

Decision of the Board of Review
The Society of Notaries Public of British Columbia
Applicant 1

Hearing Dates: February 22 and 28, 2012

Panel: Susan Davis, Chair; Leta Best; Rhoda Witherly; Kate Manvell; & Filip de Sagher

Counsel for The Society: Maureen E. Baird, Q.C.

Counsel for the Applicant: Robert G. Gateman

This was an appeal of a decision of the Membership & Credentials Committee (the “Committee”) made on January 31, 2012 pursuant to Rule 15 of the Society’s Rules. The Committee’s decision was to deny the Applicant’s request to write the statutory examinations and her application to become a member of the Society.

The Applicant is a student in the Society’s Notary Preparatory Course. From September 2009 through December 2011 she was enrolled in the Master of Arts in Applied Legal Studies course (“MAALS”) at Simon Fraser University. In January of 2010 while taking one of the required courses in MAALS the applicant was found to have plagiarized a required paper and an academic dishonesty report was placed in her file at SFU. The applicant successfully completed the MAALS program in December of 2011.

In January of 2012 the Committee reviewed the Applicant’s application for enrollment in the Society. The Committee met with the applicant regarding the incident of plagiarism. At the meeting, the Committee questioned the Applicant about the incident, her subsequent conduct, and her understanding of why the issue of her character was important to the Committee. After due consideration of the Applicant’s file and her responses, the Committee denied the Applicant’s application for the reasons cited in its decision.

The Applicant appealed the Decision of the Committee to the Board of Directors pursuant to Rule 15.

The Applicant was represented by Counsel for the appeal.

The main issue before the Board is: Does the Applicant have the character necessary to qualify for membership in the Society?

Good Character

To be qualified as an applicant for admission into the Society, a person must meet the following three criteria set out in the Society’s rules and policy guidelines with respect to membership, admission and credentials:

1. *Character*
Applicants shall have the customary and accepted moral standards of community regarding integrity and social responsibility that a reasonable person owes to

society in general. Individuals whose conduct in the past has been called into question with respect to justice, honesty, modesty, or good morals shall not be accepted as Applicants, nor shall individuals with a record of crime, bankruptcy, or moral turpitude.

2. *Education*

Applicants shall have a degree from a recognized university or university college or hold a recognized professional designation having a GPA of 3.0 or higher.

3. *Career Experience*

Applicants shall have sound business or employment history.

“Applicants” within the context of these rules and policy guidelines are defined as people wishing to qualify to become B.C. Notaries Public. The only issue in this hearing is with respect to the first requirement to be of good character, the applicant having satisfied all of the other requirements. The parties further agree that the onus is on the Applicant to satisfy the Board on a balance of probabilities that she has the requisite character to be enrolled as a member of the Society.

For assistance on what is meant by good character, both parties referred the Board to the following passage in an article by Mary F. Southin, Q.C. (as she then was) published in *The Advocate*, “What is ‘Good Character’” (1977), 35 *The Advocate* 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.*

The Applicant submitted that she meets the requirement for good character because the plagiarism occurred two years ago; the plagiarism was an isolated incident and she completed the program without further incident; she was cooperative and transparent after she was caught; she admitted the plagiarism and was truthful before the Board; and that she is remorseful and fully understands her mistake and the high standards required to be a notary public.

The SFU professor was called as a witness for the Society and gave evidence regarding the plagiarism incident. It was his evidence that when he questioned certain passages from the Applicant’s paper, she said that she forgot to provide the footnote. She denied having copied other passages that were included in her paper. In response, the Professor provided source material for other passages that were available online and copied in her paper. The Applicant then admitted that she had copied from these other sources as well and changed her explanation from simply forgetting to footnote to being overworked and having difficulty

with the material. As a result of the incident, the Applicant was given a zero mark for the paper and was required to retake the course.

At the Committee meeting on January 20, 2012, the Applicant said that she had copied a few sentences from the internet and put them in her paper. When pressed about the extent to which she copied material for her paper, the Applicant then responded that there might have been more than a few sentences copied. The Applicant explained that at the time of the paper, she had health issues, she was busy with her family, had worked overtime, had been working late, and simply ran out of time. However, she also said it was a mistake for her not to include the references for the material she used but that there were cultural differences such that in Ukraine (where the Applicant had been a Notary Public prior to coming to Canada in 2003) a student may not necessarily have to reference the quotes.

During her testimony before the Board, the Applicant admitted that she knew at the time that plagiarism was wrong and that it was in breach of SFU's code of academic conduct but submitted the paper anyway. She said that she could not explain why she did it but that she was ashamed because it was unacceptable. She had been working two part-time jobs at the time but acknowledged that was not an excuse. She further testified that she told the Professor she was really sorry for what she did after he had caught her.

After considering all of the evidence and submissions, the Board was not satisfied that the Applicant has met the standard of good character required for enrollment in the Society. The Board found that despite being given repeated opportunities to take full responsibility and to disclose the extent of the plagiarism, the Applicant was not completely candid and forthright when questioned about her paper by her Professor, the Committee, and by counsel and the Board in the hearing. Her unwillingness to come clean until she had no other choice is a great concern.

This is not a case of a person merely making one mistake. For clarity, our conclusion is not to be interpreted as requiring a standard of perfection of applicants or the adoption of a zero tolerance policy. The Applicant has been denied not because of one act of plagiarism but because of her subsequent conduct when confronted with the allegation of academic dishonesty. In her dealings with her Professor, the Committee, and the Board, the Applicant also tried to downplay the extent to which she copied from other sources.

The purpose of the good character requirement is to protect the public and to maintain the high ethical standards the Society expects of its members. In short, we cannot trust that the Applicant will act with moral fortitude when faced with the difficult situations one will likely encounter in the practice of a notary in British Columbia.

The Applicant's appeal is therefore dismissed.