

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 2534 Disciplinary Docket No. 3
: :
: No. 120 DB 2016
ROBERT J. COLAIZZI : :
: :
: Attorney Registration No. 52696
: :
PETITION FOR REINSTATEMENT : (Allegheny County)
: :

ORDER

PER CURIAM

AND NOW, this 8th day of November, 2021, 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).

Justice Wecht did not participate in the consideration or decision of this matter.

A True Copy Nicole Traini
As Of 11/08/2021

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 January 4, 2019, the Supreme Court of Pennsylvania suspended Petitioner, Robert J. Colaizzi for a period of one year and one day. By Order dated February 1, 2019, the Court granted Petitioner's Motion for Extension of Time for Commencement of Suspension and extended the effective date of the suspension to March 1, 2019. By Petition filed on August 17, 2020, Petitioner seeks reinstatement to the

bar. Office of Disciplinary Counsel (“ODC”) filed a Response to Petition on October 13, 2020 and stated its opposition to Petitioner’s request for reinstatement.

Following a prehearing conference on November 16, 2020, a District IV Hearing Committee (“Committee”) conducted a reinstatement hearing on January 4, 2021. Petitioner appeared pro se, testified on his own behalf and presented the testimony of three character witnesses. Petitioner’s ten exhibits were admitted into evidence. ODC introduced 37 exhibits, which were admitted into evidence. ODC did not present any witness testimony.

On February 8, 2021, Petitioner filed a post-hearing brief in support of his reinstatement. ODC filed a post-hearing brief opposing reinstatement on February 25, 2021. By Report dated April 26, 2021, the Committee concluded that Petitioner failed to meet his burden under Rule 218(c)(3), Pa.R.D.E., and recommended that the Petition for Reinstatement be denied.

On May 24, 2021, Petitioner filed a Brief on Exceptions and requested oral argument before the Board. On June 14, 2021, ODC filed a Brief Opposing Exceptions.

A three-member panel of the Board held oral argument on July 15, 2021.

The Board adjudicated this matter at the meeting on July 23, 2021.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Robert J. Colaizzi, born in 1962 and admitted to practice law in the Commonwealth in 1988. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Following his admission, Petitioner practiced at several small firms in the Pittsburgh area until June 1, 2003, when he opened a sole proprietorship and practiced continuously until his suspension began on March 1, 2019. N.T. 25-26.

3. Petitioner's practice encompassed all phases of civil litigation, commercial litigation, collection work, bankruptcy, family law and some limited criminal law. N.T. 26.

4. Prior to his suspension, Petitioner had not been the subject of any disciplinary proceedings.

5. The Supreme Court suspended Petitioner on January 4, 2019, effective March 1, 2019, for ethical violations in six separate matters relating to his failure to monitor his firm's IOLTA and supervise a nonlawyer employee, his wife, who misappropriated entrusted funds. After discovery of the initial theft, Petitioner failed to prevent his wife's continued access to law firm accounts, financial records, mail and email, enabling her to steal additional entrusted funds. Petitioner also failed to promptly notify a client upon receipt of entrusted funds and failed to promptly deliver to his client or third person any property such person was entitled

to receive. Petitioner prejudiced the administration of justice by his handling of a client matter and the contempt and enforcement actions that became necessary to compel Petitioner to pay out the entrusted funds. Reinstatement Questionnaire (RQ”), attached Disciplinary Board Report dated September 28, 2018.

6. Petitioner’s wife was criminally charged for her role in stealing funds, pled guilty in 2014 and served a five years of probation. No restitution was owed pursuant to the criminal matter, as the monies had been paid back. N.T. 28.

7. Pursuant to the January 4, 2019 suspension order, Petitioner was required to comply with Rule 217, Pa.R.D.E., to notify his clients of his suspension. Petitioner’s initial compliance statement was deficient and after being contacted by ODC, Petitioner filed two supplemental statements. N.T. 60-61.

8. Petitioner’s answer to Question 7(a) of the Reinstatement Questionnaire regarding discipline in other jurisdictions failed to divulge that he was suspended from the bar of the United States Bankruptcy Court for the Western District of Pennsylvania by consent for one year and one day, by Order dated January 24, 2019, effective February 3, 2019. Petitioner also failed to disclose that he was suspended from the bar of the United States District Court for the Western District of Pennsylvania for one year and one day, by Order dated April 29, 2019, retroactive to February 3, 2019. N.T. 61-62.

9. Petitioner explained that he believed his suspension in the Supreme Court of Pennsylvania applied to the federal courts that are in the Commonwealth, so when he read the question, he thought it meant jurisdictions outside of

Pennsylvania. Petitioner testified that his belief was incorrect and he apologized. N.T. 62-63.

10. Petitioner's answer to Question 8(a) of the Reinstatement Questionnaire regarding other disciplinary complaints brought against him failed to disclose that since his suspension ODC had sent him DB-7 requests for statement of position in eight disciplinary complaints. Petitioner testified he did not realize he needed to list them as the matters had been resolved. N.T. 64-65.

11. In further explanation, Petitioner testified that he received the DB-7 letters, responded to four and worked with ODC to resolve the matters, which involved former clients filing complaints after the effective date of Petitioner's suspension on March 1, 2019, seeking the return of monies. Petitioner testified that he reimbursed unearned fees to clients. N.T. 66- 71.

12. Maureen Wheeler is a former client who filed a complaint and is still owed the unearned portion of a fee she paid to Petitioner. Petitioner testified that he filed a detailed response to ODC's July 30, 2020 DB-7 letter with an attached accounting and described his representation of Ms. Wheeler in an estate matter. Petitioner testified that there is a \$480 credit owed, he was waiting for ODC to tell him what to do, and he is very willing to make that payment and had told Ms. Wheeler that he would refund the monies. N.T. 78- 80, 90-91.

13. Question No. 10 of the Reinstatement Questionnaire inquired about Petitioner's outstanding judgments. Petitioner testified that despite the docket reflecting that a judgment owed to Tri-Valley Service Federal Credit Union

remained unsatisfied, he had made that payment directly to Tri-Valley using certified funds in 2014. Petitioner further testified that he contacted Tri-Valley leading up to the reinstatement hearing to determine why the judgment had not been satisfied and was informed that Tri-Valley would get the information and satisfy the judgment on the record. Petitioner apologized for not making sure that Tri-Valley followed through. N.T. 101-104.

14. Petitioner testified that anyone associated with the underlying disciplinary matter who lost money had been paid. N.T. 106.

15. During his suspension, Petitioner maintained employment in nonlegal positions, including working at a PHEAA call center from approximately January 2020 to approximately July 2020, working at Innisfree M & A, Inc. from March 2020 to the present handling shareholder and proxy solicitation relations, and working at a CVS Specialty Care call center from the summer of 2020 to the present. RQ No. 11(a); N.T. 34-35, 38.

16. As to his employment, Petitioner testified that he supports his family, including two minor children, by working between 50 to 60 hours per week. N.T. 36- 38.

17. Petitioner did not engage in the practice of law while suspended.

18. Petitioner maintained his legal knowledge by completing required Continuing Legal Education credits, reviewing appellate court decisions and reading *The Legal Intelligencer* and bankruptcy court updates. RQ No. 19; N.T. 31, 40, 41-42.

19. If reinstated, Petitioner intends to resume a general practice of law in the areas of civil litigation, family law and bankruptcy. RQ No. 18; N.T. 42-43.

20. Petitioner testified that through his experience in the disciplinary process, he learned that he needed to change the way he used to operate his practice. N.T. 34.

21. If reinstated, Petitioner intends to hire an office manager and an accountant for day-to-day accounting operations, but understands that the management of an IOLTA is a non-delegable duty of an attorney. N.T. 118-119.

22. Petitioner testified that his wife would have no role in his practice. N.T. 116, 117.

23. Petitioner admitted that he engaged in misconduct, expressed genuine remorse and shame, and accepted full responsibility for his actions. N.T. 27-29, 43, 44, 47-48, 58, 154.

24. Petitioner has relived the events leading to his suspension on a regular basis and testified that he has worked hard to overcome his misconduct. N.T. 48.

25. Petitioner apologized to the Committee for his wrongdoing and understands he served as a lesson to other members of the bar. N.T. 33, 47, 157.

26. Petitioner testified that if he is granted the privilege to resume practicing law, he will do so with a sense of humility. N.T. 49.

27. Petitioner's testimony is credible.

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

29. Lois Ann Phillips testified that Petitioner represented her for approximately eight years in an estate litigation matter. Ms. Phillips described Petitioner as very professional, respectful and knowledgeable, as well as honest. N.T. 121-124, 126.

30. Ms. Phillips testified that Petitioner was responsive to her communications. N.T. 125.

31. Ms. Phillips testified that she has no concerns or qualms regarding Petitioner's resumption of the practice of law and believes he is qualified as an attorney. N.T. 127.

32. David Jones testified that Petitioner represented him in a domestic relations matter beginning in 2008 and they became friendly due to their shared experience of having daughters with autism. N.T. 132133, 136, 139.

33. Mr. Jones testified that during the representation, Petitioner always did his best to meet Mr. Jones' demands and requests and listen to his concerns. N.T. 135.

34. Mr. Jones believes that Petitioner is a very upstanding, moral individual who does things "by the book" and wants the best for his clients. N.T. 138.

35. Mr. Jones has no question in his mind that Petitioner will be able to do his job as an attorney if he is reinstated. *Id.*

36. Hilda Valdespina is employed as a trainer for the Innisfree M & A, Inc. call center in Pittsburgh. Innisfree is a shareholder engagement firm that handles proxy solicitation, corporate mergers and acquisition counseling. Ms. Valdespina has known Petitioner since April 2020, when she trained him as a proxy solicitor. N.T. 143-145.

37. Ms. Valdespina trained Petitioner to take a lead role in monitoring other agents making calls to shareholders. N.T. 144.

38. Ms. Valdespina testified that Petitioner performs well in his job and is very reliable. N.T. 146-148.

III. CONCLUSIONS OF LAW

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

2. Petitioner demonstrated by clear and convincing evidence that his resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. Rule 218(c)(3), Pa.R.D.E

IV. DISCUSSION

Petitioner seeks readmission to the practice of law following his suspension for a period of one year and one day, ordered by the Supreme Court of Pennsylvania on January 4, 2019. The underlying misconduct for which Petitioner was suspended was his failure to monitor his law firm accounts and supervise his nonlawyer employee, thereby enabling the employee to steal entrusted client funds on several occasions, some of which occurred after Petitioner was made aware of the initial theft.

Pursuant to Rule 218(a)(1), Pa.R.D.E., an attorney who is suspended for a period exceeding one year may not resume the practice of law until reinstated by the Court. In order to gain reinstatement, Petitioner must prove by evidence that is clear and convincing that he is morally qualified, competent and learned in the law and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. Pa.R.D.E. 218(c)(3). A reinstatement proceeding is a “searching inquiry into a lawyer’s present professional and moral fitness to resume the practice of law. The object of concern is not solely the transgressions which gave rise to the lawyer’s suspension or disbarment, but rather, the nature and extent of the rehabilitative efforts he has made since the time the sanction was imposed and the degree of success achieved in the rehabilitative process.” ***Philadelphia News, Inc. v. Disciplinary Board of the Supreme Court of Pennsylvania***, 363 A.2d 779, 780-781 (Pa. 1976).

Following the reinstatement hearing, the Committee recommended denying reinstatement after concluding that Petitioner met his burden as to his moral qualifications

and learning in the law, but failed to establish his competency to resume the practice of law. Petitioner takes exception to the conclusion that he is not competent, while ODC agrees with the Committee's recommendation to deny reinstatement.

Upon review of the totality of the evidence of record and for the following reasons, we conclude that Petitioner met his reinstatement burden and recommend that the Petition for Reinstatement be granted.

We agree with the Committee's conclusion that Petitioner met his burden to establish his moral qualifications and learning in the law. Petitioner readily acknowledged his wrongdoing, accepted responsibility, and demonstrated remorse. Petitioner apologized to the Committee on at least two occasions for his misconduct. Petitioner exhibited a thorough understanding of his actions that led to suspension and expressed shame, explaining that he has relived his disciplinary experience on a regular basis and has worked hard to overcome it. Petitioner compellingly testified that he is aware the practice of law is a privilege and if permitted to resume practice, will do so with the humility gained from his disciplinary experience.

During his suspension, Petitioner maintained continuous employment in a variety of nonlegal positions, working 50 to 60 hours per week to support his family. In order to keep abreast of the law, Petitioner completed 36 hours of Continuing Legal Education, reviewed appellate court decisions and bankruptcy law updates, and read *The Legal Intelligencer*. If reinstated, Petitioner plans to engage in a general practice of law handling civil litigation, bankruptcy and family law matters. He assured the Committee that his wife, who stole entrusted funds due to his lack of supervision, would have no role

in his law practice. Petitioner outlined his plan to hire an office manager and an accountant, while demonstrating that he understands he is responsible for maintaining his IOLTA account.

Petitioner's three witnesses credibly testified to his personal and professional abilities and expressed no hesitation about his return to the practice of law. Two of the witnesses are Petitioner's former clients, who described Petitioner as responsive to communications, honest and moral.

Petitioner addressed ODC's concerns related to issues of accuracy and completeness of his Reinstatement Questionnaire. ODC cross-examined Petitioner about his failure to disclose discipline in other jurisdictions and disciplinary complaints filed against him. ODC further questioned Petitioner regarding his outstanding judgments.

On the issue of the reciprocal discipline imposed by the Western District and the U.S. Bankruptcy Court, Petitioner believed, incorrectly, as he admitted, that the question pertained to jurisdictions outside of the Commonwealth. As to the disciplinary complaints, Petitioner testified he did not realize he had to disclose them on his Questionnaire, as it was his understanding that they had been resolved by his actions of refunding clients, or had been dismissed outright. When it was brought to Petitioner's attention that a client had yet to receive the unearned portion of her fee, Petitioner quickly agreed to do so. Petitioner testified that any monies related to the underlying misconduct had been paid. As to the Tri-Valley Service judgment, Petitioner credibly testified that he paid it in 2014, Tri-Valley had not marked it satisfied of record, and he contacted Tri-

Valley shortly before the reinstatement hearing to ask them to have it marked satisfied , which they agreed to do.

Review of Petitioner's testimony leads to the conclusion that he satisfactorily explained the defects in the Questionnaire and did not intend to conceal pertinent information from ODC, the Committee or this Board. In such instances, a defective questionnaire should not pose a bar to reinstatement. ***In the Matter of Robert F. Creem***, No. 181 DB 2004 (D. Bd. Rpt. 8/27/2008) (S. Ct. Order 11/21/2008).

As to the Committee's conclusion that Petitioner lacks competence, we respectfully disagree. The Committee found that Petitioner: provided little insight into how he would operate his practice in compliance with the conduct rules; lacked attention to detail because he filed supplemental compliance statements in response to ODC's concerns; did not offer testimony from lawyers or judges; and perhaps continued to practice law while suspended.

Our review of the record raises no such concerns for Petitioner's competence and we find these issues to be either inconsequential or not established by the evidence. Regarding the deficient attention to detail, the Committee references "repeated reminders" by ODC to Petitioner to file required compliance statements. Petitioner's testimony covered this point and he explained that post-suspension, he filed two supplemental statements of compliance in response to ODC's concerns to ensure that all clients were notified of the suspension. As to his witness testimony, which did not include testimony from a lawyer or judge, the Pennsylvania Rules of Disciplinary Enforcement governing reinstatement procedures for suspended attorneys do not require

that a petitioner put forth testimony from a lawyer or judge. Finally, we find no evidence of record that Petitioner engaged in the practice of law while suspended.

On this record, we conclude that Petitioner established his competence to resume practice by clear and convincing evidence. Petitioner was admitted to the bar in 1988 and prior to his suspension had no history of discipline for 25 years. The testimony of the two witnesses who used his legal services demonstrated that he was professional, communicative, honest and did his best for his clients. The testimony of his supervisor at his current workplace established that Petitioner is reliable and a good performer. By his testimony, Petitioner shared details of his future practice plans that provided credible assurance that he would operate his practice in accordance with the Rules of Professional Conduct. Petitioner described his wrongdoing that led to his suspension, which involved his lack of oversight of his accounts and lack of supervision over his nonlawyer employee, credibly testified that he comprehends his duty to manage his IOLTA, and conveyed his plans to employ an office manager and accountant. Petitioner made specific assurances that his wife would have no access to his practice.

The totality of the evidence demonstrates that Petitioner spent his suspension period engaged in genuine rehabilitation, is fit to practice law, and will not harm the public or the profession by his return to practice. See ***In the Matter of James Francis Donohue***, No. 112 DB 2013 (D. Bd. Rpt. 6/10/2020) (S. Ct. Order 7/6/2020); ***In the Matter of Marc D. Manoff***, No 10 DB 2011 (D. Bd. Rpt. 6/27/2018) (S. Ct. Order 8/17/2018); ***In the Matter of Clarence C. Burris, III***, No. 177 DB 2012 (D. Bd. Rpt. 5/16/2018) (S. Ct. Order 7/21/2018). Although Petitioner's original misconduct

necessitated his removal from the practice of law, he clearly and convincingly met his reinstatement burden and the Board recommends that the Petition for Reinstatement be granted.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Petitioner, Robert J. Colaizzi, 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: _____


Hon. Robert L. Repard, Member

Date: 09/02/2021