2014 LSBC 56
Report issued: November 18, 2014

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a hearing concerning

DONALD DUKE MAINLAND

APPLICANT

DECISION OF THE HEARING PANEL
ON APPLICATION FOR REINSTATEMENT

Hearing date:	June 11, 2014
Panel:	Maria Morellato, QC, Chair Carol Gibson, Public representative Richard B. Lindsay, QC, Lawyer
Counsel for the Law Society:	Gerald Cuttler
Counsel for the Respondent:	Henry Wood, QC

INTRODUCTION

[1] This hearing concerns an application dated August 15, 2013 by Donald Duke Mainland for the reinstatement of his membership in the Law Society of British Columbia ("Law Society").

[2] In the mid-1980s, after misappropriating legal fees and disbursements, Mr. Mainland relinquished his membership in the Law Society and undertook not to practise law again unless authorized to do so.

[3] This application is Mr. Mainland's third attempt to be reinstated as a lawyer in British Columbia in the past 24 years. His first application for reinstatement was filed with the Law Society in 1990 and his second in 1994.

FACTS AND EVIDENCE

[4] The facts of this case are largely undisputed.

[5] Mr. Mainland is approximately 62 years old. He was called to the British Columbia bar on September 10, 1980.

[6] On June 17, 1986, Mr. Mainland undertook in writing to the Law Society that he would not engage in the practice of law without the prior authorization of the Discipline Committee. On June 18, 1986, Mr. Mainland submitted his resignation from the Law Society effective that date. Mr. Mainland has not practised law since.

[7] The circumstances leading up to Mr. Mainland's resignation from the Law Society were set forth in an Agreed Statement of Facts, signed by Mr. Mainland and dated September 24, 1987. The Agreed Facts establish that, on 14 separate occasions between October 1985 and May 1986, Mr. Mainland took payments totalling approximately $8,950 that had been made by clients of his law firm for fees and disbursements; he wrongfully retained these monies for his own use. Mr. Mainland's law firm discovered his theft, reported the matter to the Law Society, and sued Mr. Mainland.

[8] Mr. Mainland made full restitution for the money he took, and the lawsuit was settled.

[9] During the period leading up to and surrounding the thefts, Mr. Mainland was under considerable stress as his young daughter was born prematurely and continued to suffer from serious and chronic medical conditions after her birth. Further, Mr. Mainland's marriage also broke down during this time.

[10] The ruling of the Law Society in relation to his first application for reinstatement reveals that Mr. Mainland, motivated by feelings of guilt, entered into a Separation Agreement in February 1985, which obliged him to assume financial obligations far in excess of his means.

[11] At the time this matter was before the Discipline Committee in 1988, Mr. Mainland's counsel submitted that Mr. Mainland "was prepared, if cited, to plead guilty and accept the penalty of disbarment."

[12] On March 21, 1988, the Discipline Committee resolved to place the Agreed Statement of Facts, dated September 24, 1987, in Mr. Mainland's personal file and no further action was taken.

[13] Following his resignation from the Law Society, Mr. Mainland worked as a Communications and Development Officer for an Alcohol and Drug Education Service from May 1987 to May 1989. In June of 1989, the law firm of Lawrence & Shaw hired Mr. Mainland as supervisor of its corporate service department.

[14] Mr. Mainland continues to be employed with the same employer since 1989. Lawrence & Shaw became Lang Michener shortly after Mr. Mainland was hired, and since January 2011 the firm is known as McMillan LLP.

[15] On July 24, 1990, Mr. Mainland applied for reinstatement as a member of the Law Society. Lang Michener supported his application for reinstatement. Mr. Mainland readily admitted his wrongdoing at the hearing, as he has ever since.

[16] At the time of his reinstatement application in 1990, Mr. Mainland disclosed that, due to financial difficulties, he had failed to obey a court order regarding maintenance payments that were due to his ex-wife and daughter. Mr. Mainland had, however, paid the money owed and was in compliance with the court order as of May 1, 1990.

[17] Mr. Mainland's 1990 application for reinstatement was unsuccessful. On February 3, 1994, Mr. Mainland made a second application for reinstatement. On December 15, 1994 this application was also rejected.

[18] On April 22, 1999, Mr. Mainland made a Consumer Proposal under the *Bankruptcy and Insolvency Act* ("*Bankruptcy Act*"). By September 19, 2002, Mr. Mainland had fully satisfied the provisions of his Consumer Proposal.

[19] On August 15, 2013, Mr. Mainland made a third application to the Law Society for reinstatement. That application is the subject of this hearing.

[20] In his 2013 application for reinstatement, Mr. Mainland disclosed his Consumer Proposal under the *Bankruptcy Act.* In response to Question 9 of his application, "Have you failed to obey a court order?" Mr. Mainland answered "No."

[21] On October 18, 2013, the Law Society confirmed receipt of Mr. Mainland's August 15, 2013 application for reinstatement and requested, among other things, that Mr. Mainland address the circumstances that gave rise to his Consumer Proposal under the *Bankruptcy Act*. Mr. Mainland responded on November 4, 2013 and provided the Law Society with the "Report of Administrator on Consumer Proposal" ("Administrator's Report"). He also explained his financial difficulties in supporting two families (his ex-wife and daughter, as well as his newborn son, his second wife and her daughter from a previous marriage whom he adopted). The

Administrator's Report noted that Mr. Mainland acknowledged he had mismanaged his finances, reviewed Mr. Mainland's income and payment proposal for dealing with his insolvency, and concluded that the proposal would provide a more certain return for Mr. Mainland's creditors than a bankruptcy would achieve. Mr. Mainland's creditors accepted the Consumer Proposal, and as noted above, Mr. Mainland satisfied its terms. Mr. Mainland acknowledged with regret, under cross-examination at the hearing of this matter, that his creditors received only a fraction of what he owed to them.

[22] Following the acceptance of the Consumer Proposal, but prior to fulfilling the terms of repayment under it, Mr. Mainland received an inheritance of approximately $200,000 from his brother's estate. At the hearing of this matter, when asked why he did not use his inheritance to fully pay his debtors, Mr. Mainland testified that he checked with BDO Dunwoody, who administered his Consumer Proposal, and he was advised that "once the Consumer Proposal was accepted, I was only required to pay under the terms of the proposal."

[23] In its letter of November 4, 2013 to Mr. Mainland, the Law Society noted that, in his previous two reinstatement applications, Mr. Mainland had answered affirmatively to the question of whether he failed to obey a court order but, in his latest application, he answered "no" to this question. On November 25, 2013, Mr. Mainland responded in writing and acknowledged he was mistaken in his latest application when he stated he had not disobeyed a court order. He explained he did not have his 1990 and 1994 applications before him (in which he correctly stated that he had previously disobeyed a court order) and that he had simply forgotten about not complying with a court maintenance order. This Panel questioned Mr. Mainland about this error at the hearing. The Panel is satisfied with his explanation. The error appears to be an innocent oversight, explained by the passage of some considerable time and Mr. Mainland's memory lapse.

[24] Mr. Mainland's application was supported by four character reference letters: Mr. Karl Gustafson, Managing Partner of McMillan LLP, Francois Tougas, Larry Hughes, and KK, who is Mr. Mainland's wife. Each character reference was unequivocally supportive of Mr. Mainland's reinstatement, and each was also aware of his prior wrongdoings that led to his departure from the profession. Three of these four character referees also testified at the hearing. While KK did not testify, her letter assisted in more fully understanding Mr. Mainland's strong reasons and desire to be reinstated.

[25] Mr. Gustafson testified that Mr. Mainland is a very well-respected employee of the firm. He has worked for the firm for over 25 years and has steadily increased his

level of responsibility and contribution to the firm. He has advanced from supervisor of the corporate services department to senior paralegal assisting with large corporate and commercial transactions and, more recently, to assisting with trademark applications. In the past three to four years, Mr. Mainland has worked almost exclusively as a senior trademark paralegal.

[26] Mr. Mainland has attended courses and seminars on trademark law both in Canada and the United States. He also liaises on a regular basis with McMillan LLP's trademark practitioners in the firm's Toronto office. Mr. Mainland has also attended in-house continuing professional education seminars that have dealt with a wide range of legal and ethical issues. Mr. Gustafson testified that Mr. Mainland was someone who has taken responsibility for his mistakes, has learned from them and is "a person of admirable character."

[27] Larry Hughes is Vice-President, Finance and Chief Financial Officer of W Co. Ltd. Prior to working at W Co. Ltd., Mr. Hughes was a partner at Lawrence & Shaw and Lang Michener (now McMillan LLP). Mr. Hughes is a personal friend of Mr. Mainland. They met in 1970 when both were undergraduates at UBC. Mr. Hughes confirmed that Mr. Mainland had fully disclosed the situation leading to his departure from the practice of law to Mr. Hughes and to Lawrence & Shaw prior to being hired. Mr. Hughes stated that, while Mr. Mainland enjoyed his work as a paralegal, he always expressed a desire to return to the practice of law.

[28] Mr. Hughes testified that, through discussions over the years with Mr. Mainland, he knows that Mr. Mainland feels a deep and sincere remorse over the events that ended his legal career almost 28 years ago.

[29] Francois Tougas is a partner at McMillan LLP who has worked with Mr. Mainland for 25 years on various corporate and intellectual property matters. In this light, Mr. Tougas described Mr. Mainland as someone who "has always maintained a high standard of practice and has conducted himself in a manner that has permitted him to remain a vital part of our firm." When questioned at the hearing, Mr. Tougas described Mr. Mainland's behaviour in the mid-1980s as "aberrant", indicating that Mr. Mainland was not acting in character when he stole funds but that, in the many years since his theft, Mr. Mainland has engaged in a course of conduct that is more himself. Mr. Tougas described Mr. Mainland as a "person of integrity, who is honest in his dealings and willing to abide by the ethics of the members of the Law Society."

[30] In this regard, Mr. Tougas' evidence was corroborated by Mr. Gustafson, who testified as follows about Mr. Mainland's character today:

> He's just a rock solid guy in the office. That's the Don Mainland I know and have known for 25 years. When I look at the person I see in front of me and interact with, the question just doesn't come up in the way he conducts himself at the office. If you took that part away [his prior theft] and asked me about Don Mainland as I've known him for 25 years, I'd be completely unqualified in my support for the guy because he couldn't have done anything more than he has done since I've known him to demonstrate good character and the ability to practise.

[31] Mr. Mainland has indeed rebuilt his life. When questioned by the Panel about the circumstances surrounding his choices, Mr. Mainland responded he didn't want to use the stresses in his life as an excuse and testified:

> The thefts were totally out of character. I have never done anything like that prior to that time, and I've never done anything like that since that time, so I'm left to sort of understand or speculate why I did it back then. I don't want to use the stress as an excuse. I had control over what I was doing, I knew what I was doing, I knew I was doing wrong. I knew all those things at the time, and still I did it. If I could go back and change what I did 29 years ago, I would do it. I can't obviously. I was faced with a choice 28, 29 years ago, do I just throw away my life or do I rebuild it? For all intents and purposes I rebuilt my life.

[32] When asked by the Panel about whether there have been more significant changes in his character since the time of his last application for reinstatement in 1994, Mr. Mainland responded:

> I think so. I think the birth of my son was an incredibly positive experience for me. Having a child - adopted my wife's daughter and that was very important for me to do. Having my son, after what I went through, was a giant leap of faith. To answer your question, I think my life has turned incredibly positive in the last 20 years, in large part to where I worked, in large part to the fact I've remarried, and that I've had a child, all those things.

[33] Mr. Mainland's wife shed further light on Mr. Mainland's character and determination in coming to terms with his past. She writes that, over the intervening years since his last application for reinstatement in 1994, "he has often spoken of applying for re-admission" and that Mr. Mainland has "a deep, underlying need to try to gain a form of forgiveness from the profession he always aspired to."

[34] There can be no question that Mr. Mainland made extremely serious mistakes in stealing funds almost 30 years ago. It is also patent, however, that he has accepted full responsibility for these mistakes, that he has made full restitution and that he has worked extremely hard to rehabilitate and redeem himself. In summary, he has been a responsible husband, father, employee and professional for well over two decades now.

RELEVANT LEGISLATION AND RULES

[35] The criteria for reinstatement are set out in subsections 19(1) and (2) of the *Legal Profession Act* ("Act"), as follows:

> 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.
>
> (2) On receiving an application for enrollment, call and admission or reinstatement, the benchers may
>
> (a) grant the application,
>
> (b) grant the application subject to any conditions or limitations to which the applicant consents in writing, or
>
> (c) order a hearing.

[36] The Panel's obligations in conducting a credentials hearing are set out in subsections 22(1) and (3) of the Act, which provide:

> 22(1) This section applies to a hearing ordered under section 19 (2) (c).
>
> …
>
> (3) Following a hearing, the panel must do one of the following:
>
> (a) grant the application;
>
> (b) grant the application subject to conditions or limitations that the panel considers appropriate;
>
> (c) reject the application.

[37] The onus and burden of proof at these credentials hearings are set out in Rule 2-67(1), which provides:

> 2-67(1) At a hearing under this Division, the onus is on the applicant to satisfy the panel on the balance of probabilities that the applicant has met the requirements of section 19(1) of the Act and this Division.

ISSUE

[38] The issue to be decided is whether Mr. Mainland satisfies the requirements of section 19(1) of the *Legal Profession Act* that he is of good character and repute and fit to become a barrister and a solicitor of the Supreme Court.

DISCUSSION AND ANALYSIS

[39] The Applicant's character, repute and fitness to be a barrister and solicitor are in question in this application. These three issues are interwoven and, for purposes of our decision, we will refer to all three as "character."

[40] In determining the character of a former lawyer applying to be reinstated as a member of the Law Society, the hearing panel must do so in light of the facts at the time of the application. Clearly, in this case Mr. Mainland did not have the prerequisite character in 1985 and 1986 – by his own admission – nor during his attempts at reinstatement in 1990 and 1994, as determined by the previous credential panels that dismissed his applications.

[41] Character assessment is fraught with difficulty. Basically this Panel is charged with assessing the very fundamental nature of Mr. Mainland. This is challenging in this instance as there are two previous panels who concluded, on similar evidence, that he did not have the necessary character, repute and fitness for re-admission. His own actions and admissions confirm these previous determinations. Nonetheless, this Panel must now decide whether Mr. Mainland has changed to such a degree that we can safely say, at this point in time and despite his past conduct, that he is now fit to be a lawyer.

[42] The difficulty of assessing the character of other people is well known. We have carefully considered and assessed Mr. Mainland's credibility when he spoke to the significant changes for the better in his character since his last application. We found his testimony earnest and compelling. However, such testimony by itself is not sufficient in such proceedings. An infamous example that underscores the

prudence of not relying solely on personal assurances is found in a statement made by British Prime Minister Neville Chamberlain in 1938 after Adolf Hitler had sworn he would not invade Czechoslovakia. His public assessment was, "I got the impression that here was a man who could be relied upon when he gave his word."

[43] Recently, in *Re Applicant 6*, 2014 LSBC 37, the panel articulated and clarified the accepted "test" for reinstatement, at paragraphs 18-21 of its reasons, as follows:

> … Once evidence of bad character has been found, as here, how does the Applicant rehabilitate himself and prove on a balance of probabilities that he is now of good character? What constitutes evidence of rehabilitation?
>
> The test the hearing panel should have applied to determine if the Applicant has been rehabilitated is found in the case of *Watt v. Law Society of Upper Canada*, [2005] OJ No. 2431 (Divisional Court) at paragraph 14. This test was recently adopted in this jurisdiction in a Bencher review, *Law Society of BC v. Gayman*, 2012 LSBC 30 at paragraph 25. The *Watt* test, modified for this case is:
>
> (1) Is there a long course of conduct showing that the applicant is a person to be trusted?
>
> (2) Has the applicant's conduct since [ceasing to be a member] been unimpeachable?
>
> (3) Has there been a sufficient lapse of time since [the Applicant ceased to be a member]?
>
> (4) Has the applicant purged his guilt?
>
> (5) Is there substantial evidence that the applicant is extremely unlikely to misconduct himself again if readmitted?
>
> (6) Has the applicant remained current in the law through continuing legal education or is there an appropriate plan to become current?
>
> Further guidance can be taken from the case of *Levenson v. Law Society of Upper Canada*, 2009 ONLSHP 98, which sets out ten principles to be considered when using the six-part *Watt* test. These principles were also adopted and referred to in *Law Society of BC v. Gayman* at paragraph 23:
>
> 1. The Society regulates the legal profession in the public interest.

2. Public confidence in the legal profession is more important than the fortunes of any one lawyer.

3. The ability to practise law is not a right but a privilege.

4. Once the privilege is lost, it is hard to regain.

5. The privilege may be regained no matter how egregious the conduct that led to its loss *provided sufficiently compelling evidence of rehabilitation is presented*. This will be hard to do.

6. The privilege may be regained where, as in *Goldman*, the misconduct was committed as a result of a psychiatric or medical disorder that is very unlikely to recur because the disorder has been successfully treated.

7. The privilege may be regained where, as in *Manek*, the misconduct did not have its origins in a medical or psychiatric disorder, but the applicant has established genuine and enduring rehabilitation.

8. The legal profession, of all professions, has a special responsibility to recognize cases of true rehabilitation; *however, as rehabilitation will be claimed by virtually all applicants, independent corroborating evidence is required to establish that the rehabilitation is genuine and enduring.*

9. The burden of proof on [an applicant for a licence following disbarment] is close to, but is not as high as, the criminal law burden of beyond a reasonable doubt. The burden of proof on an applicant seeking re-admission is at least as high as the burden on the Society when it seeks to disbar a lawyer.

10. The [licensing following disbarment] must not be detrimental to the integrity and standing of the bar, the judicial system, or the administration of justice, or be contrary to the public interest.

[emphasis added in original]

[44] The panel in *Applicant 6* also concluded that, while the above-named cases dealt mostly with lawyers who have been disbarred and were seeking reinstatement,

cases for reinstatement after disbarment are nonetheless applicable in cases such as that before us now.

[45] For some purposes, the Act and Rules treat a person who has resigned in the face of discipline as a disbarred lawyer. Section 15(3) says that a person must not practise law, even pro bono, if

> (a) the person is a member or former member of the society who is suspended or has been disbarred, or who, as a result of disciplinary proceedings, has resigned from membership in the society or otherwise ceased to be a member as a result of disciplinary proceedings, or
>
> (b) the person is suspended or prohibited for disciplinary reasons from practising law in another jurisdiction.

[46] Under section 19 (3) of the Act, "If an applicant for reinstatement is a person referred to in section 15 (3) (a) or (b), the benchers must order a hearing." Sections 35 and 50 of the Act allow the court to order that "a person referred to in section 15(3) (a) or (b) not be permitted to act as a fiduciary in certain circumstances. In the Rules, "disbarred lawyer" is defined as "a person to whom section 15(3) of the Act applies."]

[47] Turning first to the ten principles set out in *Levenson,* it is abundantly clear that re-admission after disbarment is not something that will be easily attainable. In the instant case, disbarment was effectively pre-empted by the resignation of Mr. Mainland. Regardless, the unvarnished fact is that, in a period between 1985 and 1986, he stole money. Nothing can erode public confidence more fundamentally than a lawyer stealing. Disbarment in such circumstances often follows.

[48] Once lost, the privilege to practise law is "hard to regain." Fortunately, disbarment is not a situation that often arises.

[49] In some American jurisdictions disbarment is essentially a lawyer's "death penalty." There is virtually no return to practice following disbarment. British Columbia is not a jurisdiction that has such an absolute rule on the topic. As noted in the principles to be applied, if there is "compelling evidence of rehabilitation" to establish "genuine and enduring rehabilitation" and such evidence is independently corroborated, there may be rare instances where re-admission will be granted.

[50] No one factor will be determinative, but what must be made perfectly clear is that "forgiveness" is not - nor ever will be - a factor in assessments for reinstatement. Forgiveness of theft or such similar conduct by a lawyer plays absolutely no role in the decision-making process. Rather, the question is one of protecting the public following reinstatement, including how best to advance the public interest. This

may or may not involve re-admission but, in any event, such a determination cannot be construed as a "form of forgiveness by the profession," as was suggested in one letter of support in these proceedings. That is not what re-admission represents.

[51] We turn to applying the various factors to be considered in light of the *Watt* decision. These six factors are a useful guide, although we note the list is not exhaustive.

1. Is there a long course of conduct showing that the applicant is a person to be trusted?

[52] The evidence in this regard came primarily from Mr. Tougas, Mr. Gustafson and Mr. Hughes as mentioned above. The Panel accepts their evidence in relation to the trust they place in Mr. Mainland. These witnesses appear to be highly regarded individuals who have been in a position to assess Mr. Mainland over the 20 years since the last hearing.

[53] The duration of Mr. Mainland's employment at the law firm and the continued and strong support by his employer ought not to be underestimated. It is a testament to the faith and trust they place in him. In some respects, the character witnesses called in his support are better placed to make an assessment of character than this Panel. This is not to say we are fettering our decision-making responsibility or deferring to these three witnesses, but rather, we simply make the point that we found their evidence persuasive and have taken some degree of guidance and comfort from their collective, long-term assessment.

[54] The course of employment with McMillan LLP is set out above in paragraphs [25] and [26] through the evidence of Mr. Gustafson. The evidence demonstrates a steady growth of responsibility over a considerable period of time. The Panel was impressed with this evidence, and it clearly showed a belief that Mr. Mainland was a "person to be trusted." If there were doubts about Mr. Mainland's character, he would likely not have continued in their employment for 25 years. It is a testament to McMillan LLP that they have continued to support Mr. Mainland for such a lengthy period of time in his efforts to be reinstated.

[55] In addition, we have the evidence of Mr. Mainland himself. While we must be cautious about placing too much weight upon his own evidence as to his "character", we are of the view that his tenacity and strong commitment to be reinstated, coupled with his many years of principled service as a paralegal at McMillan LLP, is a strong indication that he is very unlikely to repeat any behaviour similar to that which led to his resignation as a lawyer. It is difficult to

imagine that a person, who would persist through three reinstatement applications over a 25-year period, would take any action that might jeopardize his re-admission or standing as a lawyer. This gives the Panel a strong sense that the public is protected.

2. Has the applicant's conduct since ceasing to be a lawyer been unimpeachable?

[56] The Panel accepts the evidence of Messrs. Gustafson, Hughes and Tougas. All were impressive assessors of the character of Mr. Mainland, and all spoke to a consistent pattern of loyal, competent and honourable service during the course of his employment over the span of 25 years.

[57] As set out in paragraphs [18] to [22] above, we are cognizant that, in April of 1999, after he ceased practising, Mr. Mainland made a Consumer Proposal under the *Bankruptcy Act*. The proposal was approved under the *Bankruptcy Act* and 12 years have now passed since Mr. Mainland fully satisfied its terms and provisions. In light of the evidence before us on this issue, including the submissions of the Law Society, we are satisfied that Mr. Mainland has fulfilled his legal obligations to pay his debts, that he has put his financial house in order, and that he has been financially sound and responsible for over a decade.

3. Has there been a sufficient lapse of time since the applicant ceased to be a lawyer?

[58] There is no established or set time period during which rehabilitation can be said to have occurred. This is a fact-dependent finding that must be assessed case by case. Clearly, the two earlier panels were of the view that the time period for rehabilitation was insufficient in the four and eight years following his resignation. We are now 28 years past his resignation in 1986.

[59] Mr. Mainland was called in 1980. His career as a lawyer ended six years later. He has continued as a paralegal steadily for nearly three decades. In the view of the Panel there has been "a sufficient lapse of time" to allow him to be readmitted, subject to conditions regarding his re-qualification to be stipulated by the Credentials Committee.

4. Has the applicant purged his guilt?

[60] In this case, the evidence clearly supports a finding that Mr. Mainland has led an up-standing life since his serious misbehaviour nearly 30 years ago. Based upon

the evidence of those who know him most intimately, we are of the view he has done what is required. We hasten to add what we stated earlier. A re-admission application is not a process of forgiveness. Rather, it is a process of assessment in the public interest. We have no doubt Mr. Mainland regrets his behaviour. More importantly, however, we believe on the evidence before us that his regret has led to the prerequisite character change that allows us to make a finding that his character now warrants re-admission.

5. Is there substantial evidence that the applicant is extremely unlikely to misconduct himself again if re-admitted?

[61] Based upon the evidence, we are of the view the Applicant is "extremely unlikely to misconduct himself" in the future. All the factors we have assessed suggest he is now rehabilitated and a person of good character. In our view, Mr. Mainland has done an excellent job in this regard. His employer is also in large measure responsible for his rehabilitation, and it appears certain that the employment relationship will continue. Mr Mainland is patently indebted to McMillan LLP for its continued support. Senior members of his firm, who are also members of the Law Society, have stood by him for a very long time. It would be the most egregious affront to them if he were to misconduct himself. We very much doubt this will occur.

6. Has the applicant remained current in the law through continuing legal education or is there an appropriate plan to become current?

[62] As set out at paragraphs [25] and [26] above, Mr. Mainland has been practising as a paralegal with a specialty in trademark law and has regularly attended courses in this field. Clearly, his work as a lawyer will be more challenging, with greater responsibility. This will require additional courses and upgrading. In this regard, we defer to the Credentials Committee to set out the requirements necessary to institute an appropriate plan for further continuing legal education under the rules for returning to practice after a long absence.

CONCLUSION

[63] The Applicant has, in the Panel's view, met the evidentiary burden of proving, on a balance of probabilities, that he is a person of good character. Accordingly, it is the opinion of this Panel that Mr. Mainland should be reinstated and permitted to practise law when he meets all conditions imposed by the Credentials Committee.

COSTS

[64] The Applicant has posted $2,500 as security for the costs of this hearing. We order that he pay that $2,500 as costs forthwith.