

2020 LSBC 15
Decision issued: March 5, 2020
Hearing ordered: June 5, 2019

THE LAW SOCIETY OF BRITISH COLUMBIA

In the matter of the *Legal Profession Act*, SBC 1998, c. 9

and a hearing concerning

APPLICANT 15

APPLICANT

**DECISION OF THE HEARING PANEL
ON APPLICATION FOR ENROLMENT**

**THIS DECISION HAS BEEN REDACTED BEFORE PUBLICATION
TO COMPLY WITH LAW SOCIETY RULE 2-104**

Hearing dates: February 19 and 20, 2020

Panel: Christopher A. McPherson, QC, Chair
Nan Bennett, Public representative
Kimberly Henders Miller, Lawyer

Counsel for the Law Society: Michael Shirreff
Counsel for the Applicant: Craig Jones, QC

OVERVIEW

- [1] This hearing involves the application by the Applicant for enrolment as an articled student into the Law Society Admission Program (“LSAP”). He applied for enrolment as a Temporary Articled Student on February 19, 2019. The Credentials Committee reviewed the application for enrolment and on June 5, 2019 ordered a hearing pursuant to section 19(2)(c) of the *Legal Profession Act* (the “Act”) and Rule 2-56(3)(c) of the *Law Society Rules* (the “Rules”). The Applicant will shortly be applying for enrolment as an Articled Student.

- [2] The circumstances to be inquired into at this hearing relate to the Applicant's significant criminal history and numerous driving offences and occurrences.
- [3] Section 19(1) of the Act requires that no person may be enrolled as an articulated student unless that person is "of good character and repute" at the time of this hearing.¹ The onus is on the Applicant.²
- [4] Pursuant to section 22(3) of the Act and Rule 2-101(3) of the Rules, this Panel must either grant the application (possibly subject to conditions) or reject the application.
- [5] The quality of "good character" encompasses an appreciation of the difference between right and wrong, the moral fibre to do what is right, the belief that the law must be upheld, and the courage to see that it is upheld.³
- [6] To be enrolled as an articulated student, the Applicant must show that he meets the special standards of honesty, integrity and trustworthiness required of a lawyer. He must also show that he possesses attributes from which a forecast of *future* honesty and integrity can be made.⁴
- [7] The question of whether a person is of "good repute" is to be answered from the perspective of a decent, honest person, knowing as much about an applicant as the panel before whom he or she is appearing.⁵
- [8] The existence of a criminal record, even for serious offences, is not a bar to enrolment. The issue is whether, even with his history of serious criminality, the Applicant, *today*, is a person of good character and repute and fit to become a lawyer in B.C. In other words, the question to be answered is whether he has sufficiently rehabilitated himself such that he now meets the criteria laid out in the Act.⁶
- [9] The application was heard on February 19 and 20, 2020.
- [10] At the conclusion of the hearing, the Panel unanimously concluded that the Applicant now satisfies the requirements of section 19(1) of the Act and can be enrolled as an articulated student. The Panel's order to grant the application under section 22 of the Act was made with reasons to follow.

¹ The section reads: 19(1) No person may be enrolled as an articulated student ... unless the benchers are satisfied that the person is of good character and repute and is fit to become a barrister and a solicitor of the Supreme Court.

² *Law Society of BC v. McQuat*, 2001 BCCA 104, paragraph 6; *Law Society Rules* 2-100(1)

³ "What is Good Character," Mary Southin, QC, *The Advocate* (1977), v. 35, p. 129

⁴ *In the matter of DM and the Law Society of BC*, Panel Decision, June 14, 1994

⁵ "What is Good Character," above, p. 130

⁶ *Law Society of BC v. De Jong*, 2017 LSBC 44, paragraph 118

[11] These are the Panel's reasons.

BACKGROUND FACTS

- [12] At the outset of the hearing, the parties entered into evidence as Exhibit 1, a Common Book of Documents, consisting of 49 tabs, which sets out the Applicant's application for enrolment for temporary articles, his communications with the Law Society regarding his application, his criminal history, his court history, his driving offence history, redacted records from the police, his academic records, and reference letters. The Panel also had the benefit of oral testimony from the Applicant, his sister, GH, his cousin, IJ, and a former employer, EF. For the most part, the facts are not in dispute.
- [13] The Applicant was born in British Columbia and grew up in the Lower Mainland area. He was raised in a loving and supportive family with his two sisters, parents and extended family. His sisters have been very successful academically and now professionally.
- [14] From an early age, his family stressed the importance of the values of integrity, honesty and hard work. The Applicant initially went to a private school then moved to a public secondary school after Grade 8.
- [15] It is apparent that, while the Applicant experienced some behavioural difficulties prior to leaving the private school, his behaviour became much more troubling once he entered secondary school. It is clear that, during secondary school, the Applicant began to associate more and more with peers who did not exhibit the values that the Applicant's family tried to instill in him.
- [16] The Applicant became rebellious, began drinking alcohol by the age of 13 and started behaving in an anti-social manner. At the age of 14, he was located by police in a park with a BB gun and later found by police in an unoccupied house with friends drinking and smoking marihuana.
- [17] Despite his behaviour, the Applicant did fairly well at high school, graduating in 2009. He entered the University of British Columbia ("UBC") in autumn, 2009. He withdrew from UBC in early 2010 due to his incarceration beginning in January 2010 as described below.
- [18] He returned to UBC in autumn, 2010 but did poorly and did not enjoy his studies. By 2011, he switched to another discipline, in which he did quite well.

- [19] The Applicant was admitted into law school, starting in September 2017. He is expected to graduate with his *Juris Doctor* in May 2020.
- [20] The Applicant received an offer for summer articles from a firm in Vancouver in 2019 that led to his application for enrolment in temporary articles and subsequently this hearing. While he was able to take two weeks training at the firm, he was unable to continue with summer articles because the Credentials Committee ordered this hearing.
- [21] The Applicant has received an offer for articles at a different Vancouver firm. He is due to begin in May 2020.

CRIMINAL AND OTHER ILLEGAL BEHAVIOUR

- [22] Over the course of several years, the Applicant acquired an unenviable driving history, including numerous moving offences, 24-hour prohibitions and prohibitions imposed both by the Superintendent of Motor Vehicles and the Courts.
- [23] The pattern that clearly emerges from his driving history is that the Applicant cared very little about the rules surrounding driving. During his evidence, the Applicant described himself as believing at the time that he had the “right” to drive, as opposed to having a “privilege” to do so.
- [24] The Applicant’s general disregard for the law continued, leading to a series of events between November 2009 and January 2010.
- [25] In November 2009, the Applicant was involved in an altercation involving himself, a male friend and the Applicant’s girlfriend, AB. It is clear that all persons involved were intoxicated. AB intervened in a fight between the two men. During the altercation, the Applicant struck AB, causing her to fall to the ground. He was charged with assault and released with numerous conditions, including no contact or communication with AB.
- [26] It is the Applicant’s behaviour after his release on the charge of assault that causes the most concern to the Panel.
- [27] The Applicant repeatedly contacted AB, who was still a youth. He went to her place of work on at least two occasions. He gained access to her email and Facebook accounts, and changed her passwords. He threatened to cause damage to her home. In January 2010, he uttered a threat to AB to cause death or bodily harm to CD, a young man whom the Applicant believed was seeing AB.

- [28] It seems that, soon after, the Applicant apologized to AB.
- [29] As a result of his conduct, the Applicant was charged with uttering threats to cause damage to property, criminal harassment, attempting to obstruct, pervert, or defeat the course of justice (three different counts representing various means of obstruction, namely threats, concealing the passwords, and repeatedly communicating with AB), and uttering threats to AB to cause death or bodily harm to CD.
- [30] As a result of the new charges, the Applicant was arrested and remained in custody. During his time in custody awaiting trial, the court ordered that a psychological assessment be prepared. The Panel was not provided with detailed information about the results of this assessment.
- [31] In February 2010, the Applicant, in accordance with a plea arrangement, entered guilty pleas and was sentenced as follows:
- (a) assault on AB, for which he received a sentence of 30 day consecutive to any other sentence, plus two years' probation;
 - (b) breach of the no contact order with AB, for which he received a sentence of 30 days consecutive to any other sentence, plus two years' probation;
 - (c) criminal harassment, relating to accessing the email and Facebook accounts of AB and going to her place of work, for which he received a sentence of 49 days (after being credited for 71 days in custody) consecutive to any other sentence, plus two years' probation; and
 - (d) uttering threats to AB to cause death or bodily harm to CD, for which he received a sentence of 49 days (after being credited for 71 days in custody) concurrent to the sentence for criminal harassment, plus two years' probation.
- [32] As part of the plea arrangement, the prosecution entered stays of proceedings on all other outstanding charges.
- [33] The probation order referred to above included, among other terms, the following conditions, which ordered the Applicant to:
- (a) have no contact or communication with AB or CD;
 - (b) not consume or possess any alcohol or non-prescribed drugs;

- (c) participate in counselling as directed, including for anger management and substance abuse;
- (d) attend for outpatient counselling as arranged by the probation officer; and
- (e) take steps to maintain himself so that his condition of adjustment disorder, depression and obsessional behaviour will not likely cause him to act in a dangerous manner, and attend for treatment for such conditions at the direction of the probation officer.

- [34] The Applicant took anger management and substance abuse counselling while incarcerated.
- [35] The probation officer apparently did not direct any further counselling or treatment after the Applicant's release from jail. The Applicant has never engaged in any counselling or treatment on his own.
- [36] The Applicant did not abide by his probation order. He repeatedly contacted AB (although he testified that the contact was at times instigated by AB). He was charged with possessing and consuming drugs in January 2011, and contacting AB in June 2011. He pleaded guilty to the former in July 2011, at which time the prosecution stayed the charge of contacting AB. The probation order was varied as well, removing the condition not to contact AB.
- [37] The Applicant's last conviction was for driving while prohibited in February 2011. He entered a guilty plea in March 2012 and received a one-year driving prohibition and a fine of \$800.

ISSUES

- [38] The issue is whether the Applicant, at the time of this hearing, is fit to be a lawyer in order to be enrolled as an articled student. It is beyond question that he would not have been fit during his years-long period of criminal behaviour and general disregard for the law to at least 2012.
- [39] In large part, the determination depends on whether the Panel is satisfied that the Applicant has appropriately addressed the issues that arise from his disreputable conduct as a younger man. As part of this determination, it is necessary for the Panel to consider all the evidence at this hearing, including assessing the credibility of the Applicant and the other witnesses that testified.

EVIDENCE

Letters of reference

- [40] The Panel reviewed the nine letters in support of the Applicant from the following people:
- (a) EF, a former employer of the Applicant, who gave evidence at this hearing;
 - (b) GH one of the older sisters of the Applicant, who gave evidence at this hearing;
 - (c) IJ, a lawyer and relative of the Applicant, who gave evidence at this hearing;
 - (d) KL, a lawyer who taught the Applicant at law school;
 - (e) MN, a professor who taught the Applicant at law school;
 - (f) OP, who supervised the Applicant in the Criminal Project of Student Legal Services in Edmonton at UA;
 - (g) a lawyer and friend of the Applicant;
 - (h) QR, a teacher and older sister of the Applicant; and
 - (i) a lawyer and relative by marriage of the Applicant.
- [41] Overall, the letters express support for the Applicant and most set out the writers' opinions regarding the Applicant's character and integrity. The Panel considers the letters from KL, MN and OP to be of somewhat limited assistance. While these letters speak of his abilities, integrity, and professionalism, none refer to the criminal history of the Applicant. While these three letters are helpful to some degree in assessing the Applicant's character in the recent past, they do not directly deal with the differences between his character today and his character during his period of criminality and disregard for the law.
- [42] The remaining six letters are from people, some of whom are relatives of the Applicant, who knew the Applicant both during his period of behavioural and legal difficulties and today. They give the Panel insight into how the Applicant has changed over the years. While the Panel is mindful of the potential bias of some of the authors of the letters, we find that they demonstrate that the Applicant is a

person who has rehabilitated himself and addressed many of the issues concerning his character as a younger man.

Other documentary evidence

- [43] In addition to the documentary evidence outlining the criminal and driving offence history of the Applicant and the letters of support discussed above, the Panel reviewed his Application for Temporary Articles, his communications with the Law Society, and his academic transcripts.
- [44] The Application for Temporary Articles and the communications with the Law Society regarding the Application show that the Applicant disclosed his criminal and driving offence history and took steps to obtain relevant documentation. While the Panel would have preferred to have had the advantage of transcripts from at least some of the more significant sentencing proceedings, we are satisfied that the documents, together with the oral evidence of the Applicant, sufficiently set out the circumstances of the various offences.
- [45] The transcripts from UBC show considerable academic difficulties (including several withdrawals from courses) from 2009 through to summer 2011. The transcripts corroborate the documentary and oral evidence to the effect that the Applicant was still experiencing issues with criminality, lack of respect for the law, and low self-esteem during this period. However, the transcripts show much improvement from fall 2011 through to 2015. Here, the transcripts corroborate the documentary and oral evidence to the effect that the Applicant was making significant changes in his life during this period.
- [46] The transcripts from law school show above average marks and are consistent with the other evidence that the Applicant had put at least some of his previous difficulties aside and was now applying himself to his studies and future career.

Evidence of GH

- [47] GH is one of the older sisters of the Applicant. She impressed the Panel as a very accomplished, forthright and caring person. She is a physician, a recent graduate from a general surgery residency program at UBC, and is currently undertaking her fellowship in a hospital in the United States.
- [48] GH described the close-knit, extended family in which the Applicant grew up. She testified that the Applicant was always a bright child to whom both academic and athletic accomplishments came easily. She noticed a distinct change in her younger brother's behaviour in about grade 8, particularly when he went to a public

secondary school. She observed that the Applicant became steadily more distant from his family, regularly broke the rules, started consuming alcohol and cannabis, and generally grew ever more rebellious. She described an angry teenager who his parents found almost impossible to control. He would often, even as a young teenager, stay out all night and not tell his family where he had been. She testified that the Applicant spent more and more time with his friends and less and less time with his family. As she described it, the family often gave the Applicant a “pass,” possibly because he was the only son in the family and even through this period was able to maintain a good academic standing.

- [49] GH tried to talk to the Applicant about his behaviour and the deleterious effects it had on both him and his family. Sadly, her brother did not seem to want to listen to her, their sister, their parents or other relatives. She eloquently conveyed the feelings of desperation and frustration that the family felt about the Applicant’s conduct and its dismay at seemingly being unable to do anything about it.
- [50] GH was in regular communication with her mother and returned home on weekends, where she personally observed the continuing misconduct of the Applicant. She testified that her brother was often angry and “emotionally unregulated” and apparently only thought about himself and what was occurring in the moment.
- [51] The assault on AB in November 2009, took GH by complete surprise. She knew that AB and the Applicant were seeing each other, and had met AB on several occasions. GH did not discuss the subsequent actions of the Applicant concerning harassing AB, accessing the email and Facebook accounts of AB, or the uttering threats to cause harm to CD in any detail. Any information she received was second or third hand. She did, however, know that the Applicant was sent to jail in early 2010.
- [52] GH frequently visited her brother while he was incarcerated.
- [53] After his release, GH and the Applicant spent quite a bit of time together. They lived together for two years. She described lengthy conversations with her brother and noticed a gradual realization on his part that he was not above the law and that his actions had hurt both himself and his family.
- [54] She also noticed that the Applicant seemed very unhappy pursuing studies at first and was much happier once he switched to another discipline.
- [55] Of significance to the Panel, GH related how, over the years, the Applicant became far less angry, far more responsible, and far more attentive to others. She described

how he was now a “great” uncle to the two young children of their other sister and, revealingly, said that she and her sister came to trust him around the children, something they would not have done with the “old” brother. She described seemingly minor acts of kindness and respect, which was a marked contrast from the way the Applicant behaved when he was younger.

- [56] The Panel is cognizant of the potential for bias in favour of the Applicant given the familial relationship, but it is satisfied that GH objectively described the misconduct of the Applicant without exaggeration or minimization. The Panel is of the view that she impartially testified about the significant improvements in the character of the Applicant over the years.

Testimony of IJ

- [57] IJ is a cousin of the Applicant. Much like GH, she presented as an accomplished person and an objective witness. She grew up as part of the same extended family as the Applicant and GH. IJ was very close to GH. She is a lawyer, being called to the bar of BC.
- [58] IJ first became aware of issues with his behaviour when he was a young teenager. She knew that he was experimenting with, and eventually abusing, alcohol. She also was aware of his difficulties with driving offences.
- [59] She personally noticed the Applicant drinking to excess at family events, and that he seemed angry and aggressive, especially when drinking. She recalled that the Applicant was always headstrong, even as a child but, as he got older and started drinking more and more, he became loud and abrasive, often swearing and acting in a belligerent fashion.
- [60] She was aware of his criminal behaviour, as was everyone in the extended family. Her own brother was similarly involved in criminality.
- [61] She testified about the effect on the family and talked about how the Applicant’s “values” did not align with the ones the whole family had been brought up to believe in. His behaviour was disappointing to the entire extended family, who found it very stressful and burdensome.
- [62] While IJ spent several years abroad studying, she regularly returned home. Gradually, from her observations, after his release from jail, the Applicant showed improvement. By the time that IJ came back permanently to BC in 2013, the Applicant continued to progress. By 2015 he was noticeably less angry, their interactions were more mature, and it appeared to IJ that he had turned a corner.

- [63] She discussed law school with the Applicant and gave him the benefit of her experience. She encouraged him to apply. Today, she sees a very different person than in years past. She described the Applicant as caring, thoughtful and more respected within the family and the community.
- [64] Some of the most helpful evidence was IJ describing her own brother and his difficulties with the law and addictions. She testified about how the Applicant has been reaching out to her brother, trying to help him, partly by using himself as an example of how to change. IJ is of the view that the Applicant continues to be a positive role model for her brother.
- [65] IJ is acutely aware of the high demands on lawyers and that the profession requires respect for the rule of law and complete honesty. She is confident that the Applicant now has the required character and repute to become a member of the legal profession.

Testimony of EF

- [66] EF testified by telephone while she was on vacation out of the country. She was the supervisor of the Applicant when he worked for UBC. The Panel afforded her evidence a great deal of weight, as she is independent from the Applicant and there was no question of bias or partiality.
- [67] The Applicant began working for her in September 2010, not long after he had been released from jail. At the time she was unaware of his criminal history.
- [68] The Applicant worked for EF until 2017, when he went to law school.
- [69] EF spoke in glowing terms about the Applicant. He always responded quickly, dealt with issues as they arose and seemed capable of handling anything that came his way. She trusted him completely and had nothing but praise for his decision making and the way he related to others, even to people who might be angry and upset. Part of the Applicant's job was conflict resolution, and EF told the Panel that the Applicant never raised his voice or over-reacted. He always prepared his weekly reports and was a very responsible employee. EF never had any disciplinary concerns.
- [70] While she did not socialize a great deal with the Applicant, on those occasions when the team went out for dinner or drinks together he always acted in an appropriate manner.

- [71] To her mind, his reputation was extremely good, and she was sorry to see him leave, although she understood his desire to go to law school.
- [72] EF told the Panel that she found out about the significant criminality of the Applicant in late 2019, when he asked to meet with her. She reviewed a list of charges that the Applicant had faced and discussed them with him. She described it as a “difficult” conversation. She candidly admitted that, after leaving the meeting, she had to think carefully about the Applicant as a person. After reflection, she opined that, in the time she has known him, the Applicant is, “not the person he used to be.”
- [73] In the result, she is of the view that today the Applicant possesses excellent character and repute and supports him fully.

The Applicant

Background

- [74] The Applicant described himself up until the age of thirteen as a “happy” kid living within a loving, extended family along with his parents, grandparents, siblings and cousins. He was an energetic and “rambunctious” child who regularly got into “mischief” with his cousin.
- [75] He was educated at a private school near to where he lived until Grade 8, after which he went to a public secondary school. He always did well at school and in sports. Looking back, he said that he was emotional, impatient, easily distracted and perhaps lacked discipline.

Criminal and other discreditable behaviour

- [76] While his sister discussed how things changed once he entered public school, the Applicant told the Panel that he believed that the issues began before that. Towards the latter part of his education in the private school, he stopped enjoying it. He met new friends and started to experiment with alcohol. He also began to break rules and paid less attention to his family.
- [77] This process accelerated after he entered public school. He testified about leaving behind his old friends and spending time with new ones, who were less law-abiding and less likely to follow rules. Over time, he became more and more involved with peers who led this anti-social lifestyle. He testified that he became rebellious, ignored rules, missed curfews, did not listen to his family, did not like authority, and began to skip classes.

- [78] He provided examples of his increasingly anti-social behaviour, such as an incident where he and some friends were drinking in an abandoned house and one involving a BB gun that looked like a rifle.
- [79] A series of significant criminal behaviour took place in late 2009 and early 2010. The version of the events described by the Applicant at this hearing again struck the Panel as slightly less severe than what can be gleaned from the police documents. The Applicant described the assault on AB as approaching accidental. While he admitted that he accessed her email and Facebook accounts and changed the passwords, he denied telling AB that he would only give her the passwords if she did not testify against him. Again, the Panel notes that the three charges involving obstruction of justice were stayed by the prosecution, that the police reports indicate that the Applicant apologized to AB the day after he accessed her accounts, and that the sentence, while significant, was not particularly lengthy. Again, the Panel is prepared to accept the Applicant's description of the events as accurate to the best of his memory.
- [80] The Applicant also testified at some length about his driving history. Once more, there is some indication that the Applicant has minimized his culpability to some degree.
- [81] Despite some lingering concern by the Panel that he may have minimized some of his past conduct, the Panel is satisfied that the Applicant has been forthright and thorough in disclosing his admittedly disreputable past.

Change in behaviour

- [82] The Applicant testified that, while he knew at some level that his ongoing behaviour was wrong, he continued to act in a manner inconsistent with the values his family tried to instill in him. The Applicant told the Panel that he continued to think that the world revolved around him. He described himself as impulsive, selfish and angry all the time.
- [83] The realization that he had to change his behaviour came slowly over time, beginning with his time on remand and his jail sentence in 2010. He described how scary it was for him, just turning 19, to be at the Pre-trial Centre with older inmates, many of whom were charged with very serious offences. He related one incident when another inmate threatened to "shank" him.
- [84] After he was sentenced, he was transferred to the Fraser Regional Correctional Centre, so was no longer housed with inmates charged with the most serious

offences. While there he took anger management and substance abuse counselling, which he described as “somewhat” helpful.

- [85] Over the years, he gradually cut himself off from peers who were still involved in anti-social and criminal behaviour. He went to university and moved away. For a time, he lived with his sister, GH. He took on employment at UBC, as discussed above. He and AB ended their relationship. Sometime later, he started a different relationship, which ended amicably after the Applicant was accepted to law school.
- [86] He told the Panel that he began to think seriously about law school in 2012, and was certain he wanted to go by 2013. He took the LSAT three times, the last in December 2016. He applied to various schools and was accepted by two. He is expected to graduate in May 2020.
- [87] The Applicant has had no troubles with the law for many years.

Acknowledgement of harm done

- [88] The Applicant accepts that his behaviour over the years caused untold hardship and stress to his family, and he is truly remorseful for it. In particular, he testified about how he hurt his mother, who supported him for so long, and realizes how difficult it was for her.
- [89] He discussed the environment that led to his misconduct. Without making excuses, he described the pressure from his peers, his overall anti-social approach to life, his view at the time that the world was only about him, and his lack of real goals or vision for the future.
- [90] The Applicant sees now that, if he had continued down the same path, he would have ended up in jail for a lengthy time or perhaps dead. He spoke of his friends from that time: some are facing very serious charges; some are still in the throes of substance abuse. He has tried to help some of his friends and relatives, including his cousin, the brother of IJ, who is still struggling. He related the story of another cousin, whom he tried to talk out of continuing in the criminal lifestyle. That cousin was shot.
- [91] The Applicant acknowledged that he could have very easily ended up the same way.
- [92] In short, the Applicant testified that he is not proud of who he was, but is proud of who he is today. He stressed that he could not have accomplished what he did

without the unwavering support of his family. He also pointed out that the process of rehabilitation for him is still ongoing.

LAW

- [93] As referred to above, the governing legislation is section 19 of the Act.
- [94] When considering section 19 the Panel must bear in mind section 3 of the Act, which says that the “object and duty” of the Law Society of BC is to uphold and protect the public interest by, among other things, “ensuring the ... integrity, honour and competence of lawyers.”⁷
- [95] The concepts of “good character and repute” contain both objective and subjective components. Objectively speaking, “character” refers to a person’s personality, principles and beliefs. Subjectively speaking, “repute” refers to the regard with which a person is held by others.⁸
- [96] In assessing whether an applicant possesses the requisite good character, repute and fitness at the time of the hearing, the Panel should consider whether, at the hearing, the applicant fully and frankly disclosed the circumstances surrounding the impugned conduct. The candour required is greater than that expected in “ordinary commercial intercourse.” The standards of “honesty” and “integrity” are higher for a person wishing to be a barrister and solicitor.⁹
- [97] It is not necessary that an applicant has displayed “unwavering honesty ... and abstention from lies, dissembling or other forms of deception at all times.” The standard is not one of perfection.¹⁰
- [98] The applicant is not required to demonstrate character and repute with certainty. Nor does one isolated act or a series of acts necessarily define the essential nature of a person. The question is whether the applicant has shown that he or she has taken steps toward rehabilitation. The panel must seek to strike a balance between protecting the public and the concept of redemption.¹¹ The applicant must establish more than simply being remorseful for past conduct, he or she must establish “genuine and enduring rehabilitation.”¹²

⁷ *Legal Profession Act*, section 3(b)

⁸ *Law Society of BC v. McOuat*, Panel Decision, June 12, 1992, p. 11

⁹ *DM and the Law Society of BC*, p. 7

¹⁰ *Law Society of BC v. Buttar*, 2009 LSBC 14, paragraph 37

¹¹ *Law Society of BC v. Applicant 3*, 2010 LSBC 23

¹² *Law Society of BC v. Gayman*, 2012 LSBC 30

[99] Even though a person has a criminal record for serious offences, he or she may still be enrolled as an articulated student, if it is established that “the applicant has changed since the time of those charges and is now of good character.”¹³ While it cannot be doubted that a history of criminality is of concern to the Law Society, in and of itself that history does not determine whether an applicant is entitled to be enrolled as an articulated student. This Panel is concerned with whether the Applicant is of good character now. Such an approach permits “space for self-transformation over time.”¹⁴

[100] Further, it is well established that the legal profession can benefit from having members with a multitude of backgrounds and experiences, including, depending on the circumstances, applicants who have faced challenges with the law and substance abuse.¹⁵

[101] It has often been stated that a panel such as this one is not in the “forgiveness business.” It is not about giving the applicant a “second chance.”¹⁶ What a credentials hearing is about is the applicant’s character and repute today. Our law, and our society, has long since accepted the importance of rehabilitation and redemption. It is not a matter, as is sometimes said, of an applicant being a “different” person now. The applicant is the same person, but a finding concerning his or her character today is informed by an analysis of past conduct, and how the applicant has addressed that conduct, in order to determine if she or he is now fit to be enrolled as an articulated student, even though he or she patently would not have been at an earlier period of time.

POSITION OF THE PARTIES

The Law Society

[102] In submissions, the Law Society did not argue that this Panel ought not to allow the application. The Law Society was tasked with assisting the tribunal by testing the evidence to provide a fulsome record. Counsel reminded the Panel that not every applicant comes to a hearing with a position as an articulated student in place. While evidence of a potential principal who is aware of the criminality of an applicant is helpful, it is not required.

¹³ *Law Society of Upper Canada v. Schuchert*, [2001] LSDD No. 63, paragraph 19

¹⁴ *Law Society of BC v. Sanandaji*, 2017 LSBC 20

¹⁵ *Law Society of BC v. Mangat*, 2013 LSBC 20, paragraph 17

¹⁶ *Schuchert*, paragraph 20

[103] Counsel for the Law Society said that EF comes as close as one can get to the sort of evidence a proposed principal could give. She was an independent witness who supervised the Applicant in a stressful position that imposed significant duties on the Applicant. Even knowing now the criminal history of the Applicant, she is of the view that he possesses integrity, judgment and good character.

[104] The Law Society pointed out that the Applicant is not required to go “above and beyond” merely showing that he has rehabilitated himself, as long as the evidence satisfies the Panel that the Applicant possesses the good character and repute necessary to be enrolled as an articled student.

[105] The Law Society submitted that the Panel should exercise a degree of caution in considering the weight to be given to the evidence of family members, but says that no such concerns are applicable to EF.

[106] Finally, the Law Society stressed that the overarching concern is the public interest in the administration of justice. This Panel must determine if the character and repute of the Applicant today is such that the public interest would be served by permitting him to be enrolled as an articled student.

The Applicant

[107] Through his counsel, the Applicant urged the Panel to accept that, even with his admittedly serious criminal and driving offence history, he has rehabilitated and redeemed himself so that his character and repute is such that he is now fit to be enrolled as an articled student.

[108] As a general concept, the Applicant submitted that, in the context of this application, the decision of the Panel must reflect the expectations of both the profession and the public. The Panel should consider, not only whether the Applicant has all of the attributes of good character, but whether he has other attributes from which the Panel can project future integrity.

[109] The Applicant described the concepts of good character as an amalgam of various traits such as integrity, candour, empathy and honesty.¹⁷ He submitted that the evidence has provided the Panel with “comfort” and “confidence” that the Applicant has established “genuine and enduring rehabilitation.”¹⁸ The Applicant submits that he has shown far more than a mere *mea culpa*.

¹⁷ *Schuchert*, paragraph 17

¹⁸ *Gayman*, page 7

[110] The Applicant isolated three categories which should cause a hearing panel concern:

- (a) general criminality of the applicant;
- (b) whether the crimes are of dishonesty; and
- (c) whether there has been a pattern of disrespect for authority, the courts and the rule of law.

[111] The Applicant said that the last category is front and centre here.

[112] However, the Applicant submitted that “there are no depths from which a person cannot redeem oneself” and referred the Panel to a number of cases where applicants had a more significant criminal history.¹⁹

[113] The Applicant reminded the Panel that, in making its determination, it is never a matter of parsing the details of previous cases. Each case is unique, and the decision is highly discretionary. Enrolment is not the default, and the burden always lies upon the Applicant.

[114] The Applicant submitted that a person cannot “talk” his way out of significance of his past conduct; he must “behave” his way out. The Applicant submitted that the evidence shows that he has done so.

[115] While the Applicant agreed that the Panel must treat the evidence of family members with some caution, he submitted that their evidence cannot be “brushed aside” and the Panel should not doubt the sincerity of GH and IJ. He said that their evidence showed their keen and balanced observations of the Applicant and how his character and repute has changed over the years.

[116] The Applicant pointed out that the evidence from family members and the Applicant himself, aligns very well with the evidence of EF, a compelling, impartial witness who had the advantage of observing the Applicant over many years in a difficult job.

[117] The Applicant submitted that the evidence shows that there was no one identifiable “moment” when he began to change his life. There was no epiphany. Instead, he has arranged the course of his life in such a way that he has gradually moved away

¹⁹ See: *Gayman; Law Society of BC v. Mangat*, 2013 LSBC 20; *Law Society of BC v. Gallant*, 2017 LSBC 21; and *Law Society of BC v. De Jong*, 2017 LSBC 44

from the way in which he once chose to live. It has been a sustained effort over many years, and he now possesses the requisite good character and repute.

[118] In sum, the Applicant submits that he is now a “good” man and may well develop into a great lawyer, in part because of his checkered past.

ANALYSIS AND DISCUSSION

Assessment of witnesses

[119] The Panel has some concerns about whether the Applicant minimized some of his criminal behaviour in order to present his actions as less serious and of lower culpability. However, for the reasons expressed above, the Panel has concluded that the Applicant was honest and forthright in his description of the relevant events to the best of his recollection. These events took place many years ago, and for many of them, the Applicant was heavily intoxicated. We also note that his behaviour and recollections are consistent with the descriptions of his attitude towards life, authority, and the law as demonstrated by the evidence of GH, IJ and the Applicant himself.

[120] While the Applicant was a careful and thoughtful witness who took his time to answer certain of the questions put to him, we find that he was forthright and complete in his answers. We do not find any basis to conclude that the Applicant was not honest in his testimony.

[121] We also conclude that GH and IJ were sincere and forthcoming about their relationship with the Applicant and accurately described the gradual change in his character over the years. The Panel was impressed by their objective and balanced evidence.

[122] Finally, we found the evidence of EF especially helpful. Her impartial and thoughtful evidence assisted the Panel a great deal in its deliberations.

The changes in the Applicant’s character and repute

[123] The issue at the heart of the Panel’s deliberations, in light the Applicant’s significant criminal past, particularly his history of disobeying court orders and actions that potentially interfered with the course of justice, is whether today he is of good character and repute and fit to become a barrister and a solicitor of the Supreme Court.

[124] We accept the evidence of GH and IJ about their observations of the Applicant over the course of three decades. They observed a happy, intelligent, rambunctious, if somewhat headstrong, child for whom both academics and sports came easily. Importantly, they also watched that child grow into a teenager who became ever more rebellious, self-centred and angry. While they attribute some of the deterioration in his behaviour to moving from a private to a public school, the Panel concludes that, while that was significant, there were other factors at play.

[125] The Panel found their evidence about the deleterious effects on their extended, loving, family compelling. It is clear to the Panel that the Applicant's family did what they thought was best in trying to steer the Applicant down a better, more productive path, instead of the one he chose. GH in particular described how she tried to "talk" to the Applicant without results. She felt that the Applicant regularly said the "right" things, but took no concrete actions. In retrospect, she now wonders if "telling" the Applicant to behave in a certain way actually led to even poorer behaviour.

[126] More significant to the Panel's determination is the evidence of both GH and IJ about the gradual change in the Applicant's behaviour and his character since his last conviction nearly ten years ago. We fully accept their evidence that the Applicant has drastically changed both his outlook and his conduct. They both testified that he is far less angry, more mature, more empathetic, more caring about others, and more responsible than he once was.

[127] We found their evidence about how they now trust him with young relatives persuasive. Equally important are their descriptions about how the Applicant has reached out to other relatives who are still mired in a life of substance abuse and criminality, hoping to use his experience to assist others. The Panel is of the view that these actions will redound to his benefit, as well as to that of the profession and to the public.

[128] People change. They grow. They develop. To do so requires strength of will, a commitment to do better, and an acknowledgment that one's past conduct fell short. We conclude that the Applicant has demonstrated through his conduct, his behaviour and his attitude towards authority and the law that he has changed over the years.

RESULT

[129] We find that the Applicant has discharged the onus upon him and satisfied us that he is of good character and repute and fit to become a barrister and a solicitor of the

Supreme Court. Accordingly, we find he can be enrolled as an articulated student in British Columbia.

[130] The Panel makes no order concerning costs at this time. If that issue is not settled between the parties, the Panel will determine costs based upon written submissions of the parties, to be exchanged in advance and delivered by both parties within 30 days of the delivery of this decision.

[131] The Panel wishes to thank counsel for their submissions and conduct of this hearing.