

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 N [REDACTED] D [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, Section 14: Good Character on Admission, as amended

**BETWEEN:**

N [REDACTED] D [REDACTED]

-and-

**REGISTRAR, CHARTERED PROFESSIONAL  
ACCOUNTANTS OF ONTARIO**

**APPEARANCES:**

**For the Applicant, N [REDACTED] D [REDACTED]:** Jakub Schnitzler

**For the Registrar:** Katie Archibald, Counsel

**Heard:** March 30, 2022

**Decision and Order effective:** May 2, 2022

**Release of written reasons:** May 2, 2022

**REASONS FOR THE DECISION MADE MAY 2, 2022**

**I. INTRODUCTION**

[1] The Registrar referred the application for membership in the Chartered Professional Accountants of Ontario (“CPA Ontario”) of N [REDACTED] D [REDACTED] (the “Applicant”) dated September 30, 2019 to the Admission and Registration Committee (“ARC”). In the

Applicant's application for membership, the Applicant disclosed that ■ had been convicted of Criminal Harassment on October 14, 2014.

- [2] This hearing was held by videoconference to determine whether the Applicant was of good character at the time of the hearing. For reasons set out below, the Panel found that the Applicant failed to provide satisfactory evidence that ■ was of good character at the time of the hearing. The Panel found that the Applicant should be permitted to re-apply for admission to membership on or after September 1, 2023.

## **II. FACTS**

### *Applicant's Criminal Misconduct – August 2013 to April 2014*

- [3] The following is a summary of the events that lead to the arrest of the Applicant on June 14, 2014 for Criminal Harassment. The source of this information is the Crown Synopsis presented at the Sentencing Proceedings for the Applicant that took place on January 26, 2015. The trial was before the Honourable Justice R.T. Knott of the Ontario Court of Justice. The Applicant was represented by counsel at the proceeding.
- [4] In or about March 2013, the Applicant met MB at a training conference in Toronto. The Applicant was 24 years old at the time and ■ worked at an accounting firm in Eastern Ontario (the "Accounting Firm"). MB was a 21-year-old university student who was employed through a co-op program with an accounting firm in Western Ontario. While they attended the conference, the Applicant and MB went out for dinner and were intimate.
- [5] Over the next six to eight months, the Applicant and MB continued a friendly relationship through email, text messages, phone calls and social networking.
- [6] In late August 2013, the Applicant texted MB and said that ■ was coming to see her. MB told the Applicant that she did not want ■ to visit her. This was in part due to the fact that she was interested in someone else, JD ("MB's boyfriend"). The Applicant ignored MB's request and came to her residence, where ■ confronted her. MB asked the Applicant to leave and ■ did so.

- [7] After this incident, the friendship between the Applicant and MB became strained. MB found that the Applicant's emails were becoming increasingly inappropriate, and she deleted [REDACTED] from her Facebook account.
- [8] In mid-November 2013, the Applicant turned [REDACTED] attentions to MB's mother. [REDACTED] sent her a package that was labelled to make it appear to be from MB's boyfriend. On December 30, 2013, the Applicant sent MB's mother an apology for sending this package, acknowledging that the contents were both disturbing and inappropriate.
- [9] Starting in January 2014, friends and family of MB started to receive emails that appeared to be from MB or her boyfriend but were in fact from fake email addresses created by the Applicant. For example, MB's mother and others received several emails from February 2 to 4, 2014 that appeared to be from MB's boyfriend, demonstrating that he was a violent person, involved in illicit drug use and drug trafficking.
- [10] The number of emails from fake email addresses intensified in February 2014 near Valentine's Day. Then, between February 19 and March 23, 2014, at least 35 emails were sent to MB, her friends and family from various fake email addresses, mostly appearing to have been sent by MB's boyfriend. They were sent to MB's direct supervisor at the accounting firm where she worked as a co-op student, MB's sister-in-law, MB's parents, a co-worker of MB and the owner of the company where MB was working as a co-op student. The contents of these emails were disturbing, and apparently intended to cause friction at MB's place of employment and to denigrate MB in the eyes of her friends, employers and family.
- [11] In addition to trying to destroy MB's reputation, the Applicant mounted a campaign to encourage MB to commit suicide. For example, on March 23, 2014, a fake email was sent to MB stating, *"Do everyone a favour and kill yourself."* A few minutes later, an email was sent to MB stating, *"Use [MB boyfriend]'s gun to do it."*
- [12] In the last week of March 2014, at least 16 additional harassing emails purportedly from MB's boyfriend were sent to her co-workers, parents, and her employers. In total, from January 18, 2014 to April 23, 2014, approximately 210 harassing emails were sent from at least 24 separate fake email addresses. The emails were sent either directly or indirectly to MB.

- [13] MB's boyfriend went to the Ontario Provincial Police on March 8, 2014 and MB contacted the OPP on March 29, 2014. MB told the police that only a small number of people had access to her personal information and that she suspected the Applicant of sending the harassing emails. MB told the police that she was worried about her safety. An investigation was started.
- [14] In the Crown Synopsis, there was a detailed outline of the work performed by the investigating officer and many police officers across Ontario. This was a significant operation where the fake email addresses were traced. Extensive policing resources were spent to locate the source of these harassing emails. In the meanwhile, the Applicant continued [REDACTED] campaign against MB and her family.
- [15] Between March 30 and 31, 2014, at least seven more threatening emails were sent from fake email addresses, and the investigating officer noted in his report that their content was increasingly intrusive and abusive. For example, on March 30, 2014, MB received messages sent by three different fake authors that stated, amongst other things: *"Go ahead and shoot yourself fucking whore"* and *"Get a gun and shoot yourself, [MB]."* and *"Go ahead and kill yourself."* Between March 31 and April 2, 2014, additional emails were sent to the owners of the accounting firm where MB worked with derogatory and disturbing content about MB.
- [16] On April 4, 2014, MB's mother contacted the investigating officer and said that her family was very afraid. They were taking additional steps to protect their home, including the purchase of an expensive security system.
- [17] More threatening emails were sent in April 2014 (approximately 64 separate emails to MB and her family), including another email counselling MB to commit suicide.
- [18] On April 11, 2014, MB's employer received a quote for a 50-person limousine that had an end destination of an adult entertainment business. The email indicated that the quote was requested by MB. On April 16, 2014, MB's employer sent the police a copy of a fax he had received that included the header *"List of guys [MB] has fucked,"* followed by a list of names.

- [19] Other examples of the emails received by MB's family included threats and comments, such as *"Repost this if you know someone who's still alive because you can't afford a hitman"* followed by a comment: *"I just can't afford the equipment I want."*
- [20] MB's father provided the police with a copy of a communication dated April 13, 2014 sent to his employer, the header of which stated that his daughter was a *"slut"* and to call her for a *"blow job"*. Over 11 emails were sent to the employer of MB's father with sexually explicit remarks about MB.
- [21] MB's uncle, who was living in China and who was married to a Chinese National, also received a racially charged email referring to their children as *"chinks"*. This email was purportedly sent by MB's boyfriend.
- [22] On April 21, 2014, MB's mother received a phone call from a funeral home, saying that they were calling her back to discuss funeral arrangements for herself. They indicated that they had received a phone call seeking information about the upcoming funeral of MB's mother.
- [23] In MB's mother's witness statement that was read into Court on January 26, 2015, she reviewed the various communications that she and her family had received from the Applicant disguised as others. Some of the emails that she received were described by her as follows:
- (a) Several of the emails targeted her 76-year-old mother, calling her a *"slut"* and made sexually inappropriate comments about her 78-year-old mother-in-law;
  - (b) It was suggested that the sister of MB's mother should *"blow her head off"*; and
  - (c) Her other daughter's wedding was sabotaged by sexual comments about MB on the wedding website;
  - (d) Her volunteer activities in the community were mentioned and threatened;
  - (e) Many of the emails mentioned her work as a teacher and threatened her employment and relationships at her school;
  - (f) A dating profile had been set up for her on an online dating service; and

(g) She received numerous upsetting phone calls in the middle of the night, including a call received early one morning congratulating her for making it through the night.

- [24] The investigating officer, with the help of police services across Ontario, went to great lengths to trace the numerous fake email accounts. Eventually, they were all traced to the residence of the Applicant's mother.
- [25] The Applicant was arrested on June 4, 2014. ■■■ cell phone and iPad were seized and it was discovered that they contained confidential information about MB.
- [26] Prior to ■■■ sentencing, the Applicant obtained counselling from a Registered Nurse, Elaine Mason, from the Fall of 2014 until January 2015. No documentation about this counselling was available at the hearing, however the Applicant wrote in ■■■ Submissions and Reflections dated March 22, 2022 (the "Applicant's Submissions and Reflections") that ■■■ met with Ms. Mason five or six times during this period of over a year. In ■■■ oral testimony the Applicant stated that ■■■ had met with Ms. Mason six or seven times. The sessions were for an hour and a half each. The Applicant recalled that they discussed how to cope with anxiety, stress and anger as well as how to move on from relationships. ■■■ said that ■■■ learned how to forgive ■■■self. The Applicant did not see Ms. Mason after ■■■ was sentenced on January 26, 2015.
- [27] In the Applicant's Submissions and Reflections, the Applicant also stated that ■■■ participated in a Partnership Assault Response Program ("PARS") during the course of the Court matter. ■■■ said that ■■■ attended four or five two-hour group sessions of the PARS to learn about de-escalation concepts, conflict resolution techniques, relationship management strategies and relationship boundaries. In ■■■ oral testimony the Applicant stated that ■■■ participated in six or seven sessions.

*Sentencing Hearing – January 26, 2015*

- [28] The Applicant pleaded guilty to the offence of Criminal Harassment on October 14, 2014. At the sentencing hearing on January 26, 2015, the Crown read into the record the Crown Synopsis (summarized above). The Court received a pre-sentence report for the Applicant and victim impact statements from MB, MB's parents, and MB's boyfriend.

[29] The pre-sentence report was prepared after one visit with the author and the Applicant. Collateral information was obtained from the Applicant's mother, co-workers, Witness A (the Applicant's employer), Ms. Mason and the investigating officer. The report states that the Applicant expressed remorse for ■ actions and appeared to see the seriousness of ■ actions. The report concluded that the Applicant appeared suitable for community supervision.

[30] MB read a statement at the Applicant's sentencing hearing. She explained that her privacy was taken away from her. MB said that she had worked hard for 16 months to build her reputation as a professional and because of multiple anonymous emails that suggested that she was having affairs with her bosses she was not given a job offer for a full-time position once she finished school. Her confidence was destroyed. When she went back to school, MB felt disconnected and unsafe: she had to tell people what was happening to her; she felt watched; and she felt the need to get a tracking device in case she disappeared. MB concluded her evidence as follows:

*"My life was turned upside down, and the things I once enjoyed, I can no longer enjoy, because they bring up sour memories of the situation. I can no longer be the friendly person I was because I'm scared that a friendly conversation will turn into a loss of privacy, respect of [indiscernible]. What began as a friendly hello ended up as harassment, and my life has changed forever."*

[31] MB's father also read a statement where he described how frightening it was when he could not protect his child during this period. He spoke about the impact of the situation on MB, who wanted to be a successful accountant but who lost confidence in herself. MB's father said that their family's sense of privacy and security was lost. They felt that their reputation in their community had been irreversibly damaged.

[32] MB's mother spoke about how she had been cut off from her support system, leaving her scared and incredibly lonely. She also spoke about how the situation had damaged relationships within their family. Finally, MB's mother told the Court about the destruction of their professional relationships and the threats to the work in their community that they had done for years.

[33] MB's boyfriend explained that he became paranoid as a result of the situation and that he has not felt safe since then: *"It's a dark cloud constantly lingering over me that never seems to lift."*

- [34] After hearing the statements of these witnesses, Justice Knott delivered his reasons for sentence. In his reasons, he explained that although he saw Criminal Harassment charges in the court on a weekly basis, this was the most serious case he had ever dealt with where there were no acts of physical violence or attendance at the victim's residence or place of employment. He noted that there were many victims: MB, her boyfriend, her parents, their friends, family, employers, and schools. Justice Knott was troubled by the intensity of the communications over the winter and spring of 2014 and the sophistication of the Applicant and [REDACTED] level of deception in carrying out [REDACTED] criminal activity. Justice Knott said that the Applicant's actions were deliberate and far reaching; in fact, he commented that the facts read out by the Crown were right out of a movie or television. He pointed out that the Applicant's actions impacted on MB and her support circle but also on the Applicant's own mother. Justice Knott concluded that he could not suspend the Applicant's sentence in the circumstances, as requested by the Applicant's counsel. He felt that control over the Applicant should go on beyond three years.
- [35] Before delivering the sentence, Justice Knott asked the Applicant if [REDACTED] had anything to say. The Applicant apologized to MB, her parents and MB's boyfriend and said that [REDACTED] was disgusted with [REDACTED] self. [REDACTED] said that no one should have to go through what they experienced and [REDACTED] said that [REDACTED] accepted full responsibility for what [REDACTED] did. The Applicant added that [REDACTED] would do anything to repair what [REDACTED] had done.
- [36] In his reasons for sentence, Justice Knott noted that the Applicant was a young [REDACTED] who had worked hard in school and professionally; he did not expect that the Applicant would be in the court system in the future. That said, he found that a six-month custodial sentence was required because the Applicant's acts were so egregious. He said that the custodial sentence could be served in the community followed by a three years' probation. He also made a no-communication/no-association order preventing the Applicant from interacting with the victims. Restrictions were placed on the Applicant's use of technology. Financial restitution was ordered to MB and her parents. Finally, the Applicant was ordered to perform 100 hours of community service and to attend counselling as recommended by [REDACTED] supervisor or probation officer.

#### *Events After Applicant's Conviction*

- [37] The Applicant completed the community service ordered by the Court in 2015 and ■ continued to volunteer with several of these organizations. Since then, the Applicant completed at least 329 hours of community services, including the Rotary Club and Habitat for Humanity. For example, ■ testified that ■ attended weekly meetings for the Rotary Club.
- [38] The Applicant continued to work at the Accounting Firm. ■ started an online Bachelor of Arts computer program in 2016 and expects to graduate in 2023.
- [39] The Professional Conduct Committee (“PCC”) became aware of the Applicant’s criminal conviction (it was assumed that this was as a result of the Applicant’s self-reporting). At ■ meeting with the PCC, the Applicant acknowledged that ■ had failed to maintain the good reputation of the profession. By letter dated May 5, 2016, the PCC wrote that they believed that the Applicant was remorseful and that ■ would not engage in this sort of criminal behaviour again. The PCC also stated in their letter *“it is conduct which could have very well resulted in allegations of professional misconduct being brought against you and presented to the Discipline Committee”*. They strongly recommended that the Applicant *immediately* (emphasized) seek out and obtain further counselling to support ■ in making changes to ■ coping behaviours to ensure that there would be no repetition of the misconduct. The PCC took no further action.
- [40] On the advice of the PCC, the Applicant sought the assistance of a counsellor, Joanne Roston MSW, RSW in 2016. According to her letter to the ARC dated March 13, 2022, the purpose of this counselling was to improve the Applicant’s communication with others. Ms. Roston wrote that the Applicant was extremely remorseful for what had transpired (she was aware of ■ conviction) and said that ■ was committed to improving ■ self-awareness and interpersonal skills. She added that the Applicant recognized ■ need to address ■ social isolation and seek out emotional support when things in ■ life were not going ■ way. Ms. Roston noted the Applicant’s involvement in the Rotary Club and other community activities. She described the Applicant as an ethical person who had learned from ■ mistakes.
- [41] After meeting all of the other criteria for admission to membership, the Applicant applied for membership in CPA Ontario on September 30, 2019. In the Questionnaire dated

September 25, 2019 that accompanied [REDACTED] application, the Applicant was asked to describe the circumstances surrounding the offence. [REDACTED] wrote:

*“Was in a relationship with victim. Became sad and disillusioned with state of relationship when she began a new relationship. Mitigating factors would have included stress from work and studies.”*

- [42] Prior to the hearing, the Submissions and Reflections were filed on behalf of the Applicant. These submissions are included in the following section of these Reasons.

#### *Applicant’s Evidence at the Hearing*

- [43] The Applicant testified that [REDACTED] grew up in Eastern Ontario and was raised by [REDACTED] mother after [REDACTED] father passed away when [REDACTED] was 11 years old. [REDACTED] went to school locally and then attended Queen’s University, where [REDACTED] studied science. The Applicant graduated in 2011. [REDACTED] subsequently completed an online university program in finance. [REDACTED] started work at the Accounting Firm in January 2013 and had worked there since that time.
- [44] The Applicant explained that [REDACTED] did not have very much relationship experience when [REDACTED] met MB. [REDACTED] counsel asked what happened to that relationship and the Applicant answered that [REDACTED] grew angry and started sending MB messages. When [REDACTED] counsel asked [REDACTED] how [REDACTED] felt about what [REDACTED] had done, the Applicant said that the messages were “undeserved” and should not have been sent. [REDACTED] testified that [REDACTED] accepted all the blame and felt a sense of shame for what [REDACTED] had done and the real-life consequences of [REDACTED] actions.
- [45] The Applicant was asked about [REDACTED] sessions with Ms. Mason and [REDACTED] said that [REDACTED] learned how to protect [REDACTED]self and move on, how to manage anger, and how to manage relationships. [REDACTED] said that [REDACTED] take-away was that [REDACTED] needed to forgive [REDACTED]self. When asked about the PARS program, the Applicant said that [REDACTED] learned to take time to analyze situations and that [REDACTED] should seek out people to talk about [REDACTED] feelings.
- [46] The Applicant explained that after [REDACTED] attended the PCC meeting, [REDACTED] started counselling with Ms. Roston, a social worker. [REDACTED] said that Ms. Roston encouraged [REDACTED] to expand [REDACTED] social relationships and supports. [REDACTED] did not see [REDACTED] social worker after February 2018 but [REDACTED] said that [REDACTED] hoped to reach out to her in the future, perhaps to connect with her every two months or so.

- [47] The Applicant testified that it was extremely embarrassing telling Witness A, who ■ considered to be a mentor, about ■ criminal charges. ■ said that Witness A did not ask ■ any questions about the situation. The Applicant was grateful that ■ was able to continue working at the Accounting Firm. ■ said that ■ coworkers were aware of the charges.
- [48] ■ also described the work that ■ had done in the community. In particular, the Applicant described the Rotary Club activities that ■ had participated in (including creating play areas for children, organizing a golf tournament, and helping out with the Santa Claus parade) and the work that ■ had done with Habitat for Humanity. During the COVID 19 pandemic, the Applicant worked with a group creating 3-D ear savers for health workers required to wear masks. The Panel noted the Applicant's genuine enthusiasm when ■ described these activities.
- [49] Counsel for the Registrar asked the Applicant about the circumstances that lead to ■ criminal conviction. ■ said that in the Fall of 2013, ■ began sending the emails because ■ was disappointed, and ■ could not control ■ anger. She asked ■ why ■ stopped, and ■ answered that ■ stopped when ■ was arrested. Counsel for the Registrar then asked the Applicant to identify the point in time where ■ knew that what ■ was doing was wrong. ■ answered that this happened at the point of ■ arrest. Counsel for the Registrar appeared surprised by this answer and asked the question again; the Applicant repeated ■ answer. She then asked the Applicant when ■ came to the realization that ■ conduct was wrong. ■ said that this first occurred to ■ at the sentencing hearing when ■ listened to the victim impact statements.
- [50] The Applicant was asked why ■ stopped counselling in 2018 and ■ said that ■ was busy writing ■ CFE in the summer of 2018 and ■ did not prioritize ■ counselling at that time. ■ intended to resume counselling, in part because the process of this hearing had caused ■ to reflect on personal issues.
- [51] Counsel for the Registrar asked the Applicant about ■ support network. ■ said that ■ relied on ■ brother and mother, although ■ did not always get along with them. ■ also was able to talk to staff at the Accounting Firm about personal matters. ■ found that the relationships that ■ had formed at the Rotary Club were also helpful. Since ■ conviction, the Applicant has had two other romantic relationships.

- [52] The Panel asked the Applicant questions about ■ more recent romantic relationships and the Applicant explained that the two significant relationships had ended amicably when the women had both moved away. ■ told the Panel that ■ did not tell these women about the situation with MB and when asked why, the Applicant said that if ■ were in a longer relationship and they had to travel outside Canada (and the conviction might be disclosed at the border), ■ would then tell ■ girlfriend. When asked if there were other circumstances that might cause ■ to disclose, the Applicant answered as follows: *“I'd say probably after like one year I would probably disclose it with them. Then I would consider at that point that the relationship would be mature enough and they would know me long enough that I would feel comfortable disclosing it with them.”*
- [53] The Panel also asked the Applicant why ■ had not made full disclosure to Witness A about the extent of ■ criminal harassment of MB and her family prior to these good character proceedings. ■ answered that since this hearing, ■ had put all the issues together and ■ felt that ■ rehabilitative efforts and the passage of time outweighed the nature and extent of the incident.
- [54] The Panel asked the Applicant if ■ disclosed ■ criminal conviction to the community organizations where ■ volunteered ■ time. ■ said that ■ had not done so, with the possible exception of one community program that was part of ■ Court-ordered volunteer hours.
- [55] Finally, the Applicant was asked about the possibility of a Criminal Record Suspension (formerly known as a pardon) and ■ indicated that ■ was not eligible until June 2023. ■ said that ■ intended to apply for a pardon.

#### *Evidence of Character Witnesses*

- [56] The Applicant provided three letters of reference, including a letter from Witness A, who testified on behalf of the Applicant at the hearing. All three references were from people who knew the Applicant in a work context rather than in a social capacity.
- [57] In a reference letter from a CPA who worked with the Applicant at the Accounting Firm, the reference wrote that he was told about what had happened *“with a young woman and social media”* and believed that the situation was an example of the dangers of the internet and social media. He praised the Applicant’s skills and competence and noted

the Applicant's extensive volunteer work. Another reference (the office administrator of the Accounting Firm) commented on the Applicant's ability to work well with staff and [REDACTED] good relations with clients.

[58] Witness A, a partner at the Accounting Firm, testified that he had hired the Applicant as a student in 2013. He described the Applicant as an intelligent young [REDACTED] who was a bit shy (an introvert), but [REDACTED] presented well with staff and clients.

[59] Witness A testified that he first learned of the Applicant's criminal charges in June 2014 when a police detective came to his office. He and the Applicant had a brief conversation in July 2014 about the criminal charges and Witness A told the Applicant that [REDACTED] employment would be terminated if something like that ever happened again. He also recommended to the Applicant that [REDACTED] self-report to CPA Ontario. Witness A said that special arrangements had to be made when a female staff member at the Accounting Firm stated that she would not travel alone with the Applicant in her car when going to a client's premises.

[60] Witness A testified that he only recently became aware of the extent of the Applicant's criminal behaviour when he was provided with a copy of the transcript from the sentencing proceedings by the Applicant's counsel two weeks before this good character hearing. He testified that he was surprised by the magnitude of the Applicant's harassment of the victim, her family and her boyfriend and said that he had never seen anything like this before and that he felt empathy for the victims.

[61] Witness A spoke at length about the work of the Rotary Club in their community and he described the Applicant's commitment to this work.

[62] When asked by counsel for the Registrar whether the Applicant had expressed regret for [REDACTED] actions, Witness A said that this was not discussed. Witness A was also asked why he thought that the Applicant would not repeat [REDACTED] misconduct; he replied that he was not qualified to answer that question.

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

[63] The issue in this hearing was whether the Applicant demonstrated on a balance of probabilities that [REDACTED] was of good character at the time of the hearing.

#### **IV. DECISION**

- [64] For reasons set out below, the Panel found that the Applicant failed to establish on a balance of probabilities that ■ is of good character, and the Applicant's application for membership in CPA Ontario was refused. The Panel ordered that the Applicant could reapply for membership in CPA Ontario on or after September 1, 2023.

#### **V. REASONS FOR DECISIONS**

##### *Statutory Framework for "Good Character" Requirement*

- [65] 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).
- [66] 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.
- [67] Where the Registrar is not satisfied with the evidence provided by the applicant about their good character or there are credibility issues, the Registrar must refer the matter to an oral hearing before the ARC (section 14 of Regulation 7-1).
- [68] 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)*).
- [69] If the ARC determines that an applicant is not of good character, under section 20 of Regulation 7-1, the ARC must make an order refusing the applicant's membership in CPA Ontario. They may also impose restrictions and conditions for reapplication if appropriate.

##### *Definition of "Good Character" and Factors to be Considered*

- [70] “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, candor, empathy and honesty.”*

- [71] 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.*

- [72] 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.

- [73] CPA Ontario caselaw has established a list of five factors for the Panel’s consideration of the evidence that is presented at a good character hearing, which are as follows:

- (a) the nature and duration of the applicant’s misconduct;
- (b) whether the applicant was remorseful;

- (c) what rehabilitative efforts, if any, the applicant had taken and the success of such efforts;
- (d) the applicant's conduct since the misconduct; and
- (e) the passage of time since the misconduct.

[74] The determination 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 starting point for the analysis is the seriousness of the historic misconduct, as a careful review of these issues and how they may reflect upon the character of the applicant will influence the panel's determination of the requisite level of remorse and rehabilitation in the circumstances. The amount of time between the applicant's misconduct and the hearing is an important consideration because it shows CPA Ontario and the public that the applicant has had a sufficient opportunity to reflect, gain insight, and to make the necessary personal changes in their behaviour. If sufficient time has passed and the appropriate remedial steps have been taken, the evidence at the hearing should demonstrate that the applicant is ready to take on the ethical responsibilities of a Chartered Professional Accountant and to maintain the integrity of the profession.

#### *Analysis of the Evidence of the Applicant's Good Character*

##### *(a) Nature and Duration of Misconduct*

[75] Counsel for both the Applicant and the Registrar submitted that the Applicant's misconduct was serious and that it occurred over a significant period of time. The duration of the misconduct was from in or about August of 2013 until ■■■ arrest on June 4, 2014 (The criminal conviction was for conduct from March 2013, however the evidence at this hearing was that the harassment began in August 2013). Counsel for the Registrar pointed out that these were very deliberate actions on the part of the Applicant and noted Justice Knott's comment that in his considerable experience with criminal harassment, this was the most serious case of Criminal Harassment he had seen where there was no physical contact.

[76] The Panel agreed that the Applicant's misconduct was serious and took place over an extended period of time. The Applicant's multiple threatening communications with MB,

her family, her boyfriend, and people with whom they worked and lived was shocking and extremely disturbing. The emails contained language that can only be described as misogynist and racist. There was an unexplained level of cruelty displayed in the Applicant's communications to MB and her loved ones. Examples of this include: ■■■ phone call to a funeral home to ask them to call MB's mother to discuss her own funeral; ■■■ repeated recommendations to MB that she commit suicide; or the attacks on MB's elderly grandmothers.

- [77] The victim impact statements demonstrated the level of fear and the sense of helplessness felt by the victims. They saw the destruction of relationships and reputations that they had spent years building. MB's parents needed home security and MB wore a GPS tracker in case she disappeared. The long-lasting impact on these victims cannot be measured.
- [78] Any one of the emails mentioned above would have been concerning by itself, but there were more than 210 emails over an extended period of time. The Applicant could have stopped at any time, but ■■■ only stopped when ■■■ was arrested. ■■■ testified that until ■■■ was arrested, ■■■ did not appreciate that what ■■■ was doing was wrong.
- [79] The Panel also noted that the Applicant used advanced technology in order to terrorize ■■■ victims. The Applicant created over 24 fake email addresses. The Applicant wrote the emails to appear as if they were sent by other persons, casting blame on innocent people for their disturbing content. The level of planning and deception was high; creating the fake email addresses and sending over 200 emails must have taken a significant amount of the Applicant's time during a period where ■■■ was working at the Accounting Firm.
- [80] In conclusion, the Applicant's conduct in 2013 and 2014 was extremely serious and took place over an extended period of time. This was not an isolated incident but rather involved significant planning and execution over a period of almost one year. The Applicant only stopped ■■■ activities when ■■■ was arrested.

(b) Whether the Applicant was Remorseful

- [81] Counsel for the Applicant and the Registrar both asked the Panel to find that the Applicant had expressed sincere remorse for ■■■ actions. They referred the Panel to the Applicant's guilty plea, ■■■ apology given to the victims at Court on January 26, 2015, and ■■■ Submissions and Reflection.

- [82] The Panel found that in ■■■ evidence at the hearing, the Applicant demonstrated that ■■■ sincerely regretted ■■■ actions that lead to ■■■ criminal conviction. The Panel accepted the Applicant's evidence that after hearing the victim statements at the trial, ■■■ understood the impact of ■■■ actions on ■■■ victims.
- [83] The Panel first considered the importance of remorse as a factor in the determination of good character. The Panel found that in the context of a regulatory proceeding about the good character of an applicant, remorse must be established by more than the words used by the applicant in their application or at the hearing. The good character application process and hearing are not confessionals. There must be evidence that the applicant has come to terms with the previous misconduct, and in particular that they have demonstrated insight into the causes of their misconduct. Without such insight, the remorse expressed is incomplete and the applicant is unable to move forward into their professional lives.
- [84] While remorse can be established in part by the applicant's words, in most situations, the applicant's actions are better proof of their remorse. For example, corroboration of the remorse from third parties is helpful to show that the applicant's statements of remorse are not confined to adjudicative settings, where the statements are made in the best interests of the applicant. What has the applicant said to others about their actions since the misconduct? Have those statements shown insight into the reasons for the misconduct? Has the applicant taken full ownership of the misconduct?
- [85] With respect to the Applicant's statements of remorse to others, the Panel acknowledges that the Applicant pleaded guilty and expressed remorse at ■■■ sentencing hearing, to CPA Ontario in ■■■ Submissions and Reflections, and at the good character hearing. Ms. Roston indicated that the Applicant was remorseful, but she did not attend the hearing and there was no insight of what she meant by that statement. The Panel had no information about what the Applicant told ■■■ family about ■■■ misconduct. Witness A, the person who the Applicant described as ■■■ mentor, testified that the Applicant told him about the criminal charge, but that ■■■ never expressed any regret for ■■■ actions.
- [86] In conclusion, the Panel found that there was very little evidence substantiating that the Applicant had discussed ■■■ activities in 2013 and 2014 with others, particularly the people ■■■ described as ■■■ current support group. The Panel found that the evidence of remorse from third parties was inadequate. It appeared that the Applicant had buried the past.

- [87] The Panel then considered the evidence of insight, which was a necessary component of remorse. In the Questionnaire, the Applicant's description of the events (that ■ was in a relationship with MB and became "*sad and disillusioned*" when they broke up, or ■ attribution of ■ conduct to "*stress from work and studies*") was woefully inadequate. This description failed to account for the extensive attacks on MB, MB's mother and so many others, the level of deception through the creation of over 26 fake email accounts, or the misogyny and racism of ■ emails.
- [88] The Panel found that there was insufficient evidence presented by the Applicant to explain the root causes of ■ campaign against MB and her family and friends. While anger and lack of control were no doubt a component of ■ actions, there were many issues left unexplained by the Applicant. For example, the Panel questioned why the Applicant didn't recognize that what ■ was doing was wrong at that time and only discovered this when ■ was arrested. The language that the Applicant chose in ■ attacks on MB's mother, grandmothers, and sisters was concerning. It appeared from the Crown's synopsis that the women associated with MB were most frequently victimized by the Applicant. Also, why did the Applicant make racist comments about the Applicant's brother who was living in China? Why did ■ attempt to destroy relationships with employers and community? As set out below, the Panel found that the counselling that the Applicant received was not extensive and was primarily aimed at helping the Applicant move forward in ■ life, rather than focusing on what caused ■ to behave as ■ did in 2013 and 2014.
- [89] In conclusion, the Panel found that while the Applicant sincerely regretted that ■ had terrorized MB and her family and friends, the evidence at the hearing failed to establish that ■ had sufficient insight into ■ actions.

### (c) Rehabilitation Efforts

- [90] Both counsel for the Applicant and the Registrar urged the Panel to find that the Applicant had engaged in sufficient rehabilitation. The Panel agreed that the therapy that the Applicant had received to date helped ■ to move forward in ■ life, but there was limited evidence about any insight that the Applicant had gained from the therapy.
- [91] The Panel found that the few sessions that the Applicant had with Ms. Mason, a Registered Nurse, before ■ sentencing hearing and the PARS provided the Applicant

with some understanding of coping mechanisms and generally the impact of anger and anxiety on [REDACTED] actions. [REDACTED] said that with Ms. Mason, [REDACTED] learned to forgive [REDACTED]self. When the sentencing hearing was over the Applicant stopped receiving any therapy or counselling. This was concerning given the Applicant's evidence that [REDACTED] only realized that [REDACTED] had done anything wrong when [REDACTED] was arrested and that [REDACTED] only understood the harm that [REDACTED] had caused when [REDACTED] heard the victim impact statements at [REDACTED] sentencing hearing. The Panel was concerned that the Applicant did not seek any therapy until two years later, when [REDACTED] was strongly urged to do so by the PCC.

- [92] The Panel agreed with counsel that the Applicant followed the strong advice of the PCC to get counselling. Although it took many months to find someone, the Panel did not take issue with this as counselling and therapy are not always accessible. The Applicant saw Ms. Roston from October 2016 until February 2018. Ms. Roston was a social worker. There was no evidence about the number or frequency of their sessions.
- [93] It was clear from Ms. Mason's letter and from the Applicant's evidence that [REDACTED] therapy was aimed at helping the Applicant put [REDACTED] misconduct behind [REDACTED] by improving [REDACTED] communication and social skills. It appeared to be successful in that regard. However, the Applicant stopped [REDACTED] therapy when [REDACTED] became busy with other things; it was not a priority to [REDACTED].
- [94] The Panel found that the counselling and therapy that the Applicant received were of assistance for moving forward in [REDACTED] life. The therapy was provided by a nurse and a social worker, who were no doubt helpful in providing the Applicant with advice about life skills. The Applicant did not, however, seek out or receive any therapy to help [REDACTED] to understand [REDACTED] actions in 2013 and 2014. This meant that [REDACTED] rehabilitation was incomplete.
- [95] Rehabilitation is often evidenced by community or volunteer work where the Applicant has given back to their community after their misconduct, in part to rehabilitate their reputation. Here, the Applicant excelled. The Panel acknowledged the Applicant's significant contribution to [REDACTED] community through organizations like the Rotary Club and Habitat for Humanity in excess of the community service hours mandated as part of [REDACTED] sentence. [REDACTED] has spent many hours of [REDACTED] personal time working for these groups and bettering the lives of people in [REDACTED] community. In addition to the benefit to [REDACTED] community, the Panel accepted the Applicant's evidence that this work helped [REDACTED] to develop better social skills

and provided ■■■ with a support network. The Panel commended the Applicant for this work.

(d) Applicant's Conduct Since the Misconduct

- [96] 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 employer and colleagues. There was no evidence of any misconduct on the part of the Applicant since 2014.
- [97] The Panel was concerned that the Applicant had not made full disclosure of the events that led to ■■■ criminal conviction to any of the people in ■■■ circle of support. There was no evidence from ■■■ family, although ■■■ mother attended the sentencing hearing. Witness A first learned of the criminal charges from the police and then he discussed this with the Applicant. After his discussion with the Applicant, he was left with the impression that the Criminal Harassment was significantly less extensive than it actually was. Although the Applicant testified that Witness A did not ask any questions for clarification, this was not the responsibility of Witness A. The Applicant should have been candid with Witness A when ■■■ first told him about the criminal charges and conviction. This was particularly important because Witness A was a senior partner at the Accounting Firm and was responsible for its employees and its reputation. Witness A only learned of the actual events on the eve of this good character hearing when the Applicant's lawyer sent him a copy of the transcript from the Sentencing Proceedings.
- [98] Furthermore, the Applicant apparently did not make full disclosure to ■■■ work colleagues or make any disclosure to the people with whom ■■■ volunteered. Also, the Applicant did not make any disclosure of ■■■ past behaviour to ■■■ two girlfriends with whom ■■■ had formed close relationships. The Panel found that the Applicant's lack of disclosure to others who ■■■ described as ■■■ support network demonstrated that the Applicant did not take full ownership of ■■■ actions.
- [99] The Panel acknowledged that making such disclosure would not have been easy, but using the language of Justice Southin, the qualities of good character include the moral fibre to do that which is right, no matter how uncomfortable the doing may be.

(e) The Passage of Time Since the Misconduct

[100] The events that lead to the Applicant's arrest ended in June 2014, nearly eight years prior to this hearing. This was enough time for the Panel to assess the remorse and rehabilitation of the Applicant.

*Conclusion about Applicant's Good Character*

[101] After carefully reviewing the evidence, the Panel concluded that the Applicant failed to establish on a balance of probabilities that ■ was currently a person of good character. The misconduct of the Applicant in 2013 and 2014 was extremely serious as it involved vicious attacks on the privacy and integrity of many innocent people and displayed a high level of sophisticated deception. The misconduct continued for almost one year and was only stopped when the police were able to find the source of the fake emails.

[102] Since that time, the Applicant had made commendable efforts to move forward with ■ professional life. ■ had made valuable contributions to ■ community. The Panel found, however, that the Applicant's efforts to understand why ■ had aggressively attacked innocent individuals have been insufficient to gain insight. The Applicant was unable to establish on a balance of probabilities that ■ was truly remorseful as ■ did not understand fully the reasons for ■ behaviour. Based upon the evidence at the hearing, the Panel was unable to assure the CPA profession and the public generally that the Applicant would be able to withstand the pressures of the accounting profession in the years to come or that ■ would be able to maintain the reputation of the profession.

[103] The Panel found that the Applicant was on the right path in ■ professional and personal life and were hopeful that with time and the support of a qualified professional therapist, the Applicant would be able to reach a point where ■ would meet the good character qualification for admission to membership in CPA Ontario.

[104] Under section 39.1 of Regulation 7-1, an applicant who has been refused admission to membership in CPA Ontario by the ARC is eligible to reapply five years after the day that their original application for admission was refused. In this case, the Panel found that the Applicant should be able to reapply earlier than the five years that are prescribed, namely on or after September 1, 2023.

**Dated** this 2<sup>nd</sup> day of May, 2022

A handwritten signature in black ink, reading "Bernard S. Schwartz". The signature is written in a cursive, flowing style.

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

Members of the Panel

Don Aronson, Public Representative  
James Blackwell, CPA, CA  
Barbara Ramsay, Public Representative  
Dawar Siddiqui, CPA, CA

Independent Legal Counsel

Susan J. Heakes