2015 LSBC 18
Decision issued: April 13, 2015

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a hearing concerning

APPLICANT 7

APPLICANT

DECISION OF THE HEARING PANEL ON APPLICATION FOR ENROLMENT

Hearing dates:	November 27, 2014, January 19, 20, 2015 and February 6, 2015
Panel:	Craig A.B. Ferris, QC, Chair Ralston Alexander, QC, Lawyer Linda Michaluk, Public representative
Counsel for the Law Society:	Henry C. Wood, QC
Counsel for the Applicant:	Michael D. Shirreff and Jessie Meikle-Kahs

OVERVIEW

[1] The Applicant, though legally trained, was employed by a law firm in the Spring of 2012 doing paralegal duties while he waited for the start date of an articling position with a second firm. In the course of his paralegal employment he accepted an offer of articles with the first firm with a start date in January 2013.

[2] He commenced his articles as scheduled but encountered difficulties soon after he started. Ultimately his articles were terminated by the firm, and he was unable to find replacement articles within the permitted 30-day window for assignment of his articles. In the course of seeking to re-enroll in the Law Society Admission Program (LSAP) with a new principal, he provided some false answers to questions on the application

form, and the Credentials Committee ordered a hearing into his character and fitness as provided in the *Legal Profession Act.*

ISSUE

[3] The issue to be determined at this hearing is whether the Applicant 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:

> 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.

[4] 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.

[5] The Law Society expressed a concern as to the "fitness" of the Applicant to be enrolled as an articled student based in part upon circumstances leading to the termination of his articles and additionally due to the false answers provided in the sworn application for enrolment in LSAP.

THE LAW

[6] There are a number of helpful decisions to guide hearing panels with the difficult task of determining what constitutes "good character and repute." The test for "fitness" for membership in the Law Society has also been described in several decisions of previous Law Society panels considering applications for enrolment. The relevant principles are well established and understood.

[7] Many decisions on credential applications refer to the statements on the subject found in *McQuat v. Law Society of BC* (1993), 78 BCLR (2d) 106, where the Court of Appeal of this Province adopted the writing of Mary Southin, QC (as she then was) in "What is 'Good Character'?," (1977) 35 *The Advocate* 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:

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 report.

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.

[8] The Panel in this hearing was referred to Ms. Southin's essay. We find the direction there to be clearly stated, and we have applied the principles therein described in our consideration of the Applicant's character and reputation.

[9] On the "fitness" issue, it falls to the Panel to weigh the evidence to determine if the Applicant has met the burden imposed upon him to explain the circumstances in his quest for re-enrolment that caused him to provide incorrect answers in a sworn statement.

SUMMARY OF THE EVIDENCE

[10] The Applicant was articled to Lawyer S, the principal of S Co. Though he had successfully worked in the firm for some months prior to the commencement of articles, the articling experience got off to a rocky beginning and deteriorated. Within two months of the commencement of the articling term, the Applicant's articles had been terminated for the first time. That termination was rescinded on compassionate grounds when it was revealed that the Applicant was considerably preoccupied with an ailing father.

[11] There are conflicting explanations for the difficulties encountered in the articling experience. The Applicant's explanation was that he received insufficient guidance and direction and the expectations upon him were unrealistic given that deficiency. He also complained of conflicting instructions. He alleges that he was repeatedly verbally abused and humiliated by the lawyers in S Co. There is at least one acknowledged instance of him being sworn at with the F word.

[12] In his letter to the Law Society explaining the termination of his articles, the Applicant described the articling atmosphere in the firm as "toxic."

[13] Lawyer S, on the other hand, explained the difficulties by reference to the Applicant's inability to follow directions and his failure to seek instruction or clarification when appropriate. He also missed deadlines. The evidence disclosed that in the early days of his articles, there were numerous instances where Lawyer S provided instruction to the Applicant and followed up with immediate feedback and clarification. The Applicant was the subject of a number of critical memoranda from Lawyer S, and he was clearly having significant issues transitioning from the paralegal to articled student role.

[14] On April 1, 2013 the office was on high alert looking for a missing trial record. The record was needed for an application by Lawyer M, scheduled for April 2. An employee (MS) was in the process of reproducing the necessary binders as the originals could not be located. The Applicant encountered the photocopying process and inquired if she was working on the Client File B. The employee advised that she was reproducing the trial record for Client File B. The Applicant advised MS that he had the trial record in his office. MS does not recall her response to that advice. The Applicant then returned to his office without comment.

[15] There is some contradiction on the evidence as to when the next exchange occurred. It was either immediately following the exchange in the copy room (MS version) or the next day (the Applicant's version). Nothing turns on the time at

which the exchange took place, though it more logically followed the meeting in the copy room.

[16] MS was returning to her office, and the Applicant asked her to join him in his office. The Applicant showed the Client B binders to MS and asked MS what he should do with them. MS responded that she had already made copies of the binders, that she could offer no advice to the Applicant as to what he should do with the originals, and that the Applicant should tell Lawyer M that he had them.

[17] MS testified that the Applicant then said that "he would take care of it" and then made a gesture with his finger to his lips to suggest "shush – quiet."

[18] MS testified that she told the Applicant that she had spent considerable time looking for the binders and that the Applicant then said "maybe we should just shred them." The Applicant's evidence was that it was MS who first mentioned "shredding" the documents.

[19] MS testified that her response to the Applicant's suggestion was to throw her arms into the air and say to him "[Applicant], do whatever the hell do you want," and she then left his office. MS then mouthed the words "what the hell?" to another legal assistant (JS) whose desk is located near the office of the Applicant. MS testified that she later discussed the shredding issue with JS.

[20] Several weeks later Lawyers S and M conducted a performance review of MS. In the course of that review MS revealed her concern that the conversation she had had with the Applicant about the Client File B had not been disclosed to Lawyer M. She told them that the binders had been in the Applicant's office all along.

[21] The lawyers immediately called the Applicant to a meeting and asked him to tell them about the binders. They did not identify the client name. The Applicant replied that he did not know what binders they were talking about. After a further exchange they advised that they wanted to know what he knew about the Client B binders.

[22] The Applicant then immediately confirmed that he had them in his office and was directed to retrieve them and he did. The Applicant advised that he did not tell Lawyer M about the binders being in his office because they had already been copied. He also indicated that he was fearful that Lawyer M would be angry. The Applicant was advised that they would check his story against that provided by MS and was cautioned that his story must match that provided by her. The meeting ended.

[23] During that evening the Applicant contacted legal assistant JS to obtain a phone number for MS. He tried to call MS but did not connect. He testified that he had a sleepless night worrying that his message to MS about "taking care of the binders" would be misinterpreted. Since he was unable to speak to her by telephone he sent a text to her. The text message said:

> Hey [M], it's [the Applicant] from work. I need to speak to you about B binders. Please call me before you come into work today. [Lawyer S and Lawyer M] are going to talk to you about them today morning. And please don't mention to [Lawyer S] or [Lawyer M] that I called you. I told them that I told you not to worry about them and that I will take care of it which is what I told you anyways in reality when you asked whether we should shred them LOL. Anyways, call me. Thanks!

[24] MS testified that she was upset upon receiving this text message as in her words "it turned things around on her." She explained to the Panel that it was her view that the Applicant was trying to suggest that it was she who had first suggested the shredding. When she got to work she immediately shared the contents of the text message with the lawyers.

[25] A meeting with Lawyer S, Lawyer M and the Applicant was convened. He was asked to explain the reason for the text to MS. The Applicant explained that he sent the text message because he was afraid that his comment "I will take care of it" would be misinterpreted. He wanted to be sure that MS understood his intention. The Applicant was provided an opportunity to change his story, and he refused to do so. It was suggested to him that, if he insisted that it was MS who had first suggested the shredding, it might be necessary for the firm to fire MS. The Applicant said that would be unfortunate but that it was not he who had first suggested the shredding.

[26] Following further discussions among the lawyers it was determined that the employment of the Applicant must be terminated, and that happened later that morning.

[27] Approximately one week later the Applicant requested an in-person meeting with Lawyer S. The sworn testimony of the participants conflicts dramatically on one salient topic of the meeting. Lawyer S testified that the Applicant apologized for his misbehaviour and admitted that it was he who had first suggested shredding the binders. The Applicant testified that he arranged the meeting so that he might apologize in person for sending the inappropriate text and denied any suggestion that he had admitted to initiating the shredding suggestion.

[28] On the same day as this meeting took place, Lawyer S received an email from the Applicant's uncle. This uncle is a mentor and confidant of the Applicant who provided guidance to the Applicant throughout his time as an articled student with S Co. The uncle's email sought to ensure that the text sent by the Applicant to MS was not misunderstood. The uncle also reiterated that family issues were impacting on the Applicant's judgment. The email sought a reconsideration of Lawyer S's characterization of the behaviour of the Applicant as including a question of his integrity.

[29] The uncle's email arrived during the meeting with the Applicant and so was not discussed with him at that time. Lawyer S forwarded the email to the Applicant and requested his direction as to an appropriate response given the confidential information involved. Lawyer S also noted in the email as follows:

> On another note, thanks for coming in to see me today. It shows a lot of courage for you to face me. Life gives us opportunities to learn and to grow and by coming to see me, I believe you are truly trying to learn from this. I'm sorry that things ended the way they did and hope you the best [sic] in your future endeavours.

[30] The Applicant then contacted the Law Society and spoke to LS, a member services representative. The Applicant reported that LS advised him that he did not have to disclose the circumstances of the termination of his articles to subsequent principals to whom he was seeking to assign his articles. All that was required was an assignment of articles form and a declaration of the previous principal. The Applicant testified that he interpreted the advice as permitting him to retain confidentiality around the circumstances of his dismissal without any time limits. There is no written record of the advice provided to the Applicant. The Panel notes this information was correct for the 30-day period of time following the termination of articles with one principal and the commencement of articles with the next.

[31] On the day before the 30-day time limit for assignment of articles expired, the Law Society sent an email to the Applicant advising him of the termination of his enrolment in LSAP due to his failure to provide an assignment of articles within the required 30 days. It also advised the Applicant that his scheduled attendance at PLTC commencing May 21, 2013 could not proceed as he had not found a replacement principal.

[32] On June 13, 2013 the Applicant provided the Law Society with his side of the story in response to the report provided by Lawyer S in April. The Applicant's response contained allegations of misconduct and misbehaviour on the part of both Lawyer S and Lawyer M. It also offered his explanation for his failure to advise Lawyer M in

a timely way or at all that the application record binders were in his possession at all material times.

[33] In response to this letter, on July 24, 2013, GH, a credentials officer with the Law Society, sent an email to the Applicant. He asked whether the Applicant would like to make a formal complaint against Lawyer S and Lawyer M. He also asked for the Applicant's permission to provide a copy of his response letter to Lawyer S.

[34] On August 14, 2013, the Applicant responded to GH. He advised that he did not wish to pursue a formal complaint at this time and that he was concentrating his energies on finding a new articling position. He advised that he was struggling in that regard. He did not wish for his letter to be shared with Lawyer S, who saw it for the first time while testifying in this hearing. The Applicant then posed the following two questions to GH:

(a) While applying to new articling position [sic], is it necessary for me to disclose that I have articled with S Co. for three months and my articles were terminated?

(b) Further, if I have to disclose that I have articled with S Co. for three months and my articles were terminated, is it necessary to provide them with the circumstances of my termination?

[35] On August 23, 2013 GH replied to these questions as follows:

> As you are aware, in order to apply for enrolment in LSAP, you must state your full employment history, including reasons for cessation and whether you have ever been discharged, suspended or asked to resign from any employment, including particulars. Your new principal must sign the application form acknowledging that he or she has read your complete LSAP application. Accordingly, the Law Society will expect that your full employment history, including the circumstances of your termination from S Co. will be disclosed to any new principal.

[36] In his testimony before the Panel, the Applicant advised that the "struggling" to which he referred had to do with finding a new articling position and advised that his quest for a new articling position was being hampered by his providing advice of the termination of his previous articling position to prospective principals.

[37] In October 2013, with the assistance of a temp agency, the Applicant secured a temporary paralegal position with a law firm. He was soon offered permanent paralegal employment, which he accepted.

[38] Soon after the paralegal position was made permanent, the firm offered the Applicant an articling position. The Applicant was very excited and pleased to receive this offer and completed an application for admission to the LSAP. Question 6 of part C of that application asks if the applicant has ever been discharged, suspended or asked to resign from any employment. The Applicant responded "no" to that question. The application also requires as Schedule 1 an employment history. In the "Reason for Cessation" column of that form with respect to the employment at S Co., the Applicant responded "quit/terminated." On December 12, 2013 the Applicant swore in the presence of his proposed principal that the information contained in the application was true, accurate and complete.

[39] It is common ground that, at the time he swore the application, he had not disclosed to his prospective firm the fact of his former articling position nor the circumstances of its termination.

[40] On February 6, 2014 GH of the Law Society responded to the Applicant's application for enrolment in the LSAP. He required an explanation of the negative answer to question 6 and an explanation of the use of the words "quit/terminated" in the employment record. The Applicant was also asked to advise if the new principal was aware of the circumstances of the termination of the previous articling position and whether the new principal was aware that the Applicant's previous enrolment in the LSAP had been terminated.

[41] The Applicant responded on March 21, 2014, advising first that, prior to GH's letter of February 6, 2014, "I was under a wrong impression/misinformed." He restated his belief in the advice received from LS with respect to his obligations to disclose information to new employers. He said in part, "However, after I sent the email to you in August, 2013, I had forgotten about that email and had no recollection of it thereafter."

[42] He went on to say, "It was not until your letter dated February 6, 2014 that I realized that what I had honestly believed to be true previously was not true and that I was misinformed." He confirmed that he then advised the partners in the prospective firm of the circumstances of his former employment and its termination.

[43] As an explanation for the use of the words "quit/terminated" he suggested that he believed that his failure to accept responsibility for initiating the shredding discussion would certainly lead to his dismissal, so he felt that, by refusing to retract his story, he was in fact quitting the employment. Under cross-examination he did acknowledge that this interpretation of those circumstances was potentially misleading.

[44] He confirmed that his prospective principal was now aware of the circumstances of his previous articling position and of the circumstances surrounding its termination. The Applicant provided an amended application for enrolment in the LSAP and asked for its consideration.

[45] The Applicant testified that, at the time he swore the false declaration, he had completely forgotten the contents of the email received from GH on August 23, 2013. Under cross-examination he did acknowledge that he had received the email but that he did not read it carefully or absorb its import. He also testified that he believed he was entitled to preserve the confidentiality of the circumstances surrounding his former employment because the Law Society already knew these circumstances and there was therefore no need to disclose that information to the Law Society again. He also acknowledged a desire to preserve the confidentiality of the previous employment circumstances from his new would-be principal.

[46] On May 8 2014, GH advised the Applicant that the Credentials Committee had determined that a hearing into the circumstances surrounding his application for enrolment in the LSAP would be necessary.

LETTERS OF REFERENCE AND CHARACTER EVIDENCE

[47] The Applicant presented several character witnesses, including his prospective principal, and a number of letters in support of a finding of good character and repute by the Panel. To the extent that this information was helpful in our deliberations, we considered the letters and the in-person recommendations. It was clear that those who provided character references for the Applicant, including those who testified, did not have the benefit of hearing the witnesses testify on the subjects before us and mainly relied upon incomplete descriptions of these events as provided by the Applicant. We were therefore required to qualify the extent to which we were persuaded by the recommendations provided by each witness and correspondent.

ANALYSIS AND DISCUSSION

[48] Our task is to determine whether this candidate has demonstrated that he has a good and sufficient character and repute to be entitled to become enrolled as an articled student in the LSAP. In order to complete this assessment we have examined the totality of the evidence provided. There are several instances where the evidence of the Applicant conflicts with that of other witnesses.

[49] The hearing panel in the above referenced *McQuat* decision was further quoted with approval in the Court of Appeal decision where they wrote:

> The objective sense of "good character" overlaps with the requirement of fitness. 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 what the personal cost,* resolve to place the client's interest first and never expose the client to risk of avoidable loss and trustworthiness in handling the money of a client.
>
> [emphasis added]

[50] We adopt the reasoning found at paragraph 7 of a decision on an application for Call and Admission on Transfer, *Re: Mangat*, 2013 LSBC 20, where the panel referred to language in a decision of the *Law Society of Upper Canada v. Schuchert*, [2001] LSDD No.63, as follows:

> ... 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 the 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.

[51] Sworn testimony before a hearing panel in a credentials hearing is a perfectly contemporaneous window through which to view the mind of the applicant. It is an excellent measure of the character of the applicant as it squarely confronts the opportunity to test the willingness of the applicant "to speak the truth no matter what the personal cost."

[52] On this point, the comments of the hearing panel in *Re: Applicant 4*, 2013 LSBC 13, are helpful.

> 41. The Applicant's explanations concerning the circumstances of the accident, his confidence that he was not impaired, his response to the Law Society's letter of July 14, 2011 do not withstand scrutiny. We do not believe that he was being truthful.

42. When considered in the light of the good character test, the Applicant's failure to convince the Panel that he was telling the truth is fatal to his application.

[53] This determination by the hearing panel was specifically confirmed by the Benchers in a review on the record, conducted at the request of Applicant 4.

[54] It is our position that, if our analysis of the evidence demonstrates that the Applicant has been untruthful in his sworn testimony before us, then we must find that he has not met the burden upon him to satisfy us, on a balance of probabilities, that he is a person of good and sufficient character and repute.

[55] We have identified three separate instances where that determination can be undertaken.

[56] The three instances to be considered follow:

(a) the discussion with respect to the possible shredding of the original Trial Record;

(b) the circumstances surrounding his return to the office of Lawyer S to have a discussion with her in the week following his dismissal from his articles, and

(c) his explanation for not disclosing his prior articling experience and its termination to his new principal.

[57] Testing credibility is difficult, especially in circumstances where the evidence is directly contradictory. We will examine these circumstances and develop conclusions in respect of our findings in each case based on that analysis.

[58] We first consider the discussion with respect to shredding the trial record. The evidence on this subject could not be more contradictory. The Applicant testified that it was MS who first suggested the shredding, and MS testified that it was the Applicant who first suggested the shredding.

[59] We have considered whether there was any basis upon which MS might have considered shredding the documents. She had been tasked with locating the missing trial record and, after conducting what had been described as an extensive search, failed to locate the original trial record. It turned out that the trial record was at all material times in the office of the Applicant. This could suggest that the methodology of her search for the record left something to be desired.

[60] We find as a fact that, at all material times, the missing trial record was in the Applicant's office. We are not able to determine why the extensive search did not turn up the trial record. It is possible that MS would have felt some anxiety with the discovery of the trial record after she spent two days reproducing the same. Clearly the copying time would have been saved had her search been more effective.

[61] By this time in the evolution of his articling experience, the Applicant was operating under conditions in the office where, due to earlier problems, virtually everything he touched turned out badly. He was regularly criticized and vilified for his alleged neglectful approach to the variety of tasks under his care and control. He would have felt that the discovery of the trial record in his office, following the extensive search that had been conducted, would almost certainly be blamed on him, despite the fact that it was probably not his fault. His opportunity to credibly explain his innocence would be seen by him as unlikely to succeed – he was already on very thin ice in the office.

[62] He could therefore conclude that an easy and likely consequence-free "out" for him would be for the trial record to simply disappear. This scenario explains his request to MS to retain confidentiality around the discovery of the trial record in his office and his advice to MS that "he would look after it." He was simply not up to the inevitable confrontation that would accompany the next "mistake" in his short but well-populated history of negative outcomes within the office. It is also consistent with the fact that he never disclosed that he had the trial record in his possession until confronted; the explanation that he simply did not have time or forgot to tell someone is simply unbelievable; he is contradictory on this point; at times he says it is because he did not get a chance to speak to Lawyer M, but at other times he says he forgot about it.

[63] It is probable that no one ever seriously considered shredding the trial record. It is also true that the Applicant was in a considerably more vulnerable position than MS at the time. We have accordingly determined that the first mention of shredding of the trial record was from the Applicant. We have two separate bases upon which this conclusion is founded.

[64] The Applicant testified that, following his afternoon meeting with Lawyers S and M, he had had a sleepless night. We note that the last comment to the Applicant from Lawyer M as he left the meeting was that his story better accord with that of MS. We note further that, when the afternoon meeting ended, the issue of shredding the trial record had not been raised with the Applicant. That disclosure to him did not occur until the following morning.

[65] The Applicant's explanation for his sleepless night was that he was afraid that MS had misinterpreted his request to her that she retain confidentiality with respect to the finding of the trial records in his office and his advice to her that he would "look after it." Following the sleepless night, he sent the text message to her where he identified her as the source of the initial suggestion for the shredding. Peculiarly, this suggestion is followed by the texting shorthand "LOL," which we understand to mean "laugh out loud." The Panel was never provided with a clear explanation of the use of that expression in this context. There was very little to "laugh out loud" about in this text message. To the contrary, serious issues are in play.

[66] It is our belief that, if it had indeed been MS who first suggested the shredding, there would be no explanation for the sleepless night nor for the text to remind MS that it was she who first suggested the shredding. If she first raised the shredding issue, there would have been no dispute in that regard and no jeopardy for the Applicant. We therefore find as a fact that it was the Applicant who first raised the possibility of shredding the trial record when that issue was discussed in his office.

[67] We have weighed the respective consequences to the two protagonists to this incident and have determined that the Applicant had a great deal more to lose in these circumstances from the discovery of the trial record in his office after it had been completely duplicated.

[68] Our finding is further verified by the reaction of MS as she left the Applicant's office following the discussion about shredding where she expressed disbelief to a colleague at the circumstances as they were unfolding before her.

[69] The next credibility consideration is developed in the context the Applicant's return to the office of Lawyer S in the week following the termination of his articles. He testified that the reason for his return to the office was to apologize for sending the text message to MS. He had developed a belief, possibly in consultation with his mentor uncle (who appeared to have strong views on this subject) that the mere sending of a text message to an office colleague is an event worthy of substantial censure. He testified that it was his intention to clear the air with Lawyer S in this respect.

[70] Lawyer S has a very different recollection of the conversation and testified that, in the meeting, the Applicant admitted to being the initiator of the shredding suggestion. He apologized to her for that and expressed considerable remorse for having caused the difficulties that followed from those circumstances. As is indicated in our summary of the facts, there is a nearly contemporaneous written record of the outcome of the meeting in the form of an email sent from Lawyer S to

the Applicant. In this email message Lawyer S congratulates the Applicant on his courage to confront her, face to face, in very difficult circumstances. Though the email does not specifically speak to the shredding admission, it is our belief that Lawyer S would not have congratulated the Applicant on his "courage to confront her" if all that he had provided was an apology for sending a text message.

[71] In that context, the language of Lawyer S would make little sense in that no particular courage is required to apologize for an event as superficially innocent as sending a text message to a work colleague, unless of course the content of the text is itself intentionally misleading. It is only following an examination of the context of the text and its subject matter that the seriousness of the events raises to a level requiring "courage" to confront. In our view, an apology for sending the text message does not require courage unless the misleading contents of the text are concurrently acknowledged. In these circumstances we find that the Applicant did in fact acknowledge responsibility for initiating the shredding suggestion and it was that acknowledgment to which Lawyer S referred in her email to him immediately following the meeting. We find as a fact that this is what transpired at the meeting with Lawyer S following the termination of the articles.

[72] We finally consider the circumstances surrounding the failure of the Applicant to disclose to his new would-be principal the circumstances of his previous articling experience and its termination. In this regard there is no dispute as to the misleading nature of the evidence since it is written and provided to the Law Society. These circumstances will be considered in two parts with the first being the failure to correctly answer the question on the application for admission to the LSAP as to whether he had ever been "discharged, suspended or asked to resign from any employment." To this question the Applicant answered "no."

[73] This answer to that question is so much more difficult to understand when considered in the context of his earlier email exchange with GH of the Law Society. No more than three months prior to this answer, the Applicant had specifically inquired of the Law Society whether it was necessary for him to disclose to new and prospective employers his prior employment circumstances. He was advised on August 23, 2013 by GH of the Law Society Credentials Department that, in each such instance, he must disclose full particulars of his prior employment and of the circumstances surrounding the termination of that employment. That he did not advise his new principal of his previous employment termination is not contradicted. In cross-examination he was asked why, in the face of the relatively recent email from the Law Society, that he did not disclose his prior employment circumstances to his new principal. He responded that he had forgotten the advice from the Law Society.

[74] It was his evidence on these questions of comprehensively abiding importance to him, and to which questions he had received potentially devastating responses, that he had forgotten the direction from the Law Society. We find that explanation not to be believable. Our finding in this regard is supported by the Applicant's answers to other questions on the same subject, when he later explains in communication with the Law Society that he did not feel it was necessary to disclose his prior employment history on a Law Society form, because the Law Society already knew of his prior circumstances and it would therefore be unnecessary in those circumstances to tell them again something that they already knew.

[75] This answer overlooks the fact that there is a second person involved in the completion of the LSAP application and for whom the answers to all questions will be "new" information. The application is designed to provide information to the member of the Law Society who will be serving as principal to the applicant. By providing this response to this question the untidy circumstances of the termination of the earlier articling experience are not shared with the new principal.

[76] In further response to this aspect of this inquiry, the Applicant offered the view that he believed that he was entitled to retain confidentiality around the circumstances of his former articling employment. It was with this observation he continued the mistaken interpretation of the advice provided to him with respect to the 30-day period following the termination of one articling position and the commencement of the next. The Applicant had been advised of the inherent mistake in this position on numerous occasions leading up to this opportunity to complete the application truthfully in the fall of 2013.

[77] The second aspect of this application form requiring attention is the explanation provided for his answer to the question in his employment history where he describes his employment with the previous law firm as ending as a result of his having "quit/terminated." When cross-examined as to what it was in the circumstances of the ending of his employment with S Co. that constituted "quitting," he explained that it was his belief that if he did not capitulate to the pressure applied to him by Lawyer S on the issue of acknowledging responsibility for the shredding, that he would be fired in any event. It was therefore his position that his steadfast retention of his denial of responsibility for the shredding comment amounted to his "quitting" this employment since, as predicted, he was indeed fired. He acknowledged that this answer was potentially misleading to an uninformed reader.

[78] Where does this analysis lead us? We find ourselves considering an Applicant who, in a variety of circumstances where the consequences of the truth would be

awkward or worse, has not demonstrated the ability to speak the truth regardless of the personal consequences. We have found in numerous significant circumstances in recent memory that this candidate did not tell the truth. Neither did he tell the truth before us in his sworn testimony.

[79] This does not speak of good character and repute. To the contrary. The Applicant's testimony before us on a variety of important issues, in providing unbelievable answers to questions put to him, suggests that he has not met the burden imposed upon him to prove on the balance of probabilities that he is a person of good character and repute and fit to become enrolled in the LSAP of the Law Society of British Columbia.

CONCLUSION

[80] On the basis of all the foregoing, we find that this application must be rejected, and we so order.

COSTS

[81] We have not had any submissions on the issue of costs. If the parties require an order on that subject, we will respond to written submissions received within 30 days after this decision is issued.