

**IN THE SUPREME COURT OF PENNSYLVANIA**

In the Matter of	No. 2274 Disciplinary Docket No. 3
JOSHUA LAWRENCE GAYL	: No. 79 DB 2016
PETITION FOR REINSTATEMENT	: Attorney Registration No. 203367
	: (Montgomery County)
	:
	:

**ORDER**

**PER CURIAM**

**AND NOW**, this 25<sup>th</sup> day of October, 2022, the Petition for Reinstatement is granted. Petitioner is ordered 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 Nicole Traini  
As Of 10/25/2022

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

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: No. 79 DB 2016  
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JOSHUA LAWRENCE GAYL : Attorney Registration No. 203367  
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PETITION FOR REINSTATEMENT : (Montgomery 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

Petitioner, Joshua Lawrence Gayl, filed a Petition for Reinstatement on June 17, 2021. The Petition followed the November 7, 2018 Order of the Supreme Court of Pennsylvania disbarring Petitioner on consent, retroactive to June 3, 2016, the date of his temporary suspension. Office of Disciplinary Counsel (“ODC”) filed a Response to

Petition on August 13, 2021, and reserved its right to review the testimony and evidence Petitioner presented at the hearing before taking a final position on reinstatement.

By Order dated October 12, 2022, the parties waived the prehearing conference and a District II Hearing Committee (“Committee”) held a reinstatement hearing on March 8 and 9, 2022. Petitioner offered Exhibits P-1 through P-6 and their attachments, which were admitted into evidence, testified on his own behalf, and presented the testimony of seven additional witnesses. ODC offered Exhibits ODC-1 through ODC-11C and their attachments, which were admitted into evidence. ODC did not present any witnesses.<sup>1</sup>

Petitioner submitted a post-hearing brief to the Committee on April 1, 2022, in support of his reinstatement petition. ODC submitted a letter to the Committee on April 5, 2022, and advised that it was not filing a post-hearing brief and it did not oppose reinstatement.

By Report filed on June 2, 2022, the Committee concluded that Petitioner met his reinstatement burden and recommended that his Petition for Reinstatement be granted. The parties did not file exceptions. The Board adjudicated this matter at the meeting on July 21, 2022.

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<sup>1</sup> On March 2, 2022, Petitioner filed an Unopposed Motion For a Protective Order Pursuant to D.B.R. § 93.109(b) to protect the confidentiality of certain testimony and exhibits. By Order dated March 3, 2022, the Committee granted the Motion. At the March 8, 2022 hearing, Petitioner made an unopposed oral motion to expand the Protective Order to include other witness testimony. The Committee granted the motion.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Joshua Lawrence Gayl, born in 1980 and admitted to practice law in the Commonwealth in 2006. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. By Order dated November 7, 2018, the Supreme Court of Pennsylvania disbarred Petitioner on consent, retroactive to June 3, 2016, the date of his temporary suspension from the practice of law. The disbarment on consent was based on Petitioner's guilty plea in the United States District Court for the District of New Jersey to conspiracy to obstruct justice in violation of 18 U.S.C. § 371.

3. Petitioner held the following legal positions prior to his disbarment:

a. Judicial Law Clerk to the Honorable Joseph D. O'Keefe, Administrative Judge, Orphans' Court Division, CCP, Philadelphia County, 2006–2007;

b. Miller Alfano & Raspanti, P.C., Philadelphia, PA, Associate, 2007;

c. Drinker Biddle & Reath LLP, Philadelphia, PA, Associate, 2008-2009;

d. Solo Practitioner, Collegeville, PA, 2010;

e. Fox Rothschild LLP, Warrington, PA, Associate 2010-2012;

f. VO Financial Corp., Egg Harbor Township, NJ, General Counsel, 2012-2013;

g. AmerisourceBergen Corp., Conshohocken, PA, Contract Attorney (Jan. to Oct. 2014), Counsel (Nov. 2014 to Feb. 2015), Senior Counsel (March 2015 to Jan. 2016); (Petitioner was placed on administrative leave in September 2015 and terminated in January 2016 after informing the company he would plead guilty to criminal charges related to his tenure as General Counsel for VO Financial Corp., discussed more fully *infra*).

h. Silvers, Langsam & Weitzman, P.C., law clerk, Feb. 2016 – present. (Petitioner left this job in August 2017 and returned after his release from prison).

DB-36 ¶¶ 2(d), 11(a).

4. In 2009, while he was working at Drinker, Petitioner contracted viral meningitis that became encephalitis. He suffered from significant physical and neurological symptoms for many months continuing into 2010. DB-36 ¶ 20, N.T. 207-210.

5. After his physical symptoms had mostly resolved, Petitioner declined further treatment, despite his doctor's referral for cognitive rehabilitation therapy and his wife's claim that he was suffering from emotional and mental symptoms that appeared akin to early-stage dementia. DB-36, Ex. K, p.99; N.T. 209.

6. Petitioner worked for himself briefly before obtaining a position with Fox Rothschild, until he was told to find different employment in March 2012. N.T. 56-57, 210-11.

7. Following his encephalitis diagnosis, Petitioner crossed the line from recreational gambling to a compulsive addiction. N.T. 212-15.

8. Petitioner responded to a Monster.com ad for a General Counsel position at VO, which purported to be a consulting firm that helped timeshare owners eliminate fraudulently induced contracts. N.T. 215-16, 328.

9. Petitioner learned that VO's owners, executives, and employees had been indicted in federal court, based on their actions at VO. Despite this, and despite Petitioner's lack of prior criminal law and in-house experience, Petitioner met with the owners to interview for the job. N.T. 216-17.

10. The federal indictments were overseen by United States District Court Judge Noel L. Hillman, with the lead case captioned, ***United States v. Adam Lacerda, et. al.***, 12-CR-303 (NLH) (D. N.J.).

11. In 2012, Petitioner inflated his abilities and experience, ignored the risks, and accepted the General Counsel position at VO. N.T. 218-22, 328.

#### **PETITIONER'S CRIMINAL CONDUCT**

12. Petitioner pled guilty to an Information for conspiracy to obstruct justice in violation of Title 18, United States Code, Section 371, including the following wrongdoing from September 2012 to July 2013 during his tenure as General Counsel of VO:

a. Petitioner made a telephone call to a customer who was a potentially favorable witness in the hope of obtaining positive statements for the defense. DB36 Ex. A (Exhibit "A", ¶ 20); ODC-4 at pp. 34-37.

b. Petitioner provided refunds to customers in exchange for civil releases without telling the customers that the refunds were offered, in part, to improve the defense's position and to make the customers more favorably inclined to the defense if they were called as witnesses at trial. DB36 Ex. A (Exhibit "A", ¶¶ 21-24); ODC-4 at pp. 37-39.

13. Petitioner acknowledged that contacting potential witnesses to improve the defense's position or to make witnesses more favorably inclined to the defense violates the law. N.T. 222-23, 275-76.

14. Petitioner acknowledged that he should have consulted the Lacerdas' defense attorneys and received permission from the government before offering refunds to customers harmed by fraudulent conduct that was the subject of the underlying criminal offense. N.T. 223-24, 322-23, 333-34.

15. Petitioner falsely certified to the Court in response to a trial subpoena that he had not consulted with the Defendants, including Adam Lacerda, regarding the subpoena or efforts to gather and produce responsive documents. DB36 Ex. A (Exhibit "A", ¶ 25); ODC-4 at pp. 39-42; N.T. 276.

16. On the Friday night that the subpoena was served, with a response due Monday morning, Petitioner reviewed files to determine their relevance, and was concerned after listening to a phone call of an employee pressuring a customer. DB36 Ex. A (Exhibit "A", ¶ 25); ODC-4 at pp. 39-42.

17. Petitioner disclosed his concern to Lacerda and advised that they should warn the employee. *Id.*

18. As Petitioner left the room, he saw Lacerda open the file. *Id.*

19. Petitioner knew at the time that Lacerda had the ability to make changes to customer files. *Id.*

20. However, Petitioner did not take steps to check the recording before including it in the company's response. *Id.*

21. Petitioner discovered after producing the subpoena response that Lacerda had altered the recording. *Id.*

22. Petitioner accepted responsibility for his dishonesty in certifying to the Court that he had not discussed the production with any of the Defendants. *Id.*; N.T. 276.

23. Petitioner accepted responsibility at the reinstatement hearing for additional conduct for which he was not charged, including an incident at jury selection when Petitioner had an unintended but nevertheless inappropriate interaction with a potential juror. N.T. 277-81.

24. Petitioner acknowledged that he should have told the courtroom staff that he was connected to the defense team and alerted Judge Hillman that he was present in the courtroom, and that he was wrong in not doing so. *Id.*

#### **PETITIONER'S GUILTY PLEA AND PRE-SENTENCING REHABILITATION**

25. After leaving VO, Petitioner found a position as in-house counsel with AmerisourceBergen, a wholesale distributor of pharmaceuticals, where he assisted the litigation department and supported the Ethics and Compliance Department. N.T. 229-31.



26. Petitioner started at AmerisourceBergen as a contract attorney in January 2014, was employed as Counsel in the Fall of 2014 and was promoted to Senior Counsel in February 2015. *Id.*

27. On July 28, 2015, Petitioner was questioned by the FBI. N.T. 232-33.

28. Shortly after learning he was the subject of a criminal investigation, Petitioner informed his superiors at AmerisourceBergen and was placed on administrative leave. After notifying the company of his intention to plead guilty, Petitioner was terminated. N.T. 233-35.

29. Petitioner underwent a neuropsychological evaluation in April 2015 and began participating in neuropsychological treatment, family and individual counseling, as well as attending weekly Gamblers Anonymous (“GA”) meetings. N.T. 235-240.

30. On March 23, 2016, Petitioner waived indictment and Judge Hillman accepted Petitioner’s guilty plea to conspiracy to obstruct justice. DB36 Ex. B; ODC-4.

31. Following his guilty plea, Petitioner notified ODC, cooperated in its investigation, and consented to a temporary suspension from practicing law, effective June 3, 2016. DB36 Ex. A, Resignation, ¶16.

32. Petitioner also received a temporary suspension from practicing law in New Jersey effective April 7, 2017. DB36 Ex. F.

33. In February 2016, Petitioner began working as a law clerk at Silvers, Langsam and Weitzman, P.C. DB36 Ex. H, Ex. K, p.100, N.T. 241-43.

## PETITIONER'S SENTENCING AND INCARCERATION

34. At Petitioner's sentencing on July 19, 2017, Judge Hillman agreed that Petitioner's criminal conduct was put in context by his lack of experience, psychological vulnerabilities, including cognitive deficiencies, and an unhealthy tolerance for risk manifested in his gambling addiction. DB36, Ex. K, pp. 99-104, 109-10.

35. Judge Hillman commended Petitioner's rehabilitation efforts, open discussions with family, friends, and colleagues to acknowledge and address his issues, and his work ethic and good relationships with colleagues and clients at the Silvers firm.

Judge Hillman opined:

I believe that Mr. Gayl has had difficulties, that part of this is explained by getting in over his head and not having the capacity to deal with it in a healthy way. I'm convinced that he's made an effort at rehabilitation. I'm convinced that he had and has the prospect of being an engaged member of his community and adding value to those who would benefit from his wisdom and energy. *Id.* at 109-10.

36. Petitioner's guilty plea resulted in a guideline range of 27 to 33 months.

37. However, Judge Hillman granted downward variances for Petitioner's mental condition at the time of the offense, voluntary post-offense rehabilitation efforts, charitable and civic acts, family circumstances, and collateral consequences. The five-level variance resulted in a new guideline range of 12 to 18 months. Judge Hillman imposed a sentence of 12 months and one day imprisonment, a \$5,000.00 fine and a \$100.00 special assessment. DB36 Ex. B, K, p.114.

38. Prior to self-surrender, Petitioner paid the fine and special assessment, and owes no further financial obligation resulting from his offense. DB36 Ex. D, I (Exhibit "E").

39. Petitioner self-surrendered on August 29, 2017 to the Fort Dix Satellite Camp Prison, where he progressed further in his rehabilitation. N.T. 244-46.

40. At Fort Dix, he participated in weekly recovery meetings, attended meditation classes and religious services, became a cook in the kitchen, and exercised daily. N.T. 244-46.

41. Petitioner was furloughed to home confinement on June 7, 2018 and released from Bureau of Prisons custody on July 12, 2018. DB36 ¶¶ 13, 21.

#### **PETITIONER'S REHABILITATION AFTER INCARCERATION**

42. After his release from prison, Petitioner returned to therapy and demonstrated complete recovery from his neurological and psychological deficits. DB 36 Ex. I (Exhibit "L").

43. Petitioner returned to work for the Silvers firm, developing his legal acumen while obeying the disciplinary rules for formerly admitted attorneys by ensuring that in any interaction he has it is clear that he is not permitted to practice law, works as a law clerk, and cannot give legal advice. DB36 Ex. H, N.T. 73-76, 252-56, 317-18.<sup>2</sup>

44. Petitioner returned to his GA fellowship to continue his recovery from gambling and to help new meeting members build better lives. N.T. 292-93.

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<sup>2</sup> When Petitioner learned there were online references to him as an attorney, he immediately removed them. ODC-11A-C; N.T. 253-56.

45. Petitioner volunteered at his synagogue and was elected to the Board of Directors in May 2020. N.T. 249, 295.

46. Petitioner volunteered for Lawyers Concerned for Lawyers (“LCL”), helping Pennsylvania lawyers facing potential criminal charges, reentry from incarceration, or gambling addictions. N.T. 300-01, 319.

47. In April 2020, Petitioner was reinstated to the New Jersey bar. He has not practiced New Jersey law out of an abundance of caution, as he lives and works in Pennsylvania. DB36 Ex. F, N.T. 247-48.

48. In January 2021, Petitioner accepted a part-time research/writing position with First Law Strategy Group. DB36 Ex. H, N.T. 100-14, 248, 288-90.

49. Petitioner also performs part-time research and writing for work for Weisberg Law, based in Delaware County. N.T. 259, 263.

50. In July 2021, Petitioner completed his three-year supervised release. DB36 ¶ 21.

51. Petitioner fully disclosed his offense conduct and incarceration to his employers in his paid and volunteer positions. N.T. 77-82, 103-06, 169, 171, 188-91.

52. Petitioner has maintained competency and learning in the law in his employment and completed 158 CLE credits. DB-36 Ex. J; P-6; N.T. 73-76, 107-08.

53. The Silvers firm will hire Petitioner as an attorney if reinstated. He may also continue working for First Law and Weisberg Law. N.T. 89-93, 108, 259-63.

54. Petitioner now deals with stress in healthy ways: he uses caution, seeks help, and rejects unhealthy influences. N.T. 109, 130-31, 199-201, 249-52, 261-

62, 305-11, 318-19, 333-35.

55. Petitioner's character witnesses testified that they would hire him or refer cases to him without hesitation. P-2; N.T. 89-93, 108-10, 128, 151, 164, 173, 175, 195-96.

56. Petitioner testified credibly to the remorse he feels for his misconduct and to the affirmative steps he took to achieve rehabilitation. N.T. 219-26, 235-46, 249-52, 275-80, 296-99.

57. Petitioner recognized his wrongdoing and sought to make amends for the impact his offense had on the profession and the victims of the underlying misconduct through an ongoing commitment to the community. N.T. 149-51, 228-29, 235-37, 249, 256-61, 296-99; P-3, p. 3.

58. Petitioner recognized that returning to the practice of law full-time will be stressful and testified that the difference for him now is that he knows how to ask for help in managing his stress, and is able to make better choices. N.T. 249-50

## **WITNESS TESTIMONY**

### **Petitioner's treating physician<sup>3</sup>**

59. A clinical neuropsychologist credibly testified as Petitioner's treating physician regarding Petitioner's rehabilitation.

60. Petitioner's treating physician's testimony summarized Petitioner's initial evaluation, diagnosis, coping strategies and treatment, and credibly opined as to Petitioner's strong progress in treatment, therapy and stress-management, efforts to

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<sup>3</sup> This testimony is subject to the March 3, 2022 Protective Order.

make amends, significant improvement in follow-up testing, and prognosis of successful rehabilitation.

61. Petitioner's physician has no concerns about Petitioner's psychosocial or mental health prognosis and credibly testified that Petitioner is ready to resume the practice of law.

**John A. Lord, Esquire**

62. Mr. Lord is an attorney for the Silvers firm and is Petitioner's supervisor. N.T. 72-73.

63. In Mr. Lord's credible opinion, Petitioner "should be readmitted ... he has rehabilitated himself. He's worked hard to realize how he screwed up... And he constantly works to maintain that level of self-awareness." N.T. 83.

64. Petitioner is a "delightful person," "a pleasure to work with," "a pro in every sense of the word," courteous, respected, and integral to the firm's success. *Id.* at 82-83, 86-88, 94-96.

65. If reinstated, Petitioner would be hired as an attorney at the firm, easing into the practice with a training period under supervision of senior attorneys. *Id.* at 89-93.

66. Petitioner has the dedication, skills, and training to be a success. *Id.* at 93.

67. Mr. Lord and other attorneys at the firm have more than 20 years of experience in recovery, and support Petitioner's commitment to rehabilitation. *Id.* at 83-85, 241-43, 302.

**Hillary Weinstein, Esquire**

68. Ms. Weinstein and her partner David Senoff, Esquire<sup>4</sup> own First Law Strategy Group and have employed Petitioner for research and writing work since early 2021. N.T. 102-03, 106.

69. Ms. Weinstein credibly testified that she was “blown away” by Petitioner’s level of acceptance and remorse for his misconduct, which they discussed on several occasions. *Id.* at 105-06.

70. Ms. Weinstein trusts Petitioner and believes that he has the moral character to be a successful lawyer. *Id.* at 108-10.

71. Petitioner’s work product is always timely, thorough, and competent; the firm would hire him full-time now if they could “based [not only] on his abilities as a lawyer, but also his moral compass.” *Id.* at 107-08, 112-13.

**Anonymous Witness<sup>5</sup>**

72. Anonymous witness is a member of Petitioner’s GA fellowship and has known Petitioner since March 2016.

73. Anonymous witness credibly testified that Petitioner embraced the 12-step program, took full responsibility for his conduct, never blamed others, and continues to share his mistakes and efforts at recovery.

74. Anonymous witness credibly testified that Petitioner has a clear understanding of his character defects, is committed to ongoing recovery and has the

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<sup>4</sup> Mr. Senoff is a member of this Board and recused himself from consideration of this matter.

<sup>5</sup> This testimony is subject to the March 3, 2022 protective order

moral qualifications to practice law again.

75. Anonymous witness credibly testified to Petitioner's genuine commitment to recovery.

**Mary T. Maran, Esq.**

76. Ms. Maran is a criminal defense attorney who has previously worked at the Philadelphia Public Defenders' Office and has been in private practice for eight to nine years; she rents office space at the Silvers firm. N.T. 141-42.

77. Ms. Maran credibly testified that, after meeting in the Silvers office, Petitioner, in a "humble but forthright manner, told me that he had been involved in a law firm and had gotten in trouble. ... And it really unfolded an ongoing dialogue that lasted for a period of years, actually." *Id.* at 143.

78. Ms. Maran testified about her discussions with Petitioner when he returned from prison and stated: "[i]t is rare to see a lawyer speak so honestly and humbly about where he is in life, about his disastrous mistakes. ... And quite frankly, it's rare to hear a human talk so plainly, without any kind of ego, about the damage they had done to [their] life, and their objective of rebuilding in an honest and righteous way." *Id.* at 148-49.

79. Ms. Maran is "extremely protective of her reputation" but would have no qualms about associating herself with Petitioner as a supporter or a collaborator. Ms. Maran testified that she would be honored to co-present a CLE Petitioner prepared during his incarceration to help law students and young lawyers, which they plan to do if he is reinstated. *Id.* at 150.



80. Ms. Maran has “no hesitation” in stating that Petitioner has the moral qualifications to handle the stress and ethical dilemmas of practice and would refer clients to him. *Id.* at 149, 151.

**Amy Wine**

81. Ms. Wine is a school psychologist and friend of Petitioner’s for more than 13 years. N.T. 155-56.

82. Petitioner expressed his remorse for his actions, never minimizing his conduct, and asked for her help in his journey to rehabilitation and the care for his family. *Id.* at 156-59.

83. Ms. Wine credibly testified to Petitioner’s transformation: “Initially, I found him to be pretty sad ... recognizing the impact of him being away, what that did to his family. And then over time I was pretty impressed by his commitment and dedication to really rehabilitating himself personally, emotionally, really being present for his family, and really leaning into community.” *Id.* at 159.

84. Ms. Wine concluded that Petitioner had earned back the trust of his community. “Josh is a person of very high moral integrity. I trust him greatly. I would use him as an attorney. I would recommend him as an attorney. I do believe he possesses the moral character to conduct himself ethically and appropriately moving forward.” *Id.* at 163-64.

**Annette Swartz**

85. Ms. Swartz is a retired teacher, and currently serves as a member of the Board of Directors of Petitioner’s synagogue, and also as President of the Board of

Directors of Colonial School District Education Foundation. N.T. 167-68, 169.

86. Ms. Swartz has known Petitioner for several years through the synagogue, and has known Petitioner's wife's family for many years prior. *Id.* at 168.

87. Ms. Swartz credibly observed Petitioner openly discuss his misconduct with members of the synagogue. "Josh told me about his past. I felt that he showed a lot of remorse. He was embarrassed, but not embarrassed enough to hide any of the details." *Id.* at 169, 178.

88. Ms. Swartz testified that Petitioner has become one of the most respected, trusted people in the synagogue, and she can see him as President of the synagogue in the future. *Id.* at 174-75, 182.

89. Ms. Swartz believed that Petitioner grew up from his past immaturity and has the moral qualifications to practice law. *Id.* at 173-76.

90. Ms. Swartz has observed that when Petitioner takes on a project, he is not overloaded with stress, anxious or irritated, but takes his time to investigate, ask questions, and is organized, careful and cautious, while able to reach his goals. *Id.* at 173-74, 182-83.

91. Ms. Swartz "absolutely would" hire Petitioner as a lawyer. "[H]e has grown up a lot from his past, and I feel that he would go out of his way now to make sure that he did everything, that he dotted all the I's, crossed all the T's, and represented his clients in the most honest and legal way possible." *Id.* at 176.

**Michael Drossner, Esq.**

92. Mr. Drossner is a criminal defense attorney who recently completed

a six-year elected term on the Whitemarsh Township Board of Supervisors and is currently the President of Petitioner's synagogue and President of the Whitemarsh Little League. N.T. 185-86.

93. Mr. Drossner met Petitioner through an alumni organization at Villanova and they became reacquainted through his membership and volunteer work at their synagogue. *Id.* at 187.

94. Petitioner approached Mr. Drossner to tell him about his offense and was humble and honest; "he felt terrible about what he had done." *Id.* at 188-91.

95. Mr. Drossner credibly observed that when Petitioner returned from prison, "he was working really hard personally to become a better person, and professionally, to prove that he could kind of regain the confidence that ...is entrusted of lawyers. So, he was certainly apologetic and remorseful – and I wouldn't say 'embarrassed.' Certainly 'humbled' is probably a better term. Josh is someone who will talk about this with anybody." *Id.* at 190-91.

96. Since his election to the synagogue's board, Petitioner has developed an excellent reputation for honesty. "He's just a trustworthy guy. People are just drawn to Josh, they like Josh and they trust him." *Id.* at 192-194.

97. Mr. Drossner testified that Petitioner now has the moral character to be reinstated to practice law because of his acceptance of responsibility: "[S]omeone that's been in this situation truly appreciates what they have and what they lost. ... I mean, he's someone that you know is going to work 110 percent all of the time, be honest, be clear, be thorough, because he knows how important it is to him, to his family, to society

to conduct himself that way.” *Id.* at 195.

98. Mr. Drossner would have zero hesitation in hiring or referring work to Petitioner as a lawyer. *Id.* at 195-96.

### **Character Letters (P-2)**

99. Petitioner’s rehabilitation is supported by the 74 character letters submitted from individuals who have known Petitioner for many years, before and after his offense, including 16 family members, 12 employers and co-workers, 24 friends and neighbors, 14 members of the synagogue, and 8 members of the GA fellowship.

### **Petitioner’s Treating Physician Letter (P-3)<sup>6</sup>**

100. Petitioner submitted a letter from his treating physician in support of Petitioner’s rehabilitation and ability to resume the practice of law.

### **Miscellaneous Findings of Fact**

101. ODC does not oppose Petitioner’s reinstatement.

## III. **CONCLUSIONS OF LAW**

1. The misconduct for which Petitioner was disbarred is not so egregious as to preclude consideration of his Petition for Reinstatement. ***Office of Disciplinary Counsel v. John Keller***, 506 A.2d 872 (Pa. 1986).

2. Petitioner has met his burden of proof by clear and convincing evidence that a sufficient period of time has passed since the misconduct, during which

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<sup>6</sup> This exhibit is subject to the March 3, 2022 protective order.

he engaged in qualitative rehabilitation. *In the Matter of Jerome J. Verlin*, 731 A.2d 600 (Pa. 1999).

3. 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 of Pennsylvania. Rule 218(c)(3), Pa.R.D.E.

4. Petitioner has met his burden of proof by clear and convincing evidence that his resumption of the practice of law in the Commonwealth of Pennsylvania 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 reinstatement to the practice of law following his disbarment on consent on November 7, 2018, retroactive to June 3, 2016. Petitioner's disbarment was the result of his guilty plea in the United States District Court for the District of New Jersey to one count of conspiracy to obstruct justice. On June 17, 2021, five years after the effective date of his disbarment, Petitioner filed his Petition for Reinstatement and Reinstatement Questionnaire and a hearing was held on March 8 and 9, 2022. Following the parties' post-hearing submissions, where Petitioner requested that the Committee recommend his reinstatement to the Board and ODC stated it had no opposition to reinstatement, the Committee filed its Report on June 2, 2022 and recommended granting reinstatement, as it concluded that Petitioner met his burden of

proof under the **Keller** standard and Pa.R.D.E. 218(c)(3). Upon our independent review of the record, we conclude that Petitioner met his reinstatement burden.

When a disbarred attorney seeks reinstatement, the Board must initially examine whether the magnitude of the breach of trust was so egregious as to preclude further reconsideration of the petition for reinstatement. As the Court held in **Keller**, “[i]n the case of disbarment, there is no basis for an expectation by the disbarred attorney of the right to resume practice at some future point in time.” **Keller**, 506 A.2d at 875.

Petitioner engaged in serious criminal conduct during his tenure as general counsel of VO. When Petitioner accepted employment with VO, he knew that owners, executives and employees had been indicted in federal court based on their actions at the company, as set forth in **United States v. Adam Lacerda, et al.** While employed as general counsel, Petitioner made a telephone call to a customer who was a potentially favorable witness in the **Lacerda** case in hopes of obtaining positive statements for the defense; and provided refunds to customers in exchange for civil releases without telling the customers that the refunds were offered, in part, to improve the defense’s position and to make the customers more favorably inclined to the defense if they were called as witnesses at trial. Petitioner also falsely certified to the court in response to a trial subpoena that he had not consulted with the defendants, including Adam Lacerda, regarding the subpoena or efforts to gather and produce responsive documents. Petitioner entered his guilty plea to conspiracy to obstruct justice on March 23, 2016 and was sentenced on July 19, 2017, to twelve months and one day imprisonment, a \$5,000 fine and a \$100 special assessment.

We conclude, as did the Committee, that Petitioner's misconduct, while extremely serious, is not so egregious as to prevent the possibility of reinstatement. The Supreme Court's precedent makes clear that Petitioner's misconduct does not bar reinstatement. See, *In the Matter of Charles M. Naselsky*, No. 169 DB 2012 (D. Bd. Rpt. 3/24/2022) (S. Ct. Order 5/4/2022) (attorney disbarred on consent for tax evasion, filing false tax returns, wire fraud, and obstruction of justice; conduct not so egregious to bar reinstatement); *In the Matter of Cory Adam Leshner*, No. 159 DB 2013 (D. Bd. Rpt. 11/20/2020) (S. Ct. Order 12/16/2020) (attorney disbarred on consent following conviction for conspiracy to commit wire fraud; was a co-conspirator in the Scarfo organized crime family before, during, and after law school; conduct not so egregious to bar reinstatement); *In the Matter of Sabrina L. Spetz*, No. 31 DB 2011 (D. Bd. Rpt. 1/3/2020) (S. Ct. Order 2/28/2020) (attorney disbarred on consent for conviction of mail and wire fraud conspiracy arising from falsification of bank records; conduct not so egregious to preclude consideration of reinstatement).

The Board's inquiry does not end with the determination of the *Keller* threshold issue. We next consider whether 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 law in Pennsylvania and that his readmission would not have a detrimental impact on the integrity and standing of the bar, the administration of justice nor be subversive of the public interest. Pa.R.D.E. 218(c)(3). Petitioner must prove that his post-disbarment conduct and efforts at qualitative rehabilitation during his

period of disbarment were sufficient to dissipate the detrimental impact of his serious misconduct on the public trust. *In the Matter of Verlin*, 731 A.2d at 602.

A petitioner seeking reinstatement from disbarment may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment. Pa.R.D.E. 218(b). More than nine years have passed since Petitioner's criminal misconduct occurred in September 2012 through July 2013, and over six years have passed since the effective date of his disbarment on consent on June 3, 2016. The evidence of record demonstrates that Petitioner's period of disbarment has been a time of genuine rehabilitation that has dissipated the breach of trust caused by his serious misconduct. In previous matters, the Court has reinstated disbarred attorneys who met their heavy burden after a disbarment period similar in length to that of the instant Petitioner. See, *In the Matter of Peter Joseph Payne, Jr.*, No. 197 DB 2012 (D. Bd. Rpt. 6/3/2019) (S. Ct. Order 7/22/2019) (reinstatement from disbarment after six years; misappropriation of client funds in the amount of \$500,000); *In the Matter of Michael K. Simon*, No. 149 DB 2005 (D. Bd. Rpt. 4/3/2014) (S. Ct. Order 6/16/2014) (reinstatement from disbarment after six years; misappropriation of client funds in the amount of \$395,000); *In the Matter of Gerard Emmett Evans*, No. 10 DB 2001 (D. Bd. Rpt. 10/3/2008) (S. Ct. Order 12/15/2008) (reinstatement from disbarment after seven years; mail and wire fraud conviction); *In the Matter of Mark Allan Kovler*, 172 DB 2002 (D. Bd. Rpt. 5/15/2009) (S. Ct. Order 7/24/2009) (reinstatement from disbarment after five years and eleven months; fraudulent conveyance of home to insulate from judgment in a pending malpractice action); *In the Matter of James J. Gillespie, Jr.*, No. 125 DB 1999



(D. Bd. Rpt. 6/8/2006) (S. Ct. Order 9/19/2006) (reinstatement from disbarment after five years and three months; fabrication of court order and forgery of judge's name).

The record demonstrates that Petitioner has spent the past six years, and more, focused on rehabilitating himself from his misconduct by addressing the underlying causes and repairing the damage inflicted by his wrongdoing. Petitioner's rehabilitation began prior to his guilty plea, when in April 2015 he underwent a neuropsychological evaluation and began participating in treatment, family and individual counseling to treat psychological issues and understand the origins of his criminal conduct. He began attending weekly GA meetings in March 2016 in an efforts to address his admitted gambling addiction.

Following his guilty plea, Petitioner notified ODC, cooperated in its investigation, and consented to a temporary suspension from practicing law. After sentencing in July 2017, Petitioner paid the fine and special assessment and self-surrendered on August 29, 2017 to the Fort Dix Satellite Camp Prison, where he progressed further in his rehabilitation by participating in weekly recovery meetings, attending meditation classes and religious services, working as a cook in the kitchen, and exercising daily. Petitioner was furloughed to home confinement on June 7, 2018, and released from the Bureau of Prisons custody on July 12, 2018. Petitioner completed his three-year supervised release in July 2021.

Once released from prison, Petitioner's rehabilitation continued when he resumed therapy and GA meetings in his effort to focus on restoring relationships and

reinforcing his progress. In addition to bettering himself, Petitioner gave back to his community by volunteering at his synagogue, where he was elected to the Board of Directors in May 2020, and volunteering for LCL, where he helped Pennsylvania lawyers who face potential criminal charges, reentry from incarceration, and gambling addictions.

The evidence of record establishes that Petitioner's efforts at psychological treatment during his disbarment have been successful. Petitioner's treating physician, who is an expert in clinical neuropsychology, credibly testified that Petitioner is rehabilitated and is functioning well both from a cognitive and psychological perspective. The treating physician further credibly testified that there are no significant psychosocial problems or mental health concerns that would prevent Petitioner's reinstatement. As to his gambling addiction, Petitioner has been diligent in his recovery by regularly attending GA meetings and acting as a leader of the fellowship. The anonymous witness credibly testified on Petitioner's behalf at the reinstatement hearing. This witness is a member of GA and has known Petitioner since March 2016. Over the years, the anonymous witness observed Petitioner's genuine commitment to recovery, in that Petitioner embraced the GA 12-step program, took full responsibility for his misconduct, never blamed others, and continues to share with others his mistakes and efforts at recovery from his addiction.

Petitioner's efforts to maintain competency and learning in the law are further evidence of his fitness and rehabilitation. During his period of disbarment, Petitioner fulfilled his CLE requirements necessary for reinstatement and maintained continuous employment in the legal field to support his contention that he is rehabilitated

and ready to resume the practice of law. Since February 2016, Petitioner has been employed as law clerk for Silvers, Langsam & Weitzman, P.C., a Philadelphia law firm. Petitioner left this employment during his incarceration and resumed work after his release. John Lord, Esquire, is Petitioner's supervisor at the Silvers firm. Mr. Lord works with Petitioner on a daily basis and credibly testified at the reinstatement hearing as to his observations that Petitioner has worked hard to rehabilitate himself from his misconduct and he has the dedication, high-level legal skills and training necessary to be a successful attorney. The Silvers firm is interested in employing Petitioner as an attorney if he is reinstated. During his disbarment, Petitioner also performed paralegal work for First Law Strategy Group, based in Philadelphia. Hillary Weinstein, Esquire, a partner at First Law, credibly testified at the reinstatement hearing. Ms. Weinstein's firm has employed Petitioner since January 2021 to perform research and writing. Ms. Weinstein and Petitioner had discussions about his offense on several occasions and she was very impressed by Petitioner's level of acceptance and remorse for his misconduct. Ms. Weinstein trusts Petitioner and believes he has the moral qualities necessary to be a successful lawyer.

In addition to the aforementioned credible and supportive testimony from the anonymous witness, Attorney Lord and Attorney Weinstein, other members of the legal community and the community at large have observed Petitioner's positive rehabilitative efforts and support his quest for reinstatement. Some individuals appeared at the hearing and testified on Petitioner's behalf, including two lawyers and two personal friends. These witnesses credibly shared that Petitioner candidly discussed his past

misconduct with them, has been humbled by his experience, and has earned back the trust of his community. These witnesses all shared the view that Petitioner is a person of high moral integrity and is trustworthy and committed to his rehabilitation. Every attorney witness testified that they did not have any hesitation or reservation in referring work to Petitioner or otherwise recommending him for legal work should he be reinstated. Besides the live testimony of witnesses, Petitioner offered 74 character letters to establish that he is a person of integrity and fit to practice law. The letters are from individuals who have known Petitioner for many years, before and after his criminal conduct, including 15 family members, 12 employers and co-workers, 24 friends and neighbors, 14 members of his synagogue, and 8 members of the GA fellowship.

The steady and concerted efforts undertaken by Petitioner to rehabilitate himself would be meaningless without the concomitant demonstration of remorse and acceptance of responsibility that goes to the heart of a disbarred attorney's rehabilitative process. The record established that Petitioner has committed himself to a path of responsibility and has demonstrated genuine contrition for his transgressions. He fully acknowledged his criminal misconduct and never minimized nor attempted to justify his actions. Petitioner credibly expressed sincere remorse and regret. The Committee found that Petitioner's direct testimony and his answers responsive to questions from the Committee were candid, credible and forthcoming. As well, Petitioner's Reinstatement Questionnaire was detailed, accurate and truthful in response to each question.

Upon this record, the Board concludes that Petitioner is fit to practice law. Petitioner has been disbarred for more than six years, during which time he has reflected on his criminal acts, addressed his gambling addiction and other psychological issues, and gained self-knowledge that has helped him move in a positive direction. The record in its entirety demonstrates that Petitioner's period of disbarment has been a time of genuine and steadfast commitment to rehabilitation that has dissipated the breach of trust caused by his serious criminal misconduct. Petitioner demonstrated his rehabilitation through his credible words and actions. Upon this record, we conclude that Petitioner has met his reinstatement burden by clear and convincing evidence that he is morally qualified, competent and learned in the law, and that his reinstatement will not be detrimental to the integrity and standing of the bar or the administration of justice, nor harmful to the public interest. We recommend Petitioner's reinstatement.

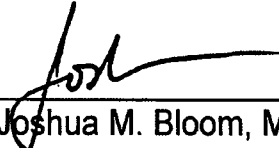
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Petitioner, Joshua Lawrence Gayl, 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 all of 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:  \_\_\_\_\_  
Joshua M. Bloom, Member

Date: September 19, 2022

Member Senoff recused.