

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 B■■■■ Z■■■■, 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:

B■■■■ Z■■■■

-and-

**REGISTRAR, CHARTERED PROFESSIONAL
ACCOUNTANTS OF ONTARIO**

APPEARANCES:

For the Applicant, B■■■■ Z■■■■: Norman Emblem, Counsel
Camila Maldi, Counsel

For the Registrar: Shannon Paine, Counsel

Heard: December 5, 2022

Decision and Order effective: December 5, 2022

Release of written reasons: January 6, 2023

REASONS FOR THE DECISION MADE DECEMBER 5, 2022

I. INTRODUCTION

[1] This hearing was held to determine whether the Applicant, B■■■■ Z■■■■ (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 Applicant’s good character was put into issue as a result of the Applicant’s conviction on July 8, 2015, for Possession (cocaine and MDMA), and Possession for the Purpose of Trafficking (marijuana), and the Applicant’s failure to disclose these convictions in their application for registration as a student member of CPA Ontario on November 16, 2017. The application was referred by the Registrar to the Admission and Registration Committee (“ARC”).
- [3] The parties prepared a Joint Book of Documents (Exhibit 1), which included an Agreed Statement of Facts. In addition, the Panel heard evidence from the Applicant, and from two character witnesses called by the Applicant.
- [4] For the reasons that follow, the Panel found that the Applicant provided satisfactory evidence that they were a person of good character at the time of the hearing and met the qualifications for membership.

II. BACKGROUND AND FACTS

The Applicant’s Background and Events Leading to the Misconduct

- [5] The Applicant grew up in the town of Welland, where their parents operate a restaurant. After graduating from high school in 2013, they moved to Waterloo where they attended Wilfred Laurier University, studying economics and accounting.
- [6] On May 13, 2014, the Applicant was with friends at a restaurant and an arcade in Markham. They had been smoking marijuana, and were starting out on their drive to Waterloo when they were pulled over by the police.
- [7] They were arrested for possession of a controlled substance. Police located 3.5 pounds of cannabis, 6 grams of cocaine and 17 grams of MDMA (ecstasy), along with an electronic scale, a bundle of currency, and a box of Ziploc bags in their possession.
- [8] At the time of the arrest, the Applicant was a regular user of the drugs that were found in their possession, and had also been trafficking marijuana since their last year of high school.

The Criminal Charges and Conviction

- [9] The Applicant was charged with violating Section 4(1) of the *Controlled Drugs and Substances Act*, for possession of cocaine and methylenedioxymethamphetamine (MDMA), and section 5(2) of the *Controlled Drug and Substances Act* for possession of marijuana for the purpose of trafficking.
- [10] On July 8, 2015, the Applicant, who was represented by counsel, pleaded guilty to the charges. The presiding judge sentenced the Applicant as follows:
- a. The Applicant was ordered to pay a fine of \$2,500 to be paid within 90 days, plus a victim surcharge of \$375; and
 - b. The Applicant was made subject to a 10-year mandatory weapons prohibition order.

Post Sentencing

- [11] The Applicant paid their fine and the victim fine surcharge, and remains under the 10-year mandatory weapons prohibition order.
- [12] The Applicant continued their studies at Wilfred Laurier following the criminal charges, and graduated in 2017 with an Honours Bachelor of Arts degree in Economics and Accounting and a Graduate Diploma in Accounting.

Failure to Disclose the Convictions to CPA Ontario as a Student Applicant

- [13] At the time of the criminal charges and conviction, the Applicant was not registered as a Student with CPA Ontario.
- [14] On November 16, 2017, the Applicant applied for registration as a Student with CPA Ontario. The application form posed the question: "Have you even been convicted of a criminal offence or other similar offence for which a pardon has not been granted or are there any charges pending against you?" to which the Applicant responded "No." The Applicant was subsequently registered as a student with CPA Ontario on January 1, 2018.

Eventual Disclosure of the Convictions to CPA Ontario

- [15] The Applicant initially worked as an Accounts Payable Coordinator for a company in Welland before joining the finance team at a regional broadband Company as a general accountant in January 2019. In September of 2020 a friend of the Applicant suggested that they apply for a position with Company A, where the friend worked as an assurance associate. Following the application process which included an interview, on October 9, 2020, Company A offered the Applicant a position which was contingent on the Applicant completing a background check which would reveal the Applicant's criminal convictions.
- [16] On October 13, 2020, the Applicant emailed CPA Ontario to advise of their previous criminal convictions and to request information about how they should proceed. CPA Ontario responded on October 29, 2020, requesting that the Applicant complete a questionnaire, provide a copy of the transcript of the conviction and sentencing, provide a written commentary on the event, and provide three letters of reference.
- [17] After completing the required background check in which they disclosed their criminal convictions, the Applicant contacted Company A directly to advise of their criminal convictions. The Applicant was hired by Company A and began work in January of 2021.
- [18] On November 17, 2020, the Applicant provided CPA Ontario with the documents CPA Ontario had requested, including three reference letters.
- [19] In July 2021, while still employed by Company A, the Applicant was informed about a position at Company B. The Applicant applied for the position and received an offer of employment, contingent on a background check. On August 3, 2021, the Applicant disclosed their criminal convictions on the background check, and also directly advised Company B of their criminal convictions. The Applicant was hired by Company B and began work on September 1, 2021.
- [20] On October 14, 2021, the Applicant applied for membership with CPA Ontario, and again disclosed their criminal convictions.

Character Evidence

- [21] Of the three reference letters the Applicant provided to CPA Ontario in relation to their disclosure of the criminal convictions, only one letter references the criminal convictions. The letter from the Applicant's direct supervisor at the regional broadband provider relates the shock they experienced when they learned of the Applicant's criminal convictions. In the letter they state that the Applicant always carried themselves in a very professional and ethical manner. They state that the Applicant's remorse and embarrassment about their past criminal behaviour was evident from their conversations. In the letter they also express confidence that the Applicant's past criminal behaviour is long behind them, and that it does not reflect the person and professional they have come to know.
- [22] In the hearing the Applicant called two character witnesses, both of whom work in a supervisory position to the Applicant in their current employment at Company B, and who provided evidence in their personal capacity rather than as representatives of Company B. Both witnesses spoke of their surprise when they learned of the Applicant's criminal convictions, and of the Applicant's initial failure to disclose their criminal convictions to CPA Ontario. Both witnesses described the Applicant in glowing terms, speaking of their tremendous work ethic, their dedication to the team, and their commitment to mentoring peers and more junior employees. The character witnesses expressed their confidence that the Applicant is honest and truthful. They provided examples where, in their view, the Applicant demonstrated their integrity. They expressed trust in the Applicant and in their ability to represent Company B with professionalism and integrity.

III. ISSUE IN THIS HEARING

- [23] The issue in this application was whether the evidence demonstrated, on a balance of probabilities (that it was "more likely than not") that the Applicant was of good character at the time of the hearing and could be admitted as a member of CPA Ontario.

IV. DECISION

- [24] The Panel found that the Applicant had established on a balance of probabilities that they were of good character at the time of the hearing. The Panel ordered that the Applicant be admitted as a member of CPA Ontario.

V. REASONS FOR DECISION

The Good Character Requirement in CPA Ontario's Regulations

- [25] Applicants for registration as students with CPA Ontario are required to provide evidence of their good character satisfactory to the Registrar (section 3.3 of Regulation 9-1). Where the Registrar is not satisfied with the evidence provided by a student applicant about their good character, the Registrar shall refer the matter to an oral hearing before the ARC (sections 13 and 14 of Regulation 9-1).
- [26] Once applicants have completed the other qualifications for admission to membership in CPA Ontario, they are again required to provide evidence satisfactory to the Registrar that they are a person of good character (subsection 3.4 of Regulation 7.1). Where the Registrar is not satisfied with the evidence provided by an 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] The panel must make their assessment of the applicant's good character as of the time of the hearing. While, for example, there may be evidence of an applicant's poor ethical choices in the past, the issue for the Panel is whether the applicant is currently a person of good character.
- [28] If the ARC determines that the 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).
- [29] It is well established that when a matter has been referred to the ARC for a good character hearing, the onus is on the applicant to establish their good character. The standard of proof is a balance of probabilities, which means that the applicant must establish that it is "more likely than not" that they are a person of good character. The ARC must assess the applicant's character as of the time of the hearing.

What is Good Character?

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

- [31] In an often-cited article about good character, Justice Southin of the British Columbia Court of Appeal elaborated on the meaning of good character as follows:

“[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.*

- [32] The purpose of the good character requirement for various professions, including the accounting profession, is to protect members of the public. The review of an applicant’s good character by CPA Ontario ensures the public that CPA Ontario is committed to maintaining a reputation for high professional and ethical standards. Gavin McKenzie, in his book *Lawyers and Ethics: Professional Responsibility and Discipline*, stated that the objectives of the good character requirement are the same as the principles of discipline, namely to:

“...protect the public, to maintain high ethical standards, to maintain public confidence in the legal profession and its ability to regulate itself, and to deal fairly with persons whose livelihood and reputation are affected.”

Factors Determining Good Character

[33] It is well established that ARC panels conducting good character hearings in respect of either student registration or admission to membership must review the evidence relating to the good character of an applicant as framed by the following factors:

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

[34] The weight to be attached to each of these factors is dependent upon the circumstances of the particular application. A 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.

Analysis

Nature and Duration of the Misconduct

[35] The Panel considered both the criminal conduct of the Applicant dating from 2014, and the Applicant's false statement to CPA Ontario that they had no criminal convictions when they applied to be registered as a student on November 16, 2017.

[36] With respect to the 2014 criminal conduct which led to the convictions and sentencing in July 2015, the Panel takes seriously the Applicant's possession of illegal substances, and their trafficking in marijuana. The criminal conduct constitutes a failure to uphold the law, which reflects badly on their character. Furthermore, the underlying facts admitted by the

Applicant in their testimony reveal that they had been planning to drive from Markham to Waterloo having just consumed marijuana, potentially putting the public at risk.

- [37] The Applicant's failure to disclose their criminal convictions when they applied to be registered as a student on November 16, 2017 is of significant concern to the Panel. The Applicant admitted in their testimony that when they answered 'no' to the question of whether they had been convicted of a criminal offence, they understood that they were providing false information to CPA Ontario. They provided this false information because they were afraid that being truthful would undermine their efforts to become a member of CPA Ontario. The importance of the requirement that members and aspiring members be fully candid with their regulator cannot be overstated.
- [38] The Registrar (who took a neutral position on the Application) characterized the Applicant's behaviour as constituting a pattern of misconduct that lasted at least until the disclosure of the convictions to CPA Ontario in October of 2020. While the Panel shares the Registrar's concern that the Applicant did not correct the false information they provided to CPA Ontario until October 2020, the Panel considers the last act of clear misconduct to be the Applicant's false statement about their convictions made on November 16, 2017.

Whether the Applicant is Remorseful

- [39] The Applicant expressed their shame and remorse for their criminal activity through their written submission to CPA Ontario, and to the Panel through their testimony at the hearing. These expressions of remorse are consistent with the reasons of the presiding judge in the sentencing of the Applicant, who noted, among other things, that the Applicant recognized that they had brought disgrace to their family. The Applicant's expressions of remorse are also consistent with the opinion of the psychologist whom the Applicant saw shortly after their arrest. In their letter of May 14, 2015 (Exhibit 2), the psychologist wrote that the Applicant showed a clear grasp of the seriousness of their circumstances and the inappropriateness of their behaviour, and expressed "appropriate levels of regret and contrition."
- [40] In their evidence before the Panel, the Applicant testified that they understand that it was a serious mistake to fail to disclose their criminal convictions to CPA Ontario when they applied to be a student. They testified that they understand the importance of the

screening questions on the application, which are designed to assist CPA Ontario in its obligation to protect the public. They testified that looking back at it now, they realize how wrong it was for them to have misled CPA Ontario.

- [41] The Panel is satisfied that the Applicant understands the severity and consequences of their misconduct, and that their expressions of remorse are sincere.

Rehabilitation Efforts and the Success of Such Efforts

- [42] The Panel finds that the Applicant has taken full responsibility for their misconduct, a necessary precondition for rehabilitation.

- [43] The Applicant testified that their arrest was traumatic. Shortly after the arrest, they moved back to their family's hometown, and worked for the summer at their parent's restaurant. They sought out psychological counselling, and attended two sessions with a psychologist, which they found helpful. It was the opinion of the psychologist that the Applicant did not have a substance abuse condition.

- [44] The Applicant testified that they returned to school the following term with a determination to turn their life around, dedicating themselves to their studies, and making friends with like-minded people who were career oriented. The Applicant testified that, through hard work, they were able to do so.

- [45] Prior to their sentencing in the summer of 2015, the Applicant returned to the psychologist they had previously seen, and obtained a letter dated May 15, 2015 (Exhibit 2). The letter notes that, approximately 12 months after the charges, the Applicant had separated themselves from the drug community in Waterloo and had applied themselves to their studies, and that their grades had improved. The letter notes that the Applicant continued to be troubled by the grief they had caused their parents, and that this response was appropriate.

- [46] The Applicant testified that, while they do not volunteer in the community, they are deeply engaged in their workplace where they are committed to providing mentoring to younger employees. The two character witnesses who gave evidence at the hearing elaborated on the Applicant's generosity towards their younger colleagues and the important mentorship that they provide to them. Based on their experiences working closely with

the Applicant at Company B, they expressed their confidence that the Applicant was now a person of honesty and integrity.

- [47] The Panel finds that the Applicant has demonstrated an impressive degree of self-improvement and rehabilitation, through their ability to turn their life around after the criminal charges, and through their continued dedication to their career and to their colleagues.

The Applicant's Conduct Since the Misconduct

- [48] The Panel found that there was no misconduct on the part of the Applicant since the two instances of misconduct identified above. The panel noted that the Applicant has focused on their professional growth, has been promoted, is involved with coordinating social events at Company B, and provided testimony that they are no longer consuming illegal substances.

The Passage of Time Since the Misconduct

- [49] The Panel noted that the conduct underlying the criminal convictions occurred more than 8.5 years prior to the hearing, when the Applicant was 19 years old. The Applicant's failure to disclose the criminal convictions to CPA Ontario occurred just over 5 years prior to the hearing, when the Applicant was 22 years old. The Panel is cognizant that the Applicant did not finally disclose the criminal convictions to CPA Ontario until October 13, 2020, just over two years before the hearing.
- [50] The Panel found that there was a sufficient amount of time since the acts of misconduct for the Applicant to have rehabilitated themselves and that they now demonstrate the qualities of good character.

Conclusion

- [51] The Panel carefully reviewed the evidence, and weighed the combined effect of the above factors in determining on a balance of probabilities that the Applicant is currently a person of good character. In doing so the Panel was aware that the standard to be applied is not one of perfection, and that a person's character may change over time. The Panel was concerned that the Applicant's conduct both in 2014 and in 2017 showed a lack of good character, but was impressed by the Applicant's willingness to accept full responsibility for

their misconduct, their expressions of remorse, and their demonstrative ability to move on from that misconduct to establish themselves as professional with a reputation for integrity, who has earned the respect and even admiration of their colleagues.

[52] 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.

Dated this 6th day of January, 2023

A handwritten signature in dark ink, appearing to be 'J. Blanken', with a long horizontal flourish extending to the right.

John Blanken, CPA, CA, LPA
Admission and Registration Committee – Chair

Members of the Panel

Mark Dimmell, CPA, CA
Rob Mozzon, FCPA, FCA
Donald Aronson, Public Representative
Barbara Ramsay, Public Representative

Independent Legal Counsel

John Dent