

IN THE SUPREME COURT OF PENNSYLVANIA

IN THE MATTER OF : No. 800 Disciplinary Docket No. 3
: :
JAY IRA BOMZE : No. 149 DB 2002
: :
: Attorney Registration No. 16489
: :
PETITION FOR REINSTATEMENT : (Philadelphia)

ORDER

PER CURIAM

AND NOW, this 26th day of December, 2017, the Petition for Reinstatement is granted. 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 John A. Vaskov, Esquire
As Of 12/26/2017

Attest: 
Deputy Notary
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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: No. 149 DB 2002
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JAY IRA BOMZE : Attorney Registration No. 16489
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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 December 12, 2002, the Supreme Court of Pennsylvania disbarred Jay Ira Bomze on consent. By Petition filed on July 14, 2016, Mr. Bomze seeks reinstatement to the bar in Pennsylvania. Office of Disciplinary Counsel filed a Response on November 10, 2016, in opposition to Petitioner's reinstatement.

A reinstatement hearing was held on April 17, 2017, before a District II Hearing Committee. Petitioner was represented by Samuel C. Stretton, Esquire. Petitioner presented the testimony of five witnesses and testified on his own behalf. Office of Disciplinary Counsel did not present any witnesses. Exhibits ODC-1 through 5 were admitted into evidence.

Petitioner filed a brief on May 18, 2017. By letter of June 1, 2017, Office of Disciplinary Counsel advised that it would not file a brief. The Hearing Committee filed a Report on August 1, 2017, concluding that Petitioner met his burden of proof and recommending that the Petition for Reinstatement be granted.

The parties did not file exceptions to the Hearing Committee's Report and recommendation.

The Disciplinary Board adjudicated this matter at the meeting on October 19, 2017.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Jay Ira Bomze. He was born in 1947 and admitted to the practice of law in the Commonwealth in 1972. Petitioner's attorney registration address is 816 Old Gulph Road, Bryn Mawr, PA 19010. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Following Petitioner's admission to practice, he clerked for a Common Pleas Court judge, followed by three years with the Philadelphia Solicitor's

Office. Subsequently, Petitioner was employed at the law firm of Zarwin Baum for five years, leaving as a partner. N.T. 94-96.

3. Commencing in 1985, Petitioner practiced in his own firms, where he specialized in personal injury cases. N.T. 96.

4. As a practicing lawyer, Petitioner was Chairman of the Compulsory Arbitration Committee for the Philadelphia Bar Association, a member of the Bar Association Judicial Selection Committee, and served as a Hearing Committee Member for the Disciplinary Board of the Supreme Court of Pennsylvania. He was also a member of the Board of Directors of the Philadelphia Trial Lawyers Association and the last president of the Philadelphia Locust Club. N.T. 100-102.

5. By Order dated December 12, 2002, the Supreme Court of Pennsylvania disbarred Petitioner on consent, after he entered a plea of guilty to one count of health care fraud, in violation of 18 U.S.C.A. §1347.

6. The conduct underlying Petitioner's guilty plea occurred from March 1997 through October 2000, and involved four clients, who were actually undercover postal inspectors. Petitioner directed these "clients" to lie about the extent of their injuries and to fraudulently seek and obtain unnecessary medical care. Petitioner coached these "clients" to testify falsely under oath about the extent of their injuries, and he paid them to procure other similarly-minded clients. Petitioner then filed false demands to insurance companies for settlement of these bogus claims. N.T. 108-111.

7. The total amount of settlement obtained through this fraudulent practice was \$80,461.69. N.T. 148-149.

8. At the time of his guilty plea, Petitioner notified Office of Disciplinary Counsel by letter, resigned and accepted disbarment on consent. N.T. 107.

9. After his arrest, Petitioner admitted his crimes and cooperated fully with federal prosecutors. N.T. 106-107.

10. Petitioner was sentenced to six months of incarceration at a half-way house, plus three years of supervised release, which was reduced to one year following his release from the half-way facility. Petitioner completed serving his sentence and paid \$88,000.00 in restitution. N.T. 104-106.

11. Petitioner received reciprocal discipline in the form of disbarment in the United States District Court for the Eastern District of Pennsylvania. N.T. 113.

12. Since his disbarment, Petitioner has not held himself out as a practicing lawyer. N.T. 112.

13. During his disbarment, Petitioner has used his savings and Social Security to support himself. For a time, he worked at Whole Foods preparing food. In 2003, Petitioner, a self-taught chef, began working as a private chef for a catering company approximately 20 to 30 hours per week, at the rate of \$15.00 per hour. N.T. 113-116.

14. Petitioner remains involved in community service by fundraising for several organizations, including the Bar Association and Federation of Allied Jewish appeal. N.T. 116 -117.

15. After disbarment, Petitioner became involved in an organization called MANNA, a non-profit that provides meals free of charge to people who are suffering from acute nutritional risk due to life-threatening illnesses. N.T. 17, 24-25.

16. Petitioner cooks for MANNA once or twice per week, and has done so for the past seventeen years. N.T. 117, 118. He volunteers as a chef at MANNA every Thanksgiving, when he starts at 5 a.m. and cooks several hundred turkeys. N.T. 117-119.

17. Petitioner organizes a wine and cheese fundraising event for MANNA every year, which raises approximately \$10,000.00. N.T. 119.

18. Petitioner organizes an annual fundraiser for the Morris Animal Refuge and donates approximately 60-80 hours every year to that charity. N.T. 123.

19. Petitioner formerly volunteered for Philabundance, an organization that collects and distributes leftover food from restaurants and supermarkets. N.T. 121-122.

20. Petitioner testified that he does charitable work as a way to address the guilt he experiences everyday as a result of his misconduct and as a way to give back to society. N.T. 124-125.

21. Petitioner expressed sincere remorse for his misconduct, called it "inexcusable," "reprehensible" and "the hardest thing for me to deal with in my life." N.T. 125 -127.

22. Although unable to reconcile the fact that he served as a Hearing Committee Member for the Disciplinary Board, where he judged the conduct of other attorneys, while at the same time he was engaging in ethical misconduct himself,

Petitioner accepts complete responsibility for his actions and feels deep regret. N.T. 125-127, 133-138.

23. If reinstated, Petitioner does not expect to build a client base; rather, he intends to do pro bono work and serve as an arbitrator where he can use the skills he acquired when he chaired the Philadelphia Bar Association Compulsory Arbitration Committee. N.T. 129-130.

24. Petitioner fulfilled his Continuing Legal Education requirements necessary for reinstatement and maintained his currency in the law by reading legal periodicals. N.T. 127-128; Reinstatement Questionnaire No. 19(b).

25. Petitioner has no liens or judgments against him and is not currently involved in any litigation matters. N.T. 130-133.

26. Petitioner's testimony is credible.

27. Petitioner presented the testimony of five character witnesses. These witnesses provided credible testimony.

28. Barbara T. Ilsen, Esquire, has been a member of the Pennsylvania bar since 1988 and is a partner at Dilworth Paxson LLP. N.T. 24.

29. Ms. Ilsen volunteers at MANNA and is a member of the board. N.T. 24-26.

30. Ms. Ilsen became acquainted with Petitioner through mutual social circles and as a fellow volunteer at MANNA. N.T. 24.

31. Ms. Ilsen testified that Petitioner has volunteered at MANNA for many years and he consistently worked the "hot side" of the industrial kitchen. She

confirmed that he worked very long hours each Thanksgiving, turning out several thousand meals on that day alone. N.T. 27-230.

32. Ms. Ilsen testified that her husband and Petitioner organize a wine and cheese fundraiser each year for MANNA. N.T. 31.

33. Ms. Ilsen testified that Petitioner has accepted responsibility for his misconduct and has expressed remorse N.T. 33.

34. Ms. Ilsen has no hesitation in recommending Petitioner's reinstatement. N.T. 33-34.

35. David S. Rasner, Esquire, has been a member of the Pennsylvania bar since 1972 and is a partner at Fox Rothschild LLP. He is a member of the Pennsylvania Board of Law Examiners. N.T. 45-46.

36. Mr. Rasner has known Petitioner for decades and represented Petitioner during his divorce proceedings. N.T. 46-47.

37. Mr. Rasner was aware of Petitioner's guilty plea and the underlying acts of misconduct. N.T. 47-48.

38. Mr. Rasner testified that Petitioner is very truthful and forthright about his past misconduct and has expressed contrition and remorse for his actions. N.T. 50-51.

39. Mr. Rasner testified that since Petitioner's guilty plea in 2002, Petitioner changed from a person who was somewhat arrogant to a genuinely good and sincere person. N.T. 49.

40. Mr. Rasner has no hesitation in recommending Petitioner's reinstatement. N.T. 52.

41. Mark F. Seltzer has been a member of the Pennsylvania bar since 1976 and currently owns his own firm, Seltzer & Associates, P.C.

42. Mr. Seltzer was Petitioner's neighbor from 1999 until 2010 and has maintained a friendship with Petitioner since that time. N.T. 58.

43. Mr. Seltzer described Petitioner as giving, caring, and very generous with his time for others. N.T. 60.

44. Mr. Seltzer testified that Petitioner has accepted full responsibility for his past misconduct and has expressed remorse. N.T. 59.

45. Mr. Seltzer has no hesitation in recommending Petitioner's reinstatement. N.T. 62.

46. Brian Bezark has been a practicing lawyer in Pennsylvania since 1969 and has a solo practice. N.T. 67-68.

47. Mr. Bezark is aware of Petitioner's misconduct that resulted in his disbarment and confirmed that Petitioner has expressed remorse and accepted full responsibility for his misconduct. N.T. 70.

48. Susan Daugherty is the Executive Director of MANNA and has worked there since 1999.

49. Ms. Daugherty confirmed that Petitioner volunteers at MANNA as a chef and done so for many years. N.T. 78.

50. Ms. Daugherty further testified that few volunteers are permitted to cook in the hot kitchen due to liability reasons, but Petitioner is an exception to that rule and is often counted on to step in when the organization is short-staffed. N.T. 79-80.

51. Ms. Daugherty confirmed that Petitioner volunteers during the massive Thanksgiving Day meal, where he not only cooks but also assists in the supervision of other volunteers. N.T. 81-82.

52. Ms. Daugherty testified that Petitioner co-hosts an annual fundraiser for MANNA that raises more than \$10,000 per year. N.T. 82

53. Ms. Daugherty testified that Petitioner is a kind and caring individual who others trust for guidance and advice. N.T. 84.

54. Ms. Daugherty testified that it is her understanding that, if reinstated, Petitioner will nonetheless continue his volunteer work with MANNA. N.T. 85.

III. CONCLUSIONS OF LAW

1. The misconduct for which Petitioner was disbarred is not so egregious as to preclude reinstatement. *Office of Disciplinary Counsel v. John J. Keller*, 506 A.2d 872 (Pa. 1986).

2. Petitioner demonstrated by clear and convincing evidence that a sufficient period of time has passed since the misconduct, during which he engaged in a qualitative period of rehabilitation. *In re Jerome J. Verlin*, 731 A.2d 600 (Pa. 1999).

3. Petitioner demonstrated by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required to practice law in the Commonwealth, and his resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or 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 his disbarment on consent by Order of the Supreme Court of Pennsylvania dated December 12, 2002. The misconduct giving rise to Petitioner's resignation was his criminal conviction for health care fraud for directing four clients in two separate personal injury matters to obtain unnecessary medical treatment and coaching them to lie about the circumstances and severity of their injuries and medical treatments, in order to falsely inflate the value of their personal injury settlement, resulting in a total fraudulent award of over \$80,000.

Petitioner's burden of proof with respect to his request for reinstatement from disbarment is heavier than the burden of proof following a suspension. As the Supreme Court held in *Keller*, "[i]n the case of disbarment, there is no basis for an expectation by the disbarred attorney of the right to resume practice at some future point in time." *Id* at 875. The threshold issue in a disbarment matter is whether the misconduct

that resulted in Petitioner's disbarment was of such magnitude so as to preclude the Board's consideration of his reinstatement. *Id.*¹

In light of the Supreme Court's previous holdings, we cannot say Petitioner's misconduct was so great that his reinstatement is precluded. There are numerous examples where the threshold question has been met in cases involving dishonest, criminal conduct. See *In re Lawrence D. Greenberg*, 749 A.2d 434 (Pa. 2000) (misappropriation of two million dollars and commission of perjury in bankruptcy proceeding); *In the Matter of William James Perrone*, 899 A.2d 1108 (Pa. 2006) (improperly obtaining public funds allocated for indigent legal representation by filing false fee petitions); *In the Matter of Milton E. Raiford*, 50 DB 1994 (D. Bd. Rpt. 2/16/2010) (S. Ct. Order 4/16/2010) (perpetration of fraud on the criminal justice system of Allegheny County by knowingly and intentionally allowing a client to misrepresent herself as another client, who had been charged with narcotics offenses).

The above-cited cases are examples of serious and deplorable acts by Pennsylvania lawyers, all of whom were able to meet the threshold standard for reinstatement. The Board concludes that Petitioner's acts of misconduct, while extremely serious and a breach of his ethical responsibilities, are not so egregious as to prevent reinstatement.

¹ Office of Disciplinary Counsel initially opposed reinstatement based on the *Keller* threshold; however, after the close of the record, Disciplinary Counsel did not file a post-hearing brief or take exceptions to the Hearing Committee's recommendation.

Following our analysis of the *Keller* threshold, we next consider whether Petitioner has established that he has the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania and that his readmission would not have a detrimental impact on the integrity and standing of the bar, the administration of justice or be subversive of the public interest. Pa.R.D.E. 218(c)(3). Petitioner must prove that his post-disbarment conduct and efforts at qualitative rehabilitation were sufficient to dissipate the detrimental impact of his conduct on the public trust. *Verlin* at 602. Upon this record, we conclude that Petitioner has met his reinstatement burden.

Petitioner has been disbarred from the practice of law for nearly fifteen years. Petitioner accepted full responsibility for his misconduct, and acknowledged that such misconduct was particularly troubling in light of the fact that the timing of the misconduct overlapped with his volunteer position as a Disciplinary Board Hearing Committee Member, tasked with judging the unethical misconduct of fellow attorneys. When arrested, Petitioner admitted his wrongdoing, cooperated with prosecutors and entered a guilty plea to one count of health care fraud. Subsequently, he made restitution, served his sentence, engaged in steady and productive employment as a personal chef, and contributed in significant ways to charitable organizations.

At the reinstatement hearing, Petitioner testified credibly and expressed sincere and genuine remorse for his actions. He admitted that he “let down his moral compass,” N.T. 126, and described his conduct as reprehensible and inexcusable. Since the time of his arrest, and recognizing the enormity of his wrongdoing, Petitioner has tried

to make recompense. One of the ways he has done this is through his robust involvement in community service, particularly with MANNA. Petitioner contributes his skills as a chef on a year-round basis, and in particular on Thanksgiving, when the need is great. It is apparent from the record that Petitioner is a dedicated volunteer who is regarded as a reliable asset to the organization, both as a worker and as a fundraiser.

The credible and reliable testimony of Petitioner's five character witnesses demonstrated that Petitioner enjoys the support of long-time friends, colleagues, and community members, who were aware of the details of Petitioner's misconduct, yet remained convinced that he is an individual of good character. These witnesses observed Petitioner's acceptance of responsibility and expressions of remorse, and they confirmed Petitioner's current positive reputation in the community. According to the witnesses, Petitioner's reinstatement would not present a danger to the public or harm the integrity of the bar.

Petitioner fulfilled the Continuing Legal Education requirements necessary for reinstatement and maintained his currency in the law by reviewing legal periodicals. As Petitioner is 70 years of age, he does not envision developing a client base to practice law, but indicated his interest in pro bono practice and arbitration.

Upon this record, we conclude that Petitioner's nearly fifteen-year period of disbarment has been a time of genuine, extensive rehabilitation. See *In the Matter of Thomas S. Roman, Jr.*, 121 DB 2005 (D. Bd. Rpt. 10/3/2016) (S. Ct. Order 10/26/2016) (reinstatement from disbarment after eleven years; conviction for theft by unlawful taking,

theft by deception, misapplication of entrusted property); ***In the Matter of Grahame P. Richards, Jr.***, 43 DB 1996 (D. Bd. Rpt. 8/23/2016) (S. Ct. Order 9/21/2016) (reinstatement from disbarment after twenty years; conviction of forgery, theft by unlawful taking, and theft by deception); ***In the Matter of Robert S. Teti***, 30 DB 1999 (D. Bd. Rpt. 12/13/2012) (S. Ct. Order 2/28/2013) (reinstatement from disbarment after thirteen years; conviction for failure to make required disposition of funds).

Petitioner met his reinstatement burden by clear and convincing evidence that he is morally qualified, competent and learned in the law, and of equal importance, that his reinstatement will not be detrimental to the public or to the profession. Petitioner is fit to resume the practice of law. For all of the above reasons, we recommend that the Petition for Reinstatement be granted.

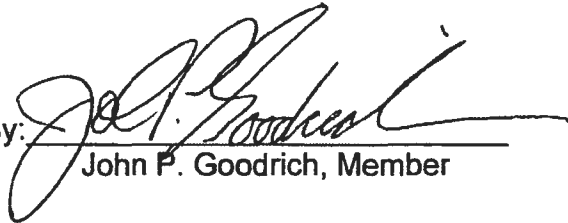
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that Petitioner, Jay Ira Bomze, be reinstated to the practice of law.

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: 
John P. Goodrich, Member

Date: November 21, 2017