

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a hearing concerning

APPLICANT 9

APPLICANT

**DECISION OF THE HEARING PANEL ON
APPLICATION FOR ENROLMENT**

Hearing dates: December 15, 16, 2015 and
February 2, 2016

Panel: Jamie Maclaren, Chair
Dr. Gail Bellward, Public representative
Sandra Weafer, Lawyer

Counsel for the Law Society: Gerald Cuttler
Counsel for the Applicant: Henry Wood, QC

OVERVIEW

- [1] On October 29, 2014, the Applicant applied for enrolment as an articled student with the Law Society.
- [2] On May 6, 2015, the Credentials Committee ordered a hearing to determine whether the Applicant meets the standard for enrolment as an articled student under section 19(1) of the *Legal Profession Act*:

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.

[emphasis added]

- [3] In determining whether the Applicant meets the standard for enrolment as an articulated student, the Panel inquired into the following circumstances:
- (a) His conduct in and around September 2009 with respect to a female (“AB”) then under the age of 16 years;
 - (b) The criminal charges laid against the Applicant for his conduct in and around September 2009 with respect to AB;
 - (c) The Applicant’s guilty plea on August 23, 2011 to the summary conviction offence of Internet luring contrary to s.172.1(1)(b) of the *Criminal Code*;
 - (d) The sentencing of the Applicant on January 24, 2012 to a one-year conditional sentence and probation order for the summary conviction offence of Internet luring, including an automatic order under s. 490.12 of the *Criminal Code* that he comply with the *Sex Offender Information Registration Act* for ten years;
 - (e) An incident in or around 2005, when the Applicant was found by police to be smoking marijuana in his vehicle;
 - (f) An incident on or about May 8, 2006, when the Applicant received a 24-hour driving prohibition for operating his vehicle while under the influence of marijuana and while having a novice or “N” driver’s licence;
 - (g) The 30-day suspension of the Applicant’s driver’s licence on or about September 22, 2006, following the marijuana-related incidents outlined above;
 - (h) An incident on or about December 10, 2006, when the Applicant received a 24-hour driving prohibition for registering a “warn” status during a roadside alcohol test and while having a novice or “N” driver’s licence;

- (i) An incident on or about November 28, 2014, when the Applicant threw the contents of an alcoholic beverage on a female classmate during a law school social gathering;
- (j) An incident on or about December 20, 2014, when the Applicant registered a “fail” status during a roadside alcohol test, his “Car2Go” car-sharing vehicle was impounded, and he received a 90-day driving prohibition.

- [4] The onus is on the Applicant to satisfy the Panel of his good character and repute on the balance of probabilities. This includes demonstrating that he is rehabilitated and trustworthy at the time of the hearing. While mindful of the concept of redemption through rehabilitation and the interest in fostering greater diversity within the legal profession, the Panel is concerned first and foremost with protecting the public interest. This entails ensuring that those who are given the privilege of practising law are of good character and repute such that they uphold the integrity and honour of the profession.
- [5] For all of the reasons set out below, the Panel finds that the Applicant has not met the burden of demonstrating that he is fit for enrolment as an articled student with the Law Society at this time.

BACKGROUND

- [6] The Applicant was born in Winnipeg in 1987 to a mother of Mennonite heritage and a father of Haitian origin. His mother raised him and his older brother and sister under challenging circumstances until the government placed him and his sister into foster care when he was three years old. His maternal aunt and uncle adopted him and his sister when he was five years old, and moved them from Manitoba to Abbotsford.
- [7] The Applicant exhibited hyperactive behaviour at an early age. He acted out and required extra attention in more than one elementary school. His uncle often resorted to corporal punishment to curb the Applicant’s misbehaviour. This continued until the Applicant stood up to his uncle when he was about 12 years old.
- [8] The Applicant’s relationship with his adoptive family worsened through his early adolescence. He was increasingly critical of his aunt and uncle and specifically resented their lower socioeconomic status (though he later grew to appreciate their support and role in encouraging his formal education). This difficult time

culminated in the Applicant being asked to leave his adoptive home when he was 15 years old. He then went to live with another aunt and uncle in Ladner.

- [9] The Applicant had more positive experiences in Ladner, including better performance in school. His Ladner uncle was a successful businessman, and the Applicant enjoyed a more affluent lifestyle in his new home. He also saw the benefits that his uncle obtained from a good education.
- [10] The Applicant returned to Abbotsford for his final year of high school. By this time, he had passed through four elementary schools and three high schools. The Applicant graduated from high school and enrolled in a business program at the University of the Fraser Valley. His first university experience was short-lived, however, as he quickly dropped out of school and worked as a pizza delivery person. The Applicant then associated with an older crowd whose social activities often involved the heavy use of alcohol and marijuana. It was during this period that the Applicant received a 30-day suspension of his driver's licence for the two aforementioned driving incidents involving marijuana.
- [11] The Applicant eventually realized that his Abbotsford friends were holding him back. When an opportunity arose to live and study in Kamloops with his since-relocated adoptive family, he took it. He enrolled in undergraduate studies at Thompson Rivers University in January 2009.
- [12] The Applicant's fresh start in Kamloops went well, though he was unable to completely abstain from marijuana despite best intentions. He enjoyed his first semester at Thompson Rivers, and met some good friends who appeared to be on a more productive path than the friends he left behind in Abbotsford.

Sexual offence and conviction

- [13] The summer of 2009 saw the Applicant working again as a pizza delivery person in Kamloops. He was soon shaken by the tragic news that a close friend from Abbotsford had committed suicide. He also grew more lonely and isolated as many of his university friends moved away from Kamloops for the summer.
- [14] The Applicant found a new social circle at the Kamloops pizza shop where he worked. He was friendly with the owners and his coworkers, including the owners' 15-year-old daughter AB. One evening, while the owners were on vacation and it was only the Applicant, AB and another young coworker working at the shop, AB seemed to become more flirtatious with the Applicant. Intrigued by the new dynamic, the Applicant engaged in some sexual innuendo with AB, to which she appeared to respond. AB obtained the Applicant's cell phone number from a

mutual friend, and initiated a sexually suggestive text conversation with him the next evening. They planned to meet up the following afternoon.

- [15] That afternoon, the Applicant and AB went for a drive in his car. They parked in a private location and engaged in some kissing and mild petting in the front seat. AB rebuffed the Applicant's suggestion of further sexual contact, and he drove her to school on seemingly good terms. They continued to communicate by text message over the next short while. The Applicant pressed AB to send him nude photos, and she obliged him to a point by messaging a few photos of herself in various states of undress. The text messaging continued for a few more days until AB's mother — having recently returned from vacation — discovered the indecent messages and photographs, and quickly contacted police.
- [16] The impugned text messages were before the Panel. There is no need to reproduce them here. They are explicit and profane, and would reflect very poor judgment even if they were sent to someone much older than a 15-year-old girl. The Applicant now concedes that they were shocking, exploitative and embarrassing.
- [17] The Applicant turned himself into local police on or about September 29, 2009. He was booked on a number of sexual offence charges related to his association with AB, and he spent the night in jail. He initially made some excuses for his behaviour, focused primarily on AB's seeming maturity and what he perceived as an arbitrary threshold for the age of consent (raised from 14 years to 16 years by the federal *Tackling Violent Crime Act* in 2008). The Applicant's attitude about the propriety of his actions ultimately evolved, and to spare AB the indignity and trauma of testifying at trial about their illicit association, he did "the honourable thing" by pleading guilty to the summary conviction offence of Internet luring on August 23, 2011.
- [18] On January 24, 2012, the Applicant was sentenced to a one-year conditional sentence and probation order. His sentence included an automatic order that he comply with the *Sex Offender Information Registration Act* for a period of ten years. The Applicant filed an appeal of his sentence within a month, but he abandoned the appeal shortly thereafter.
- [19] The Applicant continued with his education in Kamloops under the shadow of his criminal charges. He nonetheless performed well in his undergraduate studies, and was accepted into UBC Law School for the 2012/13 academic year. Over the course of his first two years at UBC Law, he completed two voluntary sex offender outpatient programs in addition to his conditional sentence and probation.

Post-conviction conduct

- [20] The Applicant has not been charged with a criminal offence since his conviction for Internet luring in 2011. However, he was involved in two troubling incidents that were explored at some length during the hearing. Both incidents occurred soon after his October 29, 2014 application to the Law Society for enrolment as an articulated student.
- [21] On or about November 28, 2014, the Applicant attended a social evening organized by the UBC Law Students Society. That evening, he engaged a female classmate in a brief discussion about the process that she and other organizers followed in selecting monthly models for a fundraising calendar of male law students. The discussion ended with his classmate insulting his appearance and promptly walking away, whereupon the Applicant flung the contents of his alcoholic beverage at her back. He apologized to his classmate in a Facebook post on the following day, but the incident resulted in him being banned from future Law Students Society social events.
- [22] On or about the evening of December 19, 2014, the Applicant attended a classmate's birthday party in North Vancouver. He anticipated having several alcoholic drinks over the course of the evening and night, so he arranged to catch a ride to the party and then a taxi home from the party. He ended up taking a taxi to a pub in the Gastown neighbourhood of Vancouver for a few more drinks with friends. He left the Gastown pub in the very early hours of the morning and searched for a taxi to drive him the short route home to his West End neighbourhood. It being cold outside and the holiday season, his search proved futile. So he resigned himself to walking home despite being underdressed for the occasion. On his walk, the Applicant came across a "Car2Go" car-sharing vehicle. He had a Car2Go account and saw that the vehicle was available for use. Throwing caution to the wind, he decided to drive the vehicle home.
- [23] The Applicant recalled consuming seven to nine alcoholic drinks over five hours that night. He considered himself fit to drive the Car2Go vehicle, though he admits to having assessed it as a "close call." In the relatively short distance between where he picked up the vehicle and his home, the Applicant drove into a police roadblock. He was subjected to a roadside alcohol test for which he registered a "fail" status. His vehicle was impounded at significant personal expense, and he received a 90-day driving prohibition. He promptly reported the incident to his principal.

Marijuana and alcohol use

- [24] By his own admission, the Applicant has often used marijuana and alcohol to enhance his social experiences and to counter heightened stress and anxiety. He has used marijuana, in particular, to cope with varying levels of anxiety and depression throughout his adult life, though he completely abstained from alcohol and drug use during his conditional sentence. By the time of the hearing, the Applicant had moderated his alcohol use from a weekly binge drinking level to an occasional light drinking level. This moderation was self-initiated and facilitated by the fact that he no longer has “much reason to celebrate” in social circles. He continues to smoke a marijuana pipe two or three times per week in order to relax and to keep his mind “from racing.”
- [25] There is evidence in the record from psychological counselling reports that the Applicant uses alcohol and marijuana to treat ongoing symptoms of Attention Deficit/Hyperactivity Disorder (ADHD) and severe anxiety. There is also evidence that the influences of alcohol and marijuana operate to disinhibit the Applicant and contribute to his poor judgment and impulsive behaviour on occasion. The Applicant’s sexual offence had no apparent connection to marijuana or alcohol use, but the drink-throwing incident and the Car2Go incident both involved some measure of alcohol use. The Panel is not charged with investigating and ruling on the propriety and effects of the Applicant’s marijuana and alcohol use *per se*, but it is abundantly clear that the Applicant would benefit from healthier and more constructive coping strategies for his ongoing mental health challenges.

Psychological assessments

- [26] The hearing record included a psychological assessment of the Applicant prepared by psychologist Bruce Steven on October 5, 2011 for the purpose of informing the Applicant’s criminal sentence hearing. In his report, Mr. Steven noted that the Applicant felt responsibility and regret for his criminal actions and had engaged in an open examination of his luring behaviour in terms of its sources, consequences and his accountability. He assessed the Applicant as presenting “no danger” of re-offending.
- [27] The Panel also heard from clinical psychologist Dr. Lindsey Thomas regarding her psychological assessments of the Applicant conducted in November 2014 and October 2015 for the purpose of informing his application for enrolment as an articulated student. Dr. Thomas tendered two reports: one dated December 6, 2014 and the other dated December 7, 2015.

[28] In her 2014 report, Dr. Thomas found the Applicant to be at “Low-Moderate risk” (on a scale consisting of Low, Low-Moderate, Moderate-High, High and Very High) of sexual recidivism and, in particular, at “Low risk” of behaving similarly toward an under-aged person. She found that he had learned and matured a lot from his conviction and subsequent counselling and that he was very motivated to demonstrate his good character and repute. She noted that he had “many characteristics that would make him a very successful lawyer.”

[29] However, Dr. Thomas also noted in her 2014 report that:

The configuration of the clinical scales suggested a person with a history of substance abuse problems (i.e., marijuana) who was impulsive and sometimes struggled to regulate emotions appropriately. His drug use likely represented a way for him to better manage his emotions. He reported some strain in his relationships with others, in part due to his tendency towards impulsivity and feelings of resentment (with the latter likely relating to the victim stance thinking noted above). He was likely to be particularly disinhibited under the influence of drugs, and he may display particularly poor judgment and demonstrate other acting-out behaviours.

[30] Similarly, she noted in her 2015 report that:

Overall, it seemed as if [the Applicant] had matured since the last assessment and he presented as being psychologically well adjusted, and this was supported by the test results. There was minimal evidence of any mental health issues at the time of the present assessment, which again was an improvement from a year ago when there were still signs of depressive and anxiety symptoms. That being said, it seemed that [the Applicant] had continued to struggle periodically with impulsivity/risk taking behaviours and resentment/anger fueled [sic] acting out, as evidenced by him driving while intoxicated and throwing a drink on a fellow female [sic] law student.

[31] Dr. Thomas also noted that the impaired driving incident and the drink-throwing incident both happened more than six months prior to her 2015 assessment. In her view, this passage of time lessened their importance as risk indicators of future impulsive behaviour.

Character references

- [32] The Applicant's evidence included two character references — one given via letter and hearing testimony from Professor Bruce MacDougall of UBC Law, and the other given via letter and hearing testimony from William Sundhu of Kamloops.

Professor Bruce MacDougall

- [33] Professor Bruce MacDougall taught the Applicant in five courses at law school, including a directed research course. He also oversaw the Applicant's work as a summer research assistant. In his reference letter and testimony, Professor MacDougall expressed very high regard for the Applicant's legal abilities and character alike. And while aware of the Applicant's criminal conviction and post-application incidents, he emphasized the public interest in greater diversity and reflective representation of "outsider" perspectives within the legal profession. He stated, in his reference letter:

I am proud of what [the Applicant] has achieved at law school and especially in the context of his background broadly speaking, including his family background, his economic circumstances, the put-downs he had when he was younger because of his race, and also his criminal record. ...

I have seen people give "excuses" and shift blame. I have seen people who would quite possibly bring disrepute to their chosen professions. [The Applicant] is not in those categories, in my opinion. He has always been scrupulously honest and fair in his discussions with me. It will be obvious to you that I am firmly of the view that [the Applicant] ought to be judged worthy of continuing on his path to entry into our profession and to be able to do that right away.

William Sundhu

- [34] William Sundhu is a long-time member of the legal profession and a former Provincial Court judge. He met the Applicant in the summer of 2015 when the Applicant volunteered for his federal election campaign. Mr. Sundhu testified that he knew about the circumstances surrounding the Applicant's criminal conviction and most recent impaired driving incident and that he saw him as demonstrating appropriate responsibility, understanding and remorse. Mr. Sundhu also referred to his own personal experience of having "messed up" with alcohol use and subsequently having to make amends, rehabilitate himself, and make "the long journey to redemption". Though Mr. Sundhu supported the Applicant, he was

mindful of the nature of the Applicant’s criminal conviction and its accompanying stigma. He also viewed the Applicant’s alcohol and marijuana use as “problematic” and “not a good idea.”

ISSUES

[35] The Panel must determine:

- (a) Whether the Applicant has met the burden of proving that he is of good character and repute and therefore meets the standard for enrolment as an articulated student, pursuant to section 19(1) of the *Legal Profession Act*; and
- (b) If (a) is affirmed, whether the Law Society should impose conditions or limitations on the Applicant’s enrolment as an articulated student, pursuant to section 22(3) of the *Legal Profession Act*.

ANALYSIS

[36] Under section 3 of the *Legal Profession Act*, the Law Society must uphold and protect the public interest by, among other things, ensuring the independence, integrity, honour and competence of lawyers.

[37] In *MacDonald Estate v. Martin*, [1990] 3 SCR 1235, the Supreme Court of Canada expressed concern that the legal profession maintain high standards of professional conduct to promote public confidence in the administration of justice and strengthen the integrity of Canadian systems of justice.

[38] On the fundamental question of what constitutes “good character and repute” for the purpose of entry into the legal profession, the BC Court of Appeal, in *McOuat v. Law Society of BC* (1993), 78 BCLR (2d) 106, adopted the following oft-quoted passage from an article entitled, “What is ‘Good Character?’” by Mary Southin, QC (as she then was), published in *The Advocate*, (1977) v. 35, at 129:

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.

[39] In *Re: Applicant 3*, 2010 LSBC 23 at paragraph 23, the panel commented on the overriding public interest focus of enquiry into an applicant’s character and repute:

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.

- [40] A criminal history is not, in and of itself, determinative of an applicant’s character and repute. As stated in the *Law Society of Upper Canada v. Schuchert*, [2001] LSDD No. 63 at paragraph 19:

The existence of a criminal record, even for serious offenses, is not, of itself, an impediment to admission to the bar. The test is whether the applicant has changed since the time of those charges and is now of good character.

- [41] There are numerous recent examples across Canada of law society applicants who have been deemed fit for enrolment as an articled student despite having a criminal history. In British Columbia, they include the applicants in *Law Society of BC v. Selamaj*, 2015 LSBC 12, *Law Society of BC v. Fitzmaurice*, 2014 LSBC 54, *Law Society of BC v. Tedham*, 2014 LSBC 34, *Law Society of BC v. Lagemaat*, 2014 LSBC 31 and *Law Society of BC v. Eckardt*, 2014 LSBC 07. The applicant in *Lagemaat* was denied enrolment in his initial application to the Law Society, due in some measure to the severity of his past illegal acts, but accepted upon reapplication once his rehabilitation was considered complete.

- [42] As stated in *Selamaj* at paragraph 42:

Although past charges, offences and delinquencies are of serious concern to the Law Society, they do not themselves determine whether an applicant meets the standard for enrolment as an articled student. The test is whether an applicant is of good character and repute at the time of the application or hearing. This provides space for self-transformation over time and recognizes the potential for redemption through rehabilitation. It creates pathways to the legal profession for people whose personal and perhaps disadvantaged circumstances once contributed to irresponsible decisions. For some, the achievable prospect of becoming a lawyer provides life-changing motivation to uphold the rule of law rather than defy it. The public interest is ultimately served by a greater diversity of articled students and lawyers from varied cultural and socioeconomic backgrounds.

- [43] No isolated act or series of acts will necessarily define or fix one’s essential nature for all time: *Law Society of Upper Canada v. Birman*, [2005] LSDD No. 13 at paragraph 13. The standard to be met in establishing an applicant’s good character

and repute is not one of perfection or certainty: *Law Society of BC v. Lee*, 2009 LSBC 22 at paragraph 79, citing *Schuchert* at paragraph 18.

- [44] Since it involves an external perspective on personal history, establishing good repute presents a difficult challenge to an applicant on the path to rehabilitation. This is particularly the case in an age of instant access to personal information through the Internet. A quick Google search may reveal the full spectacle of old transgressions and crimes as if they happened yesterday. Asked to assess whether a person convicted of a reprehensible crime like Internet luring is reputable, the average person will surely not hesitate to say, “No.” But this inquiry must be directed to the unique circumstances of the individual applicant, as viewed from the perspective of Mary Southin’s “right-thinking citizen” with knowledge of all of the evidence. This requires the Panel to weigh the particular circumstances of the Applicant’s offence, the nature and duration of his misconduct, the passage of time, his rehabilitative efforts, his conduct since his offence, and his remorse and insight into his behaviour.

DECISION

- [45] After considering all of the evidence and submissions, we find that the Applicant has failed to establish, on a balance of probabilities, that he is fit to be enrolled as an articulated student at this time. As a result, we need not consider what if any conditions or limitations to impose on his enrolment.
- [46] This was not a straightforward decision for the Panel. The Applicant presented as honest, candid and forthright in his testimony. From all of the evidence, including the judge’s reasons for the Applicant’s conditional sentence, it appears very unlikely that he will ever reoffend. He must comply with the *Sex Offender Information Registration Act* until 2022, but we note that this automatic requirement was not subject to judicial discretion, and not an integral term of his conditional sentence now served. Since his criminal conduct in 2009, the Applicant has made some very positive and determined steps toward rehabilitation. He has obtained professional help for his mental health issues, and he has generally responded well to treatment. He has focused significant energy on his education and has graduated from law school as a result. In many admirable ways, he has transcended the disadvantages and personal challenges of his past. These life experiences, coupled with his reflections on the causes and consequences of his criminal behaviour, should provide the Applicant with a unique sense of empathy to serve the public well.

- [47] Still, issues remain of significant concern to the Panel. Foremost among them is the Applicant's apparent continuing struggle with impulsivity and resulting exercise of poor judgment. We are also concerned about the possibility of a connection between the Applicant's impulsivity and his alcohol and marijuana use. Though unrelated to such use, his 2009 criminal offence occurred at least in part due to his failure to control his base impulses by the exercise of good judgment and self-reflection. Impulsivity was again evident in the late 2014 drink-throwing incident and impaired driving incident. Both incidents involved alcohol use and occurred at a time when the Applicant knew that the Law Society was examining his character and readiness to be enrolled as an articulated student. Good character does not stop at appreciating the difference between right and wrong; as Mary Southin indicated, it also involves doing right over wrong.
- [48] The two post-application incidents demonstrate to us that the Applicant needs more time for self-transformation before he is ready, from a character perspective, to be enrolled as an articulated student. This is not to say that he must rise to a standard of perfection or certainty. Nor is this to say that the Applicant's criminal conviction defines him or "fixes his essential nature for all time." Rather, this is to say that — given all of the circumstances, including the magnitude of his criminal offence, the fact that just over two years have elapsed since the completion of his sentence, and the recent nature of the two post-application incidents — the Applicant has not yet overcome the burden of establishing his good character and repute.
- [49] Our assessment of the Applicant's current character does not mean that we cannot foresee a time when he will be able to demonstrate the good character required of an articulated student. He appears to have made great strides in his development and maturity. By all accounts, he has benefitted greatly from the counselling he has received over the past several years, including the counselling imposed as part of his sentence. The Panel encourages him to continue to seek out any professional help he needs. We are optimistic that such help will provide him with further valuable insight into his behaviour, including his impulsivity and coping strategies that involve alcohol and marijuana, that led us to the conclusion that his path to rehabilitation is not yet complete.
- [50] Pursuant to Law Society Rule 2-55(2), an unsuccessful applicant for enrolment, call or admission may reapply for enrolment on the earlier of the date set by a panel or two years after the issuance of the decision denying the previous application. Though the Applicant has not demonstrated that he is fit to become an articulated student at this time, we do not view it as necessary for him to wait two years before reapplying for enrolment. More than 17 months have elapsed since he submitted his initial application to the Law Society. He has made many impressive

accomplishments since his criminal offence, and has shown an evolving level of maturity and self-awareness. Had the two post-application incidents not occurred, our decision regarding his application would likely be different. We therefore reduce the Applicant's minimum time period for re-application to 12 months from the date of this decision.

COSTS

[51] The parties did not make any submissions on costs. The Applicant did, however, post security for costs. If the parties require an order on costs, the Panel will consider and respond to written submissions received within 30 days of this decision being issued.

NON-DISCLOSURE ORDER

[52] At the conclusion of evidence and submissions, the Applicant requested that specific personal and privileged information disclosed at the hearing not be disclosed to the public. The Law Society consented to the order for non-disclosure sought.

[53] The Panel must weigh the value of hearing transparency and openness on one hand, and the value of personal privacy — for the Applicant and third parties alike — on the other. Law Society 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. Rule 5-6(2), meanwhile, permits a panel to make an order that specific information not be disclosed “to protect the interests of any person.”

[54] The hearing record included a substantial amount of highly personal and sensitive information regarding the Applicant and other individuals directly and indirectly involved in his past and present circumstances. Beyond the information provided in this decision, we see no public interest value in the disclosure of any remaining personal information.

[55] We therefore ordered, pursuant to Rules 5-8 and 5-9, that exhibits in this proceeding that relate in any way to the Applicant's criminal conduct in and around 2009, and subsequent criminal charges, plea, sentence and counselling must not be disclosed to anyone other than members of this Panel, a review board, counsel and their clients, or a court for purposes of any review, appeal or judicial review arising from this hearing.

[56] We also ordered, pursuant to the same Rules, that a transcript of this proceeding or any of the submissions made by either party must not be disclosed to anyone other than members of this Panel, a review board, counsel and their clients, or a court for purposes of any review, appeal or judicial review unless and until all portions of the transcripts and submissions that relate in any way to the Applicant's criminal conduct in and around 2009, and subsequent criminal charges, plea, sentence and counselling have first been redacted to exclude such information.