BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of	:	No. 2973 Disciplinary Docket No. 3
	:	
	:	No. 68 DB 2020
DAVID CHARLES AGRESTI	:	
	:	Attorney Registration No. 79852
	:	
PETITION FOR REINSTATEMENT	:	(Erie County)

REPORT AND RECOMMENDATION OF THE HEARING COMMITTEE

I. SUMMARY OF THE CASE

Petitioner, David Charles Agresti ("Petitioner") was suspended from the practice of law for a period of three (3) years by the Supreme Court of Pennsylvania on July 21, 2021. The suspension arose out of Petitioner's mishandling and misappropriation of retainers paid by clients in connection with three separate legal matters. Petitioner filed a Petition for Reinstatement on September 25, 2025. A hearing was held before this Hearing Committee on May 7, 2026. After reviewing the testimony and evidence received at the hearing, the Hearing Committee finds that Petitioner has fulfilled the requirements for reinstatement under Rule 218(c)(3), Pa.R.D.E, and recommends that the Petition for Reinstatement be granted.

II. STATEMENT OF THE CASE

By Petition for Discipline filed on May 8, 2020, the Office of Disciplinary Counsel ("ODC") charged Petitioner with violations of the Pennsylvania Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement in connection with his representation of three separate clients. ODC alleged that Petitioner, while engaged in

FILED
07/30/2026
The Disciplinary Board of the
Supreme Court of Pennsylvania

the private practice of law, failed to properly safeguard the property of three separate clients, which resulted in the misappropriation of approximately $46,722.00 in retainer and prepaid legal fees. On July 21, 2021, the Supreme Court of Pennsylvania suspended Petitioner from the practice of law for a period of three (3) years. On September 25, 2025, Petitioner filed a Petition for Reinstatement with the Disciplinary Board of the Supreme Court of Pennsylvania.

A Reinstatement Hearing was held on May 7, 2026. Petitioner testified on his own behalf and called seven (7) character witnesses, all of whom testified remotely. The character witnesses were the following:

A. Bradley Whitman.

B. Attorney John Knox III.

C. Attorney John Carlson.

D. Attorney James Toohey.

E. Attorney Bill Weichler.

F Benjamin Gerring.

G. Attorney Zanita Zacks-Gabriel.

He further offered his Petition and Disciplinary Board Reinstatement Questionnaire (and attached exhibits) into evidence in support of his Petition. The ODC did not object to the admission of the Petition or Exhibits into the record. The following exhibits were therefore admitted into evidence with the same exhibit numbers as used by Petitioner in his Petition:

RQI-A. Reinstatement Questionnaire - Part 1;

RQI-B. Application to Pennsylvania Department of Insurance;

RQI-C. Certificate of Professional Liability Insurance;

RQI-D. Continuing Legal Education Transcript;

RQI-E. Letter from Pennsylvania Lawyers Fund for Client Security;

RQI-F. Order of Suspension from the Supreme Court of Pennsylvania;

RQI-G. Recommendation of The Pennsylvania Disciplinary Board;

RQI-H. Recommendation of The Disciplinary Hearing Board;

RQI-I. Certificate of Standing and Disciplinary History;

RQI-J. Receipt of payment pursuant to Disciplinary Board Rule 89.272;

RQI-K. Rule 217(e) of the Pennsylvania Rules of Discipline Enforcement;

RQI-L. Personal Statement;

RQI-M. Letter of Support-Mr. Benjamin Gerring;

RQI-N. Letter of Support-Mr. Mark Klingensmith;

RQI-O. Letter of Support-Mr. Bradley Whitman;

RQI-P. Letter of Support-Fr. Michael DiMartinis;

RQI-Q. Letter of Support-Attorney John B. Carlson;

RQI-R. Letter of Support-Attorney Eugene C. Sundberg, Jr.;

RQI-S. Letter of Support-Attorney James B. Toohey;

RQI-T. Letter of Support-Attorney Eric V. Hackwelder;

RQI-U. Letter of Support-Attorney William P. Weichler;

RQI-V. Notice of Engagement-Attorney Charles D. Agresti;

RQI-W. Active Lawyers Concerned for Lawyers of Pennsylvania Volunteer;

RQI-X. Letter from Complainant David Eubank;

RQI-Y. Letter from Primary Physician David C. Hutzel, M.D.;

RQII-A. Reinstatement Questionnaire;

RQII-B. 2021 Federal Tax Return;

RQII-C. 2022 Federal Tax Return;

RQII-D. 2023 Federal Tax Return;

RQII-E. Letter of Engagement of Tax Service;

RQII-F. Transcript of Liens;

RQII-G. Domestic Relations of Erie County Support Order;

RQII-H. W2 Innovative Metal;

RQII-I. W2 IU-5 Intermediate;

RQII-J. W-2 City of Erie School District;

RQII-K W-2 RGS Products Inc. 2023;

RQII-L. Loan Application;

RQII-M Releases;

RQII-N. W-2 RGS Products 2024;

RQII-O. 2024 Federal Tax Return;

ODC did not present any witnesses or introduce any exhibits at the Reinstatement Hearing

The Parties were permitted to submit briefs in support of their respective positions. Petitioner submitted a Petitioner's Brief to the Hearing Committee on June 1, 2026. By letter dated June 3, 2026, to the Hearing Committee, counsel for ODC stated that it did not oppose Petitioner's reinstatement to the bar of the Commonwealth of Pennsylvania.

III. RULINGS ON ADMISSION OF EVIDENCE

Petitioner moved for the admission of his Reinstatement Petition and each of the aforementioned exhibits at the Hearing. (N.T. 7). ODC did not object to their admission into the record and they were accepted into evidence. *Id.*

IV. FINDINGS OF FACT

1. Petitioner was admitted to practice law in the Commonwealth of Pennsylvania on May 22, 1997, and was assigned registration number 79582. (Reinstatement Questionnaire - Part 1, Ex. RQI-A).

2. Immediately after admission to the bar, Petitioner joined the Agresti Law Firm founded by his grandfather and great uncle in 1935. Over the years, Petitioner's father, cousin, and brother also worked at the firm. Petitioner's family name was well-known in the Erie County bar. (N.T. 14-15).

3. Petitioner believed that his family's good name -- built by his father, grandfather, uncle and other relatives -- provided him with a certain level of entitlement and deference which he otherwise would not have received if he were not part of the Agresti family. (N.T. 23-25; Personal Statement of David C. Agresti, Ex. RQI-L).

4. From 2000 to 2005, Petitioner worked as an Assistant District Attorney for the Erie County District Attorney's Office. (Reinstatement Questionnaire - Part 1, Ex. RQI-A; N.T. 18-19). Subsequent thereto, from 2005 to 2011, he had various solicitor roles for local Erie governmental entities, including time as an Assistant Solicitor for the Erie County Public Defender's Office. (Reinstatement Questionnaire - Part 1, Ex. RQI-A; N.T. 19-22).

5. In 2011, Petitioner returned to private practice with his father and brother. (Reinstatement Questionnaire - Part 1, Ex. RQI-A; N.T. 26).

6. In and around 2012, Petitioner's law firm entered into a transition period due to the loss of certain government-related work which in the past had been secured by virtue of the family's political contacts. (N.T. 27).

7. At or around the same time, in September 2012, Petitioner was getting divorced from his wife which further caused his law practice and his personal finances to suffer. (N.T. 27).

8. Ultimately, Petitioner's law practice with his father and brother dissolved, and he went into solo practice. (N.T. 27).

9. At the time of the events which led to Petitioner's disbarment, Petitioner testified that he did not have the appropriate "infrastructure" in place for a law practice, such as a staff, a secretary, or a paralegal. His law practice's operating bank account was overdrawn and he did not have an IOLTA account. (N.T. 30-35).

10. In May 2019, Petitioner accepted a retainer in the amount of $50,000 to represent Parth S. Bhatia as his counsel in a criminal matter pending in Erie County (the "Bhatia Matter"). The retainer check was not deposited into a trust account associated with Petitioner's law practice but rather was deposited into his personal checking account which a mere two days earlier had a negative balance. (Recommendation of The Pennsylvania Disciplinary Board, Findings of Fact 8-24, Ex. RQI-G).

11. Petitioner used some of the retainer funds in the Bhatia Matter for his own personal expenses, including the purchase of a boat and the payment of other personal

expenses. (Recommendation of The Pennsylvania Disciplinary Board, Findings of Fact 24-47, Ex. RQI-G).

12. Mr. Bhatia ultimately terminated Petitioner's representation in his criminal matter, but Petitioner was unable to return the balance of his unused retainer. Mr. Bhatia ultimately filed a claim with the Pennsylvania Lawyer's Fund for Client Security which awarded him $39,188.50. (Recommendation of The Pennsylvania Disciplinary Board, Findings of Fact 33 54, Ex. RQI-G).

13. In or around March 2019, J. David Eubank retained Petitioner to represent him in an employment dispute (the "Eubank Matter"). Mr. Eubank paid Petitioner a $10,000 retainer in April 2019. The retainer was not deposited into a trust account associated with Petitioner's law practice but rather was deposited into his personal checking account. (Recommendation of The Pennsylvania Disciplinary Board, Findings of Fact 57-60, Ex. RQI-G).

14. Petitioner's personal checking account consistently ran a deficiency and was below the amount of entrusted funds for Mr. Eubank. (Recommendation of The Pennsylvania Disciplinary Board, Finding of Fact 61, Ex. RQI-G).

15. Although by May 2019 Petitioner had properly earned $9,006.25 of the original $10,000.00 retainer, he was unable to refund the balance owed to Eubank until October 2019. Petitioner was able to give the refund of $1,000 to Mr. Eubank only after he sold the boat he had purchased with Mr. Bhatia's retainer funds. (Recommendation of The Pennsylvania Disciplinary Board, Findings of Fact 63-64, Ex. RQI-G).

16. On March 28, 2019, Brittan Mentley Abbey engaged Petitioner to represent her in a divorce and related custody matters (the "Abbey Matter"). Petitioner informed

her that he would represent her for $3,500. Ms. Abbey provided Petitioner with an initial retainer of $1,750 which was not deposited into a trust account associated with his law firm. Rather it was deposited into his personal checking account. (Recommendation of The Pennsylvania Disciplinary Board, Findings of Fact 65-68, Ex. RQI-G).

17. In addition, Ms. Abbey's prior counsel for the same divorce matter issued Petitioner a check in the amount of $785.45 for the remainder of the retainer paid to him by Ms. Abbey. Petitioner deposited that check into his personal checking account. (Recommendation of The Pennsylvania Disciplinary Board, Findings of Fact 69-73, Ex. RQI-G).

18. As a result of Petitioner's conduct in the Barthia Matter, the Eubank Matter, and the Abbey Matter, he was suspended from the practice of law for a period of three (3) years by the Pennsylvania Supreme Court on July 21, 2021. (Order of Suspension from the Supreme Court of Pennsylvania, Ex. RQI-F).

19. Accordingly, Petitioner was eligible for reinstatement as of July 21, 2024. *Id.*

20. After his suspension, Petitioner found work with a metal fabrication company, Innovative Metals, sweeping floors, grinding aluminum, and loading and unloading products. He ultimately started working more in the office. (N.T. 47-48).

21. At or around this time, Petitioner reconnected with his Catholic faith and began attending mass on a daily basis. (N.T. 51-52).

22. In the summer of 2022, Petitioner began working as a permanent substitute teacher for the Erie School District where he taught various classes from kindergarten

through twelfth grade. (N.T. 49). Thereafter, he worked at Intermediate Unit No. 5 where he worked with students who had been removed from their homes. (N.T. 50).

23. Petitioner next began working with RGS Products -- a manufacturer of aluminum and stainless-steel railings (N.T. 50-51).

24. Since his suspension, Petitioner has volunteered with Lawyers Concerned for Lawyers ("LCL") in an effort to aid other lawyers who might be having mental health issues arising out of the practice of law. (N.T. 56-57).

25. Since June 20024, Petitioner has received 75 hours in CLE credits - 35 of which were ethics credits. He therefore has exceeded the number of CLE credits required for reinstatement. (N.T. 59; Continuing Legal Education Transcript, Ex. RQI-D).

26. Since his suspension, Petitioner has made efforts to gain control of his personal finances (N.T. 63).

27. Respondent ultimately made full restitution to the Pennsylvania Lawyer's Fund for Client Security relating to the Bhatia Matter. (Recommendation of The Pennsylvania Disciplinary Board, Findings of Fact 55, Ex. RQI-G; Letter from Pennsylvania Lawyers Fund for Client Security, Ex. RQI-E).

28. Respondent paid Mr. Eubank the remainder of the unused retainer he owed him and therefore he has been made whole. (Recommendation of The Pennsylvania Disciplinary Board, Findings of Fact 64, Ex. RQI-G; N.T. 39).

29. Petitioner personally contacted Ms. Abbey and Mr. Eubank to apologize to them for his behavior. (N.T. 40-41; Petitioner's Personal Statement, Ex. RQI-).

30. Mr. Eubank wrote a letter on behalf of Petitioner in connection with his Petition for Reinstatement expressing his appreciation of Petitioner's efforts on his behalf

and signed his letter as “[a] very happy client.” (Letter from Complainant David Eubank, Ex. RQI-X).

31. At or around the death of Petitioner’s mother in early-2023, after seeing many of members of the local bar at her funeral, Petitioner first began to think about the possibility of seeking readmittance to the bar and restarting his legal practice but dismissed the idea because he believed he was not ready to return. (N.T. 53-55; Petitioner’s Personal Statement, Ex. RQI-L).

32. Petitioner began working on the paperwork for the reinstatement process in 2024 and then began working for his father’s law practice in a clerical capacity in March 2025. (N.T. 54-56; Petitioner’s Personal Statement, Ex. RQI-L; Notice of Engagement-Attorney Charles D. Agresti, Ex. RQI-V).

33. Petitioner filed his Petition for Reinstatement on September 25, 2025.

34. Petitioner credibly acknowledges that his misconduct was a “source of embarrassment and ridicule to [the] profession” and served to “erode the public’s trust in the attorney client relationship.” (Petitioner’s Personal Statement, Ex. RQI-L).

35. Petitioner further credibly acknowledged that he was “solely responsible for the consequences” of his actions. (Petitioner’s Personal Statement, Ex. RQI-L).

36. Petitioner’s primary care physician credibly reports that Petitioner does not suffer from any addictive behaviors with alcohol, drugs, or gambling and that he is mentally healthy. (Letter from Primary Physician David C. Hutzel, M.D., Ex RQI-Y).

37. Petitioner presented the credible testimony of seven (7) character witnesses in support for his Petition for Reinstatement. The witnesses were as follows:

a. Bradley Whitman: Mr. Whitman is the Executive Director of the Northwest Tri-Community Intermediate Unit and is both a personal and professional acquaintance of Petitioner. He credibly testified that Petitioner was professional and respectful in his nearly one (1) year of employment with the Intermediate Unit. He believes Petitioner is a "trustworthy person" and an "honest person," and that the disciplinary process has made him "more responsible." (N.T. 81-86).

b. W. John Knox, III, Esquire: Mr. Knox is a practicing attorney in Erie, Pennsylvania, who was licensed in 1996. He has known Petitioner since they were both newly admitted lawyers. He believes Petitioner's "contrition is genuine," and specifically noted Petitioner's volunteer work and recommitment to his faith. (N.T. 87-93).

c. John Carlson, Esquire: Mr. Carlson is a practicing attorney in Erie, Pennsylvania, who was admitted to the bar in 1995 and who met Petitioner in the late-1990's when Petitioner worked at the Erie County District Attorney's Office. He credibly testified that Petitioner is "humble and contrite" regarding his actions and that he "is not the same guy he once was." (N.T. 104-111).

d. James B. Toohey, Esquire: Mr. Toohey is a 26-year practitioner who has known Petitioner since their youth. They became reacquainted more recently when Petitioner was working for a client of Mr. Toohey's law firm and through their children who played on the same high school soccer team. He credibly testified that Petitioner "has a hunger to get

things right" and he would have no reservations referring matters to Petitioner if he were to be reinstated. (N.T. 113-120).

e. Bill Weichler, Esquire: Mr. Weichler is a practicing attorney in Erie County, Pennsylvania, who was admitted to the bar in 1986. He has interacted with Petitioner 4-6 times per month over the last 6 years. Mr. Weichler credibly testified that Petitioner has been "humbled," has "voiced and demonstrated extreme remorse," and has "committed to improving himself personally." (N.T. 121-127).

f. Benjamin Gerring: Mr. Gerring was Petitioner's employer starting in the Fall of 2023. He hired Petitioner to work in his human resources department where Petitioner "conducted himself with integrity" and was an excellent "team builder." Mr. Gerring further credibly testified he saw a "real honest and true humility" in Petitioner. (N.T. 129-136).

g. Zanita Zacks-Gabriel, Esquire: Ms. Zacks-Gabriel is a lawyer in Erie, Pennsylvania who has been practicing since 1974 who met Petitioner through professional interactions. She credibly testified that Petitioner "is a good man who made a really stupid and bad decision." She further testified that she would "wholeheartedly recommend reinstatement" for Petitioner.

V. CONCLUSIONS OF LAW

1. Petitioner 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. *Pa.R.D:E. 218(c)(3).*

2. Petitioner 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. *Pa.R.D:E. 218(c)(3).*

VI. DISCUSSION

A reinstatement proceeding is "a searching inquiry into a lawyer's present professional and moral fitness to resume the practice of law" and "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 sanctions were 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, 785-786 (Pa. 1976). After reviewing the record, Petitioner's brief, and ODC's letter, the Committee unanimously recommends that Petitioner be reinstated to the bar of the Commonwealth.

Here, Petitioner's misconduct involved failing to safeguard the retainer funds deposited into his care by three separate clients totaling approximately $46,722. *See* Report and Recommendation of the Disciplinary Board dated May 21, 2021, at 22 (Petitioner's Ex. RQI-G). Petitioner failed to maintain a required IOLTA account and comingled the entrusted funds with his own personal funds. *Id.* at 22-24. He further used some of those entrusted retainer funds for his own personal expenses, such as a boat. *Id.* at 9.

A suspended attorney has the "burden of demonstrating by clear and convincing evidence that such person has the moral qualifications, competency and learning in law

required for admission to practice law in this Commonwealth and that the 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).* The suspended attorney must come to terms with their suspension and demonstrate not only that he understands the nature of his wrongdoing, but that "he is not predisposed to commit future ethical infractions." *Costigan*, 664 A.2d. at 520.

Here, Petitioner has demonstrated rehabilitation, remorse, and fitness to resume practice. Petitioner has sincerely accepted responsibility for his misconduct by making restitution where appropriate and apologizing to the victims of his misconduct. He has also sincerely and credibly acknowledged that responsibility for his misconduct, and its consequences, was his and his alone.

Since his suspension, Petitioner has demonstrated significant rehabilitation efforts through gainful employment in the Erie community, a renewed commitment to his Catholic faith, and volunteer efforts with Lawyers Concerned for Lawyers seeking to help other lawyers who are undergoing difficult times. He has also clearly demonstrated his commitment to maintaining legal knowledge and competency by earning a total of 75 hours of Continuing Legal Education (CLE), including 35 ethics credits, since June 2024.

In further support of his reinstatement, Petitioner has presented credible character evidence demonstrating his moral qualifications and fitness to resume the practice of law. Each of the character witnesses called by Petitioner credibly testified to the fact that he is person of good moral character who made a bad mistake -- a mistake that he acknowledges, understands, and regrets. Moreover, each of the five lawyers who were called as a character witness - all members of the local Erie County bar -- credibly testified

that they would have no hesitation referring legal matters to Petitioner for handling in the event he was to be reinstated.

Since Petitioner's suspension, he has actively engaged in meaningful rehabilitation to mitigate the detrimental effects of his misconduct on the public trust. At present, over five years have passed since the imposition of Petitioner's 3-year suspension. During that period, Petitioner has refrained from any further misconduct, contributed to society through gainful employment, including employment as a teacher, reconnected with his faith, and engaged in valuable volunteer work seeking to assist other lawyers facing personal and professional difficulties.

Successful petitioners show evidence of rehabilitation based on the entirety of their time on disbarment or suspension, not just during certain periods. The Court has found the following to be elements of rehabilitation: expressing genuine remorse and accepting responsibility for the underlying conduct; engaging in continuous employment in a competent manner either of a law-related or non-legal nature, addressing and remedying underlying issues that led to the misconduct, getting financial affairs in order; meeting family obligations, engaging in community service or charitable endeavors, seeking professional treatment when necessary; strong character testimony. *See In the Matter of Joshua Lawrence Gayl*, No. 79 DB 2016, (D.BD. Rpt. 9/19/2022 (S. Ct. Order 10/25/2022); *In the matter of John Anthony Costalas*, No. 217 DB 2015 (D. Bd. Rpt. 4/28/2022) (S. Ct. Order 6/10/2022); *In the Matter of Dawn A. Segal*, No. 195 DB 2018 (D. Bd. Rpt. 11/10/2020) (S. Ct. Order 12/16/2020); *In the Matter of Lisa Reo Jenkins*, No. 81 DB 2006 (D. Bd. Rpt. 11/4/2015) (S. Ct. Order 12/10/2015).

In conclusion, Petitioner has met his burden for reinstatement by clear and convincing evidence. He has demonstrated he has the moral qualifications, competency and learning in the law required for admission to practice law in the Commonwealth of Pennsylvania. This Committee finds that Petitioner's reinstatement would not be detrimental to the integrity and standing of the bar or the administration of justice nor subversive to the public interest.

VII. RECOMMENDATION

The Hearing Committee recommends that the Petition for Reinstatement be granted.

Respectfully submitted,

/s/ *Ryan D. Very*
Ryan D. Very, Esq., Chair

/s/ *Richard W. Kelly*
Richard W. Kelly, Esq., Member

/s/ *Christopher W. Cahillane*
Christopher W. Cahillane, Esq., Member

Date: July 30, 2026