

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 **K [REDACTED] R [REDACTED]**, an applicant for admission to membership with the Chartered Professional Accountants of Ontario, pursuant to Regulation 7-1: Admission to Membership, Obligations and Standing, as amended

BETWEEN:

K [REDACTED] R [REDACTED]

-and-

**REGISTRAR, CHARTERED PROFESSIONAL
ACCOUNTANTS OF ONTARIO**

APPEARANCES:

For the Applicant, **K [REDACTED] R [REDACTED]**: Self-represented

For the Registrar: Katie Archibald, Counsel

Heard: February 10, 2022

Decision and Order effective: February 10, 2022

Release of written reasons: March 9, 2022

REASONS FOR THE DECISION MADE MARCH 9, 2022

I. INTRODUCTION

[1] This hearing was held by videoconference to determine whether the Applicant, **K [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 Registrar referred the Applicant’s application for membership in CPA Ontario to the Admission and Registration Committee (the “ARC”) as a result of an incident that took place while the Applicant was registered as a student with CPA Ontario. In 2017, the Applicant submitted a fraudulent expense report to ■ employer claiming reimbursement for a CPA Ontario course that ■ had failed.
- [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 membership. Upon being advised that the Applicant met all other requirements for admission to membership, the Panel ordered that the Registrar admit the Applicant to membership of CPA Ontario after ■ successfully completed at least eight hours of CPA Ontario-recognized courses respecting the ethical obligations of Chartered Professional Accountants.

II. BACKGROUND AND FACTS

The Applicant’s Misconduct

- [4] In April 2017, the Applicant was registered as a CPA Ontario student and working as an employee at ■ (M■). At that time, M■ would reimburse CPA Ontario students for fees upon the successful completion of a course.
- [5] The Applicant submitted an expense report to M■ dated April 25, 2017 for reimbursement of \$1,469.00 for the CPA Ontario Professional Education Program Performance Management Elective. The Applicant attached a document purporting to be from CPA Ontario that indicated that ■ had passed this examination. On receipt of the expense report, the Applicant’s supervisor congratulated ■.
- [6] Approximately one week later, when M■ processed the expense report, the Applicant was questioned. At this point, the Applicant admitted that ■ had altered ■ exam result printout from CPA Ontario to falsely state that ■ had passed the examination, when in fact ■ had failed the examination.
- [7] M■ permitted the Applicant to resign from ■ employment effective June 7, 2017.

- [8] M■■■■ filed a complaint with CPA Ontario dated June 26, 2017 regarding the fraudulent report. They indicated that as the Applicant was a high potential team member other than ■■■■ lapse in judgment and because they did not want to create publicity that could impede ■■■■ career, they had allowed the Applicant to resign.
- [9] As a result of the complaint, CPA Ontario Standards Enforcement investigated the incident. On April 24, 2018, following its investigation, CPA Ontario Standards Enforcement advised the Applicant that the Professional Conduct Committee decided to refer the substance of the matter to the Registrar (Vice President of Student Services) for consideration and would take no further action.
- [10] The Applicant applied for membership in CPA Ontario on February 13, 2021. In ■■■■ application, the Applicant wrote: *“The Professional Conduct Committee had completed its review of the matter and concluded that they would not be taking any further action.”*

The Applicant’s Evidence about ■■■■ Misconduct

- [11] In an undated document referred to as a “Reflective Piece,” the Applicant wrote that ■■■■ took full ownership of ■■■■ error in judgment. ■■■■ explained that during 2016-2017, ■■■■ father was unwell and at risk of losing his eyesight, and as a result, the Applicant had two jobs as well as taking ■■■■ CPA Ontario courses. When ■■■■ failed the examination in April 2017, ■■■■ said that ■■■■ needed the money in order to cover the closing costs of a house that ■■■■ had recently purchased. Accordingly, ■■■■ falsified the exam result, fully intending to pass the examination in the future and not claim reimbursement. The Applicant wrote that ■■■■ had not fully forgiven ■■■■ self but had learned from the incident. ■■■■ said that ■■■■ has since been promoted to Manager and taken on more volunteering opportunities.
- [12] During the hearing, the Applicant testified that ■■■■ was under *“immense stress”* in April of 2017. ■■■■ father was very ill and ■■■■ was working at two jobs. When ■■■■ failed ■■■■ CPA Ontario exam, ■■■■ was devastated. ■■■■ explained that ■■■■ rationalized that ■■■■ would pass the course at a later time and not seek reimbursement. ■■■■ now understood that that ■■■■ exercised poor judgment and that ■■■■ actions contradicted the values of CPA Ontario.
- [13] As part of ■■■■ evidence, the Applicant submitted the documents that ■■■■ was asked to provide to the Professional Conduct Committee, including emails from work colleagues after ■■■■ had departed asking for clarification of the work that ■■■■ had done, a 2016 letter

from ■■■ father's physician, and 2017 pay statements from UBER. The Applicant was careful to explain that in doing so, ■■■ was not suggesting that they were mitigating; ■■■ said that ■■■ took full ownership of ■■■ lapse in judgment. The Applicant testified that ■■■ thinks about this incident every day and is completely ashamed.

[14] On cross-examination, counsel for the Registrar, Ms. Archibald, asked the Applicant if ■■■ sought counselling after the incident. ■■■ said that ■■■ had not done so as ■■■ was busy picking up the pieces and trying to get back on ■■■ feet. She then asked the Applicant if ■■■ had taken any ethics courses, and ■■■ said that ■■■ current employer offered podcasts (prepared by a third party provider), however ■■■ had not had the time to look at these.

[15] The Applicant was also asked about ■■■ current employer and ■■■ testified that ■■■ had not advised them of this issue. ■■■ said that ■■■ was not aware that ■■■ needed to bring this up. ■■■ was asked about volunteer work and ■■■ said that ■■■ and ■■■ family gave out food to the homeless during holidays.

[16] Ms. Archibald asked the Applicant if ■■■ felt remorse for ■■■ actions and ■■■ confirmed that ■■■ did. ■■■ said that ■■■ actions were out of character and ■■■ lost work relationships for ■■■ "stupid mistake".

[17] A Panel member asked the Applicant if ■■■ considered self-reporting ■■■ misconduct to ■■■ employer before ■■■ was caught. The Applicant answered that ■■■ realized that if ■■■ got caught, it would adversely affect ■■■ career, however ■■■ chose not to self-report at the end of the day because ■■■ had "a lot of other things on my plate such as working two jobs and taking ■■■ CPA Ontario courses". ■■■ said that ■■■ did not consider this a top priority at the time.

[18] The Applicant was also asked by a Panel member why ■■■ had not told ■■■ current employer about this incident. The Applicant said that from ■■■ "*own career progression, it was not reasonable to mention this.*" ■■■ added that ■■■ was not fired by M■■■■ but left on ■■■ own terms. ■■■ said that ■■■ was not aware that ■■■ needed to tell ■■■ employer because ■■■ is "*new to this.*"

Character Evidence

[19] Witness A testified that they had known the Applicant for a long time and had always found the Applicant to be a very positive person. After the Applicant left M■■■■ in 2017, the

Applicant had provided accounting services, such as bookkeeping, management of invoices and accounts payable, to the importing business where Witness A was a partner. The Applicant told Witness A about the incident at M■■■■ and they concluded that this error was out of character for the Applicant. They said that this was “*not a big issue*” and they trusted the Applicant with financial matters at their company. Witness A believed that the Applicant would not repeat this misconduct because ■■■ was financially responsible for ■■■ family. Witness A added that the Applicant was very embarrassed by what ■■■ had done.

[20] Witness B and the Applicant went to university together. Witness B testified that the Applicant was a trustworthy person, that ■■■ was remorseful about what ■■■ had done, and that ■■■ would not repeat ■■■ “*small mistake.*” Ms. Archibald asked Witness B about the basis of these beliefs and they testified that the Applicant had matured since ■■■ made this mistake.

[21] Person C provided a reference letter for the Applicant but did not testify. They had been a close friend of the Applicant since childhood. Person C was shocked to learn about the 2017 incident because they believed that the Applicant was a person of good moral standing. They were aware of the personal pressures faced by the Applicant at the time of the incident. Person C said that the incident weighed heavily on the Applicant and indicated that ■■■ was remorseful.

III. ISSUES IN THIS HEARING

[22] 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 admitted as a member to CPA Ontario.

IV. DECISION

[23] 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, upon being advised by the Registrar that the Applicant met all other requirements for admission to membership, the Panel ordered that the Applicant be admitted to membership upon the completion of not less than eight hours of a CPA Ontario-recognized course or courses that related to the ethical obligations of a Chartered Professional Accountant.

V. REASONS FOR DECISION

Good Character Requirement in Regulations

- [24] Once an applicant has completed the other qualifications for admission to membership in CPA Ontario, they are required to provide evidence satisfactory to the Registrar that they are a person of good character (subsubsection 3.4 of Regulation 7-1).
- [25] 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 a 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.
- [26] Where the Registrar is not satisfied with the evidence provided by the applicant about their good character, the Registrar shall refer the matter to an oral hearing before the ARC (section 14 of Regulation 7-1).
- [27] At the oral hearing, 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 a poor ethical choice or exercised poor judgment, the issue for the ARC’s determination is whether the applicant is currently a person who possesses good character.
- [28] If the ARC determines that an applicant meets the good character requirement and the Registrar confirms that all other requirements for admission have been met, the Panel shall make an order registering the applicant on such terms and conditions that they consider appropriate (section 22 of Regulation 7-1).

What is Good Character?

- [29] “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.”

[30] 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.*

[31] 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

[31] 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.

[32] 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. Each case must be decided based on its own facts and the evaluation of the evidence of remorse and rehabilitation.

[33] The test for good character is not perfection (*LSUC v Blackburn*, 2010 ONLSHP 112). The Panel must consider all of the factors listed above as a whole in their determination of the Applicant's current good character. While the Panel must consider the seriousness of the past misconduct, this must be balanced against any evidence that the applicant has gained insight into the seriousness of their misconduct, expressed sincere remorse, engaged in rehabilitative measures, and has not committed any further misconduct. The Panel will consider whether enough time had gone by for the applicant to ensure that there is no pattern of misconduct and that they will maintain the ethical standards of a member of CPA Ontario in the future.

Analysis

[34] Although the Registrar did not take a position at the hearing, the Panel noted that the Registrar was generally supportive of the Applicant's admission to membership with CPA Ontario.

Nature and Duration of Misconduct

[35] In addressing the issue of the seriousness of his misconduct, the Applicant acknowledged that ■ had made a serious misstep. Counsel for the Registrar submitted that there were no criminal charges against the Applicant, despite ■ falsification of documents. She added that the Applicant admitted ■ misconduct shortly after the incident and that this was a one-time event that was not reflective of a pattern of behaviour.

[36] The Panel found that the Applicant's misconduct was serious, particularly given that it occurred while ■ was registered as a CPA Ontario student and the misconduct was directly related to ■ work as an accountant. ■ attempted to mislead ■ employer about ■ success on a CPA Ontario examination in order to receive money that ■ was not entitled to receive. This was a serious breach of the Applicant's fiduciary obligation to ■ employer. The Panel found that the misconduct took place over the course of a week,

during which time the Applicant could have self-reported. The Panel agreed that this was an isolated event and that there was no evidence of a pattern of misconduct.

Whether Applicant is Remorseful

[37] Counsel for the Registrar submitted that the Applicant was deeply sorry for ■■■ misconduct and had not fully forgiven ■■■self. She referred to the evidence of the Applicant's references, who said that the Applicant had expressed remorse to them about ■■■ actions. She also referred the Panel to the evidence of Witness B, who said that the Applicant was remorseful and embarrassed by ■■■ actions.

[38] The Panel found that the Applicant's evidence of remorse at the hearing was sincere and that ■■■ did not attempt to minimize or find excuses for ■■■ misconduct. The Applicant showed insight into the impact of ■■■ misconduct on others, particularly on the reputation of Chartered Professional Accountants. ■■■ fully appreciated why ■■■ employer could not allow ■■■ to continue to work for them in the circumstances.

Rehabilitation Efforts and the Success of Such Efforts

[39] Counsel for the Registrar submitted that since the misconduct, the Applicant had completed ■■■ CPA Ontario examinations and advanced ■■■ career. She observed that the Applicant had limited involvement in volunteer work or in ■■■ community. Counsel also submitted that the podcasts that the Applicant referred to did not appear to be related to ■■■ rehabilitation efforts.

[40] The Panel found that there was very little evidence before it that the Applicant had engaged in any rehabilitation since the incident. While the Applicant had gotten on with ■■■ life after leaving M■■■, the Panel found that this was not necessarily reflective of rehabilitation. The Applicant did not seek counselling about how the personal and financial stresses in ■■■ life had contributed to ■■■ poor ethical choice or shown that ■■■ regretted ■■■ actions by contributing to the community in a significant way. While ethics programs were available to the Applicant, ■■■ had not made any efforts to engage in these programs.

Applicant's Conduct Since the Misconduct

[41] There was no evidence of any serious misconduct on the part of the Applicant since the incident in 2017.

[42] The Panel noted that the Applicant had not been candid with ■■■ current employer about the events that led to ■■■ forced resignation from M■■■. The Panel appreciated that this would have been difficult for the Applicant but was mindful of the statement made by Justice Southin that good character includes the moral fiber to do the right thing even when doing so is uncomfortable. The Panel would have preferred to learn that the Applicant had been more forthcoming with ■■■ current employer.

The Passage of Time Since the Misconduct

[43] The Applicant submitted the fraudulent invoice to ■■■ employer in April 2017, almost five years before the hearing. Given the seriousness of the misconduct, the Applicant's remorse, and the fact that there was no evidence of misconduct since that time, the Panel found that there was a sufficient amount of time to assess the character of the Applicant.

Terms and Conditions to Applicant's Admission Ordered by Panel

[44] As set out above, under section 22 of Regulation 7-1, the Panel may impose appropriate restrictions and conditions on an applicant's admission to CPA Ontario. For example, restrictions and conditions may address concerns about public confidence in the regulation of the members of CPA Ontario arising from the prior misconduct. They can also assist the applicant by enhancing their competence. The Panel noted the warning about using restrictions and conditions to "bootstrap" a Panel's findings about the good character of an applicant which were contained in the Panel's decision in a Law Society of Ontario decision, *Levenson v LSUC*, 2009 ONLSHP 0098:

[81] "[The imposition of conditions on admission to the profession] also brings with it a danger, namely that the burden of proof upon an applicant to demonstrate good character will be effectively "watered down" by hearing Panels who might be tempted to address their concerns about good character through the imposition of terms and conditions. We cannot emphasize strongly enough that terms and conditions should never be utilized to permit applicants to be licensed who have failed to prove, on a balance of probabilities, that they are currently of good character. That would erode this precondition for licensing in an unacceptable way. Put another way, if a hearing Panel remains unsatisfied that an applicant is currently a person of good character because of residual concerns about, for

example, his or her integrity or the likelihood that [they] will respond to the pressures of practice by reverting to misconduct, his or her application should be refused. By way of illustration only, terms and conditions might be imposed where the hearing Panel is satisfied that the applicant is currently of good character, but that public confidence in the regulation of lawyers and paralegals would be enhanced through such terms and conditions.”

[45] The Panel found that while the Applicant established on a balance of probabilities that ■ was currently a person of good character, it was appropriate that ■ be required to take courses related to the ethical obligations of a Chartered Professional Accountant to reinforce the “lessons learned” from the April 2017 incident.

Conclusion

[46] While the Panel would have liked to have seen more evidence of the Applicant’s rehabilitation, in weighing all of the evidence and considering the submissions of the parties, the Panel found that on a balance of probabilities, the Applicant had established that ■ is a person of good character as of the date of the hearing.

[47] The Panel found that in these circumstances, it was appropriate to impose a condition for admission to membership requiring that prior to his admission, the Applicant provide satisfactory proof to the Registrar that ■ has enrolled in, paid for the entirety of, and successfully completed a CPA Ontario-recognized course or courses, acceptable to the Registrar, of not less than a total of eight hours related to the ethical obligations of a Chartered Professional Accountant.

Dated this 9th day of March, 2022



Bernard S. Schwartz, FCPA, FCA
Admission and Registration Committee – Deputy Chair

Members of the Panel

Donald Aronson, Public Representative

James C. Blackwell, CPA, CA

Seemant Thakkar, CPA, CMA, CGA, LPA

Independent Legal Counsel

Susan J. Heakes