

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 J ■ F ■, an applicant for registration as a student with the Chartered Professional Accountants of Ontario pursuant to Regulation 9-1: Student Registration, Obligations and Standing, Section 13: Good Character on Registration, as amended.

TO: J ■ F ■

AND TO: Registrar, CPA Ontario

APPEARANCES:

For the Registrar: Teagan Markin, Counsel

For the Applicant, J ■ F ■: Self-Represented

Heard: May 12, 2023

Decision and Order effective: May 30, 2023

Release of written reasons: June 12, 2023

REASONS FOR THE DECISION AND ORDER MADE MAY 30, 2023

I. INTRODUCTION

- [1] This hearing was held in person to determine whether J ■ F ■, (the “Applicant”) was of good character at the time of the hearing and thereby met the requirements to be registered as a student with the Chartered Professional Accountants of Ontario (“CPA Ontario”).
- [2] On or about February 3, 2022, the Applicant submitted their application to be registered as a student with CPA Ontario. In their application the Applicant disclosed that while enrolled in an undergraduate degree at the University of Waterloo, they were found to have committed three academic offences in relation

to four incidents. The third offence occurred after the Applicant had already been disciplined for committing the first two offences.

- [3] In light of this disclosure, the Registrar referred the Applicant's application for registration with CPA Ontario to the Admission and Registration Committee (the "ARC").
- [4] At the outset of the hearing, the Registrar informed the Panel that she took no position on the Applicant's registration. At the conclusion of the hearing, having heard the Applicant's evidence in support of their registration, the Registrar reiterated that she took no position.
- [5] For reasons set out below, the Panel found that the Applicant failed to meet their onus to prove on a balance of probabilities that they were a person of good character at the time of the hearing. The Panel ordered that the Applicant's application to be registered as a student with CPA Ontario be refused.
- [6] However, the Panel ordered, pursuant to s. 19 of Regulation 9-1, that the Applicant be permitted to re-apply for student registration after two years from the date of this Order.

II. FACTS

1. *The Misconduct*

- [7] The Applicant and the Registrar signed an Agreed Statement of Facts ("ASF"), marked as Exhibit 1 to the hearing. As well, the parties filed a Joint Document Brief, marked as Exhibit 2. Exhibits 1 and 2 comprised the totality of the evidence proving the Applicant's past misconduct.
- [8] The Applicant is a student at the University of Waterloo, working on a Bachelor of [REDACTED] and [REDACTED]. In their testimony, the Applicant informed the Panel that they anticipate completing their undergraduate degree by August of 2025.
- [9] During the fall and winter of 2021 and 2022, the Applicant was enrolled in [REDACTED] (Introduction to [REDACTED]).

- [10] In 2021 and 2022, the Applicant was found to have committed three academic offences of unauthorized collaboration in relation to four assignments in [REDACTED].
- [11] The first two findings of unauthorized collaboration were made on March 31 and May 13, 2021, in relation to three assignments in [REDACTED] submitted in the Winter 2021 term. The findings of unauthorized collaboration resulted in the Applicant's failure in the course.
- [12] The Applicant re-enrolled in [REDACTED] in September of 2021 for the fall term. The third finding of unauthorized collaboration was made on January 11, 2022 in relation to an assignment in [REDACTED] submitted in the Fall 2021 term.
- [13] In a Letter of Reprimand dated January 11, 2022, the Assistant Dean (Students) of the Faculty of [REDACTED] imposed the following penalties on the Applicant in relation to the third offence:
- a. A grade of zero for the assignment;
 - b. An additional deduction of 10 marks from the Applicant's course grade;
 - c. The assignment of three courses to be taken as additional degree requirements, one of which must be an ethics course offered by the Philosophy Department; and
 - d. Disciplinary probation for the remainder of the Applicant's undergraduate career.
- [14] The University of Waterloo's Guidelines for the Assessment of Penalties recommends a three-term suspension for a third offence. The Assistant Dean of Students chose not to impose this penalty on the Applicant but cautioned them that a fourth offence would likely result in a very severe penalty.
- [15] Unauthorized collaboration is one of a variety of offences included under the umbrella of academic dishonesty. The Applicant explained that the assignments in question were to be completed individually. Collaboration was not permitted. Nevertheless, with respect to the first three assignments completed in the winter of 2021, the Applicant collaborated with other students. They handed in the assignments however, as though they had completed them on their own.

[16] In the fall of 2021, after the Applicant had been sanctioned for unauthorized collaboration in relation to the three assignments mentioned above, a friend of theirs asked them to assist him with an assignment. The Applicant initially refused to assist their friend. However, the night before the assignment was due, the Applicant's friend attended at the Applicant's dorm room and pleaded with the Applicant to assist him. The Applicant relented and assisted their friend. The Applicant gained no direct benefit from assisting their friend. Nevertheless, the Applicant was caught and sanctioned.

2. *The Applicant's Disclosure of the Discipline Findings to CPA Ontario*

[17] In their application for registration, the Applicant answered "yes" to the question, "Are you, or have you ever been, subject to a disciplinary proceeding by an academic institution or a professional or regulatory body or is there any complaint or allegations outstanding against you?"

[18] The Applicant made full disclosure of the findings of academic dishonesty described above.

3. *Applicant's Evidence About the Incidents During the Hearing*

[19] The Applicant expressed remorse and took responsibility for their conduct. They expressed disappointment in themselves and anguish regarding the impact of their cheating on their classmates, family and the professor who taught [REDACTED].

[20] When the Panel asked the Applicant what they had learned from the penalties imposed by the University, they said they were disappointed in themselves for cheating. They expressed the view that if they cheat and obtain a good grade, it is worse than if they do not cheat and obtain a bad grade, because in cheating, they have deprived themselves of the opportunity to learn.

[21] The Panel asked the Applicant why they had to get caught several times before coming to the realization that in cheating, they are cheating themselves out of the opportunity to learn. The applicant responded that after cheating the first time, the

penalty was not as harsh, and they were not sufficiently mature to learn this lesson. They then proceeded to explain that they have since matured.

- [22] During the hearing, the Applicant was asked if they had completed any of the three courses they were required to take as part of the academic discipline penalty. They said they had not commenced the mandatory ethics course, but is in the midst of Philosophy ■■■, a course in critical thinking. This was one of the humanities courses they were permitted to choose. The Panel asked the Applicant when they plan on taking the mandatory ethics course and they responded “as soon as possible.” Although one year and four months has passed since the Applicant was penalized the third time, they have not been able to fit any of the ethics courses proposed by the Assistant Dean of Students into their schedule.
- [23] In the sixteen months since the third finding of unauthorized collaboration, the Applicant has completed two co-op placements, one at M■■■■ H■■■■ and one at R■■ O■■■■■■■■. During these two co-op placements, the Applicant participated in two training programs offered by each company. The Applicant testified that the training programs included components involving ethics and professional responsibility. However, they did not elaborate, nor did they provide an agenda or any other information setting out the relevant content of each of the courses.
- [24] The Panel asked the Applicant if, when their friend asked them to assist, they had a conversation about why it was wrong. The Applicant explained that when first approached by their friend, they told their friend they had already been disciplined and could not assist. When their friend persisted, they did not have the heart to say no.
- [25] The Panel informed the Applicant that going forward, the CPA process will likely be very stressful. The Panel asked the Applicant what strategies they had in place to prevent this type of incident from re-occurring. The Applicant responded by explaining that the ■■■■■ course was entirely online. There were no lectures and the students had to learn through videos and self-study. The Applicant felt isolated

and found the material challenging to absorb. They added that the main strategy they employ to avoid a repeat of the impugned conduct is self-reflection. They have reflected on their conduct, the hurt they have caused to other students and their family, and the importance of balance and ensuring they do not embrace too many competing priorities.

4. *Evidence Relating to Rehabilitation*

[26] The Applicant adduced the following evidence relating to rehabilitation:

- i. Their engagement in daily self-reflection;
- ii. The fact that one year and four months have passed and they have not re-offended; and
- iii. Testimony from one character witness (addressed separately below).

5. *Character Evidence*

[27] Professor ██████ M█████ testified on the Applicant's behalf via video conference. Professor M█████ was recently appointed as a permanent faculty member of the School of ██████ and ██████ at the University of Waterloo. Professor M█████ taught the Applicant ██████ (████████████████████) in the fall of 2022. When the Applicant asked Professor M█████ to testify, they informed him they had been disciplined three times for academic dishonesty.

[28] Professor M█████ described the Applicant as a leader in the course, a joy to have in the classroom and a "wonderful" student to have in class. Professor M█████'s course included a peer evaluation. He testified that the Applicant's peers spoke very highly of them in the peer evaluation. Professor M█████ expressed the opinion that the Applicant has academic integrity and the ability to complete the work to become a CPA without cheating.

III. ISSUES IN THIS HEARING

- [29] The main issue in this application was whether the evidence provided by the Applicant demonstrated, on a balance of probabilities, that they were of good character at the time of the hearing and could be registered as a student with CPA Ontario.

IV. DECISION

- [30] The Panel finds that the Applicant has failed to establish on a balance of probabilities that they were of good character at the time of the hearing.
- [31] For reasons set out below, the Panel orders that the application be refused. However, the Panel also orders that the Applicant be permitted to re-apply for registration as a student in CPA Ontario two years after the date of this Order.

V. REASONS FOR DECISION

1. *Definition of Good Character*

- [32] All persons applying to be registered as a student with CPA Ontario must meet the requirement that they are of good character (Section 3.3 of Regulation 9-1). If an applicant fails to provide evidence of good character, the Registrar shall refer the matter to an oral hearing before the ARC.
- [33] At a good character hearing, the onus is on the applicant to prove on a balance of probabilities that they are of good character. A balance of probabilities means that it is more likely than not that the applicant is of good character.
- [34] Good character has been defined by previous panels of CPA Ontario in the following manner:

Character is 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 would include, among others, integrity, candour, empathy and honesty.¹

[35] The Hearing Panel in *Re E.T.*, cited Madam Justice Southin of the British Columbia Court of Appeal who further defined good character, in part, as follows:

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.²

[36] The purpose of the good character requirement is threefold:³

- i. to protect members of the public who retain accounting professionals;
- ii. to ensure that the accounting profession maintains a reputation for high professional and ethical standards; and
- iii. to demonstrate that CPA Ontario is able to effectively regulate Chartered Professional Accountants.

[37] As is set out above, public protection is the paramount goal of a self-regulating profession. The possibility of self-transformation and the potential for redemption through rehabilitation are recognized by CPA Ontario as values that enhance rather than endanger public protection. In that vein, the onus is on an applicant to demonstrate they are of good character at the time of the hearing, notwithstanding the severity of their past conduct.

2. *Factors Determining Good Character*

[38] In considering whether the Applicant had proved on a balance of probabilities that they were of good character, the Panel took into account the following factors:

- a. the nature and duration of the misconduct;

¹ *Re G.B.*, Chartered Professional Accountants of Ontario (November 26, 2019) ¶ 17

² *Re E.T.*, Chartered Professional Accountants of Ontario (June 3, 2021) ¶ 32

³ *Re K.H.*, Chartered Professional Accountants of Ontario (June 3, 2022) ¶ 96

- 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.⁴

a. The Nature and Duration of the Misconduct

[39] The Applicant cheated on three assignments in the winter of 2021. After they were caught and then sanctioned in the spring of 2021, they repeated this conduct by cheating on a fourth assignment in the fall of 2021. The Panel is deeply concerned that the Applicant did not learn their lesson from the first round of sanctions. The Panel further notes that the Applicant's conduct reflects a pattern of behaviour as opposed to a single error of judgment.

[40] However, the Panel is also sympathetic to the circumstances surrounding the third offence (fourth incident). As is set out above, the Applicant did not benefit from the cheating that occurred in the fall of 2021. Rather, they were pressured by a friend to assist that friend with an assignment. Having at first refused to assist their friend, the Applicant bowed to pressure and, when asked a second time, agreed to assist him in violation of the rules.

[41] These circumstances are sympathetic and concerning in equal measure. In the professional life of a CPA, there are likely to be instances where valued clients ask the CPA to engage in dishonest or unethical activity in order to assist them. It is vital that every CPA has the "moral fibre" in Justice Southin's words, to do that

⁴ Re G.B., *supra*, ¶ 19

which is right, and not that which is expedient. The Panel was looking for sufficient insight from the Applicant to reassure the Panel that they would not bow to these types of pressures in the future. The Panel is aware that the Applicant need not prove their registration presents zero risk to the public. However, the Applicant must do more than suggest they have engaged in autonomous self-reflection. We will address this more fully in the rehabilitation section below.

b. Remorse

[42] The Applicant expressed what the Panel considered to be genuine remorse. The Panel was moved by their statement that they were sorry for the impact of the cheating on their classmates, and they regretted disappointing both their professor and their parents. Most convincing was the Applicant's statement that they have learned if they cheat and obtain a good grade, they have deprived themselves of the opportunity to learn; they would be better off doing the work themselves and achieving a lesser grade.

c. Rehabilitative Efforts

[43] The Applicant failed to put forward sufficient evidence of rehabilitative efforts. The Applicant's only evidence of rehabilitative efforts was evidence of self-reflection. The Panel does not doubt that the Applicant has engaged in self-reflection, and that they have learned something from it. The Panel is not convinced that self-reflection, without more, is sufficient for the Applicant to meet their onus to prove their good character.

[44] The Applicant has had one year and four months within which to complete one of the ethics courses the Assistant Dean of Students for the Faculty of [REDACTED] required them to complete. Yet, they have not completed the course, citing scheduling conflicts. The Panel does not doubt that the Applicant had scheduling conflicts. However, their application would have been stronger had they taken the ethics course and been able to reflect on what they learned. The Applicant has not undertaken any of the steps one would expect an Applicant in these circumstances to embark on, for example, a course of counselling designed to get at the root of why the misconduct occurred, volunteer work, or even obtaining letters of reference from professionals they worked with at their co-op placements.

[45] In some cases, an applicant will adduce the evidence of third parties such as a therapist who can opine as to the applicant's level of insight and remorse. The benefit of this type of evidence is twofold: first, it demonstrates that the applicant has made tangible efforts to address the conduct that led to the hearing; second, it potentially provides the Panel with evidence from a more objective party than the applicant themselves.

[46] All of the above are merely examples of the types of evidence the Panel would expect to see in a good character hearing and which were lacking in the Applicant's case. The Panel is in no way suggesting that any of these examples are mandatory; every case must be decided on its own facts. The Panel notes, however, the dearth of evidence of rehabilitative efforts in the Applicant's case.

[47] In the absence of evidence of rehabilitative efforts beyond self-reflection, the Panel is unable to conclude that the Applicant is now a person of good character.

d. Applicant's Conduct Since the Misconduct

[48] There is no evidence that the Applicant has misconducted themselves since the fall of 2021. They are on disciplinary probation for the remainder of their undergraduate career. Any misconduct discovered will result in severe consequences from the university.

[49] The Applicant provided evidence of their good conduct since the offences, in the form of character evidence provided by Professor ██████ M█████. As is set out above, Professor M█████ gave the Applicant a glowing reference, describing them as a person of integrity, a leader in the classroom and a joy to teach.

e. Passage of Time

[50] The passage of time between an applicant's misconduct and the application is related to the ability of the applicant to rehabilitate themselves. The more serious the misconduct, the more time is required between the events in question and the hearing to provide the applicant with an opportunity to sufficiently rehabilitate themselves. As previous panels have noted, a sufficient amount of time must pass between the conduct and the hearing so as to demonstrate to a panel, and satisfy the public, that the applicant's character is no longer defined by the past misconduct.⁵

⁵ Re K.S., Chartered Professional Accountants of Ontario (3 June 2021) ¶ 50

[51] As is noted above, the Applicant's good character hearing took place only sixteen months after the final finding of academic misconduct on January 11, 2022, and approximately seventeen months after the actual misconduct occurred. Considering the seriousness of the misconduct, in conjunction with the absence of persuasive evidence of rehabilitation, seventeen months is not a sufficient amount of time for the Panel to conclude that the Applicant is now of good character. In addition, the Applicant continues to be on disciplinary probation at the University of Waterloo and will continue to be on probation until they complete their undergraduate degree which is expected to be in August of 2025. While the Panel is not bound by the University's view of the Applicant, the fact that the University has placed them on probation for the remainder of their degree is a factor the Panel took into consideration in determining whether the Applicant had met their onus to prove their good character. Ultimately, the Panel concludes that this application was premature.

3. Terms and Conditions on Re-Application

[52] Typically, an applicant who is refused registration due to failing to establish their good character must wait five years prior to re-applying for registration.⁶

[53] The Panel found that while the Applicant failed to satisfy that they are a person of good character, they called a strong character witness, and expressed some remorse and insight into their conduct. Moreover, while the fourth incident

⁶ Section 36 of Regulation 9-1

constitutes cheating, the Panel took into account the fact that the Applicant did not personally benefit from the ethical breach.

[54] In light of the foregoing, the Panel sought submissions from the parties with respect to including in the Order a term permitting the Applicant to re-apply in two years, rather than the five years stipulated by section 36 of Regulation 9-1. Reference is had to section 19 of Regulation 9-1 which stipulates that the ARC may impose restrictions and conditions for re-application if appropriate.

[55] Both parties provided written submissions in response to the Panel's request. The Applicant supported the inclusion of the proposed term. The Registrar did not oppose the inclusion of the proposed term and submitted that the Panel is empowered by virtue of section 19 of Regulation 9-1 to include the proposed term in its order. There is precedent for including such a term in an order refusing registration.⁷

[56] The Panel concluded the Applicant should be provided with an earlier opportunity than that set out in section 36 of Regulation 9-1 to establish their good character. The Panel determined that if the Applicant wished to re-apply for registration as a student in the future, two years from the date of this Order would likely be a sufficient period of time to allow CPA Ontario, either through the Registrar or a further hearing, to determine whether the Applicant met the good character requirement for student registration.

⁷ Re E.T., Chartered Professional Accountants of Ontario (7 February 2022) ¶ 56

[57] The Panel therefore orders that the Applicant may re-apply for registration as a student two years from the date of this order.

DATED this 12th day of June, 2023

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 – Chair

Members of the Panel

Alexandra Finkel, CPA, CA
Vincci So, CPA, CMA
Nancy Tran, Public Representative
Catherine Wong, CPA, CA

Independent Legal Counsel

Lisa Freeman, Barrister & Solicitor