

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the *Law Society Act*;

AND IN THE MATTER OF Harry Kopyto, of the
City of Toronto, a paralegal licensing applicant
of the Law Society

SUBMISSIONS ON THE LENGTH OF
MR. KOPYTO'S DIRECT EVIDENCE

1. The Candidate asks that the Panel provide an opportunity for the parties to make oral submissions as well as written submissions. The issue is too important to resolve exclusively in writing as it relates to the fundamental right that the Candidate has to present his defence.
2. The Candidate was not asked whether he consents to have this matter dealt with exclusively in writing. The Candidate therefore asks that the Panel provide an opportunity for this issue to also be the subject of oral submissions and for the right to be given an opportunity to respond to any questions that the Panel might have with respect to his submissions.
3. The central issue before the Panel is whether Mr. Kopyto has good character at present. The definition of good character includes and is centered on whether he has empathy, honesty, moral courage, candour and integrity.
4. The test is both subjective and objective. Therefore, the Candidate's perceptions and appreciation of his role as a legal advocate are important. Also his feelings, perceptions and beliefs as to the role that he should continue to play are clearly relevant and have been so recognized by the Panel which has ruled that for example, his "feelings" about his role are relevant to assessing his current good character.
5. Prima facie, the Panel should not unduly interfere with the presentation of evidence and in particular, the Candidate's own testimony. It would be treading on dangerous ground to prevent the Candidate from giving evidence that is relevant.
6. It is a central theme of the Candidate's defence that his current character is informed by and reflects a life-long commitment to legal and social justice. The Candidate submits that he has a consistent pattern of conduct in this respect, and his character, in terms of motivation and actions in the

service of social justice has not changed or altered and is currently a continuation of what it has been throughout his life.

7. There is no precedent nor should there be for limiting the evidence to be given by a Candidate. The right to make full answer and to defend his character, must be the primary and paramount concern.
8. Overwhelmingly, all the evidence given and exhibits tendered to date have been entered and considered relevant. There is no reason to anticipate that this would not continue being the case.
9. Some allegations of moral deficiency by their very nature require more evidence to refute than others.
10. There is no temporal limit on what evidence may be relevant even in defining a person's current character. The Applicant should be able to present evidence of a lifelong pattern of conduct that remains unchanged up to the present as evidence of his current character.
11. Patience is a hallmark of a good Judge.
12. The Candidate wishes to continue to call evidence of institutional hostility against him emanating from the Law Society in the allegations that it has made against him in this hearing. He wishes to continue to call evidence that indicates that his unjustified disbarment had largely triggered the present good character hearing and that the Panel should consider the merits of the reasons and circumstances of his disbarment in light of subsequent evidence; namely, that the alleged victim of the finding of civil fraud against the Candidate never reclaimed any funds from him that were allegedly wrongly given to it.
13. The Candidate wishes to continue to give evidence of his personal and professional commitment to his clients who largely represent elements in society who cannot afford meaningful access to justice including tenants, working people, women, victims of racism and discrimination, prisoners, etc.
14. The Candidate wishes to continue to give evidence of his perceptions of his role as a legal service provider in effecting changes and establishing precedents in the law.
15. The Candidate wishes to present evidence and continue to present evidence that the Law Society's case against him is based on his relational reputation within the legal community rather than on assessing his character as it actually exists.

16. The Candidate wishes to continue to give examples of his personal commitment to humanistic ethics and his empathy as the main motivating factors in his legal career as opposed to the possessive individualism that characterizes the ideological underpinnings of the Law Society of Upper Canada's evaluation of character.
17. The Candidate wishes to be able to provide evidence of an unswerving moral life pattern that has been central to his personal and professional life-long activities.
18. The Candidate states that, ultimately, the amount of time to be allotted depends on the basis of relevance to issues that he raises in his defence, on the basis of admissions made by the Society and on the basis of matters raised by the Society in its Opening Statement and not by some formula or arbitrary limitation.
19. The Candidate wishes to continue calling evidence with respect to the negligent investigation of his character and the hostile and adverse investigation of his character by the Society.
20. The Candidate wishes to refute the evidence given by the witnesses called by the Law Society respecting clients whom he assisted.
21. The Candidate wishes to continue to present evidence regarding the existence of unjustified judicial bias against him which forms part of the Society's case against him and to prove that such judicial bias is not well-founded and is not helpful in assessing his current moral character.
22. The Candidate wishes to provide evidence of his promotion of fundamental concepts of justice and his defence of the judiciary and the independence of the judiciary before the public at large including in the media and its beneficial effects.
23. The Candidate wishes to continue to present evidence of self-sacrifice for his sincerely-held ideals of justice and equal access to affordable justice for persons who would otherwise not be able to engage the legal system.
24. The Candidate wishes to give evidence of his reputation in non-legal communities and especially among persons who are unable to access the judicial system.
25. The Candidate wishes to present evidence that justifies his engaging in unauthorized practice in limited situations where certain factors justify unauthorized practice as a moral necessity.

26. The Candidate wishes to provide evidence to show that the Society was aware of his engagement in unauthorized practice, that he also was aware of its tolerance of his engagement in unauthorized practice and that it took no steps to restrict him.
27. The Candidate wishes to provide evidence of the discriminatory and regressive effect of the unauthorized practice rules and provisions in the Law Society Act and in other relevant rules and by-laws restricting access to justice to poor and disadvantaged members of the public. This evidence would establish an objective basis for his refusal to condone such effects.
28. The Candidate states that the Law Society has been permitted to present evidence about the Candidate that is not temporally limited. The Law Society should not be given preferential rights in this respect while denying such rights to the Candidate.
29. The Candidate wishes to continue to present evidence of his achievements and efforts in effecting changes to the law that have benefited youth, tenants, the trade union movement, gays, victims of police abuse, prisoners, homeless people and other destitute people.
30. The Candidate wishes to present evidence establishing that the effect and enforcement of the Law Society's unauthorized practice rules and by-laws cannot be morally justified in instances where the Candidate has engaged in such practice because of various factors including:
 - (a) Where no harm was done;
 - (b) Where the persons whom he assisted would otherwise not have been able to access the judicial system or would not have been able to access it on their terms; and
 - (c) Where the Candidate's clients benefited or where there was intention that they would benefit from his intervention on their behalf.
31. The Candidate wishes to call evidence to establish that his current moral character cannot be assessed without regard to what has shaped his character including his family, his friends and associates and members of the public who have defended and supported him throughout his life in his efforts to obtain social and legal justice.
32. The Candidate wishes to call evidence to establish a reasonable basis for the absence of remorse relating to certain allegations that the Law Society has made of his alleged moral culpability and to justify the absence of such remorse.
33. The Candidate wishes to establish that the institutional bias against him by the Law Society is contiguous with and reflects the institutional bias against

- him emanating from several members of the judiciary, by the Law Society bureaucracy including Benchers and the corporate elite of the legal profession.
34. The Panel has ruled that the Candidate has the right to present his evidence as he chooses including by presenting various exhibits mostly available in the public record of his activities, beliefs and feelings. As a result, his evidence is not presented in a topical or chronological fashion. Ultimately, it is for the Candidate to determine how to present his evidence. It is not within the scope of the authority of the Panel to determine the Candidate's style of presentation of evidence.
 35. As a wide variety of relevant evidence relates to an assessment of one's moral character, the Candidate should not be prevented from advancing all reasonable evidence related to his defences to the significant and multitudinous allegations made against him by the Society.
 36. The Panel should not prematurely rule that it has heard sufficient evidence on any issue relating to the Candidate's moral character and should respect the Candidate's right to present evidence as long as it is relevant to such an assessment. As indicated above, the style and structure of the presentation is exclusively within the purview of the Candidate and should not be interfered with.
 37. The Panel should be mindful of the directions given to it by the Society with respect to not unduly interfering with the presentation of evidence, especially when the evidence is being presented by the Candidate himself.
 38. Virtually all evidence given and exhibits tendered by the Candidate have been admitted, sometimes over objections from the Society itself which continues to attempt to limit the Candidate's ability to defend himself.
 39. The length of the Law Society's presentation of evidence against the Candidate cannot be determinative of what time should be given to the Candidate to respond to the allegations against him. Ultimately, it is the amount of evidence available to the Candidate to refute the allegations against him that should determine the amount of time that he is given to defend himself.
 40. It is not reasonable to require the Candidate to limit his presentation with arbitrary time limits related to the topics that he wishes to deal with since many of the exhibits that the Candidate is using as a touchstone to presenting his evidence relate to multiple relevant issues and cannot be categorized into neat packages as the Panel Chair has attempted to compel the Candidate to do. It is also difficult to make time estimates in general because the hearing dates to date have been truncated from time to time

by the Panel conferring during the time set down for the hearing itself, by Panel members not being present at the start of the hearing, by hearing dates that have been truncated as a result of other commitments of Panel members and similar circumstances.

41. The Law Society complains that Kopyto is addressing documents that the Law Society is not relying on. However, the Candidate should have the right to rely on such documents himself whether or not the Society relies on it. The Investigation Report for example is being relied upon to show institutional bias and an adverse investigative process of the Candidate's character where positive evidence is overwhelmingly overlooked and ignored.
42. The Candidate also reserves the right to give evidence in order to refute all the allegations made against him in the Law Society's opening statement.
43. In assessing what evidence the Candidate should be allowed to present, it should be kept in mind that the investigation report of the Candidate and some of Mr. Greenaway's evidence related to conduct by the Candidate which was either abandoned (such as the case of Doreen D'Eath) or not pursued (such as public statements critical of the judicial system made by the Candidate). The Society was a moving target refining its evidence as the hearing proceeded creating prejudice and wasting time.
44. The Law Society has indicated that it has received "hundreds" of exhibits from Mr. Kopyto that he intends to rely on. Regretfully, this allegation is not accurate at all and is a gross exaggeration. However, there are additional exhibits that the Candidate wishes to introduce that relate to his defence. The Candidate should be allowed sufficient time to go through these exhibits, have them filed at the hearing and rely on them in his submissions at the end. He should also be allowed to supplement the presentation of these exhibits with personal evidence regarding his involvement in the events that the exhibits relate to.
45. Regretfully, the Candidate cannot predict exactly how much time will be required. However, the Investigative Report of Mr. Greenaway made broad spectral allegations against the Candidate and the Law Society in its opening statement made similar allegations against the Candidate's moral character. There have also been findings reflecting the opinions of judges that the Candidate has poor moral character. The Candidate is apparently unable to cross-examine the opinions of these judges about his character nor can the Candidate avoid the reality that his disbarment is a judicial fact which stands in the way of a more realistic interpretation of the character issues raised in this application. For this reason, the Candidate should be permitted sufficient time to present evidence on his character and the evidence brought forth upon which they are based. This includes various

character judgments associated with the Candidate's disbarment and the continuing negative implications received in consequence of his disbarment. Fairness dictates that the Candidate be given sufficient time to call evidence that conflicts with the version his character which the Law Society is relying on in order to prevent his licensing.

46. Given the fundamental importance of the principles of natural justice, it is submitted this hearing should not be derailed by impatience by the Panel which already admitted its impatience and may wish to bring the hearing to a rapid conclusion at the expense of a fair hearing.

Date: December 13, 2012

All of which is respectfully submitted by

Harry Kopyto, Candidate