

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of: : No. 2190 Disciplinary Docket No. 3
: :
MARK B. PEDUTO : No. 75 DB 2015
: :
PETITION FOR REINSTATEMENT : Attorney Registration No. 62923
: :
: (Allegheny County)

ORDER

PER CURIAM

AND NOW, this 21st day of January, 2020, 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 Patricia Nicola
As Of 01/21/2020

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 dated February 24, 2017, the Supreme Court suspended Petitioner, Mark B. Peduto, on consent for a period of three years, retroactive to July 16, 2015. By Petition filed on August 17, 2018, Petitioner requests reinstatement to the bar

in Pennsylvania. Office of Disciplinary Counsel filed an Answer to Petition for Reinstatement on October 12, 2018.

A District IV Hearing Committee conducted a reinstatement hearing on November 29, 2018. Petitioner, represented by counsel, testified on his own behalf and offered the testimony of three witnesses. He introduced Petitioner's Exhibits A and B. Office of Disciplinary Counsel called no witnesses and offered into evidence Administrative Exhibits I through III and ODC Exhibits 1 through 12.

On January 22, 2019, Petitioner filed a Petition to Reopen Proceeding to accept certain documents related to his bankruptcy filing. An additional day of hearing was held on March 22, 2019. Petitioner testified on his own behalf and offered into evidence Petitioner's Exhibits C through H. Office of Disciplinary Counsel called no witnesses and introduced no additional exhibits.

On May 6, 2019, Petitioner filed a brief to the Committee and requested that the Committee recommend to the Board that the Petition for Reinstatement be granted.

On May 21, 2019, Office of Disciplinary Counsel filed a brief to the Committee and stated that it was satisfied that Petitioner met his burden of proof.

The Committee filed a Report on July 16, 2019 and recommended that the Petition for Reinstatement be granted.

The parties did not file briefs on exceptions to the Report.

The Board adjudicated this matter at the meeting on October 17, 2019.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Mark B. Peduto, born in 1966 and admitted to practice law in the Commonwealth of Pennsylvania in 1991. His registered attorney address is Calaiaro Valencik, 938 Penn Ave., Ste. 501, Pittsburgh PA 15222. Petitioner is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. From 1991 through July 16, 2015, Petitioner practiced primarily as a solo practitioner at Peduto & Associates in Pittsburgh, concentrating in the areas of bankruptcy, estate administration and criminal law. 11/29/18 N.T. 9.

3. Through his practice, Petitioner became the attorney responsible for the Estate of Virginia Gail Ganster ("Ganster Estate"). Admin Exh. I, p. 35-65.

4. Over a period of approximately two and a half years, Petitioner misappropriated and made unauthorized disbursements of entrusted funds related to the Ganster Estate. *Id.*

5. Petitioner was found to be out-of-trust with respect to the Ganster Estate in the amount of \$75,575.21, which directly resulted from Petitioner's misappropriations and unauthorized disbursement. Admin Exh I, p.49, 11/29/18 N.T. 24.

6. On April 27, 2015, Petitioner returned \$49,851.87 of the Ganster Estate's entrusted funds to Office of Disciplinary Counsel to be forwarded to the personal representative of the Ganster Estate. *Id.*

7. At the same time, Petitioner was given credit for \$6,000.00 in attorney's fees related to the administration of the Ganster Estate. Admin. Exh. I, p. 49; 11/29/18 N.T. 24-25.

8. The Pennsylvania Lawyers Fund for Client Security ("the Fund") reimbursed the Ganster Estate for the remaining \$19,723.34 of misappropriated funds. Admin Exh. I, p. 49; 11/29/18 N.T. 25.

9. The Ganster Estate has been made whole.

10. On July 16, 2015, the Supreme Court of Pennsylvania placed Petitioner on temporary suspension from the practice of law and on February 24, 2017, the Court suspended Petitioner for a period of three years on consent, retroactive to July 16, 2015. ODC Exh. 1.

11. On September 21, 2017, the Fund filed a lawsuit against Petitioner in the Court of Common Pleas of Dauphin County, Pennsylvania at Docket No. 2017-cv-6762 for reimbursement of \$19,723.34, plus interest, that the Fund paid to the Ganster Estate. ODC Exh. 5; 11/29/18 N.T. 25.

12. On December 12, 2017, a default judgment was entered against Petitioner for \$19,723.34, plus ten percent interest per annum. ODC Exh. 6.

13. Following Petitioner's temporary suspension, he was self-employed as a notary and a document reviewer. Admin Exh. I; 11/29/18 N.T. 16.

14. In January 2018, Petitioner began working as a paralegal for the Pittsburgh law firm of Calaiaro Valencik, under the supervision of Donald R. Calaiaro, Esquire, and David Z. Valencik, Esquire. In that capacity, Petitioner drafts pleadings,

edits bankruptcy petitions and drafts bankruptcy and commercial pleadings for review. ODC Exh. 4; 11/29/18 N.T. 16-18.

15. Petitioner does not have any client contact in his position as a paralegal and does not meet with clients or talk to clients on the telephone. 11/29/18 N.T. 18.

16. On April 17, 2018, Petitioner entered into a forbearance agreement with the Fund, wherein Petitioner agreed to pay the December 12, 2017 judgment, together with interest and costs, pursuant to an amortization schedule through April 2030. ODC Exh. 7.

17. Between April 2018 and August 2018, Calaiaro Valencik made four payments to the Fund totaling \$21,492.61 to satisfy Petitioner's obligations under the forbearance agreement and fully reimburse the Fund. ODC Exh. 8; 11/28/19 N.T. 51.

18. On August 14, 2018, Calaiaro Valencik executed a promissory note with Petitioner and Wendy Peduto, his wife, in the amount of \$30,000.00, in anticipation of reimbursement of the monies Calaiaro Valencik paid to the Fund on Petitioner's behalf, as well as other expenses related to Petitioner's reinstatement from suspension. ODC Exh. 12.

19. Pursuant to the terms of the note, Petitioner will be employed by Calaiaro Valencik for a period of at least four years, during which time Petitioner will be paid a reduced salary in order to satisfy repayment of the sum amount of the note. ODC Exh. 12.

20. If reinstated, Petitioner intends to remain employed at Calaiaro Valencik and become an associate attorney at the firm. 11/29/18 N.T. 22-23.

21. If reinstated, Petitioner will not be a signatory on Calaiaro Valencik's client trust account nor their general operating account. 11/29/18 N.T. 23.

22. On August 10, 2018, Petitioner filed a Petition for Reinstatement. Admin Exh. I.

23. Following his suspension, Petitioner timely complied with the requirements of Pa.R.D.E. 217. 11/29/18 N.T. 40-41.

24. Petitioner acknowledged the following debts in his Petition for Reinstatement:

- a. A federal tax lien in the amount of \$25,050.14;
- b. A state tax in the amount of \$5,734.29; and
- c. Multiple debts, including credit cards and medical bills, that were beyond 90 days past due.

Admin Exh. I; 11/29/18 N.T. 27-28.

25. In between the filing of the Petition for Reinstatement and the November 29, 2018 hearing, Capital One, N.A. filed a Magistrate Complaint in the amount of \$3,164.52 related to unpaid credit card debt, which Petitioner had only become aware of in the days leading up to the November 29, 2018 hearing. ODC Exh. 11; 11/29/18 N.T. 30-31.

26. At the November 29, 2018 hearing, Petitioner credibly testified that:

a. he never received service of the Magistrate Complaint filed by Capital One and was unaware of such complaint until days before his reinstatement hearing on November 29, 2018, 11/29/18 N.T. 30-31;

b. he had not made any payments toward these debts, had not entered into any type of repayment plan concerning the debts, nor had he determined or calculated an appropriate budget to reconcile the debts, 11/29/18 N.T. 66-68;

c. he had not attempted to satisfy the IRS or state tax liens because “there [have] been no attempts to collect” and therefore those liens had been placed “on the back burner,” 11/29/18 N.T. 73;

d. he intended to develop a payment arrangement once funds became available to begin satisfying the debts, but that as of the November 29, 2018 hearing, no such plan or a budget had been formulated, 11/29/18 N.T. 73-74;

e. his income has been reduced as a result of not being able to practice law during his suspension and his family has experienced financial difficulties, 11/29/18 N.T. 19-20; and

f. he would only file a Chapter 13 bankruptcy to attempt to alleviate the debts and liens should his creditors force him to do so. 11/29/18 N.T. 78.

27. At the conclusion of the November 29, 2018 hearing, the Committee expressed concern on the record as to Petitioner's failure to have a plan for his debts, liens and finances. 11/29/18 N.T. 164 -168.

28. On December 31, 2018, Petitioner (jointly with his wife) filed a Petition for Chapter 13 Bankruptcy with the United States Bankruptcy Court for the Western District of Pennsylvania. Pet. Exh. C; 3/22/19 N.T. 184.

29. On January 22, 2019, Petitioner filed with the Committee a Petition to Reopen Proceeding. By Order dated January 28, 2019, the Committee granted the Petition and a second day of hearing was scheduled.

30. At the March 22, 2019 hearing, Petitioner testified that he "took to heart the concerns of both the [Committee] and the ODC [...and] filed a Chapter 13 bankruptcy in order to put into place a plan to deal with the tax debt that we had discussed." 3/22/19 N.T. 184.

31. The Chapter 13 plan includes claims for the federal and state tax liens, as well as credit and medical debts. Pet. Exhs. D & G; 3/22/19 N.T. 187.

32. The Chapter 13 plan provides that all liens and debts will be satisfied over a course of five years. Pet Exhs. D & G; 3/22/19 N.T. 188.

33. The plan is funded by a wage attachment ordered by the bankruptcy court. Pet. Exh. E.

34. Petitioner and his wife have executed a budget plan and have determined that they will be able to comply with the wage attachment as set forth in the Amended Bankruptcy Plan. 3/22/19 N.T. 190.

35. Petitioner offered credible testimony at his reinstatement hearing. He admitted his misconduct and expressed sincere remorse. 11/29/18 N.T. 12-13, 19, 35-36.

36. Petitioner explained that from the time he was admitted to the bar, he practiced as a sole practitioner. His practice began to slow down in the years following the 2008 financial collapse, and he realized that he had too much overhead and not enough business. 11/29/18 N.T. 10-12. He took the funds from the Ganster Estate to keep the business going and to pay other expenses. Further, Petitioner knew at the time that his conduct was wrong and he was breaching his fiduciary duty to the Estate. Petitioner described his actions as “stupid” and a “misplaced desire to not fail.” 11/29/18 N.T. 12-14.

37. Petitioner testified that at the time of the misconduct and during the discipline proceedings, he was more interested in negating the impact of his acts than admitting his wrongdoing, but during his suspension he has come to more fully realize and appreciate his wrongdoing, and he understands why it was wrong. 11/29/18 N.T. 14.

38. Petitioner testified that he has been humbled by his suspension. 11/29/18 N.T. 15.

39. Petitioner has learned from his past actions, re-educated himself in the Rules of Professional Conduct and Rules of Disciplinary Enforcement, and fulfilled the requirements for thirty-six hours of continuing legal education required for reinstatement. 11/29/18 N.T. 8-9, 18, 34.

40. If reinstated, Petitioner does not intend to practice as a sole practitioner, but plans to remain employed with Calaiaro Valencik or another law firm. 11/29/18 N.T. 70-72.

41. In addition to Petitioner's three-year period of suspension on consent, Petitioner received an Informal Admonition in 2013 for his failure to hold Rule 1.15 funds and property separate from his own property and failed to place all qualified funds which were not fiduciary funds in an IOLTA account.

42. Petitioner presented the credible testimony of three character witnesses.

43. Donald R. Calaiaro, Esquire, is a principal in Calaiaro Valencik and has practiced law in Pennsylvania for more than forty years, concentrating in the areas of bankruptcy and debtor rights. Mr. Calaiaro has known Petitioner for approximately twenty-two years. 11/29/18 N.T. 88-89.

44. Mr. Calaiaro testified that when Petitioner practiced law, he was a very caring lawyer, very dedicated to his clients and very zealous in his representation. Mr. Calaiaro further testified that Petitioner was a careful and competent practitioner. 11/29/18 N.T. 90-91.

45. Mr. Calaiaro testified as to Petitioner's expressions of remorse for his misconduct. He and Petitioner had a meeting at which Petitioner told Mr. Calaiaro about his misconduct with the Ganster Estate. Mr. Calaiaro testified that Petitioner held back tears through the meeting and felt horrible about what he had done. 11/29/18 N.T. 93.

46. Mr. Calaiaro testified that Petitioner's misconduct was out of character for Petitioner. 11/29/18 N.T. 94.

47. Mr. Calaiaro credibly testified that he has seen Petitioner suffer as a result of his conduct and that Petitioner talked of the shame he brought on his family. 11/29/18 N.T. 94.

48. Since January 2018, Mr. Calaiaro has served as one of Petitioner's supervising attorneys pursuant to Rule 217(j)(5), Pa.R.D.E. 11/29/18 N.T. 95.

49. From Mr. Calaiaro's observations of Petitioner's current work at the firm, he is satisfied that Petitioner is competent and learned in the law for readmission. 11/29/18 N.T. 98.

50. Mr. Calaiaro credibly testified that Petitioner possesses the moral qualifications to be readmitted. *Id.*

51. David Z. Valencik, Esquire is a principal in Calaiaro Valencik, has practiced law in Pennsylvania since 2010, and has known Petitioner since that time. 11/29/18 N.T. 125-126.

52. Mr. Valencik credibly testified that when Petitioner practiced law, he was a careful, caring attorney who worked hard to make sure that his clients' rights were protected. 11/29/18 N.T. 127.

53. Mr. Valencik testified that he believes Petitioner's misappropriation of estate funds was out of character for Petitioner, as he "did not strike me as somebody that would ever do something like that." 11/29/18 N.T. 129 -130.

54. Since January 2018, Mr. Valencik has served as one of Petitioner's supervising attorneys pursuant to Rule 217(j)(5), Pa.R.D.E. 11/29/18 N.T. 130-131.

55. Mr. Valencik testified that after Petitioner started working as a paralegal, he quickly became the best one in the office, with a very good work ethic who was knowledgeable and produced good quality work. 11/29/18 N.T. 131-133.

56. Mr. Valencik testified that Petitioner possesses the moral qualifications, competency, and learning in the law to be readmitted. 11/29/18 N.T. 133-134.

57. Mr. Valencik testified that he believes it would be a detriment to the bar if Petitioner was not reinstated. 11/29/18 N.T. 142.

58. Messrs. Calaiaro and Valencik both testified that Petitioner will have no signatory authority over any trust or operating accounts of the firm; the books of the firm are reconciled monthly and reviewed by both principals and the firm controller; and Petitioner would have restrictions placed upon him when handling payment of invoices by clients. 11/29/18 N.T. 102-103, 117-118, 135-136.

59. Messrs. Calaiaro and Valencik testified that their firm agreed to loan Petitioner the money to repay the Fund because they believe in Petitioner and think that he could be a good attorney again if reinstated. 11/29/18 N.T. 106, 138.

60. Wendy Peduto is Petitioner's wife. They have been married since 2013. 11/29/18 N.T. 150.

61. Mrs. Peduto credibly testified that Petitioner has always been extremely honest and that his misconduct was out of character for him; and, if she did not

believe that, she would not have stayed married to Petitioner following his misconduct.
11/29/18 N.T. 152-153.

62. Petitioner submitted two character letters from his former colleagues attesting to his moral qualifications, competency and learning in the law and expressing their opinions that Petitioner's resumption of the practice of law will not be detrimental to the integrity of the bar nor subversive of the interests of the public. Pet. Exhs. B & H.

63. James A. Prostko was admitted to the bar in Pennsylvania in 1978 and has known Petitioner since Petitioner began practicing law in 1991. Mr. Prostko estimates that he was on the opposing side of Petitioner in over one hundred bankruptcy cases in which he had the opportunity to observe Petitioner's conduct. Pet. Exh. B.

64. Mr. Prostko recommended Petitioner for reinstatement without hesitation. *Id.*

65. John P. Vetica, Jr., practiced law in Pennsylvania for forty-four years and is now retired. During his practice, he encountered Petitioner in his professional capacity on many occasions. Pet. Exh. H.

66. Mr. Vetica stated that Petitioner consistently demonstrated a willingness to work hard and vigilantly represent his clients. Mr. Vetica is pleased to recommend Petitioner's reinstatement. Pet. Exh. H.

67. Office of Disciplinary Counsel did not offer any testimony or evidence to contradict the credible testimony presented by Petitioner.

68. Office of Disciplinary Counsel does not oppose Petitioner's reinstatement.

III. CONCLUSIONS OF LAW

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

2. Petitioner 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. Rule 218(c)(3), Pa.R.D.E.

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following his suspension on consent for a period of three years, imposed by the Supreme Court of Pennsylvania on February 24, 2017, retroactive to July 16, 2015. 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 bears the burden of proving by evidence that is clear and convincing, 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. 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).

We conclude from the evidence of record that Petitioner spent his suspension period engaged in genuine rehabilitation. See ***In the Matter of Danielle M. Ross***, No. 179 DB 2013 (D. Bd. Rpt. 5/10/2016) (S. Ct. Order 6/6/2016); ***In the Matter of Scott Philip Sigman***, No. 43 DB 2012 (D. Bd. Rpt. 7/26/2016) (S. Ct. Order 8/17/2016); ***In the Matter of Madeline E. Schwartz***, No. 77 DB 2010 (D. Bd. Rpt. 6/10/2019) (S. Ct. Order 7/22/2019). Petitioner met the requirements of Pa.R.D.E. 218(c)(3), by proving that he is morally qualified, competent and learned in the law, and that his reinstatement will not be detrimental to the public or the profession.

The misconduct for which Petitioner was suspended on consent involved his misappropriation of \$75,575.21 of entrusted funds from the Ganster Estate over a period of approximately two and a half years. These funds were used to pay business expenses related to his law practice and personal expenses. Although Petitioner's misconduct represented a serious breach of his fiduciary duties to his client and caused his suspension from the practice of law, we conclude that he has met his reinstatement burden and we recommend that the Petition for Reinstatement be granted.

The record demonstrates that Petitioner is morally fit, competent, and learned in in the law. Petitioner accepted full responsibility for his misconduct. The

earliest expression of his contrition can be discerned from his cooperation with Office of Disciplinary Counsel during its investigation and submission of the Joint Petition in Support of Discipline on Consent, wherein Petitioner consented to a three year suspension of his license. The Ganster Estate has been made whole and Petitioner has repaid the Fund. Petitioner did not minimize his misconduct and expressed genuine and profound remorse. He candidly testified that during the disciplinary proceeding, he concentrated on negating his misconduct and did not take time to ponder his actions. Thereafter, Petitioner has had the opportunity to examine his conduct and fully understands and appreciates the magnitude of his wrongdoing. Petitioner credibly testified that his experience has been humbling and has changed him. Petitioner's witnesses have found Petitioner to be remorseful for his conduct. In particular, Mr. Calaiaro described the emotional manner in which Petitioner revealed his misconduct and how sorry he was for it. We find this compelling evidence that Petitioner understands his wrongdoing and feels deep regret.

Petitioner has rehabilitated the circumstances underlying his misconduct. Petitioner credibly testified that the financial pressures associated with maintaining a solo practice and a misplaced desire for his business not to fail led him to engage in misappropriation of entrusted client funds. As part of his rehabilitation, he has had time to reflect on those circumstances and has reached the conclusion that he is not suited to be a sole practitioner and does not intend to be one in the future, as he does not want the responsibility of handling firm accounts. If reinstated, Petitioner plans to work in a law firm setting as an associate attorney for Calaiaro Valencik. While there is no question that the

practice of law in any setting presents challenges, the unique pressures associated with being a sole practitioner and running a business will be absent.

Petitioner's employment as a paralegal at Calaiaro Valencik has afforded him the opportunity to use his legal skills within the confines of Rule 217(j), Pa.R.D.E., thus ensuring that he is competent and learned to return to legal practice as an associate attorney. Mr. Calaiaro and Mr. Valencik, who supervise Petitioner's work, described him as a skilled, caring and zealous bankruptcy practitioner prior to his suspension, and during the year and a half that he has been employed at their firm, described his work and work ethic as being of high quality. They described him as knowledgeable in bankruptcy law and skillful in drafting legal pleadings. In addition, Petitioner fulfilled the Continuing Legal Education credits necessary for reinstatement.

While Petitioner's evidence of his competency and learning in the law and acceptance of personal responsibility for his actions is overwhelmingly clear, it became apparent at the November 29, 2018 hearing that Petitioner was experiencing financial difficulties and was dogged by debt, including federal and state tax liens and credit card debt. It was also apparent that at that time, Petitioner had no plan to reconcile the liens and debt, and seemed not to understand the status of some of his indebtedness. On the record, the Committee expressed its concerns.

A review of a petitioner's financial situation is relevant to the reinstatement inquiry, although having debt and owing back taxes, in and of itself, does not reflect adversely on an attorney's moral qualifications. A good faith effort to repay the debt has been held to be sufficient to recommend reinstatement. The Board discussed a

petitioner's outstanding tax debts and judgments in *In the Matter of James L. Heidecker, Jr.*, Nos. 22 DB 1999 & 48 DB 2000 (D. Bd. Rpt. 5/18/2012) (S. Ct. Order 1/30/2013), making special note of whether the petitioner had made a "good faith effort to satisfy these obligations." A good faith effort does not require complete extinguishment of an outstanding debt; the Board examines the matter in its totality to determine what credible effort a petitioner has made to address the situation. *In the Matter of Robert P. Maizel*, No. 26 DB 2014 (D. Bd. Rpt. 10/15/2018) (S. Ct. Order 11/16/2018); *In the Matter of Richard M. Corcoran*, No. 74 DB 2009 (D. Bd. Rpt. 6/22/2016) (S. Ct. Order 8/11/2016). Financial issues including tax liens and other debt have prevented reinstatement when there was no evidence of the petitioner-attorney's effort to address the debt. *See, In the Matter of Andrew J. Ostrowski*, No. 135 DB 2008 (D. Bd. Rpt. 1/18/2017) (S. Ct. Order 3/22/2017) (Ostrowski had outstanding debt of at least \$100,000.00 and offered no evidence that he had attempted to satisfy his obligations; the Board found that this was one of several factors that weighed against Ostrowski's reinstatement, which the Court denied).

Approximately one month after the November 29, 2018 hearing, Petitioner and his wife filed for Chapter 13 Bankruptcy. Petitioner thereafter filed to reopen the reinstatement proceedings to submit evidence of the bankruptcy filings. The Committee reopened the record and held another hearing on March 22, 2019, at which Petitioner testified concerning the bankruptcy plan, how and when creditors will be paid, that the tax liens will be completely satisfied, and that the plan is fully funded with wage attachments. Petitioner further testified that he filed for Chapter 13 out of a personal desire to

expediently handle his debts and liens and satisfy them. Petitioner's evidence satisfactorily demonstrates that he has a plan to satisfy his debt and has begun the process of doing so.

Petitioner's three character witnesses provided credible testimony that his actions were out of character and his reinstatement to the bar would not be detrimental to the integrity of the bar. Attorneys Calaiaro and Valencik believe that Petitioner can be a good lawyer again and will be an asset to their firm. In affirmation of the trust they have in Petitioner, they took the step of loaning money to him to repay the Fund because they believe in Petitioner and want to see him reinstated. Petitioner submitted two character letters from attorneys who have practiced law for many years and have known Petitioner for many years. These attorneys fully support Petitioner's readmission to the bar.

Under similar circumstances, attorneys have been reinstated to practice law in this Commonwealth. In *In the Matter of Bruce R. Akins, Sr.*, No. 58 DB 1989 (D. Bd. Rpt. 4/4/2017) (S. Ct. Order 5/12/2017), the Supreme Court reinstated a petitioner-attorney who had been suspended for a period of three years for commingling personal and entrusted funds on twenty-seven occasions and using the funds for his personal and business purposes. Mr. Akins expressed sincere remorse and an understanding of his misconduct and how to correct his actions for the future, and offered the credible testimony of four character witnesses. Although the Board found that Mr. Akins' financial situation was unstable, it further found that he was attempting to resolve his obligations by entering into repayment agreements, and so concluded that denying Mr. Akins' reinstatement would not serve to improve his situation. The petitioners in the above-cited

matters of **Maizel** and **Schwartz** engaged in misappropriation of entrusted funds, as did Petitioner, and were reinstated after demonstrating clear and convincing evidence of rehabilitation.

Similar to the above petitioners, Petitioner accepted responsibility for his actions, demonstrated sincere remorse, successfully engaged in rehabilitation, and has the support of members of his legal community.

Upon this record, we conclude that Petitioner is a moral, competent, hard-working individual with learning in the law whose reinstatement will not represent a danger to the public, or harm the integrity and standing of the bar.

V. RECOMMENDATION

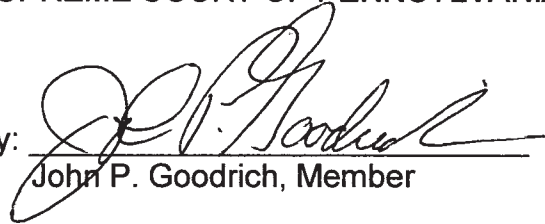
The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Mark B. Peduto, be reinstated to the practice of law.

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:

Dec. 11, 2019