

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 528 Disciplinary Docket No. 3  
: :  
: No. 42 DB 1999  
JOHN GABRIEL DILEONARDO : :  
: Attorney Registration No. 30550  
: :  
PETITION FOR REINSTATEMENT : (Dauphin County)

ORDER

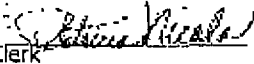
**PER CURIAM:**

**AND NOW**, this 2<sup>nd</sup> day of August, 2011, upon consideration of the Report and Recommendations of the Disciplinary Board dated April 20, 2011, the Petition for Reinstatement is granted.

Pursuant to Rule 218(f), 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.

Mr. Justice McCaffery dissents.

A True Copy Patricia Nicola  
As Of 8/2/2011

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

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: Attorney Registration No. 30550.  
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PETITION FOR REINSTATEMENT : (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

By Order of June 15, 1999, the Supreme Court of Pennsylvania disbarred John Gabriel DiLeonardo, following the filing of a verified Statement of Resignation dated May 3, 1999. Mr. DiLeonardo filed a Petition for Reinstatement on April 27, 2010. Office of Disciplinary Counsel filed a Response to Petition and does not oppose reinstatement.

A reinstatement hearing was held on August 24, 2010 before a District III Hearing Committee comprised of Chair David W. DeLuce, Esquire, and Members Jeffrey

T. McGuire, Esquire, and William R. Bunt, Esquire. Petitioner appeared pro se. He offered the testimony of three witnesses, affidavits of two other witnesses, and testified on his own behalf.

The Hearing Committee filed a Report on October 18, 2010 and recommended that the Petition for Reinstatement be granted.

This matter was adjudicated by the Disciplinary Board at the meeting on January 19, 2011.

## II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is John Gabriel DiLeonardo. He was born in 1954 and was admitted to practice law in the Commonwealth of Pennsylvania in 1979. His address is 723 Florence Circle, Mechanicsburg PA 17050. Petitioner is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. On June 15, 1999, Petitioner was disbarred on consent by Order of the Supreme Court.

3. As specified in Petitioner's letter of resignation filed with the Court, Petitioner's disbarment was the result of his misappropriation of law firm funds in the amount of \$11,350, whereby he provided legal services on nine separate matters without turning over the fees to his law firm; client neglect in several matters, whereby Petitioner failed to communicate with clients, failed to provide a written fee agreement, failed to diligently pursue matters, and failed to respond to court orders and rules to show cause; continuing to hold himself out as a licensed lawyer following his transfer to inactive status

in 1998; contempt of court for failure to pay spousal and child support on two occasions; and failure to notify the Administrative Office of Pennsylvania Court of numerous address changes.

4. In addition to this misconduct, Petitioner was convicted in 1999 in the Court of Common Pleas of Dauphin County of possession of small amounts of controlled substance, paraphernalia and practicing law without a license. He was sentenced to 12 months of intermediate punishment.

5. Petitioner was convicted in December 1999 in the Cumberland County Court of Common Pleas of a series of summary and misdemeanor offenses involving fleeing, eluding a police officer, harassment, and unauthorized use of a motor vehicle. He was sentenced to intermediate punishment 23 months.

6. At the time of the misconduct Petitioner was addicted to alcohol and drugs.

7. Prior to Petitioner's problems with drugs and alcohol, he was a law-abiding citizen and a successful attorney. He prosecuted white-collar crimes for the Office of Attorney General; he was an administrative prosecuting attorney for the State Board of Medicine; and he was a successful private practitioner. He served the community as a volunteer instructor at Widener Law School and with the PBI.

8. During Petitioner's disbarment he completed inpatient and outpatient drug and alcohol programs. Petitioner completed 45 days of inpatient treatment at Conewago Hospital and several months of intensive outpatient treatment at Holy Spirit Hospital.

9. Petitioner regularly attended Alcoholics Anonymous meetings during his outpatient treatment and continues to attend meetings at the present time.

10. Over the past five or six years Petitioner has volunteered with Lawyers Concerned for Lawyers to assist attorneys struggling with addiction issues.

11. Petitioner has been sober since approximately July of 1999.

12. Petitioner's drug and alcohol problems placed a severe strain on his marriage, but with the assistance of professional counseling, he has reconciled with his wife and children.

13. Petitioner currently works for the Commonwealth of Pennsylvania in the Department of Labor and Industry, Bureau of Disability Determination, making first-level administrative Social Security determinations. He has been employed with this office for nine years.

14. If reinstated Petitioner plans to practice law in Dauphin and Cumberland Counties and in federal court, in the area of Social Security Disability, criminal defense, and administrative law.

15. Petitioner fulfilled his CLE requirements for reinstatement.

16. Petitioner expressed sincere remorse for the criminal and unethical conduct that led to his disbarment.

17. He bears full responsibility for his actions and acknowledges that while he suffered personal embarrassment, it was nothing compared to the damage he did to his family and the legal profession.

18. Petitioner presented the testimony of three witnesses.

19. Judge Robert A. Graci (Retired) is currently an attorney in private practice with Eckert, Seamans, Cherin & Mellott. He has known Petitioner for more than

20 years. Judge Graci and Petitioner worked together for several years at the Attorney General's Office.

20. Judge Graci opined that despite the conduct that led to Petitioner's disbarment, based on his association with Petitioner and observation of Petitioner's performance as an attorney, there is nothing that would lead him to think that Petitioner should not be reinstated.

21. Kenneth J. Haggren, Esquire is the Executive Director of Lawyers Concerned for Lawyers. He has known Petitioner for approximately six years and first became acquainted with Petitioner at the Lawyers 12 Step AA meeting in Camp Hill, Pennsylvania. Mr. Haggren described Petitioner as extremely intelligent and capable and fully qualified for readmission to the bar.

22. Cathy S. DiLeonardo is Petitioner's wife. Although she and Petitioner experienced a separation during the time frame of Petitioner's misconduct, they have reconciled their marriage since Petitioner's recovery. Mrs. DiLeonardo has witnessed no behavior or activities on the part of Petitioner that would lead her to suspect that Petitioner is not abstinent from drugs and alcohol.

23. The testimony of David C. McLaughlin, Esquire, was presented by affidavit and accepted into evidence. Mr. McLaughlin has been a member of the Pennsylvania bar since 1978. He is a recovering alcoholic and met Petitioner through Lawyers Concerned for Lawyers.

24. Mr. McLaughlin stated that Petitioner has taken full responsibility for his misconduct and has maintained a high commitment to sobriety and professional behavior.

25. An affidavit of Richard W. Williams, Ph.D. was submitted into evidence. Dr. Williams is a licensed psychologist and has known Petitioner for nine years. In addition to private practice, Dr. Williams consults for the Bureau of Disability Determination and met Petitioner in that capacity. According to Dr. Williams, Petitioner displays a very good work ethic and is very professional.

26. Office of Disciplinary Counsel does not oppose reinstatement.

### 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. Keller, 506 A.2d 872 (Pa. 1986).

2. Petitioner has been disbarred since June 15, 1999. This is a sufficient period of time considering the nature of Petitioner's misconduct. In re Verlin, 731 A.2d 600 (Pa. 1999).

3. Petitioner has met his burden of demonstrating by clear and convincing evidence 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).

4. Petitioner has demonstrated by clear and convincing evidence that his resumption of the practice of law within the Commonwealth 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 reinstatement to the bar following his disbarment on June 15, 1999. Petitioner's request for readmission is initially governed by the standard set forth by the Supreme Court of Pennsylvania in Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). The Keller standard states that when reinstatement is sought by a disbarred attorney, the threshold question must be whether the magnitude of the breach of trust would permit resumption of practice without a detrimental effect upon the integrity and standing of the bar or the administration of justice nor be subversive of the public interest.<sup>1</sup>

This inquiry recognizes that some forms of misconduct are so egregious that they will bar the attorney from successfully gaining reinstatement. As a threshold matter the Board must determine whether Petitioner's breach of trust was so egregious as to preclude his reinstatement. See In re Verlin, 731 A.2d 600 (Pa. 1999); Office of Disciplinary Counsel v. Costigan, 664 A.2d 518 (Pa. 1995).

The breach of trust in this case arose from Petitioner's many interrelated acts of misconduct, which include misappropriation of law firm funds, neglect of client matters, engaging in the unauthorized practice of law while on inactive status, criminal contempt findings, and criminal convictions for assorted summary and misdemeanor offenses.

Upon review of the underlying offenses and the case law, the Board concludes that Petitioner's misconduct, while serious and regrettable, is not so egregious as to preclude Petitioner from reinstatement. The Court has previously found that conversion of client or law firm funds, while an extremely serious ethical offense, doesn't

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<sup>1</sup> As noted by the Court in In re Verlin, 731 A.2d 600 (Pa. 1999), this threshold inquiry overlaps somewhat with the requirements of Rule 218(c)(3), Pa.R.D.E.



prohibit an attorney from reinstatement. In re Costigan, 664 A.2d 518 (Pa. 1995). Likewise, Petitioner's client neglect and criminal convictions for drug and related offenses are not so serious as to prohibit reinstatement. In re Perrone, 777 A.2d 413 (Pa. 2001).

Having concluded that Petitioner's underlying misconduct does not prevent reinstatement, the Board turns its focus on the amount of time that has passed since Petitioner's transgressions and how he has spent that time. In re Verlin, 731 A.2d 600 (Pa. 1999).

Petitioner has accepted full responsibility for his misconduct and has expressed obvious and sincere remorse and regret. Petitioner's misconduct occurred at a time in his life when he was addicted to alcohol and drugs. Petitioner describes his abuse of alcohol and drugs as a factor in his neglect of his responsibilities in his personal life and in his professional life. He does not allow the addiction to become his excuse, however; he states that it was his poor choices that resulted in his discipline.

Petitioner sought recovery from substance abuse and the record supports a finding that he has been very successful in his efforts. Petitioner participated in inpatient and outpatient treatment and has followed up with regular and committed participation in Alcoholics Anonymous and Lawyers Concerned for Lawyers. He has rededicated his life to his family as a cornerstone of his recovery. Petitioner and his wife were on the verge of divorce during his period of misconduct, but have reconciled with the help of counseling. Petitioner's wife testified to her new-found trust in Petitioner, a trust which she had lost during his period of addiction. Petitioner has been continuously sober since July of 1999.

Petitioner has worked for the past nine years as a disability claims examiner and intends to practice law upon reinstatement in the disability area, as well as criminal

and administrative law. Petitioner fulfilled his CLE requirements for reinstatement and keeps apprised of the law through review of case law and legal articles.

Petitioner presented the testimony of three witnesses and affidavits of two witnesses. This testimony is compelling and persuasive as to Petitioner's strong legal competence and dedication to his sobriety.

The complete record of evidence in this matter supports the conclusion that the 11 year period of disbarment has been a sufficient length of time, during which Petitioner engaged in a qualitative rehabilitation. The record also supports the conclusion that Petitioner has met his burden of demonstrating that he is morally qualified, competent and learned in the law, and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest.

For these reasons we recommend that the Petition for Reinstatement be granted.

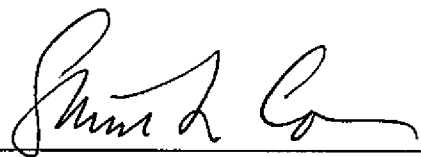
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, John Gabriel L. DiLeonardo, 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:   
Stewart L. Cohen, Board Member

Date: April 20, 2011

Board Member Todd did not participate in the adjudication.