IN THE MATTER OF *THE LEGAL PROFESSIONS ACT*, 1990
AND AN APPLICATION FOR ADMISSION AS A LAWYER
BY DANIEL DEMARIA

REASONS FOR THE DECISION OF THE ADMISSIONS AND EDUCATION COMMITTEE

A. INTRODUCTION

1. Mr. Daniel DeMaria (the Applicant), comes before the Admissions and Education Committee (the Committee) to seek admission to The Law Society of Saskatchewan (LSS) as a lawyer. The Applicant fulfilled the requirements of a 12 month articling period and the successful completion of the Bar Admission Course (CPLED Program). The Committee, in first instance, reviewed the written application and other documents and directed that a hearing be held pursuant to Rule 230 of the Rules of the LSS (the Rules) to determine whether he met the other requirements of admission found in Rules 171 and 180, and particularly whether his admission would be inimical to the best interests of the public or the members or would otherwise harm the standing of the legal profession generally. A key element within this test is the question of the good character of the Applicant.

2. The history of the Applicant's efforts to gain admission to the LSS is as follows:

   (a) June 3rd, 2008 - begins articling with Merchant Law Group (MLG)
   (b) February 2009 - allegations raised of violating the Bar Admission course integrity policy
   (c) April 6, 2009 - Applicant suspended by Bar Admission Program Director
   (d) April 15, 2009 - suspension lifted - hearing ordered
   (e) July 23, 2009 - Applicant enters into agreed statement of facts with fellow articling student, Louis Mercier, (hereinafter referred to as "LM")
   (f) September 8, 2009 - 3 three member panel of Admissions & Education issues

its decision. The details of the violations of the CPLED Program and its policies are outlined in the decision of the Committee, with addendums, (the CPLED Violation Decision) (A-3) and the agreed statement of facts (L-1) filed within that proceeding. The CPLED Violation Decision held that the Applicant had let down the entire profession and acted in a way that caused the public to question the integrity of all lawyers. His actions were considered a serious breach of integrity. The Applicant was ordered to prepare an essay on his conduct, redo certain portions of the CPLED Program and his ability to apply for admission as a lawyer was delayed for three months after successfully completing the course. The Applicant was fined and ordered to pay a portion of the costs of the proceedings.

(g) April 10, 2010 - Applicant completes 3 modules of CPLED Program

(h) July 28, 2010 - Applicant applies for admission to LSS

(i) August 6, 2010 - Executive Director of LSS advises Applicant has met all administrative criteria for admission to LSS but refuses admission and refers the application to A & E Committee. The A & E Committee directs a Hearing pursuant to Section 24(1)(a)-(e)

(j) August 18, 2010 - Notice of Hearing

(k) December 17, 2010 - First day of hearing (following 2 adjournments)

(l) January 17, 2011 - Second day of hearing

(m) April 13, 2011 - Third day of hearing.

B. THE STATUTORY AND RULES CONTEXT

3. Prior to May 20, 2010, *The Legal Professions Act, 1990* (the Act) contained the following relevant provisions:

> **Section 24(1)** A person who is a permanent resident of Canada or a Canadian citizen may apply to the society to be admitted as a lawyer, and the society may admit that person as a member where that person:

> (a) produces evidence satisfactory to the benchers of service as a student-at-law or practice as a lawyer;
>
> (b) produces testimonials satisfactory to the benchers of good character,
>
> (c) complies with the rules; and
>
> (d) fulfills any other requirements that the benchers may prescribe.
>
> **NB On May 20, 2010 the *Legal Professions Act* was amended to remove paragraph 24(1)(b)**

Section 24(3) A person whose application for admission pursuant to this section as a member is refused:

> (a) may request the benchers to review the application; and
>
> (b) has the right to appear before the benchers in support of the application.

4. The Rules, with respect to this application are:

171(1) To qualify for admission as a lawyer after having enrolled as a student-at-law an applicant must:

> (c) satisfy the Executive Director that the applicant will, prior to formal admission, satisfactorily complete any other requirements of the Act or Rules imposed by the Committee or the Benchers; and
>
> (d) deliver to the Executive Director:
>
> > (v) any other information and documents required by the Act or these Rules which is requested...

180(1) In considering an application under Rules 171 and 172 the Executive

Director:

> (a) may make whatever enquiries and investigations considered necessary:
>
> (b) shall consider whether the admission is inimical to the best interests of the public or the members or would harm the standing of the legal profession generally;
>
> (d) refer the application to the Committee.

183 (1) The Executive Director may grant any application or may refer any application under Rule 171, 172 and 181 to the Committee.

(2) The Committee may, in its discretion, make a decision on a review of the record or conduct a Hearing pursuant to Rule 230.

5. In this case a Hearing was conducted. A decision of the Committee refusing an application may be sent to the Benchers under Section 24(3) of the Act for a review.

C. APPLICANT'S EVIDENCE REVIEWED BY THE COMMITTEE

6. At the outset of the Hearing, Counsel for the Applicant specifically requested that he be allowed to present his case first, although this appears to be contrary to the usual practice. The Committee agreed to this request.

7. Applicant's Counsel then submitted what was purported to be at the time "the expert opinion that I have obtained from Dr. James Arnold, psychologist from Saskatoon". As well, two letters to Dr. Arnold from counsel seeking his opinion and setting out certain background facts were appended. This opinion letter was tendered pursuant to Section 22 of *The Saskatchewan Evidence Act*. Dr. Arnold never did appear as a witness to the Hearing, although the Hearing itself was adjourned to April 13, 2011

to have Dr. Arnold made available for examination and cross-examination. At the adjourned date, Dr. Arnold was not called as a witness. It further appears the letter was provided with Dr. Arnold never having met with the Applicant. Consequently, no weight whatsoever, has been given this evidence by the Hearing Committee.

8. The Applicant, Daniel Demaria, was the first witness to be called by counsel for the Applicant. He gave evidence as to his childhood, secondary education and subsequent post-secondary education at the Universities of Oklahoma, Alberta and Western Ontario, where he graduated with a Bachelor of Law Degree in April 2008. The Applicant commenced his articles at MLG on June 3rd, 2008. During the course of that summer, the Applicant prepared for the Saskatchewan Bar Course, as well, as bar exams for the states of New York (unsuccessfully) and Massachusetts (successfully). He worked mainly in the field of class actions at MLG during this period.

9. The Applicant testified that while working at MLG during his articles, he worked seven days a week and 15 hours per day at the office. He further discussed his relationships with fellow articling students, Louis Mercier (hereinafter referred to as "LM") and Nicholas Robinson (hereinafter referred to as "NR"), and his eventual collaboration with LM on assignments relating to the CPLED course. The details of this collaboration are set out fully in the Agreed Statement of Facts tendered as Exhibit L-1 and the Decision of the Admissions and Education Committee of the Law Society of Saskatchewan dated August 18, 2009 and tendered as Exhibit A-3.

10. During the course of the Applicant's examination in chief a number of issues were raised, mainly in anticipation of what the Applicant expected to hear from witnesses he believed would be called the Law Society's solicitor. These issues included the Applicant's explanation of his relationship with LM, but also with NR, a fellow articling student at MLG and Christopher Butz (hereinafter referred to "CB"), a lawyer at MLG. The nature of how MLG operation with respect to its internal

e-mail (Spark) system and time-keeping processes were also discussed at length. The Applicant provided details of a gift card scenario that LM refused to participate in, the details of money lending between the Applicant and LM, allegation of bullying LM with respect to doing office mail runs, threats to LM to call the Humane Society about alleged mis-treatment of LM's cat, accessing CB's computer, details of an SGI claim made by LM, details of the Applicant threatening to sue LM for defamation, and finally details of other demand letters the Applicant had sent or proposed to send Bell Mobility, Best Buy, Air Canada and United Airlines.

11. The Applicant further discussed details of a threat to NR over the use of O'Brien's forms, the possible addition of NR as a defendant in the Bell Canada matter (possibly joking) and further, the commencement of a defamation action against NR over NR's threats to call an employee at the CPLED course.

12. The Applicant explained in detail how he obtained numerous letters of reference filed at the Hearing. An explanation was also provided to questions surrounding an alleged physical altercation with NR which the Applicant describes as minor in nature. He stated "I don't want to make light of the situation, but there was no striking or anything of the sort".

13. On cross-examination, Counsel for the LSS clarified with the Applicant, his admission to wrong-doing during the course of the CPLED process. He examined the Applicant on the fact that he recorded fellow articling students (and MLG lawyers) telephone conversations. Some of this behavior took place after being disciplined for CPLED violations. The Applicant admits to approximately 10 - 20 hours of recorded conversations.

14. Responding to questions about the letters of reference provided by fellow students, other lawyers, former teachers and employees of MLG, the Applicant explained that he had in some cases provided pro forma letters to the writers, some of whom

amended them before submitting them, others did not. The Committee does not place a great deal of weight on the production of the numerous letters of reference. Although, some of the writers were aware of the gravamen of the hearing, many were not. Furthermore, as pointed out by the Applicant's counsel, the legislature removed the requirement to provide "testimonials satisfactory to the Benchers of good character" in an amendment to the *Legal Professions Act*, which came into force in May 2010. It is the Committee's view, however, that this is no way removes the requirement of good character from the elements required by an applicant for admission to the LSS.

15. The LSS solicitor then tendered as Exhibit L-3, a draft Statement of Claim wherein the Applicant was named as Plaintiff and members of the legal profession with whom the Applicant had been involved were named as Defendants. The Applicant's Solicitor argued that the acceptance of this document, as evidence in this hearing, would be more prejudicial to the Applicant than probative to the deliberations. The Committee finds this document to be entirely relevant to the proceedings. The document was prepared after the Admissions and Educations Committee Hearing of September 2009 and came to light in the summer of 2010 when produced to the solicitor for the LSS by NR. Although the Statement of Claim was in draft form it cannot be treated as frivolous matter given other evidence of attempts to intimidate by the issuance of demand letters and threats of lawsuits for various reasons already heard by the Committee. The question for the Committee to determine is what weight should be given this piece of evidence in light of other similar evidence that came before us. The Applicant argues that we should differentiate between what could be construed as youthful in-experience and the question of whether the preparation and use of this claim demonstrates a lack of character, the test for which both counsel agree is the crux of this Hearing.

E. EVIDENCE SUBMITTED BY COUNSEL FOR THE LAW SOCIETY OF SASKATCHEWAN

16. Counsel for the LSS called three witnesses, namely Nicholas Robinson (NR), Louis Mercier (LM) and Christopher Butz (CB).

17. NR served his articles with MLG commencing the same time as the Applicant. He was admitted to LSS in 2009 following the usual course of events. Throughout his articles, NR had significant contact with the Applicant professionally and socially, a fellow student, friend and employee of MLG. He remains a lawyer employed by MLG.

18. NR described the relationship of the Applicant and LM as akin to "an abusive marriage". He testified that the Applicant would on occasion scream at LM for not doing something he wanted. On other occasions, he treated LM "like crap" and would "snap, threaten or do whatever he could to make him (LM) comply". At the same time, the Applicant could be very generous. He characterized the Applicant's behavior as bullying. This conduct regarding LM took place prior to this Application.

19. On other occasions, NR described the Applicant as bullying to others, to the point where on at least one occasion this was reported to the firm's general manager. He further describes working with the Applicant where everything went well until there was a disagreement at which time "all hell would break loose" and the Applicant would become obsessive about whatever it was he wanted. NR further describes an incident wherein the Applicant and he had a physical altercation, which he blamed on the Applicant. The incident was serious enough that a complaint was filed with the police, however, it was not followed up on. This incident also happened during the course of the parties articling years.

20. During the course of the Applicant's application for admission to the LSS, NR states he continued to be concerned about the Applicant's behavior. At one point, he was

threatened with a defamation lawsuit if he spoke to employees of the Law Society. He advised "he's threatened to make up false allegations. He's told me that things would go very badly for both of us". He advises that the Applicant made an allegation against him to the police and had a tape recording of the incident that he allowed the police to listen to. He advised that the Applicant had numerous tapes of many conversations with other people, some dating up to the time of the within hearing. He also stated that the Applicant would later retract his statements and say that he would not sue for defamation. Within a few hours of NR providing a copy of the Statement of Claim filed as L-3 to the LSS, the Applicant followed through on this threat to make a complaint to the police. He also advised NR that he would sue him in either the states of New York or Florida.

21. On cross-examination, NR explained that to the extent he worked on files with the Applicant, and to the best of his knowledge, the Applicant treated clients with integrity, respect and honesty and that he did good work. He disputed any allegation that he had stolen documents from the Applicant and could not see integrity in making someone's life "a living hell" when it came to what he viewed as the Applicant's attempts to suppress his testimony.

22. LM testified that from the commencement of his articles at MLG, he had an uneasy relationship with the Applicant who treated him in many ways as inferior. However, both the Applicant and LM were linked by their ability to speak French, their class action work at MLG and the fact that they were two of three articling students at the firm at the time. They interacted socially on numerous occasions. On occasion, the Applicant would lose his temper with LM, yell at him, make demands and threats and remind him regularly of monies he owed. Eventually the parties began to collaborate on the CPLED assignments. This collaboration led to a great deal of friction between them and eventually led to their being removed from the CPLED program when LM, in a state of near emotional collapse, phoned the program director and divulged their complicity. The parties were required to attend

a hearing for which they filed a joint statement of facts, and pursuant to the decision of a Hearing Committee of the Admissions and Education Committee of the LSS dated August 18, 2009 were ordered to repeat modules 3 and 5 of the CPLED program, had their dates to make application to become members of the LSS set back and were required to pay a fine. This process significantly prolonged the articling process for both LM and the Applicant. LM completed the second portion of his articles at another Regina Law Firm. From that point on, other than a few phone calls, he had little contact with the Applicant.

23. Although there is a good deal of conflicting evidence, it is clear from reviewing the exhibits filed and from the parties' testimony, the Applicant was the dominant party in their relationship and took advantage of this dominance. LM testified that this relationship at times became physically threatening. On one occasion, the Applicant insisted on LM engaged in a scheme to obtain a gift certificate from Best Buy. This situation ended up in an altercation and LM proceeded to obtain the certificate to avoid further confrontation. On another occasion, LM observed a physical altercation between the Applicant and another articling student. On other occasions, LM describes the Applicant as threatening to turn him over to the SPCA for mis-treating his cat, making a false insurance claim to SGI, being a drug addict, and an alcoholic and threatening to sue him for defamation for talking to the CPLED co-ordinator about their complicity on assignments. On February 19, 2009, the Applicant actually caused LM to be served with a demand letter (L-2) claiming defamation and threatening to sue him in the state of Florida. LM further testified that he observed the Applicant accessing a fellow student's computer and going through that student's desk looking for pay information. It is clear from the evidence of LM that during the course of their articling experience, the Applicant took advantage of a fellow student who was not well grounded emotionally and was struggling to survive the experience. Shortly after the Violation Hearing, both the Applicant and LM were required by their employer to work from home. The Applicant worked for MLG outside of Regina for a period of time but returned to

Regina to continue his articles. In subsequent argument Counsel for the Applicant pointed out that much of the testimony of LM related to the initial articling period and is therefore of limited use in determining the Applicant's character at the present time.

24. The final witness called was CB, 33, a solicitor with MLG who was called to the bar in August of 2008. He articled one year before the Applicant. CB had many opportunities to interact with the Applicant and his fellow articling students, LM and CR. Importantly, he still works with the Applicant at MLG. Unlike LM's evidence which relates almost exclusively to the 2008 - 2009 articling period, his impressions of the Applicant at the present time are particularly relevant to the question of character. CB has many good impressions of the Applicant. He states he is friendly and outgoing, interacts well with clients and he produces excellent work for his clients.

25. CB, however, testified to character traits that have not changed since the Applicant began his articles at MLG. He states he is very strong willed to the point where he will not take no for an answer. He stated that during the time LM and the Applicant were articling, the Applicant dominated LM. He states "I would say he did have a dominant role in the situation, and it enabled him to manipulate Louis when need be or when it was necessary or benefitted Daniel". He testified to the Applicant's temper saying "at one point, Daniel became enraged and struck Louis on the shoulder". He states that the Applicant was obsessive about trying to have him accept the Applicant's view of the circumstances of this hearing. He was "trying to convince me of - of his version of the facts, and sometimes he's very convincing until, you know he's lying completely". The witness further explained how the Applicant had gained access to his computer to obtain Spark conversations and believes they may have been edited for the purposes of this hearing. He expressed significant knowledge of the draft Statement of Claim referred to (L-3) and his belief that the claim was the result of almost two years of editing and in his view "nuts".

He states he believes the Applicant is utterly convinced of the truth of the claim but himself believes it is baseless.

26. What is extremely troubling to the Committee, are the statements CB made alluding to the Applicant's mental state. Clearly CB is not qualified to give evidence as to the Applicant's mental state. The Committee gives no weight to his evidence in this regard, however, as an observation as to the Applicant's state of mind these statements cannot be ignored entirely in that they buttress the observations of the other witnesses called by the LSS. At one point he states, "I honestly think he suffers from some sort of mental illness, because to me, it's just so inexplicable". When describing the circumstances following his preparation of a reference letter for this Hearing that the Applicant was unhappy with, CB states "but again I - I still - at one point, I frankly believed it was a mental illness, and I still do, so I wrote a very - maybe two page reference letter. And - there is many - many areas where he could be an asset. He could be an asset to the legal community, but in that letter, I said not right now. I said maybe two years from now. Maybe three years from now. But there's a danger aspect in admitting him until he deals with whatever it is that causes him to behave the way he behaves".

27. In response to cross-examination on the reference letter, CB states the following:

"And, like I said, even after, you know, breaking into my computer and the stuff with Louis, I still think that he can be an asset to our profession, and that's what I wanted to convey in the letter, but I didn't want it to be - I don't think he should be admitted without conditions. I don't think he should be admitted right now. I think that there's something he doesn't have control over that might be treatable and that he may be able to see a psychologist or something over some time and be able to deal with that issue. You know, firsthand, from what I have witnessed, there were - there were some serious issues there. And I - I conveyed that in - in my reference letter. I still - you know, I - I said he's smart, he's skilled, he's dedicated, he's hard

working, he's good with clients, but there is a huge risk. And unless that risk is addressed, it's risk that's going to be borne by everyone in the province".

28. The Applicant was called to give rebuttal evidence following the close of the LSS case. He spoke to three matters, namely, CB's comments with respect to iterations of the draft Statement of Claim, the circumstances which gave rise to the Applicant's report of an assault by LM and thirdly with respect to the circumstances testified to by NR on his delivery of the draft claim to the Law Society. None of this testimony shed any new light on the subject matter before us.

29. On the final return date of this Hearing, April 13, 2011, the Applicant sought to introduce additional rebuttal evidence and advised that Dr. Arnold would not be called to give evidence. The rebuttal evidence was reluctantly allowed based on the Committee's view that this was not a criminal or quasi criminal matter and the rules of evidence could be relaxed somewhat given the importance our ultimate decision would be to the Applicant's career. Consequently, we received additional letters of reference, some of which were prepared before the hearing, others more recently. Of these letters, at lease one contained new evidence to which we have given little weight due to the fact no cross-examination on its content was possible. We also received a copy of the Applicant's bank account from November 2008 showing he had significant funds available at the time. We received confirmation that the Applicant had recently taken an internet ethics course of approximately two hours duration. We accepted as an exhibit a copy of a Statement of Claim issued against Toyota which was used as a precedent for the claim entered as L-3.

F. <u>THE COMMON LAW OF GOOD CHARACTER</u>

30. Both Counsel referenced the decision of *Thibaudeau v. Law Society of Upper Canada* (2010) ONLSHO 0060, dated June 18, 2010 and *Birman v. Law Society of Upper Canada* (2006) 0032. In the later case, it was stated:

> Because the Act contemplates that a person's character may change, it of course, follows that misconduct may demonstrate the absence of good character when the misconduct occurred, but not necessarily at a later date when the application for admission is brought or considered. Accordingly, even where misconduct has been admitted or otherwise proven, the Panel needs to consider, inter alia:
>
> (a) the nature and duration of the misconduct;
> (b) whether the applicant is remorseful;
> (c) what rehabilitative efforts, if any, have been taken, and the success of such efforts; and
> (d) the applicant's conduct since the proven misconduct.

31. In *Tibaudeau*, supra, it was also stated:

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

32. Further in *Thibaudeau* reference is made to other decisions and authorities and quoted as follows:

> ...character is that combination of qualities or features distinguishing one

person from another. Good character connotes moral or ethical strength, distinguishable as an amalgam of virtuous attributes or traits which undoubtedly include, among others, integrity, candour, empathy and honesty.

33. Good character is also addressed in the following texts:

In an article in (1987), 35 *The Advocate* 129, What is "Good Character", Mary F. Southin, Q.C., (subsequently Madam Justice Southin of the British Columbia Court of Appeal) defines good character as follows:

> ..."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:
>
> 34. An appreciation of the difference between right and wrong;
> 35. 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;
> 36. 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.

37. In Lawyers and Ethics: Professional Responsibility and Discipline (Scarborough: Carwell, 1993) author Gavin MacKenzie states at p. 23-2 that:

> The purposes of the good character requirement are the same as the purposes of professional discipline: to protect the public, to maintain high ethical standards, to maintain public

> confidence in the legal profession and its ability to regulate itself, and to deal fairly with persons whose livelihood and reputation are affected.

G. APPLICATION OF THE TESTS

38. The Committee accepts that it must make its determination of the Applicant's good character and whether the test in Rule 180 is met as at the time of the application, based on the balance of probabilities, recognizing that the onus of proof is on the Applicant. We further accept that the overall test does not require perfection or certainty and the core issue is good character, not the risk of re-offending. The Committee must also review other aspects of the Applicant's behavior with a view to determining if his admission to the LSS would be inimical to the best interests of the public or the members or would harm the standing of the legal profession generally.

39. Good character is something that can be hard to define, or if defined, hard to apply as a legal definition to a particular individual. Letters of reference may assist in the determination based on the common sense principle that you know it when you see it. Candid admission of past misconduct and genuine remorse, regret and embarrassment can further assist in the determination.

40. The Committee finds the Applicant has failed to meet certain fundamental requirements of admittance to the Law Society of Saskatchewan for the reasons set out below.

Nature of the Misconduct

41. With respect to the issue of good character, we are required to consider the nature

and duration of the misconduct.

42. Firstly, the Applicant has shown a marked propensity to abuse the legal system. There is evidence of obstruction of justice in his attempts to intimidate witnesses. On various occasions the Applicant threatened to commence legal action or report fellow students to criminal or civil authorities. These threats were for improper purposes. The threat of legal action against anyone by commencing a lawsuit in a foreign jurisdiction, which would be difficult and expensive for someone of limited means to defend, is a clear attempt to intimidate. Threats of this nature were made and carried through against fellow articling students and an associate of MLG. The Applicant, during the course of this hearing was working on a claim based on United States racketeering precedent which names the Law Society of Saskatchewan's legal counsel and other LSS members as defendants, another outright attempt to intimidate.

43. Secondly, acting with integrity is one of the fundamental qualities required of any person who seeks to practice as a member of the legal profession. The general rule as stated in the Code of Professional Conduct is "that the lawyer shall discharge with integrity all duties to the clients, the Court, other members of the profession and the public." On this crucial aspect of integrity, the evidence of fellow employees of MLG is that on occasion the Applicant lied to them. He failed to tell them the truth and was not believed.

44. Thirdly the Applicant failed to show civility towards his fellow articling students right up to the date of the Hearing. He seemed unable to control his temper if he could not get his way or if someone contradicted his demands. He would scream and yell at his associates.

45. The Committee has determined that the behavior of the Applicant did not change appreciably subsequent to the sanctions imposed by the Violation Hearing Committee.

Remorse and Rehabilitative Efforts

46. At no time during the Hearing did the Applicant adduce any evidence that he recognized the serious nature of his misconduct. There has been no acknowledgement from him that his conduct towards other employees of MLG merited any change in style or substance. Other than the brief essay prepared at the request of the August 2009 Hearing Committee, we have no evidence from the Applicant that he feels any remorse for the manner in which he has handled himself. He did take a two hour internet ethics course immediately prior to the last Hearing date. The Applicant does not appear to believe that he is in need of any remediation or rehabilitation. This coincides with the evidence provided by witness to this hearing.

Evidence of Good Character

47. Although we have been provided numerous letters of reference from colleagues, staff and opposing lawyers, we were not provided, until the very last minute, with any cogent written evidence of good character. The Committee cannot accept these letters alone as sworn evidence on contentious points. To the extent these letters may contain evidence contrary to what we have heard, we are unable to give them any weight. The Applicant had the opportunity to call but chose not to provide to the Committee any character witnesses who could provide character evidence and who could be cross-examined by the LSS counsel.

48. From the outset of his articles with MLG, the Applicant has attempted to force his will upon his fellow articling students and the other lawyer from the firm that we heard from. Counsel for both parties acknowledge that the onus in this matter is squarely on the Applicant to disabuse us of the conclusion that the “bad character” evidence during the course of his articles has changed or conversely that his character

as at the date of the hearing is any different from when he commenced his articles. He has done neither. Right up to and until the conclusion of the hearing, the Applicant has continued to employ tactics against fellow practitioners that can be characterized as coercive or intimidation.

CONCLUSION

49. We are not unmindful of the Applicant's arguments with respect to aspects of this hearing:

(a) He points out that he had only can-say statements of the witness, CB, however, it was at the Applicant's insistence that he proceed with his case before that of the LSS.

(b) With respect to the argument that Section 24(b) has been removed from the *Legal Professional Act*, we find that this in no way removes the common law test of good character as one of our primary focuses, along with protection of the public.

(c) The Committee is cognizant of the "he said, she said" nature of some of the evidence adduced, however, where that evidence was conflicting we find the evidence of the three members called by the LSS more compelling. We do not characterize the Applicant's actions since the CPLED Violation Decision to be mere immaturity. We view it instead as lack of character as defined herein.

50. The Committee is in agreement with the assessment of the LSS Counsel. Is it in the best interests of the public or the profession that the Applicant be admitted as a lawyer? We think not. The evidence before the Committee indicates an ongoing series of inexplicable behavior that included threatening, a tendency to physical violence, lying, intimidation, and obsessive behavior. The Applicant surreptitiously accessed a fellow lawyer's computer and regularly taped telephone and personal

conversations. All of this activity continued after the CPLED Violation Decision. The Applicant was unable to provide any mitigating circumstances to explain this behavior. He showed a willingness to misuse the Judicial system through the use of bizarre pleadings and use of threats of litigation against fellow lawyers to suppress testimony.

51. The overarching consideration regarding Mr. Demaria's application is public protection, despite the grave consequences an adverse decision may have on the Applicant. Although there is no evidence of the Applicant applying the same tactics evidenced in this hearing to clients or with lawyers outside MLG with whom he had contact, the Committee are satisfied that the Applicant's actions vis a vis the lawyers in his firm and with respect to this hearing are sufficient evidence of lack of good character to deny admission to the Law Society of Saskatchewan at this time.

H. COSTS

52. The Committee is of the view that this Hearing is not analogous to a discipline hearing. The consequence of our decision to this articling student are serious. We make no order for costs.

Dated this 8th day of August, 2011.

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George W. Patterson

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Joel A. Hesje, Q.C.

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Loreley Berra