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October 15, 2024

FILED ELECTRONICALLY
Marcee D. Sloan, Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 5600
P.O. Box 62625
Harrisburg, PA 17106-2625

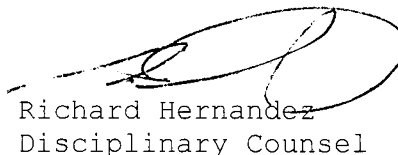
RE: ***In the Matter of J. Michael Farrell***
Petition for Reinstatement
No. 2362 Disciplinary Docket No. 3
No. 34 DB 2017
Attorney Registration No. 33803
(Philadelphia)

Dear Ms. Sloan:

Attached for filing with the Disciplinary Board is Brief of Office of Disciplinary Counsel Opposing Petitioner's Brief on Exceptions.

Under cover of a copy of this letter, additional copies of the Brief are being served by email and First-Class Mail on the participants.

Very truly yours,



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Attachment
cc: Michael T. Scott, Esquire, Hearing Committee Chair
Patrice Smith O'Brien, Esquire, Hearing Committee Member
Patrick Joseph Cosgrove, Esquire, Hearing Committee Member
Kimberly M. Henderson, Special Counsel to Hearing Committee
Thomas J. Farrell, Chief Disciplinary Counsel
(via Email and First-Class Mail)
J. Michael Farrell, Petitioner

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

IN THE MATTER OF	:	2362 Disc. Dkt. No. 3
J. MICHAEL FARRELL	:	No. 34 DB 2017
	:	Atty. Reg. No. 33803
PETITION FOR REINSTATEMENT	:	(Philadelphia)

BRIEF OF OFFICE OF DISCIPLINARY COUNSEL OPPOSING PETITIONER'S EXCEPTIONS TO THE REPORT AND RECOMMENDATION OF THE HEARING COMMITTEE

OFFICE OF DISCIPLINARY COUNSEL

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I hereby certify that I have this day served by email and first class mail the within document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code Section 89.22.

October 15, 2024

Richard Hernandez
Counsel for Office of Disciplinary Counsel

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METHOD OF CITATION

Numbers and letters in parentheses indicate documents and location as follows:

COL___ refers to a Conclusion of Law in the Report and Recommendation of the Hearing Committee;

FOF___ refers to a numbered Finding of Fact in the Report and Recommendation of the Hearing Committee;

N.T.___ indicates a page or pages of notes of testimony of the November 16, 2023 hearing;

N.T.II___ indicates a page or pages of notes of testimony of the February 21, 2024 hearing;

N.T.III___ indicates a page or pages of notes of testimony of the February 22, 2024 hearing;

ODC-___ represents a (numbered) ODC Exhibit;

P-___ represents a (numbered) Petitioner's Exhibit;

PBOE___ indicates a page or pages from Petitioner's Brief on Exceptions; and

Rpt.___ indicates a page or pages of the Report and Recommendation of the Hearing Committee.

I. STATEMENT OF THE CASE

This matter is before the Disciplinary Board ("Board") on the Report and Recommendation of the Hearing Committee filed on August 19, 2024 ("Report").

The Hearing Committee ("Committee") offered three reasons for recommending the denial of Petitioner's Petition for Reinstatement ("Petition"):

- "an insufficient period of time has passed since the Petitioner resigned and was disbarred on consent from the Bar of the Commonwealth of Pennsylvania";
- "Petitioner failed to demonstrate genuine remorse for his misconduct throughout the hearing"; and
- "Petitioner's lack of thoroughness and candidness with regard to his Questionnaire and Supplemental Answers raises questions concerning his competence to practice law." (Rpt. 19, 33)

The Committee considered whether Petitioner had overcome either of the two tests under the "second prong" of ***Office of Disciplinary Counsel v. Keller***, 506 A.2d 872 (Pa. 1986). *See* ***In the Matter of Perrone***, 777 A.2d 413, 416 (Pa. 2001); (Rpt. 20-21).

After examining several reinstatement cases involving application of the first test (an objective test that focuses solely on Petitioner's misconduct; Rpt. 20), the Committee determined that based on Petitioner having "committed serious crimes that showed a flaunting of the rule of law and the ethical rules that all attorneys must abide by," reinstating Petitioner "at this time would have a detrimental effect upon the integrity and standing of the bar and would subvert the public interest" (*citing* ***Perrone***, 777 A.2d at 416) and would "damage public trust in the legal system." (Rpt. 24-25)

Petitioner's five-year episode of "serious" criminal conduct consisted of Petitioner: acting as the lawyer to Matt Nicka ("Nicka") and Nicka's multi-state, multi-million-dollar marijuana drug organization ("Nicka Organization"); participating in a conspiracy to commit money laundering of drug proceeds; engaging in specific acts of laundering drug money by using those funds to pay for legal representation of Nicka Organization members and to provide funds to those members; concealing his money laundering by falsifying his law firm's financial records or by failing to create client records for cash deposits; impeding a Drug Enforcement Administration ("DEA") forfeiture proceeding by submitting to DEA a fraudulent affidavit on

behalf of a drug dealer; and tampering with a witness by advising a drug dealer to withhold relevant information from federal law enforcement authorities. (FOF 7-15; Rpt. 4-6)

Although the Committee determined Petitioner failed to overcome the first test of the second prong of ***Keller*** (thereby mandating denial of the Petition), the Committee turned to the second test, which required Petitioner to prove he has engaged in a quantitative period of qualitative rehabilitation during his disbarment.[1] (Rpt. 20-21) The Committee's analysis of the evidence bearing on whether Petitioner has shown qualitative rehabilitation was also relevant in determining whether Petitioner met the reinstatement standard set forth in Pennsylvania Rule of Disciplinary Enforcement ("Rule") 218(c)(3). (Rpt. 25-32)

With respect to both issues, the Committee concluded that Petitioner failed to present clear and convincing evidence establishing he has engaged in qualitative rehabilitation and he has satisfied the Rule 218(c)(3) standard. (Rpt. 17, 19, 29)

The Committee's conclusions were based on Petitioner:

---

[1] Petitioner had been disbarred for almost seven years as measured from the dates he was temporarily suspended to the conclusion of the reinstatement hearing. (ODC-3; Rpt. 2, 21)

1. offering testimony at the reinstatement hearing contradicting factual findings made by the United States Court of Appeals for the Fourth Circuit ("the Fourth Circuit") as to the nature and scope of Petitioner's misconduct, which testimony served to minimize his criminal conduct;
2. failing to satisfy his post-disbarment ethical obligations by failing to promptly distribute fiduciary funds belonging to former Pennsylvania and New Jersey clients, commingling those fiduciary funds with funds belonging to him and his wife, failing to remit fiduciary funds belonging to unlocatable Pennsylvania clients to the Pennsylvania IOLTA Board, working as a paralegal for over two years when Petitioner's lawyer-supervisor, Donald Pak, Esquire, held only a New Jersey law license, and engaging in law-related activities for Patrick Duffy, Esquire, an attorney with whom he had been in a partnership prior to Petitioner's disbarment; and
3. providing inaccurate information and making omissions on Reinstatement Questionnaires filed in July 2022 ("the

2022 Questionnaire") and February 2023 ("the 2023 Questionnaire"). (FOF 22-41; Rpt. 7-13, 25-31)

On September 26, 2024, Petitioner filed Petitioner's Brief on Exceptions to the Report and Recommendation of the Hearing Committee ("Petitioner's brief").[2] Petitioner claims the Committee erred in recommending denial of the Petition because:

- the taint of Petitioner's misconduct was dissipated by the "qualitative and meaningful" rehabilitation he engaged in while disbarred;
- the testimony of Petitioner and his character witnesses showed that Petitioner was genuinely remorseful and accepted responsibility for his criminal conduct;
- he corrected any "inaccuracies" in the 2022 Questionnaire and the 2023 Questionnaire, and those "inaccuracies" were "inadvertent, minor, and immaterial";
- he made "mistakes" with respect to his post-disbarment ethical obligations that were "adequately addressed through supplemental filings and testimony," he did not

[2] Petitioner's former counsel requested, and received, a twenty-day extension of the deadline for filing a brief on exceptions. Thereafter, at Petitioner's request, the word limit for briefs was extended from 6,000 words to 10,000 words.

"convert" any fiduciary funds, he escheated those fiduciary funds when he could not locate his clients, and he "was in technical violation of the rules" by working for Mr. Duffy, but he did not conceal his employment with either Mr. Duffy or Mr. Pak; and

- the evidence he presented, including his testimony and that of his witnesses, proved that he met the Rule 218(c)(3) standard. (PBOE 3-10)

Office of Disciplinary Counsel ("ODC") submits this brief opposing exceptions pursuant to D.Bd. Rules § 89.201(d).

II. SUMMARY OF ODC'S BASIC POSITION

The Committee properly determined Petitioner failed to overcome the "second prong" of the ***Keller*** threshold test on two grounds.

First, the Committee found Petitioner's present resumption of the practice of law would be detrimental to the courts, the legal profession, and the public. Central to this finding was Petitioner's criminal conduct underlying his disbarment—which consisted of serving as the "consigliere," "fixer," and "adviser" to Nicka and the Nicka Organization; laundering of drug proceeds; falsifying of financial records and failing to create records of cash proceeds to conceal his money laundering activities; submitting a fraudulent affidavit in a DEA forfeiture proceeding; and counseling a drug dealer to lie to federal authorities.

Second, the Committee found Petitioner has not proven he engaged in qualitative rehabilitation while disbarred. The Committee's determination rested on evidence showing Petitioner: minimized his criminal conduct; violated multiple ethics rules while disbarred due to his failure to properly handle fiduciary funds belonging to former clients, to notify five federal jurisdictions of his

disbarment, to ensure his paralegal employment was supervised by a Pennsylvania-licensed attorney, and to refrain from working for an attorney he was associated with prior to his disbarment; and provided inaccurate information on reinstatement paperwork filed in 2022 and 2023.

The evidence establishing Petitioner's lack of qualitative rehabilitation also proved he failed to demonstrate the moral qualifications and competence required under Rule 218(c)(3). If Petitioner failed to satisfy his burden of proof with respect to moral qualifications and competency, then his resumption of the practice of law would necessarily be detrimental to the integrity and standing of the Bar or the administration of justice and subversive of the public interest.

Precedent shows Petitioner's character evidence cannot substitute for his failure to express genuine remorse; therefore, the Committee did not err in determining that Petitioner's testimony minimizing his criminal conduct reflected negatively on his rehabilitative efforts and moral qualifications.

Petitioner's claim that his errors and omissions on reinstatement paperwork were unintentional is irrelevant because his

state of mind has no bearing on the Committee's competency finding. Precedent refutes Petitioner's contention that his errors and omissions were not material in the Committee's assessment of Petitioner's bid to be reinstated.

Petitioner's belated efforts to address his post-disbarment ethical obligations in no way erases his failure to comply with six ethical provisions while disbarred, and precedent supports the Committee's consideration of those circumstances in arriving at its recommendation to deny reinstatement.

III. ARGUMENT

A. THE COMMITTEE CORRECTLY CONCLUDED AN INSUFFICIENT PERIOD OF TIME HAS ELAPSED TO DISSIPATE THE TAINT OF PETITIONER'S EGREGIOUS CRIMINAL CONDUCT.

Based on Petitioner's status as a disbarred attorney, the Committee noted a preliminary issue was whether his misconduct was so egregious as to preclude further reconsideration of the petition for reinstatement, which is often referred to as the "first prong" of the ***Keller*** threshold test for reinstatement from disbarment. *See* ***Keller***, 506 A.2d at 975; ***In the Matter of Verlin,*** 731 A.2d 600, 601 (Pa. 1999); (Rpt. 18). The Committee did not find that Petitioner's criminal conduct was so egregious as to forever bar his reinstatement.

The Committee next addressed the "second prong" of ***Keller***, which inquires whether a disbarred attorney has proven that the "current resumption" of the practice of law would not be detrimental to the profession, the courts, or the public. ***Perrone***, 777 A.2d at 416. This analysis is composed of two separate and distinct tests. (Rpt. 20) The first test is objective in that the focus is on the disbarred attorney's "transgressions" and consideration of whether reinstating

the disbarred attorney after being disbarred for the period up through seeking reinstatement would "'adversely affect the public's perception of the legal profession.'" (Rpt. 20, *citing* ***In the Matter of Greenberg***, 749 A.2d 434, 437 (Pa. 2000)). The second test asks whether a sufficient period of time has elapsed since a petitioner's misconduct during which he engaged in qualitative rehabilitation. (Rpt. 20, *citing* ***In the Matter of Mark Allan Kovler***, No. 172 DB 2002 (D.Bd. Rpt. 5/15/2009, p. 9)(S. Ct. Order 7/24/2009)); *accord* **Perrone**, 777 A.2d at 416.

Precedent and Petitioner's criminal conduct support the Committee's conclusion that application of the first test of the second prong of ***Keller*** warranted denial of the Petition because an insufficient amount of time has passed (seven years) to dissipate the detrimental impact of Petitioner's criminal conduct on the public trust. (Rpt. 24-25)

The Committee surveyed three cases that resulted in our Court denying reinstatement based solely on the rationale that an insufficient period of time had elapsed to dissipate the taint of the initial breach. (Rpt. 22-25) Those cases were ***Perrone***, ***Greenberg***, and ***In the Matter of Milton E. Raiford***, No. 50 DB 1994 (D.Bd. Rpt.

12/7/2001)(S.Ct. Order 1/31/2002). The Committee's analysis of these cases revealed that if the underlying misconduct resulting in disbarment is egregious, long-standing, and severely damages the image of the legal profession, reinstatement will be denied regardless of the rehabilitative efforts undertaken if an insufficient amount of time has passed to dissipate the taint of the misconduct. (Rpt. 22-25) Perrone, Greenberg, and Raiford had been disbarred from close to eight years or more when they were initially denied reinstatement; eventually, each was reinstated after being disbarred for 13 or more years. *See* ***In the Matter of Perrone ("Perrone II")***, 899 A.2d 1108 (Pa. 2006)(Perrone reinstated 13 years later); ***In the Matter of Lawrence D. Greenberg (Greenberg II)***, No. 93 DB 1990 (D.Bd. Rpt. 5/11/2007)(S.Ct. Order 6/18/2007)(Greenberg reinstated 17 years later); ***In the Matter of Milton E. Raiford ("Raiford II")***, No. 50 DB 1994 (D.Bd. Rpt. 2/16/2010)(S.Ct. Order 4/16/2010)(Raiford reinstated 16 years later).

The duration and enormity of Petitioner's criminal conduct justifies the Committee's determination that "[p]ermitting Petitioner's readmission to the bar after only seven years would damage public trust in the legal system." (Rpt. 25) The Fourth Circuit determined

that from 2009 through 2013, while Petitioner served as the "consigliere," "fixer," and "adviser" to Nicka and the Nicka Organization, Petitioner:

- received thousands of dollars in cash that he knew were generated from the illegal drug trafficking activities of the Nicka Organization for Petitioner's use in paying for legal representation for the Nicka Organization members;
- laundered drug proceeds by paying for lawyers to represent multiple members of the Nicka Organization (Joseph Spain, Amy Mitchell, Adam Constantinides, Jacob Harryman, Michael Phillips, and Ryan Forman) who were subpoenaed to appear for a federal grand jury investigation and by paying for money orders that were deposited into the commissary account for Phillips;
- directed Forman to lie to federal agents in a proffer interview by only telling the agents what they already knew;

- advised Harryman not to disclose to the DEA that an expensive watch was from a drug dealer;
- submitted a fraudulent affidavit to the DEA on behalf of Harryman, thereby impeding a DEA forfeiture proceeding;
- threatened Harryman by telling Harryman if he did not conform to the collapsed defense strategy, "someone" would visit him;
- requested Forman give Petitioner a $10,000 check in return for $10,000 in cash from Petitioner so that Petitioner's records showed Forman had paid Petitioner; and
- falsified his law firm's financial records and failed to create client records for cash deposits in order to conceal his laundering of drug proceeds. (FOF 7-13, 15-16, 18-20; ODC-1, pp. 8, 12-25, 36, 38-39, 49; ODC-7, Ex. B and C.; Bates Nos. ODC-000009, 000013-000026, 000037, 000039-000040, 000050, 000145-170; Rpt. 4-7)

The Fourth Circuit concluded the "evidence proved that Farrell was intimately involved in the unlawful activity of Nicka and the Organization...." (ODC-1, p. 33; Bates No. ODC-000034) The recorded undercover conversations highlighted the depth of Petitioner's involvement, as Petitioner was caught stating he knew "everything" about the Nicka Organization, he was responsible for "protect[ing] the family, the group of us," and he was "at risk" of criminal liability. (FOF 13; ODC-1, p. 23; Bates No. ODC-000024; Rpt. 6)

In comparing Petitioner's matter to ***Perrone***, ***Greenberg***, and ***Raiford***, the Committee found several similarities necessitating a recommendation to deny Petitioner's reinstatement. As with Perrone, reinstating Petitioner "at this time would have a detrimental effect upon the integrity and standing of the bar and would subvert the public interest" because Petitioner "committed serious crimes that showed a flaunting of the rule of law and the ethical rules that all attorneys must abide by." (Rpt. 24) Like Greenberg, Petitioner's criminal conduct "would not have been discovered but for the 'diligence' of federal authorities in uncovering Petitioner's crime." (Rpt. 25) Both Petitioner and Raiford engaged in criminal conduct

that obstructed justice, which showed an "'egregious disregard for the integrity of the judicial system.'" (Rpt. 25; *see* ***Raiford***, supra, at 8)

Although absent from the Report, the testimony of Petitioner's own character witnesses and news articles introduced by ODC left no doubt Petitioner's criminal conduct severely damaged the legal profession. Petitioner's character witnesses testified Petitioner's criminal conduct was either reprehensible, serious, or awful, and/or negatively impacted the public's perception of the legal profession. (N.T. 124, 132, 182, 207, 244, 262, 288, 309, 338; N.T.II 56, 122) Petitioner's indictment, conviction, and disbarment received extensive local media coverage, which contributed to the harm to the legal profession. (N.T. N.T. 87-88, 120, 149-150, 207, 240, 262, 288, 338; N.T. 33, 44-45, 113, 120; ODC-6, 10; Bates Nos. ODC-000113-000138, 000183-000185)

The grievous and disgraceful nature of Petitioner's criminal conduct, coupled with our Court's denial of reinstatement in ***Perrone***, ***Greenberg***, and ***Raiford***, prove the Committee rightly recommended the Petition be denied because such an outcome after only seven years of disbarment "would damage public trust in the legal system." (Rpt. 25)

B. PRECEDENT AND THE RECORD SHOW THE COMMITTEE PROPERLY DETERMINED PETITIONER FAILED TO PROVE HE HAS ENGAGED IN QUALITATIVE REHABILIATION.

Precedent and the record impelled the Committee to find Petitioner failed to demonstrate qualitative rehabilitation while disbarred because he minimized his criminal conduct and failed to exhibits sincere remorse, failed to comply with his post-disbarment ethical obligations, and made errors and omissions on the 2022 Questionnaire and the 2023 Questionnaire.[3]

1. *Minimizing Criminal Conduct.*

Our Court has previously denied reinstatement petitions when petitioners have offered testimony that minimized their misconduct because such testimony shows there has not been an acknowledgement of wrongdoing, which is necessary to demonstrate sincere remorse. In these circumstances, a disbarred attorney will be unable to show the qualitative rehabilitation necessary to resume the practice of law. *See*, *e.g.*, ***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)

[3] The Committee relied on these operative facts to also find Petitioner failed to meet the Rule 218(c)(3) standard with respect to competency and moral qualifications. (Rpt. 25, 29; *see* subheadings in Discussion section) In the Report, the Committee discussed how these facts reflected negatively on Petitioner's rehabilitative efforts. (Rpt. 27, 29)

(Staub "described his thefts merely as an example of 'bad choices'" on the Questionnaire and he had not "fully acknowledged that his actions harmed others and damaged the integrity of the legal system," which led to the Board's finding he "failed to express genuine remorse or apologize for his actions.");[4] ***In the Matter of William Jay Gregg*** No. 210 DB 2009, (D.Bd. Rpt. 12/5/2017, Finding of Fact 27 & pp. 6, 11)(S.Ct. Order 2/5/2018)(Gregg did not demonstrate genuine remorse for his financial misconduct because he "explained his misconduct as 'mistakes' and emphasized that he did not have a bookkeeper at the time.");[5] ***In the Matter of Howard J. Casper*** No. 44 DB 1992, (D.Bd. Rpt. 1/25/2007, pp. 16-17)(S.Ct. Order 4/20/2007)(Casper, *inter alia*, did not "fully recognize and acknowledge" his misconduct because Casper used "the word 'borrowed' to describe his misappropriation of client funds, and quite reluctantly admitted that injury occurred to clients by his actions"; the Board stated Casper's "ability to practice in the future will hinge on his willingness to be candid" to the Board and our Court); ***In the Matter***

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[4] Staub filed a second reinstatement petition and was reinstated. *See* ***In the Matter of Paul Joseph Staub, Jr.***, No. 36 DB 2010 (D.Bd. Rpt. 5/12/2023)(S.Ct. Order 8/10/2023).

[5] Gregg filed a second reinstatement petition and was reinstated. *See* ***In the Matter of William Jay Gregg*** No. 210 DB 2009, (D.Bd. Rpt. 11/2/2022)(S.Ct. Order 12/2/2022).

of Gail Fuller No. 55 DB 1993, (D.Bd. Rpt. 1/31/2003, p. 9)(S.Ct. Order 4/29/2003)(Fuller, *inter alia*, attempted to "minimize her criminal activity" and failed to "accept full responsibility for her own conduct"; the Board concluded Fuller had "not come to terms with her actions" and had "not demonstrated sincere remorse for them."); ***In the Matter of Anonymous (Valerie J. Glover),*** No. 141 DB 91, (D.Bd. Rpt. 5/21/1999, p. 11-13)(S.Ct. Order 7/23/1999)(Glover did not show remorse because she testified she believed her bribery conviction was due to entrapment and she provided a response to Question 20 on the Questionnaire that raised concerns about the government's conduct toward her; the Board also found she was "not totally forthright in her testimony" on several points related to the criminal scheme).[6]

The evidence of record, and the reasonable inferences therefrom, support the Committee's determination Petitioner minimized his criminal conduct because Petitioner's testimony "was filled with caveats, explanations, and excuses for his behavior...."[7]

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[6] Glover filed a second reinstatement petition and was reinstated. *See* ***In the Matter of Anonymous (Valerie J. Glover),*** No. 141 DB 91, (D.Bd. Rpt. 12/19/2001)(S.Ct. Order 2/20/2002).

[7] Petitioner believes the Committee used the fact he appealed his conviction as support for its determination that he has not shown qualitative rehabilitation and argues that was improper, citing to two federal cases and ***In the Matter of***

(Rpt. 29) Extensive specific findings concerning Petitioner's testimony, with citation to the record, substantiated this determination. (Rpt. 29-31) Petitioner's testimony shows Petitioner has not accepted full responsibility for his misconduct; consequently, he cannot demonstrate qualitative rehabilitation.

At the hearing Petitioner testified:

- he received information from Nicka and Sharpeta about Spain's grand jury testimony (Fourth Circuit stated Petitioner shared with Nicka and Sharpeta what Petitioner learned from Spain about Spain's grand jury testimony);
- he agreed to Forman's request to give Forman $10,000 in cash in return for Forman's $10,000 check (Fourth Circuit recounted Petitioner requested from Forman a $10,000 check and offered to give Forman $10,000 in cash so Petitioner "could show on the books" Petitioner had been paid);

Costigan, 664 A.2d 518 (Pa. 1995). (PBOE 10) Petitioner misread the Report because the Committee never raised any aspect of Petitioner's appeal of his conviction as a basis to recommend denial of his reinstatement petition. Moreover, Petitioner did not testify he was innocent.

- he did not create records making it appear Forman had made cash payments to Petitioner (Fourth Circuit observed in a footnote Petitioner's client transaction reports showed Forman paid Petitioner more than $20,000 in cash);
- he did not know the $200,000 in cash he received from Nicka were proceeds from a criminal activity (the Fourth Circuit concluded "the evidence proved beyond peradventure Farrell's actual subjective knowledge that he had received and distributed defense fund proceeds from the Nicka Organization's unlawful drug trafficking activities";
- he kept appropriate records whenever he used the $200,000 in drug proceeds (Fourth Circuit determined Petitioner "falsified" records related to "the defense funds he received");
- he did not direct Forman to lie to federal law enforcement authorities at a proffer session (Fourth Circuit found Petitioner instructed Forman "to lie to the federal agents."); and

- he had made "mistakes" in describing his criminal conduct (Fourth Circuit viewed Petitioner as knowingly engaging in multiple forms of criminal conduct in performing his roles as "consigliere" and "fixer.")(emphasis added to quotations from the Opinion and Petitioner's testimony)(N.T.II 232, 255, 260, 263; N.T.III 149-150, 178-181, 204-205, 257-258; ODC-1, pp. 12, 20-22, 36-39, 41, 49, fn. 19; Bates No. ODC-000013, 000021-000023, 000037-000040, 000042, 000050; Rpt. 29-31)

The Committee also remarked Petitioner's testimony exhibited casual indifference toward his criminal conduct and portrayed himself "in a noble and positive light that was at odds with the Fourth Circuit's perspective of Petitioner as someone who 'became "part of" the Nicka Organization itself, as its consigliere and fixer.'" (ODC-1, p. 36; Bates No. ODC 000037; Rpt. 31) The Committee supported its observations of Petitioner's testimony with the following examples:

a. he was "the first of equals in developing a team of lawyers to help these young people defend a grand jury investigation"; and

b. what he "did wrong is done all the time right by especially large law firms that have a criminal department and they get hired by a hospital who is under investigation for Medicare fraud or, you know, a defense contractor that's under investigation for fraud relative to billing." (N.T.II 232, 249-250; Rpt. 31)

The Committee made no mention of Petitioner's testimony that he was employing a collapsed defense strategy that would result in "everybody to ultimately plea" guilty. (N.T.III 170) This testimony represents another example of the positive spin Petitioner assigned to the actions he took on behalf of the Nicka Organization.

Although not identified by the Committee, Petitioner's present-day faulty analysis as to the permissible use he could have made of the drug proceeds under a hypothetical set of facts bolsters the case Petitioner has not engaged in qualitative rehabilitation. Petitioner opined if he had properly documented his receipt of the drug proceeds from Nicka, he could have lawfully used those proceeds to pay for other lawyers to represent Nicka Organization members. (N.T.III 208-209) In ***United States v. Blair***, 661 F.3d 755 (4th Cir.

2011), Blair, an attorney, *inter alia*, challenged his conviction under 18 U.S.C. § 1957, which prohibits an individual from knowingly engaging in a monetary transaction with criminally derived property of a value greater than $10,000. *Id.* at 770-771. Blair used drug proceeds to purchase two cashier's checks for $10,000 each, which he then used to obtain counsel for two individuals who were involved in a marijuana distribution ring in Virginia. *Id.* at 759, 771. Blair contended the use of drug money for the payment of counsel fees fell within the safe harbor provision of § 1957(f)(1), which exempts a "'transaction necessary to preserve a person's right to representation as guaranteed by the sixth amendment to the Constitution.'" *Id.* at 771. The Fourth Circuit rejected Blair's argument, concluding, based on the language of the statute and prior opinions issued by the United States Supreme Court interpreting the Sixth Amendment, Blair's knowing use of someone's else's drug proceeds to pay for counsel for others fell outside the safe harbor provision of § 1957(f)(1). *Id.* at 771-772. Petitioner's testimony and ***Blair*** illustrate that even today, Petitioner does not know the ethical boundaries pertaining to an attorney's use of drug proceeds.

In short, Petitioner's testimony establishes Petitioner's unwillingness to acknowledge the full scope, nature, and gravity of his criminal conduct, which led the Committee to conclude he had not demonstrated qualitative rehabilitation.

Petitioner contends the Committee erred in concluding he has not shown qualitative rehabilitation by discounting the testimony of Petitioner's character witnesses and his wife about his remorse. The Committee had two valid and unassailable reasons for not finding Petitioner's expressions of remorse sincere despite the testimony of Petitioner's character witnesses.

First, as discussed above, Petitioner offered testimony minimizing his criminal conduct, which undermined Petitioner's expressions of remorse. The Committee relied on two reinstatement cases (Rpt. 31) for the proposition testimony from Petitioner's witnesses could "only serve to bolster a genuine statement of regret and admission of wrongdoing," but it could not "serve to create such remorse when the petitioner himself has not expressed it in a meaningful way." ***Staub,*** *supra*, at 16; ***In the Matter of Michael Radbill*** No. 113 DB 2004, (D.Bd. Rpt. 1/8/2019, p. 22)(S.Ct. Order 3/13/2019). The holdings in ***Staub*** and ***Radbill*** make sense: the best

and direct evidence of a petitioner's acceptance of responsibility and remorse is sworn testimony from a petitioner before a Hearing Committee as opposed to testimony from a character witness who readily accepts an expression of remorse at face value. Petitioner's former counsel recognized the import of Petitioner's testimony when he told the Committee that Petitioner could "have a thousand character witnesses," but if Petitioner "flops on the witness stand or says things he shouldn't say, the case is over." (N.T.II 79) ***Staub*** and ***Radbill*** vouch for Petitioner's former counsel's statement to the Committee.

Second, the Committee noted most of the witnesses had minimal contact with Petitioner after his release from prison, which resulted in the Committee not placing significant emphasis on their testimony. (Rpt. 32) Of the 15 witnesses who testified for Petitioner (excluding Petitioner's wife and Patrick Duffy, Esquire, Petitioner's first cousin once removed), the Committee explicitly found 9 of the 15 witnesses had minimal contacts with Petitioner.[8] Of the remaining six witnesses identified by the Committee, two witnesses, along with

[8] The witnesses were Brian McGonagle, Esquire; Bradley Bridge, Esquire; Stephen Lacheen, Esquire; Thomas Brophy, Esquire; Felicia Sarner, Esquire; Michael Campbell, Esquire; Nicholas Pinto, Esquire; Richard T. Bobbe, III, Esquire; and David Rudovsky, Esquire. (Rpt. 13-17)

Petitioner, have attended spiritual group meetings held every other week,[9] another witness met several times with Petitioner while he was incarcerated due to a professional matter he was handling for Petitioner's family but had limited contact with Petitioner thereafter,[10] and a fourth witness only testified about Petitioner's employment relationship with the witness.[11] A fifth witness, Donald W. Pak. Esquire, an immigration attorney, mainly testified about Petitioner's work as a paralegal. (Rpt. 17)

The sixth witness, the Honorable Gregory M. Sleet, a retired federal judge, had fairly regular contact with Petitioner while Petitioner was imprisoned and following Petitioner's release from prison. (Rpt. 15) The Committee deemed Judge Sleet's testimony "more meaningful" than the other character witnesses because he had consistent contact with Petitioner. (Rpt. 32, fn.2) Judge Sleet testified that over time, Petitioner came to accept responsibility for Petitioner's criminal conduct and learned there were ethical limitations in the representation of a criminal defendant. (Rpt. 15)

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[9] These witnesses were William Ricci, Esquire (N.T. 190-191) and Father George Bur. (N.T. 190-191; N.T.II 29-30; Rpt. 14, 16) Neither Mr. Ricci nor Father Bur had any conversations with Petitioner about his criminal conduct.

[10] This was Francis Burns, III, Esquire. (N.T. 322; Rpt. 16) Mr. Burns did not have any conversations with Petitioner about his criminal conduct. (N.T. 317, 336-337)

[11] Henry W. Schober, Esquire. (N.T.II 85-86; Rpt. 16)

The Committee correctly assessed that Judge Sleet's testimony demonstrated "that an insufficient period of time has passed to allow the Petitioner readmission to the bar." (Rpt. 32, fn.2)

Although not raised by the Committee, bias is an obvious and legitimate concern with the testimony of Petitioner's spouse and Petitioner's relative, Mr. Duffy, which circumstance requires the Board to assign little weight to their respective testimony.

Petitioner referred to a case in which the Board found a disbarred attorney's character evidence "confirm[ed] Petitioner's current positive reputation and underscore[d] the support he enjoys as he seeks reinstatement." ***In the Matter of Grahame P. Richards, Jr.*** No. 43 DB 1996 (D.Bd. Rpt. 8/23/2016, pp. 9-10)(S.Ct. Order 9/21/2016)(PBOE 9). ***Richards*** is easily distinguishable from Petitioner's matter because, unlike Petitioner, Richards did not minimize his criminal conduct and he exhibited genuine remorse. D.Bd. Rpt. 6, 9. ***Richards*** reinforces the notion that Petitioner's character evidence, standing alone, cannot neutralize and overcome the inadequacies in Petitioner's testimony.

2. *<u>Non-Compliance with Post-Disbarment Obligations.</u>*

Two reinstatement cases cited by the Committee demonstrate that our Court and the Board will deny reinstatement when a suspended or disbarred attorney has failed to comply with post-disbarment ethical obligations. *See* ***In the Matter of Craig B. Sokolow***, No. 83 DB 2018 (D.Bd. Rpt. 8/2/2023, p. 22)(S.Ct. Order 9/28/2023)(Board found Sokolow's failure to comply with his post-suspension obligations under Pa.R.D.E. 217, combined with other conduct, exemplified "the antithesis of rehabilitative efforts" and showed a lack of fitness "to resume the practice of law." *Accord*, ***Gregg,*** *supra*, at 10 (Gregg had failed to close two escrow accounts and was continuing to use his PNC IOLTA account for ten months after he was disbarred).

The Committee correctly found "Petitioner's testimony revealed that he was either lax or uninformed about his post-disbarment ethical obligations," and his testimony, coupled with his conduct, established the "inadequacies in Petitioner's rehabilitative efforts." (FOF 27-33; Rpt. 9-11, 27)

Petitioner does not contest that while disbarred, he violated **<u>six</u>** subsections of Rule 217 and RPC 1.15.

Petitioner failed to comply Rule 217(d)(3)(iii), RPC 1.15(b), and RPC 1.15(v)(1)(this ethics rule only applied to funds held in Petitioner's Pennsylvania IOLTA account on behalf of five former Pennsylvania clients) by not promptly acting to distribute fiduciary funds he was holding on behalf of eight former Pennsylvania and New Jersey clients following his disbarment,[12] by not undertaking "reasonable efforts" to locate his former Pennsylvania clients, by commingling fiduciary funds with funds belonging to him and his wife in a saving account with USAA Federal Savings Bank ("the USAA account"), by failing to ensure that the balance in the USAA account never fell below the amount of funds he owed to his eight former clients,[13] and by escheating to Pennsylvania the funds belonging to unlocatable Pennsylvania clients instead of remitting the funds to the IOLTA Board. (FOF 22; N.T.II 264-269, 273-274, 213-230; ODC-49-59; Bates Nos. ODC-000487-000557; Rpt. 7-9)

Petitioner violated Rule 217(j)(1) by working as a paralegal for Mr. Pak for over two years when Mr. Pak was not a licensed

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[12] The former Pennsylvania clients were James Wright, Joseph Sprigg, Oleg Semine, Stephanie Schulz, and Antonio Ricci; the former New Jersey clients were Irene Lee, Donald Berry, and Clifford Bailey. (ODC-50; Bates Nos. ODC-000503-510)

[13] Petitioner claims he did not "convert" the fiduciary funds he held on behalf of his former clients, but overlooks his failure to hold those funds inviolate at all times. (PBOE 4)

Pennsylvania attorney and Rule 217(j)(4)(i) by engaging in law-related activities for Mr. Duffy when Petitioner was in a partnership with Mr. Duffy before he was disbarred. (FOF 22-26; N.T.II 181-182, 184, 188-192, 276-278; ODC-11-13; Bates Nos. ODC-000186-000195; P-2; Rpt. 9)

Lastly, Petitioner violated Rule 217(c)(3) by failing to notify the United States District Court for the District of New Jersey ("the NJ District Court"), the United States Court of Appeals for the Third Circuit ("the Third Circuit"), the United States Court of Appeals for the Eighth Circuit ("the Eighth Circuit'), the United States Court of Appeals for the Federal Circuit ("the Federal Circuit"), and the Supreme Court of the United States ("the Supreme Court") of his disbarment. (FOF 22; N.T.II 275; ODC-11; Bates Nos. ODC-000186-000188; P-10; Rpt. 8-9)

Precedent dictates the Board must reject Petitioner's contention that his non-compliance with six different ethical provisions while disbarred were "mistakes" that he "adequately addressed" through "supplemental filings and testimony." (PBOE 4) ***Sokolow*** and ***Gregg*** show that Petitioner's non-compliance with his post-disbarment ethical obligations are material and weighty circumstances in

assessing his rehabilitative efforts. ***Sokolow*** and ***Gregg*** align with our Court's opinion in ***Philadelphia Newspapers, Inc. and Anthony Lame v. The Disciplinary Board of the Supreme Court of Pennsylvania***, 363 A.2d 779 (Pa. 1976), which is instructive on the areas of inquiry at a reinstatement hearing:

> 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, <u>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.</u> Prior to the hearing a lawyer seeking reinstatement (hereinafter respondent) must complete a reinstatement questionnaire which calls for a detailed account of respondent's financial and personal dealings during the period of his suspension or disbarment. Respondent's activities during this period are the subject of an extensive investigation by the Board. <u>At the hearing respondent's rehabilitative effort is fully explored.</u> As well as presenting a case in his own behalf, respondent is required to answer all allegations of improprieties raised by the counsel for the Board. *Id.* at 780-781. (emphasis added)

Petitioner's lack of success in promptly attending to his post-disbarment ethical obligations is certainly germane in assessing his rehabilitative efforts and cannot be disregarded merely because at some juncture, Petitioner decided to address those obligations. Moreover, the Board should give little credit to any affirmative actions taken by Petitioner to comply with his post-disbarment ethical obligations (notifying the five federal jurisdictions of his disbarment, ceasing his law-related activities for Mr. Duffy, and finally addressing the fiduciary funds he maintained on behalf of eight former clients) because ODC's investigation and inquiry triggered Petitioner's actions.

Petitioner identified a case where the Board recommended reinstatement of a disbarred attorney who failed to comply with several subsections of Rule 217. ***In re Anonymous (George P. Micacchione),*** Nos. 4 & 35 DB 1979, 5 Pa. D.&C. 4th 557 (1989)(PBOE 9-10) Micacchione failed to comply with Rule 217 by failing to file a verified statement of compliance within ten days, to send written notice to a client of his immediate suspension, to promptly return the client's file, and to maintain records showing he properly notified his clients of his immediate suspension. 5 Pa.

D.&C.4th at 562, 563-564, 566-567. The Board determined Micacchione had substantially complied with Rule 217 by notifying his clients, albeit late, of his immediate suspension even though he had not filed a verified statement of compliance and the paperwork to substantiate his compliance. *Id.* at 576-577. The Board also excused Micacchione's failure to notify one client of his immediate suspension because the client was aware of his suspension. *Id.*

For two reasons, ***Micacchione*** has no bearing on the Committee's assessment that Petitioner's non-compliance with his post-disbarment ethical obligations demonstrated a lack of qualitative rehabilitation. First, Petitioner's non-compliance with his post-disbarment ethical obligations exceeded, by far, Micacchione's non-compliance. To recap, Petitioner failed to promptly disburse fiduciary funds he was holding for eight former clients, commingled those fiduciary funds with funds belonging to him and his wife, failed to hold those fiduciary funds inviolate at all times, escheated a portion of those fiduciary funds to Pennsylvania rather than the IOLTA Board, engaged in prohibited law-related activities while working for Mr. Duffy, had his paralegal work supervised by Mr. Pak when Mr. Pak was only licensed to practice law in New Jersey, and failed to notify

five federal jurisdictions of his disbarment. Second, ***Micacchione*** is unreliable precedent because today the failure to file a verified statement of compliance will delay the commencement of a suspended or disbarred attorney's waiting period for eligibility to apply for reinstatement. *See* Rule 217(e)(3) and Rule 218(b). This change to the Enforcement Rule, in tandem with ***Sokolow*** and ***Gregg***, show our Court and this Board treat non-compliance with Rule 217 as serious and consequential for reinstatement purposes.

3. *Errors and Omissions on Reinstatement Paperwork.*

The Committee identified two reinstatement cases involving disbarred attorneys where errors and omissions on reinstatement paperwork were raised by the Board as among several reasons for finding the absence of qualitative rehabilitation. (Rpt. 28); ***Staub,*** *supra*, at 15, 17 ("The errors and omissions on Petitioner's Reinstatement Questionnaire bolster our conclusion that Petitioner is not fully prepared for readmission to the practice of law."); ***In the Matter of John J. Mogck, III***, No. 78 DB 1992 (D.Bd. Rpt. 6/22/2004, pp. 8-9)(S.Ct. Order 9/28/2004)(Questionnaire contained errors and omissions regarding restitution, Mogck's work history, and his IRS liability; these "errors and omissions show carelessness and an

inattention to detail that is bewildering for an individual interested in resuming his professional licensure.").

The record supported the Committee's finding Petitioner's carelessness resulted in errors and omissions on the 2022 Questionnaire and the 2023 Questionnaire. (FOF 34-35, 37-39; Rpt. 11-12) Petitioner does not specifically challenge these factual findings.

In total, Petitioner omitted eight lawsuits (among the eight were a landlord-tenant matter and four federal cases) in which he appeared as a party on the 2022 Questionnaire. (FOF 35; Rpt. 11) Petitioner explained the omissions by testifying: the search for civil cases was limited to state court matters in which he appeared as a defendant; he relied on "an assistant" in responding to Question 12(a); and the "search was inadequate." (FOF 36; Rpt. 11-12) Petitioner's explanation underscores he was sloppy in reviewing Question 12(a) (which did not restrict the identification of civil cases to state court matters only or to the status of party-defendant) and in verifying the search results generated by an assistant fully addressed that question.

On both the 2022 Questionnaire and the 2023 Questionnaire, Part II, Petitioner incorrectly answered "No" to Question 5(d) and failed to list three debts that were 90 days past due: a gas service judgment and fines owed in two New Jersey traffic violation cases. (FOF 37-38; Rpt. 12) On being questioned about his incorrect answer to Question 5(d) on the 2023 Questionnaire <u>after ODC had previously inquired about the accuracy of his answer to that same question on the 2022 Questionnaire</u>, Petitioner appeared to attribute the error to an assistant "he relied upon" and admitted he "was wrong." (FOF 39-40; Rpt. 12) Naturally, Petitioner's explanation led the Committee to conclude that Petitioner lacks the fitness to resume the practice of law because he cannot be depended upon either to properly supervise an assistant doing work on his behalf or to independently act with the care and precision expected of a lawyer.

Petitioner argues the inaccuracies on the 2022 Questionnaire and the 2023 Questionnaire do not warrant denial of his reinstatement petition because he did not act deliberately (PBOE 3); however, Petitioner's state of mind is irrelevant for purposes of evaluating Petitioner's competency and is not a basis for finding that the Committee erred.

Precedent refutes Petitioner's contention that errors and omissions on the 2022 Questionnaire and the 2023 Questionnaire are "minor" and "immaterial." (PBOE 3) The Board has previously addressed the importance of the reinstatement questionnaire in a case involving a suspended attorney. See ***In the Matter of Ronald I. Kaplan***, No. 39 DB 2005 (D.Bd. Rpt. 4/22/2009)(S.Ct. Order 7/24/2009)(reinstatement denied). In ***Kaplan***, the Board said the following:

> Petitioner omitted information on his Reinstatement Questionnaire. The Questionnaire is a lengthy document which requests detailed information regarding Petitioner's history and activities. In its totality, it provides information to Office of Disciplinary Counsel and the Board critical to the determination of Petitioner's fitness. D.Bd. Rpt. 11. (emphasis added)

The record and precedent disprove Petitioner's claim that it would be "unfair" to deny him reinstatement based on his errors and omissions on the 2022 Questionnaire and the 2023 Questionnaire. (PBOE 9-10) Petitioner relies on ***In the Matter of Jonathan M. Levin***, No. 108 DB 2001 (D.Bd. Rpt. 1/3/2011)(S.Ct. Order 4/15/2011), a case in which a suspended attorney was reinstated despite inaccurate answers on a Questionnaire. The Board

determined Levin fully explained the discrepancies on his Questionnaire and had shown he was "morally qualified by his genuine remorse and rehabilitation." D.Bd. Rpt. 8-9. By contrast, the Committee found Petitioner exhibited "carelessness" in completing the 2022 Questionnaire and the 2023 Questionnaire, provided "unsatisfactory explanations for these errors and omissions," and failed to establish he was rehabilitated, morally qualified, and remorseful. (FOF 34, 39-41; Rpt. 19, 28-29, 32) In ***Kaplan***, the Board found Kaplan lacked the requisite competence to resume the practice of law because he failed to adequately explain the discrepancies on his Questionnaire. ***Kaplan***, supra, at 13; *see also* ***Fuller***, *supra*, at 9-10; ***Mogck***, supra, at 8; ***In re Anonymous (W. Ken Duffy)*** No. 22 DB 77, 8 Pa. D.&C.4th 288, 294 (1990).

Petitioner compared his reinstatement proceeding to ***In the Matter of Robert Eric Hall***, No. 171 DB 2006 (D.Bd. Rpt. 2/19/2015, p. 11)(S.Ct. Order 3/17/2015), wherein the Board recommended reinstating Hall after determining the record "demonstrates that the period of disbarment has been qualitative and meaningful to [Hall's] rehabilitation and has dissipated the impact of the original misconduct on the public's trust." (PBOE 8) Hall was disbarred on consent for his

guilty plea to homicide by vehicle, driving under the influence, and other criminal offenses; he served six years in prison. D.Bd. Rpt. 2, 4. Hall had an alcohol problem and received extensive inpatient and outpatient for his condition. D.Bd. Rpt. 4-5. However, ***Hall*** is distinguishable from Petitioner's reinstatement matter because unlike Petitioner, Hall did not: minimize his criminal conduct resulting in his disbarment; fail to express genuine remorse; fail to comply with his post-disbarment ethical obligations; and have errors and omissions on his reinstatement paperwork. Another noteworthy distinction bearing on qualitative rehabilitation are the two years of volunteer activities Hall had with organizations involved with alcohol rehabilitation by the time of his reinstatement hearing (D.Bd. Rpt. 6), whereas Petitioner had approximately two months of volunteer activities with Joseph House and sporadic volunteer activities with his parish when his reinstatement hearing was held. (N.T.II 296-300)

For the foregoing reasons, the Committee correctly determined Petitioner has not shown by clear and convincing evidence he has engaged in a period of qualitative rehabilitation. ***Mogck***, supra, at 9 ("All of these factors combined produce a record insufficient to support a finding that Petitioner has been rehabilitated and is fit to

practice law at this time.").

C. THE RECORD SUPPORTS THE COMMITTEE'S FINDING PETITIONER FAILED TO PROVE BY CLEAR AND CONVINCING EVIDENCE HE HAS MET HIS BURDEN OF PROOF UNDER Pa.R.D.E. 218(c)(3).

Determining whether Petitioner is currently fit to resume the practice of law requires consideration of the four criteria for reinstatement identified in Rule 218(c)(3): 1) moral qualifications; 2) competency; 3) learning in the law; and 4) whether the resumption of the practice of law within the Commonwealth will be neither detrimental to the integrity and standing of the Bar or the administration of justice nor subversive of the public interest.

The constellation of facts identified in Section B, *supra*, drove the Committee to conclude Petitioner has not shown by clear and convincing evidence he has the requisite competency and moral qualifications to resume the practice of law. (COL 1; Rpt. 17) The aforementioned conclusion logically led the Committee to conclude that Petitioner's resumption of the practice of law would be detrimental to the integrity and standing of the Bar or the administration of justice and subversive of the public interest. (COL 2; Rpt. 17)

The Committee's conclusion regarding Petitioner's failure to meet the competency standard was rooted in:

- the sloppy manner in which Petitioner handled fiduciary funds he was required to disburse to eight former clients, resulting in Petitioner's years-long delay in addressing the matter, commingling of those fiduciary funds with his and his wife's funds in the USAA account, and violations of several subsections of Rule 217 and RPC 1.15;
- the incorrect interpretation of Rule 217(j)(4)(i) by Petitioner, leading to his improper employment with Mr. Duffy;
- the testimony offered by Petitioner that his paralegal employment with Mr. Pak complied with Rule 217 when Petitioner's employment violated subsection 217(j)(1) because Mr. Pak was not a Pennsylvania lawyer for roughly the first two years of Petitioner's paralegal employment; and
- the errors and omissions he made on the 2022 Questionnaire and the 2023 Questionnaire. (Rpt. 25-28)

The Committee's conclusion Petitioner failed to satisfy the moral qualifications requirement was grounded in Petitioner's testimony minimizing his criminal conduct. (Rpt. 29-32) ODC submits that Petitioner's violation of several subsections of Rule 217 and RPC 1.15 with respect to his handling of funds belonging to former clients also bears on Petitioner's moral qualifications because those ethical transgressions show a casual indifference toward his ethical obligations.

In sum, Petitioner has not shown the Committee erred in determining Petitioner failed to present clear and convincing evidence he has met the Rule 218(c) (3) standard.

IV. CONCLUSION

ODC respectfully requests the Board reject Petitioner's exceptions, adopt the Committee's Report, and recommend to our Court the Petition for Reinstatement be denied.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

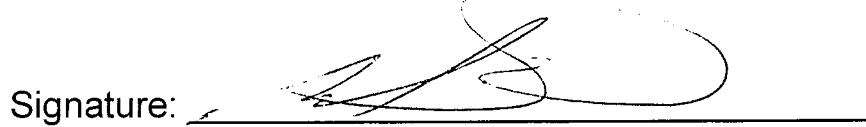
Thomas J. Farrell
Chief Disciplinary Counsel

By____________________________
Richard Hernandez
Disciplinary Counsel

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature: 

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