

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 943, Disciplinary Docket  
: No. 2 Supreme Court  
:  
BRUCE GAYNOR BARON : No. 35 DB 1991 - Disciplinary Board  
:  
PETITION FOR REINSTATEMENT : Attorney Registration No. 28090  
:  
: ( Dauphin County)

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

On December 15, 2005, Bruce Gaynor Baron filed a Petition for Reinstatement to the bar of the Supreme Court of Pennsylvania. By Order of October 13, 1993, the Supreme Court of Pennsylvania disbarred Petitioner following his commingling and conversion of entrusted property. Office of Disciplinary Counsel filed a Response to Petition on February 24, 2006 and stated its intent not to oppose reinstatement.

A reinstatement hearing was held on April 16, 2006, before a District III Hearing Committee comprised of Chair David E. Hershey, Esquire, and Members James J. Powell, Esquire, and Jeffrey P. Edmunds, Esquire. Petitioner was represented by Robert B. Hoffman, Esquire. Petitioner presented 18 exhibits and the testimony of two witnesses, as well as his own testimony.

The Hearing Committee filed a Report on August 8, 2006 and recommended that the Petition for Reinstatement be granted.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on September 20, 2006.

## II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Bruce Gaynor Baron. He was born in 1943 and was admitted to the practice of law in the Commonwealth in 1978. His current business address is Capozzi & Associates, P.C., 2933 North Front Street, Harrisburg PA 17110.

2. Petitioner practiced law from 1979 to 1990 as an assistant counsel in the Office of Legal Counsel, Pennsylvania Department of Public Welfare, and from 1990 until 1993 with a private law firm. His area of concentration at all times was nursing home regulation and reimbursement, primarily under the Pennsylvania Medical Assistance Program.

3. Petitioner was disbarred from the practice of law by Order of the Supreme Court of Pennsylvania dated October 13, 1993.

4. Between October 1989 and October 1990, Petitioner was the trustee of two bank accounts on behalf of the Department of Public Welfare which were maintained at the Pennsylvania National Bank and the First Pennsylvania Bank.

5. Petitioner was the sole signatory on these accounts and had no authority to personally use any of the funds.

6. Petitioner transferred funds to his personal bank account and converted the funds to his own use.

7. The Division of Audit and Review discovered Petitioner's mishandling of the funds through a routine audit.

8. Petitioner made restitution of \$10,642.80 and paid interest. He resigned his position with the Department of Public Welfare and cooperated fully with the investigation.

9. Petitioner worked as a legal assistant for a small law firm in Harrisburg following his disbarment. He worked several part-time jobs between 1995 and 1997, such as for Highmark, where he worked as a coder for medical insurance claims.

10. Since November of 1997 Petitioner has acted as a paralegal and research coordinator for Capozzi & Associates, a law firm located in Dauphin County that specializes in the representation of nursing home facilities on reimbursement, care and related issues. These are matters squarely within Petitioner's area of expertise.

11. Petitioner has performed his job duties at Capozzi & Associates at all times within the perimeter of Rule 217, Pa.R.D.E., in particular Rule 217(j). Petitioner has avoided contact with clients on non-ministerial matters.

12. Petitioner has stayed current on the law in his area of concentration.

13. Petitioner fulfilled the requirements for continuing legal education for reinstatement to the practice of law.

14. If permitted to return to the practice of law, Petitioner intends to continue his employment with Capozzi & Associates until retirement.

15. Two partners from Capozzi & Associates, including the firm's founder, testified credibly on Petitioner's behalf.

16. Louis Capozzi, Esquire, hired Petitioner to work at his law firm as a paralegal in November 1997. Mr. Capozzi was aware of the disbarment but was impressed with Petitioner's knowledge and ability in the field of nursing home litigation.

17. Mr. Capozzi works closely with Petitioner nearly every day and describes Petitioner's work product as "tremendous". He believes that Petitioner is ready to be reinstated to the practice of law.

18. Mr. Capozzi does not allow Petitioner to have check writing authority at the firm, nor does Petitioner have any access to client funds.

19. Daniel Natirboff, Esquire, is a partner at Capozzi & Associates and has known Petitioner since November 1997. He believes Petitioner's knowledge in the

particular area of nursing home litigation is unmatched. He believes Petitioner is on the cutting edge of knowledge of the law and is ready to practice once again.

20. Petitioner desires reinstatement so that he can perform the types of legal work that he cannot do now, such as appearing in court and signing documents. He would like to do more for the clients of the firm as a licensed attorney.

21. Petitioner has several people who live with him in a home he owns in Harrisburg. These include a friend, his goddaughter, and friends and relatives of both. Each of these people has some form of disability or a problem that makes leading a productive life a challenge for them. Petitioner provides these people with free rent and food.

22. These people are a part of Petitioner's family and they are important to him in his personal life; he does not have a wife or children.

23. Petitioner has volunteered for local community organizations while disbarred, such as the public radio station and a crisis referral service.

### III. CONCLUSIONS OF LAW

1. Petitioner's misconduct is not so egregious as to preclude reinstatement. Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986).

2. The 12 years since Petitioner's disbarment is more than sufficient time at which to consider reinstatement.

3. Petitioner has demonstrated by clear and convincing evidence that he has the moral qualifications, competency and learning in the law for readmission to practice law. Pa.R.D.E. 218(c)(3)(i).

4. Petitioner's resumption of practice will neither be detrimental to the integrity and standing of the bar and administration of justice nor subversive of the public interest. Pa.R.D.E.218(c)(3)(i).

#### IV. DISCUSSION

This matter is before the Disciplinary Board on a Petition for Reinstatement from disbarment. Petitioner was disbarred by Order of the Supreme Court of Pennsylvania dated October 13, 1993. After the passage of more than 12 years, Petitioner believes he is ready to resume the practice of law and has presented evidence in support of his qualifications.

Petitioner's request for reinstatement following disbarment is initially governed by the standard set forth by the Supreme Court in Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). As a threshold matter, the Board must determine whether Petitioner has demonstrated that his breach of trust was not so egregious that it precludes him from reinstatement.

Petitioner transferred client funds in the amount of \$16,681.80 to his personal account and converted to his personal use a total of \$10,642.80. At the time of the

misappropriation, Petitioner was employed as an attorney for the Department of Public Welfare and was the trustee of certain funds. Petitioner made restitution and resigned from his position following his full cooperation with the investigation into the trust fund mishandling.

While certainly serious in nature, this misconduct is not so egregious as to preclude consideration of Petitioner's request for reinstatement. The Board may look to several cases that describe acts of misconduct equally reprehensible, or more so. Matter of Perrone, 777 A.2d 413 (Pa. 2001) (Attorney Perrone's conviction of theft by deception, tampering with public records, securing execution of documents by deception, and unsworn falsification to authorities was not egregious enough to prohibit consideration of the reinstatement petition); In re Verlin, 731 A.2d 600 (Pa. 1999) (Attorney Verlin's conviction of criminal conspiracy, perjury, false swearing and theft by deception was not so egregious as to prohibit consideration of the reinstatement petition).

Having concluded that Petitioner's misconduct is not so egregious as to preclude reinstatement, the Board must now determine whether Petitioner has met his burden of proving by clear and convincing evidence that his resumption of the practice of law at this time would not have a detrimental impact on the integrity and standing of the bar, the administration of justice, or the public interest and that he has the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania. Pa.R.D.E. 218(c)(3)(i). In order to make this determination, the Board must

consider the amount of time that has passed since Petitioner was disbarred as well as his efforts at rehabilitation. In re Verlin, 731 A.2d 600 (Pa. 1999).

Petitioner has been without a license to practice law for approximately 13 years. Evaluation of Petitioner's disbarment period suggests that it was a time of successful qualitative rehabilitation, sufficient to dissipate the taint of his misconduct. Following his disbarment Petitioner worked as a legal assistant for a small law firm in Harrisburg. He left that employment in 1995 and worked several part-time jobs that did not necessarily involve legal skills. Since 1997, Petitioner has worked as a paralegal and research coordinator for Capozzi & Associates, a law firm in Dauphin County. Petitioner is an acknowledged authority in the area of nursing home facility issues and is able to give quality assistance to the members of the firm. Two of the partners of the firm testified at the reinstatement hearing. Louis Capozzi and Daniel Natirboff gave credible testimony that Petitioner's work product is excellent and he conducts himself within the firm as a paralegal, not a lawyer. Mr. Capozzi made clear that Petitioner has no check writing authority nor would he in the future. Additionally, Mr. Natirboff described Petitioner as having impeccable character and being one of the most ethical people he knows. Petitioner plans to remain in the employ of the Capozzi firm, most likely until retirement.

Petitioner has maintained a stable personal life and finds enjoyment in helping others by providing rent free living arrangements and food. During his disbarment he participated in his community as a volunteer with several organizations, such as Contact Helpline, a crisis referral service, and for the local public radio station.



Petitioner fulfilled his continuing education requirements for reinstatement and has kept current in the law through his position and duties at the Capozzi firm.

The totality of the evidence presented leads the Board to conclude that Petitioner met his burden of proving that he is qualified for reinstatement and he would not be a detriment to the public if reinstated.

V.            RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Bruce Gaynor Baron, be reinstated to the practice of law.

The Board further recommends that, pursuant to Rule 218(e), 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: \_\_\_\_\_  
Gary G. Gentile, Board Chair

Date: October 20, 2006

Board Member Baer did not participate in the adjudication.

ORDER

PER CURIAM:

AND NOW, this 27<sup>th</sup> day of December, 2006, upon consideration of the Report and Recommendations of the Disciplinary Board dated October 20, 2006, the Petition for Reinstatement is granted.

Pursuant to Rule 218(e), Pa.R.D.E., petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement.