

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 2499 Disciplinary Docket No. 3
LOUIS ALFRED PICCONE : No. 102 DB 2018
PETITION FOR REINSTATEMENT : Attorney Registration No. 55347
: (Out of State)

ORDER

PER CURIAM

AND NOW, this 23rd day of January, 2024, the Petition for Reinstatement is denied. 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 Nicole Traini
As Of 01/23/2024

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 December 14, 2018, the Supreme Court of Pennsylvania reciprocally suspended Louis Alfred Piccone, Petitioner herein, for a period of three years. The suspension was based on Petitioner's three-year suspension by the U.S. Patent & Trademark Office ("USPTO"), due to, *inter alia*, Petitioner's unauthorized practice of law in multiple jurisdictions as well as before the PTO. Petitioner filed a Petition for

Reinstatement on March 16, 2022. Office of Disciplinary Counsel (“ODC”) filed a response to Petition on July 14, 2022.

Following a prehearing conference on September 14, 2022, a District I Hearing Committee (“Committee”) held a reinstatement hearing on November 2 and November 3, 2022. Petitioner appeared *pro se*, testified on his own behalf and did not offer any other witnesses. ODC offered the testimony of one witness, Christopher Albee, Esquire, a lawyer licensed in New York. Petitioner’s Exhibits 1 through 6 were admitted into evidence. ODC’s Exhibits ODC-1 through ODC-47 were admitted into evidence.

Petitioner filed a post-hearing brief on December 12, 2022, and requested that the Committee recommend to the Board that he be reinstated. ODC filed a post-hearing brief on December 19, 2022, and requested that the Committee recommend to the Board that Petitioner’s reinstatement be denied.

By Report filed on March 6, 2023, the Committee recommended that the Petition for Reinstatement be denied. Petitioner filed a brief on exceptions on March 30, 2023, and ODC filed a brief opposing exceptions on April 17, 2023. The Board adjudicated this matter at the meeting on July 25, 2023.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Louis Alfred Piccone, born on June 21, 1962, and admitted to practice law in the Commonwealth of Pennsylvania on June 15, 1989. ODC-1 at pp. 5, 6. Petitioner’s current address is in Hawkesbury, Ontario, Canada. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Petitioner became registered as a patent attorney with the USPTO on August 12, 1997. ODC-1 at p. 62.

3. By Order of the Supreme Court of Pennsylvania dated September 20, 2013, Petitioner was placed on administrative suspension for failure to comply with Pennsylvania Rules of Continuing Legal Education. Petitioner was reinstated to active status on August 12, 2014.

4. On December 10, 2014, the USPTO's Office of Enrollment and Discipline commenced disciplinary proceedings against Petitioner. ODC-1 at p. 95.

5. Petitioner was charged with the unauthorized practice of law before the USPTO and before various federal courts around the country, including the District of Massachusetts, at a time when Petitioner's Pennsylvania law license—his only state law license—was administratively suspended. ODC-1 at p.108-135.

6. On June 16, 2016, Administrative Law Judge Susan L. Biro ("ALJ") issued the Initial Decision detailing Petitioner's ethical rule violations and suspending him from practice before the USPTO for three years. ODC-1 at p. 94-162.

7. On May 25, 2017, the USPTO Director issued a Final Order affirming the ALJ's three-year suspension order. ODC-1 at p.61-93.

8. In a Memorandum Opinion dated November 13, 2018, U.S. District Judge Leonie M. Brinkema of the U.S. District Court for the Eastern District of Virginia rejected Petitioner's arguments and dismissed Petitioner's Petition for Review. Petitioner Exhibit - 4.

9. On November 20, 2018, the U.S. Court of Appeals for the Federal Circuit suspended Petitioner based on his USPTO suspension. Petitioner Exhibit – 5.

10. On June 29, 2018, based on the USPTO's Final Order of a three-year suspension, the Supreme Court of Pennsylvania issued a Notice and Order directing Petitioner to inform the Court within 30 days of any grounds against the imposition of identical or comparable discipline in the Commonwealth. Petitioner filed a 180-page Response to the June 29, 2018 Order. ODC-46. Within that Response, Petitioner restated all the arguments he previously set forth before the USPTO and the U.S. District Court for the Eastern District of Virginia. ODC-46.

11. On December 14, 2018, the Supreme Court of Pennsylvania reciprocally suspended Petitioner from the practice of law in Pennsylvania. ODC-1 at p.163.

12. The Supreme Court of Pennsylvania issued its Order, "upon consideration of the responses to a Notice and Order directing Louis Alfred Piccone to provide reasons against the imposition of a three-year suspension reciprocal to that imposed by the United States Patent and Trademark Office[.]" ODC-1 at p. 163.

13. At the hearing on his Petition for Reinstatement, Petitioner showed a lack of understanding related to the procedures to seek reinstatement and his burden of proof for the reinstatement hearing. N.T. I, p.77:4-11.

14. Petitioner testified that good character was proven by the absence of found misconduct and then the burden of proof shifts to the ODC to prove otherwise. *Id.*

15. Petitioner testified, "I do recall that my understanding of these proceedings is once I testify that there have been no findings of misconduct against me in the last three years, the burden shifts to [ODC] to show that I did engage in misconduct by findings from a jurisdiction, from a competent authority in some jurisdiction that I did engage in misconduct...And besides that, I haven't done anything wrong to my knowledge and

therefore, yes, the burden shifts to you to show that I have engaged in misconduct and my testimony is sufficient to carry my burden.” N.T. I, p.77:4-78:3.

16. Petitioner claimed that the Supreme Court’s definition of good character is “the absence of found misconduct.” N.T. I, p.19:5-7. “During periods of my suspension, I am not aware of any misconduct that has been found against me. I raise that as evidence of my good character.” N.T. I, p.19:10-13.

17. Prior to the hearing on the Reinstatement Petition, Petitioner failed to cooperate with Disciplinary Counsel’s requests for information and documents, despite executing an Authorization and Release consenting to such investigation and information. ODC-1 at 165-166; N.T. I, p.148:1-22; ODC-9.

18. Petitioner raised his issues concerning the requests for information and documents in a Motion for Protective Order filed with the Board. ODC-8.

19. On July 5, 2022, the Board denied Petitioner’s motion and ordered him to provide full and complete answers and documents responsive to the items identified in the Order. ODC-9.

20. Petitioner sought reconsideration of the Motion for Protective Order and that motion was denied. ODC-11 and ODC-14.

21. Petitioner failed to comply in violation of the Board’s Order.

22. When questioned about his failure to comply, Petitioner testified that “[he] provided a full and complete answers and documents as was possible under the circumstances.” N.T. I, p.146:3.

23. In addition, Petitioner continued to raise arguments that had been considered and rejected in his Motion for Protective Order and Motion for Reconsideration of the Protective Order as justification for his lack of compliance. N.T. I, p.126:9-18.

24. Petitioner thereafter threatened Disciplinary Counsel with a restraining order against him for seeking compliance with the Board's Order. N.T. I, p.126:19-127:6.

25. This was the second time that Petitioner threatened to file a federal complaint in response to unfavorable litigation decisions.

26. The first time Petitioner threatened to file a federal complaint was during the Prehearing Conference, based on jurisdictional issues already decided against him by the Board. ODC-20 at p. 34.

27. Petitioner stated, "I've also got a draft federal complaint going that I will likely file before the hearing date of November 2nd and November 3rd." ODC-20 at p. 34.

28. Petitioner failed to show remorse for the conduct that caused his three-year suspension, both during the reinstatement hearing and on his Petition for Reinstatement.

29. In his Petition for Reinstatement, Petitioner states that he was "erroneously suspended" by the Supreme Court of Pennsylvania. ODC-1 at p.2.

30. Petitioner further states, "I feel my representation was zealous, ethical, and entirely legal. I believe that the original suspension of my license was political prosecution whose result was predetermined. If my license is restored, I will not promise that I will not go back and try the same thing ..." ODC -1 at p.38.

31. Petitioner further testified that he was innocent of any misconduct and "that those proceedings were what ... Judge Clarence Thomas referred to his senate confirmation hearings, a modern-day lynching." N.T. I, p.20:7-13.

32. Petitioner further testified that, "what was alleged against me was not misconduct. It was alleged by me that all of my actions were completely authorized by law clearly so." N.T.I, p.20:22-21:1.

33. Petitioner failed to acknowledge that he violated any Rules of Professional Conduct and referred to his conduct as "mistakes," specifically stating:

MR. GOTTSCH: What rules of professional conduct did you violate?

MR. PICCONE: If you listened to what I said previously, Mr. Gottsch, what I said was, I may have made mistakes, but they were mistakes that should not have resulted in my suspension. I clearly said that I had made mistakes that may be considered misconduct, but that it was minor. And that again, had I been given a fair hearing, it's the type of misconduct that every attorney, including yourself during these proceedings, have made and therefore, upon a fair hearing, they would not have resulted in a suspension.
N.T. I, p.109:14-110:2.

34. Petitioner testified that he could not confirm that he would not repeat the very same conduct that resulted in his suspension.

MR. GOTTSCH: Okay. And so, knowing that the conduct you just described resulted in suspensions by the director of the patent office and reciprocal suspensions from the Federal Circuit and Supreme Court of Pennsylvania, you would repeat that conduct again?

MR. PICCONE: What I said was I couldn't exclude it, Mr. Gottsch.

N.T. I, p.118:8-15.

35. Rather than admit to misconduct, Petitioner testified that the courts presiding over his misconduct cases decided the issues incorrectly:

I'm going to briefly describe my defenses to those cases because if you read through any of the decisions in which my

suspension was based, you will see that none of those defenses were really discussed seriously. None of them were addressed and you will be given the opportunity today to see that had the normal rules of statutory construction issued in binding precedent by the Supreme Court been obeyed, then this case against me would have disappeared a long time ago.

N.T. I, p.26:9-19.

36. Petitioner continued to testify about the defenses he felt were not considered, or not properly decided by the judicial body who rendered a decision against him. N.T. I, p.41:1-12.

37. Petitioner testified that he made these arguments before the judicial bodies, and in his opinion, they were “never mentioned,” “never discussed,” and “glossed over.” N.T. I, p.41:1-12.

38. Petitioner then testified, “I think I was innocent. I don’t think I need to express remorse for that reason.” N.T. I, p.41:11-12.

39. Petitioner maintained his position throughout the reinstatement proceedings. For example, Petitioner testified:

- “I said their [USPTO’s] interpretation did not make any sense. I still believe that.” N.T. I, p. 47:5-6.
- “So, in each of the cases where I was convicted of engaging in unauthorized practice of law in Massachusetts and in Illinois, for example, those litigants were entitled to sign their pleadings and submit them to the court. So again, it’s evidence that everything was done 100 percent appropriately as authorized by law, and for those reasons I do not believe I need to express remorse.” N.T. I, p. 50:13-22.
- “I have no regrets. I think that I did exactly the right thing in helping those families. I do not think I need to express remorse for that.” N.T. I, p. 52:6-9.

40. Petitioner blames others for his own shortcomings. Petitioner testified: "And why, in my case, am I being given such a hard time? Why is Mr. Gottsch prosecuting me in such a way where every little thing is taken to the extreme and characterized as unethical or misconduct?" N.T. II, p.258:1-7.

41. Petitioner failed to disclose on his Reinstatement Questionnaire a lawsuit he was involved with in New York under civil action number 19-cv-5477. N.T. I, p.170:14-171:19; 172:3-174:23. When questioned about the omission, Petitioner responded that the missing civil action was basically the same as the others listed on the Questionnaire. N.T. I, p.174:13-23.

42. Petitioner admitted that he prepared the complaint in that action (ODC-27) and that he was not a plaintiff in that action when it was filed. N.T. I, p.170:13-171:19.

43. Later, Petitioner became a plaintiff in the New York action but still did not disclose it on his Petition for Reinstatement. ODC-1 at p. 14.

44. Petitioner engaged in the unauthorized practice of law when he prepared other legal documents for individuals during his period of suspension. ODC-3 at p.180-181.

45. Petitioner admitted to preparing filings for his family members. ODC-3 at p. 181.

46. Petitioner prepared and filed pleadings and briefs for himself and others in New York and in the Court of Appeals for the Second Circuit. See ODC-26 through ODC-33; N.T. II, at p.304:11-308:2.

47. Christopher Albee, Esquire, a New York attorney who has been involved as an adversary in three lawsuits with Petitioner, testified that Petitioner had drafted

documents for a *pro se* litigant, prepared a deed for his parent's property, and started federal court litigation, while Petitioner's Pennsylvania bar license was suspended. N.T. II, p.299:19-301:2.

48. Further, Petitioner drafted a complaint for a matter pending in Ohio and posted it on the website www.medium.com. N.T. II, p.229:8-21; 230:10-232:9.

49. Petitioner alleges it was just a posting about what he would do in that circumstance but not prepared for the actual litigants' use. N.T. II, p.233. Petitioner's testimony is not credible, as he previously testified that he drafted the complaint to fit the specifics of that case. N.T. II, p. 231:21-232:14.

50. Petitioner was on a related podcast speaking on the case pending in Ohio, and the podcast host introduced Petitioner as a legal advisor and noted the same on the related website. ODC-35; ODC-36; ODC-37, and ODC-38; N.T. I, p.183:15-184:5.

51. Petitioner testified that he described himself to the podcast host as a suspended attorney and testified that he did not claim to be a legal advisor. N.T. I, p.184:17-24.

52. Petitioner testified that during his suspension, he has read and perused legal treatises, law journals, and legal articles. N.T. I, p.18:3-9. Petitioner completed Pennsylvania Continuing Legal Education credits required for reinstatement. N.T. I, p. 17; ODC-1.

53. Petitioner testified that he appeared *pro se* in at least two litigations where he conducted legal research, appeared in court proceedings, took depositions, and participated in oral arguments. N.T. I, p.17:19-18:3.

54. Mr. Albee credibly testified to his observations of Petitioner as a litigant that Petitioner did not know how to admit documents into evidence, he used affidavits to cross-examine a title searcher, and he did not know how to call witnesses in his New York case. N.T. II, p.312:5-19.

55. Petitioner's inexperience with admitting documents into evidence was further exemplified in the reinstatement proceedings:

MR. PICCONE: Can I just ask for clarification? Aren't all of the documents that have been officially filed with the disciplinary board a part of the record already? ...

MR. PICCONE: What I am talking about is the record, not the exhibits that Mr. Gottsch has done. I am talking about the correspondence with the board, and the parties.

MR. GOTTSCH: No, the only things that go into evidence are the exhibits that were exchanged by the exhibit deadline or impeachment exhibits.

CHAIR: Right.

THE CHAIR: If it wasn't marked by you or ODC as an exhibit, it is not part of the evidentiary record. Does that clear that up?

MR. PICCONE: Not really. But I'm going to reserve my issue for now.

N.T. II, p.421:19-423:22.

56. Petitioner failed to show appropriate deference and decorum to the Committee Chair after she issued a ruling regarding the exhibits that he wanted kept confidential:

THE CHAIR: Mr. Piccone, I understand that. Hold on.

MR. PICCONE: Can I finish, please? I'd like to create the record, okay?

THE CHAIR: No. Mr. Piccone, hold on. I'm going to say this again. I've said it once. You have heard it at least four times today. We told you this morning. If there is something that you want to stop the live stream for, you have to tell us. It is the party's responsibility.

MR. PICCONE: No, Ms. Johnston, no. That's not what the law says. The law says when I provide information to the Pennsylvania Disciplinary Board, it is kept confidential if I ask that it be redacted. That's what the law says.

N.T. I, p.91:4-21.

57. Petitioner's conduct on cross-examination was unprofessional, when he threatened to seek a restraining Order against opposing counsel:

MR. PICCONE: Let me finish my answer Mr. Gottsch. That's why I am going to federal court requesting a restraining order against you because you have clearly overstepped the bounds of decency and good conduct in these proceedings.

N.T. I, p.127:2-6.

58. Similarly, Mr. Albee credibly testified that Petitioner made false allegations against him, accused Mr. Albee of having *ex parte* communications with a Judge when there were other people including a court reporter in the room at the time, filed a federal lawsuit against Mr. Albee, and filed a complaint against a federal Magistrate Judge. N.T. II, p.311:4-314:8.

59. Mr. Albee credibly testified that based on his experience with Petitioner, Petitioner's resumption of the practice of law would be detrimental to the administration of justice. N.T. II, p.316:8-317:13.

60. Mr. Albee further explained that, "in my experience when [Petitioner] loses, he thinks it is because of some ulterior motive. Somebody got to the Judge, it is a political

thing, something else. He never acknowledges the fact that he is wrong....He just keeps litigating, filing lawsuits, regardless of the merits, in my experience.” N.T. II, p. 316:20-317:13.

61. At the reinstatement hearing, Petitioner continued to re-litigate previous arguments and refused to accept unfavorable decisions. For example, Petitioner admitted that he raised the same arguments in his Motion for Protective Order and Motion for Reconsideration of the Protective Order as he raised at the reinstatement hearing. N.T. II, p.263:3-9

62. Rather than complying with the orders, Petitioner continued to set forth his failed arguments as justification for his non-responsive behavior. N.T. II, p.263:3-9.

63. Petitioner presented no character witnesses or other witnesses to testify on his behalf. Petitioner testified that he knows approximately ten Pennsylvania lawyers but did not ask any of them to testify for him because he did not believe he needed to provide any character witnesses. N.T. II, pp. 236-237.

64. Petitioner relied on his own testimony in an attempt to establish good character, stating “I am not aware of any misconduct that has been found against me. I raise that as evidence of my good character.” N.T. I, p. 19.

III. CONCLUSIONS OF LAW

1. Petitioner failed to demonstrate 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. Pa.R.D.E. 218(c)(3).

2. Petitioner failed to demonstrate 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. Pa.R.D.E. 218(c)(3).

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in the Commonwealth following his suspension for a period of three years, ordered by the Supreme Court of Pennsylvania on December 14, 2018, as reciprocal discipline for his suspension by the USPTO. As a suspended attorney requesting reinstatement, Petitioner bears the high 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). It is well-established that a reinstatement proceeding is a “searching inquiry” into a lawyer’s present professional and moral fitness to resume the practice of law, with a focus on the rehabilitative efforts undertaken by the petitioner since the time the sanction was imposed. *Philadelphia News, Inc. v. Disciplinary Board of the Supreme Court of Pennsylvania*, 363 A.2d 779, 780-781 (Pa. 1976). This inquiry necessarily involves thorough examination of a wide range of issues relevant to a petitioner’s fitness to resume the practice of law. *Id.*

The Committee weighed the evidence and concluded that Petitioner failed to meet his reinstatement burden. Upon our independent review of the record, we agree with the Committee’s conclusion that Petitioner fell far short of satisfying his burden to

show that he is qualified and fit to resume the practice of law, and for the following reasons, we recommend that the Petition for Reinstatement be denied.

A. Failure to demonstrate remorse and acceptance of responsibility

The most significant set of facts informing our recommendation to deny reinstatement is Petitioner's failure to show that he understands the nature of his wrongdoing, accepts responsibility for his actions, and feels remorse for the misconduct that caused his reciprocal suspension. Petitioner set the tone early on, with an assertion in his Reinstatement Petition that he was "erroneously suspended" by the Supreme Court of Pennsylvania. ODC-1 at p.2. He further stated, "I feel my representation was zealous, ethical, and entirely legal. I believe that the original suspension of my license was political prosecution whose result was predetermined. If my license is restored, I will not promise that I will not go back and try the same thing ..." ODC -1 at p.38. Petitioner repeatedly demonstrated and expressed that he unequivocally does not have any remorse for his actions that led to his suspension, and would, in fact, engage in the exact same conduct that led to his suspension in the first place.

Petitioner proclaimed his position of innocence throughout the reinstatement hearing. Rather than acknowledge misconduct or remorse, Petitioner testified that he was innocent of any misconduct and shockingly testified "that those proceedings were what ... Judge Clarence Thomas referred to his senate confirmation hearings, a modern-day lynching." N.T. I, p.20:7-13. Petitioner further testified that, "what was alleged against me was not misconduct. It was alleged by me that all of my actions were completely authorized by law clearly so." N.T.I, p.20:22-21:1.

Petitioner asserted his belief that he was not given a fair hearing in the

underlying discipline matter before the USPTO, failed to acknowledge that he violated any Rules of Professional Conduct, and referred to his conduct as “mistakes”:

MR. GOTTSCH: What rules of professional conduct did you violate?

MR. PICCONE: If you listened to what I said previously, Mr. Gottsch, what I said was, I may have made mistakes, but they were mistakes that should not have resulted in my suspension. I clearly said that I had made mistakes that may be considered misconduct, but that it was minor. And that again, had I been given a fair hearing, it's the type of misconduct that every attorney, including yourself during these proceedings, have made and therefore, upon a fair hearing, they would not have resulted in a suspension.

N.T. I, p.109:14-110:2.

Rather than admit to misconduct, Petitioner blamed others for his shortcomings. Specifically, Petitioner testified that the courts presiding over his misconduct cases decided the issues incorrectly:

I'm going to briefly describe my defenses to those cases because if you read through any of the decisions in which my suspension was based, you will see that none of those defenses were really discussed seriously. None of them were addressed and you will be given the opportunity today to see that had the normal rules of statutory construction issued in binding precedent by the Supreme Court been obeyed, then this case against me would have disappeared a long time ago.

N.T. I, p.26:9-19.

Petitioner testified that his defenses were not considered, or not properly decided by the judicial body who rendered a decision against him. N.T. I, p.41:1-12. Petitioner then testified, “I think I was innocent. I don't think I need to express remorse for that reason.” N.T. I, p.41:11-12. Indeed, Petitioner testified repeatedly in keeping with

this theme:

- “I said their (USPTO’s) interpretation did not make any sense. I still believe that.” N.T. I, p.47:5-6.
- “So, in each of the cases where I was convicted of engaging in unauthorized practice of law in Massachusetts and in Illinois, for example, those litigants were entitled to sign their pleadings and submit them to the court. So again, it’s evidence that everything was done 100 percent appropriately as authorized by law, and for those reasons I do not believe I need to express remorse.” N.T. I, p.50:13-22.
- “I have no regrets. I think that I did exactly the right thing in helping those families. I do not think I need to express remorse for that.” N.T. I, p.52:6-9.

Concerningly, Petitioner testified that he could not exclude the possibility that he would repeat the very same conduct that resulted in his suspension. This is because Petitioner believes he did nothing wrong and feels no obligation to correct his actions moving forward. N.T. I, p.118.

MR. GOTTSCH: Okay. And so, knowing that the conduct you just described resulted in suspensions by the director of the patent office and reciprocal suspensions from the Federal Circuit and Supreme Court of Pennsylvania, you would repeat that conduct again?

MR. PICCONE: What I said was I couldn’t exclude it, Mr. Gottsch.

N.T. I, p.118:8-15.

The Court has previously denied reinstatement when petitioners have offered testimony that minimizes their misconduct, as such testimony shows that there has been no acknowledgement of wrongdoing, which is necessary to demonstrate sincere remorse. *In the Matter of Craig B. Sokolow*, No. 83 DB 2018 (D. Bd. Rpt. 8/2/2023,

pp. 23-24) (S. Ct. Order 9/28/2023) (Sokolow repeatedly characterized his dishonest conduct as “mistakes” and made clear in his testimony his position that the Supreme Court of Pennsylvania was wrong and he did not deserve a two-year suspension; the Board found that Sokolow’s attempts to downplay his underlying misconduct, which demonstrated his failure to accept responsibility and express remorse, weighed against reinstatement); *In the Matter of Jon Ari Lefkowitz*, No. 125 DB 2018 (D. Bd. Rpt. 1/3/2022, p 28) (S. Ct. Order 4/1/2022) (Lefkowitz minimized his criminal conduct, claimed no one had been deceived by his actions, and offered testimony at his reinstatement hearing that demonstrated he still did not view himself as culpable; the Board concluded that Lefkowitz’s failure to acknowledge the true nature of his criminal conduct rendered him unfit to resume practice); *In the Matter of Paul Joseph Staub, Jr.*, No. 36 DB 2010 (D. Bd. Rpt. 1/9/2018, p. 14) (S. Ct. Order 3/1/2018) (“Staub did not fully acknowledge that his actions harmed others and damaged the integrity of the legal system,” which led to the Board’s finding that he “failed to express genuine remorse... for his actions.”)

Accordingly, we conclude that Petitioner is not fit to practice law because he has not come to terms with the misconduct that resulted in the suspension of his law license. *See, In the Matter of Costigan*, 664 A. 2d 518, 520, 522 (Pa. 1995) (a petitioner must come to terms with the conduct which caused the loss of license).

B. Failure to demonstrate moral qualifications

In addition to failing to accept responsibility and demonstrate remorse, which reflects negatively on his moral qualifications, Petitioner blames others for his own shortcomings, omitted material information from his Questionnaire, and practiced law in New York and drafted legal documents for family and other individuals during his period

of suspension. Nevertheless, Petitioner wondered, "And why, in my case, am I being given such a hard time? Why is Mr. Gottsch prosecuting me in such a way where every little thing is taken to the extreme and characterized as unethical or misconduct?" N.T. II, p.258:1-7.

Despite being required to list on his Questionnaire all lawsuits in which he was involved, Petitioner failed to disclose a lawsuit he was involved with in New York under civil action number 19-cv-5477. N.T. I, p. 170:14-171:19; 172:3-174:23. When questioned about the omission, Petitioner responded that the missing civil action was basically the same as the others listed on the reinstatement petition. N.T. I, p.174:13-23. Petitioner admitted that he prepared the complaint in that action (ODC-27), and that he was not a plaintiff in that action when it was filed. N.T. I, p. 170:13-171:19. Later, Petitioner became a plaintiff in the New York action but still did not disclose it on his Petition for Reinstatement. ODC-1 at p. 14. Petitioner's omission in completing the Questionnaire showed that he was careless and indifferent in answering the questions.

The record established that Petitioner prepared other legal documents for individuals during his period of suspension. ODC-3 at p.180-181. Petitioner admitted to preparing filings for his family members. ODC-3 at p. 181. He prepared and filed pleadings and briefs for himself and others in New York and in the Court of Appeals for the Second Circuit. ODC-26 through ODC-33; N.T. II, at p.304:11-308:2. Mr. Albee, a New York attorney who has been involved as an adversary in three lawsuits with Petitioner, testified that Petitioner had drafted documents for a *pro se* litigant, prepared a deed, and started federal court litigation, all while his Pennsylvania bar license was suspended. N.T. II, p.299:19-301:2.

Petitioner also drafted a complaint for a matter pending in Ohio and posted it on the website www.medium.com. N.T. II, p.229:8-21; 230:10-232:9. While Petitioner alleged it was just a posting about what he would do in that circumstance and it was not prepared for the actual litigants' use, his explanation lacked credibility as he previously testified that he drafted the complaint to fit the specifics of that case. N.T. II, p.233:7-12; N.T. II, p. 231:21-232:14. Petitioner was introduced on a podcast pertaining to the Ohio case as a "legal advisor" and listed as such on a related website, though he contends he did not claim to be a legal advisor. ODC-35; ODC-36; ODC-37; ODC-38.; N.T. I, p.183:15-184:5; N.T. I, p.184:17-24.

The totality of Petitioner's conduct involving blaming others, omitting information on his Questionnaire, and most egregiously, disregarding his professional obligation to comply with court orders prohibiting his practice of law while suspended, establishes that Petitioner failed to demonstrate the moral qualifications for reinstatement. *See, In the Matter of William James Helzlsouer*, No. 197 DB 2018 (D. Bd. Rpt. 9/27/2022, pp. 11-12) (S. Ct Order 12/7/2022) (Helzlsouer minimized or omitted relevant information on his Questionnaire, which reflected negatively on his fitness to practice law); *In the Matter of Lawrence J. Diangelus*, No. 189 DB 2003 (D. Bd. Rpt. 1/3/2013, pp 7-8) (S. Ct. Order 4/24/2013) (The Board found that Diangelus "repeatedly and persistently" violated the rules governing prohibited law-related activities as a suspended attorney, which underscored his lack of qualifications to resume practice).

C. Failure to demonstrate good character as a sign of moral qualifications

At the hearing on his Petition for Reinstatement, Petitioner failed to understand his burden of proof for the reinstatement hearing, N.T. I, p.77:4-11, and

testified that good character was proven by the absence of found misconduct and then the burden of proof shifted to the ODC to prove otherwise. *Id.* Specifically, Petitioner testified:

I do recall that my understanding of these proceedings is once I testify that there have been no findings of misconduct against me in the last three years, the burden shifts to you to show that I did engage in misconduct by findings from a jurisdiction, from a competent authority in some jurisdiction that I did engage in misconduct...And besides that, I haven't done anything wrong to my knowledge and therefore, yes, the burden shifts to you to show that I have engaged in misconduct and my testimony is sufficient to carry my burden.

N.T. I, p.77:4-78:3.

Petitioner maintained that the Supreme Court's definition of good character is "the absence of found misconduct." N.T. I, p.19:5-7. "During periods of my suspension, I am not aware of any misconduct that has been found against me. I raise that as evidence of my good character." N.T. I, p.19:10-13.

Petitioner failed to offer any witnesses to testify to his good character, or any letters attesting to his good character, and stated his belief that he did not need to provide such evidence. The case law establishes that the Court and the Board consider the testimony of character witnesses as highly relevant to a petitioner's demonstration of fitness to reenter the bar. *See, In the Matter of Jerome J. Verlin*, 731 A.2d 600 (Pa. 1999) (Verlin offered extensive character testimony that demonstrated the high regard and reputation that he enjoyed during his long legal career and bolstered his reinstatement request); *In the Matter of Andrew J. Ostrowski*, No. 135 DB 2008 (D. Bd. Rpt. 1/18/2017, p.11) (S. Ct. Order 3/22/2017) (Ostrowski chose not to produce character testimony or submit letters of support to show his rehabilitation because he believed his character and

integrity was never at issue and did not need rehabilitation; the Board found that the lack of character evidence, combined with other deficiencies, rendered Ostrowski unfit to resume practice)

While character testimony is standard in reinstatement proceedings, we note that such testimony is not an automatic requirement to prove fitness and moral qualifications. See, *In the Matter of James J. Gillespie, Jr.*, No. 125 DB 1999 (D. Bd. Rpt. 6/8/2006, pp. 8-9) (S. Ct. Order 9/19/2006) (Gillespie sought reinstatement from disbarment; the Board found that Gillespie's failure to offer character witnesses was "unusual," but nevertheless concluded that Gillespie met his stringent reinstatement burden, stating "the balance of the evidence of record supports a finding that [Gillespie] is morally qualified to resume practicing law. He made every effort during his disbarment to work and provide for his family while continuing his involvement with his church and the community. There is no evidence that he engaged in any immoral, improper behavior during his disbarment.") Here, unlike in *Gillespie*, in addition to the absence of character testimony, the record is devoid of any evidence to establish Petitioner's character and moral qualifications.

Petitioner's response to unfavorable rulings also demonstrates his lack of good character. Prior to the hearing on the Reinstatement Petition, Petitioner failed to cooperate with Disciplinary Counsel's requests for information and documents, despite executing an Authorization and Release consenting to such investigation and information. ODC-1 at 165-166; N.T. I, p.148:1-22; ODC-9. Petitioner raised his issues concerning the requests for information and documents in a Motion for Protective Order filed with the Board. ODC-8. On July 5, 2022, the Board denied Petitioner's Motion and ordered him

to provide full and complete answers and documents responsive to the items identified in the Order. ODC-9. Petitioner sought reconsideration of the Motion for Protective Order, which the Board denied. ODC-11 and ODC-14. Petitioner failed to comply in violation of the Board's Order. When questioned about his failure to comply, Petitioner testified that "[he] provided a full and complete answers and documents as was possible under the circumstances." N.T. I, p.146:3.

In addition, Petitioner continued to raise arguments that had been denied in his Motion for Protective Order and Motion for Reconsideration of the Protective Order as justification for his lack of compliance. N.T. I, p.126:9-18. Petitioner thereafter threatened Disciplinary Counsel with a restraining order against him for seeking compliance with the Order. N.T. I, p.126:19-127:6. This was the second time that Petitioner had threatened to file a federal complaint in response to unfavorable litigation decisions. The first time Petitioner threatened to file a federal complaint was during the pre-hearing conference, based on jurisdictional issues already decided against him by the Board. ODC-20 at p. 34. Petitioner stated, "I've also got a draft federal complaint going that I will likely file before the hearing date of November 2nd and November 3rd." ODC-20 at p. 34.

By the weight of the evidence of record, Petitioner failed to establish good character.

D. Failure to demonstrate competency to practice law

As a demonstration of his competency, Petitioner relies on having satisfied his Continuing Legal Education ("CLE") requirements, as well as reading legal treatises, law journals and legal articles during his suspension. This evidence weighs favorably towards establishing competency and learning in the law. *See, In the Matter of Robert*

Toland, II, No. 104 DB 2009 (D. Bd. Rpt. 11/1/2019) (S. Ct. Order 12/3/2019) (suspended attorney demonstrated competence through completion of CLE credits). As further evidence of competency, Petitioner relies on his testimony that he appeared *pro se* in at least two litigation matters where he conducted legal research, appeared in court proceedings, took depositions, and participated in oral arguments. However, contrary to Petitioner's assertions that his *pro se* appearances demonstrate competency, Mr. Albee credibly testified as to his observations that Petitioner did not know how to admit documents into evidence, used affidavits to cross-examine a title searcher, and did not know how to call witnesses in his New York case.

Petitioner's inexperience with admitting documents into evidence was further exemplified in the reinstatement proceedings:

MR. PICCONE: Can I just ask for clarification? Aren't all of the documents that have been officially filed with the disciplinary board a part of the record already? ...

MR. PICCONE: What I am talking about is the record, not the exhibits that Mr. Gottsch has done. I am talking about the correspondence with the board, and the parties.

MR. GOTTSCH: No. the only things that go into evidence are the exhibits that were exchanged by the exhibit deadline or impeachment exhibits.

CHAIR: Right.

THE CHAIR: If it wasn't marked by you or ODC as an exhibit, it is not part of the evidentiary record. Does that clear that up?

MR. PICCONE: Not really. But I'm going to reserve my issue for now.

N.T. II, p.421:19-423:22.

As discussed earlier, Petitioner showed a lack of competency when he failed

to grasp the burden of proof in his own reinstatement hearing. Not only was Petitioner not clear on the rules of this proceeding, but he also failed to show appropriate deference and decorum to the Committee Chair after she issued a ruling regarding the exhibits that he requested be kept confidential:

THE CHAIR: Mr. Piccone, I understand that. Hold on.

MR. PICCONE: Can I finish, please? I'd like to create the record, okay?

THE CHAIR: No. Mr. Piccone, hold on. I'm going to say this again. I've said it once. You have heard it at least four times today. We told you this morning. If there is something that you want to stop the live stream for, you have to tell us. It is the party's responsibility. It's not mine. It's not Kimberly's. It's not Teri's. It's yours.

MR. PICCONE: No, Ms. Johnston, no. That's not what the law says. The law says when I provide information to the Pennsylvania Disciplinary Board, it is kept confidential if I ask that it be redacted. That's what the law says.

N.T. I, p.91:4-21.

Likewise, Petitioner's conduct on cross-examination was unprofessional, when he threatened to seek a restraining Order against opposing counsel:

MR. PICCONE: Let me finish my answer, Mr. Gottsch. That's why I am going to federal court requesting a restraining order against you because you have clearly overstepped the bounds of decency and good conduct in these proceedings.
N.T. I, p. 127:2-6.

Similarly, Mr. Albee testified that Petitioner made false allegations against him, accused Mr. Albee of having *ex parte* communications with a Judge when there were other people including a court reporter in the room at the time, filed a federal lawsuit against Mr. Albee, and filed a complaint against a federal Magistrate Judge. N.T. II,

p.311:4-314:8.

Mr. Albee further explained that, “in my experience when [Petitioner] loses, he thinks it is because of some ulterior motive. Somebody got to the Judge, it is a political thing, something else. He never acknowledges the fact that he is wrong....He just keeps litigating, filing lawsuits, regardless of the merits, in my experience.” N.T. II, p. 316:20-317:13. Mr. Albee testified that based on his experience with Petitioner, Petitioner’s resumption of the practice of law would be detrimental to the administration of justice. N.T. II, p.316:8-317:13.

Finally, as discussed above, Petitioner continued to re-litigate previous arguments and refused to accept unfavorable decisions in these proceedings. For all of these reasons, Petitioner has failed to prove competency to practice law. *See, Helzlsouer*, No. 197 DB 2018 (D. Bd. Rpt. 9/27/2022, pp. 12-14) (S. Ct Order 12/7/2022) (The Board found that Helzlsouer was unprepared for his reinstatement hearing, failed to show appropriate deference to the proceedings, and was careless in the prosecution of his own reinstatement, all of which showed that he was not competent or learned in the law.)

E. Reinstatement will be detrimental to the integrity and standing of the bar or the administration of justice and is subversive of the public interest

Taken as a whole, the record before us contains little evidence to establish that Petitioner met his burden by clear and convincing evidence to show fitness and rehabilitation to resume practice, and that his resumption of legal practice would not harm the public and the integrity of the courts and the profession. Indeed, it is difficult to discern exactly what Petitioner has done since his suspension in 2018 that would prove to this Board that he is qualified to return to the practice of law and would not be “predisposed

to commit future ethical wrongdoings.” *Verlin*, 731 A.2d at 603, quoting *Costigan*. Rather, the record establishes the opposite, in that Petitioner is unwilling to admit to his misconduct, trumpets his “erroneous” suspension, his innocence and the unfairness of the proceedings against him, and in point of fact, has continued to engage in similar misconduct during his suspension by his unauthorized practice of law. Petitioner’s attitude towards his reinstatement proceeding has been from the start one of arrogant entitlement. Petitioner has made clear his position that these proceedings are a waste of his time, as he believes he should be reinstated merely based on his own assertion that he is fit. Petitioner has never felt any obligation to understand his reinstatement burden or to meet it. Upon this record, Petitioner is not fit to resume practice in the Commonwealth.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Petitioner, Louis Alfred Piccone, be Denied reinstatement 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 S. Senoff
David S. Senoff, Member

Date: 11/7/2023