

The Law Society of British Columbia
In the matter of the *Legal Profession Act*, SBC 1998, c.9
and a hearing concerning

Arun Mohan

Applicant

Decision of the Hearing Panel
on Application for Enrolment

Hearing date: March 26 and 27, 2012

Panel: **Majority decision:** Jory Faibish, Public Representative, Peter Warner, QC, Lawyer **Minority decision:** Tony Wilson, Bencher, Chair

Counsel for the Law Society: Jason Twa

Counsel for the Respondent: Henry Wood, QC

Background

[1] This hearing was ordered by the Credentials Committee to determine whether, despite serious incidents of academic dishonesty while both an undergraduate student and a law student at the University of British Columbia, the Applicant should be enrolled as an articled student in British Columbia.

[2] The Applicant currently holds both an LL.B and an LL.M from the University of British Columbia. He seeks permission from the Law Society to enrol as an articled student.

[3] Application for enrolment of articled students is governed under Section 19 of the *Legal Profession Act*, SBC 1998, c.9 (the "Act"). Section 19(1) states:

19(1) No person may be enrolled as an articled student, called and admitted or reinstated as a member 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.

[4] Incidents of cheating on a mathematics exam while a first year undergraduate student in 1996, plagiarizing an essay some years later while a law student (which incidents have been admitted by way of an Agreed Statement of Facts), failure to accurately answer a question on his Law Society application form respecting cheating on his math exam in 2005 and the academic suspension that arose because of the cheating, as well as the possible plagiarism of an honours degree thesis in 2000, has caused the Credentials Committee to order a hearing pursuant to section 19(2)(c) of the Act.

[5] The Hearing Panel comprised Mr. Jory Faibish, public representative, Mr. Peter Warner QC, and Mr. Tony Wilson, Bencher and Panel Chair.

[6] Counsel for the Law Society, Mr. Jason Twa, argued that past academic dishonesty by the Applicant was

so serious it should prevent him from being permitted to enrol as an articulated student.

[7] Counsel for the Applicant, Henry Wood QC, argued that the Applicant had admitted his past mistakes, he had taken full responsibility for the academic dishonesty he was involved in many years ago, and he was now a “changed man”. Therefore he should be permitted to enrol as an articulated student.

[8] This hearing was originally scheduled to take place in January 2012, but counsel for the Law Society acquired a copy of the Applicant’s 2000 honours thesis for his Bachelor’s Degree in Sociology, which was on file at the University of British Columbia and was obtained by the Law Society through a Freedom of Information request. The Law Society analyzed the copy of the Applicant’s honours thesis and determined that there was substantial plagiarism in that document.

[9] The hearing was delayed until March to allow the Applicant time to deal with the additional allegation of academic dishonesty.

Facts

[10] The parties submitted an Agreed Statement of Facts to the Panel. As the facts are extensive, we would summarize them as follows:

1. In 1995, while a first year student at UBC, the Applicant cheated on a Math 100 test by altering an exam that he wrote after it was marked and returned to him, and complaining to the instructor that she ought to have given him higher marks (“the Math Exam Incident”). However, the instructor had photocopied the original exam before it was returned to the Applicant and the exam that the Applicant gave back to the instructor to receive a higher grade was shown to have been altered, ex post facto, by the Applicant. He failed the course and was suspended from UBC for one year.
2. The Applicant denied cheating on the math exam and, for a period of nine years thereafter, repeatedly denied that he cheated on the math exam, saying that he did not ask the teaching assistant for more marks, but only brought in the corrected paper to discuss how he could improve his grade, and that her poor English skills caused her to misinterpret his intentions.
3. The Applicant returned to UBC after the suspension period and completed a degree in Sociology in 2000.
4. The Applicant applied to have the notation of his academic suspension deleted from his academic record in approximately 2000, as permitted by UBC. UBC deleted the record of his academic suspension for the Math Exam Incident.
5. The Applicant's undergraduate marks were sufficiently high to allow him to be admitted to UBC Law School, which he entered in 2000. However, in 2002, there was another incident of academic dishonesty. Plagiarism was discovered in a paper he submitted for Law 345 (the “Law School Incident”), and as a result, he was suspended from UBC’s Law School for 18 months.
6. During his disciplinary action in 2002 arising out of the Law School Incident, the matter of the Math Exam Incident arose. The Applicant explained that he didn’t cheat on the Math 100 exam, but the teaching assistant had a language problem that led to a misunderstanding.
7. The Applicant waited out the 18-month suspension ordered by UBC as a result of the Law School Incident, returned to UBC law school, and completed his LL.B degree in 2006.
8. Although he applied to the Law Society of British Columbia for temporary articles in 2004, and

although he admitted to the Law School Plagiarism Incident in law school on his application form to the Law Society, he did not admit to:

- (a) the Math Exam Incident in 1995,
- (b) being suspended by UBC in 1996 as a result of the Math Exam Incident,

despite a clear and unambiguous question on the Law Society Admission Form that should have elicited a clear and forthright answer.

9. Only when the Law Society inquired about what he did between first and second year as an undergraduate student at UBC, (which would have been during the period of his first academic suspension) did the Applicant admit to the Law Society about the Math Exam Incident and the resulting academic suspension. He explained that he didn't cheat on a math exam, but indicated that the teaching assistant had a language problem which led to a misunderstanding.

10. The Applicant voluntarily withdrew his 2005 application to the Law Society. However, after 2006, he went on to complete an LL.M at UBC. Professor JW, who worked extensively with the Applicant during the Applicant's time at UBC law school, wrote an extremely complimentary letter of recommendation about the Applicant.

11. The Applicant re-applied to become an articulated student in 2010.

12. Since voluntarily withdrawing his 2005 application and obtaining an LL.M degree at UBC, the Applicant has been involved in matters related to the law.

13. In 2000, the Applicant wrote an honours thesis which was submitted to UBC in 2000 and which was credited towards his Bachelor's degree in Sociology.

14. The Law Society acquired a copy of the Applicant's 2000 thesis entitled "Race, Gender, Class, Sport and National Identity" by way of a Freedom of Information request, as copies of honours theses are retained and archived by UBC within certain academic programs.

15. The Law Society reviewed the Applicant's thesis and determined that it contained substantial incidents of plagiarism from other learned articles and publications.

16. The Applicant argues that the thesis on file with UBC was not the thesis that was submitted by him and graded by UBC in 2000.

ISSUES

[11] The Panel thought it was appropriate to divide the issues in two, given the recent discovery of the plagiarized honours thesis. The two issues are as follows:

1. Is the Applicant now of good character and repute and fit to become a barrister and a solicitor of the Supreme Court, notwithstanding:
 - (a) cheating on his math exam in 1995 and his academic suspension;
 - (b) plagiarizing a paper in law school in 2002 and his academic suspension;
 - (c) not admitting the math exam cheating and academic suspension on the 2004 Law Society admission form; and
 - (d) not being forthright about cheating on the math exam (i.e., blaming the instructor of Math 100

for a misunderstanding as recently as 2005),

2. If so, does the recent discovery of the thesis from 2000, and the Applicant's explanation, affect the Panel's determination of good character, repute and fitness under section 19(1)?

DISCUSSION

[12] With respect to Issue 1, and excluding Issue 2 and the honours thesis, it is the conclusion of the Panel that, based on the authorities and the evidence, the Applicant has rehabilitated and redeemed himself since 2005, and is of good character and repute and fit to become a barrister and a solicitor of the Supreme Court of British Columbia.

[13] Although the Panel's specific reasoning on this issue is discussed later in this decision in relation to the authorities, bad decisions and poor judgment in one's late teens and early 20s — even academic dishonesty — should not necessarily lead to an outright and permanent bar to the practice of law where an otherwise appropriate applicant for admission has taken full responsibility for his actions and, through words and actions, has sufficiently redeemed himself.

[14] Where the Panel had real difficulty was with respect to Issue 2 and the Applicant's March 21, 2000 UBC Dept. of Sociology honours thesis.

[15] The Law Society alleges that the Applicant plagiarized large sections of this thesis in late 1999 or early 2000 and that he was untruthful in responding to the Law Society's written questions about the thesis, which questions were asked by Mr. Twa in his April 17, 2011 letter to the Applicant.

[16] In that letter Mr. Twa asked:

7(b) Have you ever plagiarized any other material in any other papers you submitted in University, whether in your undergraduate studies, law school or graduate studies, regardless of whether you have ever been caught or formally accused of plagiarism with respect to such papers? If so, please provide details of each act of plagiarism ...

[17] The Applicant replied to Mr. Twa that he had not plagiarized any other material in any other papers submitted in University.

[18] On this issue, the Agreed Statement of Facts can be summarized as follows:

1. On December 6, 2005, Law Society counsel obtained, by way of a Freedom of Information request, a copy of the 78 page thesis written by the Applicant that was on file with the Sociology Department, which we will call "Thesis A".
2. Thesis A had been examined by the Law Society and found to contain a significant portion of plagiarized and/or unattributed material.
3. When the Applicant applied for enrolment as an articled student to the Law Society in October 2010, a review of the evidence led Mr. Twa to send his April 17, 2011 letter (referred to above) to the Applicant, where the Applicant stated that he had not committed other acts of plagiarism while in University.
4. The Applicant now admits that he plagiarized portions of Thesis A and that Thesis A contains unattributed or un-cited material.
5. However, his explanation is that he never actually submitted Thesis A to the Sociology Department of UBC as his final draft for marking. He states that he must have delivered Thesis A by accident to the

Sociology Department much later when his professor asked him for a copy for its Departmental archives.

6. After some months of searching, the Applicant found what he alleges to be a copy of his final thesis that was used for grading in the Department of Sociology. This document, which we will call "Thesis B", was approximately 50 pages in length; 28 pages shorter than Thesis A maintained on file by UBC.

7. The Law Society agreed that Thesis B contained no discernible plagiarized or unattributed material.

8. Neither the Department of Sociology at UBC nor the UBC professor who graded the honours thesis in 2000 has a copy of Thesis B, and both are unable to assist in conclusively determining which thesis was submitted as the final one for marking.

[19] We should add that neither Thesis A nor Thesis B contained a grade, nor any handwritten notations by his professor indicating that either paper had been marked.

[20] It is the Applicant's evidence that in approximately November 1999, he prepared a preliminary draft of Thesis A, which he acknowledged to the Panel, contained significant plagiarized material.

[21] He stated that he had planned to use it if he ran out of time to do original work on the thesis before the March 31, 2000 submission deadline. He was then busy preparing for his LSAT exam and applying to a number of law schools and was concerned about running out of time.

[22] However, he says he subsequently had time to submit an unplagiarized thesis to UBC. He did this by revising his earlier November 1999 draft, attributing sources, eliminating any plagiarized material and submitting Thesis B for grading in 2000.

[23] The Applicant testified that it was Thesis B that was submitted for grading and returned, but that he accidentally delivered a copy of Thesis A with some other papers to his UBC professor when she asked for them for archival purposes.

[24] It is the Applicant's evidence that this explains why UBC sent a copy of the plagiarized Thesis A and not the unplagiarized Thesis B to the Law Society as a result of the Freedom of Information request. Thesis A was one-third longer than Thesis B. It contained evidence of plagiarism, which, if discovered, could cause him significant problems, given his actions of cheating on an exam and plagiarizing a paper while in law school.

[25] When pressed by the Law Society in 2011 for his copy of the thesis submitted to UBC, the Applicant said he could not find it because his family had moved in 2003 and all his records were in a disorganized state in boxes and bags in a garage. Upon learning that the Law Society had been given a copy of Thesis A, he looked again in early 2012 and stated that he did a more thorough search into boxes and bags in the garage and finally found Thesis B.

[26] Thesis B has no cover page and contained no handwritten grade or comment on it, although Thesis A, archived by UBC, had no handwritten notations either.

[27] On January 12, 2012, counsel for the Law Society wrote to the Applicant's counsel about adding an allegation pertaining to plagiarizing Thesis A. Mr. Wood replied January 22, 2012 that the Applicant had disclosed to him earlier that he had plagiarized a draft of Thesis A, but had never submitted it to UBC, and accordingly, Mr. Wood had advised him to reply in the negative to Mr. Twa's question about whether there were any other incidents of plagiarism at University.

[28] Much time was spent at the hearing attempting to determine whether Thesis A or Thesis B was the one actually submitted to UBC for grading in 2000.

[29] The answer goes to the root of the Applicant's honesty, good character, repute and fitness and his suitability to practise law in British Columbia.

[30] Mr. Twa submits that the Applicant's elaborate explanation of how the Department of Sociology at UBC ended up with the plagiarized Thesis A in its records did not ring true, and that this was another example of a ten-year long web of deception and lies that the Applicant had spun from 1995 to 2005, beginning with cheating on his math exam in 1995 and his academic suspension, plagiarizing a paper in law school in 2002 and his academic suspension, not admitting the math exam cheating and academic suspension on the 2005 Law Society admission form, and not being forthright about cheating on the math exam.

[31] Specifically, and in furtherance of this position, Mr. Twa pointed out that several typographical errors appeared in Thesis B, but the same errors were not present within the very same sentences in Thesis A. Essentially, why would there be typographical mistakes in the thesis the Applicant subsequently found in his parent's garage in 2012 and which he testifies was the actual version he submitted to UBC in 2000, but not in the version on file with UBC?

[32] Mr. Twa asked the Applicant how he could not have noticed that the copy he says he delivered after the fact to his professor (Thesis A) was one-third longer and thicker than the one he says he was graded on, and the Applicant says he did not notice, as other papers were turned in at the same time. Mr. Twa asked why his alleged final version, Thesis B, had more typos than his alleged draft Thesis A, and the Applicant replied that he was not a good proofreader.

[33] An email from the Applicant's sociology professor dated in February 2000 directed him to change his use of "Chapters" to "Sections" in his thesis, yet both Thesis A, said to be completed in November 1999, and Thesis B, said to be completed in later March 2000, both used "Sections". Clearly, the draft that the UBC professor was critiquing in her February 2000 email must have had "Chapters".

[34] When asked about this discrepancy, the Applicant said that he regularly switched back and forth between Chapters and Sections. When asked later how he did this, he replied that he did it manually by typing each change, and not with "word search", an odd and time consuming exercise since the word "Section" appears at least 14 times throughout Thesis A.

[35] Mr. Twa then asked the Applicant why he did not find Thesis B in 2005 when the Law Society first asked for other papers submitted to UBC, and he replied that "perhaps I didn't search properly."

[36] Mr. Twa suggested that the Applicant had to find a version of his thesis that did not contain plagiarized material, so that he could assert that UBC had the wrong draft in their archives.

[37] Despite the majority's serious concerns about the Applicant's evidence on this issue, and on his admitted history of academic fraud and deception, which he says ended in 2002, and despite his admitted deception and lack of forthright disclosure in his declaration in support of his 2004 application for enrolment, there is no evidence before us that is inconsistent with the Applicant's evidence on this thesis issue. There is only suspicion and doubt.

[38] In contrast, there is ample evidence and several character reference letters establishing that the Applicant has, since 2005, conducted himself in an honest, professional and ethical manner and has fully admitted his past transgressions. The reference letter of Professor JW is particularly compelling. It is dated August 8, 2008 and was drafted in support, not of this application, but of the Applicant's application to have his academic record expunged. It is six pages of detailed endorsement of the Applicant's accomplishments as an academic, a team leader, a friend, a writer and a person who has grown in character and understood his past failings and redeemed himself. The Applicant's successes as an academic over the three years he

worked and co-wrote with Professor JW are very significant and commendable. He was the top student in his graduating year in the five courses he took with Professor JW. He researched and wrote for such projects and clients as VANOC, the Anaheim Ducks, Sports Lawyers Association conferences in Toronto and at Stanford Law School, Teck Cominco, Canadian Bar Association and the Law Foundation of BC among others.

[39] In many of these projects, Professor JW was associated with the Applicant's work, often as co-writer and co-presenter, and the Professor has expressed in his letter his unwavering confidence in the Applicant's integrity, competence and work ethic.

[40] Supportive reference letters were also submitted from LJ of WorkSafe BC dated February 2005 and UBC Law Professor RT dated March 1, 2005, but both are too old to reflect on the Applicant's character today.

[41] More recent support of the Applicant came in the December 8, 2010 letter from his intended principal, JS of the M Law Group, to whom the Applicant wishes to article, and who is fully aware of the Applicant's past and is supportive of his application for enrolment.

[42] Professor JW wrote a second reference letter prior to this hearing, now based on his eight-year relationship with the Applicant. He says he has done more work with the Applicant than any other student in his 37 years as a law professor, including co-presenting at six public conferences and work on six different research projects. Professor JW says this long comprehensive relationship has allowed him to arrive at a well-informed opinion about the Applicant's capabilities as a student, researcher and author, and says he is satisfied that his decision years ago to try to help the Applicant to rehabilitate himself was well founded. He says he is aware of no evidence whatsoever that the Applicant has engaged in any further misconduct, and in his estimation, the Applicant has now taken the career pathway that consists of hard and careful work and diligent service.

[43] In the Panel's opinion, a strong recommendation from a law professor based on that much work over those many years must be taken as compelling evidence of the Applicant's current good character and fitness.

[44] Finally we heard evidence from MLaw Group partner WS who has worked closely with the Applicant in the Applicant's capacity as a researcher at that firm. WS knows of the Applicant's past and supports his application, saying that he has proven to be a diligent, professional worker, sensitive to and well received by his Indian Residential School clientele.

[45] The articling offer that his firm made to the Applicant in approximately November 2010 remains open today.

LEGAL PRINCIPLES AND CASE AUTHORITIES ON S. 19(1)

[46] The Panel received comprehensive legal submissions from both counsel and numerous relevant case authorities, many of which were submitted by both counsel. The following is a list of the settled legal principles governing Section 19(1) applications on the issue of character and fitness, principles that were not in dispute in the submissions of both the Applicant and the Law Society:

- (a) It is the Applicant's character and fitness at the time of the hearing, viewed on a balance of probabilities that is determinative of the application, *Law Society of BC v. Lee*, 2009 LSBC 22, paras. [79] and [80] citing *Law Society of Upper Canada v. Schuchert*, 2001 LSDD No. 63;
- (b) The test does not require perfection or certainty: *Schuchert* (supra);

(c) The question becomes whether the Applicant is able to demonstrate that he or she has rehabilitated himself or herself, there being a balance to be struck between protecting the public and a concept of redemption through rehabilitation. (Re: *Applicant 3*, 2010 LSBC 23, para. [22]);

(d) Because every person's character is formed over time and in response to a myriad of influences, it seems clear that no isolated act or series of acts necessarily defines or fixes one's essential nature for all time (*Law Society of Upper Canada v. Birman*, [2005] LSDD No. 13, at paras. 13 and 14, quoting the reasons of Convocation in *Re Spicer*, dated May 1, 1994:13 and quoted in Lee (supra);

(e) The demands placed upon a lawyer by the calling of barrister and solicitor are numerous and weighty and "fitness" implies possession of those qualities of character to deal with the demands properly. The qualities cannot be exhaustively listed but among them must be found a commitment to speak the truth no matter the personal cost, resolve to place the client's interest first and to never expose the client to risk of avoidable loss and trustworthiness in handling the money of a client. (from *Re: McOuat*, Panel decision June 12, 1992, upheld by the BC Court of Appeal in *McOuat v. Law Society of BC*, [1993] BCJ 807 (CA));

(f) Good or bad character does not depend on what a man knows of himself; it means his general reputation in the estimation of his neighbours (*Leader v. Yell* (1864), 16 CB (NS) 584, referred to in *McOuat* (supra));

(g) The status of barrister and solicitor requires that a special standard of honesty, integrity and trustworthiness be imposed, met and kept at all times so that public confidence is maintained and properly nurtured. *Law Society of BC v. DM*, June 14, 1992 Panel decision.

[47] In the March 1972 hearing cited as *Law Society of BC v. DM*, an articled student sought enrolment at the hearing after the Credentials Committee declined to approve his application without a hearing. The reason for denial was based on the applicant's admitted plagiarism during law school, the circumstances of which were less egregious than the Applicant's much longer history of repeated academic cheating. In that case there was a single incident of plagiarism involving 18 pages taken from a contracts textbook. The applicant claimed he neglected to annotate these quotes because of emotional and psychiatric problems he had been experiencing in his second and third years of law school. The panel accepted that explanation and recommended that the Benchers allow his application for enrolment.

CONCLUSION AND DECISION

[48] The facts surrounding the Applicant's wrongdoing, as he admitted, and as found by us as set out above, establish that the Applicant has not engaged in any dishonorable conduct, wrongdoing or deception since January, 2005. That was when he had, in a letter, in the course of his application for enrolment, continued to assert to the Law Society an untrue version of his math exam cheating.

[49] We also find that in the seven years that have passed since his last wrongdoing, his reputation and standing in the eyes of lawyers and academics that he has worked with has risen to meet the standards required under Section 19(1) for enrolment into the admission program. We are particularly influenced by the opinions of Professor JW, based, as they are, on an eight-year academic and professional working relationship with the Applicant, a working relationship that has produced a significant amount of recognized and respected academic work.

[50] Had the Applicant applied for enrolment in 2005, 2006 or 2007, this Panel would not have granted his application. Instead, the Applicant has worked hard and applied himself along a seven-year legal career pathway involving significant "hard and careful work and diligent service," to quote from Professor JW's

letter. He has achieved much in the field of legal academia and more recently, in his legal assistant/researcher role with the M Law Group.

[51] The Panel accordingly finds that the Applicant has rehabilitated himself over these seven years, and we find that the Applicant is of good character and repute and fit to be enrolled as an articulated student, and we order that he be enrolled in the Law Society admission program.

[52] We did not receive any submissions on costs and, as a result, are not in a position to make an order with respect to costs. If counsel cannot agree on an amount and time to pay, they may make written submissions within 30 days of this decision being issued. The other party will have 14 days to make any response.

RECOMMENDATION

[53] We believe that, once the supervision of a principal that is inherent in the admission program is no longer available, the conditions set out below are necessary and appropriate given the significance of the Applicant's academic cheating and plagiarism. We believe that the Applicant's successful seven years of rehabilitation, balanced against the depth and duration of his prior wrongdoing and the Law Society's need to protect the public interest, indicate the need for conditions and limitations during his first few years of practice if he successfully completes the admission program. In our view, the Applicant should not be called and admitted without some serious conditions on his practice in the early years.

[54] We strongly recommend the following to the Credentials Committee as conditions of the Applicant's eventual call to the bar as a barrister and admission as a solicitor:

1. During the Applicant's first five years following his call to the bar, he must not practise as a sole practitioner nor as in-house counsel for a private or public corporation and must instead practise within a law firm or within a legal department of a branch of government in which there are at least three other full-time practising lawyers in attendance.
2. At the expiration of 12 months following the Applicant's call to the bar, he must submit to a practice review, at his expense, by the Law Society and comply with any recommendations or directives of the Practice Standards Committee that result from such practice review.
3. The Applicant must submit to a similar practice review on similar conditions, at his expense, at the expiration of 24 months after his call to the bar.

MINORITY DECISION OF TONY WILSON

[55] The issues in this hearing can essentially be divided in two.

[56] As for the first issue, and in the absence of facts and evidence relating to Issue 2, I would agree with the majority. The cheating on his math exam occurred in 1995, 16 years ago. The law school plagiarism occurred in 2002, 10 years ago. Not fully reporting his academic dishonesty on the Law Society's admission form occurred in 2005, seven years ago. Young adults often make bad mistakes. If they can learn from those mistakes, and take responsibility for them, they can redeem themselves.

[57] If it were not for the facts surrounding Issue 2, the Applicant redeemed himself, in my view. He obtained an LL.M degree from UBC. His reputation and standing in the eyes of lawyers and academics has risen to meet the standards required under Section 19(1) for enrolment into the admission program. I recognize the Applicant has worked hard to redeem himself over the past seven years and that he has achieved much in the field of legal academia and, more recently, in his work with the M Law Group.

[58] But I must disagree with the majority in respect of Issue 2 and the honours thesis. The Applicant's evidence respecting the honours thesis did not convince me that he is of good character and repute and fit to become a barrister and a solicitor of the Supreme Court.

[59] The thesis that has been on file with UBC since 2000 (Thesis A) was discovered to contain passages from sources that were not cited and which amounted to substantial plagiarism.

[60] Yet in answer to questions from counsel for the Law Society in 2011 as to whether there were any other incidents of plagiarism in any papers submitted by him in University, the Applicant answered that there were no other plagiarized papers.

[61] It was agreed by both parties that, on examination, Thesis A, at 78 pages in length, and maintained on file with UBC in its archives for more than a decade, contained substantial examples of plagiarism and unattributed material. This is admitted by the Applicant.

[62] Indeed, he admitted plagiarizing portions of Thesis A in 1999 and that he was actually considering the submission of it to UBC if he ran out of time and could not meet the March 2000 submission deadline.

[63] It was agreed by both parties that on examination, Thesis B, 28 pages less than Thesis A's 78 pages, contained no plagiarism or unattributed material.

[64] But it was the Applicant's evidence that Thesis A was not the paper that he actually submitted for his honours thesis and which he was graded on by UBC.

[65] Instead, we are asked to believe that Thesis B, having been "re-discovered" in the Applicant's parent's garage in an unmarked box in 2012, after having been notified that Thesis A contained plagiarized material, was in reality, the version of the thesis that he submitted in 2000 for grading.

[66] We are asked to believe that the Applicant inadvertently submitted Thesis A to UBC for archival purposes, even though Thesis B was approximately 28 pages shorter, in a different font, and I would expect, lighter in weight, than Thesis A.

[67] We are also asked to believe that Thesis B was the final document submitted to UBC, notwithstanding that Thesis B contained typographical errors in the same passages that Thesis A did not.

[68] Essentially, we are asked to believe the Applicant when he says a 50-page paper discovered in a box in a garage in 2012, without a cover page and containing typographic errors, is the one he submitted to UBC as his final thesis and on which he received a mark on. But a 78-page paper without the same typographic errors, but containing substantial plagiarized material, is not the thesis he was graded on, even though it has been maintained by UBC for over a decade.

[69] Under Section 19(1) of the *Legal Profession Act* the burden of proof is on the applicant to demonstrate, on the balance of probabilities, that he is of good character and repute and is fit to become a barrister and a solicitor of the Supreme Court. Given that the Applicant bears the burden of proof in this matter, I must say his evidence on this serious issue defies credulity.

[70] Based solely on the issue of the 2000 honours thesis and his explanation, I do not believe his explanation. I am concerned that he is repeating the pattern of deceit established earlier in his academic career. Accordingly, I do not find him to be of good character and repute and fit to become a barrister and a solicitor of the Supreme Court of British Columbia.