BEFORE THE DISCIPLIINARY BOARD OF THE

DISCIPLINARY BOARD OF PENNSYLVANIA

In the Matter of	**: No. 2362 Disciplinary Docket 3**
J. MICHAEL FARRELL	**: No. 34 DB 2017**
	: Attorney Registration No.
33803	**:**
	:
PETITION FOR REINSTATEMENT	**: (Philadelphia)**

ORAL ARGUMENT REQUESTED

BRIEF ON EXCEPTIONS TO THE

REPORT AND RECOMMENDATION OF THE HEARING COMMITTEE

I. SUMMARY OF THE CASE AND POSITION OF THE PETITIONER.

The History of this case is accurately and fully set forth in the Petitioner's Brief to the Hearing Committee in support of his Petition for Reinstatement to the practice of law and in the Opinion of the Hearing Panel. Petitioner did not and does not dispute being charged and convicted of serious offenses and has never disputed the facts giving rise to those charges or his conviction. He acknowledged serious wrongdoing resulting in disciplinary action and his voluntary consent to disbarment. Petitioner asserts that he has met the requirements for reinstatement. He completely addressed the concerns of the Disciplinary Counsel in filings, supplementation of filings, and testimony at hearings.

He demonstrated, by clear and convincing evidence, that he has the moral qualifications, competency[1] and learning in the law required for readmission to Pennsylvania Bar. He accepted responsibility fully and completely, completed his educational requirements, taken substantial steps focused on rehabilitation, engaged in charitable practices, continued in his spiritual and religious endeavors, experienced and expressed extreme remorse. His resumption of the practice of law would be neither detrimental to the integrity and standing of the Bar or the administration of justice, nor would that resumption be detrimental to or subversive of the public interest. Petitioner has clearly stated, shown through other witnesses, and assures the Board and the public that he will never again engage in the conduct or type of conduct upon which his charges, conviction and disbarment were based.

Petitioner is not a young man. He is 72 years old, a former Assistant Professor at the University of South Carolina School of Criminal Justice, a Pennsylvania Supreme Court certified Rule 801 Death Penalty Lecturer[2], and has been sufficiently punished for his actions. It has been 12 years since the misconduct occurred, 4 ½ years since he agreed to a disbarment[3], 7 years since his conviction, almost 6 years since Petitioner was sentenced to 42 months of incarceration, and 4 years since his release from custody. Petitioner has satisfied the requirements of his sentence including, but not limited to, supervised release and payment of all fines and costs, and has done so without any infractions.

[1] Based on the testimony of the numerous witnesses presented at the hearings, there can be no doubt as to the Petitioner's competency to practice law.
[2] See Exhibit P-21, Petitioner's complete pre-disbarment resume.
[3] Although the Petitioner's consent to disbarment was formalized on December 4, 2019, his disbarment by consent was made retroactive to March 18, 2017, making it over 7 ½ years since his disbarment.

Since his release, the Petitioner has engaged in significant volunteer work including caring for day guests and in the kitchen of the Joseph House feeding overnight guests every Thursday. He continues working with his parish and continues his Ignatian spiritual journey. Petitioner worked at a golf course upon his release. He continues his legal learning, works as a paralegal under the supervision of a licensed and experienced immigration attorney, and reads advance sheets. He sought assistance from professionals and continued treatment to improve and maintain his mental and physical health and maintains his sobriety of twenty years. He is a dedicated family man with seven children and many grandchildren. His current marriage is now going on forty-three years. The testimony of petitioner's wife, Sharon Farrell, as to petitioner's acknowledgment of wrongdoing and remorse, was completely ignored by the panel.

Petitioner first requested reinstatement in July of 2022. That petition was withdrawn, and a subsequent petition filed on February 14, 2023. While that petition contained inaccuracies, those inaccuracies have been cured through supplemental filings and the petitioner's testimony at the hearings held on November 16, 2023, February 21, 2024, and February 22, 2024. Any inaccuracies in the petition were inadvertent, minor, and immaterial to the petitioner's acceptance of responsibility, remorse, competence, morality, and should not result in any conclusion that his readmission would be detrimental to the profession, the courts, or the public. There is nothing in the filings, or the evidence presented at the hearings, which suggests that any of the mistakes were designed or intended to mislead the Board.

It is admitted that there were mistakes made by Petitioner since his release from custody which involved client money held in escrow, his work for an attorney, Patrick Duffy, his failure to give notice of his disbarment to all jurisdictions in which he had been admitted[4], working for an attorney who was not admitted to the practice of law in Pennsylvania,[5] failing to completely identify all of the cases in which he had appeared as a party, and failing to identify all of his debts. Those issues have been adequately addressed through supplemental filings and testimony.

On its face, the Hearing Panel's finding that the petitioner mishandled client funds post disbarment appears as a major problem. Petitioner testified, however, that he made many efforts to locate the clients for whom money was held in escrow, that his escrow account was involuntarily and immediately closed post conviction, and that the funds were ultimately, albeit mistakenly, escheated to the State of New Jersey and the Commonwealth of Pennsylvania instead of to the IOLTA Board. What is clear is that the petitioner did not convert any of the money to his own benefit, retained it for his clients, and when efforts to locate all clients remained unsuccessful, divested his accounts of those funds by escheating the money to the respective states.

[4] While it is true that the petitioner did not notify certain jurisdictions of his voluntary disbarment, he did notify **all** jurisdictions of his suspension, and has, as Disciplinary Counsel knows, corrected that error, and provided the required notification. Moreover, there is no allegation that the petitioner made any effort to conceal his disbarment or engage in the practice of law in the courts of any of those jurisdictions.

[5] Petitioner has been employed by Donald Pak, Esq. as a paralegal. Early on Mr. Pak was not licensed in Pennsylvania but was licensed in the State of New Jersey. Further, Mr. Pak's practice was, and is, in the Federal field of Immigration Law and petitioner's paralegal work has been limited to assisting in that practice. Mr. Pak has since been admitted to practice in Pennsylvania, and as an immigration attorney admitted in the federal system was, and is, authorized to practice law in every state regardless of the location of his office.

With respect to debts and obligations all have been satisfied. Until these matters were brought to the petitioner's attention, he was not even aware that they existed. The amounts owed to the City of Philadelphia for gas service were debts of a former tenant about which petitioner was never notified. Petitioner did a search to determine and identify the cases in which he had appeared as a party and disclosed to the Board all of the cases which had been identified. Any omission was unintentional and has been corrected.

While Petitioner's work for Patrick Duffy was in technical violation of the rules, that employment resulted from a misinterpretation of Perrone and was disclosed to the Board in Petitioner's filings as was his employment with Mr. Pak. The Board was advised, and there was no effort to hide the employment.

Petitioner overwhelmingly demonstrated genuine remorse to former colleagues, his family, his friends, and through his testimony to the Board. His genuine acceptance of responsibility and honest remorse was supported by extremely reputable and well-respected attorneys, friends, and people with whom Petitioner sought treatment and spiritual direction. It is the Petitioner's position that the Hearing Panel grossly undervalued his character witnesses. They included accomplished and respected attorneys with impeccable reputations and careers[6].

[6] His witnesses included, but were not limited to, The Honorable Greg Sleet (Former U.S. Attorney for Attorney, and Partner in McMonagle, Perri, McHugh, Mischak and Davis) and Bradley Bridge (40 year member of the Pennsylvania Bar, 4 year member of the Illinois Bar, and 40 year attorney with the Philadelphia Defender's Association), Felicia Sarner (40 year member of the Pennsylvania Bar, Trial Attorney with the Philadelphia Federal Defender and Supervising attorney of the Philadelphia Federal Defender trial division) and Thomas Brophy (Past President of the Philadelphia Bar Foundation, board member of the Montgomery County Bar Association, and President and CEO of Marshall Dennehey for 14 years) Petitioner's other witnesses were also long time practicing attorneys. Delaware and Chief Judge of the United States District Court for the District of Delaware); Father George

Petitioner's contacts with the witnesses presented was not "limited" or "minimal" as the panel has opined and there is not one of those witnesses who would have risked damaging their reputations by offering opinions as to the petitioner's acceptance of responsibility and remorse if those opinions were not true or if they had insufficient opportunity to form those opinions.

Petitioner has demonstrated that he possesses sufficient moral character for readmission. A careful review of the evidence, including the testimony of the petitioner and his witnesses provides clear and convincing evidence of his moral fitness to practice law in this Commonwealth.

The testimony of the petitioner's witnesses as well as his completion of all required educational classes provides the Board with clear and convincing evidence that the petitioner possesses that competency and learning in the law required for readmission. He is described as an excellent attorney with far above average abilities, skill, and knowledge.

Based on the record, the Board must determine that the petitioner has demonstrated, through his acceptance of responsibility, remorse, and rehabilitative actions since his disbarment, that his moral character is at a level necessary to regain admission. He has shown that he possesses the moral qualifications required for admission to practice in

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Bur (Catholic Priest and former President of St. Joseph's Preparatory School), Stephen LaCheen (A practicing attorney in the Commonwealth for 65 years 40 years of which was almost exclusively in the field of federal criminal defense), David Rudovsky (A 55 year practitioner, former First Assistant Philadelphia Public Defender, past President and current Board Member at the Philadelphia Defender's Association, author, renowned expert on Search and Seizure and Evidence, Professor at University of Pennsylvania Law School, MacArthur Award winner, and Disciplinary Board Panel member) Brian McMonagle (40 year practitioner in Philadelphia, former Philadelphia Assistant District

the Commonwealth of Pennsylvania. While his competency and learning in the law has never been in doubt[7], he has shown, through his efforts, testimony, and the testimony of his witnesses, that he possesses the competency and learning required to practice law in this Commonwealth.

Given the record evidence of the petitioner's acceptance of responsibility, his clear acknowledgement that his conduct was wrong, his honest assertion that he would never engage in such wrongful conduct in the future, the confidence of his character witnesses that he is remorseful, that he understands his errors and that fully accepts responsibility for his conduct, the petitioner has met his burden of showing that his resumption of the practice of law would be appropriate and not detrimental to the integrity, the standing of the bar, and the administration of justice. Nor would his readmission be subversive to the public interest.

II. GROUNDS ON WHICH THE EXCEPTIONS REST.

Pursuant to Rule 218, Pa.R.D.E., the petitioner carries the burden of showing, by clear and convincing evidence, that he possesses the moral qualifications, competency and learning in the law required for admission to practice and that his reinstatement will not be detrimental to the integrity and standing of the bar, the administration of justice nor subversive of the public interest. A reinstatement proceeding is focused on the lawyer's **present** professional and moral fitness to resume practice. While the

[7] See Hearing Exhibit P-21, Petitioner's resume.

seriousness of the original transgression[8] is a factor to be weighed, a major focus of the reinstatement process is the nature and extent of the rehabilitative efforts the petitioner has made since the time the sanction was imposed and the degree of success achieved in the rehabilitation process. Philadelphia Newspapers, Inc., v. Disciplinary Board, 468 Pa. 382; 363 A.2d. 779 (Pa. 1976). Where there has been a quantitative period of time since disbarment where the petitioner has participated in qualitative rehabilitation, reinstatement is appropriate. Office of Disciplinary Counsel v. Keller, 509 Pa. 573, 506 A.2d. 872 (Pa. 1986).

Where, as in this case, the petitioner voluntarily consented to disbarment, he has implicitly and expressly acknowledged that the material facts upon which the complaint and disbarment were and are true. Pa.R.D.E. 215. The primary function of the attorney disciplinary system is not punitive in nature. ODC v. Cappucino, 616 Pa. 439, 48 A. 3d 1231 (Pa. 2012). The Board is required to consider the quantity of time that has passed since disbarment and the petitioner's efforts at qualitative rehabilitation. In Re Verlin, 557 Pa. 47, 731 A.2d 600 (Pa. 1999). The only firm timetable set by the Supreme Court in reinstatement from disbarment proceedings is the five-year waiting period after disbarment. Pa.R.D.E. 218(b). Whether enough time has passed to permit readmission depends on the specific facts of each case. In Re Hall, 46 Pa. D&C 5th 353 (2015). Where, as here, the record demonstrates that the period of disbarment has been qualitative and meaningful to the petitioner's rehabilitation and has dissipated the impact of the original misconduct, reinstatement is proper. In

[8] While the petitioner has never taken the position that his wrongdoing was not serious (he acknowledges this) even the Hearing Panel did not opine or find that the misconduct was not so egregious or offensive as to permanently bar readmission.

Re Hall, supra. The Board must consider the **quantity** of **time** that has passed **since** Petitioner was disbarred and his efforts at a qualitative rehabilitation, to determine whether the detrimental impact of the misconduct on the public trust has dissipated. In re Verlin, 557 Pa. 47, 731 A.2d 600 (Pa. 1999)

Where the testimony and support of Petitioner's **character witnesses** are offered into evidence that testimony can confirm Petitioner's current positive reputation, remorse, and rehabilitation, and can underscore the support he enjoys as he seeks reinstatement. In re Richards, 2016 Pa. LEXIS 2089, 12. The quality of the character witnesses presented at a hearing on reinstatement is important in showing that the conduct resulting in disbarment was an aberration. In In Re Verlin, supra, fn 3, the court stated,

> The extensive character testimony provided on Verlin's behalf demonstrates the high regard and reputation that he enjoyed during the thirty-five years that he practiced law in the Philadelphia area. That Verlin had such a distinguished career and was held in such high esteem by his colleagues and the community at large suggests that the serious misconduct which resulted in his disbarment was an aberration. In re Verlin, 557 Pa. 47, 53

Errors, mistakes and omissions in the filings and questionnaires is not fatal to an attorney's readmission. Errors and omissions on a reinstatement questionnaire are not automatic bars to reinstatement where a petitioner testifies at a hearing and explains the discrepancies. Levin, supra. Where there is substantial compliance with the letter and spirit of the rules, readmission is proper. In Re Anonymous, 1989 Pa. LEXIS 531; 5 Pa. D. & C. 4th 557 (1989) To deny readmission based on inaccuracies, where, as

here, petitioner has made every to correct any honest inaccuracies, misstatements, or omissions through supplementation and testimony, would be unfair. In Levin, supra, the Court found that the petitioner “was not dishonest or deceitful in his inaccuracies, nor did he lack a good faith effort to supply the correct answers to the questions.” Levin, 289.

Contrary to the position of the hearing panel and Disciplinary Counsel, an appeal based on claims that the evidence was insufficient on which to base a conviction is not a challenge to the facts giving rise to the conviction or the truth of those facts. "A defendant who **challenges** the **sufficiency** of the **evidence** faces a heavy burden." *United States v. Small*, 944 F.3d 490, 499 (4th Cir. 2019) (internal quotation marks omitted). "Although we review **challenges** to the **sufficiency of evidence** de novo, our role is limited to considering whether there is substantial evidence, taking the view most favorable to the Government, to support the conviction." *United States v. Ziegler*, 1 F.4th 219, 232 (4th Cir. 2021). An appellant is acknowledging the facts as presented at trial and making a legal argument as to the sufficiency of those facts to support the specific charges. The Pennsylvania Supreme Court has recognized that continued assertions of innocence in the face of a final conviction does not constitute conclusive proof of lack of fitness or lack of the necessary moral character to permit reinstatement. See, In Re Costigan, 541 Pa. 459, 664 A.2d 518 (1995) (“We agree …that no person applying for reinstatement to the bar after disbarment should be compelled as a condition of reinstatement to confess to crimes that he does not believe he committed.”) Petitioner admits his guilt, acknowledges his wrongdoing, is remorseful and has accepted his responsibility. His

challenge to the legal sufficiency of the proven facts to support his conviction in an appeal as of right is not evidence of any failure to recognize that his conduct was criminal.

III. ARGUMENT.

A. PETITIONER HAS SHOWN BY CLEAR AND CONVINCING EVIDENCE THAT HE HAS THE MORAL QUALIFICATIONS, COMPETENCY AND LEARNING IN LAW REQUIRED FOR ADMISSION TO PRACTICE LAW IN THIS COMMONWEALTH.

Petitioner's conduct was admittedly serious. He acknowledged as much to his friends, family, colleagues and to the Board and Hearing Panel. Disciplinary Counsel has made no effort to present evidence to the contrary and did not, in any way, impeach the credibility or petitioner's character witnesses. The Panel failed to appreciate the quality of the petitioner's witnesses, the strength of their testimony, or that witnesses of their caliber would not risk their impeccable reputations if not firmly convinced that the petitioner has the moral qualifications, competency and learning in law required for readmission.

Petitioner is 72 years old. The question of whether sufficient time has passed since his criminal conduct for qualitative rehabilitation to have taken place must take that age into consideration. He has been married for 42 years. (N.T. 2-21-2024, p. 90) He has seven children one of whom was adopted from China. (Id, p. 90) He was married once before and continues to consider his former wife part of the family. He attended West Point for a year before transferring to the University of South Carolina, graduated in

1975, and went on to Georgetown Law School. (Id, pp.92-93) While in Law School the petitioner taught “Street Law” to high school students in the Washington, D.C. area as well as to prisoners in Lorton Prison. (Id, p. 94) Petitioner graduated from Georgetown in 1978. (Id, p. 96) He is a lifetime member of the National Association of Criminal Defense Lawyers. (Id, p. 225) That organization filed an Amicis Brief in petitioner’s appeal.

Petitioner was admitted to the D.C. Bar in 1979, the South Carolina Bar in 1979, and the Pennsylvania and New Jersey Bars in 1980. (Id, p. 96) Upon returning to Pennsylvania the petitioner was employed by the Philadelphia Defenders Association where he worked for two years as a trial lawyer. (N.T. 2-21-2024, p. 97-98) Petitioner was asked, by the former United States Attorney for Pennsylvania, to represent a death row inmate in South Carolina. That client was executed; forever impacting the petitioner’s life personally and professionally. Following the execution of Terry Roach, Petitioner left Brobyn and Forceno and started his own firm and committed to the representation of indigent defendants whom the State wished to execute. (Id, p. 100) As many trial lawyers experience, Petitioner developed a drinking problem. Petitioner submitted to inpatient rehabilitation and attended regular meetings of AA, and treated with a psychiatrist for 19 years. He continues that rehabilitation today. (Id, pp. 100-102, 220-221) He has remained completely sober since February 5, 2004.

Petitioner engaged in the practice of Federal Employers Liability Act litigation. (Id, 102-103) Petitioner began his own practice in January of 1986 in response to the execution of Terry Roach and, for a time, partnered with now retired Federal District Judge and former United States Attorney,

Gregory Sleet. (Id, pp. 103-104) Since entering practice the petitioner has tried hundreds of criminal cases to jury verdict including dozens of homicide cases, capital cases, and dozens of civil cases to verdict. (Id, P. 215) He practiced in 38 States trying cases in each. (Id, p. 216) He has argued dozens of cases in the Pennsylvania Superior Court and appeared and argued in dozens of cases in the Pennsylvania Supreme Court in appeals as of right and in petitioning for allocator in capital cases, post-conviction and appeals from trial convictions. (Id, p. 218)

The petitioner's criminal conduct resulted from his representation of an organization that sold marijuana at concerts and festivals. He was given, and accepted, $200,000.00, which he used to hire attorneys to represent organizational members charged around the country. (Id, pp. 230-232) He knew that the funds came from the sale of marijuana and failed to disclose the source of the money on required federal forms. Petitioner acknowledged that his thought process and reasoning for failing to comply with federal law was flawed. (Id, pp. 230-231) He further recognizes that with the knowledge, or willful blindness, as to the source of the funds, coupled with using those funds to pay other lawyers to represent the members, constituted financial transactions and thus money laundering. (Id, pp. 232-233)

Petitioner stated that he was "dead wrong" in his receipt of, and engagement in financial transactions with, the fruits of an illegal operation. (Id, p. 239) He also testified that it was wrong of him to tamper with an official proceeding by signing a client's name to a forfeiture form so that it would be considered timely. Petitioner testified, "And I was wrong. Shouldn't have done it." (Id, p. 241) The same is true with respect to the

charge of witness tampering in that the petitioner acknowledges he was wrong to advise a client not to tell the federal government the source of the witness's expensive watch, testifying that he was "completely wrong." Petitioner further stated, "I was enamored with a technicality, and I was just completely wrong." (Id, pp. 243-244) The challenge was to the excessive nature of the forfeiture and conceded that the watch was the fruit of the illegality.

Petitioner went to trial and was convicted. Accepting responsibility and engaging in a non-trial disposition of the charges would have required cooperation with the government against his clients and petitioner was not prepared to do that. (Id, p. 248) At sentencing he accepted responsibility for his misconduct. This is born out by the transcript of the sentencing hearing (Exhibit 3). (Id, pp. 244-246) Petitioner was sentenced to 42 months in federal prison and served 28 of those months in custody. (Id, p. 246)

While the petitioner did take an appeal as of right from his conviction and sentence, that appeal was taken, at least in part, because of a request made by the NACDL regarding the issues of attorney client privilege and the use of a wire to record the conversations between the petitioner and a cooperating witness. (Id, p. 247) He didn't argue about the truth of the evidence against him; only whether it was legally sufficient to support the elements of actual knowledge or willful blindness. (Id, p. 247) He agreed with the jury. (Id, p. 252). While the panel suggests that the petitioner's challenge to the sufficiency of the evidence and the question of willful blindness on appeal indicates a lack of acknowledgement of wrongdoing, both the NACDL and Judge Sleet questioned whether the petitioner's conduct was criminal. (11-16-24, p. 282-283)

Petitioner acknowledged putting his staff at risk with respect to the signing and notarization of that signature on a forfeiture form. He regretted doing that. (Id, pp.252-253) In response to counsel's question about whether the petitioner accepted full responsibility for his misconduct petitioner stated, "There's no question about that…I just made mistake after mistake, after --." (Id, p. 255) Petitioner agreed that the witness tampering charge was improper. He said, "But I was completely wrong. There's no question about that. I shouldn't, you know, I shouldn't have done it. Flat out, plain shouldn't have done it." (Id, p. 259) Mr. Farrell advised the panel that he would never again cross the line as he did. He wouldn't make the poor decisions, the mistakes, "…those incredibly bad and criminal decisions." (Id, p. 260) Moreover, petitioner consented to his initial suspension and to his disbarment. (Id, 260-261) He accepted responsibility and considered his actions "huge mistakes." (Id, p. 263)

Petitioner addressed his errors with respect to escrowed funds of clients. Upon conviction his escrow account was immediately and involuntarily closed by his bank, he made efforts to locate the clients to whom the funds belonged, was mostly unsuccessful, maintained the funds and then escheated the funds to the Commonwealth of Pennsylvania rather than to the IOLTA fund as required by rule.[9] (Id, pp. 264-271; N.T. 2-22-2024, 210-215) The funds were temporarily deposited into a savings account that was held jointly with petitioner's wife before being escheated. Petitioner recognized that this was a mistake, the "wrong thing to do." He explained, "I didn't have another account. But I could have, as I did later,

[9] It is important to note that the rule had been changed since the petitioner had last practiced law and that during much of this time banks were closed due to covid.

opened another account, and it would have been a personal account, but it would have been another account. You know, I was, at that point, lacked the ability to open an escrow account. So it would have been a personal account…My intention at all times was to ultimately escheat the money and to take another shot at finding people…" (Id, pp. 273-274) Petitioner admits that he should have been making efforts to reconcile his escrow account earlier in time and in additional ways. (N.T. 2-22-2024, pp. 220-221, 223-227)

Client funds were returned to those clients who could be found, and the entire balance escheated to New Jersey and the Commonwealth of Pennsylvania. No money was misused by the petitioner and no client owed money has filed a complaint against the petitioner. (Id, pp. 267-268, 271) Petitioner followed the rules as they were prior to his cessation of the practice of law. (Id, p.292) Petitioner acknowledged that he should have been making earlier and regular efforts to distribute client funds, was wrong to have placed the funds in a personal account, should have transferred the funds of Pennsylvania clients to the IOLTA fund instead of escheating to the Commonwealth of Pennsylvania, and was unable, as a disbarred lawyer, to open a new escrow account.[10]

Petitioner testified that when he was placed on interim suspension, he promptly notified the many jurisdictions in which he was admitted of his suspension. (Id, p. 274, 291) Mr. Farrell further testified that he initially failed to inform those jurisdictions of his disbarment, corrected that oversight on February 28, 2023, never practiced law in any of the

[10] During much of the time following petitioner's voluntary suspension, he was incarcerated, on home confinement, and the ability to conduct bank business was hampered by the covid pandemic.

jurisdictions to which he should have sent notices of his disbarment. (Id, p. 275)

Petitioner informed the Board in responses to his questionnaire, supplemented those responses, and testified about his employment with Patrick Duffy and Don Pak. The Board was notified through Marcee Sloan and Mr. Hernandez that petitioner was working as an independent contractor under the supervision of Patrick Duffy as a paralegal during the years 2020 and 2021. (Id, p. 276) Both Petitioner and Mr. Duffy, although completely transparent in notifying the Board, misunderstood the application of the rules and the Perrone case regarding working with an attorney with whom the disbarred attorney had previously been associated and the arrangement was terminated. Petitioner has accepted his responsibility for that error. (Id, p. 277)

On March 26, 2021, petitioner began his employment as a paralegal with Mr. Pak as a paralegal assisting in Mr. Pak's immigration practice. The Board was notified, in compliance with the rules regarding paralegals and disbarred status. Petitioner is paid a regular salary, continues to work for Mr. Pak, and would hope to continue in that employment and if reinstated. (Id, pp. 278-279) During this time petitioner has not appeared in court, has not provided legal advice, or held himself out as an attorney at any time since his disbarment, working exclusively on immigration cases. (Id, pp. 279-280)

Petitioner is current in all tax obligations, has no unpaid liens or judgments, and owes no money to anyone. (Id, pp. 282-283) In working with the Board through Mr. Hernandez, the petitioner has provided information, corrections, and amendments with respect to his taxes and

income resulting in his withdrawal of his first petition for reinstatement and the filing of the current petition after making necessary corrections. (Id, pp. 283-285)

While Petitioner's disclosures to the Board were initially deficient, there was always the intention of being transparent and complete. Some cases were either removed to Federal Court from State Court or remanded to State Court from Federal Court. In some instances, Petitioner only identified either the Federal or State case. The substance of the cases was disclosed. He mistakenly searched only for cases in which he was a defendant, but corrected those errors prior to the hearing. (Id, pp. 287-289, 293-294)

Some debts were inadvertently omitted from the petitioner's questionnaire. Debts to the Philadelphia Gas Works which resulted from his tenants failing to pay their gas bill were initially not reported. Petitioner resided in New Jersey and rented his Philadelphia property. Notices and correspondence from PGW were sent to the property address. Petitioner never received any of the notices and was unaware of the obligation until it was identified by Mr. Hernandez. Those obligations have been satisfied. (Id, pp. 289-290) Two unpaid traffic citations in New Jersey were satisfied as soon as petitioner learned of them. (Id, p. 291)

Petitioner owes no money to the client security fund and has taken all required legal education courses. (Id, pp. 295)

Real efforts at showing qualitative rehabilitation were made part of the record at the hearing and at Petitioner's criminal sentencing. Letters from character witnesses and transcripts of the testimony of petitioner's

character witnesses from his criminal trial were introduced, including a letter from Michael Tigar, Esq[11]. (Exhibits P-17 and P-18, Id, p. 295-296) Petitioner testified that he volunteers with charitable organizations. See, P-20, (Id, p. 296) He volunteers at Joseph's House, a ministry of the Joseph Fund. Petitioner had been a Board member, resigned after he was indicted, but has continued to volunteer at Joseph House; his service only interrupted by COVID and his House Arrest which prevented him from leaving his home. (Id, pp. 296-297) He has also been in the service of the Ignatian Volunteer Corps. Petitioner has yet to be placed in service. (Id, p. 297) He has returned to Joseph House running the kitchen for service of meals to the homeless on Thursday nights. Petitioner hopes to continue in that service for the remainder of his life. (Id, p. 298-299) As a member of St. Francis de Sales in West Philadelphia, the petitioner provides service in whatever way he can. He shovels snow, cleans leaves, decorates, and acts as a backup CCD teacher. (Id, p. 299-300) Petitioner engages in spiritual exercises of St. Ignatius, reading papal encyclicals and working to improve the ability of himself and fellow pilgrims to pray. (Id, p. 300-301)

Before his suspension and consensual disbarment, the petitioner's practice of law included approximately 30% pro bono work. He simply did not charge people for legal services they could not afford. (Id, p. 302)

Petitioner swore that he will never engage in any wrongdoing if readmitted. He has examined his conscience, recognizes his "intentional knowing decisions to violate the law" in the service of his clients, and admits that his actions were intentional and inexcusable. He testified clearly

[11] Michael Tigar is a renowned Criminal Defense Attorney, Author and Professor Emeritus at Duke Law School and American University as well as Acting Professor at UCLA and the Joseph D. Jamail Chair of Law at the University of Texas.

that he will never cross the line again. (Id, p. 302-305) Petitioner acknowledges causing pain to his family, his children, and his then and potentially future clients in addition to bringing pain and disgrace to the legal profession.

Petitioner's application for reinstatement is supported by numerous letters and the testimony of several well respected and prominent members of the community including at least ten attorneys. None of the attorneys offering letters of support or testifying at the hearing had any reservation in recommending the petitioner's reinstatement despite their characterization of the petitioner's conduct as reprehensible and egregious.[12]

Brian McMonagle has been practicing law for 40 years primarily in the field of criminal defense. He is a partner in the firm of McMonagle, Perri, McHugh, Mischak and Davis and represents the Fraternal Order of Police in Philadelphia. (N.T. 11-16-2023, p. 69) He has known the petitioner since 1985; their relationship is both friendly and professional. Mr. McMonagle has remained in contact with the petitioner since the time petitioner was charged. (Id, p. 70) He is familiar with the petitioner's criminal conduct as well as his disbarment. Mr. McMonagle has had conversations with many members of the legal community about the petitioner who know of the petitioner's criminal conviction and disbarment. In that community the petitioner continues to enjoy a reputation for being peaceful and law-abiding, despite his indictment and conviction. (Id, pp. 72-73) Mr.

[12] Disciplinary Counsel takes the position that the contacts between the petitioner and his character witnesses was minimal and limited. It is important to note that despite the petitioner's incarceration and house arrest and the outbreak of the Covid pandemic, these witnesses did converse with the petitioner, many had significant contact before the petitioner was incarcerated, some visited the petitioner in prison, many exchanged correspondence and some had phone contact with the petitioner. Despite what Disciplinary Counsel characterizes as minimal contact, each of the witnesses felt as though the petitioner had conveyed to them, and convinced them, that he was remorseful and accepted responsibility and that they had no hesitation to recommend petitioner's reinstatement.

McMonagle testified that the petitioner "…has genuine remorse," and that the petitioner has "…indicated to me how disappointed he is in himself, he let down his family, his community and our community, quite frankly, and I know he feels terrible about it. And he's promised me personally that he would right that wrong." (Id, p. 73, 89-91) Petitioner has accepted full responsibility for his criminal actions. (Id, p. 73) Mr. McMonagle testified that he has no hesitation in recommending that the petitioner be readmitted to the Pennsylvania Bar. (Id, p. 78)

It is Mr. McMonagle's opinion that the petitioner was an excellent attorney and a fierce competitor who cared deeply for his clients. According to Mr. McMonagle the petitioner always conducted himself with great professionalism and great passion. He testified, "I have always admired his work." (Id, p. 79)

Bradley Bridge has been practicing law for 44 years; 40 in the Commonwealth of Pennsylvania. He worked for the Philadelphia Defender for those 40 years, earning may rewards for his work in uncovering Philadelphia Police corruption and saving the lives of dozens of Pennsylvania Juveniles facing life imprisonment. He retired in September of 2023 although he continues to be active with the Defender's Association as a volunteer. (Id, pp. 101-102) He has known the petitioner for approximately 25 years. Mr. Bridge testified that the petitioner was competent and knowledgeable, and that petitioner was inquisitive and always wanted to learn and improve. (Id, p. 103) Mr. Bridge has maintained contact with the petitioner while he was in prison and subsequent to petitioner's release. (Id, p. 103-104) According to Mr. Bridge, the petitioner has accepted responsibility for his crimes. (Id, pp. 105-106) Petitioner has

"…accepted responsibility, he's expressed remorse, and most significantly, he's trying to make amends. (Id, p.107) Petitioner had and has an excellent reputation in the legal community. (Id, p.107-108) Mr. Bridge is aware that the petitioner has been involved in educating and working with lawyers. Mr. Bridge testified that he observed, "…in dealing with Michael today, remorse, regret, and acceptance of what he's done and, as a result of that, growth. I don't have any sort of hesitation in thinking that he's not going to go back that way. (Id, p. 112, 114-115, 116) Petitioner stated to Mr. Bridge that he was "extremely sorry" for what he did and wanted to make amends. (Id, p. 119) Mr. Bridge recognized an acceptance of responsibility and genuine remorse, as is apparent in Petitioner's testimony at his sentencing hearing. (Id, pp. 123-124, Exhibit P-3, P-17, 19)

Stephen LaCheen testified on behalf of the petitioner. Mr. LaCheen was 89 years old at the time he testified. He had been practicing law for 65 years and continued to practice until his recent death. (Id., 127) Mr. LaCheen had been, for many years, a prolific contributor to Philadelphia legal publications. He had known the petitioner for approximately 40 years. According to Mr. LaCheen, the petitioner was a "unique" attorney. Mr. LaCheen testified, "When I first saw him practice, I was astounded that somebody could perform the way he did. There was a level of aggressiveness without the meanness that is ordinarily associated with aggressiveness that I had not seen in other lawyers." Petitioner was observed to have "dedication to the cause and to the client." (Id., p.129)

Mr. LaCheen opined that the petitioner had expressed remorse. Petitioner called Mr. LaCheen and apologized for what he did and how his actions disrespected their relationship. Petitioner described what he had

done as a “betrayal of trust.” (Id., p.140) Mr. LaCheen testified that petitioner had expressed remorse by apologizing for what he had done, what he did to his family, and what he had done to the community of lawyers. Petitioner expressed that he had abused his privilege and in a way that Mr. LaCheen noted as an “experience I had never seen before.” (Id., 130-131) Petitioner went to Mr. LaCheen and acknowledge that he had a problem, what he had done, how he felt he was wrong and why it was wrong. Mr. LaCheen had no hesitation in recommending the petitioner’s reinstatement to the practice of law in this Commonwealth. (Id., 136-137,) It was Mr. LaCheen’s testimony that he recognized the petitioner’s remorse and acceptance of responsibility through telephone conversations and in petitioner’s writings. He testified, “I have seen what he has written and how devastated he has expressed himself…” (Id., 145) Petitioner never offered any excuse for his criminal conduct. (Id., 146)

Thomas Brophy has been a practicing attorney in this Commonwealth for 41 years. While now retired, he was Managing Partner of Marshall, Dennehy, Warner, Coleman & Goggin and was, for 14 years the firm’s president and CEO. (Id., 156) He was also president of the Philadelphia Bar Foundation and served on the Board of the Montgomery County Bar Foundation and has served as a Disciplinary Board hearing committed member (Id., 156-157, 166) Mr. Brophy has known the petitioner since they were in High School at St. Joseph’s Prep.

According to Mr. Brophy, the petitioner has accepted responsibility for his misconduct, has shown remorse and “feel very badly about it. (Id., 162) It was Mr. Brophy’s testimony that the petitioner enjoyed exceptionally good reputations as a “human being, as a citizen and also as a lawyer.” (Id., 162)

That reputation survived despite the known criminal conduct. Everybody, "both lawyers and non-lawyers" viewed the conduct described in the Fourth Circuit opinion as "aberrational and surprising." (Id., 163, 164) Petitioner's reputation remains very good. Mr. Brophy further testified that in his view the petitioner "…has already paid a really high price for this. His conduct was about ten years ago. He's been out of practice for a long time. He had a great reputation as a lawyer and as a citizen. He's taken a big beating on that." (Id., 164) Mr. Brophy viewed Mike Farrell as "very competent and very aggressive," and a very zealous advocate for his clients. (Id., 159)

William Ricci has been practicing law in the Commonwealth since 1978. He is a recognized leader in the insurance defense and product liability bar. He has known the petitioner since High School and their friendship has continued since that time. (Id., 187-188) He is a member of the same spirituality group as petitioner. The group continues to meet, and the petitioner remains an active participant. (Id., 190-191) the petitioner accepted responsibility and apologized to the group for his criminal conduct. According to Mr. Ricci, the petitioner was "extraordinarily remorseful," and filled with deep regret. (Id.,193, 199, 204, 205)

The petitioner still enjoys a good reputation as peaceful, law-abiding, and truthful. Petitioner has, according to Mr. Ricci, never attempted to justify his criminal conduct. (Id., 194-195) Petitioner has, in the words of Mr. Ricci, always expressed a desire to help people; those who can't help themselves, the underprivileged, death row inmates, and anyone who needed his assistance. (Id., 196-197, 206) Mr. Ricci stated that he would have no hesitation in recommending Mr. Farrell's reinstatement and would "stake my personal and professional reputation on my opinion and

recommendation about this man. What I have seen in this man throughout the course of his life, putting aside what went wrong, and there's no hiding from that, there's never been an instinct to, this is an incredibly good man." (Id., 197) Mr. Ricci testified,

> Mr. Farrell has accepted responsibility for, as he said, crossing the lines, doing the wrong thing as a member of the bar and a member of society. He's never said, in my presence or to anyone else, 'You know what, I may have been charged, but this is all BS.' Never come close to anything like that. The first time he ever discussed it was an apology, 'I certainly hope and regret any shame I have brought on any of you and those I care about.' (Id., 212)

Felicia Sarner, has been practicing law in the Commonwealth since 1983. Her father had been the Bar Exam lecturer for many generations of Pennsylvania lawyers. She was employed at the Federal Defender's Office as a trial attorney and, for 13 years, the supervisor of the Trial Unit (Id., 218) She testified that she has known the petitioner for most of her career. Ms. Sarner corresponded with the petitioner while he was serving his federal sentence, and they keep in touch. She knows of Mr. Farrell's criminal indictment, conviction, and the underlying facts. (Id., 220-221) Ms. Sarner has spoken to the petitioner about his misconduct and testified that Mr. Farrell has accepted responsibility for his actions and expressed heartfelt remorse. It is her opinion that the petitioner has come out of prison with his integrity and humbled. (Id., 223, 237) She described the petitioner as a "fantastic" litigator who fought hard for his clients. (Id., 224) Ms. Sarner had "no hesitation whatsoever," recommending the petitioner's reinstatement. (Id., 226) According to Ms. Sarner, among the people that

know the petitioner with whom she has discussed his current reputation, even given the petitioner's conduct, charge and conviction, the petitioner is held in high regard. (Id., 228-229) Mr. Farrell related that he clearly recognized that he owed a debt and was serving a sentence to repay that debt. (Id., 232) Ms. Sarner testified, "…he is deeply remorseful, I mean in a heartfelt way for the mistakes that he made, for the pain that he caused his family, for the shame he brought to himself, for the loss of his livelihood…" Ms. Sarner believed that going back to the practice of law would be the petitioner's avenue to make amends for his misdeeds. (Id., 243)

Michael Campbell also testified for the petitioner. Mr. Campbell has practiced law in the Commonwealth since 1977. He has been a professor at Villanova for 15 years, but has now retired from full time teaching, obtaining the title of Professor Emeritus. Mr. Campbell has known Mike Farrell since High School (Id., 247-248)

Petitioner has accepted responsibility for his actions in conversations with Mr. Campbell, and to a group at a Fat Tuesday Mass and reception. Petitioner did not defend his actions; he apologized. (Id., 250, 251) Mr. Campbell confirmed that the petitioner is a person with a good reputation as peaceful, law-abiding, truthful, and honest. (Id., 253)

The Honorable Gregory Sleet testified for the petitioner as a character witness. Judge Sleet was a Philadelphia Defender, a former partner of the petitioner, the United States Attorney for the District of Delaware, a United States District Court Judge, and the Chief Judge of the United States District Court for the District of Delaware. He has practiced law since 1976. (Id., 263-265) Judge Sleet has spoken to the petitioner over the years since the petitioner's conviction. Petitioner has expressly

accepted his responsibility for his criminal acts in conversations with Judge Sleet. (Id., 270, 280, 282-285) Petitioner has an excellent reputation for being truthful and honest. (Id., 272) As a judge, former United States Attorney, and attorney, Judge Sleet had absolutely no hesitation in recommending reinstatement. (Id., 273-274) Judge Sleet testified that the petitioner demonstrated the level of responsibility witnessed by Judge Sleet when defendants entered guilty pleas. He stated, "…because we maintained contact, because we talked and because sometimes I was a little difficult with him in those conversations about his dilemma, over time I learned and it was clear to me that he accepted responsibility for his circumstances." (Id., 279-280)

Nicholas Pinto has been a practicing attorney since 1979. While approaching retirement, Mr. Pinto is and independent contractor with Brian McMonagle's firm representing the Fraternal Order of Police. (Id., 290) In the opinion of Mr. Pinto, the petitioner was a wonderful trial attorney. Petitioner had expressed to Mr. Pinto that he was very sorry for what he had done and believed he had let down his family, friends, and the practice. (Id., 293) He testified that the petitioner is remorseful and wants to go back to the practice of helping those who are in need. He would have no hesitation in recommending readmission. (Id., 295)

Francis Burns was admitted to the Bar in October of 1978. He is with the firm of Ricci, Tyrrell, Johnson and Grey practicing civil litigation in the field of product liability. He has known the petitioner since High School. (Id., 312-313) He, along with petitioner, was a member of the Saturday morning group engaged in the spiritual exercises of Ignatius of Loyola. (Id., 313-314)

Mr. Burns testified that the petitioner has accepted responsibility for his actions. He testified that petitioner was burdened by the shame and guilt of it all and his “acceptance of responsibility and his grief of the consequences of it more for others than for himself was palpable.” (Id., 3217) According to Mr. Burns the petitioner was remorseful not only for his actions but for his inability to continue in the service of others. (Id., 318) Mr. Burns would have no hesitation in recommending the petitioner be reinstated. He stated that if he had any hesitation in recommending reinstatement, he “…wouldn’t risk my reputation by being here.” (Id.,321-322) Importantly, it was the testimony of Mr. Burns that the petitioner expressed remorse to him while incarcerated in Ft. Dix, never claiming that he had been unfairly convicted.

Mr. Burns was of the opinion, shared by many, that the taking of an appeal as of right and challenging the sufficiency of the evidence is not inconsistent with acceptance of responsibility and acknowledgement of wrongdoing. (Id., 323-325) He said, “As a lawyer, I don’t think that those two things necessarily collide.” Mr. Burns considered the Disciplinary Counsel’s questioning of the petitioner’s acceptance of responsibility given his appeal of his conviction on sufficiency grounds a “false equivocation.” (Id., 329) Petitioner’s remorse, according to the testimony of Mr. Burns, was for committing a crime and bringing shame on himself, his family, his friends, and his colleagues in the Bar. (Id., 330) Petitioner has changed in that he has gained insight and self-awareness and has engaged in introspection which has led him to acknowledge that the way he was going about representing these specific clients was overzealous and misdirected. (Id., 334-335)

On the final day of the hearing the panel heard the testimony of the petitioner's wife, Sharon Farrell, and the conclusion of the petitioner's testimony. Ms. Farrell testified that the petitioner has been sober for 20 years. (N.T. 2-22-24, p. 97) Petitioner went to a rehab facility in Florida and followed up in treatment with Dr. William Greene and Dr. Nelson. (Id., 97) Her testimony further confirmed that the petitioner is active in community activities. (Id., 99-100) Ms. Farrell described the petitioner's relationship with their children as wonderful and indicated that they see their children regularly including travel to California to see petitioner's two daughters and to Virginia where their son is a lawyer in the United States Marines. (Id., 102) According to Ms. Farrell, the petitioner has accepted responsibility for his actions. She believes if readmitted the petitioner would do the right thing, and she would not hesitate to recommend petitioner's reinstatement. (Id., 106-107) It was Ms. Farrell's testimony that the petitioner "paid the price" for his wrongdoing, missed the birth of two grandchildren and the wedding of his son while incarcerated. (Id, p. 125)

Petitioner testified that the sum of $200,000.00 was delivered to his office. He did not know the money would be delivered. He later learned that the money had been delivered to assist people associated with the marijuana organization who would need lawyers. (Id., 141-142) Over time petitioner learned and knew that the source of the funds was the sale of marijuana. Petitioner used the cash that was delivered to secure legal representation for people associated with the organization. All the referrals to attorneys were financed through the cash delivered. (Id., 155-169) Petitioner acknowledged he was wrong to accept the money and pay it to lawyers knowing the source of the funds. He testified, "I was completely

wrong, you understand. I was completely wrong. But I was trying, you know, misguidedly to protect these young people and get them a good lawyer who would assert immunity, and ultimately, if the government wanted their information, they would give them immunity. I mean that's something that good lawyers do. (Id., 169-170) Petitioner admitted that some of his actions were illegal, dumb and stupid. (Id., 179) While petitioner admitted that some of the cash was used to pay his fees and was entered in his books as being associated with a particular client, the Quick Books entry only indicated a credit for that client's fee without identifying the source of the funds. (Id., 179-183)

Petitioner advised those who were subpoenaed to testify before the Grand Jury that, if they testified, they would have to be truthful. (Id., 144-146) It was planned that everyone who had been charged would plead guilty at the same time so that no individual would receive a better deal than anyone else in harm's way. There was a joint defense agreement, and the plan was for a "collapse defense." (Id. 151, 170-171)

Petitioner admits that funds were from an illegal source, were laundered and that he accepted responsibility for his criminal behavior. He agreed that the Board could take the statements of fact contained in the 4th Circuit opinion as true. (Id., 187-189) He further indicated that if the same or analogous situation occurred if he were readmitted, he would not accept the money, regardless of the intention that the money would be used to secure the services of attorneys. (Id. 204-210) Petitioner recognized that mistakes were made in providing information to the Board, but submits that the errors were corrected in correspondence with the Board and in his testimony before the panel. (Id., 210-246)

B. PETITIONER HAS MET HIS BURDEN OF SHOWING BY CLEAR AND CONVINCING EVIDENCE THAT HIS RESUMPTION OF THE PRACTICE OF LAW WITHIN THIS 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 facts as stated above show that the petitioner will never again engage in the conduct resulting in his indictment, conviction, and disbarment. The petitioner's character witnesses, all of whom are reputable members of the Bar who would not put their reputations at risk if they didn't honestly believe that the petitioner should be reinstated. The Panel's conclusion that these witnesses had only minimal contact with the petitioner and, as a result, should not be credited by the Board, is absurd. Petitioner was in custody, home confinement and released during the COVID pandemic. Each of the witnesses formed their honest conclusions based on the length of time they had known petitioner, the strength of the petitioner's statements to them, their background in the law, and their knowledge of the petitioner's wrongdoing. None of those witnesses believed that petitioner's reinstatement would be detrimental to the integrity of the practice of law, their testimony was corroborated by the testimony of each of the witnesses, and was consistent with the testimony of the petitioner. Moreover, Disciplinary Counsel presented no contradictory testimony and produced no testimony which would support the conclusion that reinstatement would be subversive to the public interest.

IV. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.[13]

A. CONCLUSIONS OF LAW.

1. Petitioner has met his burden of showing by clear and convincing evidence that he has the moral qualifications, competency and learning in law required for admission to practice in the Commonwealth of Pennsylvania.
2. Petitioner has met his burden of demonstrating by clear and convincing evidence that his resumption of the practice of law in the Commonwealth of Pennsylvania would be neither detrimental to the integrity and standing of the Bar nor the administration of justice nor would his reinstatement be subversive of the public interest.
3. Petitioner has shown honest and immediate remorse for his actions.
4. Petitioner has accepted responsibility and acknowledged his wrongdoing.
5. Petitioner has met his burden of showing by clear and convincing evidence that sufficient time has passed since his criminal acts and his disbarment during which time the petitioner has engaged in qualitative rehabilitation to permit reinstatement.
6. Any mistakes, omissions or errors in the petitioner's filings were inadvertent, minor, unintentional, and immaterial to the questions before the board. To the extent that any mistake, error, or

[13] Petitioner incorporates the proposed finding of fact contained in his Brief after hearing as if said findings were repeated herein verbatim.

omission was material, it has been corrected through subsequent filings and testimony.

7. Petitioner has substantially complied with all of the requirements for reinstatement contained in the rules.
8. Petitioner has shown that he has the moral qualifications for readmission.
9. Petitioner has shown that he has the present moral and professional fitness for readmission.
10. Petitioner has participated in qualitative rehabilitation making reinstatement appropriate.
11. Petitioner has at all times been wholly transparent in providing information to the Board. Petitioner has not attempted to deceive the Board in any way.
12. Petitioner's errors and inaccuracies do not raise serious questions regarding his competency to practice law.
13. Petitioner has fully acknowledged that his actions harmed others and damaged the integrity of the legal system.

V. CONCLUSION.

Based on the facts as outlined above and the arguments and reasons stated herein, the petitioner respectfully requests that the Board GRANT his Petition for Reinstatement.

Respectfully submitted,

_s/_____

J. Michael Farrell, Petitioner

Dated: