2012 LSBC 33
Report issued: December 21, 2012

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

ANDREW PAVEY

APPLICANT

Decision of the Hearing Panel on Application for Call and Admission

Hearing date: September 10 and 11, 2012
Panel: William S. Maclagan, Chair, Jasmin Z. Ahmad, Lawyer, Lance Ollenberger, Public Representative

Counsel for the Law Society: Jason Twa
Counsel for the Respondent: Henry Wood, QC

BACKGROUND

[1] The Applicant is a practising insured lawyer and a member of the Nova Scotia Barristers' Society.

[2] On November 16, 2010, the Applicant made an application for call and admission to the Law Society of British Columbia on transfer from the Nova Scotia Barristers' Society. On June 15, 2011, the matter was referred by the Law Society of British Columbia Credentials Committee for a hearing. This hearing was held on September 10 and 11, 2012.

[3] This application is notable in light of the Applicant's past conduct and previous discipline history with each of the Nova Scotia Barristers' Society and the Law Society of British Columbia, the details of which we will set out in more detail below. Specifically:

(a) By the decision of the Hearing Panel of the Discipline Subcommittee of the Nova Scotia Barristers' Society on November 9, 2000, the Applicant was found guilty of professional misconduct and conduct unbecoming a barrister for which he was subsequently suspended from the practice of law in Nova Scotia for a period of 18 months and subjected to various conditions for reinstatement; and

(b) By the decision of the Hearing Panel of the Law Society of British Columbia issued on July 28, 2005, the Applicant's application for call and admission to the Law Society of British Columbia was denied on the basis that he did not meet the standard for admission as set out in section 19(1) of the *Legal Profession Act*.

ISSUE AND SUMMARY OF DECISION

[4] The issue to be determined at this hearing is whether the Applicant now satisfies the requirements of section 19(1) of the *Legal Profession Act* for call and admission to the Law Society of British Columbia. That section provides that:

> 19(1) No person may be enrolled as an articled student, called and admitted or reinstated unless *the benchers are satisfied that the person is of good character and repute and fit to become a barrister and a solicitor of the Supreme Court* .
>
> [emphasis added]

[5] The Applicant has the burden of proving that he meets the character and fitness test on a balance of probabilities under Law Society Rule 2-67.

[6] The Law Society does not take issue with the "fitness" component of the test set out in section 19(1).

[7] The specific issue before the Panel, then, is whether the Applicant has met the burden of proving that he is of "good character and repute" required for call and admission to the Law Society as set out in section 19(1) of the *Legal Profession Act*.

[8] Having considered the law and the evidence before it, for the reasons to be set out below, this Panel has concluded that the Applicant has met the burden and should be admitted as a member of the Law Society of British Columbia.

THE LAW

[9] What constitutes "good character and repute" has been the subject of both judicial consideration and decisions of hearing panels of the Law Societies of British Columbia and Upper Canada. That law does not, for the most part, appear to be in dispute.

[10] In affirming the June 12, 1992 decision of the hearing panel of the Law Society of British Columbia in *McOuat v. Law Society of BC* (1993), 78 BCLR (2d) 106, the Court of Appeal of this province adopted the writing of Mary Southin, QC (as she then was) "What is 'Good Character'?", published in *The Advocate*, 1977 v. 35, at 129, as follows:

> I think in the context "good character" means those qualities which might reasonably be considered in the eyes of reasonable men and women to be relevant to the practice of law in British Columbia at the time of application.
>
> Character within the Act comprises in my opinion at least these qualities:
>
> 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;
>
> 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.
>
> What exactly "good repute" is I am not sure. However, the Shorter Oxford Dictionary defines "repute" as "the reputation of a particular person" and defines "reputation" as:
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> 1. The common or general estimate of a person with respect to character or other qualities; the relative estimation or esteem in which a person is held.
>
> 2. The condition, quality or fact of being highly regarded or esteemed; also respectability, good repute.
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> In the context of s. 41 I think the question of good repute is to be answered thus: would a right-thinking member of the community consider the applicant to be of good repute? ...

> If that right-thinking citizen would say, knowing as much about an applicant as the Benchers do, “I don’t think much of a fellow like that. I don't think I would want him for my lawyer”, then I think the Benchers ought not to call him or her.

[11] In *Re D.M*. (June 14, 1994 Panel Decision), the hearing panel echoed the requirement that the expectations of the public, together with those of the profession, be reflected in any assessment of character and repute. It stated at pages 4-5 of that decision as follows:

> … The question remains as to whether or not the applicant has shown that he is now a person of good character and reputation and fit to become a barrister and solicitor of the Law Society of British Columbia. In our view, fitness in this context depends on good character and reputation and must reflect to some extent the expectations of both the public generally and other lawyers specifically in what both groups desire, need or otherwise seek in a member of this profession. Like it or not, lawyers are held out to represent themselves as a community to the larger public community and as a group which, because of its honesty and integrity, enjoys an especial place. Accordingly, the status of barrister and solicitor requires that a special standard of honesty, integrity, and trustworthiness be imposed, met and kept at all time so that public confidence is maintained and properly nurtured. To prove that this standard is met and will be met thus requires more than a reflection on a person’s past honest conduct. The burden is high so that the same public can see that we as a profession having earned and been granted their trust, will continue to work toward doing everything necessary to keep it. To this end a lawyer must not only show that he or she has all the attributes of good character – honesty being one of them – the lawyer must also show that he or she has other attributes from which a forecast of future integrity can be made. In summary, the profession at large and also the general public require lawyers to adhere to impeccable standards of behaviour and it is only through the adherence to such standards that we as a profession clamber and which, inter alia, gives to lawyers both status and economic advantage.

[12] However, the hearing panel of the Law Society of this province in *Re. Lee*, 2009 LSBC 22, quoted the decision in *Law Society of Upper Canada v. Schuchert*, [2001] LSDD No. 63 at para. 18, qualifying that proposition, stating at paragraph [79]:

> The relevant test is not whether there is too great a risk of future abuse by the applicant of the public trust, but whether the applicant has established his good charter at the time of the hearing on a balance of probabilities. … The applicant need not provide a warranty or assurance that he will never breach the public trust.

POSITION OF THE PARTIES

[13] The general propositions of law regarding a determination of an applicant’s “good character and repute” are not in dispute. In particular, the parties agree that the interest of both the public and the profession are a determining factor in that assessment and that the relevant date of the determination is the date of the hearing.

[14] The parties’ positions diverge, however, in the significance given by each of the parties to the Applicant’s past conduct in assessing whether he is of “good character and repute” as of the date of this hearing.

[15] On one hand, although the Law Society accepts the proposition that the Panel must determine the Applicant’s “character and repute” as of the date of the hearing, it has argued that the Applicant’s past

conduct, which it describes as “very serious and disturbing,” should inform the Panel in assessing that present day character and repute. In particular, it identified the following as issues to be inquired into at this hearing:

> (a) The circumstances surrounding and leading up to the decision of the hearing panel of the Discipline Subcommittee of the Nova Scotia Barristers’ Society on November 9, 2000 and the Applicant’s subsequent suspension from the practice of law in Nova Scotia;
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> (b) The filing of an assignment into bankruptcy in 2002 (although the Law Society did not vigorously pursue the bankruptcy as a factor in determining the Applicant’s current character and repute);
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> (c) Comments made by the Applicant in 2005 regarding the competency of the Nova Scotia hearing panel;
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> (d) The circumstances surrounding and leading up to the decision of the hearing panel of the Law Society of British Columbia issued on July 28, 2005 and, in particular, the Applicant’s conduct in engaging in the unauthorized practice of law in British Columbia and his failure to be candid with a client with respect to his status as a lawyer in Nova Scotia and British Columbia;
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> (e) The circumstances surrounding the Applicant’s representation of and holding himself out as “counsel” for a client in British Columbia; and
>
> (f) The Applicant’s past use of, and dependency on, cocaine.

[16] Relying on the decision of the hearing panel of the *Law Society of Upper Canada in Schuchert* (supra), the Law Society conceded that “character does evolve and a person can rehabilitate himself or herself such that past character defects can be overcome.” However, relying on that same decision, it also argued:

> It is important not to confuse the good character requirement for admission with notions about forgiveness or about giving an Applicant a second chance. The admissions panel is not in the forgiveness business; the test to be applied is clear, and the admissions panel is to determine if the applicant is of good character today. …

[17] On the other hand, while the Applicant conceded that past conduct is relevant in a determination of whether an applicant is of “good character and repute”, he placed greater emphasis on the significance of his rehabilitation. He urged the Panel to rely primarily on the evidence of the character witnesses, all of whom, he argued, “provide significant bases for assessing his present character and reputation, and his potential contribution to the profession within British Columbia.”

[18] Relying on various decisions of the hearing panels of the Law Societies of Upper Canada and British Columbia, he argued, among other things, that:

> (a) The standard to be met in assessing an applicant’s character and repute is not one of perfection or certainty;
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> *Law Society of BC v. Buttar* 2009 LSBC 14 at para. [37], citing *Law Society of Upper Canada v. Birman*, [2005] LSDD No.13 at para. 14
>
> (b) Wherever there is a history of disturbing behaviour, “the question becomes whether the applicant is able to demonstrate that he or she has rehabilitated himself or herself,”…noting that “[a]lways a balance must be struck between protecting the public from rogue or undesirable lawyers and the concept of redemption through rehabilitation, which runs deep in western civilization”;
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> *Re: Applicant 3*, 2010 LSBC 23 at para. [22]

(c) 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;

Re: Lee (supra) at para. [79] quoting *Birman* (supra) at paras. 13 and 14

(d) With respect to the public interest in the assessment of an applicant's character and repute, "It is in the public interest to have articled students and lawyers from diverse backgrounds. Persons who have gone astray and have truly rehabilitated themselves can give valuable insight to clients, the courts and the public. They can become valued and trustworthy members of the profession. …"; and

Re: Applicant 3, (supra) at para. [23]

(e) The relevant test is not whether there is too great a risk of future abuse by the applicant of the public trust, but whether the applicant has established his good character at the time of the hearing on a balance of probabilities. The test does not require perfection or certainty. The applicant need not provide a warranty or assurance that he will never again breach the public trust. The issue is his character today, not the risk of his re-offending.

Schuchert (supra) at para [18]

EVIDENCE BEFORE THIS PANEL

Joint Book of Documents

[19] Counsel provided the Panel with a Joint Book of Documents, Volume I of which contained:

(a) the decision of the Hearing Panel of Discipline Subcommittee of the Nova Scotia Barristers' Society on November 9, 2000;

(b) the decision on penalty dated January 22, 2001 in respect of the Nova Scotia hearing panel decision;

(c) the decision of the Nova Scotia Court of Appeal dated November 21, 2001 denying the Applicant's appeal of the Nova Scotia hearing panel decision and the related penalty decision;

(d) the decision of the Hearing Panel of the Law Society of British Columbia issued on July 28, 2005; and

(e) various other orders and documents relating to the Applicant's discipline history in Nova Scotia and British Columbia.

[20] Volume II of the Joint Book of Documents contained documents marked as exhibits from the hearing conducted before a hearing panel of the Law Society of British Columbia leading up its July 28, 2005 decision.

[21] The decisions, documents and evidence contained in the Joint Book of Documents were provided to this Panel solely for the purpose of providing background and history to the matter currently before it. That material was used for that purpose.

[22] The Panel accepts as fact all of the findings and determinations made by the previous hearing panels and courts of Nova Scotia and British Columbia.

Character Witnesses

[23] The Panel received character evidence of the Applicant from:

(a) FF, Barrister and Solicitor practising in Nova Scotia;

(b) KR, Barrister and Solicitor practising in Nova Scotia;

(c) LB, a Family Mediator, Child Protection Mediator, Parent Co-ordinator and a trainer at the Justice Institute of British Columbia;

(d) LM, a long-time friend of the Applicant; and

(e) HM, former Chair of the B.C. Human Rights Tribunal.

[24] Each of FF, KR, LB, and LM gave their evidence orally and all were cross-examined by counsel for the Law Society. In addition, each of these witnesses presented a character reference letter to the Panel.

[25] By consent of the parties, the evidence of FF and KR was given by telephone conference call as those witnesses reside in Nova Scotia. Given the cost involved in travel, we commend counsel for the Law Society for consenting to this procedure and permitting the Panel to hear the important evidence and cross-examination of these witnesses.

[26] HM did not give oral evidence and was not cross-examined by counsel for the Law Society. Her evidence was submitted by way of letter only.

The Applicant

[27] The Applicant gave evidence on his behalf in support of his application for admission and call, both in the form of oral evidence and in the form of a letter written by and on his own behalf. The Applicant was cross-examined by counsel for the Law Society.

CHRONOLOGY OF EVENTS AND SUMMARY OF EVIDENCE

General Background

[28] Having completed his elementary and high school education in Port Alberni, Richmond and Vancouver, the Applicant commenced and completed his undergraduate degree at the University of British Columbia.

[29] The Applicant received a scholarship to attend Dalhousie Law School and completed his legal training there from 1974 to 1978.

[30] After a brief delay in commencing his articles, the Applicant was called to the bar of Nova Scotia in 1980.

[31] The Applicant practised continuously in Nova Scotia without incident or complaint for approximately 20 years. His practice dealt primarily with criminal matters, legal aid matters, and family law.

The 2000 – 2001 Decision of the Hearing Panel of the Discipline Subcommittee of the Nova Scotia Barristers' Society

[32] After a formal hearing in 2000, the hearing panel of the Discipline Subcommittee of the Nova Scotia Barristers' Society concluded that the Applicant had assisted a former client with the purchase of crack cocaine, used crack cocaine with the client and had sexual relations with that client.

[33] As a result, the Applicant was found guilty of professional misconduct and conduct unbecoming a barrister, for which he was ultimately suspended from practising law in Nova Scotia for 18 months. Conditions of reinstatement included:

(a) submitting to a drug dependency assessment; and

(b) submitting a mental health report showing that he was not suffering from any mental health disorder.

[34] The Applicant denied the client's allegations and appealed the decision of the Nova Scotia hearing panel to the Nova Scotia Court of Appeal. The Court of Appeal dismissed the Applicant's appeal.

Return to British Columbia in 2001 – 2002

[35] In January 2001 the Applicant returned to British Columbia where his mother was then residing.

[36] On returning to British Columbia in 2001, the Applicant established and conducted a meditation practice, a practice he has maintained to date.

[37] Having re-settled in British Columbia, the Applicant spearheaded efforts to form a family mediation society and recruited a group of respected individuals in the mediation community to form a board of directors. He invited LB to join the group of mediators on its board in 2002.

[38] LB testified that in recruiting her for the board, the Applicant did not disclose his past conduct or discipline history in Nova Scotia to her, or to any of the other board members. Rather, in her words "it was not until late spring of 2003 that each board member received an email containing a newspaper article outlining [his] legal situation in Nova Scotia." It is unclear from the evidence who delivered the email or why.

[39] As a result of the information regarding the Applicant's past conduct and discipline history becoming public, the non-profit society lost its government funding. LB felt compelled to resign from the board "because there was no acceptable level of trust."

[40] In March, 2002, the Applicant declared bankruptcy. He was subsequently discharged from bankruptcy.

Reinstatement to the Nova Scotia Barristers' Society – 2003

[41] Having met the conditions required for reinstatement, on December 1, 2003, the Applicant was reinstated to the Nova Scotia Barristers' Society.

The 2004 – 2005 decision of the BC Hearing Panel

[42] On December 22, 2003, the Applicant applied for call and admission on transfer to the Law Society of British Columbia. On March 4, 2004, the application was referred to hearing by the Credentials Committee of the Law Society.

[43] The hearing before the panel (the "BC Hearing Panel") was initially held on November 2, 3, 4, and 23, 2004. Before the BC Hearing Panel completed its deliberations, counsel for the Law Society applied to reopen its case. The hearing was reconvened on June 28, 2005.

[44] By decision released on July 28, 2005, the BC Hearing Panel denied the Applicant's application for admission to the Law Society of British Columbia finding that the Applicant was not at that time "a person of good character and repute and fit to become a barrister and a solicitor" as required by Section 19(1) of the *Legal Profession Act*.

[45] A review of the decision of the BC Hearing Panel suggests it came to its decision primarily as a result of:

(a) the Applicant's dishonesty and failure to be candid with a client about the reason he was not a lawyer in BC (i.e., his discipline history in Nova Scotia) and about the manner in which the Law Society operates (i.e., implying that a quota system prevented him from being called in BC);

(b) the Applicant's dishonesty with the same client and the hearing panel about the fact that he was practising law instead of providing mediation services; and

(c) the Applicant's dealings with a second client for whom he engaged in the practice of law commencing "just two days" after the initial hearing had been adjourned for a decision.

[46] Neither the conduct leading up to the Applicant's suspension from practice in Nova Scotia in 2001 nor the 2002 bankruptcy appeared to be of major significance to the BC Hearing Panel in its decision to deny the Applicant's application for admission to the Law Society of British Columbia.

[47] The BC Hearing Panel accepted the medical evidence presented to it that, by the time of hearing in 2005, "the Applicant [had] dealt with medical and mental health issues that caused him to be suspended in [Nova Scotia] and that they are no longer an issue for him."

Comments Regarding the Competency of the Nova Scotia Hearing Panel

[48] In 2005, some four years from the decision of the Nova Scotia Hearing Panel, the Applicant publically criticized both the competency of the hearing panel and its treatment of him. His comments were subsequently published in a book.

[49] At this hearing, the Applicant conceded that his comments were "injudicious" and described them as "silly comments borne out of anger … ." In retrospect, he acknowledged that the hearing panel had been civilized and respectful and that the 18-month suspension he was given "could have been a lot worse."

Injunction from the Practice of Law in British Columbia - 2005

[50] By Consent Order filed in the Supreme Court of British Columbia on December 14, 2005, the Applicant was permanently enjoined from practising law in British Columbia until such time as the Applicant became a member in good standing of the Law Society of British Columbia.

Return to the Practice of Law in Nova Scotia – 2005

[51] In 2005, the Applicant decided to return to the practice of law in Nova Scotia, both for financial reasons and to allow him to face his problems in Nova Scotia head-on. To that end, he met with the Barristers' Society of Nova Scotia to discuss his return to practice. The Applicant also met with a panel from the Legal Aid Society to discuss reinstatement, which would allow him to perform legal services for it. As a result of those efforts, since 2005, the Applicant has practised law in Nova Scotia as a sole practitioner primarily doing Legal Aid work and family law. He has conducted that practice in a space-sharing arrangement with FF.

[52] The Applicant's evidence was that, given the relatively small size of the Halifax bar and given the notoriety resulting from his past conduct, at times his return to practice in Nova Scotia was difficult but humbling.

[53] While he has not fully disclosed his past conduct and discipline history with every person or client since his return to practice in Nova Scotia, he has done so when asked. When he has done so, most people have

been encouraging of his efforts to re-establish his practice and have accepted him back. Clients have, for the most part, chosen to remain as his client.

[54] FF has confirmed that, at the time the Applicant contacted him in 2005 to inquire about sharing office space, he was open and candid about the charges and decision of the BC Hearing Panel relating to the unauthorized practice of law in British Columbia.

[55] FF also confirmed that since re-establishing his legal practice in Nova Scotia in 2005, the Applicant has operated a busy and stressful practice. His view was that at all times since 2005, the Applicant has been able to effectively and positively handle the stress of that full and busy practice.

[56] Because he is a lawyer practising in Nova Scotia who directly practised with and observed the Applicant on a daily basis from 2005 to date, we place significant weight on the evidence of FF.

[57] KR gave evidence that she met the Applicant in 2006 when she applied for an articling position. At the time, the Applicant was forthright about his discipline history in Nova Scotia. The Applicant told her about the decision, the discipline, and that the decision was published. The Applicant also told her about the decision of the BC Hearing Panel regarding the unauthorized practice of law in BC. In her experience, the Applicant was up front about his past, he never hid or lied about his past conduct or discipline history.

[58] From the time she accepted an articling position with the Applicant and FF in 2006, KR had the opportunity to observe the Applicant in the course of his practice, including his interactions with clients and in court. Given her previous work with “vulnerable populations”, including the mentally ill and children, KR described herself as being “very sensitive” to what she deemed to be appropriate behaviour. Even with the background, she never had any concerns with the Applicant’s conduct or interactions with clients.

[59] In KR’s view, the Applicant is a mature person who has a lot of life experience and knows exactly what he needs to do in order to function effectively, healthily, professionally and appropriately.

[60] KR has practised in close contact with and observed the Applicant on a daily basis for approximately six years. We place significant weight on her evidence.

[61] At all times between 2005 and 2012, the Applicant has conducted his legal practice in Nova Scotia without any reports or complaints of improper conduct.

Post 2005 Mediation Practice in British Columbia

[62] In 2006, LB reconnected with the Applicant and for the past six years has worked with him on the board of a society called Family Mediation Canada. She has found him steadfast and hard working with a good reputation among mediators.

[63] In May 2012, together LB and the Applicant met with another mediator who was considering working with the society. LB testified that the Applicant was forthcoming with respect to his discipline history with the Law Society.

[64] Notwithstanding her previous distrust of the Applicant stemming from the lack of disclosure in 2003, LB has come to regard the Applicant as a “trusted colleague”.

[65] Both HM, a former Chair of the BC Human Rights Tribunal, and LM, a long-time friend of the Applicant, provided favourable character evidence in support of the Applicant’s application for call and admission to the Law Society of British Columbia. While we have noted the evidence of both of these individuals, we have placed little weight on that evidence: HM because she was not subject to cross-examination and LM because she has not worked with the Applicant or seen him conduct himself in a professional capacity.

[66] At all times between 2005 and 2012, the Applicant has conducted his mediation practice in British Columbia without any, or any report of, negative incidents or complaint, either for the unauthorized practice of law or otherwise.

DISCUSSION AND ANALYSIS

[67] The clear, mainly uncontroverted, evidence is that the Applicant's past conduct, particularly between the years 1997 to 2005 was, in the words of the Applicant's counsel, "lamentable". Much of that conduct has resulted in the conclusion by hearing panels of both the Nova Scotia Barristers' Society and Law Society of British Columbia that, in the past, the Applicant was not of "good character and repute". Of particular significance:

(a) He has had addiction issues that impacted on his ability to practise law and led, at least in part, to his suspension in Nova Scotia;

(b) He has had mental health issues that impacted on his ability to practise law;

(c) In 2001 he assisted a particularly vulnerable client in purchasing cocaine, used cocaine and had sexual relations with her, all while acting as her legal counsel. As a result of that conduct, the Applicant was suspended from practising law in Nova Scotia for 18 months;

(d) The Applicant has been publically critical of the competency of the Nova Scotia hearing panel and of its treatment of him;

(f) In 2002, during the period in which he was suspended from practice in Nova Scotia, the Applicant was not candid with a client for whom he engaged in an authorized practice of law about his discipline history or the regulation of lawyers of British Columbia;

(g) The Applicant was not candid with fellow board members of a non-profit society regarding his past conduct and discipline history, which history eventually led to the loss of funding for the society;

(h) In 2002, the Applicant declared bankruptcy; and

(i) On at least two separate occasions in 2005 the Applicant engaged in the unauthorized practice of law in British Columbia.

[68] The evidence before this Panel also discloses as follows:

(a) The Applicant has overcome the addiction and mental health issues that led (in part) to his suspension from practice in Nova Scotia in 2001;

(b) The Applicant has been discharged from his 2002 bankruptcy;

(c) The Applicant has admitted that his conduct was wrong with respect to his dealings with the clients with whom he engaged in the unauthorized practice of law and that he was not candid with the BC Hearing Panel in respect of that unauthorized practice;

(d) The Applicant has acknowledged that his negative comments about the competency of the Nova Scotia hearing panel and its treatment of him were "injudicious";

(e) Since returning to Nova Scotia in 2005, the Applicant has been candid with both colleagues and clients regarding his past conduct and discipline history; and

(f) Most significantly, in seven years since 2005, the Applicant has practised law in Nova Scotia without any reports or complaints of improper conduct. Similarly he has continued to operate his mediation

practice in British Columbia without any complaints about his conduct, either for the unauthorized practice of law or otherwise.

[69] The words of the hearing panel of the Law Society of British Columbia in *Re: Applicant 3*, (supra), are particularly a propos of the circumstances of this case where it stated:

> [22] Credentials hearings are a challenge to panel members. They have to enquire into an applicant's "good character and repute". This enquiry raises high human drama. In many cases, such as the one the Panel faces here, the Applicant has engaged in activity that is criminal in nature, whether or not it led to a criminal conviction. Such activity raises an immediate concern regarding the character and fitness of the Applicant. *The question becomes whether the applicant is able to demonstrate that he or she has rehabilitated himself or herself. Always a balance must be struck between protecting the public from rogue or undesirable lawyers and the concept of redemption through rehabilitation, which runs deep in western civilization*.
>
> [23] The determining factor at all Credentials hearings is the public interest. To protect the public, the Law Society must be satisfied that an applicant meets the test of being of "good character and repute". Unlike in the disciplinary context, the onus is on the Applicant to meet this standard. *In this context, public interest has a broader meaning. It is in the public interest to have articled students and lawyers from diverse backgrounds. Persons who have gone astray and have truly rehabilitated themselves can give valuable insight to clients, the courts and the public. They can become valued and trustworthy members of the profession. They set an example to all of us*. However, here the onus is on this Applicant to prove his rehabilitation. It is not enough for the Applicant to appear and say, "These events happened a long time ago, and by the way, I have rehabilitated myself." A much more thorough examination is required."
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> [emphasis added]

[70] As with the applicant in *Re: Applicant 3*, the Applicant's past conduct is far from perfect. However, we accept that "no isolated act or series of acts necessarily defines or fixes one's essential nature for all time."

[71] Notwithstanding his past conduct, on the whole of the evidence before us, we are satisfied that the Applicant has rehabilitated himself. It is particularly significant that the Applicant has practised law in Nova Scotia and conducted a mediation practice in British Columbia without incident or complaint for seven years.

CONCLUSION AND ORDER

[72] We conclude that, as of the date of this hearing, the Applicant has met the burden of proving that he is of "good character and repute and fit to become a barrister and a solicitor of the Supreme Court" and, as such, should be admitted as a barrister and a solicitor and a member of the Law Society of British Columbia. We order that the application for call and admission is granted.

COSTS

[73] No submissions were made as to costs of the hearing. The parties will have 30 days from the date of this decision in which to make any submissions on costs.