IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of	:	No. 2515 Disciplinary Docket No. 3
	:	
JON ARI LEFKOWITZ	:	No. 125 DB 2018
	:	
	:	Attorney Registration No. 92099
	:	
	:	(Out of State)

ORDER

PER CURIAM

AND NOW, this 1st day of April, 2022, the "Petition for Leave to File Petition for Review of Recommendations of Disciplinary Board Nunc Pro Tunc" is denied. Upon consideration of the Report and Recommendations of the Board, the Petition for Reinstatement is denied.

Petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement. *See* Pa.R.D.E. 218(f).

A True Copy Nicole Traini
As Of 04/01/2022

Attest: Nicole Traini
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of	:	No. 2515 Disciplinary Docket No. 3
	:	No. 125 DB 2018
JON ARI LEFKOWITZ	:	Attorney Registration No. 92099
PETITION FOR REINSTATEMENT	:	(Out of State)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 218(c)(5) of the Pennsylvania Rules of Disciplinary Enforcement, The Disciplinary Board of the Supreme Court of Pennsylvania submits its findings and recommendations to your Honorable Court with respect to the above captioned Petition for Reinstatement.

I. HISTORY OF PROCEEDINGS

By Order dated November 15, 2018, the Supreme Court of Pennsylvania reciprocally suspended Petitioner for two years based on the July 11, 2018 Opinion and Order of the Supreme Court of the State of New York Appellate Division. The New York Suspension Order suspended Petitioner from the practice of law in New York for two years, with credit for the time elapsed under a Decision and Order of the New York

Court dated March 23, 2017, which immediately suspended Petitioner. The July 11, 2018 New York Suspension Order and the March 23, 2017 New York Temporary Suspension Order were based on Petitioner's guilty plea on May 11, 2016, in the County Court of Onondaga County to criminal facilitation in the fourth degree, in violation of N.Y. Penal Law § 115.00(1), a class A misdemeanor. On May 12, 2020, Petitioner filed a Petition for Reinstatement to the bar of the Commonwealth of Pennsylvania. Office of Disciplinary Counsel ("ODC") filed a Response on November 20, 2020 and set forth several areas of concern with Petitioner's request for reinstatement. On December 21, 2020, Petitioner filed a Supplement to the Petition for Reinstatement.

Following a prehearing conference on January 12, 2021, a District I Hearing Committee ("Committee") held a reinstatement hearing on February 16 and March 23, 2021. Petitioner called ten character witnesses and testified on his own behalf. Petitioner introduced 14 exhibits without objection. ODC admitted 36 exhibits into the record, 9 over Petitioner's objection. The record was closed on March 23, 2021.

On May 4, 2021, Petitioner filed a post-hearing brief to the Committee, requesting that the Committee recommend to the Board that his Petition for Reinstatement be granted. On May 21, 2021, ODC filed a post-hearing brief and requested that the Committee recommend to the Board that the Petition for Reinstatement be denied, as Petitioner failed to meet his burden of proof.

By Report filed on August 3, 2021, the Committee concluded that Petitioner failed to meet his reinstatement burden and recommended that his Petition for Reinstatement be denied. On August 23, 2021, Petitioner filed a Brief on Exceptions

and requested oral argument before the Board. On September 8, 2021, ODC filed a Brief Opposing Exceptions.

On October 7, 2021, a three-member panel of the Board held oral argument. The Board adjudicated this matter at the meeting on October 25, 2021.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Jon Ari Lefkowitz, born in 1968 and admitted to practice law in the State of New York in 1994 and in the Commonwealth of Pennsylvania in 2005. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Petitioner was reciprocally suspended from the practice of law in the Commonwealth on November 15, 2018 for two years by Order of the Supreme Court of Pennsylvania ("PA Suspension Order"). Petitioner's PA Suspension Order was based on a July 11, 2018 NY Suspension Order, which resulted from his guilty plea on May 11, 2016, in Onondaga County, NY to criminal facilitation in the fourth degree, in violation of N.Y. Penal Law § 115.00(1), a class A misdemeanor. (Stipulation - 3)

3. Petitioner was suspended as a result of criminal conduct that led to his guilty plea and NY Suspension Order, namely the preparation of two subpoenas on behalf of his cousin which were purportedly witnessed by a New York judge.

4. At his May 11, 2016 guilty plea hearing before the Onondaga County, NY Court, Petitioner admitted that

> on or about November 22, 2013 believing it probable that [Petitioner was] rendering aid to an Alexander March, who intended to commit a crime in Onondaga County, that [Petitioner] engaged in conduct which provided Alexander March with means and opportunity through the commission thereof and which in fact aided Alexander March to commit the felony of forgery in the second degree, in violation of Penal Law Section 170.10, Subdivision 1, to wit, with knowledge that it would be served, [Petitioner] drafted a judicial subpoena that purported to be witnessed by a Supreme Court judge that ordered a witness to answer a written questionnaire under oath and under penalty of contempt in regards to the matter of the People of the State of New York v. Sima, S-I-M-A, March and Alexander March. (EX-1, pp. 10-11)

5. The Onondaga County, NY Court noted the following facts and circumstances that related to the judicial subpoena prepared by the Petitioner:

> [T]he [Petitioner], at the request of his cousin, Alexander March, prepared a judicial subpoena duces tecum, directed to a witness, Jacqueline Watkins, in a criminal proceeding entitled, People v. March, Index No. 2011-0593, Onondaga County, County Court. The testimony of Jacqueline Watkins was sought for the purpose of challenging the version of the facts presented by the Attorney General of the State of New York. The subpoena stated as follows: "WE COMMAND YOU, that all business and excuses being laid aside, answer the attached questionnaire, under oath, and return it to the Law Office of Jon Ari Lefkowitz PC, on or before the 10th day of January 2014." The subpoena further stated: "Failure to comply with [sic] subpoena is punishable as contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply." Immediately below this paragraph the subpoena stated: "WITNESS, Honorable Donald A. Greenwood, one of the judges of said Court at Syracuse, New York on the 15th day of Nov, 2013." Neither Judge Greenwood nor the [Petitioner] signed the subpoena,

> although a signature line was provided. The [Petitioner]'s address and phone number was typed below the signature line. The subpoena identified the [Petitioner] as the attorney for Alexander March's spouse, Sima March, despite the fact that the [Petitioner] had never entered an appearance on her behalf. (ODC-5, p. 3)

6. On May 12, 2017, Petitioner was sentenced to a one-year period of conditional discharge and the payment of court costs totaling $250.00. Under New York Penal Law § 65.05, the court may impose a sentence of conditional discharge for an offense if "having regard to the nature and circumstances of the offense and to the history, character and condition of the defendant," the court "is of the opinion that neither the public interest nor the ends of justice would be served by a sentence of imprisonment and that probation supervisions is not appropriate." (Stipulation – 4)

7. In suspending Petitioner for two years, the NY Court stated that:

> Petitioner's conduct on its face created a deception. Not only had Judge Greenwood not signed the subpoena, but the [Petitioner] had not entered an appearance on behalf of his cousin or his cousin's wife. Yet, the [Petitioner] interjected himself into a criminal proceeding by providing the subpoena to his cousin for the purpose of evading extradition. The conclusion that the [Petitioner]'s conduct constituted a knowing, direct, and intentional interference in the judicial process is inescapable as he admittedly attempted to assist his cousin in evading extradition. (ODC-5, p. 4)

8. The subpoena that Petitioner prepared that named Ms. Watkins ("the Watkins subpoena") and directed her to answer a questionnaire in connection with a criminal proceeding, supports the NY Court's conclusion that

the Watkins subpoena "on its face created a deception" because the evidence showed that:

a. Judge Donald A. Greenwood, whose docket consisted solely of civil cases, did not preside over a criminal case involving Mr. March or Ms. March;

b. Petitioner, who is listed as counsel for Ms. March on the Watkin subpoena, had not entered his appearance on behalf of Ms. March in a criminal (or civil) case;

c. Judge Greenwood had not witnessed the Watkins subpoena and had not been contacted by Petitioner about that subpoena;

d. when Petitioner prepared the Watkins subpoena, he had no basis for believing that Judge Greenwood would approve the Watkins subpoena; and

e. the Watkins subpoena did not contain a signature line for Judge Greenwood, but included a statement that Judge Greenwood had purportedly witnessed the subpoena on November 15, 2013, thus conveying the impression that Judge Greenwood approved the subpoena and no signature was required. (N.T.II 98-100, 103-104; ODC-1)

9. Petitioner attached to the Questionnaire a document titled "Instructions for Filling out a Judicial Subpoena Duces Tecum with Sample Attached" ("the Subpoena Instructions"). (N.T.II 107; ODC-2; R.Q. 20).

10. Petitioner relied on the Subpoena Instructions in preparing the Watkins subpoena. (N.T.II 107; R.Q. 20).

11. The Subpoena Instructions directed that:

a. "A SUBPOENA MUST BE SIGNED BY A JUDGE BEFORE IT IS SERVED";

b. the name of the judge "assigned to your case" is to be placed on the subpoena;

c. the date and time of "the scheduled trial or hearing" is to be placed on the subpoena;

d. the subpoena must describe any items that "you are requesting the witness to bring to Court";

e. the subpoena must have a place left blank for the judge's signature; and

f. the subpoena had to be submitted to the Court Clerk's Office, which office would forward the subpoena to the judge to be signed. (uppercase, italics, and bold in original). (N.T.II 107-109; ODC-2, pp. 1-2)

12. From July 2017 through July 2018, during proceedings that were held in New York related to an application for a real estate broker's license and notary license commission renewal, Petitioner repeatedly minimized his criminal conduct.

13. During 2018, with respect to the renewal of Petitioner's notary public commission, Petitioner:

a. sent a March 12, 2018 letter to the New York Department of State ("NY DOS"), Division of Licensing Services ("DLS"), in which Petitioner stated that "I did not do anything dishonest or even attempt to do anything dishonest"; and

b. denied at a July 18, 2018 hearing that his issuance of the Watkins subpoena was "unethical or illegal or dishonest...." (EX-5, p. 2; EX-6, pp. 1, 3, 7-9; N.T.II 93-95)

14. At the July 11, 2017 hearing related to Petitioner's application for a real estate broker's license, Petitioner testified, inter alia, that:

a. "all you have before you is a conviction for criminal facilitation, that has nothing to do with my character, trustworthiness nor competency for a license";

b. "[t]here's no allegation that I lied or did anything dishonest"; and

c. "[t]he circumstances indicate only that I made a mistake for which I paid severely and it's not a matter, it's not like I lied or cheated or stole any dollars from anyone...." (CX15, pp. 8, 19, 26, 29-30; EX-7, pp. 10-11; N.T.II 87-92).

15. By Decisions dated August 24, 2018 and September 21, 2018, Petitioner's applications for renewal of his notary public commission and a real estate broker's license were respectively denied, based on, among other factors, Petitioner's failure to establish that he possessed the "trustworthiness" required of a notary public and real estate broker. (EX-6, p. 16; EX-7, p. 18)

16. Beginning in September 2018 and continuing through March 2019, Petitioner minimized his criminal conduct in connection with reciprocal proceedings held in Pennsylvania and Maryland.

17. In September 2018, in pleadings filed with the Supreme Court of Pennsylvania in the Pennsylvania reciprocal disciplinary proceeding, Petitioner repeatedly minimized his criminal conduct, by claiming, inter alia, that he had:

a. "prepared the subpoena in good faith and with no intent to deceive";

b. made "[o]ne mistake in which nobody was harmed or deceived";

c. "drafted the offending subpoena by mistake"; and

d. not "interfere[d] with the judicial process." (ODC-7, pp. 2, 7-9; ODC-8, pp. 2-4).

18. In the Pennsylvania reciprocal disciplinary proceeding, rather than accepting responsibility for his criminal conduct, Petitioner criticized the NY Court's conclusions that his conduct "on its face created a deception" and

"constituted a knowing, direct, and intentional interference in the judicial process," arguing that "a subpoena WITHOUT a judge's signature can by no means be considered a deception," that he "did not harm anyone or, the judicial process either," and that the "NY Court was wrong to suspend me for two years for what it deemed interference with a judicial process...." (uppercase in original). (ODC-7, pp. 8-9; ODC-8, p 4)

19. In reciprocal disciplinary proceedings that commenced in October 2018 and culminated with an oral argument on March 1, 2019 before the Court of Appeals of Maryland, Petitioner also minimized the gravity of his misconduct and repudiated a key finding of the NY Court by contending that his criminal conduct did not show that he had interfered with the judicial process and the administration of justice; Petitioner was disbarred in Maryland. (N.T.II 150; ODC-13, pp. 1-2, 12)

20. On January 24, 2019, Petitioner initiated a reinstatement proceeding in New York by filing a Notice of Motion and Affidavit in Support of Application for Reinstatement to the Bar after Suspension for More than 6 Months ("the NY Reinstatement Motion") with the NY Court. (ODC-11)

21. In the New York reinstatement proceeding, Petitioner continued to minimize his criminal conduct.

22. On September 17, 2019 and November 1, 2019, reinstatement hearings were held before the Subcommittee ("the Subcommittee") of the New York Committee on Character and Fitness for the Second, Tenth, Eleventh and Thirteenth Judicial Districts ("the NY Character Committee"). (CX4; EX-11)

23. Petitioner testified during the New York reinstatement hearings and was questioned by the Subcommittee about the underlying criminal conduct which led to his NY suspension. In response, Petitioner repeatedly used the word "mistake" to describe that earlier criminal conduct, and denied that when drafting the subpoenas he had known that he was doing anything wrong:

> a. And now I realize that I made a mistake, a costly mistake, and I did something wrong. And I deeply regret it, but at the time I had no idea that I was doing anything wrong. If I would have known that I was doing something wrong, immoral, illegal, unethical, or improper in any way, I would not have been so stupid as to put my name and address at the bottom of the subpoena. (CX4, p. 29)
>
> b. It was my mistake. You know it's even if, what I did was by mistake. That's what I'm saying. I did something wrong, but I did it by mistake, I didn't do it deliberately. (CX4, p. 36)
>
> c. I did not intend to do anything wrong, and I did not realize I was doing anything wrong at the time. Now I do, and it's important to keep that distinction in mind. It's like, if I take that folder there or your pile of papers knowing that it's yours and it doesn't belong to me and I take it anyway, that's being dishonest. If I make the mistake, because I think it's mine and I take it, yes, I took your thing, but it was by mistake. So, of course I didn't realize it at the time. (EX-11, p. 111)

24. Petitioner's testimony during the 2019 New York reinstatement hearings demonstrated that he has failed to acknowledge that his criminal conduct was dishonest. (Id.)

25. Between 2017 through 2019, Petitioner took the position during multiple proceedings held in New York, Pennsylvania, and Maryland that his criminal conduct was the product of a mistake and that he was unaware that he was "doing anything wrong at the time" he prepared the Watkins subpoena.

Petitioner's claims are contradicted by the following record evidence:

a. the Watkins subpoena itself, which appeared to be issued in connection with a criminal proceeding involving Judge Greenwood, witnessed and approved by Judge Greenwood on a particular date, and prepared by Petitioner in his capacity as counsel for Ms. March in a pending criminal proceeding, circumstances that Petitioner knew to be false when he drafted the subpoena;

b. Petitioner's guilty plea, at which he admitted that he believed it probable that Mr. March intended to commit a crime (namely, forgery) when Petitioner rendered aid to Mr. March; and

c. the Subpoena instructions that Petitioner claimed he relied on in preparing the Watkins subpoena.

26. In the instant reinstatement proceeding, Petitioner has continued to minimize his criminal conduct.

27. On May 7, 2020, when Petitioner filed the Petition and the Questionnaire, he submitted a three-page response to Question 20, which question invited Petitioner to provide "any other additional facts or matters" that he wanted the Board to consider. (ODC-15; R.Q. 20)

28. Petitioner again failed to acknowledge that his criminal conduct related to the New York subpoenas was deceptive, as evidenced by his response, which included:

a. "No one was in fact deceived";

b. "I did not intend to deceive anyone"; and

c. "I made a mistake concerning the appropriate form of subpoena to use." (Id.)

29. At the March 23, 2021 hearing, Petitioner offered testimony that sought to minimize his criminal conduct and his culpability.

a. When asked by Disciplinary Counsel how Petitioner could claim that no one was deceived as to the authenticity of the subpoenas in light of the NY Court's finding that Petitioner's conduct "on its face" was deceptive, Petitioner testified that it was "likely the people who received the subpoenas simply threw them in the garbage and did nothing about them." The record undermines this testimony because Petitioner was in fact contacted by a lawyer for one of the two individuals who had been served with the subpoenas drafted by Petitioner. (CX4, pp. 37-38; CX15, pp. 12-13; N.T.II 79-82)

b. Petitioner provided contradictory testimony regarding his reliance on the Subpoena Instructions in preparing the Watkins subpoena, first stating that he had relied on those instructions, then denying it. (N.T.II 107, 109)

30. Petitioner testified falsely at the New York reinstatement proceeding.

31. At the November 1, 2019 New York reinstatement hearing, the Subcommittee questioned Petitioner about the September 21, 2018 Decision that denied Petitioner's application for a real estate broker's license, and the specific finding that Petitioner was in denial about his criminal conduct because he referred to that conduct as a mistake rather than dishonest. (EX-11, pp. 116-117)

32. Petitioner testified in November 2019 that he came to realize that his drafting of the subpoenas was "wrong" after he reviewed the July 2018 NY Suspension Order. (EX-11, pp. 117-119)

33. A portion of Petitioner's testimony addressing the Subcommittee's question is set forth below:

> So, of course the decision of the Department of State or whoever wrote that is not binding here, but it is true that I thought about that since then because of what they wrote and what the ALJ said with respect to the notary license

> which was also denied to me in which I disclosed for other reasons, as I wrote, but more importantly, the Appellate Division wrote, I think, that it is impossible to escape the conclusion that I improperly interjected myself into the Court proceedings, and it's pretty much an exact quote, I kind of memorized it, and I understand now but I did not understand then, that what I did with the subpoena was wrong, and, of course, I will never admit that I meant to do anything wrong. I didn't.
>
> I would never have done such a thing intentionally. As I said, if I would have known I was doing something wrong, I would not have put my name and address on it, but, yes, I do understand now, and really, the real estate and notary public licensing people did not make it clear, but this Court did.
>
> The Court of Appellate Division did make it clear to me, and I understand what I did was wrong, and I understand that I put my name on the thing, or a judge's name on both -- on the thing that didn't belong there, and I improperly interjected myself, and I do understand now that I did something wrong, which I did not understand when I maintained my position before the Department of State, but the Appellate Division did make it more clear to me. (EX-11, p. 117-118)

34. Petitioner falsely testified to the Subcommittee that he realized that his drafting of the subpoenas was "wrong" after he reviewed the 2018 NY Suspension Order because in subsequent reciprocal discipline proceedings in Pennsylvania and Maryland, Petitioner continued to describe his criminal conduct as a "mistake," denied that he had acted dishonestly or that anyone was deceived, and repudiated specific findings and conclusions set forth in the NY Suspension Order.

35. The NY Subcommittee issued a Report in 2019 that recommended against reinstating Petitioner, finding, in part, that Petitioner had

> failed to acknowledge the dishonesty inherent in the actions which led to his suspension; failed to acknowledge the dishonesty in obtaining a Certificate of Good Standing from the US Court of Appeal for the Armed Forces before informing that Court of his suspension; failed to acknowledge the dishonesty in omitting his admission to the US Court of Appeals for the Armed Forces in his petition for reinstatement, [sic] and failed to acknowledge the dishonesty in failing to disclose his denial of a real estate broker license. (EX-12, pp. 11, 13)

36. On May 26, 2020, the NY Character Committee adopted the Subcommittee's recommendation and forwarded the Subcommittee's Report to the NY Court. (EX-12)

37. On June 5, 2020, Petitioner filed a response to the Subcommittee's Report. (ODC-14)

a. For the first time, in 2020, Petitioner described his criminal conduct as dishonest. (ODC-14, ¶¶1-3).

38. In the response, however, Petitioner also repeated the false testimony he offered at the November 1, 2019 hearing, stating that "[a]t the time of my hearing concerning the real estate broker's license, I did not appreciate the seriousness of my actions, but now, after reading this court's opinion of July 11, 2018, I have a better understanding of the gravity of my actions." (ODC-14, ¶3)

39. By Order dated January 15, 2021, the NY Court denied Petitioner's motion to be reinstated. (EX-13)

40. Petitioner testified at the 2019 New York reinstatement proceeding that he realized that the drafting of the subpoenas was "wrong" upon reviewing the July 2018 NY Suspension Order, despite having filed pleadings after that July 2018 review which challenged the imposition of reciprocal discipline in

Pennsylvania. (N.T.II 54-62; ODC-7-8)

41. Petitioner has offered inconsistent testimony in the instant proceeding as to when he realized that the drafting of the subpoenas was "wrong." Petitioner stated here that he had not realized his wrongful conduct in July 2018: "it's not like as soon as I read the July 2018 [Opinion] that I immediately came to the conclusion that I did something wrong, that I didn't appreciate previously, but it was a gradual thing and I don't remember the dates that I wrote the document. I think, it was September 2018 the one that we're looking at now. But, yes, it took me some time after July 2018 and if not in September 2018." (N.T.II 62-63).

42. Petitioner's testimony regarding when he realized that his criminal conduct was wrong is not credible and contradicts Petitioner's statement in the New York reinstatement proceeding that he had understood that his criminal conduct was wrong upon reviewing the NY Suspension Order.

43. Petitioner in the instant proceeding mischaracterized what Judge Miller "felt" and opined during Petitioner's sentencing when Judge Miller issued to Petitioner a Certificate of Relief from Disabilities ("the Certificate").

44. Petitioner represented that Judge Miller "felt" and held the "opinion" that Petitioner's law licenses should not be suspended because Judge Miller issued the Certificate; however, Judge Miller did not express an "opinion" on whether Petitioner's law licenses should be suspended at Petitioner's sentencing. (EX-5, p. 2; N.T. 243-244; ODC-3, ODC-15, Q. 20). Petitioner's misrepresentation is undermined by the language of the certificate itself, which

states issuance does not bar a "judicial, administrative, licensing or other body, board or authority" from exercising its "discretionary power to suspend, revoke, refuse to issue or renew any license...." (P-8, p. 2, C.)

45. From 2017 through the present, Petitioner has claimed that his criminal conduct did not harm anyone. (CX15, p. 10; N.T.II 61-62, 67, 78-79, 82, 174; ODC-7, p. 7; ODC-8, pp. 3-4)

46. Petitioner has not acknowledged the harm that his criminal conduct caused to the:

a. judicial system, which is shown by the NY Court's conclusion that Petitioner's "conduct constituted a knowing, direct, and intentional interference in the judicial process..."; and

b. reputation of the legal profession. (ODC-5, p. 4)

47. Petitioner's has not credibly expressed remorse for his criminal conduct because:

a. Petitioner has minimized his criminal conduct from July 2017 through the present;

b. Petitioner's acceptance that his criminal conduct was dishonest occurred only after he reviewed the NY Subcommittee's March 2020 Report that recommended denial of his New York reinstatement petition on the basis that Petitioner had, inter alia, "failed to acknowledge the dishonesty inherent in the actions which led to his suspension"; and

c. Petitioner's testimony emphasized the harm he suffered mainly due to the loss of his law licenses, without considering the harm his criminal conduct caused to the judicial system and the legal profession. (EX-12, p. 11; N.T. 12-14, 201; N.T.II 174-175)

48. Petitioner misrepresented on the NY Reinstatement Motion that:

a. he was not admitted to practice in any courts or jurisdictions;

b. he had timely filed all required federal, state, and local income tax returns; and

c. he had not applied for any licenses that required proof of good character while suspended and that he had no relevant facts to disclose that might influence the NY Court to look less favorably on his NY Reinstatement Motion. (N.T.II 15, 29-30, 40-44, 134-136; ODC-11, Q. 13, Q. 27, Q. 28, Q. 37; ODC-12)

49. Petitioner failed to disclose on the NY Reinstatement Motion that:

a. he was admitted to, and permitted to practice before, the United States Court of Appeals for the Armed Forces ("the Armed Forces Appeals Court");

b. he had failed to timely file his 2017 federal and state income tax returns; and

c. he had applied for, and been denied, a real estate broker's license by the NY DOS. (N.T. 256-257; N.T.II 13-15; 29-30, 40-44, 134-136; ODC-11, Q. 13, Q. 27, Q. 28, Q. 37; ODC-12)

50. Petitioner's explanations for the misrepresentations and omissions on the NY Reinstatement Motion are not credible.

51. Petitioner testified that he forgot to disclose the "minor and unimportant issue" of his admission to the Armed Forces Appeals Court and he described the gathering and completion of the NY Reinstatement paperwork as "overwhelming" and "very complicated." (N.T.II 13-14, 20)

52. Petitioner's omission from the NY Reinstatement Motion in 2019 of the Armed Forces Appeals Court demonstrates a lack of credibility considering that:

a. between December 20 and 31, 2018 (less than a month before he filed the NY Reinstatement Motion), Petitioner had exchanged a series of emails with an employee in the Clerk's Office for the Armed Forces Appeals Court in order to obtain a certificate

of good standing. Only thereafter did Petitioner advise the clerk of his criminal conviction and suspension in New York;

b. During an initial attempt to file the NY Reinstatement Motion, Petitioner had been advised of certain problems with the filing that required correction, putting him on notice to exercise greater care in completing that document; and

c. Petitioner's testimony demonstrated that he prioritized quickly filing the NY Reinstatement Motion over verifying that he was providing accurate and truthful information. (EX-9; N.T. 261-263; N.T.II 14-15, 21-23)

53. Petitioner claimed that he did not have the ability to verify that he had timely filed his 2017 federal and state tax returns when he completed the NY Reinstatement Motion; however, Petitioner could have contacted his accountant to ascertain if he had timely filed his federal and state tax returns. (N.T.II 134-136)

54. Petitioner testified that he was not obligated to disclose that he had applied for a real estate broker's license because the NY Reinstatement Motion only required disclosure of license applications from the "entry of the order of discipline," and the NY Suspension Order, not the NY Temporary Suspension Order, was an "order of discipline." (N.T.II 31-33; ODC-11. Q. 28)

55. Petitioner's explanation for omitting mention of his application for a real estate broker's license is contradicted by:

a. the two Compliance Affidavits that Petitioner filed with the NY Court in May and June 2017, in which documents he referred to the NY Temporary Suspension Order as an "order of discipline"; and

b. Petitioner's response to question 9 on the NY Reinstatement Motion, in which Petitioner referred to the NY Suspension Order as

being retroactive to the date of the NY Temporary Suspension Order. (EX-2-3; N.T.II 35-40; ODC-11, Q. 9);

c. Question 37 on the NY Reinstatement Motion required Petitioner to disclose that he had been denied a real estate broker's license because that fact was "relevant" (notwithstanding Petitioner's testimony to the contrary) and "might tend to influence" the NY Court "to look less favorably upon reinstating [Petitioner] to the practice of law." (N.T.II 41-44; ODC-11, Q. 37)

56. Petitioner made omissions on the Reinstatement Questionnaire in the instant proceeding where he failed to disclose:

a. four state civil cases filed in New York in which he appeared as a party; and

b. two federal civil cases in which he appeared as a party. (N.T. 205-206; N.T.II 113-120; ODC-15, Q. 10; ODC-16-19; S-8).

57. Petitioner explained that he conducted a search using his first, middle, and last names on the search engine available on the New York State Unified Court System, which generated only one case; conducted a search for any federal civil cases using his name, but he did not find any cases; and relied on his memory to list other cases he was involved in as a party. (N.T. 204-205; N.T.II 117; P-6).

58. Petitioner failed to conduct alternative searches using the New York search engine after Petitioner's search generated only a single case, a result that Petitioner knew failed to capture the entire universe of New York civil cases in which he was named as a party. (N.T.II 114-116)

a. Although both ODC and Petitioner searched for federal civil cases involving Petitioner, ODC located two federal civil cases involving Petitioner, which Petitioner himself failed to identify. (N.T.II 117-120; ODC-17-18)

59. Petitioner failed to comply with the NY Temporary Suspension Order, the NY Suspension Order, and the PA Suspension Order by displaying information on his Facebook and LinkedIn accounts that suggested that he remained eligible to practice law. (EX-14-15; N.T.II 120-129; ODC-4, p. 2; ODC-5, p. 5; ODC-10, p. 2; S-10)

60. Petitioner testified that after his New York law license was suspended, he did not conduct an internet search to determine if he had to discontinue any online attorney advertising because it had not occurred to him that he had any such advertising to address. (N.T.II 129-131)

61. Petitioner presented ten character witnesses (N.T. 21-182):

a. Ms. Volha (Olga) Mausolf currently works as in-house counsel for an insurance company. She worked as a legal intern for Petitioner one day per week for approximately six months in 2012, while pursuing a bachelor's degree in legal assistant studies. She testified regarding a brief discussion about Petitioner's conviction, her internet research about it, Petitioner's reputation for honesty and competence as a lawyer, and his hope to regain his law license. Ms. Mausolf offered no relevant testimony regarding Petitioner's post-conviction remorse or reputation for honesty and competence as a lawyer.

b. Mr. Ronen (Ronnie) Kohen (Cohen) works with at-risk youth. He is a personal friend of Petitioner who met him through martial arts training and their synagogue. Petitioner has worked for approximately 15 years as a volunteer marital arts instructor at Mr. Cohen's community center. Although Mr. Cohen was unaware of the events that led to Petitioner's law license suspension. Mr. Cohen testified that Petitioner told him of his remorse and regret for his crime. While Mr. Kohen, a personal friend of Petitioner, clearly sought to assist him with helpful testimony. However, he did not provide credible testimony regarding Petitioner's post-conviction remorse.

c. Mr. Edward Pinkesz is a former client of Petitioner's in a commercial landlord-tenant matter in Manhattan in the 2008-2010

time frame. After Petitioner's suspension, Mr. Pinkesz hired him to work as an advertising editor in Pinkesz's insurance business, Arkay Life. Due to an illness, Mr. Pinkesz closed the business at the end of 2019 or the beginning of 2020, at which time Petitioner stopped working for him. Mr. Pinkesz testified about Petitioner's reputation for honesty and professional competence, and Petitioner's remorse for the crime he committed. While Mr. Pinkesz clearly sought to assist Petitioner with helpful testimony, he did not provide credible testimony regarding Petitioner's post-conviction remorse or reputation for honesty and competence as a lawyer.

d. Mr. Abraham Cohen is an employee with the New York Housing Authority and director of Aishel Shabbat, an organization providing food to needy families. Mr. Cohen testified about Petitioner's involvement in Aishel Shabbat for approximately 20 years. He testified about Petitioner's regret for the mistake he made related to the crime he committed which led to his license suspension and his related remorse. While Mr. Cohen, a personal friend of Petitioner, clearly sought to assist him with helpful testimony, he did not provide credible testimony regarding Petitioner's post-conviction remorse.

e. Mr. Abraham Neuhaus is an attorney licensed to practice in New York, New Jersey, Florida, and the District of Columbia. He met Petitioner in early 2012, when Mr. Neuhaus came to have an office in the same building as Petitioner. From 2012 until 2017, Mr. Neuhaus interacted with Petitioner and knew him professionally and personally. Mr. Neuhaus testified that Petitioner had expressed remorse to him, although the two had little interaction since 2017, when Mr. Neuhaus moved his practice to New Jersey. Mr. Neuhaus described his conversations with Petitioner as focused on the length of Petitioner's license suspension, and he was unfamiliar with the positions Petitioner had taken with various licensing authorities. While Mr. Neuhaus clearly sought to assist Petitioner with helpful testimony, he did not provide credible testimony regarding Petitioner's post-conviction remorse or reputation for honesty and competence as a lawyer.

f. Ms. Olga Suslova is an attorney licensed in the state of New York since 2002. She testified that she has known Petitioner since 2004 or 2005 when, as an attorney practicing in matrimonial and family law, Petitioner introduced himself as having expertise in commercial litigation, bankruptcy, and criminal law. She testified that she considered him a resource for advice on aspects of law, and would consult Petitioner on matters of procedural and statutory

law. She testified regarding Petitioner's reputation for honesty and competence as a lawyer, particularly commercial and criminal law. She could not recall the details of Petitioner's crime or his discussion of it. She described Petitioner's life being devastated because of that mistake. While Ms. Suslova clearly sought to assist Petitioner with helpful testimony, she did not provide credible testimony regarding Petitioner's post-conviction remorse or reputation for honesty and competence as a lawyer.

g. Mr. Serguei Stepanov is an owner-operator of a gym patronized by Petitioner. He is also a professional boxer. He is a former client of Petitioner's in a mortgage matter and other matters. Petitioner was recommended by Mr. Stepanov's friend (also a former client). He testified that Petitioner could no longer represent him after committing some unspecified crime. Mr. Stepanov could not provide any information about the basis for his testimony that Petitioner was remorseful. While Mr. Stepanov clearly sought to assist Petitioner with helpful testimony, he did not provide credible testimony regarding Petitioner's post-conviction remorse or reputation for honesty and competence as a lawyer.

h. Professor David Meyerson is a professor and published writer and member of Petitioner's synagogue who has known Petitioner for 25 to 30 years. Professor Meyerson contacted Petitioner related to a probate issue involving the professor's landlady. Although Petitioner represented the landlady's daughters and not Professor Meyerson, he was permitted to testify about Petitioner's reputation for honesty and professional competence, change in character after his conviction, and shame and remorse for doing the wrong thing. While Mr. Meyerson clearly sought to assist Petitioner with helpful testimony, he did not provide credible testimony regarding Petitioner's post-conviction remorse or reputation for honesty and competence as a lawyer.

i. Ms. Zlata Brodskaya is Petitioner's former part time secretary during intermittent periods over a 12-year period. Ms. Brodskaya testified that she had not worked for Petitioner since his suspension following his conviction. She testified about Petitioner's regret for committing a crime which led to his license suspension and his remorse related to that event. She also testified regarding Petitioner's reputation for honesty and competence as a lawyer. While Ms. Brodskaya clearly sought to assist Petitioner with helpful testimony, she did not provide credible testimony regarding Petitioner's post-conviction remorse or reputation for honesty and competence as a lawyer.

j. Ms. Natalia Rainforth is a senior accountant and controller for a real estate company who worked as an administrative assistant for Petitioner in or around 2010. She testified about Petitioner's reputation for honesty and professional competence, as well as Petitioner's remorse for the crime he had committed. While Ms. Rainforth clearly sought to assist Petitioner with helpful testimony, she did not provide credible testimony regarding Petitioner's post-conviction remorse or reputation for honesty and competence as a lawyer.

62. Of the ten character witnesses that Petitioner presented, only one character witness was aware of the circumstances that resulted in Petitioner's criminal conviction. (N.T. 28-29, 40-42, 62-63, 78, 97-98, 113-115, 134, 142, 145, 154-155, 168-169, 179-180)

63. Three of the character witnesses testified that Petitioner characterized his criminal conduct as a "mistake." (N.T. 57, 80-81, 95, 97-98, 138)

64. Petitioner's testimony is credible as to the effect his misconduct and loss of the ability to practice law has had upon his life, but is neither credible nor persuasive regarding his recent acknowledgement that his conduct was deceitful.

III. CONCLUSIONS OF LAW

1. Petitioner has not demonstrated by clear and convincing evidence that he has the moral qualifications and competency for reinstatement to the bar. Pa.R.D.E. 218(c)(3).

2. Petitioner has not demonstrated by clear and convincing evidence that his resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. Pa.R.D.E. 218(c)(3).

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following a two year reciprocal suspension imposed by the Supreme Court of Pennsylvania on November 15, 2018, based on the July 11, 2018 Opinion and Order of the Supreme Court of the State of New York Appellate Division. Pursuant to Rule 218(a)(1), Pa.R.D.E., an attorney who is suspended for a period exceeding one year may not resume the practice of law until reinstated by the Supreme Court of Pennsylvania. Petitioner's burden of proof with respect to his request for reinstatement requires that he prove by clear and convincing evidence, that he is morally qualified, competent and learned in the law and that his resumption of practice at this time will not have a detrimental effect on the integrity and standing of the bar or the administration of justice nor be subversive of the public interest. Pa.R.D.E. 218(c)(3).

A reinstatement proceeding is a searching inquiry into a lawyer's present professional and moral fitness to resume the practice of law. The object of concern is

not solely the transgressions that gave rise to the lawyer's suspension, but rather, the nature and extent of the rehabilitative efforts made since the time the sanction was imposed and the degree of success achieved in the rehabilitative process. ***Philadelphia News, Inc. v. Disciplinary Board of the Supreme Court of Pennsylvania***, 363 A.2d 779, 780-781 (Pa. 1976).

Upon the record before us, we conclude that Petitioner failed to meet his reinstatement burden. Petitioner lacks the moral qualifications required to practice law because he continually minimized his criminal conduct, and provided false and incredible testimony in reinstatement hearings held in Pennsylvania and New York. Petitioner failed to prove that he has the competency to practice law because he submitted reinstatement paperwork containing misrepresentations and omissions, and failed to comply with post-suspension obligations. Petitioner's lack of moral qualifications and competency show that he is unfit, and renders his resumption of practice detrimental to the integrity and standing of the bar or the administration of justice and subversive of the public interest.

The record demonstrates that on May 11, 2016, Petitioner entered a guilty plea in Onondaga County, New York, to criminal facilitation in the fourth degree, in violation of N.Y. Penal Law § 115.00(1), a class A misdemeanor. At his guilty plea hearing, Petitioner admitted that he drafted a judicial subpoena that purported to be witnessed by a New York Supreme Court judge that ordered a witness to answer a written questionnaire under oath and under penalty of contempt in regard to the matter of the People of the State of New York v. Sima March and Alexander March. The facts and circumstances related to the judicial subpoena showed that Petitioner at the

request of his cousin, Alexander March, prepared a judicial subpoena duces tecum, directed to a witness, Jacqueline Watkins, in the People v. March criminal proceeding in Onondaga County. The testimony of Ms. Watkins was sought for the purpose of challenging the version of the facts presented by the Attorney General of the State of New York. The subpoena commanded that the witness answer the attached questionnaire and return it to Petitioner's law office. The subpoena further stated that failure to comply was punishable as contempt of court. The subpoena included a signature line for Donald A. Greenwood, a New York judge. Neither Judge Greenwood nor Petitioner signed the subpoena. The subpoena identified Petitioner as attorney for Sima March, the spouse of Mr. March, although Petitioner had never entered his appearance on Ms. March's behalf.

In suspending Petitioner, the New York Court stated that Petitioner's conduct on its face created a deception. The Court explained that not only had Judge Greenwood not signed the subpoena, but Petitioner had not entered an appearance on behalf of his cousin's wife. The New York Court stated that Petitioner interjected himself into a criminal proceeding by providing the subpoena to his cousin for the purpose of evading extradition, which conduct constituted a knowing, direct, and intentional interference in the judicial process.

The record before us establishes that Petitioner has spent his time since his guilty plea repudiating the New York Court's conclusion as to the deceptive and dishonest nature of his misconduct and minimizing the seriousness of his criminal conduct. As set forth in detail in the Committee's comprehensive Report, from 2017 through 2019, Petitioner took the position in multiple proceedings held in New York,

Pennsylvania, and Maryland that his criminal conduct was the product of a mistake and that he was not aware that he was in the wrong when he prepared the Watkins subpoena.

In Petitioner's 2017 New York application for a real estate broker's license and 2018 New York notary license commission renewal – both of which were denied - Petitioner made his position very clear that he had done nothing that was dishonest and had only made a mistake, for which he "paid severely." Petitioner's staunch stance that his criminal facilitation involved no deception continued in his reciprocal discipline proceedings held in Pennsylvania and Maryland. In 2018 pleadings filed with the Supreme Court in the Pennsylvania matter, Petitioner repeatedly minimized his criminal conduct, depicting it as a mistake that harmed no one, that was not done with intent to deceive, and that was not an interference in the judicial process. In connection with the 2019 Maryland proceeding, Petitioner minimized the gravity of his New York misconduct and refuted a key finding of the New York Court by contending, as he had in Pennsylvania, that his criminal conduct did not show that he interfered with the judicial process and the administration of justice.

In 2019, Petitioner sought reinstatement of his law license in New York.[1] The record demonstrates that during the reinstatement proceeding, when questioned about his underlying misconduct, Petitioner responded that he had done something "wrong," but repeatedly qualified the "wrong" that he had done as a "mistake."

Petitioner applied for reinstatement in the Commonwealth in 2020. Not surprisingly, Petitioner continued to minimize his criminal conduct. On May 7, 2020,

[1] New York denied Petitioner's reinstatement by order dated January 15, 2021. (EX-13)

when Petitioner filed his Petition and Reinstatement Questionnaire, he submitted a three-page response to Question 20, which invited Petitioner to provide "any other additional facts or matters" that he wanted the Board to consider. Petitioner used this opportunity to reiterate his long-held contentions that he made a "mistake," "did not intend to deceive anyone," and "no one was in fact deceived."

Petitioner offered testimony at the hearing in the instant reinstatement matter that confirmed his statements in his Reinstatement Questionnaire that he still does not view himself as culpable. His testimony indicated that no one could be deceived because it was "likely the people who received the subpoenas simply threw them in the garbage and did nothing about them." When confronted by the fact that Petitioner was contacted by a lawyer for one of the two individuals who had been served with the subpoenas he drafted, Petitioner was dismissive and indicated that such circumstance should not trouble the Committee, and implied the call from the lawyer was part of a setup, testifying that the lawyer and the New York Attorney General were working "hand in glove."[2] N.T. 80. This testimony confirms that Petitioner is unwilling to accept that his own actions were deceptive and dishonest.

As set forth above, this record shows that since 2017, Petitioner has refused to acknowledge the true nature of his criminal conduct, has failed to appreciate its gravity, and has failed to acknowledge that his conduct harmed the judicial system and damaged the reputation of the legal profession.

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[2] In Petitioner's August 23, 2021 Brief on Exceptions to the Report of the Hearing Committee, he states that the call from the lawyer about the subpoena was to "entrap me and obtain incriminating evidence from me." Brief, p. 3.

Petitioner makes a plea to this Board to find that while he has denied on many previous occasions that his conduct was dishonest, he has changed and now realizes the true nature of his misconduct and is remorseful. Petitioner lacks any credibility on this issue. We find no evidence of record to support this purported revelation. The totality of the record presents an individual who has never accepted responsibility for the dishonest misconduct he committed and has never been contrite. The record establishes that Petitioner's sudden acknowledgment of the dishonesty of his conduct is purely to benefit himself in this reinstatement proceeding. Nowhere does Petitioner explain in any detail why his conduct was wrong or what precipitated his newfound realization. He simply asks this Board and the Court to accept that he is now convinced of the gravity of his misconduct. Based on this record, it is our view that after continually denying and repudiating the facts of his criminal acts, it likely dawned on Petitioner that his continued failure to accept responsibility by portraying his criminal conduct as a "mistake" could very well pose an obstacle to regaining his law license, and so he attempted to switch gears, speaking the words and phrases he believed necessary to show that he accepted responsibility and showed contrition.

In addition to lacking moral qualifications due to his failure to acknowledge and accept responsibility for his deceptive, dishonest conduct, Petitioner is not morally qualified to resume the practice of law because he offered false and incredible testimony at the New York and Pennsylvania reinstatement proceedings.

During the New York reinstatement proceeding, Petitioner was questioned about the decision denying his application for a real estate broker's license and the specific findings that he was in denial about his crime because he referred to

his conduct as a mistake rather than a dishonest act. In response, Petitioner claimed that after he reviewed the July 2018 New York Suspension Order, he came to realize that his drafting of the subpoenas was wrong and that he improperly interjected himself into the court proceedings. Petitioner's claim about the impact of the New York Suspension Order on his self-assessment of his criminal conduct was false because in the Pennsylvania and Maryland reciprocal disciplinary proceedings, which took place after he claimed he reviewed the 2018 New York Suspension Order and was enlightened as to the wrongfulness of his conduct, he refused to take responsibility for his actions and described his conduct as merely a mistake, denied that he had acted dishonestly or that anyone was deceived, and attacked various findings and conclusions contained in the New York Suspension Order.

Petitioner also testified falsely in the instant reinstatement matter when confronted with the false testimony he offered in New York. Before this Committee, Petitioner sought to reconcile his conduct in the Pennsylvania and Maryland reciprocal discipline proceedings with his testimony at the New York reinstatement proceeding about the effect the New York Suspension Order had on his understanding of his conduct. Petitioner now testified that the New York Suspension Order did not "immediately" change his self-assessment of his criminal conduct, which testimony was contrary to his testimony during the New York reinstatement where he unequivocally and without qualification claimed that his review of the New York Suspension Order caused him to realize his conduct was wrong.

The record establishes that Petitioner failed to meet his burden to prove his overall competency to practice law in the Commonwealth. This lack of competency

is reflected in Petitioner's failure to fulfill certain post-suspension duties, and his lack of thoroughness, misrepresentation, and omissions in preparing reinstatement documents.

Following his suspensions in New York and Pennsylvania, Petitioner was required to refrain from holding himself out as an attorney or eligible to practice law. During his suspension, Petitioner displayed information on his Facebook and LinkedIn accounts that suggested he was an attorney and remained eligible to practice law. Petitioner's explanation that he failed to promptly remove the improper information on his social media accounts because he did not recall that he had any advertising is not persuasive. Had Petitioner done a basic internet search, his memory would have been refreshed that such accounts existed, enabling him to remove information as necessary to fulfill his post-suspension obligations.

Petitioner demonstrated a lack of thoroughness in preparing his reinstatement paperwork in both the New York reinstatement and the instant reinstatement, which carelessness resulted in omissions and misrepresentations on the forms. In his New York reinstatement, Petitioner misrepresented that he: was not admitted to practice in any courts or jurisdictions; had timely filed his income tax returns; and had not applied for any licenses that required proof of good character while suspended. He omitted that he: was admitted to the Armed Forces Appeals Court; had failed to timely file his 2017 federal and state income tax returns; and had applied for, and been denied, a New York real estate broker's license. When questioned about these omissions during the instant reinstatement proceeding, Petitioner explained that he was in a hurry and needed to get the paperwork done, and that he considered the paperwork to be complicated and overwhelming. Besides highlighting the blasé manner

by which Petitioner chose to approach the rigorous process to regain his law license in New York, we find this explanation lacks credibility.

Petitioner displayed a similar lack of attention to detail in his Pennsylvania reinstatement paperwork, as he omitted on his Reinstatement Questionnaire four civil cases and two federal civil cases in which he appeared as a party. Similar to the New York issues, Petitioner failed to offer a credible explanation for the deficiencies on his Reinstatement Questionnaire. Whether Petitioner's omissions were inadvertent, as he claims, or intentional, they raise doubts as to his competency and his candor in portraying himself to this Board and the Court.

Other evidence demonstrates Petitioner's lack of competence to practice law in this Commonwealth. Petitioner procured a certificate of good standing from the Clerk's Office for the Armed Forces Appeals Court without first disclosing his criminal conviction and suspension in New York, which action troublingly suggests a lack of candor. Petitioner's explanation that there was no regulation that explicitly obligated him to make the disclosure to the Armed Forces Appeals Court reveals that Petitioner does not have the ethical competency to resume practice, as he did not consider it his obligation to reveal his conviction to a jurisdiction where he was admitted, even when attempting to obtain a good standing certificate.

In an effort to demonstrate that he is a person of good character who is qualified to be reinstated, Petitioner offered ten character witnesses who testified that he was remorseful. However, most of these witnesses lacked knowledge of the details of Petitioner's criminal conduct that led to his suspension, thus preventing the Committee and this Board from according any substantial weight to the witnesses'

assessment of Petitioner's character. Moreover, precedent establishes that Petitioner cannot rely on character testimony to create remorse where he has demonstrated none. ***In the Matter of Paul Joseph Staub, Jr.***, No. 36 DB 2010 (D. Bd. Rpt. 1/9/2018, p. 16) (S. Ct. Order 3/1/2018) (the Board stated that character evidence could not overcome the observed deficiencies in the Staub's testimony, and further explained that the testimony of witnesses can only serve to bolster a petitioner's genuine statement of regret and admission of wrongdoing). Petitioner's character letters also fall short and are not weighty, as they were written in 2017 and offer no assistance in evaluating Petitioner's current character.

The Court has denied reinstatement where a petitioner-attorney minimizes the underlying misconduct. *See*, ***Staub***, at p. 14 (Staub described his thefts merely as an example of "bad choices" on the Questionnaire and had not 'fully acknowledged that his actions harmed others and damaged the integrity of the legal system," leading the Board to find that Staub had "failed to express genuine remorse or apologize for his actions"); ***In the Matter of William Jay Gregg***, No. 210 DB 2009 (D. Bd. Rpt. 12/5/2017, pp. 6,11) (S. Ct. Order 2/5/2018)) (Gregg did not demonstrate genuine remorse for his financial misconduct because he explained his conduct as "mistakes" and tried to deflect blame on the lack of a bookkeeper); ***In the Matter of Howard J. Casper***, No. 44 DB 1992 (D. Bd. Rpt. 1/25/2007, pp. 16-17) (S. Ct. Order 4/20/2007) (Casper did not fully recognize or acknowledge his misconduct because he described misappropriated client funds as "borrowed" and only reluctantly admitted that clients were injured by his actions).

The Court has also denied reinstatement where a petitioner-attorney falsely testifies or lacks credibility. *See*, ***In the Matter of E. Nkem Odinkemere***, No. 129 DB 2005 (D. Bd. Rpt. 3/14/2012) (S. Ct. Order 7/18/2012) (Odinkemere offered false testimony denying that he misappropriated client funds in New Jersey and that he had contested his reciprocal discipline); ***In the Matter of Frederick C. Sturm, III***, No. 23 DB 81 (D Bd. Rpt. 2/8/2011) (S. Ct. Order 7/6/2011) (Sturm's version of events concerning his criminal conduct was deemed not credible).

Finally, a petitioner-attorney's less than thorough approach to the reinstatement paperwork denotes a lack of competence, which in combination with other deficiencies, may prevent reinstatement. *See*, ***In the Matter of Sabrina L. Spetz***, No. 31 DB 2011 (D. Bd. Rpt. 1/3/2020, p. 15) (S. Ct. Order 2/28/2020) (Spetz denied reinstatement based on her lack of moral qualifications and competency; as to competency, the Board stated, "[p]roviding less than complete answers on the Questionnaire is the first indication that a lawyer may not be fit to resume practice. [Spetz's] deficient Questionnaire and her testimony that she 'forgot' about many of these past problems denote a lack of self-examination of her past actions that makes her reinstatement questionable."); ***In the Matter of John J. Mogck, III***, No. 78 DB 1992 (D. Bd. Rpt., 6/22/2004, p. 8) (S. Ct. Order 9/28/2004) (Mogck's reinstatement denied on the basis of his failure to demonstrate moral qualifications, competency and learning in the law; as to competency, the Board found that Mogck's Reinstatement Questionnaire contained errors and omissions regarding restitution, work history, and IRS liability, which "errors and omissions show carelessness and an inattention to detail that is bewildering for an individual interested in resuming his professional licensure.").

The searching inquiry into Petitioner's present professional and moral fitness to resume the practice of law demanded under ***Philadelphia Newspapers, Inc.*** has revealed that Petitioner lacks the requisite moral qualifications and competency. Upon this record, we find that Petitioner has failed to meet the stringent standard for reinstatement in this Commonwealth, and his resumption of the practice of law would be detrimental to the integrity and standing of the bar or the administration of justice and subversive of the public interest. For these reasons, the Board recommends that Petitioner be denied reinstatement.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the reinstatement of Petitioner, Jon Ari Lefkowitz, be denied.

The Board further recommends that, pursuant to Rule 218(f), Pa.R.D.E., Petitioner be directed to pay the necessary expenses incurred in the investigation and processing of the Petition for Reinstatement.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: _____
Robert J. Mongeluzzi, Member

Date: 1/3/2022