good character requirement are the same as the principles of discipline, namely to:

“...protect the public, to maintain high ethical standards, to maintain public confidence in the legal profession and its ability to regulate itself, and to deal fairly with persons whose livelihood and reputation are affected.”

[39] Section 6 of Regulation 9-1 sets out similar objectives: the Registrar shall not register an applicant without being satisfied that the registration will not put the public at risk or bring the reputation of the accounting profession into disrepute.

Who Bears the Onus and What is the Burden of Proof?

[40] Under section 13 of Regulation 9-1, an applicant must provide satisfactory evidence to establish his or her good character. Here, the onus was clearly on the Applicant to convince the Panel that despite ■■■ previous misconduct, ■■■ was a person of good character at the time of the hearing.

[41] In the absence of a contrary standard of proof set out in the Regulations, the burden of proof applicable to other hearings of the committees of CPA Ontario should apply to good character hearings, namely proof on a balance of probabilities. Thus, the Applicant must satisfy the Panel that ■■■ was of good character at the time of the hearing on a balance of probabilities.

Factors Determining Good Character

[42] In *GB v Registrar, Chartered Professional Accountants of Ontario (“GB”)*, the Panel adopted the five-point test developed by the Law Society of Ontario jurisprudence, namely:

- a. The nature and duration of the misconduct;

- b. Whether the applicant is remorseful;
- c. What rehabilitative efforts, if any, had been taken and the success of such efforts;
- d. The applicant's conduct since the misconduct; and
- e. The passage of time since the misconduct.

Analysis

Nature and Duration of Misconduct

- [43] Counsel for the Registrar advised that their position was that the primary good character issue before the Panel was the Applicant's 2013 conviction. The underlying misconduct of concern to the Registrar was the Applicant's repeated violation of the Probation Order.
- [44] The Applicant's evidence that ■ used marijuana for medicinal purposes was relevant to the panel's determination of the nature of the misconduct. The panel found that the Applicant's use of marijuana was not likely related exclusively to relief from back pain and in any event, ■ frequent consumption of marijuana while subject to the Probation Order showed a lack of respect for the law.
- [45] The panel found that the Applicant testified that the back pain that ■ experienced from ■ injuries in the car accident in 2004 had substantially subsided after six months and physiotherapy. There was no medical evidence presented at the hearing that the Applicant required marijuana as a pain remedy from 2008 until 2012. There were several occasions where the Applicant would have been expected to tell authorities that ■ used marijuana for pain relief, including: the seven times when ■ was found with drugs in ■ system after random drug tests; ■ discussions with the Officer who prepared the Violation Report; and, during ■ lengthy presentation before Justice Culver. Not only did the Applicant not raise this allegation at these times, but ■ statements were to the contrary – for example, ■ told the Officer that ■ could stop using on ■ own but did not see that it was a big deal. Also, the explanations that ■ gave authorities when ■ tested positive for drugs related mostly to recreational use with friends.
- [46] When the Applicant applied to CPA Ontario and filled out the Questionnaire, ■ was asked to tell CPA Ontario about any mitigating circumstances related to ■ conviction. ■ did

not mention ■■ alleged use of marijuana for medicinal purposes and in fact described ■■ use of marijuana as something that ■■ was doing to be “cool.” Counsel for the Registrar advised the panel that the Applicant only raised the injuries that ■■ suffered from the car accident as a reason for ■■ use of marijuana after the pre-hearing conference.

[47] Based on this evidence, the panel concluded that the Applicant’s evidence at the hearing was inconsistent with the record. The panel concluded that the Applicant’s evidence was a disingenuous attempt to explain ■■ criminal activity with a late-in-the-day excuse of medical use.

[48] The panel found that while the original offence of Possession of a Controlled Substance was on the less serious end of the spectrum of criminal behaviour, the Applicant knowingly breached the terms of ■■ Probation Order numerous times from 2008 until 2012, showing a serious disrespect for the law.

Whether Applicant is Remorseful

[49] In *GB*, the Panel commented that it is important to consider whether the applicant has expressed genuine remorse respecting their past misconduct. At paragraph [23], the Panel stated:

“Remorse not only provides evidence as to whether the applicant has come to terms with the previous misconduct, it can demonstrate empathy and insight of the applicant. There are also important elements of good character.”

[50] In reviewing the Violation Report and the transcript from the trial before Justice Culver, the Applicant failed to express any remorse or contrition about ■■ breaches of the law generally or the Probation Order in particular. In the Violation Report, the Applicant complained that ■■ was being treated unfairly and that ■■ offences were not serious.

[51] At the hearing, the Applicant expressed remorse in that ■■ now understood that ■■ should always obey the law or if ■■ was unable to abide by the law, ■■ should not live in a country whose laws ■■ could not comply with. At the same time, the Applicant still characterized ■■ actions as “silly” and appeared to minimize the significance of breaching ■■ Probation Order. The panel found it particularly concerning that the Applicant showed up to court before Justice Culver while under the influence of marijuana, which showed a profound

lack of respect for the Court and the Probation Order. The Applicant did not comment on ■■■ conduct at court.

- [52] True remorse is premised on insight, and the panel found that the Applicant's different versions of events (■■■ was self-medicating versus ■■■ was using marijuana for pleasure and to be "cool") reflected poorly on the Applicant's acceptance of responsibility for ■■■ actions.

Rehabilitation Efforts and the Success of Such Efforts

- [53] In *GB*, the Panel observed that rehabilitative efforts "can demonstrate how an applicant's character has evolved between the past misconduct and the current hearing" (paragraph [22]). The Panel gave some non-exhaustive examples of rehabilitation: introducing stabilizing measures in the applicant's life like the support of a mentor, counselling or an emphasis on self-awareness.
- [54] The Applicant indicated that ■■■ was involved with coaching children's basketball and regularly attended religious services.
- [55] The Appellant had not engaged in any voluntary counselling or therapy. ■■■ was offered counselling and treatment services several times by the Texas judicial system and refused.
- [56] The panel found that the Appellant provided very little evidence of rehabilitation.

Applicant's Conduct Since the Misconduct

- [57] The Panel was concerned about the Applicant's evidence during the hearing and found that ■■■ was not fully candid in ■■■ evidence before the panel. First, as discussed above, the panel found that the Applicant's argument that ■■■ drug use was entirely for medicinal purposes was contrived and inconsistent with the contemporaneous evidence from the Texas conviction and the statements ■■■ made in the Questionnaire.
- [58] Second, during the hearing, the Applicant had several opportunities to tell the panel that ■■■ had been deported from the United States to India in 2014. The panel found that the Applicant's answers to questions around this issue were vague and not forthcoming. It was only when ■■■ character witness mentioned the fact of the Applicant's deportation in

■■ evidence that this issue came to light and the Applicant was required to admit on direct questioning by the panel that ■■ had been deported from the United States. While the issue of deportation may not or may not have been material to ■■ good character, the panel found that the Applicant knowingly avoided answering questions directly and volunteering this information.

[59] Candour is not only a requisite quality for the determination of good character, but it is also the hallmark of good accountants, who are regularly faced with ethical decisions that require good judgment and candid exchanges of information.

[60] The panel found that the Applicant lacked candour during the hearing and this was an important consideration in their determination that ■■ was not a person of good character at the time of the hearing.

The Passage of Time Since the Misconduct

[61] The Applicant's original misconduct that led to ■■ 2013 criminal conviction occurred in 2007, approximately 13 years ago. The Applicant's conviction was followed, however, by several years where ■■ continuously breached the Probation Order, up to and including ■■ hearing in the summer of 2012 before Justice Culver.

[62] The Panel found that this could have been sufficient time for the Applicant to demonstrate that ■■ character had changed, however, as set out above, the Panel found that the Applicant failed to demonstrate at the hearing that ■■ had rehabilitated ■■ character.

Character Witnesses

[63] While both character witnesses spoke highly about the Applicant's qualities as a friend and ■■, they also testified that they were only vaguely aware of the good character issues before the panel until they participated in the hearing. Since the Applicant moved to India in 2014, neither of the character witnesses had spent any time with ■■ in person and they communicated only periodically with ■■ by phone or Facetime.

[64] The panel accepted the evidence of these witnesses as heart-felt and sincere, but found that they were not sufficiently well-placed or informed to provide assistance to the panel about the Applicant's current character.

Conclusion

[65] The panel concluded that the Applicant failed to demonstrate on a balance of probabilities that ■ had insight into ■ breaches of the law in Texas many years ago or that ■ had rehabilitated ■ character since that time. The panel found that the Applicant was not a credible and forthright witness during the hearing.

[66] In conclusion, for reasons set out above, the panel found that the Applicant had not established on a balance of probabilities that ■ was a person of good character as of the date of the hearing.

Dated at Toronto, Ontario this 22nd day of July, 2020



Gregory Hocking, CPA, CA, IFA
Admission and Registration Committee

Members of the Panel

Naresh Agarwal, Public Representative
Gus Gillespie, Public Representative
Robert Mozzon, FCPA, FCA
Bernard Schwartz, FCPA, FCA

Independent Legal Counsel

Susan J. Heakes