

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1395 Disciplinary Docket No. 3
:
: No. 78 DB 2008
EDWARD BENJAMIN WEISBEIN :
: Attorney Registration No. 90204
:
PETITION FOR REINSTATEMENT : (Montgomery County)

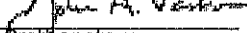
ORDER

PER CURIAM:

AND NOW, this 28th day of July, 2014, upon consideration of the Report and Recommendations of the Disciplinary Board dated March 24, 2014, 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 John A. Vaskov, Esquire
As Of 7/28/2014

Attest: 
Deputy Prothonotary
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 Petition for Reinstatement filed on October 26, 2010, Edward Benjamin Weisbein sought readmission to the bar of the Supreme Court of Pennsylvania following a suspension of two years ordered on September 4, 2008. A reinstatement hearing was held on March 16, 2011, and a Report by the Hearing Committee was filed on July 27, 2011, wherein the Committee recommended that the Petition be denied. Petitioner was granted permission to withdraw his Petition on August 8, 2011. Petitioner filed a second Petition for

Reinstatement on December 5, 2012. Subsequent to this filing, Petitioner filed four separate Supplements to Petition. Office of Disciplinary Counsel filed a Response to Petition on April 8, 2013.

A reinstatement hearing was held before a District II Hearing Committee comprised of Chair George P. Wood, Esquire, and Members John P. McBlain, Esquire, and Diane Edbril, Esquire. Petitioner was represented by Samuel C. Stretton, Esquire. Petitioner offered the testimony of five witnesses and testified on his own behalf. Petitioner's documentary evidence consisted of P1- P8A. Subsequent to the conclusion of the hearing, Petitioner also submitted a copy of his employment application with Sykes Enterprises, in response to a request from the Hearing Committee Chair. Office of Disciplinary Counsel offered Exhibits ODC-1- 3. Disciplinary Counsel did not call any witnesses.

Following the submission of a brief by Petitioner, the Hearing Committee filed a Report on October 16, 2013 and recommended that the Petition for Reinstatement be granted.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Board at the meeting on January 15, 2014.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Edward Benjamin Weisbein. He was born in 1976 and was admitted to the practice of law in the Commonwealth of Pennsylvania in 2002. His

current address is 96 Roy Lane, Huntingdon Valley, PA 19006. Petitioner is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Petitioner attended Widener University School of Law and graduated in 2002. At Widener, Petitioner was a member of the Law Review and published two articles. He also received a one year suspension from the school in 2001 for falsely claiming on a resume to have held a particular job when he knew that to be false. (N.T. 153-155)

3. After his admission to the bar in Pennsylvania, Petitioner went into practice with a law school roommate in Wilkes-Barre, PA. Petitioner lived in Wilkes-Barre during the week and returned home to his family in Huntingdon Valley on the weekends. (N.T. 157-158) Petitioner practiced primarily criminal defense work with some civil litigation and domestic relations. (N.T. 157)

4. Petitioner was suspended from the practice of law for two situations: one was the filing of a false document in a medical malpractice matter, and the other was for accepting a retainer and failing to enter an appearance or do any work. (N.T. 163)

5. A hearing was held in the Court of Common Pleas of Philadelphia County before Judge Jacqueline Allen regarding the sanction for the false certification in the medical malpractice matter. Petitioner accepted full responsibility before Judge Allen. She sanctioned him in the amount of \$15,000. Petitioner's parents helped him pay the sanction, and he has fully reimbursed his parents. (N.T. 165-67)

6. From the age of seventeen until his voluntary admission to a drug treatment facility in 2007, Petitioner suffered a progressive addiction to a variety of illegal drugs. At the time of the conduct for which Petitioner was suspended, he was heavily abusing marijuana and cocaine on a daily basis. (N.T. 159-161)

7. After completing two consecutive inpatient treatment programs, Petitioner completed an intensive outpatient treatment program with Rehab After Work. (N.T. 174-175)

8. Petitioner has not used any illegal drugs since 2007. (N.T. 142, 170-71)

9. Mary Edwards was Petitioner's counselor when he attended Rehab After Work. She testified at the hearing and is an expert in the area of treating people with drug addictions. (N.T. 58)

10. Petitioner is not in formal treatment at this time and does not see Ms. Edwards on an ongoing basis, but they still have regular contact, and she believes he has the skills and coping mechanisms necessary to manage his life without resorting to the use of illegal drugs. (N.T. 64)

11. Petitioner is active in the Rehab After Work alumni group, which helps to organize and staff a weekly 12-step meeting for current clients and for alumni. (N.T. 61)

12. Ms. Edwards described Petitioner's assistance with these meetings as invaluable. (N.T. 66-67)

13. Petitioner sees a psychologist on a regular basis to discuss the challenges he faces, and is also seen by a psychiatrist. (N.T. 108)

14. Suzanne Devine is Petitioner's psychologist and testified at the hearing. She has been treating Petitioner since September 11, 2012. Petitioner treats every other week for a 45 minute individual session. (N.T. 97)

15. Petitioner takes Fluoxetine and Quetiapine for depression and mood stabilization. These drugs are effective and Petitioner intends to continue taking them as well as meeting regularly with Ms. Devine. (N.T. 179-183)

16. Ms. Devine opined that Petitioner possesses the skills necessary to manage work-related stress as well as the social anxiety that he has suffered from in the past. (N.T. 108)

17. Prior to 2011, Petitioner had been unsuccessful in obtaining employment as a paralegal, the only work he sought. Since then, he has sought and obtained other jobs, first at UPS, then at Catalyst 360, and since January 2012, at Sykes Enterprises, a customer support call center. (N.T. 187-190)

18. Petitioner's current work supervisor at Sykes is Margaret Tighe, who testified at the hearing. She was advised by Petitioner that he was a suspended attorney during his initial interview with Sykes. He shared with Ms. Tighe the information regarding his drug addiction a month or so prior to the instant reinstatement hearing. (N.T. 38-39)

19. Sykes Enterprises is a drug-free workplace and tests its employees. Ms. Tighe is not aware of Petitioner having a positive drug test while working at Sykes. (N.T. 44-45)

20. Petitioner started out as a phone agent for customer service on a medical device issue. Since that time, Petitioner has been promoted to a supervisory senior status, where he helps other agents who have questions and assists coaching the agents on new information. (N.T. 40-41)

21. Ms. Tighe described Petitioner as very responsible and reliable, and an employee who sets a good example with a professional manner. (N.T. 42-43)

22. Throughout the period of Petitioner's addiction, his family was unaware of it. In the wake of that revelation, his mother and sister have learned more about addiction and testified at the hearing to the changes they have observed in Petitioner.

23. Wilma Weisbein is Petitioner's mother. She has observed that since Petitioner achieved sobriety, he is more open and talkative about his life and has taken much more responsibility for his actions. (N.T. 142)

24. Mrs. Weisbein has not observed any relapses to drug use by Petitioner since July of 2007, the date of his sobriety. (N.T. 143)

25. Sharon Glogowski, Esquire, is Petitioner's sister. She is a licensed Pennsylvania attorney in good standing. Although she was shocked by Petitioner's addiction, she has become informed about addiction and is more attuned to her brother's situation. She is confident that he is not using illegal drugs. (N.T. 118-19)

26. Ms. Glogowski has talked to Petitioner about his suspension and she has observed that he takes full responsibility for his actions, and he is prepared to move forward and learn from his actions. (N.T. 120) She regularly discusses legal concepts and legal subject matter with Petitioner and is aware that he is up-to-date on his Continuing Legal Education. (N.T. 120-121)

27. According to Mrs. Weisbein and Ms. Glogowski, Petitioner enjoys a good reputation in the community as a peaceful and law abiding person. (N.T. 125, 146)

28. Ms. Glogowski believes that Petitioner's reinstatement to practice will be a benefit to the bar, as he is intelligent and extremely hard-working. (N.T. 127)

29. Petitioner testified at the hearing.

30. He has completed all Continuing Legal Education requirements necessary for reinstatement, has repaid the Client Security Fund, and has kept apprised of the law by frequently discussing legal topics with his sister, a Pennsylvania lawyer, and by reading the advance sheets. (N.T. 171-72, 134)

31. If reinstated, Petitioner plans to engage in a general practice of law in the Philadelphia area. (N.T. 193)

32. Petitioner is confident that he can handle the responsibility and stress that is a hallmark of the legal profession. (N.T. 193-94)

33. Petitioner is truly apologetic for his past actions. He does not blame his addiction for his actions, but takes full responsibility for the misconduct. (N.T. 202-03)

34. Petitioner has learned from his experiences with drug addiction that he has a disease that he will have for the rest of his life; that he can control it; open communication is important; and there are organizations and people available to help if things get off track. (N.T. 200-01)

35. Office of Disciplinary Counsel does not object to reinstatement.

III. CONCLUSIONS OF LAW

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

2. Petitioner has met his burden by clear and convincing evidence that the resumption of his practice 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

This matter is before the Disciplinary Board for consideration of Petitioner's request for reinstatement from a suspension. By Order of the Supreme Court of Pennsylvania dated September 4, 2008, Petitioner was suspended for a period of two years. Pursuant to Rule 218(a), 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. In order for Petitioner to gain reinstatement, he has the burden of proving by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required for admission to practice law in this Commonwealth. In addition, Petitioner has the burden of demonstrating that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or administration of justice, nor subversive of the public interest. Rule 218(c)(3), Pa.R.D.E.

This is Petitioner's second request for reinstatement. Petitioner first sought reinstatement by filing a petition on October 26, 2010. A hearing was held before a Hearing Committee in 2011. That Committee filed a Report in July of 2011 and recommended that Petitioner's reinstatement be denied.

The bases for the recommendation were as follows: During the period of suspension, Petitioner had not made good faith efforts to pay the court sanction imposed on him for his misconduct, or to find employment; and, Petitioner failed to present any character testimony from other members of the legal community. For the following reasons, the Board concludes that Petitioner sufficiently addressed these concerns at his second reinstatement hearing, and has met his burden for reinstatement.

Petitioner has demonstrated more than six years of sobriety and recovery following his suspension in 2008. Mary Edwards, a counselor at Rehab After Work, has known Petitioner since his time as a client of Rehab After Work, and is very impressed with Petitioner's recovery efforts and active participation in 12- step programs. She opined that he will be able to maintain his recovery in the future. Suzanne Devine is Petitioner's psychologist and treats Petitioner with individual sessions every other week. She reports that Petitioner is doing well on the prescribed medications and she is confident that he now has the skills and insights to maintain his sobriety and handle the stress of increasing levels of responsibility that the legal profession requires.

Petitioner was not employed during the first three years of his suspension, but upon learning of the original Hearing Committee's concerns with his lack of employment, he found non-legal employment, and has worked steadily for Sykes Enterprises, Inc. for more than one year. During that time he has been promoted to supervisory status, as a testament to his hard work and reliability, according to Margaret Tighe, his supervisor. Ms. Tighe is not aware of any positive drug test by Petitioner.

Petitioner's mother and sister (Wilma Weisbein and Sharon Glogowski) credibly testified that Petitioner has an excellent reputation in the community as a peaceful and law-abiding person. They have not observed any relapses by Petitioner into drug use since 2007, the date of his sobriety. These witnesses described the positive changes in Petitioner since his addiction and recovery became known to the family, and notably since his employment with Sykes Enterprises. Ms. Glogowski is a Pennsylvania lawyer, has discussed the current state of the law and legal concepts with Petitioner, and believes that Petitioner's intelligence and willingness to work hard will be assets to the bar if he is reinstated.

Petitioner expressed sincere remorse and acceptance of responsibility for his actions. The court sanctions against him of \$15,000 were paid in full using monies borrowed from his parents, and Petitioner has since repaid his parents in full. Petitioner credibly described how his experiences with addiction and recovery have changed him for the better, and he is confident that he will be able to maintain his sobriety and take on the responsibilities of being a practicing lawyer. Petitioner has fulfilled his Continuing Legal Education requirements and has kept apprised of the law. If reinstated, he desires to practice law in the Philadelphia area.

Petitioner by all accounts has a strong support network of people who want to help him succeed professionally and in his recovery from addiction. His family, therapist, former counselor and employer are all fully supportive of his efforts. He has remained free of drugs, has fully complied with financial obligations imposed upon him as a result of his misconduct, has maintained currency in the law, and has a good reputation in the community. In conclusion, Petitioner has established by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice, and the resumption of his 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. Pa.R.D.E. 218(c)(3).

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Edward Benjamin Weisbein, 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: 

Lawrence M. Kelly, Board Member

Date: March 24, 2014