

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] S [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] S [REDACTED]

-and-

**REGISTRAR, CHARTERED PROFESSIONAL
 ACCOUNTANTS OF ONTARIO**

APPEARANCES:

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

For the Registrar: Katie Archibald, Counsel

Heard: January 5, 2022

Decision and Order effective: January 5, 2022

Release of written reasons: February 7, 2022

REASONS FOR THE DECISION MADE JANUARY 5, 2022

I. INTRODUCTION

[1] This hearing was held by videoconference to determine whether the Applicant, K [REDACTED] S [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 dated June 17, 2020 to the Admission and Registration Committee (the “ARC”) following the Applicant’s disclosure that while ■ was employed as a senior accountant, ■ had provided the solutions to a mandatory compliance training course to other employees who were required to complete the course. The Applicant then refused to remove the solutions from ■ employer’s internal server when asked to do so by a manager.
- [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. The Panel ordered that the Registrar admit the Applicant to membership of CPA Ontario upon receipt of proof that ■ had fulfilled certain conditions related to the ethical obligations of a CPA.

II. BACKGROUND AND FACTS

Applicant’s Background and Events Leading to ■ Termination of Employment

- [4] The Applicant graduated from university and registered as a student with CPA Ontario in 2017. By April 2020, the Applicant had completed ■ Common Final Examination and the Practical Experience Reporting Tool, which ■ submitted to CPA Ontario in May 2020.
- [5] In 2017, the Applicant started work as a staff accountant at a large, international accounting firm (the “Firm”).
- [6] In late March 2020, as part of a compliance mandate, the Firm sent an email to senior accountants that they were required to complete a US GAAP Training Course (the “US GAAP Course”). The purpose of the US GAAP Course was to ensure that the Firm’s accountants had a baseline knowledge of US accounting principles so that they could work on files where this knowledge was required. The Applicant testified that there were approximately 20 modules in the US GAAP Course and which took approximately twenty-five hours to complete. At the end of each module, there was a short test consisting of three to twenty questions (“GAAP Quizz(es)”). In order to progress through the modules, it was necessary for the senior accountant to achieve a mark of 75-80% on each GAAP

Quizz. If the senior accountant did not achieve this threshold grade, they had to reach out to the Learning Coordinator to be unlocked and to have the module reset. Once the senior accountant finished the US GAAP Course, they could download or screenshot the slide deck, solutions and supporting materials for future reference.

- [7] On April 24, 2020, after [REDACTED] successfully completed the US GAAP Course and received the slide deck and solutions from the Learning Coordinator, the Applicant sent the following message to 11 colleagues who were required by the Firm to complete the course:

"Hi All,

In the event any of you don't want to have the embarrassment of asking multiple times to unlock your quizzes for the US GAAP training (me and the lady are best friends now), solutions can be found:

[link to solutions to GAAP Quizzes]

Have a great weekend."

- [8] During [REDACTED] evidence, the Applicant explained that [REDACTED] shared the solutions to the GAAP Quizzes with [REDACTED] colleagues because [REDACTED] wanted to help them out, and because helping colleagues was part of the culture of the Firm.
- [9] Soon after posting the solutions to the GAAP Quizzes, a manager who had been included in the Applicant's correspondence advised [REDACTED] that posting the answers was not appropriate. She told [REDACTED] to delete the solutions. The Applicant refused to delete the solutions and told her that if she *"was offended by this, she [the manager] could delete it,"* or words to that effect. The manager deleted the answers herself and notified the Applicant's engagement partner and the director of Human Resources.
- [10] During [REDACTED] evidence, the Applicant testified that [REDACTED] refused to remove the solutions because [REDACTED] believed that managers at the Firm, in particular the manager who had confronted [REDACTED], had done the same thing in the past.
- [11] On May 1, 2020, the Applicant was interviewed about the April 24, 2020 incident by a Firm partner and the Firm's Director of Human Resources. The Applicant admitted to sharing the answers to the GAAP Quizzes and posting them on an internal server. Following the interview, the Applicant was placed on a leave of absence.

- [12] On May 11, 2020, the Firm terminated the Applicant's employment for just cause in relation to the April incident. In the termination letter to the Applicant, a Firm partner explained that ■■■ conduct breached the Firm's Code of Conduct, which required all employees to act ethically. He added that the Applicant's conduct also impacted on the Firm's commitment to build public trust by "*doing the right thing in the right way, every day.*" The Firm considered the Applicant's conduct to be a fundamental breach of trust and ■■■ employment relationship with the Firm.
- [13] In the final paragraph of the termination letter, the Firm advised the Applicant of ■■■ obligation to report this incident to CPA Ontario because it constituted a breach of section 201 of the CPA Ontario Code of Professional Conduct (the "Code"). The partner wrote that the Firm's preference was for the Applicant to disclose the incident to CPA Ontario. If the Firm did not receive confirmation that the Applicant had self-reported the incident to CPA Ontario, the Firm partner wrote that the Firm would report the matter pursuant to their professional obligations.

Disclosure of the April 24, 2020 Incident to CPA Ontario

- [14] On May 13, 2020, the Applicant disclosed the April 24, 2020 incident to CPA Ontario. The Applicant wrote that ■■■ was guilty of a breach of section 201 of the Code and took full responsibility for ■■■ actions. ■■■ described his actions as a "*significant mistake*" but explained that collaboration on training had been encouraged by the Firm. ■■■ said that ■■■ had overlooked that the training was a part of a compliance mandate. ■■■ wrote that ■■■ realized that his actions created "*a potential opportunity for individuals to not demonstrate their knowledge for the professional services required on future engagements.*" ■■■ also stated that the language ■■■ used at the time was not professional because ■■■ was frustrated during his "*confrontation*" with a manager.
- [15] Under the heading "Desired Outcome" in his disclosure letter, the Applicant wrote that ■■■ believed that repercussions from CPA Ontario were warranted. The Applicant suggested that ■■■ be required to take a professional development course and/or an examination with all expenses borne by ■■■ self.
- [16] The Professional Conduct Committee of CPA Ontario (the "PCC") commenced an investigation into the Applicant's conduct. The PCC is an investigative rather than adjudicative body, and the purpose of the review was to provide guidance and/or

admonishment to students and members based upon the untested information gathered during the investigation.

[17] On December 15, 2020, the PCC wrote to the Applicant and commented as follows:

- (a) The Applicant's decision to distribute the answers to the GAAP Quizzes reflected poorly on the integrity of the profession;
- (b) ■■■ conduct was further exacerbated by ■■■ initial refusal to delete the materials when asked by a manager;
- (c) This appeared to be an isolated incident for which the Applicant experienced negative consequences, including the termination of ■■■ employment; and
- (d) The Applicant's conduct may have violated the Code, particularly Rule 201, which requires students to act at all times in a manner which will maintain the good reputation of the profession and serve the public interest.

The PCC told the Applicant that they would not be taking any further action.

[18] On June 17, 2020, the Applicant applied for membership in CPA Ontario. The Registrar found that ■■■ met all criteria for admission to membership however they were unable to assess ■■■ good character.

Events After April 2020 Incident

[19] On July 16, 2020, the Applicant started work at another CPA firm as a senior staff accountant. As will be discussed below, during the hiring interview, the Applicant fully disclosed the April 2020 incident.

[20] The Applicant testified that ■■■ did not seek out counselling after ■■■ termination. Although in ■■■ letter to CPA Ontario, the Applicant stated that professional development courses would be an appropriate "repercussion" for ■■■ misconduct, ■■■ had not taken any such program as of the date of the hearing. When asked by a Panel member why ■■■ had not followed through with this, the Applicant said that ■■■ had used the money for courses that would enable ■■■ to achieve a designation as a Certified Financial Planner. ■■■ said that these courses had some ethical components, but later agreed that they were more focused on fiduciary obligations. ■■■ said that ■■■ was not sure why ■■■ had not done more.

Applicant's Evidence about the Incident During the Hearing

- [21] Counsel for the Registrar asked the Applicant what ■ regretted most about the events of April 2020. ■ said that ■ had “a significant lapse in judgment,” but ■ felt that this was merely “one error”. The part that ■ regretted the most, ■ said, was how ■ had conducted ■ self in ■ discussion with the Firm manager. ■ appreciated that ■ took a very stubborn or frustrated approach rather than an open approach, and that ■ had not behaved in an appropriate or professional manner.
- [22] When asked what ■ had learned from the April 2020 incident, the Applicant stated that what happened was disappointing because ■ had hoped that ■ would have a long-term career with the Firm and ■ *“threw it all away for something so silly as this.”*

Character Evidence

- [23] The Applicant provided the Registrar with five reference letters from six individuals. Four of the reference letters were from former colleagues at the Firm and they all spoke highly of the Applicant's work ethic and collegiality. None of these letters referred to the April 2020 incident.
- [24] In a letter dated December 8, 2021 signed by two of the partners at the Applicant's current firm, they wrote that the Applicant told them why ■ employment at the Firm had been terminated and ■ explained that ■ had reported this to CPA Ontario. They were pleasantly surprised that the Applicant exceeded their expectations for a senior staff accountant and they considered ■ as a potential candidate for partnership. They had no concerns about the Applicant's good character.
- [25] BN, the Applicant's current manager, testified that he had been involved in hiring the Applicant at ■ current firm. BN said that the Applicant was forthcoming about the reason for ■ termination and ■ had expressed remorse about ■ actions at the Firm. BN confirmed that the partners considered offering the Applicant the opportunity to buy into the partnership, which reflected the confidence they had in the Applicant's skills and integrity.
- [26] The Applicant also produced evidence of ■ volunteer experiences. These included international volunteer work and supporting local charitable projects related to

homelessness, mental health and cancer. The Applicant's volunteer experience took place while ■ was in university or working at the Firm.

III. ISSUES IN THIS HEARING

- [27] 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 to CPA Ontario.

IV. 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 required to complete certain conditions prior to ■ admission as a member of CPA Ontario.

V. REASONS FOR DECISION

Good Character Requirement in Regulations

- [30] 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).
- [31] 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.
- [32] Where the Registrar is not satisfied with the evidence provided by the applicant about their good character or there are credibility issues, the Registrar shall refer the matter to an oral hearing before the ARC (section 14 of Regulation 7-1).
- [33] 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 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)*).

- [34] If the ARC determines that an applicant meets all of the qualifications for membership, in particular that they meet the good character requirement, they 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?

- [35] “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.”

- [36] 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.*

- [37] 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

[38] 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.

[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

Nature and Duration of Misconduct

[40] The Applicant submitted that the April 2020 Incident was an isolated incident and was a "*gross error in judgment*." Counsel for the Registrar noted that the Applicant's misconduct was similar to that of applicants in two other cases heard by the ARC: *KRS v. Registrar, Chartered Accountants of Ontario* (July 6, 2020) and *ET v. Registrar, Chartered Accountants of Ontario* (June 3, 2021). In these cases, the applicants made serious errors of judgment that necessitated reviews of their good character. In *KRS*, the applicant failed to report a client complaint to his employer and then attempted to resolve the complaint independently. In *ET*, the applicant plagiarized a number of tax assignments in their CPA

Ontario PEP program. The Registrar distinguished the facts in *ET* because there, the misconduct continued over a longer period of time and here, there was no pattern of ongoing misconduct.

- [41] The Panel agreed that the April 2020 Incident was serious and reflected poor professional judgment. The Applicant attempted to facilitate cheating by other senior accountants related to training that was mandated by the Firm. The US GAAP Course was required so that the Applicant and ■■■ colleagues could competently provide accounting services to the Firm's clients, and the Firm could confidently make this assurance to its clients.
- [42] The April 2020 Incident was particularly concerning because it took place while the Applicant was a CPA Ontario student who had completed the educational and experiential requirements for admission to membership. ■■■ actions had potentially serious consequences to ■■■ colleagues and to the Firm, which were reflected in their decision to terminate ■■■ employment for cause.
- [43] The Panel recognized that the Applicant's misconduct took place over a short period of time. While it was isolated, the Panel was concerned that the Applicant did not immediately recognize the implications of ■■■ poor decision and was insubordinate with the manager who correctly asked ■■■ to correct his error. That said, there was no evidence of a pattern of misconduct that would suggest that the Applicant's professional and ethical judgment would continue to be an issue.

Whether Applicant is Remorseful

- [44] The Applicant directed the Panel to ■■■ disclosure letter to CPA Ontario sent a few days after the April 2020 Incident and to ■■■ evidence at the hearing to establish ■■■ remorse. The Panel found that while the Applicant did not immediately recognize that ■■■ had made a poor decision when confronted by a manager, ■■■ realized ■■■ error shortly after that and had taken responsibility for ■■■ misconduct. In the disclosure letter, the Applicant set out the background information clearly and ■■■ did not minimize ■■■ misconduct in any way.
- [45] The Panel found that the Applicant's expressions of remorse were sincere and noted that ■■■ character witness, BN, testified that the Applicant had expressed remorse about the April 2020 incident during ■■■ initial hiring interview. The Panel was impressed by the

candour of the Applicant during this interview, which reflected ■ acceptance of responsibility for his misconduct.

Rehabilitation Efforts

- [46] The Applicant directed the Panel to ■ professional development plan as evidence of ■ rehabilitation. Counsel for the Registrar submitted that there was no evidence of rehabilitation and submitted that the professional development courses taken by the Applicant were to further ■ career rather than an effort to rehabilitate.
- [47] The Panel agreed with counsel for the Registrar. The Panel noted that despite the Applicant's appreciation that ■ might need further education as stated in ■ letter to CPA Ontario dated May 13, 2020, ■ had done nothing to reflect this understanding and had chosen to take other professional development courses.

Applicant's Conduct Since the Misconduct

- [48] The Applicant submitted that the Panel should consider ■ performance review from ■ current employer as evidence of his good conduct since the April 2020 incident.
- [49] The Panel agreed. The evidence established that the Applicant had worked very hard to successfully develop ■ accounting career and ■ had clearly earned the trust and respect of ■ current employers and colleagues. There was no evidence of any misconduct on the part of the Applicant since 2020.

The Passage of Time Since the Misconduct

- [50] The final consideration in a review of an applicant's good character is the passage of time between the applicant's misconduct and the application for admission to membership to CPA Ontario. This factor is important because it shows that the applicant has had a sufficient opportunity to reflect upon their misconduct, to gain insight and to rehabilitate. In addition, the passage of time can also serve to reflect the seriousness of the misconduct and to show the public that the applicant's character is no longer defined by the past misconduct.
- [51] The events that lead to the Applicant's termination of employment took place only a few months before his application for admission and about 20 months before this hearing.

Counsel for the Registrar pointed out that in *GB*, the Panel was concerned that 19 months was not enough time to demonstrate that GB was of good character and they wrote that generally, they would have preferred a longer period of time from the time of the misconduct to the date of the hearing. In *GB*, however, the panel considered the totality of the evidence, particularly GB's rehabilitation, and concluded that the passage of time was not a determining factor in their final decision.

- [52] Here, the Panel found that the short passage of time from the April 2020 Incident meant that the Panel (and the public) had limited opportunity to assess whether the Applicant had actually learned from ■■■ misconduct and was rehabilitated.

Conclusion about Applicant's Good Character

- [53] 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. Both in ■■■ letter to CPA Ontario and ■■■ testimony, the Applicant took full responsibility for ■■■ misconduct and showed insight into ■■■ poor judgment. While the Panel was concerned that the Applicant had made no attempts to rehabilitate and that the misconduct was relatively recent, the Panel found that the Applicant provided sufficient evidence that ■■■ met this membership requirement.

Terms and Conditions to Applicant's Admission Ordered by Panel

- [54] As set out above, under section 22 of Regulation 7-1, the Panel may impose restrictions and conditions on the applicant's admission to CPA Ontario if they are appropriate. 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, for example 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."

[55] The Panel found that while the Applicant established on a balance of probabilities that ■ was currently a person of good character, it was appropriate to require the Applicant to take further courses related to the ethical obligations of an accountant to reinforce the lessons learned from the April 2020 incident. Given that there was limited opportunity to demonstrate ■ appreciation of the implications of ■ misconduct because of the short passage of time and the fact that the Applicant had not engaged in any rehabilitative efforts since the incident, the Panel found that it was appropriate to ensure that the Applicant had a full appreciation of ■ professional and ethical obligations. This assurance was intended to enhance the public confidence in CPA Ontario's regulation of its students and members, but also to help the Applicant going forward in ■ career as a CPA.

[56] The Panel found that 10 hours of courses related to the ethical obligations of an accountant would be appropriate. The courses must be approved by the Registrar prior to their commencement. The Applicant must then provide proof of successful completion of the courses to the Registrar prior to being approved to admission for membership.

Conclusion

[57] 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 admission, the Panel directed the Registrar to admit the Applicant as a member of CPA Ontario, after ■ had satisfied the following condition:

Prior to admitting the Applicant to membership, the Registrar shall be satisfied that the Applicant has enrolled in, paid for the entirety of, and successfully

completed a course or courses, acceptable to the Registrar, of not less than a total of ten hours related to the ethical obligations of a Chartered Professional Accountant.

Dated this 7th day of February, 2022



Mark Dimmell, CPA, CA

Admission and Registration Committee – Deputy Chair

Members of the Panel

Dan Sceli, CPA, CGA, LPA

Margot Howard, Public Representative

Independent Legal Counsel

Susan J. Heakes