

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

DISCIPLINE COMMITTEE

IN THE MATTER OF: A motion by **Sameen Siddiqi**, a former member, for reconsideration of a Decision by the Discipline Committee of the Chartered Professional Accountants of Ontario, dated April 18, 2018, pursuant to the Bylaws and Regulations of CPA Ontario, as amended.

BETWEEN:

Sameen Siddiqi

-and-

**Chartered Professional Accountants of Ontario
Professional Conduct Committee**

APPEARANCES:

For Sameen Siddiqi:	Present Clifford Cole, Counsel Caroline Mercer, Articling Student
For the Professional Conduct Committee:	Jonathan Smith, Counsel
Heard:	December 10 and 11, 2024
Decision and Order effective:	February 25, 2025
Release of written reasons:	February 25, 2025

REASONS FOR THE DECISION ON SAMEEN SIDDIQI'S MOTION FOR RECONSIDERATION

I. OVERVIEW

[1] On August 29, 2024, Sameen Siddiqi ("Applicant") brought a motion for reconsideration of a Decision and Order of the Discipline Committee dated April 18, 2018 revoking his membership with the Chartered Professional Accountants of Ontario ("CPA Ontario"). The motion was brought pursuant to section 30.1 of Regulation 6-2, which stipulates that if a member's membership has been revoked and they apply for readmission, they may bring a motion for reconsideration of the original order by the Discipline Committee.

- [2] The Applicant's membership in CPA Ontario was revoked because he was found to have committed professional misconduct in breach of Rule 201.1 of the Chartered Professional Accountants of Ontario Rules of Professional Conduct ("Code"). The basis of the revocation was that the Applicant was convicted by the Superior Court of Justice on January 14, 2013 of three counts of knowingly making false statements and misrepresentations for loan applications contrary to the *Canada Small Business Financing Act* ("CSBFA"). The Applicant appealed his conviction, but the conviction was upheld by the Ontario Court of Appeal on May 20, 2015.
- [3] The Registrar confirmed that the Applicant had paid all relevant fines and costs, completed the required professional development courses and was currently up to date on all relevant fees. As such, the only issue to be determined by the Panel was whether the Applicant established on a balance of probabilities that he met the good character requirement for readmission to the profession.
- [4] After reading the Agreed Statement of Facts ("ASF") and the Joint Book of Documents, hearing the *viva voce* evidence from the Applicant and three witnesses called on his behalf, and hearing the submissions of counsel for the parties, the majority of the Panel dismissed the Applicant's motion for reconsideration and application for readmission.

II. EVIDENCE BEFORE THE PANEL

Applicant's Conviction – January 14, 2013

- [5] The Applicant was charged in June 2010 with six offences under the CSBFA: three counts of knowingly making false statements or misrepresentation for loan applications and three counts of money laundering.¹
- [6] The Honourable Justice Fuerst of the Ontario Superior Court of Justice (the "Trial Judge") presided over the trial of the Applicant and MT on January 14, 2013. The Applicant was represented by counsel at the trial. The case for the Crown consisted mostly of documentation and the evidence of a policy officer with the Canada Small Business Financing Directorate and a Chartered Professional Accountant who provided forensic accounting evidence. The Applicant did not testify. Counsel for the Crown and the

¹ Because the Applicant's conduct in transferring various funds did not meet the strict elements of money laundering, the Court acquitted the Applicant of these counts.

Applicant provided written submissions and made oral submissions.

[7] The Crown's position was that in three instances, the Applicant, through two companies for which he was the director – Company A and Company B - supplied false invoices purporting to sell equipment to companies controlled by MT. The relevant invoice was then used to obtain a small business loan from a Bank. The loan proceeds from the Bank were paid over to a company controlled by the Applicant and then disbursed by the Applicant, who also controlled the back accounts for Company A and Company B. Money was wired to Iran, converted to cash and paid to companies that were not equipment suppliers. Some money flowed back to MT or his companies. The equipment described in the invoices never existed. The Applicant's knowledge that the loan proceeds were obtained by deception, or his willful blindness, could be inferred from the invoices, the receipt of the money by companies he controlled into their bank accounts, and the disbursement of the funds through those bank accounts.

[8] The Applicant's counsel argued that the Crown failed to establish beyond a reasonable doubt that the Applicant knew that the invoices were false or were related to a small business loan application. He added that the Applicant had not benefitted financially from these transactions.

[9] By way of background, the Trial Judge noted that in 2005-2006, small businesses that could not otherwise obtain financing for equipment or leasehold improvements could obtain a loan up to \$250,000 through Industry Canada. The financial institution acting as the lender could register the loan and if the loan went into default, it could apply for a reimbursement through the program for up to 85% of the loan if it had supportable documentation.

[10] The following is a summary of the three loan transactions at issue in the trial.

Loan #1 - CIBC to Company A Technologies - \$250,000

[11] On August 3, 2005, Company A issued an equipment invoice in the amount of approximately \$298,000 for seven pieces of equipment to another company, Company A Technologies. According to government records, MT was a Director of Company A Technologies. From all the evidence, the Trial Judge found that the only reasonable and logical inference was that the Applicant prepared this false invoice. Furthermore, she concluded that the Applicant not only knew the invoice was false but provided it to MT

knowing that it would be used to apply for a loan to purchase equipment.

- [12] On August 9, 2005, Company A Technologies submitted a Loan Registration form with CIBC; the form was signed by "Dr. MKT."² The loan application stated that equipment in the amount of approximately \$298,000 was to be purchased with the proceeds (Loan #1). After the loan proceeds were deposited by CIBC, on August 30, 2005, a bank draft of \$250,000 was issued from Company A Technologies to Company A and deposited into Company A's bank account on September 2, 2005.
- [13] Between September 2 and September 8, 2005, Company A sent two wire transfers totaling \$180,000 to Bank Melli Iran. A \$20,000 cheque was also issued to MKT. The remaining \$50,000 was comingled with Company A's other funds and could not be subsequently traced by a forensic accountant.
- [14] The Court found that the Applicant knew that the money had been deposited to Company A's account and he carried out the transactions that followed the deposit.
- [15] CIBC was not reimbursed for the loan, which went into default, as Industry Canada was not satisfied that assets were actually purchased with the funds.

Loan #2 - Scotiabank to SMT - \$402,000

- [16] On September 20, 2005, 12 days after the funds from Loan #1 had been disbursed, Company A issued another equipment invoice in the approximate amount of \$402,000, purportedly for the purchase of seven pieces of equipment.³ The invoice was to a numbered company operating as SMT Manufacturing (SMT). MT was the Director and President of SMT.
- [17] On October 19, 2005, a Loan Registration Form was submitted to Scotiabank on behalf of SMT with the September 20, 2005 invoice from Company A attached to it (Loan #2).
- [18] On October 27, 2005, Loan #2 proceeds were advanced by Scotiabank to SMT for approximately \$402,000. On the same day, a bank draft to Company A was issued for

² In the three loan transactions, various individuals were identified with MT's first and last name, but with different middle names. Also, MT's sister (with the same initials) was named in some of the transactions. The Crown argued that these were pseudonyms for MT.

³ In September 2006, an appraiser attended the address listed for SMT and located the seven pieces of equipment that had been described in the invoice related to Loan #2. It was noted that they were missing major components, and none were hooked up for use. The appraiser estimated the actual value of the equipment at \$500-600, rather than the value on the invoice of approximately \$400,000.

just over \$400,000 and it was subsequently deposited.

- [19] After this draft was deposited into Company A's bank account, Company A transferred \$220,000 to Bank Melli Iran. Through a series of other bank drafts and cheques, amounts totaling approximately \$187,000 were disbursed to businesses and/or payable to cash. By November 16, 2005, Company A's bank balance returned to its pre-loan amount.
- [20] With respect to Loan #2, Industry Canada reimbursed Scotiabank for approximately \$242,000 (out of the \$402,000 advanced).

Loan # 3 - Bank of Montreal to law firm then to Company B - \$245,000

- [21] On June 29, 2006, Company B issued an equipment invoice in the amount of approximately \$385,000 for seven pieces of equipment to SMTEE Manufacturing (SMTEE).⁴ SMTEE was linked to a numbered company, that was linked to MT.
- [22] The invoice from Company B to SMTEE/numbered company shows an address for SMTEE that was the same as that for SMT (MT's company) on its Loan Registration Form for Loan #2.
- [23] On August 30, 2006, the numbered company completed a Loan Application and Agreement with the Bank of Montreal (BMO), signed by MT (Loan #3).
- [24] On September 1, 2006, Loan #3 proceeds were advanced to a law firm, which then made a payment of just over \$245,000 to Company B, describing it as "Supplier". On September 5, 2006, \$245,000 was deposited into Company B's bank account, which had a balance of \$85,000 immediately before the deposit.
- [25] On September 29, 2006, five bank drafts totaling approximately \$20,000 were purchased for SMTEE; however, one was redeemed by Company B. The remaining four were deposited by SMTEE. On the same date, Company B issued a cheque to Company A for \$175,000, which was deposited into Company A's bank account.
- [26] On October 3, 2006, Company B purchased six bank drafts totaling approximately \$10,000 to the benefit of SMTEE.
- [27] Industry Canada reimbursed BMO for just under \$215,000 related to Loan #3 out of the

⁴ The invoice from Company B was for an identical list of seven pieces of equipment (listed in a different order and without serial numbers) as that shown on the invoice to SMT for Loan #2.

\$245,000 advanced.

Findings of the Trial Judge

- [28] The Trial Judge found that the Applicant issued all three invoices for the fictitious equipment. She found that he did so knowing they would be used to apply for and obtain loans on the pretext of purchasing equipment.
- [29] The Trial Judge found that the money loaned by CIBC, Scotiabank and BMO flowed into bank accounts for businesses for which the Applicant was the "sole contact officer". Additionally, the Court found that the bank statements for Company A and Company B were sent to the address listed on the Applicant's driver's licence. The Applicant controlled the bank accounts for Company A and Company B, knew when money was deposited there, and carried out the transactions that followed the deposits, sending large amounts to Iran.
- [30] In conclusion, the Trial Judge convicted the Applicant of three (3) counts of knowingly making false statements and misrepresentations for loan applications contrary to the CSBFA (the "Conviction").

CPA Ontario's Response to Applicant's Conviction – February 2013

- [31] The Applicant self-reported the offences to CPA Ontario in February 2013.
- [32] The Professional Conduct Committee ("PCC") deferred a determination as to whether to refer the matter pending the Applicant's sentencing by the Trial Judge and his anticipated appeal of the conviction and sentence.
- [33] On July 31, 2013, the Applicant signed an undertaking which circumscribed the nature of work that he could perform, pending the outcome of his proceedings in court. The Applicant was required, amongst other things, to resign as a partner with JJJ and work only through JJJ with all of his work supervised and reviewed by a partner. The Applicant was not permitted to have signing authority or control over the funds that he held for clients, and he could not act as a director or officer of any company other than JJJ and SS Chartered Accountant Professional Corporation.
- [34] The Applicant fully complied with these conditions.

Applicant's Sentence - October 11, 2013

[35] On October 11, 2013, the Trial Judge sentenced the Applicant to a conditional sentence, i.e. a custodial sentence served in the community (house arrest) for two years less a day and he was required to pay a fine in lieu of forfeiture of \$495,049.02.

[36] In determining the appropriate sentence, the Trial Judge found both aggravating and mitigating factors. In terms of the aggravating circumstances, the Trial Judge found, amongst other things, the following factors:

(a) The total amount of loan proceeds that flowed into bank accounts controlled by the Applicant was approximately \$740,000.

(b) The creation and submission of false invoices to obtain loans from banks was a form of fraud. The loan proceeds were clearly "proceeds of crime."

(c) The loans were related to a federal program that was designed to help small businesses; the deceitful nature of the Applicant's conduct and the total loss of more than \$700,000 made denunciation and deterrence the Court's primary sentencing objectives.

(d) The conduct was not "spur-of-the-moment" and was a "planned and deliberate scheme".

(e) While the Applicant did not use his professional or business position to commit the crimes, he was well-educated and knowledgeable about the business world.

(f) "The Applicant's more extensive participation in the offences required that he receive a somewhat longer conditional sentence than [MT]."

[37] The Trial Judge also found the following mitigating factors, which were based primarily on the Pre-Sentence Report dated March 27, 2013:

(a) The Applicant's conduct was out of character;

(b) The Convictions would likely give rise to (and have resulted in) a loss of the Applicant's professional designation with CPA Ontario;

(c) The case was not prosecuted under the fraud provisions of the Criminal Code but under section 16 of the CSBFA, and carried a maximum term of imprisonment of 5 years, as opposed to 14 years for fraud under the Criminal Code, a distinction which was important for sentencing;

- (d) The Applicant would not re-offend or otherwise endanger the community if permitted to serve his sentence in the community;
- (e) The Applicant had been active in his local community and active in his local mosque. In the past, he had served as volunteer to charitable organizations; and
- (f) The Applicant had been a role model for younger family members and for others with whom he had interacted professionally.

Applicant's Appeal of His Conviction and Sentence – May 20, 2015

[38] The Applicant appealed the Conviction and his sentence, with respect to the fine, to the Ontario Court of Appeal. The Applicant was represented by counsel who argued that the Conviction was unreasonable because it was based on circumstantial evidence and the fine in lieu of forfeiture was excessive because it was greater than the criminal proceeds from which the Applicant benefitted.

[39] The Ontario Court of Appeal found that there was no merit to the Applicant's first ground of appeal as the "circumstantial evidence taken as a whole eliminates all reasonable inferences but that the invoices were false and [the Applicant] prepared them in support of the loan applications...The evidence also showed that the loan proceeds flowed into the bank account of two companies controlled by [the Applicant]" [para [5]].

[40] With respect to the Applicant's second ground of appeal, the Ontario Court of Appeal stated:

[6] The loan proceeds were proceeds of crime. [The Applicant] had possession and control of loan proceeds in excess of the amount which he was fined. He put most of those funds beyond reach by transferring them out of the country to a third party. That third party was not a co-conspirator before the court. The trial judge did not need to find that [the Applicant] personally benefitted from the funds he transferred to the third party, on a dollar-for-dollar basis, to impose a fine in lieu of forfeiture that included the amount of the transferred funds.

[41] The Ontario Court of Appeal dismissed the appeal in its entirety on May 20, 2015.

Applicant's Discipline Hearing – April 18, 2018

[42] After the appeal of his Conviction and sentence failed, the Applicant appeared before the Discipline Committee (the "Tribunal") at a hearing on April 18, 2018. The Applicant was not represented at this discipline hearing, nor did he provide evidence.

[43] The Applicant advised the Tribunal that on the advice of counsel, he did not testify at trial. He asked the Panel to give little or no weight to his Conviction and to make findings of fact that would directly contradict the Trial Judge and the Court of Appeal.

[44] The majority of the Tribunal found as follows:

[15] Life is about bad choices and lifelong regrets. [The Applicant] chose to go into business with [MT] and regrets it. He chose not to testify at his criminal trial and regrets it. And, he allowed his counsel to make submissions on sentencing that led the judge to forego a custodial sentence because his convictions [...] "will inevitably result in the loss of his professional designation" [...] and regrets it. Unfortunately, these choices have implications on how this Tribunal must proceed, whether we regret it or not.

...

[18] The general principle that a member's licence will be revoked when the member committed "crimes of dishonesty" ... is strictly applied ...

...

[22] [The Applicant] attempted to portray himself as the dupe of [MT] before the Tribunal. However, we are bound by the trial judge's finding that [the Applicant] and [MT] "were acting together to obtain loan proceeds" in what "was part of a planned and pre-meditated scheme" where [the Applicant] not only knew the invoices in question were false, but he provided them to [MT] knowing he would use them to apply for and obtain loans under false pretenses. These were the key findings of fact by the trial judge leading to [the Applicant]'s conviction and sentencing for the three counts. It is significant that [the Trial Judge] found that, far from being a dupe for [MT], "[The Applicant] 's more extensive participation in the offences requires that he receive a somewhat longer conditional sentence than [MT]." These are the salient findings of [the Trial Judge], whose decision was affirmed by the Court of Appeal. It is not open to this tribunal to revisit these findings.

[23] ...This tribunal is charged with the protection of the reputation of our profession and the public does not draw fine distinctions between the various ways our members commit crimes of dishonesty. A conviction for any fraud-related offense impugns the integrity of the entire profession, whether the facts of the crime involve the provision of accounting services or not ... The public only reasonably sees a CPA being dishonest in their stock and trade, financial matters, and expects the tribunal to dispel dishonest accountants from our midst. To do less invites the public perception that we favour our colleagues over the public good: A perception

that would sound the death knell of self-regulation of our profession. As someone who wants only what is good for the profession, [the Applicant] should understand that his personal welfare must be secondary to the public welfare and the pristine reputation of our profession. For that reason, the facts of this case impel only one result: revocation.

- [45] After finding that the Applicant's actions amounted to professional misconduct under Rule 201.1, in addition to a written reprimand and publication of the revocation, the Tribunal ordered that the Applicant's membership and Public Accounting Licence ("PAL") be revoked, as well as a fine of \$15,000 and costs of \$4,000.
- [46] The dissenting member of the Tribunal found that while the offences for which the Applicant was convicted were similar to fraud, they fell short of fraud and a decision short of revocation was appropriate. The dissenting member would have ordered a five year suspension of the Applicant's licence and revocation of his PAL.

Testimony of the Applicant at Hearing

- [47] The Applicant gave direct evidence about his personal and professional history, the circumstances that led to the Conviction, and his conduct following the Conviction.

Applicant's Personal and Professional History

- [48] The Applicant was 57 years old and married to MS. They had four adult children. Since 1997, the Applicant and his family also supported and cared for his 85-year-old mother, who was in very poor health.
- [49] The Applicant graduated from university in 1990 with a specialist BA in Commerce and Economics. The Applicant worked as an Assistant Manager at a large accounting firm from 1990 to 1996. He received his certification from the Institute of Chartered Accountants of Ontario in 1994.
- [50] The Applicant operated a sole proprietorship on a part-time basis providing assurance, tax advisory and consulting services from 1996 to 2007. He also worked on a variety of business development projects including franchise business and development during this time.
- [51] In 2008, the Applicant joined JJJ as its Executive Director. JJJ was a three-partner accounting firm. The Applicant continued to work there under supervision after 2013 until

his revocation in 2018.

[52] Following his revocation, the Applicant worked as a consultant providing CFO services to the owners of companies, and business and tax planning strategies for franchising and support services. He helped his wife's clients with complex tax matters and corporate reorganizations with a lawyer. Also, he explained that his niece (AS) would come to him from time to time with a question about assurance work. In response to a question from the Panel, the Applicant said that he works 30-40 hours per week.

[53] Many of the Applicant's clients moved from JJJ to AS's company after the Applicant's revocation.

Applicant's Evidence Regarding the Conviction

[54] Although the Applicant understood that the Panel was bound by the facts determined by the Trial Judge and confirmed by the Court of Appeal, he was permitted to give evidence about the circumstances leading to his Conviction.

[55] The Applicant explained that he met MT in 2003 after he was referred from another accountant. The Applicant and MT were of the same faith and they became friends, with their families enjoying religious holidays, picnics and other events together.

[56] The Applicant said that he understood that MT was involved in the development of technology related to sensors that would fit into gear boxes of manufacturing facilities. The Applicant became MT's partner with a 10% equity interest in both Company A and Company B and that he was going to derive a financial benefit once the product was created.

[57] The Applicant explained that he was the Director and a signing officer at the bank for both companies. The Applicant described his role as providing business advice but noted that he never acted as the accountant for any of MT's businesses.

[58] The Applicant said that he was not aware of any loans but believed that MT was raising funds from friends and family.

[59] The Applicant agreed that he had complete authority to transfer the funds in question from the company bank accounts, however MT gave him a list of people to be paid overseas. When asked by his counsel if he knew where the funds were going, the

Applicant said that he knew that they were going to MT's sister in Iran and that he believed that they do not have formal companies in Iran. The Applicant explained that his failure was in not appreciating that he had a fiduciary duty and checking everything.

[60] On cross-examination, PCC counsel noted that a number of the Applicant's references referred to his practice of obtaining complete knowledge about the business of his clients and how he became a trusted member of his client's business teams in order to give them solid advice.

[61] The Applicant testified as follows:

- (a) He was trained as a public accountant to be suspicious or cautious of the companies that he was reviewing; he appreciated the importance of professional skepticism. When he met with MT, the Applicant had been a CPA for nine years, had had a PAL for seven years and had operated his own accounting firm for two years.
- (b) The Applicant was unaware of MT's other businesses when he went into partnership with him.
- (c) Before Company A and Company B were set up, MT and the Applicant entered a written memorandum of understanding. When the companies were set up, the Applicant agreed to be the Director. He understood the responsibilities and fiduciary obligations of directors.
- (d) The Applicant also agreed to have banking responsibility for both companies. MT also signed cheques for the companies. The addresses for the two businesses in the banking and incorporation documents were initially the Applicant's family home.
- (e) While the Applicant did not in the end receive any financial benefit from these companies, he was hoping for a financial payoff in the future.
- (f) When asked if the Applicant, as Director of the companies and a CPA with a PAL, had asked to see the bank statements, the Applicant said that he had not asked to see bank statements but asked for financial records. The Applicant agreed that the bank statements originally came to his home. He first said that the financial statements were never provided but later said that he received at least one or two quarters in or about 2006. The Applicant was then asked if he had documentation

to support what was happening with the businesses and he answered: “to a certain degree.”

- (g) The Applicant did not ask any questions about the large cheques (totaling over \$700,000) to unknown persons that he signed. He said that he did not ask for any evidence about where this money came from before transferring the funds.
- (h) The Applicant said that he did not have the bank statements for the companies at this time and did not question the source of the money.
- (i) When challenged that he had authorized funds to be sent to Iran on three separate occasions over the course of 14 months, the Applicant said that he saw this as consecutive transactions – MT was raising funds, they are coming in and the money is being sent overseas.
- (j) In July 2005, two months after the businesses were incorporated, the Applicant sent two wire transfers for \$180,000 and \$20,000 respectively to MKT (Loan #1). The Applicant said that he did not know the identity of MKT. With respect to Loan #2, the Applicant said that he could not recall SMT or any of the other companies involved in this transaction and he did not ask questions. With respect to Loan #3, he did not question the \$400,000 that was deposited into the bank account or ask for invoices from the company in Iran where the monies were sent.
- (k) The Applicant maintained that he was not involved with the fraudulent invoices whereby the funds that he sent to Iran and MT were obtained from banks for fake equipment purchases.
- (l) The Applicant said that when he was first charged under the CSBFA (fraud and money laundering charges), he would tell his clients about the details.

[62] The Applicant was asked by the Panel if he had made any enquiries about the source of the monies that he eventually transferred to Iran or, if the money was being raised by MT, the terms of the investment loans. The Applicant said that he did not know anything about this, nor did he ask any questions. When asked how he could fail to make enquiries, the Applicant responded:

I mean, there was, but imagine the price that I paid for that, for not asking that question. Imagine the price that I paid. So, now, you've got to fast-forward to being convicted of it. Every single dime that he raised, supposedly, I paid back, pretty much. Or, two-thirds of it, or whatever it was...that ratio. \$495,000, I had to pay back. I'm not

in the business, really, of getting into these transactions in order just to pay it back. And the other side of it is that...it's a financial obligation that I had to pay it back, and religiously, I had to pay it back. So, I'm not in that business, either. That's an oversight that to this...it's a disaster. It's a disaster, and there is...I'm not here to skirt that at all. It is a disaster, and I'm paying that price to this day. ...I was duped. Whether he was a great con guy, or whatever it happened to be, I got caught in it. I got duped, and I paid a great price from delicensing, I had a business with a partnership that I lost...But the public trust was breached, absolutely. I live with that every single day, from the point of 2013 on, until today. There is no doubt about it. And I'm not trying to skirt around it. I'm not trying to...I don't like to dwell on it... But as a chartered accountant? Absolutely, there is no argument from me that I had a fiduciary duty to do a lot better.

Applicant's Conduct Following the Conviction

- [63] The Applicant testified that he complied with the requirement of two years of house arrest. With respect to the fine ordered by the Court, the Applicant said that he ran into health problems in 2016 and required an extension to pay the fine. He eventually paid the fine with a significant portion coming from money raised from the sale of his daughter's condominium. The Applicant's daughter, who was in her early 20s, was required to move back home with her parents. He testified that he paid the fines because his faith required that he pay all debts before he passed away.
- [64] Since his revocation, the Applicant explained that he had been doing freelance work, including a project for a computer technician client and tax work for his niece's business.
- [65] The Applicant continued to be involved with his mosque, serving as a mentor and teacher. He was also engaged in various charitable projects, for which he was justifiably proud. The Applicant did not keep control over the funds raised for these projects, as he said he was "paranoid about a lot of things."

Testimony of JR, Client

- [66] JR is a licensed pharmacist who testified that he was the owner of three businesses. He began to use the services of the Applicant and JJJ in 2012 for bookkeeping as well as securing advice on tax matters and legal advice.
- [67] JR said that he became aware of the Applicant's Conviction in 2013. He said that the Applicant was transparent with him from the beginning, and he found the Applicant to be

genuine. JR explained that in life we run into the wrong people and that does not mean that we are bad people. JR was asked on cross-examination what the Applicant told him about the reasons for his Conviction – JR said that it was a short conversation and he couldn't recall his conversation with the Applicant. Following the conversation, he said that he believed that the Applicant would not have done anything wrong. When asked by a Panel member about what the Applicant had told him, JR said that the Applicant explained that he was "the victim" and that the Applicant and his family had suffered. He was told by the Applicant that his partner had taken money and sent it somewhere.

[68] JR continued to use the services of the Applicant from 2013 to 2018 through JJJ. He was not aware that there were other partners at JJJ nor did he have any interaction with them.

[69] When the Applicant's membership in CPA was revoked in 2018, JR used the services of AS for his company accounting. He also continued to work with the Applicant and would see him several times a year.

Testimony of TS, Client and Friend

[70] TS is the owner of several successful businesses. He met the Applicant over 20 years ago. The Applicant completed TS's personal income tax returns and was helpful in establishing TS's franchise businesses. TS described the Applicant as someone who was diligent and who would always want to understand the nature of the businesses to which he was providing accounting and consulting services to.

[71] TS first testified that he learned of the Applicant's situation after he was convicted in 2013 but later said that he knew about the original charges. He was told that money fraud was involved. TS said that he had a hard time believing that the Applicant had done anything wrong because the Applicant was a careful person – he was always "right on the dot." The Applicant told TS that "a mistake had happened," involving "a transaction with a bank for money." TS said that he did not understand all the details about what had happened.

[72] TS continued to work with the Applicant at JJJ from 2013 until the Applicant's membership in CPA Ontario was revoked. TS then shifted his business to AS, explaining that he wanted to help a new graduate.

[73] TS also spoke of the charitable work that the Applicant did and explained that the Applicant had given money to one of TS' franchisees who was undergoing a difficult personal situation. He also said that the Applicant gave helpful career advice to TS' child.

Testimony of AS, Applicant's niece

- [74] AS is a member of CPA Ontario and has a PAL. AS worked for JJJ in 2009 and then at other accounting firms. In October 2016, AS started her own practice and she explained that “assurance is [her] game.”
- [75] As set out above, several of the Applicant’s former clients moved from JJJ to AS when the Applicant’s membership and PAL were revoked. AS said that many of these clients still consulted with the Applicant but she did their accounting work independent of the Applicant, saying that she was not aware of his current practice.
- [76] AS testified that her uncle was the de facto leader of their family, at least his family, in terms of his siblings. The Applicant was a very successful businessman and professional. He was her mentor, and she described him as part of her moral compass.
- [77] AS testified that she had been influenced by the Applicant’s passion for helping his community, particularly a grassroots Canadian charity where they worked together.
- [78] AS said that she was aware of the circumstances of her uncle’s Conviction. She first testified that at the time, she understood that the charges were not made in the course of his business or practice as a CA. She knew that the Conviction involved MT, who she knew through her family. MT had sponsored her on a trip to California. While AS said that she was not aware of the details about what had happened, she knew that the charges were serious.
- [79] When asked on cross-examination if she had ever discussed with the Applicant, how he came before the courts, she said that she didn’t have to ask because she lived it. When asked again, AS was initially reluctant to answer. However, she eventually said that her uncle told her that he had entered into a business relationship with a friend (who she knew) where loans were taken out. She said that the Applicant maintained his innocence and she believed him, despite the findings of the Courts.

Applicant's Letters of Support

- [80] The Applicant submitted 17 letters or emails of support from clients, former partners, and members of his family and community. Three of the documents were from the above-noted witnesses and three were duplicative. As a result, there were eleven (11) individuals in addition to the witnesses who endorsed the Applicant’s character and supported his application for readmission.

- [81] Several of the Applicant's supporters said that they were aware of the charges and/or Conviction, although none provided any details about the information that they received from the Applicant or otherwise. Some of the supporters also noted that in their view, the Applicant's conduct was out of character. Overall, it was unclear whether these witnesses thought that the Applicant had done anything wrong.
- [82] It was clear from the letters and emails of support that the Applicant was a devoted family man who was actively involved in his community and engaged in charitable work.
- [83] Many of the letters spoke to the Applicant's attention to detail and his complete understanding of the businesses he worked with throughout his career. He was described as professional, hard-working, dedicated, and trustworthy.
- [84] Although many of the letters and emails contained identical or similar wording, this did not diminish the fact that they were signed or submitted by the supporters. The supporters wrote that they all regarded the Applicant as a person of good moral character and integrity.

Applicant's Declaration of Good Character

- [85] As part of his application for reconsideration, the Applicant was asked to provide an explanation respecting his previous misconduct. The Applicant wrote:

... I had obligations to the profession, to the Courts, to the public and to my family. My conduct was less than the standard required. Again, I am genuinely remorseful.

As noted above, I was charged in June 2010. I have spent much time reflecting on the events that gave rise to my predicament. Upon reflection, I fully understand that I associated with the wrong people and engaged in a business without sufficient diligence and oversight. I was overly trusting and paid insufficient attention to the fact that my professional life - my designation - might be at risk because of my conduct.

III. ISSUES ON THE MOTION

- [86] The only issue on this motion is whether the Applicant is of good character today. All other requirements for readmission have been satisfied.
- [87] It is important to note that the Registrar refrained from commenting on the good character provision. The reason a motion for reconsideration is required is because in his

application for readmission, the Applicant correctly indicated that his membership in CPA Ontario had previously been revoked. An affirmative answer to a question about prior licence or membership revocation almost automatically triggers an application for readmission.

IV. DECISION AND ANALYSIS

The Decision

[88] The Majority of the Panel found that the Applicant had not met the onus to prove his good character and should not be readmitted to membership in CPA Ontario.

The Law on Good Character

The Onus and Definition of Good Character

[89] Where a panel is asked to consider the good character of an applicant, including during a motion for reconsideration, the applicant bears the onus of establishing 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.

[90] Although “good character” is not defined in the Bylaws or Regulations of CPA Ontario, good character has been defined by previous panels of CPA Ontario and other regulators 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.⁵

[91] Madam Justice Southin of the British Columbia Court of Appeal further defined good character, in part, as follows:

1. An appreciation of the difference between right and wrong;
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;

⁵ G.B. v. Chartered Professional Accountants of Ontario, [2019 ONCPA 20 \(CanLII\)](#) ¶17, citing *Law Society of Upper Canada v. Preyra*, [2000 CanLII 14383](#), p.6

3. A belief that the law at least so far as it forbids things which are *malum in se* must be upheld and the courage to see that it is upheld.⁶

[92] The purpose of the good character requirement for admission or readmission to a profession is threefold:⁷

- to protect members of the public who retain accounting professionals;
- to ensure that the accounting profession maintains a reputation for high professional and ethical standards; and
- to show that CPA Ontario effectively regulates Chartered Professional Accountants.

[93] The Applicant is not required to prove that his readmission as a member of CPA Ontario will not present a risk that he will abuse the public trust in the future. The test does not require perfection or certainty.⁸

Factors to Consider Regarding Good Character Finding

[94] In considering whether the Applicant established on a balance of probabilities that he was of good character, the Panel considered the following factors:

- a. the nature and duration of his misconduct;
- b. whether the Applicant was 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.⁹

[95] These factors are not airtight compartments and must be weighed in accordance with the facts and issues advanced in each case.

i. The Nature and Duration of the Misconduct

[96] The parties agreed that the Conviction was serious and that the incidents leading to the Applicant's conviction occurred over a 15-month period from July 2005 to October 2006.

[97] When considering the Applicant's misconduct, the Panel was required to accept the

⁶ *Law Society of Upper Canada v. James Maurice Melnick*, [2013 ONLSAP 27](#), ¶ 6

⁷ *K. R. v. Chartered Professional Accountants of Ontario*, [2022 ONCPA 4](#), ¶ 31

⁸ *Preyra, Re*, [2000 CanLII 14383 \(ON LST\)](#), p.6

⁹ *Re G.B., supra*, ¶19

findings of the Trial Judge, which were upheld by the Court of Appeal. With respect to the seriousness of the misconduct that was found by the Courts and the Tribunal, the Panel noted that the conduct involved a significant amount of money (over \$700,000) that was acquired from three Canadian lending institutions and a Canadian government program designed by Industry Canada to provide financial assistance to small businesses. This was not a “victimless crime” – the fine paid by the Applicant did not resolve the financial loss. Nor did it resolve the loss of trust by the banks or Industry Canada. Others paid for the illegal transactions that were conducted and facilitated by the Applicant.

[98] The Courts found that the Applicant’s actions were planned and premeditated. In particular, the Applicant prepared false invoices showing that the loans were required for the purchase of equipment that did not exist.

[99] The Panel found that it was significant that the Trial Judge, who had the benefit of reviewing all of the relevant loan and banking evidence (which was not before this Panel) found: “The Applicant’s more extensive participation in the offences required that he receive a somewhat longer conditional sentence than [MT].” This was directly contrary to the Applicant’s position that *he* was the dupe.

[100] While the Trial Judge found that the Applicant was not using his professional designation to commit misconduct, he was engaged in financial matters, including being a director of the two companies and having bank authorization to transfer funds. As the Tribunal noted, the public does not draw a distinction (between accountants engaging in quasi-criminal acts for their clients or for themselves) and neither should the profession. The Applicant’s designation as a CPA more likely than not provided comfort in the loan approval process to the financial institutions and Industry Canada.

[101] The Applicant relied in part on the lack of “personal gain” from the misconduct. While the Trial Judge noted that there was no evidence that the Applicant benefited from his misconduct, she did not need to find that there was a benefit to the Applicant to conclude that there was sufficient evidence beyond a reasonable doubt that the Applicant had violated the CSBFA. The Court of Appeal stated that the Applicant had put most of the funds beyond reach by transferring them out of the country to a third party. Furthermore, the Panel noted that the Applicant testified that he had a financial interest in the success of Company A and Company B, and he was involved with the two companies in the hope

of financial benefit in the future.

[102] The Applicant's counsel acknowledged that the Applicant's misconduct was serious but urged the Panel to consider this was an isolated event that was, as the Trial Judge found, out of character for the Applicant. PCC counsel disagreed with this characterization and argued that there were, in fact, a series of transactions.

[103] The Panel agreed with PCC counsel that there were a series of transactions that involved a number of ethical choices by the Applicant that could and should have been made by the Applicant. Even if the Applicant's version of events were accepted, the Applicant could have stopped after the first loan or the second loan and consequently would have mitigated the harm to financial institutions and Industry Canada. Instead, he continued to engage in a pattern of misconduct and his involvement was critical to the success of the fraudulent loan scheme. Furthermore, at no point from the time of the transactions (2005 to 2006) did the Applicant self-report; his misconduct was not discovered until four years later (2010), when he was charged.

[104] The Majority of the Panel concluded that the Applicant was involved in a pattern of misconduct over an extended period of time. This was not a momentary lapse in judgment, but rather an intentional scheme to acquire Industry Canada backed loans under false pretenses on three separate occasions.

[105] The Minority Panel Member agreed that this was very serious misconduct, but considered the misconduct to be more of a singular transaction that occurred many years ago.

ii. Whether the Applicant was Remorseful

[106] In paragraph 22 of the ASF and in his testimony, the Applicant accepted the fact of the Conviction and accepted that he was appropriately sentenced by the Court and that his membership was appropriately revoked. He also accepted responsibility for all circumstances that led to the Conviction.

[107] During his evidence, the Applicant conceded that he had transferred the funds deposited into Company A and Company B from unknown sources to MT and to unknown parties in Iran, some of whom were related to MT. He asked no questions. The Applicant admitted that this constituted a breach of his fiduciary responsibility and that he should

have been professionally skeptical in the circumstances of the transactions. He did not, however, admit that he had falsified invoices or made misrepresentations about the purpose of the small business loans. As this is what he was convicted of doing, the Applicant did not in fact agree with the findings of fact that led to his Conviction.

[108] The Panel appreciated that when considering the Applicant's remorse, it could not expect him to be remorseful for something that he said he did not do. As the Appeal Panel in *Zoraik v. Law Society of Ontario* noted (citing *Watt v. Law Society of Upper Canada*, 2005 CanLII 2111 ON SCDC):

Simple fairness and fundamental justice demand that the person who believes he is innocent though convicted should not be required to confess guilt to a criminal act he honestly believes he did not commit. For him, a rule requiring admission of guilt and repentance creates a cruel quandary: he may stand mute and lose his opportunity; or he may cast aside his hard-retained scruples and, paradoxically, commit what he regards as perjury to prove his worthiness to practice law.¹⁰

[109] The Panel considered the evidence of remorse respecting the Applicant's admitted actions or failure to act and the consequences of his role in the fraudulent scheme only. In particular, the Panel considered whether the Applicant demonstrated sufficient insight into how his characterization of a breach of fiduciary duty actually impacted on others. Without such insight, the Applicant's statements of regret for his failure to meet his responsibilities as Director and signing officer of the two companies would not reflect actual acceptance of responsibility and remorse.

[110] The Panel noted that when he appeared before the Tribunal in 2018, the Applicant did not appear to accept responsibility for any of his misconduct. He blamed his lawyers for the outcome before the Courts. The Tribunal was concerned that the Applicant took no responsibility for any of his poor choices.

[111] The entire Panel found that the Applicant's evidence was essentially that he should have been more careful and because of his failure to pay attention, he and his family had suffered as a result of his Conviction and his loss of his professional designations.

[112] Notable was the absence of any evidence from the Applicant about the impact of his

¹⁰ *Zoraik v. Law Society of Ontario*, [2019 ONLSTA 11](#) ¶ 23

admitted behaviours on the affected banks or Industry Canada loans program. Similarly, he did not show any insight into how his behaviour had actually impacted on the public's perspective on the accounting profession and the trustworthiness of CPA Ontario members.

[113] The Panel contrasted this with *Nguyen v. CPA Ontario*, where the Discipline Committee noted the sincerity with which the Applicant testified, demonstrating the shame and remorse that she felt. Her remorse was corroborated by two other witnesses.¹¹

[114] The Panel found that the Applicant's evidence did not reflect the gravity of his failure to exercise professional diligence in a series of financial transactions that would be expected of an accountant with his experience.

[115] None of the Applicant's witnesses at the hearing mentioned that he was remorseful. Although some of the Applicant's character witnesses wrote that he was remorseful, there were few if any details about what this meant and so this evidence was not helpful. It was unclear what, if anything, the Applicant was remorseful for or how he may have expressed that remorse.

iii. Rehabilitative Efforts

[116] PCC counsel conceded that in the period since revocation, the Applicant continued to engage with the community and successfully held employment, including in fields related to permitted accounting services.

[117] The Applicant also completed Continuing Professional Development (CPD) courses; however, these courses were a prerequisite for making this readmission application. Furthermore, CPD is a requirement for the entire membership of CPA Ontario under Regulation 7-2. This cannot be classified as a rehabilitative effort. This is simply the minimum required by all members of the profession.

[118] The Applicant also paid the fines awarded against him by the Court and the Tribunal. He testified that he did this when his health was failing and for religious reasons, he wanted to ensure that he had no debts before he died.

iv. Applicant's Conduct Since the Misconduct

¹¹ *Nguyen v. Chartered Professional Accountants of Ontario*, [2024 ONCPA 12](#), ¶ 64

[119] There was no indication the Applicant had reoffended since the misconduct took place in 2006. To the contrary, the evidence from the witnesses supported the conclusion that the Applicant has been placed in positions of trust by a number of clients and former colleagues.

v. *Passage of Time*

[120] Where an applicant is seeking readmission, the passage of time between the revocation of their membership and the time of the hearing must be considered. As stated in *G.B.* at paragraph [24], the passage of time in part indicates that the applicant has had a sufficient opportunity to reflect on their misconduct, to gain insight, and to sufficiently rehabilitate themselves. In addition, the passage of time can serve as a recognition of the seriousness of their misconduct. More serious misconduct may require greater amounts of time to demonstrate to a Panel, and satisfy the public, that the applicant's character is no longer defined by past misconduct.

[121] Applicants are permitted to reapply for membership no sooner than five years following the revocation of their membership. The Majority Panel Members found that although the Applicant was permitted to apply for readmission at this time, enough time had not passed since the Applicant was revoked in 2018 given the seriousness of his misconduct and his poor insight.

[122] The Minority Panel Member found that more than enough time had passed since the events in question and the hearing for the Applicant to demonstrate his rehabilitation.

V. DISSENTING MEMBER'S REASONS FOR DECISION

[123] One member of the Panel, Mr. Baek (the "Dissenting Panel Member"), dissented from the majority's conclusion that the Applicant was not of good character and found that the Applicant was of good character as of the day of the hearing. He found that there was no evidence that the Applicant had engaged in any misconduct since his involvement in the fraudulent scheme nearly 20 years ago (in 2005/2006). The Dissenting Panel Member believed that this passage of time was sufficient to support the finding of good character.

[124] While agreeing with the majority that the Applicant had not fully demonstrated remorse for the acknowledged misconduct, the Dissenting Panel Member emphasized that the

Applicant's actions over the past two decades reflected significant rehabilitation. Prioritizing actions over words, the Dissenting Panel Member highlighted that the Applicant's consistent behavior demonstrated considerable efforts to rebuild his character. This conclusion was bolstered by 14 letters from individuals attesting to the Applicant's good character, active community involvement, and engagement in charitable work. Among these supporters, three testified as witnesses at the hearing - two successful businessmen and one accountant.

[125] The Dissenting Panel Member acknowledged the gravity of the financial fraud found by the Court but noted the Trial Judge's comment that there was no evidence that the Applicant personally benefited from the misconduct. The Dissenting Panel Member was sympathetic to the evidence given by the Applicant about the situation in which he found himself in 2005/2006.

[126] Finally, the Dissenting Panel Member found that the Applicant took responsibility for his actions by paying the court-ordered fine of \$495,000, which he achieved by selling his daughter's condominium. Considering these circumstances, the Dissenting Panel Member concluded that the Applicant deserved a second chance to work and contribute as an accountant.

VI. ORDER

[127] The Applicant's motion for reconsideration is dismissed.

DATED this 25th day of February, 2025



Bernard S. Schwartz, FCPA, FCA
Discipline Committee – Chair

Members of the Panel

Incheol (Charlie) Baek, CPA, CMA (Dissenting)
Barbara Ramsay, Public Representative
John Wilkinson, Public Representative

Independent Legal Counsel

Susan Heakes, Barrister & Solicitor