

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1021 Disciplinary Docket No. 3  
: :  
: No. 52 DB 2003  
PAUL R. GIBA : :  
: Attorney Registration No. 36621  
: :  
PETITION FOR REINSTATEMENT : (Allegheny County)

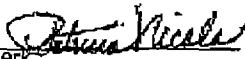
ORDER

PER CURIAM:

AND NOW, this 5<sup>th</sup> day of June, 2012, upon consideration of the Report and Recommendations of the Disciplinary Board dated January 24, 2012, 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.

A True Copy Patricia Nicola  
As Of 6/5/2012

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

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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 of June 16, 2005, the Supreme Court of Pennsylvania suspended Paul R. Giba for a period of two years. On December 15, 2010, Mr. Giba filed a Petition for Reinstatement to the bar of Pennsylvania. Office of Disciplinary Counsel filed a Response to Petition on January 31, 2011 and had no opposition to reinstatement.

A reinstatement hearing was held on April 5, 2011, before a District IV Hearing Committee comprised of Chair Albert A. Torrence, Esquire, and Members Charles

C. Gallo, Esquire, and Richard P. Kidwell, Esquire. Petitioner was represented by John E. Quinn, Esquire,

The Hearing Committee filed a Report on August 16, 2011 and recommended that the Petition for Reinstatement be granted.

This matter was adjudicated by the Disciplinary Board at the meeting on October 18, 2011.

## II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Paul R. Giba. He was born in 1956 and was admitted to the practice of law in the Commonwealth in 1982. His address is 217 Seegar Road, Pittsburgh PA 15241.

2. Petitioner was suspended from the practice of law for a period of two years by Order of the Supreme Court of Pennsylvania dated June 16, 2005.

3. The underlying misconduct was Petitioner's misappropriation of entrusted client funds from approximately December 1999 until September 2002. The deficiency in Petitioner's IOLTA Account was in excess of \$100,000 for a substantial amount of time and rose to \$175,000 in August 2001.

4. During the period of suspension, Petitioner was employed as a paralegal and legal assistant, supervised by eight different Pennsylvania-licensed attorneys.

5. Prior to his suspension, Petitioner obtained a real estate license from the Commonwealth of Pennsylvania and worked as a realtor. During his suspension, Petitioner became certified by the National Association of Realtors (NAR) in several sub-

specialties, such as Accredited Buyer's Representative (ABR), Certified Negotiation Expert (CNE) and Certified Residential Specialist (CRS).

6. During the period of Petitioner's suspension, the Bureau of Occupational Licensing filed a complaint against him in an attempt to revoke Petitioner's license as a realtor. Pursuant to a Memorandum Opinion of the Commonwealth Court rendered on January 29, 2010, the complaint was dismissed.

7. At the underlying disciplinary hearing in this matter, Petitioner presented expert evidence that he suffered from a major depression which impaired Petitioner's judgment and caused his mishandling of funds. The Board found that Petitioner met his burden of proof pursuant to the Braun standard and was entitled to mitigation.

8. At the reinstatement hearing, Petitioner offered the Medical Report of his treating psychiatrist, Stuart A. Burstein, who examined Petitioner on February 15, 2011. He opined that Petitioner was no longer in need of psychotherapy or medication and was not a threat to the public.

9. During his suspension, Petitioner has been actively involved with his church, St. John Capistran Catholic Church in Upper St. Clair.

10. Petitioner has volunteered his time to charitable organizations such as St. Lucy Auxiliary/Medallion Ball, Blind and Vision Rehabilitation Services of Pittsburgh, and the Upper St Clair Lions Club. Petitioner raises money for Children's Hospital Free Care Fund through the Wesley Institute.

11. Petitioner is involved in the educational and extracurricular activities of his children.

12. Petitioner has resolved the majority of his debt to creditors by payment in full or settlement. He is working toward a modification of his mortgage foreclosure.

13. Petitioner has resolved all Pennsylvania State Income Tax and Employer's tax liens with the assistance of William F. Winschel, Esquire, a tax attorney and CPA.

14. Petitioner has continued to make payments to the IRS to resolve outstanding liens.

15. Petitioner fulfilled the requisite number of Continuing Legal Education hours necessary for reinstatement.

16. If reinstated, Petitioner hopes to combine his experience as a realtor and background as a litigator in the oil and gas field of practice.

17. Petitioner expressed sincere remorse and regret for his misconduct.

18. Petitioner offered the testimony of four attorneys: Scott Melton, Esquire; John A. Caputo, Esquire; Richard A. Schubert, Esquire; and Richard J. Joyce, Esquire. These witnesses testified credibly as to Petitioner's good reputation in the community for honesty and integrity. He is known as an able and competent lawyer whose conduct was an aberration. These witnesses would not hesitate to offer cases to Petitioner when he is reinstated.

19. Petitioner offered into evidence, without objection, letters of reference from nine attorneys in the community. Each of these attorneys have known Petitioner on both a professional and social basis, were familiar with Petitioner's misconduct which led to his suspension and offered opinions that Petitioner has a good reputation in Pittsburgh for honesty and integrity.

20. Office of Disciplinary Counsel does not oppose reinstatement.

III. CONCLUSIONS OF LAW

1. Petitioner has met his burden of proof by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law in the Commonwealth. Pa.R.D.E. 218(c)(3)

2. Petitioner has met his burden of proof 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.

IV. DISCUSSION

Petitioner seeks reinstatement to the bar in Pennsylvania following a suspension of two years. In accordance with Pa.R.D.E. 218(c)(3), a suspended attorney shall have the burden of proving by clear and convincing evidence that he or she has the moral qualifications, competency and learning in the law required for admission to practice law in this Commonwealth and that the resumption of the practice of law by such person will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest.

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 which gave rise to the lawyer's suspension, but rather the nature and extent of the rehabilitative efforts the lawyer has 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, 363 A.2d 779 (Pa. 1976).

The nature of Petitioner's misconduct was his misappropriation of entrusted funds. Petitioner's actions were caused by his major depression that resulted in his inability to carry out his duties as an attorney. Petitioner has completed his treatment for the depression and a recent examination of Petitioner by his psychiatrist revealed no signs of the depression. Petitioner does not pose a threat to the public.

During his period of suspension, Petitioner maintained his learning in the law and worked as a paralegal for various Pennsylvania attorneys. He intends to concentrate his practice in oil and gas law as well as real estate. Petitioner maintained involvement in his church and charitable organizations, as well as the activities of his children.

While Petitioner had the opportunity to seek reinstatement at an earlier date, he chose to get his financial house in order and resolve outstanding issues related to his real estate license prior to filing his Petition. As a result, Petitioner is on more solid financial grounds, having settled the majority of his debt and resolved all of his delinquent state income and employer taxes, and is currently working on the resolution of his federal tax deficiencies.

Petitioner's witnesses were credible and their testimony demonstrates that Petitioner has a good reputation for honesty, integrity and competence, despite his prior misconduct. Petitioner's readmission to the bar would be welcome.

The testimony and documentary evidence offered by Petitioner support the conclusion that Petitioner is morally qualified, competent and learned in the law. Furthermore, his reinstatement would be neither detrimental to the integrity and standing of the bar, nor would it be subversive of the public interest.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Paul R. Giba, 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:   
David A. Nasatir, Board Member

Date: January 24, 2012