

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

ADMISSION AND REGISTRATION COMMITTEE

**IN THE MATTER OF AN APPLICATION
FOR MEMBERSHIP BY:**

G [REDACTED] B [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 to convene an oral hearing in respect of this application.

THE GROUNDS FOR THE REQUEST ARE:

1. The Applicant applied for membership with the CPAO Ontario on February 21, 2019. Having reviewed the application for membership, I am not satisfied that the applicant has provided evidence of good character as required in s. 3.4 of Regulation 7-1.

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 on January 31, 2019, [REDACTED] was convicted of violating s. 253(1)(b) of the *Criminal Code* (operating a motor vehicle with a blood alcohol concentration over the legal limit of 80 milligrams of alcohol in 100 millilitres of blood). The incident occurred on February 17, 2018.
 - c. The Applicant was sentenced on January 31, 2019 to a \$1,500 fine and a one-year driving prohibition. That prohibition remains in effect.
2. I have determined that the Applicant otherwise meets all the criteria for admission to membership

July 25/19
Date


Karim Karsan
Acting 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 G [REDACTED] B [REDACTED], an applicant for membership in the Chartered Professional Accountants of Ontario, pursuant to Regulation 7-1.

TO: M [REDACTED] G [REDACTED] B [REDACTED]

AND TO: Registrar, CPA Ontario

DECISION AND ORDER MADE SEPTEMBER 16, 2019

DECISION

The Tribunal was satisfied that G [REDACTED] B [REDACTED] is of good character and meets the qualifications for membership in the Chartered Professional Accountants of Ontario.

ORDER

The Tribunal orders that G [REDACTED] B [REDACTED] be admitted to membership in CPA Ontario, and that the Registrar take all actions necessary to admit M [REDACTED] B [REDACTED]

DATED at Toronto this 11th day of October, 2019



Elaine Sequeira, FCPA, FCA
Admission and Registration Committee – Chair

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

ADMISSIONS AND REGISTRATION COMMITTEE

IN THE MATTER OF: A good character hearing into G [REDACTED] B [REDACTED] an applicant for membership in the Chartered Professional Accountants of Ontario, pursuant to Regulation 7-1.

BETWEEN:

G [REDACTED] B [REDACTED]

-and-

**Registrar, Chartered Professional
Accountants of Ontario**

APPEARANCES:

For the Applicant M [REDACTED] B [REDACTED]: Present and Self-Represented

For the Registrar: Christopher J. Tzekas, Counsel
Lara Kinkartz, Counsel

Heard: September 16, 2019

Decision and Order effective: September 16, 2019

Release of written reasons: November 26, 2019

REASONS FOR THE DECISION AND ORDER MADE SEPTEMBER 16, 2019

I. BACKGROUND

[1] This hearing was held to determine whether the Applicant, G [REDACTED] B [REDACTED] was of good character at the time of the hearing and thereby met the qualifications for admission as a member of Chartered Professional Accountants Ontario ("CPA Ontario"). [REDACTED] B [REDACTED]'s good character was put into issue as a result of a conviction for driving with more than the legal limit of alcohol in [REDACTED] blood. [REDACTED] application was referred by the Registrar to the Admission and Registration Committee ("ARC").

[2] [REDACTED] B [REDACTED] was a student registered with CPA Ontario. [REDACTED] submitted [REDACTED] application for membership in CPA Ontario on February 5, 2019. In response to one of the good

character questions on page 2 of the application form, ■■■ B■■■ indicated that ■■■ had been “found guilty of a criminal offence or other similar offence for which a pardon has not been granted.”

- [3] In the supplementary form filed with ■■■ application, ■■■ B■■■ indicated that ■■■ had been found guilty on January 31, 2019, of an offence contrary to s. 253(1)(b) of the *Criminal Code*, that is, operating a motor vehicle with a blood alcohol level greater than 0.08 mg/ml. ■■■ had been found guilty after pleading not guilty. The offence had occurred on February 17, 2018. In addition to ■■■ description of events, ■■■ provided a transcript of the trial judge’s reasons for judgment.
- [4] M■■ B■■■ described that ■■■ had been at a bar for a few drinks, when ■■■ began to drive ■■■ car home. ■■■ said that ■■■ felt confident ■■■ was able to drive. During the drive home, ■■■ mounted an island in the middle of the road and hit a sign post. ■■■ then attempted to pull over to the side of the road. ■■■ had been driving without ■■■ lights on, although it was after dark. A police officer pulled ■■■ over. ■■■ was given a roadside breathalyzer test and failed. ■■■ was arrested and taken to the police station. There, ■■■ provided another breath sample, as required, and registered a blood alcohol of 0.170 mg/ml, more than twice the legal limit.
- [5] ■■■ B■■■ was convicted after trial. ■■■ was sentenced to a fine of \$1,500 and a one year driving prohibition. The trial judge found that the level of ■■■ B■■■’s blood alcohol was an aggravating factor. However, the judge did not find that ■■■ collision with the sign post was a direct result of ■■■ level of impairment.
- [6] The Registrar was required to decide if M■■ B■■■ was of good character based on the material he had. On the basis of the materials submitted by M■■ B■■■ with ■■■ application for admission, the Registrar was not satisfied that ■■■ had demonstrated good character and referred M■■ B■■■’s application to the ARC, pursuant to section 14 of CPA Ontario’s Regulation 7-1, Admission to Membership, Obligations, and Standing (the “Regulation”).
- [7] In anticipation of this hearing before the ARC, M■■ B■■■ filed additional documentation, with the consent of the Registrar. This material included evidence that ■■■ had paid the fine imposed by the Court, that ■■■ driving suspension had been reduced as part of the Reduced Suspension program, that ■■■ had an Ignition Interlock system installed on ■■■ car, and that ■■■ had obtained a new drivers’ licence. The material also indicated that ■■■ had completed a Back on Track education workshop related to impaired driving as part of the Reduced Suspension program.

II. PRELIMINARY ISSUES

- [8] The Registrar confirmed that M■■ B■■■ had completed all of the other requirements for admission to membership with CPA Ontario, except that there had not been a determination that ■■■ was of good character.

III. ISSUES

- [9] The Panel identified the following issues arising from this application:
- A. What is the appropriate test of good character that the ARC should apply in considering an application for admission to membership with CPA Ontario under section 14 of Regulation 7-1?
 - B. Did the evidence establish, on a balance of probabilities, that [REDACTED] B [REDACTED] was of good character at the time of the hearing?

IV. DECISION

- [10] The Panel concluded that the appropriate test of good character considered the moral or ethical strength of an individual as more fully set out below.
- [11] The Panel found that the evidence demonstrated on a balance of probabilities that [REDACTED] B [REDACTED] was of good character at the time of the hearing and could be admitted to membership with CPA Ontario.

V. REASONS FOR THE DECISION

Definition of Good Character

- [12] CPA Ontario adopted Regulation 7-1 to establish the requirements for admission to membership with CPA Ontario, pursuant to paragraph 65(2) 5 of the *Chartered Professional Accountants of Ontario Act, 2017*. Section 3.4 of the Regulation requires all applicants to provide evidence of good character to the satisfaction of the Registrar. It is implicit in this requirement that the onus is on the applicant to provide such evidence and to establish his or her good character.
- [13] Section 14 of the Regulation provides that “where an applicant does not provide evidence of good character satisfactory to the Registrar, the Registrar shall refer the matter to an oral hearing before the Admission and Registration Committee.” The parameters of such a hearing and the orders that the ARC can make are set out in sections 16 to 22 of the Regulation.
- [14] In the absence of a contrary standard of proof, the Panel was satisfied that the standard applicable to other hearings of committees of CPA Ontario should apply, namely proof on a balance of probabilities. Thus, an applicant had to satisfy the Panel that he was of good character on a balance of probabilities.
- [15] There is no indication in the Regulation as to the point in time at which an applicant’s good character is to be assessed. In the Panel’s view, if the purpose of the test is to ensure that an applicant is of good character at the time he or she becomes a member, the only logical time at which to assess character is the time closest to that event. This would be the time of the hearing. This also allowed the Panel to consider any steps a person has taken in response to the misconduct that put his or her character in issue. As

a result, the Panel concluded that the applicant's good character had to be assessed at the time of the hearing.

- [16] In interpreting the meaning of good character, the Panel took into account the other requirements set out in the Regulation. In particular, sections 6.1 and 6.2 prohibit the Registrar from admitting anyone who has not made necessary disclosures to CPA Ontario or who has made any false or misleading statement. Sections 7.1 and 7.2 also require the Registrar to be satisfied that the admission of an applicant will not place the public or any member of the public at risk or bring the reputation of the public into disrepute. These considerations have to be reflected in any definition of good character.
- [17] The Panel considered the case law from the Law Society of Ontario, which, like CPA Ontario has a good character requirement for applicants, as well as other professional bodies. In the decision of the Law Society Hearing Panel in *Law Society of Upper Canada v. Preyra*, 2000 CanLII 14383 ("*Preyra*"), at p. 6, the definition of good character and the nature of the test were framed in the following terms:

The definition of good character is set out in previous decisions of Law Society admissions panels, and is an evolving definition. The definition is not exhaustive, and refers to a bundle of attributes which, when taken together, amount to good character:

Character is 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 would include, among others, integrity, candour, empathy and honesty.

The onus is on the applicant to prove that he is of good character at the time of the hearing of the application. The standard of proof is the balance of probabilities. The relevant test is not whether there is too great a risk of future abuse by the applicant of the public trust, but whether the applicant has established his good character at the time of the hearing on a balance of probabilities. The test does not require perfection of certainty. The applicant need not provide a warranty or assurance that he will never again breach the public trust. The issue is his character today, not the risk of his re-offending.

- [18] In *Lum v. Alberta Dental Association and College (Review Panel)*, 2016 ABCA 154 ("*Lum*"), at paragraph 30, the Alberta Court of Appeal emphasized that the qualities to be considered in framing good character were the qualities relevant to a particular profession, but summarized several principles of general application:

Although some factors may be more important in a particular profession, the following can be distilled from the case law:

- Good character connotes moral strength and includes integrity, candour, empathy and honesty.
- Good character embodies qualities that are relevant to the

particular practice.

- The objective of the good character requirement is the same as that for professional discipline - protection of the public and maintenance of public confidence in a self-regulated profession.
- Insofar as past misconduct is concerned, determining good character includes an assessment of the nature and timing of the misconduct as well as the applicant's remorse, rehabilitative efforts and conduct since the misconduct. In other words, rehabilitation efforts are recognized and considered.
- The requirement of good character and reputation is fundamental to that profession's ability to self-regulate. It must be able to accept or reject members and discipline its own members. Of necessity, that determination is to some extent subjective. The considerations include but are not limited to whether the person has fulfilled all the educational requirements, whether the person is of integrity and respects the professional guidelines, rules and ethics that are an essential part of the profession. This includes competence, responsibility to patients and to the public at large, respect for other members of the profession, comporting oneself as befitting a professional and conducting oneself at all times within those parameters. Other factors will undoubtedly come into play in that assessment given the unique circumstances of each case.

[19] In *Melnick v. Law Society of Upper Canada*, 2013 ONLSAP 27, the Law Society Appeal Panel reviewed some of these same elements of the definition at paragraphs 6 to 9. The Appeal Panel set out at paragraph 9 the same five-point test that appeared in several other decisions and which the Registrar urged upon the Panel:

- (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.

[20] The Panel found that the test set out in the *Preyra and Melnick* decisions had equal application to applicants for membership in CPA Ontario as it did to applicants to the Law Society of Ontario. In reaching that conclusion, the Panel also took into account the non-exhaustive list considerations set out in *Lum*.

[21] In considering an individual's past conduct, the Panel accepted that a previous criminal conviction could be relevant to an assessment of an applicant's character. While the seriousness of the conduct underlying the conviction was clearly relevant, the Panel

concluded that it was not confined to considering the conviction and the facts leading to that conviction. Applying the principles framed in *Lum*, it was also appropriate to consider whether the applicant had completed whatever sentence was imposed, the amount of time since both the events and the conviction occurred and any rehabilitative efforts the applicant had undertaken.

- [22] The rehabilitative efforts made by an applicant can demonstrate how an applicant's character has evolved between the past misconduct and the current hearing. This is an important consideration given that the focus of the exercise is to assess the applicant's character at the time of the hearing. The assessment cannot be locked in the moment of the misconduct. Relevant rehabilitative efforts could include the introduction of stabilizing measures in the applicant's life, for example, the adoption of a mentor, counselling or an emphasis on self-awareness. Conversely, the existence of subsequent misconduct or evidence that the same issues persisted would indicate a regression, or lack of evolution in the applicant's character.
- [23] When considering an applicant's rehabilitative efforts, it is important to consider whether the applicant has expressed genuine remorse for events. Remorse not only provides evidence as to whether the applicant has come to terms with the previous misconduct, it can demonstrate the empathy and insight of the applicant. These are also important elements of good character. Conversely, as noted by the Law Society Appeal Panel in *Armstrong v. Law Society of Upper Canada*, 2011 ONLSAP 1, at paragraph 27, "[l]ack of insight is a consideration when misconduct is not disputed, as it demonstrates lack of insight into the consequences of the misconduct."
- [24] As noted in the cases referenced by the Registrar, the passage of time between an applicant's misconduct and the application is a relevant consideration. In part, the passage of time indicates that the applicant has had a greater opportunity, as submitted by the Registrar, "to reflect on his or her misconduct, to gain insight, and to sufficiently rehabilitate him or herself." In addition, the passage of time can serve as a recognition of the seriousness of the misconduct. More serious misconduct may require greater amounts of time to demonstrate to a Panel, and satisfy the public, that the applicant's character is no longer defined by the past misconduct.
- [25] In summary, having considered the case law brought to the Panel's attention, and the submissions of the parties, the Panel accepted that, in general, an assessment of good character will be framed by the five factors listed in the *Melnick* decision, among other authorities.
- [26] The Panel recognized, however, the greatest challenge in good character hearings is the application of the definition, and the relevant considerations, to the evidence in a particular case.

Finding of Good Character

- [27] The Panel considered the evidence of M ■ B ■ against the factors adopted above in order to determine whether ■ had demonstrated that ■ was of good character at the

time of the hearing. Although the Panel's analysis goes beyond the five factors listed in paragraph 19, the Panel structured its analysis under those headings.

Nature and duration of the misconduct

- [28] As a society, we have, for the most part, come to recognize the seriousness of the dangers of drinking and driving. The criminal offence of which M. B. was convicted reflects society's condemnation of this activity. In addition, the mere fact of a criminal conviction is, in itself, a detraction from one's character. However, the Panel found that it also needed to look beyond the fact of the conviction and assess the conduct that led to that conviction.
- [29] In the Panel's view, while the risks created by M. B.'s conduct were significant, the conduct appeared to be an isolated event that occurred on one night. It did not reflect a pattern of behaviour that continued over several occasions. While the criminal conviction demonstrated that M. B. had the required state of awareness of the risks of M. B.'s conduct, M. B.'s evidence before the Panel satisfied the Panel that M. B.'s misconduct was the result of a gross error in judgment rather than any malicious or dishonest intent.
- [30] The Panel also noted that the trial judge, whose findings were not challenged, found that M. B.'s impairment was not a direct cause of M. B.'s accident.

Whether applicant is remorseful

- [31] In the attachment to M. B.'s application, M. B. sought to rationalize the charge in the following terms: "[a]lthough this is still a criminal offence, the charge implies that I was aware and, in my senses while I was driving unlike others who are not in control of their vehicles and are a greater danger on the roads." The Panel did not accept this distinction as valid. The fact remained that the offence of which M. B. was convicted reflected a threat to the safety of others on the road. In fact, M. B. acknowledged that M. B.'s condition (as regards the level of intoxication) was changing over time, suggesting that M. B. could have been a greater risk if M. B. was not stopped. Although this position suggested that M. B. did not take full responsibility, M. B.'s evidence at the hearing conveyed a different impression.
- [32] In fact, even later in M. B.'s application, M. B. expressed a greater level of awareness of the seriousness of M. B.'s actions and M. B.'s own accountability for those actions:

There's random times and days where I can't help but think back to that day and realize again and again what a horrible decision I made. We see all these commercials from M.A.D.D., hear all these news reports and stats but people still don't seem to learn their lessons. I should have known better and only have myself to blame, there are multiple alternatives to driving in those types of situations. Drinking and driving should never be combined, I not only put myself in danger but I put the lives of others in danger as well. I was raised better than that.

I embarrassed not only myself but my family as well. Walking out

of the police station and seeing my dad there with the look of disappointment will never leave my memory. I worked so hard to earn my parents [sic] trust and respect only to have it dashed by a stupid decision I made.

- [33] Before the Panel, M. B. [redacted] repeated that it was a “stupid decision and something that [redacted] would never do again.” [redacted] realized now that there were other options open to [redacted] that [redacted] should have pursued. [redacted] said that [redacted] learned that drinking and driving should never be mixed due to the impacts that they have on people’s lives and the person’s relationships with people around [redacted]
- [34] M. B. [redacted]’s evidence, and the evidence that [redacted] called in support of [redacted] position, also demonstrated that the incident had a significant emotional impact on [redacted]. Ever since [redacted] family had come to Canada, they had lived together. M. B. [redacted] indicated that [redacted] was very involved with [redacted] family and their community. [redacted] said that [redacted] family was very supportive of [redacted]. Given these close relationships, [redacted] perception that [redacted] had disappointed [redacted] parents was particularly significant for [redacted]. B. [redacted]
- [35] In the Panel’s view, credibility and integrity are essential characteristics of a CPA, and they must be considered when assessing an applicant’s character. However serious M. B. [redacted]’s misconduct had been, the Panel was satisfied that, by the time of the hearing, [redacted] had accepted responsibility for [redacted] error on that one night. [redacted] spoke to the Panel directly and explained the events of that night and [redacted] subsequent actions with honesty and candour. The Panel found that [redacted] did not offer excuses for [redacted] misconduct. The Panel was satisfied that [redacted] demeanour before the Panel conveyed maturity and integrity that demonstrated that [redacted] was genuinely remorseful.

Rehabilitative efforts and the success of such efforts

- [36] [redacted] B. [redacted] told the Panel about the rehabilitative steps that [redacted] had taken since [redacted] was convicted. [redacted] described how [redacted] participated in the Reduced Suspension Program, which allowed [redacted] to reduce the period for which [redacted] driver’s licence was suspended from one year to six months if [redacted] took certain steps. One of these conditions was [redacted] participation in a one-day program, the Back on Track Program, which was offered through the Centre for Addiction and Mental Health. [redacted] completed that program, subject to a follow up in December 2019. M. B. [redacted] said that [redacted] had learned about alternatives to social drinking and the dangers of drinking and driving. [redacted] agreed to the installation of an Interlock device, which confirmed whether [redacted] had been drinking whenever [redacted] started [redacted] car and periodically while [redacted] operated it. That will remain in place for a year. As a result of taking these steps, [redacted] licence was reinstated after six months.
- [37] [redacted] B. [redacted] also told the Panel that [redacted] had stopped drinking at all for a period after being charged. Although [redacted] then drank occasionally, [redacted] said that [redacted] could count on one hand – two significant family celebrations – where [redacted] has had a drink since [redacted] conviction. He indicated that [redacted] encouraged people to not drink and drive and find other ways of getting home if they had been drinking. This evidence was corroborated by M. S. [redacted], who

testified on behalf of M. B. [REDACTED].

[38] In assessing M. B. [REDACTED]'s evidence regarding [REDACTED] rehabilitative efforts, the Panel also found it important to look at the observations provided by others who knew M. B. [REDACTED]. This evidence included not only observations of M. B. [REDACTED]'s conduct, but the witnesses' insights into [REDACTED] character. Although character evidence is not identified as a separate consideration in the case law, it is important to consider evidence of an applicant's character in determining whether [REDACTED] is of good character.

[39] The Panel recognized that most people would be able to bring one or more people to speak well of them. The issue for the Panel was to determine the quality of the testimonial offered, whether by a live witness or in a character letter. In assessing the value of the testimony, the Panel took guidance from the Law Society Hearing Panel's decision in *Blackburn v. Law Society of Upper Canada*, 2010 ONLSHP 112, at paragraphs 51 and 52:

In assessing the reputation and character of an applicant for admission to the Law Society, the Panel must weigh both the quality and the quantity of character testimony to assess its weight. Quantity, by itself, is not sufficient. An applicant will usually invite only those who will make laudatory comments on his character. The Panel must assess the quality of the comments, the relationship of the parties, their opportunity for meaningful evaluation of the person, and the consistency of opinions from diverse sources.

... The evidence of "good character" must be examined critically, both in terms of source and content. The task is to take a measure of the individual and determine whether he/she has climbed out of the hole of his/her prior misdeeds.

[40] M. B. [REDACTED] submitted three character letters to the Registrar in support of [REDACTED] application. The first letter was from M. S. [REDACTED], CPA, CGA, who had known M. B. [REDACTED] since 2012 and had become friends with [REDACTED] as they both worked toward their accounting designations. In addition, M. S. [REDACTED] also gave oral evidence in support of M. B. [REDACTED]. M. S. [REDACTED] indicated that [REDACTED] was surprised that M. B. [REDACTED] had been caught drinking and driving. [REDACTED] said that since this incident happened, M. B. [REDACTED] was "embarrassed and saddened by [REDACTED] actions." There were significant changes in M. B. [REDACTED]'s behaviour since the incident. For a period of time, M. B. [REDACTED] did not drink. M. S. [REDACTED] testified that, when they went out now, M. B. [REDACTED] always urged people to get taxis so they did not make the mistake [REDACTED] did by drinking and driving. M. S. [REDACTED] described M. B. [REDACTED] as "someone I knew I could always count on. [REDACTED]'s kind, smart and genuinely a good person." [REDACTED] said that friends trusted [REDACTED] to do their taxes because they could rely on [REDACTED] to be accurate and careful in [REDACTED] work.

[41] B. S. [REDACTED], who was a teacher who had known M. B. [REDACTED] for several years, also submitted a letter on behalf of M. B. [REDACTED]. M. S. [REDACTED] said that M. B. [REDACTED] had always aspired to be an accountant and to open [REDACTED] own practice. M. B. [REDACTED] really enjoys doing accounting, and [REDACTED] enjoyed helping other with [REDACTED] "deep understanding and wealth of

knowledge on accounting.” M. S. indicated that, since learning about the criminal charges, [REDACTED] had seen changes in M. B. that demonstrated that [REDACTED] had “learned [REDACTED] lesson and is very remorseful. It appears that everything [REDACTED] dealt with has made [REDACTED] grow as a person and realize how one’s life can be drastically altered by a careless mistake.” [REDACTED] described M. B. as hard working and reliable.

[42] The third letter was from P. P., CPA, CGA, who had been M. B.’s neighbor and good family friend since 2004. As M. B. was a teenager when [REDACTED] first met [REDACTED] M. P. had seen [REDACTED] grow since then. [REDACTED] was disappointed when [REDACTED] heard of M. B.’s criminal charge as [REDACTED] believed that M. B. “should have been smart enough to realize what [REDACTED] was doing and made the right decision.” M. P. indicated that M. B. regretted the decision [REDACTED] did make and felt ashamed. [REDACTED] said that M. B. helped [REDACTED] with complex accounting matters sometimes and clients have “nothing but good things to say about [REDACTED] [REDACTED] thought M. B. deserved [REDACTED] designation.

[43] While the Panel recognized the limitations of character evidence selectively advanced by an applicant, the Panel was impressed with the candour and thoughtfulness that each witness shared their views. The Panel found that this evidence supported the evidence of M. B. regarding the changes [REDACTED] underwent after the incident leading to the charge and the remorse that [REDACTED] felt for [REDACTED] actions. The Panel also accepted this evidence as demonstrating the strength of character, including compassion, hard work and reliability, that M. B. had demonstrated on other occasions in [REDACTED] dealings with each of them.

[44] The Panel found that M. B. had been diligent in pursuing the requirements for the reduced suspension program. These measures had given [REDACTED] added insight into the nature of [REDACTED] misconduct and motivated [REDACTED] to become a vocal advocate among [REDACTED] friends for responsible drinking and taking steps to avoid anyone drinking and driving. In effect, M. B. had tried to use the negative experience of the incident and the criminal conviction to take positive steps forward. The Panel was satisfied on the evidence before it, including the evidence of both M. S., that [REDACTED] was succeeding in this effort.

[45] Another type of rehabilitative effort could be seen in the strong family support that M. B. had drawn on. This underscored that [REDACTED] actions of that night were out of character. However, these supports also provided motivation for [REDACTED] to “be better”. As seen by the fact that [REDACTED] was distressed by the thought that [REDACTED] parents were disappointed in [REDACTED] M. B. clearly took inspiration from the high standards expected of [REDACTED] by [REDACTED] family.

Applicant’s conduct since the misconduct

[46] There was no evidence that M. B. had any further transgressions since the events leading to [REDACTED] conviction. This reinforced the Panel’s conclusion that this was an isolated incident rather than one that defined [REDACTED] character.

The passage of time since the misconduct.

- [47] The event that led to M. B. [REDACTED]'s conviction occurred on February 17, 2018, or nineteen months before this hearing. [REDACTED] conviction occurred in January 2019, or eight months before the hearing. In general, a longer period of time would likely need to pass before the Panel could conclude that an applicant was of good character. However, given the rehabilitative measures that M. B. [REDACTED] had taken in that period, and the isolated nature of [REDACTED] actions that night, the Panel was satisfied that sufficient time had passed on the unique facts of this case.
- [48] In weighing the combined effect all of the factors, the Panel was satisfied on a balance of probabilities that the misconduct was an isolated incident and that, at the time of the hearing, M. B. [REDACTED] was of good character.

Dated at Toronto this 26th day of November, 2019



Elaine Sequeira, FCPA, FCA
Admission and Registration Committee – Chair

Members of the Panel

Donald Aronson (Public Representative)
John Blanken, CPA, CA
Mark Dimmell CPA, CA
Seemant Thakkar, CPA, CMA, CGA

Independent Legal Counsel

Glenn Stuart
StuartLaw