

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 [REDACTED] S [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, Section 13: Good Character on Registration, as amended.

**BETWEEN:**

[REDACTED] S [REDACTED]

-and-

**REGISTRAR, CHARTERED PROFESSIONAL  
ACCOUNTANTS OF ONTARIO**

**APPEARANCES:**

For the Applicant, [REDACTED] S [REDACTED]: Self-represented

For the Registrar: Lara Kinkartz, Counsel

Heard: March 3, 2022

Decision and Order effective: March 3, 2022

Release of written reasons: April 4, 2022

**REASONS FOR THE DECISION MADE APRIL 4, 2022**

**I. INTRODUCTION**

- [1] This hearing was held by videoconference to determine whether the Applicant, ■■■■■ S■■■■■ (the “Applicant”) was of good character at the time of the hearing and thereby met the requirements for registration as a student in the Chartered Professional Accountants of Ontario (“CPA Ontario”).
- [2] On December 9, 2021, the Registrar referred the Applicant’s application for registration as a student in CPA Ontario dated August 20, 2020 to the Admission and Registration Committee (the “ARC”) following the Applicant’s disclosure that in 2013 ■■■■■ had been convicted of two criminal offences, namely Assault Causing Bodily Harm and Fail to Comply with Recognizance.
- [3] For reasons set out below, the Panel found that the Applicant provided satisfactory evidence that ■■■■■ was a person of good character at the time of the hearing and met the qualifications for registration as a student. The Panel ordered that the Registrar register the Applicant as a student with CPA Ontario.

## II. BACKGROUND AND FACTS

### *Applicant’s Criminal Convictions – July 13, 2013*

- [4] When the Applicant was a 21-year old university student, ■■■■■ was arrested and charged with one count of Assault Causing Bodily Harm following an incident that occurred on May 21, 2012. The incident involved an altercation between the Applicant and another man where the Applicant punched the other man in the head, which caused the man to fall to the sidewalk. The man suffered a concussion, a fractured skull, intracranial bleeding, partial paralysis to his face, and long-term hearing issues.
- [5] After ■■■■■ arrest, the Applicant was released from custody on a personal recognizance, with conditions requiring ■■■■■ to obey a curfew from midnight to 6:00 a.m. and to refrain from consuming alcohol. On September 30, 2012, the Applicant was arrested for breaching ■■■■■ recognizance after the police found ■■■■■ out in public and seemingly intoxicated at 3:13 a.m.

- [6] The Applicant pleaded guilty to the Breach of Recognizance charge but entered a not-guilty plea to the charge of Assault Causing Bodily Harm on the basis that [REDACTED] had acted in self-defence.
- [7] The trial before the Ontario Court of Justice took place over the course of several days and the Honourable Justice Pockele presided. The Applicant was represented by counsel at the trial. In his 17-page Reasons for Judgment dated July 9, 2013, Justice Pockele thoroughly reviewed the evidence of the two prosecution witnesses (a friend of the Applicant's who witnessed the incident; and the victim) and contrasted this evidence with the evidence provided by the Applicant. Justice Pockele explained in detail why he preferred the evidence of the prosecution witnesses (mainly the Applicant's friend) and rejected the Applicant's version of events.
- [8] Based upon the evidence that he heard at the trial, Justice Pockele made the following factual determinations about what happened the night of the incident: The Applicant was out with friends on the evening of May 21, 2012 when [REDACTED] and [REDACTED] friends witnessed the victim and the victim's friends get into a "scrap" at a bar (not involving the Applicant or the Applicant's friends). The Applicant and the victim did not know one another. Later that evening at a different bar, the victim approached the Applicant's friends, and they had a friendly conversation. The Applicant saw [REDACTED] friends talking to the victim and [REDACTED] approached them. Although the victim was not aggressive towards the Applicant or [REDACTED] friends, the Applicant pushed [REDACTED] to the ground. After getting up, the victim aimed a low, "feeble" kick at the Applicant. In response, the Applicant threw a single punch to the victim's head that knocked the victim unconscious. The Applicant fled the scene after the incident occurred.
- [9] Justice Pockele found that the Applicant's response to the victim's feeble kick was excessive, in that [REDACTED] was facing a minimal threat from the victim, no one present had a weapon, and the Applicant could have stepped back. The Court found the Applicant guilty and convicted [REDACTED] of Assault Causing Bodily Harm on July 9, 2013.

[10] At the sentencing hearing on September 5, 2013, the evidence consisted of one witness, a lawyer who was a friend of the Applicant's family, a Presentation Report and several reference letters. The Crown read into the record the following facts about the Breach of Recognizance incident, which were admitted by the Applicant:

(a) On September 30, 2012 at 3:00 AM, London police were sent to a shooting at a downtown address;

(b) When the police arrived, the Applicant was yelling and screaming; ■ appeared to know the victim of the shooting (who had been killed) and ■ was very distraught;

(c) When the police officer called out to the Applicant to question ■, ■ ran away;

(d) When the police caught ■, they noticed a strong odour of alcohol coming from the Applicant and ■ was slurring ■ words; the police concluded that ■ was under the influence of alcohol; and

(e) The Applicant was arrested and charged with Breach of Recognizance.

[11] The reference letters provided to the Court during the sentencing hearing included letters from the Applicant's professors and officials at the university of Ontario where the Applicant was taking accounting courses. There was evidence presented about the extensive charitable work that the Applicant had done in Mexico. The Applicant's parents and grandparents attended the sentencing hearing.

[12] The Applicant addressed the Court during ■ sentencing hearing and said that ■ was sorry about the injuries that the victim had suffered and ■ said that it was not ■ intention to cause the victim such harm. The Applicant told the Court that ■ regretted the decision that ■ had made in a split second, and that decision had jeopardized everything that ■ had worked hard for. With respect to the breach of ■ recognizance, the Applicant said that ■ wished that ■ had not gone out that night because if ■ and ■ friend had stayed at home, ■ friend might still be alive.

█ told the Court that █ had since completed another term at school and █ was hoping to get █ Chartered Accountant's designation. █ also told that Court that █ had been in therapy for conflict management, which █ said █ had found useful.

[13] Justice Pockele agreed to a conditional sentence proposed by the Applicant's counsel so that the Applicant could continue █ studies, although he said that he was doing so *"with some distaste."* Justice Pockele added that he wanted to *"send a message to anybody else who put themselves in [the Applicant's] position where they decide to bust somebody in the head for no reason and leave them permanently damaged."*

[14] The sentencing hearing continued on October 18, 2013 and Justice Pockele sentenced the Applicant to a 9-month conditional sentence. The Applicant was also subject to other prohibitions relating to alcohol and weapons.

[15] The Applicant did not appeal █ convictions. █ fulfilled █ sentencing conditions without issue.

#### *Disclosure of the Conviction to CPA Ontario*

[16] On June 17, 2020, the Applicant applied for membership in CPA Ontario. In a written commentary on the events in question, the Applicant wrote, in part, as follows:

*"I was in an altercation outside of a bar where I was approached by two strangers, one of which tried to strike and kick me. In response, I struck the victim once during the altercation and unfortunately, he fell, hitting his head when he landed and causing short term injuries. This was completely out of character for me and a terrible mistake that I sincerely regret....My life has completely changed since this charge and I have not had a single incident since and will not have one ever again."*

[17] Based upon the evidence provided by the Applicant, the Registrar concluded that although the Applicant met the other criteria for registration as a student, they were

unable to assess [REDACTED] good character. The matter was remitted to a hearing before the ARC for a determination of the Applicant's good character.

*Applicant's Evidence about the Convictions During the Hearing*

- [18] The Applicant read a statement for [REDACTED] evidence, where [REDACTED] said that [REDACTED] regretted [REDACTED] violent reaction to what [REDACTED] perceived as the victim's aggression towards [REDACTED]. [REDACTED] added that [REDACTED] actions were not warranted and [REDACTED] should have walked away. [REDACTED] explained that since that time, [REDACTED] had engaged in self-reflection. The Applicant also noted that [REDACTED] voluntarily attended five sessions of Conflict Resolution therapy where [REDACTED] had learned that the cause of the incident was [REDACTED] ego and [REDACTED] pride.
- [19] The Applicant testified that prior to accepting [REDACTED] current position as a staff accountant, [REDACTED] had disclosed [REDACTED] criminal conviction to [REDACTED] employers. [REDACTED] was now a senior accountant at that organization.
- [20] With respect to [REDACTED] personal life, the Applicant stated that [REDACTED] had married [REDACTED] [REDACTED] last year and they were expecting their first child. [REDACTED] said that [REDACTED] life had completely changed since the incidents in 2012.
- [21] On cross-examination, the Applicant explained that [REDACTED] had run from the scene of the assault because [REDACTED] did not appreciate the severity of the victim's injuries. [REDACTED] said that [REDACTED] now appreciated that this was the wrong decision.
- [22] The Applicant was also questioned about [REDACTED] breach of [REDACTED] recognizance and [REDACTED] answered that [REDACTED] was young and just wanted to go out for the evening. [REDACTED] testified that [REDACTED] ran away from the police because [REDACTED] was in shock and [REDACTED] head was not clear.
- [23] The Applicant was asked what [REDACTED] had learned from these two incidents that resulted in criminal convictions. [REDACTED] said that [REDACTED] believed that at the time, because [REDACTED] was tall, athletic and confident, [REDACTED] attracted trouble. [REDACTED] had since learned to be more humble. [REDACTED] gave the example of being out with friends and leaving when it looked like there might be a fight.

- [24] Since ■■■ convictions, the Applicant testified that ■■■ had not been involved in any volunteer work or made any contributions to ■■■ community. ■■■ said ■■■ donated money to good causes.
- [25] The Applicant was asked by Panel members about the supports that ■■■ currently had in ■■■ life. ■■■ said that ■■■ friend group shrank after the incident, although ■■■ still had five friends who had been constant support. The Applicant did not receive any external help from professionals (such as therapists or counsellors) but ■■■ had a strong family and friend support group.

### *Character Evidence*

- [26] The Applicant provided the Registrar with four reference letters from the following individuals: a family member, a work colleague, a close family friend (Witness A), and the direct manager at ■■■ current employer. They all spoke highly of the Applicant's hard work, professional attitude and ■■■ organizational skills. The only letter that referred to the Applicant's "criminal conviction" (singular) was from ■■■ current manager, who wrote that the Applicant had disclosed this conviction during the interview process.
- [27] Witness A testified that she was a good friend of the Applicant's sister and had known the Applicant for many years. She had conversations with the Applicant about the criminal assault incident at the time; she indicated that this was mostly through text messages and a few phone calls where she recommended supports available to the Applicant in the community. She was unaware of any steps that the Applicant had taken towards dealing with anger and conflict, but indicated that the Applicant played basketball, which she believed was helpful in dealing with these issues. Witness A said that she was confident that the Applicant would not get into trouble in the future. She specifically referred to ■■■ recent marriage as a source of stability and support for the Applicant.

### **III. ISSUES IN THIS HEARING**

[28] The 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 registered as a student with CPA Ontario.

### **IV. DECISION**

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

### **V. REASONS FOR DECISION**

#### *Good Character Requirement in Regulations*

[30] Applicants for registration as students are required to provide the Registrar with satisfactory evidence of their good character (section 3.3 of Regulation 9-1). Where the Registrar is not satisfied with the evidence provided by the applicant about their good character, the Registrar must refer the matter to an oral hearing before the ARC (section 13 of Regulation 9-1).

[31] At the oral hearing, 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.

[32] The ARC must assess the applicant’s character as of the time of the hearing. In other words, while there is evidence that the applicant historically made poor ethical choices or exercised poor judgment, the issue for the ARC’s determination is whether the applicant is currently a person who possesses good character. (*GB v. Registrar, Chartered Accountants of Ontario (November 26, 2019)*).

[33] If the ARC determines that an applicant meets all of the qualifications for registration, in particular that they meet the good character requirement, they must make an order registering the applicant as a student on such conditions and restrictions as the ARC considers appropriate (section 21 of Regulation 7-1).

*What is Good Character?*

[34] “Good character” is not defined in the CPA Ontario Regulations. The following definition of good character made in a Law Society of Ontario decision, *Law Society of Upper Canada v Preya*, 2000 CanLII 14383, has been adopted by the panels of the ARC:

*“[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.”*

[35] In an often-cited article about good character, Madam Justice Southin of the British Columbia Court of Appeal, wrote about what constitutes good character and stated:

*“[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.*

[36] The purpose of the good character requirement is threefold:

- (a) to protect members of the public who retain accounting professionals;
- (b) to ensure that the accounting profession maintains a reputation for high professional and ethical standards; and
- (c) to demonstrate that CPA Ontario is able to effectively regulate chartered professional accountants.

*Factors Determining Good Character*

[37] It is well established that in reviewing the evidence about an applicant's character, the Panel must consider the following factors:

- (a) The nature and duration of the applicant's misconduct;
- (b) Whether the applicant is remorseful;
- (c) What rehabilitative efforts, if any, the applicant has taken and the success of such efforts;
- (d) The applicant's conduct since the misconduct; and
- (e) The passage of time since the misconduct.

[38] 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. The test for good character is not perfection. While the Panel must consider the seriousness of the past misconduct, this must be balanced against other evidence that shows how the Applicant has conducted themselves since the misconduct.

*Application of Good Character Factors to Evidence*

Nature and Duration of Misconduct

- [39] The Applicant submitted that the events that resulted in ■■■ convictions involved split second decisions. Counsel for the Registrar submitted that there was no question that the Applicant's convictions for Assault Causing Bodily Harm and Breach of Recognizance were serious. She pointed out that the events leading to the convictions were ten years ago and they took place when the Applicant was at a different stage of ■■■ life. She added that the Applicant was transparent with ■■■ employer about these events and that ■■■ had engaged in self-reflection.
- [40] Counsel for the Registrar reminded the Panel that although Judge Pockele found that the Applicant was not credible at the criminal trial, that should not be factored into the Panel's assessment of ■■■ misconduct. The Panel agreed. This was not a case where there was a clear finding of fabrication of evidence or perjury. The mere fact that the Applicant's version of events was not believed was not an indication of ■■■ bad conduct or poor character. The Applicant was entitled to advance a vigorous defence at ■■■ criminal trial and ■■■ may have had a different recollection of the events.
- [41] The Panel concluded that both convictions were serious. The Applicant was found to have violently attacked and seriously injured another person without provocation. ■■■ then ran away rather than staying to offer assistance to ■■■ victim. As for the breach of ■■■ recognizance, the Panel noted that breaching an undertaking was serious. Good character requires absolute compliance with undertakings and promises, even when such compliance is inconvenient or uncomfortable.
- [42] The Panel took into account that both of these incidents were within a relatively short span of time and they were the impulsive acts of a young ■■■ who had been drinking. While this did not mitigate against the seriousness of the Applicant's actions, there was no evidence that this pattern of behaviour continued after 2012.

### Whether Applicant is Remorseful

- [43] The Applicant submitted that ■■■ deeply regretted the assault and the breach of ■■■ recognizance. Counsel for the Registrar submitted that the Applicant had expressed regret for ■■■ actions during ■■■ evidence and that ■■■ had learned from ■■■ mistakes.
- [44] The evidence of Witness A did not establish that the Applicant had expressed remorse to her at the time of the incidents. There was no character evidence from the Applicant's family, friends or work colleagues about their discussions with the Applicant about ■■■ regret for these incidents.
- [45] The Panel noted that the Applicant expressed regret in ■■■ statement to the Court on July 9, 2013 and during this hearing. The Applicant's expressions of remorse in ■■■ written commentary to CPA Ontario were noted, however the Panel was concerned that the Applicant minimized ■■■ responsibility for the harm that ■■■ caused to the victim. ■■■ wrote to CPA Ontario that the victim suffered harm because after being struck in an altercation, he "*unfortunately*" fell and he hit his head, "*causing short-term injury*". This was inconsistent with the Agreed Statement of Facts for this hearing signed by the Applicant on February 24, 2022 and the findings of the Court that the Applicant had punched the victim in the head and that the victim had suffered significantly serious injuries, including long-term hearing loss. Justice Pockele wrote that the victim was permanently damaged.

### Rehabilitation Efforts

- [46] Counsel for the Registrar submitted that the Applicant had voluntarily taken conflict management courses prior to ■■■ sentencing. She also noted that the character evidence was supportive of the Applicant's rehabilitation.
- [47] The Panel accepted that the Applicant had engaged in five sessions of a rehabilitation program prior to ■■■ sentencing. The Panel found that the Applicant's reliance on an explanation that pride and ego led to ■■■ violent assault of the victim was not indicative of well-developed insight into the causes of ■■■ violent

behaviour. That said, there was no subsequent evidence of rule-breaking or violent behaviour on the part of the Applicant.

- [48] In many of the precedent cases provided to the Panel by counsel for the Registrar, after their misconduct, applicants had given back to their communities in recognition that they needed to prove that they had moved past their misconduct. Often such efforts are directed at preventing others from engaging in similar misconduct. The Applicant had not engaged in such rehabilitative efforts since [REDACTED] conviction.

#### Applicant's Conduct Since the Misconduct

- [49] The Applicant submitted that the Panel should consider that [REDACTED] had a perfect attendance with [REDACTED] parole officer. [REDACTED] said that [REDACTED] had been transparent with [REDACTED] employer. Counsel for the Registrar added that the Applicant had not had any further problems with the law since 2012 and [REDACTED] had been promoted several times with the same employer.

- [50] The Panel was impressed that the Applicant had disclosed [REDACTED] criminal record to [REDACTED] current employer in a timely way. This would not have been easy or comfortable, but it was the right thing to do. The Panel also noted that despite [REDACTED] two convictions, the Applicant had shown considerable fortitude in continuing to pursue [REDACTED] education and [REDACTED] goal of becoming a CPA.

- [51] Most significantly, the Panel found that there was no evidence of misconduct after September 30, 2012. The Applicant had focused on completing [REDACTED] education and moving forward in [REDACTED] career as an accountant. [REDACTED] personal life, being married and about to become a parent, had changed from the life that [REDACTED] had as a student.

#### The Passage of Time Since the Misconduct

- [52] As stated in *GB vs. Registrar, Chartered Professional Accountants of Ontario* (November 26, 2019), at para [24], the passage of time since the misconduct is relevant because it provides an applicant with the opportunity to contemplate their

misconduct, to gain insight, and to pursue rehabilitation. It also serves as a recognition of the seriousness of the misconduct: the more serious the misconduct, the more time that is required to demonstrate that the applicant's character is no longer defined by or reflective of their past misconduct.

[53] The events that lead to the Applicant's convictions took place almost ten years ago. The Panel found that this was more than enough time to determine that it was unlikely that the Applicant was at risk of re-offending.

### *Conclusion*

[54] After carefully reviewing the evidence, the Panel concluded that the Applicant had established on a balance of probabilities that ■ was currently a person of good character. The main factor in this determination was the passage of almost a decade with no known recurrences of either violent or rule-breaking behaviours. While the Panel was concerned that the Applicant had made limited attempts to rehabilitate, in particular that ■ had not engaged in volunteer or public service since the events, the Panel found that the Applicant provided sufficient evidence that ■ met this membership requirement.

[55] For the reasons set out above, the Panel found that the Applicant established that at the time of the hearing, ■ was a person of good character. Being advised by the Registrar that the Applicant otherwise met all of the requirements of registration as a student of CPA Ontario, the Panel ordered the Registrar to register the Applicant as a student.

**Dated** this 4<sup>th</sup> day of April, 2022.



Mark Dimmell, CPA, CA  
Admission and Registration Committee – Deputy Chair

Members of the Panel

Charlie Baek, CPA, CMA, MBA  
Donald Aronson, Public Representative  
Barbara Ramsay, Public Representative

Independent Legal Counsel

Susan J. Heakes