

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a hearing concerning

PATRICK MICHAEL FITZMAURICE

APPLICANT

**DECISION OF THE HEARING PANEL
ON APPLICATION FOR ENROLMENT AS AN
ARTICLED STUDENT**

Hearing date: July 15, 2014

Panel: Philip A. Riddell, Chair
Jasmin Z. Ahmad, Lawyer
Satwinder Bains, Public representative

Counsel for the Law Society: Henry Wood, QC
Counsel for the Applicant: Morgan Camley

BACKGROUND

- [1] On August 21, 2013, the Applicant applied for enrolment in the Law Society Admission Program for Temporary Articles in accordance with the Law Society Rule 2-27. As part of that application, he provided information to the Law Society that disclosed an extensive history of charges under the *Criminal Code* and charges under the *Motor Vehicle Act*.
- [2] In light of the Applicant's disclosure, the Benchers, acting through the Credentials Committee, ordered a hearing pursuant to section 19(2) of the *Legal Profession Act*, SBC 1998, c. 9 (the "*Act*") and Rule 2-29(3)(c) of the Law Society Rules (the "*Rules*") for an inquiry into the Applicant's character and fitness.

- [3] In accordance with Rule 2-61, the Applicant was provided with notification, including notice that the circumstances to be inquired into at this hearing would focus upon his extensive history of *Criminal Code* and *Motor Vehicle Act* charges.

ISSUE AND SUMMARY OF DECISION

- [4] The issue to be determined at this hearing is whether the Applicant satisfies the requirements of section 19(1) of the *Act* for enrolment as an articulated student. That section provides:

19(1) No person may be enrolled as an articulated 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] In accordance with Rule 2-67(1), the onus is on the Applicant to satisfy the Panel that he meets the requirements set out in section 19(1) on the balance of probabilities.
- [6] The specific issue before this Panel, then, is: has the Applicant met the burden of proving that he is of “good character and repute” required for enrolment as an articulated student as set out in section 19(1) of the *Act*, particularly in light of his history of criminal and *Motor Vehicle Act* charges?
- [7] 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 enrolled as an articulated student of the Law Society of British Columbia.

THE LAW

- [8] 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 is not in dispute.
- [9] 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:

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.
3. 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.

[10] In *Law Society of BC v. DM* (December 15, 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 page 4 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 ...

- [11] The importance of the expectation of the public is highlighted by section 3 of the *Act* which provides, “It is the object and duty of the society to uphold and protect the public interest in the administration of justice”
- [12] While an applicant’s past conduct and behaviour is relevant to the assessment of whether he or she is of “good character and repute”, hearing panels have clearly and consistently held that the assessment must focus on the current character of the applicant. The recent decision of the Benchers on Review in *Law Society of BC v. Gayman*, 2012 LSBC 30 at para. 20, is particularly instructive in that regard.
- [13] Hearing panels have also been consistent in holding that the standard of assessment is not one of perfection. Where an applicant is able to demonstrate rehabilitation, an imperfect past will not necessarily result in the rejection of an applicant’s application for enrolment as an articulated student or for call and admission.
- [14] The principles of law are summarized as follows:
- (a) Because every person’s character is formed over time and in response to a myriad of influences, it seems clear that no isolated act or series of acts necessarily defines or fixes one’s essential nature for all time; *Law Society of BC v. Lee*, 2009 LSBC 22 at para. [79] quoting *Law Society of Upper Canada v. Birman*, [2005] LSDD No. 13 at paras. 13 and 14;
 - (b) “Character does evolve and a person can rehabilitate himself or herself such that past character defects can be overcome.” *MacAdam v. Law Society of Nunavut*, 20017 NUCJ 28 at para. 59;
 - (c) 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”; *Re: Applicant 3*, 2010 LSBC 23 at para. [22]; and
 - (d) The standard to be met in assessing an applicant’s character and repute is not one of perfection or certainty; *Law Society of BC v. Buttar*, 2009 LSBC 14 at para. [37], citing *Birman* at para. 14.

- [15] All of the above principles of law are subject, however, to the following caution made by the Law Society of Upper Canada in *Schuchert*:

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. ...

SUMMARY OF EVIDENCE

Evidence

- [16] Mr. Fitzmaurice gave evidence in chief and was cross-examined by Law Society counsel. During the course of his evidence, Mr. Fitzmaurice described and answered questions regarding his past criminal activities and driving record as well as those “life events” that, in his view, were the root of his negative behaviour.
- [17] He also gave evidence regarding the positive steps he has taken, and is still taking, to address the issues that, in his view, contributed to his negative behaviour as well as the positive ways in which he now conducts his life.
- [18] In addition to his own evidence, Mr. Fitzmaurice also relies on a report dated August 15, 2013 authored by Dr. Kulwant Riar, who specializes in forensic and general psychiatry. Mr. Fitzmaurice was under the care of Dr. Riar for about three years starting in June of 2001 for the “treatment of psychiatric symptoms he was experiencing at the time” as the result of two serious motor vehicle accidents. Dr. Riar did not give oral evidence at the hearing and, therefore, was not cross-examined.
- [19] In support of his application, Mr. Fitzmaurice provided the Panel with ten letters of reference from individuals, all of whom were fully informed of the Applicant’s past criminal activity and driving record. None of the referees provided oral evidence at the hearing.
- [20] Finally, the parties submitted a Joint Book of Documents (the “Joint Book”) which include both:
- (a) a summary prepared by the Applicant summarizing both the criminal and *Motor Vehicle Act* charges that had been made against him; and

- (b) supporting documentation in respect of each of the charges set out in the summary.

[21] All of the evidence was considered in its entirety. However, a brief summary of that evidence is provided below:

Childhood/Adolescence (approx. 1987 – 1995) (9 – 17 years old)

- [22] Mr. Fitzmaurice described a childhood in which he moved numerous times for his father's work. Those moves included two moves to Mexico, one at the age of 13 for six months and one at the age of 17 for two years, when he lived with his father and had various responsibilities with his father's construction business.
- [23] His childhood also included a stay at boarding school when Mr. Fitzmaurice was in grade 6, an experience he described as "very difficult."
- [24] During the time of his childhood and adolescence, he developed a sense of alienation and isolation and was subjected to bullying. In defending himself against the bullying, Mr. Fitzmaurice developed a "reputation" for fighting back, which allowed him to make friends. While those friendships gave him a sense of belonging that he previously did not have, the peer group that provided that sense of belonging "entertained themselves by stealing bicycles and breaking into cars for stereos."

Early Adulthood (1995 – 2001) (17 – 23 years old)

- [25] In approximately 1995 when Mr. Fitzmaurice was 17 years old, he moved with his father to San Diego. There, he took the initiative to enrol himself in an adult program to complete high school. At the same time, he also had flight training in order to pursue a career as a pilot.
- [26] Having successfully completed that program in 1998, Mr. Fitzmaurice returned to Vancouver where, despite having completed the GED in San Diego, he enrolled in BCIT to upgrade his high school finishing requirements. He also began the process of converting his US flying licence.
- [27] In 2001, Mr. Fitzmaurice enrolled at BCIT in aircraft structures and maintenance engineering to supplement his pilot's licence.
- [28] It appeared at that point, at the age of 23, Mr. Fitzmaurice was taking steps to lead a positive and productive life.

Motor Vehicle Accidents (2001 – 2002) (23 – 24 years old)

- [29] Mr. Fitzmaurice described two motor vehicle accidents that occurred in 2001 and 2002, both of which, in Mr. Fitzmaurice’s words, “affected [him] quite profoundly.”
- [30] The first of those accidents (the “First Accident”), which occurred in 2001 when Mr. Fitzmaurice was 23 years old, resulted in, among other things, facial injuries that required approximately five to six surgeries to heal. Mr. Fitzmaurice described the recovery process from that accident as being difficult and resulting in a period of depression.
- [31] As a result of the First Accident, Mr. Fitzmaurice was referred for treatment to Dr. Riar.
- [32] Dr. Riar’s written summary provided that, as result of the First Accident, Mr. Fitzmaurice “... experience[ed] symptoms of post-traumatic stress disorder (PTSD) and depression. He was also drinking alcohol excessively during that time.” However, according to Dr. Riar, “within four to five months [of treatment with Dr. Riar] his symptoms came under control, and he became almost euthymic. His drinking was also curbed.”
- [33] Mr. Fitzmaurice’s evidence regarding his recovery from the First Accident was consistent with that of Dr. Riar. His evidence was that the recovery process from the First Accident was difficult and caused him to go through a period of depression and significant stress (which had been diagnosed by Dr. Riar as PTSD).
- [34] In the period following the First Accident, Mr. Fitzmaurice was invited by a friend to make money by delivering drugs in an operation colloquially known as “dial-a-dope.” In that enterprise, Mr. Fitzmaurice obtained small packages of cocaine from the older brother of one of his friends, who would then instruct Mr. Fitzmaurice, by pager, when he had a purchaser for the cocaine. Mr. Fitzmaurice would then make arrangements with the purchaser for delivery of the cocaine.
- [35] Mr. Fitzmaurice estimated he was involved in the dial-a-dope operation for approximately three to four months, after which he has had no further involvement. He has since completely distanced himself from all of the friends that were involved.
- [36] Mr. Fitzmaurice’s involvement in the “dial-a-dope” operation resulted in a charge of possession for the purpose of trafficking in July 2001, the details of which will be described in more detail below.

- [37] Although he now holds a different view of the implication of his involvement in that operation, at the time he considered it a “victimless crime” and a “harmless way of making a little extra money.” He now says he considers the “broader implications” of the crime, noting the negative impact that drug use has on individuals.
- [38] Notwithstanding his involvement in criminal activity, in the period following the First Accident, he took steps to pursue his career in aviation and, in 2002, completed his flight instructor’s training.
- [39] Shortly after doing so, Mr. Fitzmaurice was involved in a second motor vehicle accident (the “Second Accident”) in which he suffered significant injuries, including “major damage” to his arms and tendons. Those injuries took three years of surgery to resolve.
- [40] As a result of the injuries he sustained in the Second Accident, Mr. Fitzmaurice concluded that his career in aviation was over.
- [41] Dr. Riar described the issue resulting from the Second Accident as follows:

Then, on June 25, 2002, I was informed by Mr. Fitzmaurice that he was in Vancouver General Hospital after another accident. He suffered serious injuries to his left forearm, leaving him with a wrist drop due to nerve damage. When he was seen in July 2002, by myself, he reported re-emergence of symptoms of PTSD, which was quite severe. His depression was also getting worse and, once again, he was turning to alcohol to self medicate. I immediately engaged him in treatment, and started him on antidepressant medication, as well as other medication for his pain symptoms. During the rest of 2002 his symptoms were not responding to prescribed treatment. He was having significant nightmares and related sleep difficulties, and in response he was drinking, which he was doing quite regularly ...

Road to Recovery (2002 - 2014) (24 – 36 years old)

- [42] At the end of 2002, during the course of his recovery from the Second Accident, Mr. Fitzmaurice moved to Toronto, both to recover from his surgeries and to “re-connect with family.” In Toronto, he spent time with his uncle, a criminal defence lawyer who “practised law passionately” but who had managed to achieve a workable work/life balance. Mr. Fitzmaurice viewed his uncle as a mentor whose positive influence had a “lasting impact” on him.

- [43] During his time in Toronto, Mr. Fitzmaurice first began to consider the possibility of pursuing a career in criminal law, a decision he attributes primarily to the positive influence of his uncle.
- [44] Having returned to Vancouver, in 2006, despite his self-described “intermittent relationship with education,” Mr. Fitzmaurice enrolled in Langara College. Around the same time, he used the money he obtained from settlement of the First Accident and the Second Accident to invest in a home, which he renovated himself. By applying himself to both endeavours, he did “very well” at Langara College and was able to complete the renovation of his townhouse, which he sold at a substantial profit. The profit earned on that sale was used to fund his further education.
- [45] In 2009, Mr. Fitzmaurice entered the University of British Columbia in an undergraduate program. As a third year undergraduate, he re-visited his earlier interest in a career of law, took the LSAT preparatory course and, in September 2011, entered law school at the University of British Columbia.
- [46] Mr. Fitzmaurice described his experience at law school as “transformative” and an “overall great experience.” In law school, Mr. Fitzmaurice has formed many positive relationships and friendships. He has enjoyed the intellectual exercises he has experienced at law school.
- [47] Mr. Fitzmaurice has used the knowledge he has gained at law school to provide his services to the community by working with programs such as the Law Students’ Legal Advice Program and Pro Bono Students Canada.
- [48] Mr. Fitzmaurice no longer has any contact with the peer group that was involved in the criminal activity of his past and is no longer under the care of Dr. Riar.
- [49] As summarized by Dr. Riar:

In summary, I feel that, during the three years when he was under my care, he was an ideal patient. He was very straight forward in expressing his symptoms and difficulties, and was very compliant to the prescribed treatment. He responded well to the treatment, which was able to curb his psychiatric symptoms, as well as drinking. In my view, he also made personal gains during physiotherapy. I noted that his maturity and sense of responsibility and accountability grew exponentially. I feel that the impact of traumatic (emotional) experiences from the accidents had a positive impact of his life. He did not [immerse] into a victim’s role but got inspired by these events.

[50] Today, at 36 years old, Mr. Fitzmaurice describes himself as being happy and adjusted. He describes his past as “being so distant that he barely recognizes it as his own” and as one that he will not repeat.

The future

[51] If this application for enrolment as an articulated student is granted, Mr. Fitzmaurice plans to practise criminal law, as did his uncle who was, and continues to be, a positive influence on him. In his view, his past involvement with the law will enable him to relate to those clients who, too, have difficulties with the law, which, in turn, he hopes will make a better advocate.

Criminal and Motor Vehicle Charges

[52] As noted, the evidence disclosed an extensive history of charges under the *Criminal Code* and charges under the *Motor Vehicle Act*. Those charges include:

- 40 motor vehicle charges (18 speeding and 22 non-speeding charges) between March 1996 and June 2013
- Six criminal charges between March 1996 and April 2006 (19 to 29 years old)

[53] The Panel has considered all the evidence before it in respect of that history. Without discounting the seriousness of each of the charges, especially when considered as a whole, we have summarized the most notable of those charges below:

- (a) *Possession of a restricted weapon*, March 20, 1996 (18 years old) – He was 18 years old. The Applicant attended at a large gathering where everyone anticipated that a fight would occur. The police arrived before the fight occurred; the Applicant was arrested and charged. The proceedings were stayed.
- (b) *Possession for the purpose of trafficking*, July 8, 2001 (23 years old) – As a result of a search of the Applicant’s vehicle, the police recovered a small pouch with what was discovered to be “small packets of cocaine inside it.” Although those charges were eventually stayed, the Applicant admitted on questioning from the Panel that he did not possess the cocaine for his own personal use. Rather, he was in possession of the cocaine as part of his involvement in the “dial-a-dope” operation following the First Accident.

- (c) *Mischief under \$5,000*, April 18, 2004 (26 years old) – At a time when he was on prescription medication, he was ejected from a club for “horse playing with a good friend inside the club.” He was pepper-sprayed by the club security and responded by throwing a beer bottle at the door causing a window to break. Although the Applicant was charged, the nightclub agreed not to pursue the charge, and he made reparations to the window which cost \$1,500.
- (d) *City Bylaw – Fighting*, November 19, 2005 (27 years old) – Again, at a time that he was on prescription medicine, the Applicant was walking home from downtown after a night out drinking when he was beat up by a group of five men. He was ticketed, a fine imposed, which he paid.
- (e) *Mischief under \$5,000*, April 19, 2006 (28 years old) – While on prescription medicine, and having consumed beer at a friend’s house, the Applicant mistakenly went down the wrong hallway in his apartment building thinking he was heading to his suite. He tried his key several times but it did not work. When he heard voices in the suite, he became concerned that he was being burglarized so he kicked the door open only to realize he was in the wrong suite.

The Applicant agreed to make reparation of the door and move out within the month. The charges were stayed.

The Applicant provided in his summary that, since that incident, he has never mixed pain medication and alcohol again.

Motor Vehicle Offences

- [54] The Applicant’s summary includes 40 motor vehicle charges (18 speeding and 22 non-speeding charges) between March 1996 and June 2013.
- [55] Of particular note, the Applicant ignored a driving prohibition imposed on him in September 1996. In November 1996, he was charged with “Driving while Prohibited.” The charge occurred at a time that the Applicant was aware he was prohibited from driving.
- [56] The Applicant candidly admitted he had nothing to say in mitigation of the driving record describing it as “horrendous,” “reckless,” “dangerous” and “irresponsible.”
- [57] Since starting law school in 2011, the Applicant has been charged with three non-speeding motor vehicle offences, one of which (no front licence plate) was

withdrawn. The Applicant is disputing one (failing to obey a stop sign) and the result is pending.

[58] He has not received any speeding tickets since starting law school, a fact he attributes to “age and maturity.”

DISCUSSION AND ANALYSIS

[59] There is no doubt that the Applicant’s extensive history of criminal and motor vehicle charges is reflective of conduct that is far less than exemplary.

[60] Indeed, there is little doubt that both the record as a whole and many of the charges contained in the record, even in isolation, would lead one to conclude that, in the past, the Applicant was not of “good character and repute.” Without dismissing the seriousness of any of the charges, in the Panel’s view, that is particularly true of the following:

- (a) The Applicant’s deliberate failure to abide by an express driving prohibition leading to the charge of “driving while prohibited” in November 1996 is indicative of a disregard of the law and legal authority;
- (b) The charges relating to possession of weapons and fighting;
- (c) The July 2001 charge of “possession for the purpose of trafficking” and, in particular, the Applicant’s active involvement in a “dial-a-dope” operation;
- (d) The two “mischief under \$5,000” charges in April 2004 and April 2006, being the most recent of the criminal charges and ones in which alcohol were involved;
- (e) The totality of the record, which, when viewed as a whole, reflects an extended period of disregard for the law.

[61] The evidence also reveals, however, the following in respect of those charges:

- (a) Of the non-speeding motor vehicle charges, only four have occurred in the past ten years;
- (b) Of the four non-speeding motor vehicle charges, the Applicant was found “not guilty” of one (driving without due care), one (no front

licence plate) was withdrawn and the Applicant is disputing one (failing to obey a stop sign), and the result is pending;

- (c) Of the six criminal charges, only two have been laid within the last ten years (fighting and mischief under \$5,000). No criminal charges have been laid against the Applicant in the past eight years;
- (d) The Applicant has attributed both of the last two criminal charges, in part, to his combination of prescription medicine and consumption of alcohol, a practice that the Applicant has since discontinued;
- (e) The most concerning of the criminal charges, being “possession for the purpose of trafficking” and the Applicant’s involvement in the related “dial-a-dope” operation, occurred at a time of significant flux and uncertainty in the Applicant’s life, being the injuries and resulting psychiatric symptoms he experienced after the First Accident. He was involved in that operation for a period of three to four months and has not had any involvement in that operation since.

[62] Not only does the evidence reveal a marked decrease in the incidents of criminal conduct, it also reveals an increase in positive conduct with positive outcomes. Since returning to Vancouver from Toronto and, in particular, since 2006, the year of his last criminal charge, the Applicant has taken steps to make positive strides not only in his own life, but also for the benefit of others. Of note:

- (a) By 2002, he no longer had any contact with the group of acquaintances with whom he engaged in criminal activity;
- (b) In 2006, by applying himself, he was able to successfully complete his course load at Langara College, while at the same time, completing the renovation of a townhouse;
- (c) During the period 2009 to 2011, he applied for and completed an undergraduate degree at UBC, with grades that were enough to gain him acceptance into law school;
- (d) In 2011, he commenced his studies at law school; and
- (e) While in law school, he used his education and the skills he developed to assist others in need by way of his active participation in the Law Students’ Legal Assistance Program and Students Pro Bono Canada.

- [63] It is also significant to the Panel that he has not denied his past. To the contrary, he has been candid and forthcoming in the application process, in giving his evidence before this Panel and in the full disclosure of that past to the referees who provided letters of reference in support of this application. In the Panel's view, that honesty is reflective of the Applicant's recognition of the fact that his past is something that requires addressing.
- [64] Furthermore, while he has attributed his criminal behaviour to his unstable childhood and to the trauma of the First Accident and the Second Accident, he does not use either to excuse his past or to diminish his responsibility for his conduct. Rather, he is hopeful that his experiences, perspective and insight will enable him to relate to, and therefore better advocate for, many of the clients who will use him as their criminal lawyer. The Panel agrees that it will.
- [65] In the Panel's view, all of these factors, being the marked decrease in, and eventually, the complete absence of any criminal conduct in the past ten years, the positive life steps the Applicant has taken (particularly since 2002), his insight into his past criminal behaviour and his candour in the disclosure of his past conduct, are clear indicators of this Applicant's rehabilitation. Together, they highlight that the Applicant has consciously and deliberately changed the path that he was on prior to 2002 and is taking active steps to make a positive and meaningful contribution to society and to the legal profession.
- [66] The words of the hearing panel *Applicant 3* are particularly apropos in the circumstances of this case. In that decision, the panel 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 articulated 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.

[emphasis added]

[67] As with the applicant in *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.” Notwithstanding his past conduct, on the whole of the evidence before us, we are satisfied that the Applicant has rehabilitated himself and, as of the date of this hearing, is of “good character and repute.”

CONCLUSION AND ORDER

[68] 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 enrolled as an articulated student. We order that the application for enrolment is granted.

COSTS

[69] 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.

SEALING ORDER

- [70] At the conclusion of the evidence and submissions, counsel for the Applicant asked that certain personal and privileged information disclosed at the hearing not be disclosed to the public. The Law Society consents to the non-disclosure sought.
- [71] Openness and transparency are an important part of these proceedings. Rule 5-6(1) provides that every hearing is open to the public. Rule 5-7(1) permits any person to obtain a transcript of the hearing. Rule 5-7(2) permits any person to obtain a copy of an exhibit entered during a public portion of a hearing.
- [72] However, the Rules also recognize that there may be legitimate reasons to restrict public access to a hearing or to information disclosed at a public hearing. In particular, Rule 5-6(2) permits a panel to make an order that specific information not be disclosed “to protect the interests of any person.”
- [73] In these reasons, we have summarized some of the highly personal and sensitive information disclosed at this hearing in order to make the reasoning for our decision understandable. However, especially in light of our conclusion that the Applicant has overcome the issues of his past, in our view, its further disclosure is not required beyond the references in this decision.
- [74] The privileged information cannot be disclosed.
- [75] Pursuant to Rule 5-6(2)(a), except as disclosed in these reasons, we order that the following information contained in the Joint Book (Exhibit 1) not be disclosed or published:
- (a) Tab 2;
 - (b) Tab 4 (ICBC drivers abstract, MTI COV Ticket History and 2-page schedule);
 - (c) Tab 8 (attachment); and
 - (d) Tabs 10-32.
- [76] We also order that references in the transcript of the hearing to the information described in paragraph 77 of these reasons must also not be disclosed or published.