

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO  
ADMISSION AND REGISTRATION COMMITTEE

IN THE MATTER OF AN APPLICATION  
FOR MEMBERSHIP BY:

A [REDACTED] R [REDACTED], Applicant

**NOTICE OF REFERRAL FOR A HEARING**


Pursuant to section 14 of Regulation 7-1, 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 (ARC) to convene an oral hearing in respect of this application.

**THE GROUNDS FOR THE REQUEST ARE:**

1. The Applicant applied for membership with the CPA Ontario on April 28, 2020. Having reviewed the application for membership, I am not satisfied that the Applicant has provided evidence of good character as required under s. 3.4 of Regulation 7.1.
2. The particulars are as follows:
  - a. In [REDACTED] application for admission to membership, the Applicant answered “yes” to the question, “Have you ever been found guilty of a criminal offence or other similar offence for which a pardon has not been granted or are there any other charges pending against you”?
  - b. The questionnaire the Applicant submitted with [REDACTED] application indicates that [REDACTED] plead guilty on June 1, 2010 to possession for the purpose of trafficking (Schedule II, under 3kg) in violation of Section 5(2) of the *Controlled Drugs and Substances Act*. The incident occurred on September 4, 2009.
  - c. The Applicant was unable to obtain and provide the Registrar with a copy of the judge’s transcript. Due to the age of the conviction [REDACTED] has confirmed with the Court the judge’s transcript is no longer available. The Applicant has provided the Probation Order and Conditional Sentence order, the details of which are produced below.
  - d. On June 1, 2010, the Applicant was given the following:
    - i. a three-month conditional sentence to be served within the community subject to the following conditions:

- ii. Keep the peace and be of good behavior;
  - iii. Appear before court when required to do so;
  - iv. Report to a Supervisor as required and, in the manner, directed by the Supervisor;
  - v. Remain within the Province of Ontario unless written permission is obtained by the court;
  - vi. Notify the Supervisor of any change in name, address or employment;
  - vii. Abstain from the purchase/possession/consumption of drugs except in accordance with a medical prescription;
  - viii. Perform 30 hours of community service work, to be completed within 3 months;
  - ix. Attend and actively participate in rehabilitative programs for counselling; and
  - x. Attend school on a full-time basis.
- xi. a seven-month probation order under the following conditions:
- i. Keep the peace and be of good behavior;
  - ii. Appear before the court when required to do so;
  - iii. Notify the court or the probation officer in advance of any change of name or address;
  - iv. Promptly notify the court or the probation officer of any changes of employment or occupation;
  - v. Report in person to a probation officer as directed... and report at such times and places as that person may require;
  - vi. Abstain from the purchase/possession/consumption of drugs except in accordance with a medical prescription;
  - vii. Attend and actively participate in such rehabilitative programs for counselling, as recommended by your probation officer; and
  - viii. Attend school on full-time basis; and
- xii. a weapons prohibition order prohibiting [REDACTED] from:
- i. possessing any firearms and any cross-bow, restricted weapon, ammunition and explosive substance for a period of 10 years; and
  - ii. Possessing any prohibited firearm, restricted firearm, prohibited weapon, prohibited device and prohibited ammunition for life.
3. The Applicant disclosed the criminal conviction at the time of [REDACTED] application for Student Registration. The Applicant was approved for Student Registration on January 1, 2018.
4. I have determined that the Applicant otherwise meets all the criteria for admission to membership.

January 19, 2021  
Date

  
Heidi Franken, CPA, CA  
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 [REDACTED] R [REDACTED], an applicant for admission to membership with the Chartered Professional Accountants of Ontario pursuant to Regulation 7-1: Membership, Obligations and Standing, Section 14: Good Character on Admission, as amended.

**TO:** A [REDACTED] R [REDACTED]

**AND TO:** Registrar, CPA Ontario

**DECISION AND ORDER MADE MAY 6, 2021**

**DECISION**

Having heard and seen the evidence and submissions of the parties, the Tribunal is satisfied that the applicant is of good character as required under Regulation 7-1: Membership, Obligations and Standing, Section 14: Good Character on Admission.

**ORDER**

The Tribunal, having been advised by the Registrar the applicant otherwise meets all the requirements of admission, directs the Registrar to admit A [REDACTED] R [REDACTED] as a member of CPA Ontario.

**DATED** at Toronto this 6th day of May 2021.



John Blanken, CPA, CA  
Chair, 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] R [REDACTED], an applicant for admission to membership with the Chartered Professional Accountants of Ontario pursuant to Regulation 7-1: Membership, Obligations and Standing, Section 14: Good Character on Admission, as amended.

**BETWEEN:**

A [REDACTED] R [REDACTED]

-and-

**REGISTRAR, CHARTERED PROFESSIONAL  
ACCOUNTANTS OF ONTARIO**

**APPEARANCES:**

For the Applicant [REDACTED] R [REDACTED]:	James Lane, Counsel
For the Registrar:	Ashley Thomassen, Counsel
Heard:	May 6, 2021
Decision and Order effective:	May 6, 2021
Release of written reasons:	June 2, 2021

**REASONS FOR THE DECISION MADE MAY 6, 2021**

**INTRODUCTION**

[1] This hearing was held by videoconference to determine whether the Applicant, A [REDACTED] R [REDACTED] (the "Applicant") was of good character at the time of the hearing and thereby met the requirements for admission to membership in the Chartered Professional Accountants of Ontario ("CPA Ontario").

- [2] The Applicant's application for membership in CPA Ontario dated February 12, 2020 was referred by the Registrar to the Admission and Registration Committee ("ARC") as a result of the Applicant's conditional sentence in June of 2010 for Possession (of Marijuana) for the Purposes of Trafficking.
- [3] The Panel found that the Applicant satisfied them that [REDACTED] was a person of good character at the time of the hearing and met the qualifications for membership, and therefore made an Order that the Registrar admit the Applicant.

### **BACKGROUND AND FACTS**

#### *Possession of Marijuana for the Purposes of Trafficking - 2009*

- [4] The Applicant was arrested and charged with Possession for the Purposes of Trafficking on September 4, 2009. The events leading to the criminal charges and [REDACTED] arrest were described by the Applicant during [REDACTED] testimony.
- [5] The Applicant testified that at the time of [REDACTED] arrest, [REDACTED] was 18 years old, had dropped out of high school, and was living with [REDACTED] boyfriend in a small Ontario town. The Applicant met [REDACTED] boyfriend when [REDACTED] was 15 years old and they moved in together when [REDACTED] was 17 years old. Their circle of friends liked to party and to use marijuana. The Applicant and [REDACTED] boyfriend decided to sell marijuana to their friends and had been doing so for about four to five months before they were arrested in September 2009 after a friend reported their activities to the police.
- [6] The Applicant explained that [REDACTED] arrest was very public and the entire community was aware of what had happened. [REDACTED] family, who were well known in the community, were embarrassed and disappointed in [REDACTED]. The Applicant testified that [REDACTED] arrest caused a wedge in [REDACTED] relationship with [REDACTED] parents as it had tarnished their excellent reputations.
- [7] The Applicant pleaded guilty to the Trafficking charge and on June 1, 2010, [REDACTED] appeared in court. The Court ordered a three-month conditional sentence to be served within the community with a number of conditions, including the following: reporting to a Supervisor; abstaining from the purchase or use of street drugs; performing 30 hours of community service work; attending school on a full-time basis; and participating in rehabilitation programs if required by [REDACTED] probation officer. The Applicant was also subject to a seven-month Probation Order.

*Events After the Guilty Plea – 2010 to Present*

- [8] After [REDACTED] was charged with the Trafficking offence, the Applicant returned to school and completed [REDACTED] high school education. The Applicant graduated from high school in June of 2010 with good marks.
- [9] As required by the Court, the Applicant completed [REDACTED] community service in the summer of 2010 by volunteering at local festivals and fairs. The Applicant advised that [REDACTED] did not breach any of the terms of [REDACTED] Probation Order.
- [10] The Applicant testified that [REDACTED] Probation Officer did not recommend counselling as [REDACTED] was working hard at changing [REDACTED] lifestyle. In particular, the Applicant slowly repaired [REDACTED] relationship with [REDACTED] parents and distanced [REDACTED] from the friend group [REDACTED] had when [REDACTED] lived with [REDACTED] boyfriend.
- [11] In September of 2010, the Applicant left [REDACTED] hometown to attend [REDACTED] College in Windsor. [REDACTED] grades were good in [REDACTED] first year, however [REDACTED] decided that [REDACTED] did not wish to continue in the particular post-secondary program that [REDACTED] was taking.
- [12] The Applicant moved to Ottawa in 2011 and worked as a server while [REDACTED] continued [REDACTED] education. [REDACTED] began a three-year program at [REDACTED] College and was able to keep [REDACTED] grades high despite working part-time to support [REDACTED]. After the Applicant obtained [REDACTED] degree at [REDACTED] College, [REDACTED] enrolled at [REDACTED] University to obtain [REDACTED] Bachelors of Arts in Business Administration.
- [13] While the Applicant attended [REDACTED] College, [REDACTED] met [REDACTED] husband and they are currently married and they have two children. They purchased a home and renovated it so their in-laws and parents could live with them and [REDACTED] is active in their community.
- [14] Since [REDACTED] graduation, the Applicant has worked in two different firms, the second of which is an accounting firm. As set out below, CPA Ontario has received several character references speaking highly of the Applicant's contributions to those firms. The Applicant testified that [REDACTED] informed [REDACTED] managers about [REDACTED] past, despite the embarrassment that this caused [REDACTED].
- [15] The Applicant testified that [REDACTED] experience with the criminal justice system taught [REDACTED] that the law is the law, and it doesn't matter "how small the law is", breaching the law will have

consequences. ■■■ said that ■■■ is now focused on healthier relationships and surrounding ■■■ with persons of integrity. The Applicant testified that ■■■ will never repeat the behaviour that resulted in ■■■ criminal sentence as ■■■ appreciated the mortification of making wrong choices and ■■■ knew that ■■■ role models would be disappointed in ■■■

- [16] In addition to ■■■ professional career and ■■■ active family life, the Applicant had been actively volunteering ■■■ time. ■■■ was the treasurer of a not-for-profit organization doing valuable work in ■■■ community.

*Application for Student Registration and Membership to CPA Ontario – 2017 and 2020*

- [17] The Applicant applied for student registration with CPA Ontario on June 14, 2017. As part of the application, the Applicant disclosed ■■■ criminal history from 2010. In a Questionnaire dated August 17, 2017, the Applicant wrote that ■■■ was very young and easily influenced by the people with whom ■■■ surrounded ■■■ in that time period. ■■■ wrote that ■■■ had cooperated with the police and that ■■■ had learned a very hard lesson. ■■■ also explained that ■■■ had made many changes to ■■■ life. The Applicant provided four very positive letters of reference.
- [18] There was no direct evidence at the hearing about the review performed by the Vice President of Student Services (VPSS) at that time, however a one-page document dated November 8, 2017 was produced entitled "VP Review Sheet." The document set out briefly the criminal matter and other information provided by the Applicant. At the bottom of the page, there was an undated, handwritten note from an unidentified person stating: *"Approved on basis of (1) duration since charge is long w/o further charges (2) supporting doc for good character."*
- [19] After the Applicant completed the education and experience requirements for CPA Ontario membership, ■■■ applied for admission to CPA Ontario on February 12, 2020. In ■■■ application, the Applicant was again required to disclose that ■■■ had pleaded guilty to a criminal offence. The Applicant once again disclosed the criminal findings referenced above.
- [20] In the Questionnaire to CPA Ontario dated April 28, 2020, the Applicant advised the Registrar as follows:

*I was very young and easily influenced by the people I had surrounded myself with. You will notice a second name on the court documents that I have attached, which was my boyfriend at the time, who was found guilty. I cooperated with the police and haven't been in any trouble since. This occurred over 10 years ago, whereas now I pride myself on the professional, [REDACTED] and [REDACTED] that I have become. I have attached all court documents that were provided to me directly from the courthouse.*

- [21] The Applicant also wrote a letter to the Registrar describing in detail [REDACTED] rehabilitation since 2010, stating that [REDACTED] had done everything in [REDACTED] power to become a model citizen.
- [22] The Applicant was asked by the Registrar to obtain a copy of the transcript from [REDACTED] sentencing proceedings. [REDACTED] confirmed with the Court that the transcript was no longer available due to the age of the matter.
- [23] At the hearing, counsel for the Registrar advised that the Applicant met all of the membership criteria, other than good character.

#### *Character Evidence*

- [24] The Applicant provided the Registrar with reference letters from three work colleagues, one of whom also testified at the hearing. By letter dated March 23, 2020, the first reference wrote that the Applicant “*displays the attitude and attributes valued by the profession and carries [REDACTED] in-line with the reputation held by the CPA designation.*” Another reference, who was a CPA who worked with the Applicant, wrote that the Applicant was trusted by clients and supported their audit team. The second reference wrote that the Applicant would uphold the values and integrity of the profession.
- [25] At the hearing, the Applicant also presented the oral evidence of the following witnesses (one of whom had previously provided a reference letter):

- (a) SW – SW is a CPA. SW is a senior manager at the firm where the Applicant currently works and they also have a personal relationship with the Applicant through their volunteer work. SW testified that the Applicant is a team lead and supervisor at their firm. SW described the Applicant as very responsible and that [REDACTED] was an excellent risk manager and team leader. The Applicant is a mentor to junior staff and always acts with integrity. SW was surprised when

the Applicant advised them of ■■■ past and found that the Applicant was a different person than the young ■■■ who had made a mistake. SW had no reservations in recommending the Applicant for admission to CPA Ontario.

- (b) NN – NN has been a CPA for almost 20 years and is a partner at the firm where the Applicant works. They testified that the Applicant joined the firm about three years ago. NN interviewed the Applicant for the position and found that ■■■ path to accounting was both interesting and impressive. They testified that the Applicant is intelligent, very driven, and a hard worker. They also added that the Applicant is a team player who helped train others. NN was aware of the good character issue and believed that this was a mistake made by a young person who had learned from it and moved forward.

## **ISSUES IN THIS HEARING**

- [26] The main issue in this application was whether the evidence provided by the Applicant demonstrated on a balance of probabilities that ■■■ was of good character at the time of the hearing and could be admitted as a member of CPA Ontario.
- [27] The Applicant also argued that the Panel should be bound by the decision of the VPSS in 2017, where ■■■ was found to be of good character for the purposes of registration with CPA Ontario as a student.

## **DECISION**

- [28] The Panel found that the Applicant established on a balance of probabilities that ■■■ was of good character at the time of the hearing.
- [29] For reasons set out below, the Panel ordered that the Applicant be admitted to membership of CPA Ontario.

## **REASONS FOR DECISION**

### *Good Character Requirement in Regulations*

- [30] When a person applies for registration as a student with CPA Ontario, they are required to provide evidence of their good character satisfactory to the Registrar (subsection 3.3 of Regulation 9-1).

- [31] Once an applicant has completed the other qualifications for admissions to membership in CPA Ontario, applicants are again required to provide evidence satisfactory to the Registrar that they are of good character (subsubsection 3.4 of Regulation 7-1).
- [32] It is implicit in this mandatory requirement that the onus is on the applicant to establish their good character. The standard of proof in regulatory matters, unless stated otherwise, is “balance of probabilities.” This means that the applicant must establish that it is “more likely than not” that they are a person of good character.
- [33] Under Section 14 of Regulation 7-1, where the Registrar is not satisfied that the evidence the applicant has given them establishes their good character, the Registrar shall refer the matter to an oral hearing before the ARC. Sections 16 to 22 of the Regulation set out the parameters for the hearing and the powers of the ARC.
- [34] In the seminal good character decision for CPA Ontario, *GB v. Registrar, Chartered Accountants of Ontario (November 26, 2019)*, the Panel found that when a matter is referred to the ARC for a good character hearing, the panel’s assessment of the applicant’s good character must be made at the time of the hearing. In other words, while the finding that a person has engaged in criminal conduct may *prima facie* establish that the applicant historically made poor ethical choices or exercised poor judgment, the issue for ARC’s determination is whether the applicant is currently a person who possesses good character.

### *What is Good Character?*

- [35] “Good character” is not defined in the CPA Ontario Regulations, however the following definition from a Law Society decision, *Law Society of Upper Canada v Preya*, 2000 CanLII 14383, has been adopted by CPA Ontario panels:

*“[Good character consists of] 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.”*

- [36] In an often-cited article about good character, Madam Justice Southin of the British Columbia Court of Appeal elaborated and wrote as follows:

*“[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.*

[37] The purpose of the good character requirement for various professions, including the accounting profession, is to protect members of the public who retain professionals and more broadly to ensure that the profession maintains a reputation for high professional and ethical standards (section 6 of Regulation 9-1). Gavin McKenzie, 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.”*

### *Factors Determining Good Character*

[38] It is well established that ARC panels conducting a good character hearing in respect to either student registration or admission to membership must review the evidence relating to the good character of an applicant as framed by the following factors:

- 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.

[39] The calculation of whether a person is of good character is not a mathematical formula but rather is based upon a combination of these factors, which are often overlapping and inter-related.

#### *Application of Good Character Factors to Evidence*

[40] Counsel for the Applicant argued that the Panel should find the Applicant was currently a person of good character based upon the evidence submitted at the hearing as applied to the following factors:

#### Nature and Duration of Misconduct

[41] Counsel for the Registrar argued that the mere fact of a criminal conviction reflects negatively on the character of an applicant. ■■■ submitted, however, that the Panel must look behind the convictions and consider the underlying events and misconduct.

[42] The Applicant's counsel urged the Panel to consider the age and circumstances of the Applicant when ■■■ committed the criminal offence of Trafficking. The Applicant was a teenager and the activity occurred over a period of four to five months. The Applicant did not minimize the offence but explained that ■■■ group of friends used marijuana, which is now legal. He asked the Panel to conclude that this misconduct was relatively at the minor end of the range of matters covered by the *Criminal Code*.

[43] The Panel found that the fact that marijuana is now legal was irrelevant to the finding that the Applicant was selling illegal substances. The Panel found that the nature of the offence was beyond simple possession of marijuana, although noted that it did not involve dishonesty or fraud. The period of time that the Applicant engaged in this misconduct, four to five months, was prolonged – this was not an offence that occurred in a brief moment of time.

#### Whether Applicant is Remorseful

[44] The Panel found that the Applicant accepted responsibility for ■■■ misconduct when ■■■ pleaded guilty. ■■■ evidence at the hearing was compelling: ■■■ spoke emotionally about

the pain that [REDACTED] public arrest and the findings of guilt had caused to [REDACTED] family and others. [REDACTED] empathy for those impacted by [REDACTED] actions was found to be genuine.

- [45] The Applicant was forthright with CPA Ontario both in 2017 when [REDACTED] applied for registration as a student and in 2020 when [REDACTED] applied for admission to membership. In [REDACTED] Questionnaires, the Applicant expressed remorse and regret for [REDACTED] actions. [REDACTED] did not minimize or blame others for [REDACTED] poor choices in 2009.

#### Rehabilitation Efforts and the Success of Such Efforts

- [46] The Panel found that since the drug offence in 2009, the Applicant had changed [REDACTED] life completely and set upon a path of reform. This was not an easy journey and the Applicant demonstrated considerable fortitude and determination in [REDACTED] self-improvement. [REDACTED] distanced [REDACTED] from the influences that had led [REDACTED] to break the law and surrounded [REDACTED] with persons of integrity. The Panel was very impressed by the individuals who provided glowing references in support of the Applicant.

- [47] The Panel noted the Applicant's serious commitment to [REDACTED] community through [REDACTED] volunteer work, as well as [REDACTED] dedication to [REDACTED] family and work responsibilities. The character witnesses confirmed that the Applicant conducts [REDACTED] with honesty and integrity in a work environment.

#### Applicant's Conduct Since the Misconduct

- [48] There was no evidence of any misconduct on the part of the Applicant since 2009.

#### The Passage of Time Since the Misconduct

- [49] The events that led to the Applicant's finding of criminal responsibility are over ten years old. The Panel found that the passage of time, when combined with [REDACTED] genuine remorse and rehabilitation, was more than sufficient to ensure that the Applicant was currently a person of good character.

#### *Conclusion*

- [50] For the reasons set out above, the Panel found that the Applicant established that at the time of the hearing, [REDACTED] was a person of good character. The Panel had no hesitation in ordering the Applicant be admitted to membership in CPA Ontario.

*Was the Panel Bound by the Decision of the VPSS?*

- [51] After arguing that the Applicant met the requirements of good character, the Applicant's counsel argued that CPA Ontario was bound by the decision that the VPSS had made about the Applicant's good character in 2017, and that it should not have made any further enquiries into that issue in 2020/2021. Because the Panel found that the Applicant had established that [REDACTED] was a person of good character as of the time of the hearing, it was not necessary to make a finding about the issue raised by the Applicant's counsel, which is referred to as "issue estoppel". The Panel would, however, like to address this issue very briefly in these Reasons.
- [52] Issue estoppel is a legal principle of fairness: it is not fair to a person to have to re-argue the same issue that has previously been resolved with the other party. There are three legal requirements for issue estoppel to apply: the issue raised now must be the same issue as the issue previously determined; the decision made previously must have been final; and, the parties in both instances must be the same. Issue estoppel is a discretionary remedy.
- [53] The Panel found that although the issue of the Applicant's good character at the time of the hearing was the same qualitative issue as the issue before CPA Ontario in November 2017, the timeframe was different. CPA Ontario requires an applicant to establish their good character at two different stages: first, when the person applies for registration as a student; and second, when the successful student applies for admission to membership. The issue before the Panel in this hearing was whether the Applicant was of good character on the day of the hearing. The VPSS determined that the Applicant was of good character as of November 2017. Therefore, the first criteria of issue estoppel, namely that the same issue is being reviewed, was not met and the Panel was not bound by that determination made two and a half years ago.
- [54] Finally, the Panel questioned why the Registrar had referred the matter to the ARC given that there was no new evidence presented since the VPSS review in late 2017 that called the Applicant's good character into question. However, the role of the ARC was not to review the reasonableness of the Registrar's referral of the matter to the ARC but

rather to determine whether the Applicant met the good character requirement for admission to membership in CPA Ontario.

**Dated** at Toronto, Ontario this 2<sup>nd</sup> day of June, 2021

A handwritten signature in black ink, appearing to read 'John Blanken', with a long horizontal flourish extending to the right.

John Blanken, CPA, CA, LPA  
Admission and Registration Committee –Chair

Members of the Panel

Greg Hocking, CPA, CA, IFA  
Seemant Thakkar, CPA, CMA, CGA, LPA  
Margot Howard, Public Representative  
Naresh Agarwal, Public Representative

Independent Legal Counsel

Susan J. Heakes