

BEFORE THE DISCIPLINARY BOARD
OF THE SUPREME COURT OF PENNSYLVANIA

IN THE MATTER OF : DOCKET NO. 2362 DD NO. 3
J. MICHAEL FARRELL : 34 DB 2017
PETITION FOR REINSTATEMENT : ATTORNEY REGISTRATION NO.
: 33803 (PHILADELPHIA)

BRIEF OF THE PETITIONER, J. MICHAEL FARRELL, TO THE HEARING
COMMITTEE ON BEHALF OF HIS REQUEST FOR REINSTATEMENT TO THE
PRACTICE OF LAW

Samuel C. Stretton, Esquire
Attorney for Petitioner,
J. Michael Farrell
103 South High Street
P.O. Box 3231
West Chester, PA 19381-3231
(610) 696-4243
Attorney I.D. No. 18491

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I. HISTORY OF THE CASE

The Petitioner, J. Michael Farrell, filed his Petition for Reinstatement to the practice of law in the Commonwealth of Pennsylvania. Mr. Farrell was disbarred by consent from the practice of law by Order of the Supreme Court of Pennsylvania dated December 4th, 2019. He was placed on interim suspension on March 18th, 2017 and his disbarment by consent was retroactive to the March 18th, 2017 date. Mr. Farrell was disbarred by consent as a result of his criminal conviction in Federal Court in Maryland.

Mr. Farrell was indicted in the United States District Court of Maryland on a number of counts in essence involving money laundering and tampering with a witness. The misconduct occurred during the years of 2009 through 2013. Count 1, money laundering, is in violation of 18 U.S.C.A. 1956(H), Counts 2, 3, 5, 6, 7, 12 were further counts of money laundering. Counts 4 and 9 involved allegations of tampering. And Count 8 involved allegations of tampering with a witness. Mr. Farrell had a trial before a jury and was convicted of the above charges. He was subsequently sentenced to 42 months of incarceration, of which he served 28 months. The allegations arose out of his representation of an organization that was involved in marijuana sales. When the indictment came down, he was given close to \$200,000.00 in cash to pay the legal expenses of other co-

defendants in the organization who were charged. He did not report this to the bank and this formed the basis for the money laundering.

Mr. Farrell originally filed a Reinstatement Petition on or about July 8th, 2022. That Reinstatement Petition was subsequently withdrawn by him. His current Reinstatement Petition was filed in 2023. In his current Reinstatement Petition, Mr. Farrell has been represented by present counsel, Samuel C. Stretton, Esquire. The Office of Disciplinary Counsel has been represented in both Reinstatement Petitions by Attorney Richard Hernandez, Esquire.

Mr. Farrell, through present counsel, Samuel C. Stretton, Esquire, made corrections on his current Reinstatement Petition and has cooperated with the Office of Disciplinary Counsel and provided many additional documents as requested by Assistant Disciplinary Counsel Richard Hernandez.

By letter dated July 24th, 2023, Mr. Hernandez wrote to Marcee Sloan, the Prothonotary for the Disciplinary Board, to raise concerns. He indicated at that time that the Office would oppose the Petition since Mr. Farrell has only been disbarred for six years and he believed that Mr. Farrell should wait several more years before he applied for reinstatement. He also raised concerns that Mr. Farrell had not engaged in sufficient quantitative period of qualitative rehabilitation.

In the July 24th, 2023 letter, Mr. Hernandez raised additional concerns. On the original Reinstatement Questionnaire of 2022 on question no. 12(a), he noted three civil cases were not disclosed. The second concern was that the 2022 Questionnaire in question no. 5(d), involving debts of 90 days or more, Mr. Farrell checked no, when in fact there were unpaid gas bills, city judgements and traffic violations. The third concern was that Mr. Farrell had not notified four federal jurisdictions of his disbarment timely. The fourth concern was on question no. 16 of the 2023 Questionnaire, that Mr. Farrell suffered a bipolar illness that triggered alcoholism and that the bipolar disease played a role in mitigation for his misconduct. The fifth concern was that Mr. Farrell failed to disburse all of his fiduciary funds at the time of his disbarment and did not maintain a proper balance for a period of time. The sixth concern was that Mr. Farrell escheated unclaimed client funds totaling \$14,185.00 to the Pennsylvania Treasury and \$1,725.00 to the New Jersey Treasury and did not properly comply with Rule 1.15(v) in locating clients. The final concern was that Mr. Farrell performed paralegal work for his former law partner in 2020 and 2021.

Mr. Farrell contends that he has presented sufficient evidence to demonstrate that he has met all of the requirements for reinstatement and has adequately addressed the concerns

raised by the Office of Disciplinary Counsel during the three days of hearings.

A Hearing Committee was appointed to hear the case. The Hearing Committee was chaired by Attorney Michael Scott, Esquire and consisted of Attorneys Patrice Smith O'Brien, Esquire and Patrick Cosgrove, Esquire. The first hearing was held on November 16th, 2023. Because the psychiatrist that Mr. Farrell had been seeing for a number of years was no longer able to testify, Mr. Farrell asked permission to seek a new psychiatrist. As a result, hearings were not held again until February 21st and 22nd, 2024. Mr. Farrell during the hearings presented a number of a character witnesses who testified to his excellent character and his change and reform and remorse. The witnesses also testified as to Mr. Farrell's charitable and community activities. Psychiatrist, Dr. John O'Brien, testified as to Mr. Farrell's mental health. Mr. Farrell then testified extensively. The Office of Disciplinary Counsel did not present any witnesses in opposition.

At the end of the hearing, Mr. Stretton requested an extension of the twenty-day period to thirty days to file his Brief and further requested an extension of the word limitation from 6,000 words to 10,000. These requests were granted and the Office of Disciplinary Counsel was given the same time period and word extension. Mr. Farrell's Brief is due on April 13th,

2024. Mr. Stretton received a second word extension to 12,000 words from the Hearing Committee.

The Petitioner, J. Michael Farrell, respectfully contends that he has proven by clear and convincing evidence that he has met his burden of proof to be reinstated to the practice of law and respectfully requests that this Honorable Hearing Committee recommend to the Supreme Court of Pennsylvania and to the Disciplinary Board his reinstatement to the practice of law.

II. ISSUES PRESENTED FOR REVIEW

1. Has the Petitioner, J. Michael Farrell, demonstrated by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice in the Commonwealth of Pennsylvania, and further, has he demonstrated by clear and convincing evidence that his resumption to 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? Further, has Mr. Farrell demonstrated that he has met the threshold standard as set forth in the case of Office of Disciplinary Counsel v. Keller 506 A.2d 872 (Pa., 1986) that his conduct was not so egregious that he could never be readmitted? --- The Petitioner, J. Michael Farrell, respectfully contends that he has met the burden of proof by clear and convincing evidence to be reinstated to practice law and further, he has demonstrated that he has met the aforementioned Keller threshold.

III. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

1) The Petitioner, J. Michael Farrell, testified at the time of the Reinstatement Hearing that he was 71 years of age and currently resides in the University City section of Philadelphia, (2/21 N.T. 89, 90).

2) Mr. Farrell is married to Sharon Farrell who is a nurse practitioner working for the Wilmington School District in Delaware. She also worked for Children's Hospital for 38 years, (2/21 N.T. 90).

3) Mr. Farrell has five children from this marriage, one who was adopted from China. Mr. Farrell was also previously married and has two children from that marriage. He noted that he and his current wife have a good relationship with his former wife and all of the children get along and know each other well, (N.T. 2/21 90, 91).

4) Mr. Farrell testified that he went to West Point when he was 18 years of age but had to leave after his first year since he married his first wife and one could not go to the military academy once they were married. He then went to the University of South Carolina on a football scholarship. He was an all-conference wide receiver for South Carolina and had been a football, basketball and track star in high school, (2/21 N.T. 92, 93).

5) Mr. Farrell graduated from the University of South Carolina in 1975 majoring in history, (2/21 N.T. 93).

6) Mr. Farrell then attended and graduated from Georgetown Law School in 1978. While in law school, he taught street law to 15 inmates in the District of Columbia Prison, (2/21 N.T. 94).

7) Mr. Farrell had special permission to teach in the prison for two and a half years while in law school and he also represented inmates in disciplinary hearings and helped to resolve issues with the prison for the inmates, (2/21 N.T. 94, 95).

8) After graduating from law school, Mr. Farrell then worked as an assistant professor at the University of South Carolina in their College of Criminal Justice. He worked there for two years teaching graduate students and undergraduate students criminal justice, (2/21 N.T. 96).

9) Mr. Farrell was admitted to practice law in the District of Columbia in 1978. He was admitted to practice law in North Carolina in 1979 and then admitted to practice law in Pennsylvania and New Jersey in 1980, (2/21 N.T. 96).

10) Mr. Farrell grew up in Pennsylvania and was raised by his mother since his father died when he was very young. Mr. Farrell has a lifelong disability. When he was a baby, he had a brain operation that resulted in facial paralysis in the right

side of his face. That condition continues through the present time, (2/21 N.T. 97).

11) When Mr. Farrell came back to Pennsylvania, he initially worked for the Philadelphia Public Defender's Office for two years as a trial lawyer. Mr. Farrell indicated that he was able to try many cases very early on for the Public Defender's, (2/21 N.T. 98).

12) Mr. Farrell, also as a young lawyer, was asked to represent juveniles on death row. Mr. Farrell appeared three times before the United States Supreme Court trying to persuade them at the time that it was unconstitutional to execute someone who was a juvenile but the Court disagreed then. The law has since changed. Mr. Farrell was present outside of the prison when the Court denied the stay and his client was executed. That was a painful experience for Mr. Farrell that led to his problem with alcohol. He went on an alcoholic binge after the execution for several days. He went into rehab. He was sober for a number of years but then began drinking and going on a number of binges. He testified that he became totally sober on February 5th, 2004 and actually had his twentieth sobriety anniversary recently, (2/21 N.T. 100).

13) Mr. Farrell noted that he had also subsequently argued in the United States Supreme Court on a railroad FELA case, (2/21 N.T. 99).

14) Mr. Farrell testified that he regularly attended lawyers AA meetings and then began working with John Rogers Carroll in Lawyers Concerned for Lawyers. As a result, he has helped many lawyers who have alcohol problems over the years, (2/21 N.T. 101, 102).

15) After Mr. Farrell left the Defender's Office, he worked for the law firm of Brobyn and Forcenlo. This firm did FEELA (Federal Employees Liability Act) work. He worked for that firm for four years and resigned when his juvenile client was executed and began his own practice representing capital murder defendants, (2/21 N.T. 103).

16) Mr. Farrell started his own practice on January 10th, 1986 the day his juvenile client was executed. Mr. Farrell continued his own practice of law until the time of his interim suspension. He stated for two years, Greg Sleet, who later became the United States Attorney for Delaware and ultimately the Chief Federal Judge in Delaware, was his law partner, (2/21 N.T. 104).

17) Mr. Farrell then essentially worked by himself all of these years. His nephew, Attorney Patrick Duffy, became his partner at the end of his practice before his disbarment took effect, (2/21 N.T. 104).

18) Mr. Farrell testified he had probably tried over 350 jury cases to verdict, of which 75 were homicides and 50-60 were

capital murder cases. He also tried approximately 75-80 civil cases to jury verdict, (2/21 N.T. 215).

19) Mr. Farrell testified, as an attorney, he did a lot of work for the Brotherhood of Maintenance of Way and tried FELA type cases in 38 different states, sometimes two cases a month. He also noted that he tried a number of medical malpractice and auto injury cases, (2/21 N.T. 215, 216).

20) Mr. Farrell testified that he argued hundreds of times in the Pennsylvania Superior Court and approximately 50 cases in the Pennsylvania Supreme Court, (2/21 N.T. 217, 218).

21) Mr. Farrell testified that he had prior discipline of a reprimand years before where he did not get an affidavit on a PCRA quick enough. He had no other discipline until his interim suspension and disbarment in the present matter, (2/21 N.T. 218, 219).

22) Mr. Farrell also had been charged with DUI in 2004 and that was resolved in New Jersey by a guilty plea, (2/21 N.T. 219, 220).

23) Mr. Farrell testified that he began seeing a psychiatrist, Dr. Nelson, in that time period of 2005. He indicated that he began treating with Dr. Nelson after he left the inpatient rehabilitation program that he had attended when he finally stopped drinking. He said that he had seen Dr. Nelson regularly until 2023. Dr. Nelson then stopped seeing him because

Dr. Nelson was being charged with criminal activity and accusations of a pill mill, (2/21 N.T. 220, 221).

24) Mr. Farrell testified that Dr. Nelson prescribed Lamictal for bipolar illness. Mr. Farrell indicated that he has taken that since Dr. Nelson prescribed it and he still takes it. He said that he never felt much benefit from it but it was part of his commitment to remain sober and that is why he continued using it, (2/21 N.T. 222, 223).

25) Mr. Farrell stated in the 1990s he began representing a group of young people who were what was called "Dead Heads", who were selling and using nitrous-oxide. On one of these cases, he was able to show the nitrous-oxide was not prohibited at that time. He indicated the group ultimately moved on to selling marijuana to retailers in a number of major cities. As a result, he went to a number of different states to represent members of the gang for many years, (2/21 N.T. 224, 225).

26) Mr. Farrell testified, in March of 2009, individuals of the gang were arrested for hundreds of pounds of marijuana and their phones were collected also, (2/21 N.T. 227).

27) Mr. Farrell testified that at some point the government told him he could not represent certain members because of conflict of interest, (2/21 N.T. 228, 229).

28) Mr. Farrell testified that at some time around 2009, a backpack containing approximately \$200,000.00 in cash was

delivered to his office by the leader of the group, Mr. Nicka, who told him he was a standup guy and to take care of everyone that was charged in the investigation, (2/21 N.T. 230).

29) Mr. Farrell testified that is when he started making mistakes. First, he did not fill out and file with the IRS and the bank the form 8300 since there was more than \$10,000.00 in cash. He indicated it was an ethical challenge because he did not want to reveal the name of his client. Mr. Farrell agreed that he did not disclose the cash and he was wrong in not filing the form and disclosing the name, (2/21 N.T. 230, 231).

30) Mr. Farrell testified that he made a second mistake when he put the money in a safe deposit box and not in his bank escrow account. He said that he knew the money was from the sale of marijuana and agrees that he should not have used that money for legal fees since he said it came from illegal conduct, (2/21 N.T. 232, 233).

31) Mr. Farrell testified that if he were to do it again, he would have reported the monies and put it in an escrow account, (2/22 N.T. 235, 236, 237, 238).

32) Mr. Farrell testified that he was wrong and noted that he acted with willful blindness. He agreed that he was wrong on hiring lawyers with the money but he was trying to develop a team so that each individual would have the benefit of competent counsel, (2/21 N.T. 238, 239).

33) Mr. Farrell stated that he was also guilty of tampering with an official proceeding. Mr. Farrell stated he received a call from someone who was working with the government and agreed to meet the person when Mr. Farrell was on trial with another case. Mr. Farrell had the person sign a claim form and Mr. Farrell notarized the form as a New Jersey lawyer. His office prepared the claim form. Mr. Farrell was going to file it with the government but the client would not return his calls so Mr. Farrell forged the client's name and notarized it and sent it over by Federal Express so the deadline would not be missed. He agreed that was wrong. The individual turned out to be a cooperating witness with the government and wore a wire when he met with Mr. Farrell, (2/21 N.T. 242, 243).

34) Mr. Farrell testified that he was charged with tampering with a witness for telling the witness he did not have to disclose the name of the person who gave him the watch which was illegal, (2/21 N.T. 243, 244). Mr. Farrell admitted that was wrong, (2/21 N.T. 244).

35) Mr. Farrell testified he had a full federal trial in Baltimore and was convicted on all counts and was sentenced to 42 months of incarceration. He testified that at his sentencing, he accepted responsibility for his misconduct, (2/21 N.T. 244).

36) Mr. Farrell testified that he had acknowledged to the sentencing Judge that Mr. Farrell was wrong and requested mercy from the Court, (2/21 N.T. 245).

37) Mr. Farrell testified he served 28 months of incarceration and was released under the First Step Act, signed by President Trump in 2018. That Act says that someone who is over 65 years of age, is eligible for release after they have served one third of their sentence, (2/21 N.T. 246).

38) Mr. Farrell stated he did file an appeal of his conviction because of an issue that the National Association of Criminal Defense Lawyers wanted to pursue. He agreed that the appeal also included issues of sufficiency and weight of evidence, (2/21 N.T. 246, 247).

39) The Chairman asked Mr. Farrell why he did not accept responsibility from the beginning and Mr. Farrell testified that he gave consideration into doing that but could not because they required him to testify against his clients and he could not do that, (2/21 N.T. 248).

40) Mr. Farrell testified that he has accepted full and complete responsibility a number of times for his misconduct, (2/21 N.T. 255, 256).

41) Mr. Farrell stated as follows:

"But I was completely wrong. There is no question about that. I shouldn't, you know, I shouldn't

have done it. flat out, plain shouldn't have done it," see 2/21 N.T. 259.

42) Mr. Farrell testified that if reinstated, this kind of conduct would never occur again and he recognizes the poor judgements and incredibly bad and criminal decisions he made, (2/21 N.T. 260).

43) Mr. Farrell testified that he had timely notified the Disciplinary Board of his criminal conviction and he agreed to an interim suspension. He then agreed to a disbarment by consent after his criminal appeals were completed, (2/21 N.T. 260, 261).

44) Mr. Farrell testified that he has complied with all of the terms of his incarceration and supervised release and his supervised release was completed in January of 2022. He is no longer under federal sentence, (2/21 N.T. 263, 264).

45) Mr. Farrell testified that after his disbarment, he was still holding client money and after his Pennsylvania account was closed, he moved the money to his New Jersey account but could not find the clients. He stated that he took steps by sending out letters to people. If he had a good address, he sent them checks which were cashed. There were six to seven clients he could not find. The money he left in the escrow account when he went to jail in 2017, and when he returned in 2019, he then moved the money from his accounts to his wife's savings account. He denied misusing the money and stated he had the money

escheated in Pennsylvania and New Jersey, (2/21 N.T. 267, 268, 269).

46) Mr. Farrell agreed he now knows the escheat process was the wrong method to use with the funds after his disbarment and said his intention was to escheat the money after he could not find the people. He was not aware of the rule change of Rule 1.15(v), (2/21 N.T. 273, 274).

47) Mr. Farrell testified after he was suspended on an interim basis, he notified all other jurisdictions where he was licensed. He said that after his disbarment, he did not notify all of them and corrected that after Mr. Hernandez told him. he then sent the letters to New Jersey District Court, Third Circuit Court of Appeals, Eighth Circuit Court of Appeals and United States Supreme Court advising them of his disbarment. He indicated that he never practiced in any of those Courts after his suspension, (2/21 N.T. 274, 275).

48) Mr. Farrell agreed that when he returned from prison, he began working as a paralegal with his former partner, Attorney Patrick Duffy, Esquire. Mr. Farrell in 2020 and 2021 worked for Mr. Duffy as he had some murder cases and murder appeals and needed Mr. Farrell's advice and help.

49) Mr. Farrell agreed that was wrong and he should not have worked for someone who he had worked for as a practicing attorney, (2/21 N.T. 277, 278). Mr. Farrell testified that he is

familiar with Pennsylvania Rules of Disciplinary Enforcement, Rule 217(j) which prohibits a disbarred lawyer working as a paralegal with his former firm. He agreed that he registered when he worked as a paralegal with Marcee Sloan, the Prothonotary of the Disciplinary Board, (2/21 N.T. 278, 279). Mr. Farrell testified that during his suspension and disbarment he has never appeared in any Court, has never given any legal advice and has not held himself out as an attorney. He indicated that he was paid a regular salary as a paralegal and did not share fees, (2/21 N.T. 279, 280). Mr. Farrell then worked for Attorney Don Pak as a paralegal, (2/21 N.T. 278).

50) Mr. Farrell testified he has taken numerous continuing legal education courses including the required 36 hours including 12 hours of ethics and four hours of bridge the gap. He also testified he reviews Third Circuit and Pennsylvania Supreme Court cases and reads them regularly. He also worked as a paralegal and does legal research in that position and as a result, has maintained currency in the law, (2/21 N.T. 280, 281, 282).

51) Mr. Farrell testified that he is current in all of his tax obligations. He testified there are no longer any tax liens against him, (2/21 N.T. 282).

52) Mr. Farrell testified that there are currently no outstanding judgements or liens against him that are unpaid. He

testified that to his knowledge, there are no people that he currently owes any money to, (2/21 N.T. 282, 283).

53) Mr. Farrell testified that he filed his first Reinstatement Petition in 2022 but withdrew it, because he realized there were mistakes on questions of taxes and judgements and other issues. He then withdrew the first reinstatement without prejudice, (2/21 N.T. 283, 284, 285).

54) Mr. Farrell testified he refiled his Reinstatement Questionnaire in 2023, (2/21 N.T. 285).

55) Mr. Farrell noted Exhibits P-30 and P-31 which are letters he sent in 2017 and 2022 to clients concerning their funds he was holding. Exhibit P-32 was the \$1,725.00 he then escheated to New Jersey Department of the Treasury and P-33 as the \$12,459.00 that he escheated to the Pennsylvania Department of Treasury, (2/21 N.T. 286, 287).

56) In his 2022 Reinstatement Questionnaire Mr. Farrell agreed that he left off civil cases. He agreed that was wrong and said that it occurred because his search of prior cases did not include certain courts. He said that in his 2023 Reinstatement Questionnaire he corrected that as best he could, (2/21 N.T. 287, 288).

57) Mr. Farrell also testified that in his 2022 Reinstatement Questionnaire, he did not list monies for taxes, gas, and things of that nature. He said that as to the gas bill,

he had rented out his Philadelphia property at the time and did not realize that his tenants did not pay the gas bill. He was unaware of the gas bill until Mr. Hernandez brought it to his attention when he filed the 2022 Reinstatement. He indicated that the gas is paid now and he paid all of the other finds and costs and traffic matters, (2/21 N.T. 290, 291).

58) Mr. Farrell testified as to his lawsuits involving him have all been resolved and nothing else is active, (2/21 N.T. 294).

59) Mr. Farrell introduced Exhibit P-15 which stated he owed no money to the Client Security Fund, (2/21 N.T. 295).

60) Mr. Farrell testified that he had been involved with charities in Camden, NJ through the Joseph Fund. Currently, there is the Joseph House. Once he got out of jail, he volunteered to work at that house. He did that when he was on house arrest. He had to stop because the Probation Officer often wanted him to stay in the ½ house at night. Mr. Farrell testified that has now returned to the Joseph House to run the kitchen every Thursday night. That is when homeless people come in at 8pm and they are fed 9pm to 10pm in the evening. Mr. Farrell heats up the food and helps to feed all of the homeless people who come in every Thursday night. He has been doing this now for six or seven weeks and will continue to do that every Thursday night, (2/21 N.T. 289 to 299). Mr. Farrell testified he

works with his Parish in West Philadelphia. He shovels snow there, cleans up leaves, brings out the nativity scenes, puts them back, he is the back up CCD teacher and he participates in events that they have at the school. He said that he participates in any events held at the church, (2/21 N.T. 298, 299, 300). He testified about the Saint Ignatius Men's Group that meets every other Saturday morning at 7am. The prayer group goal is to meet, learn spiritual exercises at St. Ignatius and help each other, (2/21 N.T. 300, 301).

61) As an attorney, Mr. Farrell pointed out that he did a great deal of pro bono work, probably 30% of his practice was pro bono work, (2/21 N.T. 301).

62) Mr. Farrell testified he will commit to never cross the line again. He stated he has reviewed and examined his conscious. He agreed that he crossed the line and made intentional knowing decisions to violate the law to help his clients and he was wrong. He said they were mistakes of very bad judgement and will never happen again, (2/21 N.T. 302, 303).

63) As to Dr. O'Brien, he saw him twice but does not think that Dr. O'Brien is going to treat him. Mr. Farrell said that he was not sure what to do with the medication that he was taking and was certainly confused whether he was bipolar or not because Dr. Nelson believed he was and Dr. O'Brien did not agree, (2/21 N.T. 307, 308).

64) Mr. Farrell testified that he believes he is fit intellectually and cognitively and emotionally to return to the practice of law. Mr. Farrell genuinely believes he can contribute "to the pursuit of justice in this Commonwealth if I am given the opportunity to represent folks again," (see 2/21 N.T. 309).

65) Mr. Farrell was questioned extensively by Disciplinary Counsel, Mr. Hernandez, (2/22 N.T. 132 to 262).

66) Dr. John O'Brien, a Board-Certified Forensic Psychiatrist, was accepted as an expert witness in forensic psychiatry, (2/22 N.T. 6, 7, 8). His report was marked as P-52. He also marked as P-56 and P-23, Dr. Nelson's reports, (2/22 N.T. 11, 12, 13, 14).

67) Dr. O'Brien testified that he met with Mr. Farrell on November 17th, 2023 and February 9th, 2024. He noted that he had known Mr. Farrell previously, (2/22 N.T. 17). Dr. O'Brien indicated that he saw that Dr. Nelson had diagnosed Mr. Farrell as having a bipolar disorder as well as a substance abuse disorder. Dr. O'Brien testified that it was his opinion that Mr. Farrell does not meet the diagnostic criteria for a bipolar effective disorder of type I or type II. He based his opinion partially on the fact that treatment and visitations were very superficial and there was no indication that Mr. Farrell had episodes of mania or depression, (2/22 N.T. 18, 19, 20).

68) Dr. O'Brien indicated that Mr. Farrell also had a diagnosis of a history of alcohol and substance use disorder but underwent treatment for that in 2004, (2/22 N.T. 20).

69) Dr. O'Brien confirmed that Mr. Farrell has not used drugs and alcohol for the last 20 years, (2/22 N.T. 21, 22). Dr. O'Brien noted the medicine taken by Mr. Farrell was Lamictal. Dr. O'Brien indicated that Lamictal is a mood stabilizer and Dr. O'Brien stated that it would not hurt Mr. Farrell to continue to take it, (2/22 N.T. 22, 23).

70) Dr. O'Brien testified Mr. Farrell's current psychological condition is a long-standing history of alcohol, substance abuse and in remission. Dr. O'Brien also indicated there was no psychiatric illness or emotional illness or cognitive deficiency that would limit or impair his ability to function at the intellectual and cognitive level required of an attorney, (2/22 N.T. 23, 24, 25).

71) Dr. O'Brien stated, from his psychiatric perspective, there is no concern that Mr. Farrell would cross the line and engage in similar misconduct in the future if he was reinstated, (2/22 N.T. 26, 27).

72) Sharon Farrell, the wife of the Petitioner, testified, (2/22 N.T. 45). She is a nurse practitioner as of the last 15 years and a nurse for a total of 45 years, (2/22 N.T. 24).

73) She testified that her second son was a lawyer in the United States Marine Corp. in the JAG Corp., (2/22 N.T. 96).

74) Mrs. Farrell confirmed that the Petitioner has been sober for 20 years. She noted that he had gone to a rehab facility in Florida in 2004 and had seen Dr. Nelson for a number of years until Dr. Nelson was no longer available, (2/22 N.T. 97, 98).

75) She confirmed that Mr. Farrell is working as a paralegal at an immigration law firm and works regularly. She also confirmed some of his community activities as Saint Joseph's House and at the Parrish of Saint Frances in West Philadelphia, (2/22 N.T. 99, 100).

76) Mrs. Farrell testified that the Petitioner has a good reputation in the community as a peaceful and law-abiding person and as a truthful and honest person, (2/22 N.T. 105, 106).

77) She confirmed that Mr. Farrell has accepted full responsibility for his misconduct and has been very remorseful. She indicated that she had no hesitation in recommending her husband's reinstatement to the practice of law, (2/22 N.T. 106, 107, 108).

78) Mr. Farrell presented many distinguished lawyers and members from the community who testified as to his excellent reputation as a truthful and honest person and as a peaceful and law-abiding person. They all indicated they would have no

hesitation in recommending Mr. Farrell's reinstatement to the practice of law. Those who knew him well, noted his remorse and acceptance of responsibility. The following persons so testified:

a) David Rodovsky, Esquire. Mr. Rodovsky has had a distinguished career in Pennsylvania and who also has taught as a professor at the University of Pennsylvania school of law. He noted the general remorse of Mr. Farrell, (2/21 N.T. 112). He noted his good reputation and stated he had no hesitation in recommending Mr. Farrell's reinstatement, (2/21 N.T. 113, 114, 115).

b) Don Pak, Esquire. Mr. Pak is an immigration lawyer and Mike Farrell currently works for him as a paralegal. He confirmed that notice was sent of Mr. Farrell working as a paralegal, as seen from Exhibit P-2. He confirmed Mr. Farrell has not held himself out as an attorney and has not given legal advice. He noted Mr. Farrell is very diligent in his hours of working. He confirms that he supervises Mr. Farrell and noted the remorsefulness of Mr. Farrell. He confirmed Mr. Farrell accepted responsibility for his misconduct. He confirmed some of the community activities of Mr. Farrell. He has no hesitation in recommending Mr. Farrell's reinstatement to the practice of law. He did not give character testimony, (2/21 N.T. 130 to 160).

c) Father George Bur testified, (2/21 N.T. 12).

Father Bur has been a Jesuit Priest since 1972, (2/21 N.T. 13). At one point he was President of Saint Joe's Prep, (2/21 N.T. 13). He got to know Mike Farrell when forming a Saturday morning group devoted to spiritual exercises and improvement. He said that Mr. Farrell has worked with that group from 2008 and returned when he came back from prison and currently is a major participant in the group, (2/21 N.T. 14, 15, 16). He confirmed Mr. Farrell's activities with church related services including food distribution for the homeless, (2/21 N.T. 18). He confirmed Mr. Farrell's excellent reputation in the community as a peaceful and law-abiding person and as a truthful and honest person, (2/21 N.T. 19, 20). He had no hesitation in recommending Mr. Farrell's reinstatement to the practice of law, (2/22 N.T. 22).

d) Richard Bobbe, III, Esquire, who has been practicing for 25 years and is a partner in Weir Greenblatt and has known Mr. Farrell since Mr. Bobbe was in the District Attorney's Office in 1999, (2/21 N.T. 42). He testified how Mike Farrell helped him setup his own law practice at a later time, (2/21 N.T. 43). He confirmed that Mr. Farrell accepted full responsibility for his misconduct, (2/21 N.T. 46). He confirmed Mr. Farrell's excellent reputation in the community as a peaceful and law-abiding person and as a truthful and honest

person, (2/21 N.T. 47, 48). He has no hesitation in recommending Mr. Farrell's reinstatement to the practice of law, (2/21 N.T. 49).

e) Henry Schober, Esquire testified that he worked for Mr. Farrell from April of 1994 until 2008 and then went on to his own practice, (2/21 N.T. 86). He testified that subsequently, he worked with Mr. Farrell on cases together. There was a stipulation entered for the time he worked with Mr. Farrell, (2/21 N.T. 83, 84, 85, 86, 87).

f) Patrick Duffy, Esquire testified. He graduated from Villanova School of Law and was admitted to the Bar in Pennsylvania in 2013. He indicated that he knows Mike Farrell who is a relative and also a close friend, (2/21 N.T. 178, 179). He worked for Mr. Farrell in the early 2000s and then worked for Mr. Farrell from 2004 to 2008 and then returned to work with him in 2015 until Mr. Farrell's suspension in 2017, (2/21 N.T. 178, 179, 180). He testified that when Mr. Farrell returned from prison, Mr. Farrell began working with him in a paralegal capacity. He continued to work with him until Mr. Farrell began working with Mr. Pak as a paralegal in 2019, (2/21 N.T. 188, 181). He indicated that he registered Mr. Farrell with the Office of Disciplinary Counsel in 2020, (2/21 N.T. 182). He indicated that he still calls Mr. Farrell to talk about cases even though Mr. Farrell works for another lawyer, (2/21 N.T.

183). He agreed that Mr. Farrell does not hold himself out as an attorney or practice law, (2/21 N.T. 183). Mr. Duffy testified that he was not aware that he could not hire Mr. Farrell at the time since he had worked for Mr. Farrell previously. He now understands that he cannot hire Mr. Farrell as a paralegal in the future, (2/21 N.T. 184). He testified that Mike Farrell was one of the best trial lawyers he has ever seen, (2/21 N.T. 185). He confirmed Mike Farrell's excellent reputation as a peaceful and law-abiding person and as a truthful and honest person, (2/21 N.T. 186, 187). He confirmed Mr. Farrell's involvement with charitable work, (2/21 N.T. 188). He confirmed that Mr. Farrell has been very remorseful about his prior misconduct, (2/21 N.T. 187).

79) On the first hearing date of November 16th, 2023, the following witnesses testified. These lawyers are as follows:

a) Brian McMonagle, Esquire. Mr. McMonagle has practiced 40 years and has tried many major criminal trials in Philadelphia and throughout the state, (11/16 N.T. 68). He confirmed Mr. Farrell's excellent reputation in the community as a truthful and honest person and a peaceful and law-abiding person and also confirmed Mr. Farrell's genuine remorse for his prior misconduct, (11/16 N.T. 72, 73). He noted that Mr. Farrell accepted full responsibility for his criminal convictions, (11/16 N.T. 73). Mr. McMonagle saw no mental or cognitive issues

that would prevent Mr. Farrell from returning to the practice of law, (11/16 N.T. 77, 78). He confirmed that Mike Farrell was an excellent trial lawyer and a very vigorous competitor and had great passion and professionalism in his work, (11/16 N.T. 79).

b) Attorney Bradley Bridge, Esquire, a long-time and respected Philadelphia Public Defender testified. He noted that he found Mr. Farrell to be a competent and knowledgeable trial lawyer, (11/16 N.T. 103). He confirmed Mr. Farrell has accepted full responsibility for his misconduct, (11/16 N.T. 106). He also confirmed that Mr. Farrell has expressed remorse, (11/16 N.T. 106). He confirmed Mr. Farrell's excellent reputation as a truthful and honest and as a peaceful and law-aiding person, (11/16 N.T. 107, 108). He confirmed Mr. Farrell's prior active involvement in capital cases and training others, (11/16 N.T. 111). He has no hesitation in recommending Mr. Farrell's reinstatement to the practice of law, (11/16 N.T. 112).

c) Attorney Stephen Lacheen, Esquire testified. Mr. Lacheen is currently 89 years of age and a Dean of the Criminal Defense Bar and has been practicing for 65 years, (11/16 N.T. 127). He confirmed Mr. Farrell's acceptance of responsibility and remorse for what he did, (11/16 N.T. 130, 131). He confirmed Mr. Farrell's excellent reputation in the community as a peaceful and law-abiding person and as a truthful and honest person, (11/16 N.T. 135, 136).

d) Thomas Brophy, Esquire testified that he has practiced for 41 years, (11/16 N.T. 156) and worked at the Marshall Dennehey Firm, (11/16 N.T. 156). He said that he and Michael Farrell went to Saint Joe's Prep together and became friends, (11/16 N.T. 157, 158). He confirmed Mr. Farrell's athletic skills in high school, (11/16 N.T. 158). He described Michael Farrell as a very competent and aggressive litigator and as a very zealous advocate, (11/16 N.T. 159). He confirmed Mr. Farrell's remorse for his prior misconduct, (11/16 N.T. 162). He confirmed Mr. Farrell's excellent reputation in the community as a peaceful and law-abiding person and as a truthful and honest person, (11/16 N.T. 163). He had no hesitation in recommending Mr. Farrell's reinstatement to the practice of law, (11/16 N.T. 165).

e) William Ricci, Esquire testified. He has been practicing law since 1978. He has known Michael Farrell since they went to Saint Joe's Prep. He said that in high school, Mike Farrell was a legend, a real character, a leader and a wonderful athlete, (11/16 N.T. 188, 189). He testified that he has participated for years with Mike Farrell in the bible study on Saturday mornings. He said the bible study is based on the principles of Saint Ignatius, (11/16 N.T. 191). He testified that Mr. Farrell accepted full responsibility for his misconduct and has been very remorseful, (11/16 N.T. 193). He said that he

did not observe any cognitive or mental illness in Mr. Farrell that would prevent him from returning to the practice of law, (11/16 N.T. 195). He testified to Mr. Farrell's excellent reputation as a peaceful and law-abiding person and as a truthful and honest person in the community, (11/16 N.T. 194, 195). He has no hesitation in recommending Mr. Farrell's reinstatement to the practice of law, (11/16 N.T. 197).

f) Attorney Felicia Sarner, Esquire testified. She has practiced law since 1983 and has worked most of her career at the Federal Public Defender's Office in Philadelphia and is now quasi retired, (11/16 N.T. 218, 219). She has known Michael Farrell for most of his career and Mike Farrell served on the court appointed federal panel for indigent defendants, (11/16 N.T. 218, 219, 220). She confirmed that Mr. Farrell has accepted complete remorse for his misconduct and full responsibility, (11/16 N.T. 222, 223). She testified that Mr. Farrell was an excellent trial lawyer, (11/16 N.T. 224). She confirmed his current reputation as a truthful and honest person and as a peaceful and law-abiding person is excellent, (11/16 N.T. 225, 226). She had no hesitation in recommending Mr. Farrell's reinstatement to the practice of law, (11/16 N.T. 226).

g) Attorney Michael Campbell, Esquire testified. He has been practicing law since 1977 and for 15 years taught also as a professor at Villanova School of Law, (11/16 N.T. 247). He

has known Mr. Farrell since they were at Saint Joe's Prep together and they maintained their friendship over the years, (11/16 N.T. 248, 249). He confirmed that Mr. Farrell has accepted full responsibility his misconduct, (11/16 N.T. 250). He confirmed Mr. Farrell's excellent reputation in the community as a truthful and honest person and as a peaceful and law-abiding person, (11/16 N.T. 253, 254). He had no hesitation in recommending Mr. Farrell's reinstatement to the practice of law, (11/16 N.T. 254).

h) Judge Gregory Sleet testified. He was admitted to practice law in 1976. Judge Sleet served at the United States Attorney for Delaware and then he served on the United States District Court in Delaware. He served for 20 years as a Judge and was the Chief Judge. He is now semi-retired, (11/16 N.T. 264). He testified that he has known Mike Farrell from their days as public defenders in Philadelphia and then they served as law partners in the years of 1986 and 1987, (11/16 N.T. 266). He has maintained his friendship over the years with Mike Farrell. He described Mike Farrell as a lawyer as tenacious and brilliant. He noted Mike Farrell tried many civil and criminal cases to jury verdicts, (11/16 N.T. 267). Judge Sleet testified for Mr. Farrell in the federal trial and received permission from the Federal Judicial Committee to do so, (11/16 N.T. 268, 269). Judge Sleet confirmed Mr. Farrell's has accepted full

responsibility for his misconduct, (11/16 N.T. 270). He confirmed Mr. Farrell's excellent reputation in the community as a truthful and honest person and as a peaceful and law-abiding person, (11/16 N.T. 272). Judge Sleet had no hesitation in recommending Mr. Farrell's reinstatement to the practice of law in Pennsylvania, (11/16 N.T. 272, 273, 274). Judge Sleet saw no cognitive issues with Mr. Farrell's fitness to practice law, (11/16 N.T. 274, 275).

i) Attorney Nicholas Pinto, Esquire testified for Mr. Farrell. Mr. Pinto has been practicing law since 1979. He currently is semi-retired and works for the McGonagle Perry Law Firm as part of the FOP contract, (11/16 N.T. 290). He testified that he has known Mike Farrell from their early days as public defenders and described Mike Farrell has a wonderful trial lawyer, (11/16 N.T. 291). He confirmed Mr. Farrell accepted full responsibility for his misconduct and has remorse for his misconduct, (11/16 N.T. 293). He confirmed Mr. Farrell's excellent reputation in the community as a truthful and honest person and as a peaceful and law-abiding person, (11/16 N.T. 294, 295). He had no hesitation in recommending Mr. Farrell's reinstatement to the practice of law, (11/16 N.T. 295).

j) Frances Burns, III, Esquire testified on behalf of Mr. Farrell. He has practiced law since 1978. He met Mr. Farrell when they were students at Saint Joe's Prep and they

maintained their friendship ever since, (11/16 N.T. 313, 314). He is part of the Saturday morning group where Mr. Farrell meets with others, (11/16 N.T. 314). He confirmed Mr. Farrell has accepted full responsibility for his misconduct and his criminal convictions. He also confirmed the remorse that Mr. Farrell has showed for his past misconduct, (11/16 N.T. 317, 318).

80) The Petitioner, J. Michael Farrell, has met the threshold standard as required by the case of Office of Disciplinary Counsel v. Keller 506 A.2d 872 (Pa., 1986).

81) The Hearing Committee recommends that Mr. Farrell should be reinstated to the practice of law since he has proven by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law in this Commonwealth and that the resumption of the practice of the law within the Commonwealth by Mr. Farrell shall be neither detrimental to the integrity and standing of the Bar or the administration of justice nor subversive of the public interest, see Pennsylvania Rules of Disciplinary Enforcement, Rule 218(c)(3).

IV. ARGUMENT

A) The Petitioner, J. Michael Farrell, has met his burden of proof by clear and convincing evidence that he should be reinstated to the practice of law.

The Petitioner, J. Michael Farrell, is respectfully seeking reinstatement to the practice of law. Mr. Farrell on three separate days, November 16th, 2023, February 21st and 22nd, 2024, presented testimony from numerous persons concerning his excellent character and reputation and the fact that all of these persons, many of whom were distinguished lawyers and/or members of the church, had no hesitation in recommending Mr. Farrell's reinstatement to the practice of law. The hearing record is set forth in great detail with citation to the record in the Proposed Finding of Fact and Conclusions of Law section of this Brief. Because of word limitations, that will not be repeated in the Argument section and will be incorporated by reference.

Mr. Farrell has met his requirement for learning in the law as seen from the numerous CLE courses he has taken far in excess of the required 36 hours, which includes 12 hours of ethics. He has also read legal magazines and cases over the years and has done legal research as a paralegal. There is no question he has met his burden of proof of knowing and currency in the law.

Mr. Farrell has undergone qualitative rehabilitation. He currently does volunteer work with the homeless in Camden, NJ every Thursday night preparing meals for them at the Saint Joseph's House. He has done quite a bit of work for his Parrish in West Philadelphia as seen from the testimony. Third, he participated in a bi-monthly Saturday morning spiritual meeting with numerous catholic men on how to better achieve a spiritual life using the model of Saint Ignatius.

Mr. Farrell has worked as a paralegal for Attorney Pak in an immigration practice. He has worked steadily since 2021 for Attorney Pak and has been properly supervised, properly registered and has not held himself out as an attorney. Before that, he worked several months for his former associate, Attorney Patrick Duffy. He registered and worked there as a paralegal but he and Mr. Duffy made a mistake since they did not realize he could not work for a firm where his former clients were.

Mr. Farrell has produced numerous witnesses as to his current excellent reputation in the community as a peaceful and law-abiding person and as a truthful and honest person. He has also, from both his testimony and through numerous witnesses, presented clear evidence of his acceptance of responsibility, his remorse, his sorrow over his misconduct and his desire to make amends. Mr. Farrell, through his testimony, showed that he

has worked with lawyers, particularly Lawyers Concerned for Lawyers and other organizations. Mr. Farrell, as seen from the testimony, previously had a rather serious alcohol addiction issue. But he finally underwent treatment in or near 2004 and has remained sober ever since and has worked with Lawyers Concerned for Lawyers and others, helping lawyers who have substance or alcohol abuse issues.

The evidence was also very clear that Mr. Farrell was a very talented attorney. In his later career, before he was disbarred, he emphasized trying capital murder trials since he vigorously opposed the death penalty. He became involved in capital homicide representation in the 1990s when a juvenile client of his was executed despite his best efforts to stop the execution. He spent his entire active career as a lawyer doing pro bono and quasi-pro bono death penalty work. He also was an excellent trial lawyer as testified by many of the witnesses. Not only did he try major criminal cases, but he tried many major civil cases, including malpractice, FELA and related cases. He has also tried to jury verdict hundreds of civil and criminal cases. He has also argued in the United States Supreme Court on a FELA case and has argued many times in the Pennsylvania Supreme Court and the Pennsylvania Superior Court.

Mr. Farrell accepted responsibility for his misconduct. During the time period of roughly 2008 to 2013, he was

representing a marijuana related organization. Originally, that organization was involved with laughing-gas but moved to marijuana. Mr. Farrell represented them in numerous different states on their criminal matters. Unfortunately, some of the members were charged with major amounts of marijuana. Then Mr. Farrell crossed the line. He was given \$200,000.00 in cash by one of the leaders of the group to hire lawyers and protect members of the gang. Mr. Farrell unfortunately, did not report the cash to the IRS as he was supposed to and in essence, laundered the money to various lawyers who represented the various gang members. There were also issues of tampering with a witness who was cooperating with the government. Mr. Farrell explained and accepted full and complete responsibility for his criminal conduct.

Mr. Farrell is currently 72 years of age. He was placed on an interim suspension on March 17th, 2017. After his criminal conviction, he was then disbarred by consent in June of 2017 retroactive to the interim suspension. He accepted responsibility by the disbarment by consent. He was sentenced to 42 months of incarceration of which he served 28 months and was released early under the First Step Act statute. He pled guilty to money laundering, tampering with a witness, attempted tampering, among other serious charges.

Since that time, once he was released from prison, he has worked to help people, he has worked full-time as a paralegal, he has not held himself out as a lawyer and he has supported his family. He maintained good family relationships with his first and second wives and his seven children. He has been married to his second wife for 42 years and they have five children and he has two children from his first marriage. One of his children is a lawyer in the Marines and works as a JAG Officer.

Mr. Farrell applied initially for reinstatement in 2022 without counsel. His Reinstatement form failed to include certain civil suits and monies owed and things of that nature. As a result of the deficiencies in that original Reinstatement Questionnaire, he withdrew it before there were any hearings. He then refiled in 2023 correcting many of the errors in his original application.

Disciplinary Counsel did not present any adverse witnesses during the trial, although there was extensive cross-examination of Mr. Farrell and his witnesses.

Mr. Farrell, as seen from his numerous witnesses, is cognitively, emotionally and mentally fit to practice law. Although his treating doctor, Dr. Nelson, could no longer appear because of Dr. Nelson's personal problems with potential criminal charges, Dr. John O'Brien did testify. Dr. O'Brien, a psychiatrist, disagreed that Mr. Farrell suffered from bipolar

illness but in any event, Dr. O'Brien was very clear there is no reason cognitively, emotionally or mentally that Mr. Farrell could not resume the practice of law.

Mr. Farrell, in his testimony, accepted full responsibility, showed remorse and more importantly, made it very clear that he would never cross the lines again and that he understands the mistakes he made in doing so.

In essence, the hearing record showed a very dedicated and talented lawyer who helped many people when he was a practicing lawyer, but who made terrible mistakes, representing this marijuana drug gang in the years between 2009 to 2013. Mr. Farrell has paid the price for his misconduct. Mr. Farrell has changed, reformed and has tried to begin anew with a proper purpose. The record is absolutely clear that Mr. Farrell has made substantial changes in his life and has demonstrated a desire to return to the practice of law and to help others.

The burden of proof that Mr. Farrell must meet at a reinstatement hearing, is set forth in Pennsylvania Rules of Disciplinary Enforcement, Rule 218(c)(3).

"A disbarred or suspended attorney shall have the burden of demonstrating by clear and convincing evidence that such a person has the moral qualifications, competency and learning in the law required for admission to practice law in this Commonwealth and that the resumption of the practice of law within the Commonwealth by such person will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive

of the public interest," see Pennsylvania Rules of Disciplinary Enforcement, Rule 218(c)(3).

In addition to this general burden of proof set forth in Rule 218(c)(3), Mr. Farrell must meet the threshold issue that has to be met by any petitioner who is seeking reinstatement from a disbarment status. The Supreme Court of Pennsylvania in the case of Office of Disciplinary Counsel v. Keller 506 A.2d 872 (Pa., 1986), has established that in any reinstatement proceeding involving disbarment, there is a threshold issue that must be met by a petitioner before reinstatement can be considered.

"When reinstatement is sought by a disbarred lawyer, the threshold question must be whether the magnitude of the breach of trust would permit the resumption of the practice without a detrimental effect upon the integrity and standing of the bar or the administration of justice nor subversive of the public interest," Id 875.

In other words, whether the conduct was so egregious that the attorney could never be reinstated. Mr. Stretton is aware of only two attorneys who were denied that reason. Only one went to the Supreme Court and that was Romaine Phillips who was involved with bribery and related matters with judicial officers. The other that only went to a Hearing Committee was a lawyer Mr. Stretton represented who killed his girlfriend.

Many attorneys who have been disbarred for very serious misconduct, have been reinstated and met the Keller threshold.

There are numerous cases where the threshold Keller question has been met involving serious conversions of funds of clients. For instance, in the case of In Re: Anonymous 14 D&C 4th, 359 (1991), an attorney was disbarred and was seeking reinstatement for converting client funds.

"The underlying offense in this case involves a petitioner's comingling, conversion and misappropriation of clients' funds. A review of the Pennsylvania case law substantiates that the Board's opinion that petitioner's conduct is not so repugnant to the integrity of the bar or of the public interest so as to obviate his possible reinstatement," Id 357.

In the case of Michael K. Simmon 149 DB 2005, 1214 DD 3, (2014), Michael Simmon was reinstated. He converted and embezzled almost half of three quarter million dollars of clients' funds. He paid the funds back through monies from his mother's inheritance. He said that he stole the money just because he wanted to have an extravagant lifestyle. Despite all of that, he was found to have met the Keller standard and ultimately, was reinstated to the practice of law in early 2014.

In the case In the Matter of Elliot Toll 20 DB 1987, 64 DB 1988, 636 DD 2, (2002), Mr. Toll was found to have met the Keller standard despite his disbarment for pleading guilty to mail fraud, aiding and abetting obstructing justice rising out of submission of false medical bills to insurance companies in terms of personal injury cases and attempting to have doctors destroy records that the prosecution was seeking.

In the case of In Re: Anonymous 19 D&C 4th, 473 (1994), the attorney was involved in a bribery scheme which resulted in his disbarment but did not preclude his reinstatement to the practice of law, despite underlying serious misconduct.

In the case of In Re: Perrone 777 A.2d 413, (Pa., 2001), Mr. Perrone was found by the Pennsylvania Supreme Court to have met the Keller standard even though he pled guilty to theft by deception, tampering with public records, both felonies of the third degree, and unsworn falsifications arising out of a massive fraudulent billing as a court appointed attorney.

“Viewing Perrone’s misconduct in light of this court’s previous holding concerning reinstatement petitions we cannot say that Perrone’s misconduct was so deplorable that he could never be reinstated to the bar,” Id 416.

Mr. Perrone was then reinstated in a subsequent case of In Re: Perrone 889 A.2d 1108, (Pa., 2006).

In the classic case where the Keller standard did not prevent reinstatement was the case of In Re: Verlin 731 A.2d 600 (Pa., 1999). Mr. Verlin was disbarred and was reinstated and found to have met the Keller threshold. Mr. Verlin had been convicted of criminal conspiracy, perjury, false swearing and theft. Mr. Verlin was a former Disciplinary Board Hearing Committee Member. His misconduct arose out of the fact that during a deposition, he hired an actor who falsely identified himself as the person being deposed. The misconduct occurred in

1988 and Mr. Verlin was reinstated in 1999. The Pennsylvania Supreme Court noted as follows:

“Nevertheless, we agree with the Disciplinary Board that Verlin’s conduct is not so egregious as to act as an outright bar to our consideration of his petition for reinstatement,” Id 602.

In the case of In the Matter of Robert Eric Hall 171 DB 2006, 1213 DD 3 (2015), Eric Hall was reinstated to the practice of law and overcame the Keller standard even though he was convicted of homicide by vehicle, homicide by vehicle DUI related, recklessly endangering another person, driving under the influence of alcohol and reckless driving. Mr. Hall, while highly intoxicated, struck a car and killed a West Point Cadet in Allentown, Pennsylvania. Mr. Hall was sentenced to six years of incarceration. He was reinstated to the practice of law within a year and a half of him being released, even though he was still on parole and the Court found that he met the Keller standard.

Therefore, Mr. Stretton, on behalf of Mr. Farrell, contends that despite the serious charges which resulted in Mr. Farrell’s criminal conviction, his misconduct was not so egregious as to prevent Mr. Farrell from returning to the practice of law.

If the Keller issue has not been met, which the Petitioner contends that it has, then in evaluating the reinstatement of Mr. Farrell, the language of the Pennsylvania Supreme Court in

Philadelphia News, Inc. v. Disciplinary Board 363 A.2d 779,

(Pa., 1976) must be considered. That case sets forth the objectives of a reinstatement proceeding.

"A reinstatement proceeding is a search and inquiry into a lawyer's professional and moral fitness to resume the practice of law. The objective concern is not solely the transgressions that give rise to the lawyer's suspension or disbarment, but rather the nature and extent of the rehabilitative efforts he has made since that time the sanctions were imposed and the degree of success achieved in the rehabilitative process," Id 71.

The Pennsylvania Supreme Court in the same case, in footnote no. 6, emphasized it is the attorney's conduct since the suspension or disbarment that should be the focus of the reinstatement proceeding and not the underlying misconduct.

"While the egregiousness of a disbarred lawyer's offense certainly has a bearing on whether a reinstatement is warranted, nevertheless, the main thrust of the proceeding is whether the disciplined lawyer is now fit and technically competent to engage in the practice of law," Id 781, (footnote no. 6).

Mr. Farrell respectfully contends he has met not only the standard for reinstatement as set forth in Pennsylvania Rules of Disciplinary Enforcement, Rule 218(c)(3), but he has also met the standard set forth in the aforementioned Keller case. In reviewing and reading the hearing transcript, it seems that most of Disciplinary Counsel's questions, dealt with the underlying criminal conviction and the events leading up to it. Obviously, the criminal conviction is a subject of inquiry in the

reinstatement hearing, but as the Pennsylvania Supreme Court has said in aforementioned Philadelphia News, Inc. case, and many other cases, it is the conduct after that is critical. Mr. Farrell has clearly shown by convincing evidence that he has changed and reformed. His character witnesses were substantive people. Many were respected lawyers and leaders of major firms in Philadelphia, and all testified as to his good character, his changed and reform, his remorse and his acceptance of responsibility. All indicated that they had no hesitation in recommending his reinstatement to the practice of law. Mr. Farrell's wife testified as to his remorse and his change and she noted how he has kept the family together and had a very strong family relationship with their seven children. But since, Mr. Farrell has worked with Attorney Pak as a paralegal. He has complied with Pennsylvania Rules of Disciplinary Enforcement, Rule 218(j), after his initial mistake of working with Attorney Duffy. He has registered. He has not given legal advice. He has been supervised, etc.

Mr. Farrell has also been active in the community. He is working at Saint Joseph's House and he is working in his Parrish. He is working with Lawyers Concerned for Lawyers. Mr. Farrell testified that he wants to return to the practice of law and again be involved in capital murder cases.

Some of the factors for reinstatement of a disbarred lawyer were noted in the case of In Re: Anonymous 23 D&C 4th, 187 (1994).

"Testimony presented by the petitioner, attorney A, and character reference letters of lawyers who are familiar with the petitioner and his activities during the course of the term of his suspension are evidence of his moral character. The petitioner, who has provided his moral fitness through the presentation of testimony by attorneys, has been sanctioned in past reinstatement cases --- the petitioner has demonstrated his competency and learning in the law by his own testimony and that of attorney A who testified on his own behalf," Id 190, 191.

Clearly, Mr. Farrell has met these standards. In the case of In the Matter of Lord 910 A.2d 1 (Pa., 2006) the Pennsylvania Supreme Court reinstated Attorney John Lord. Mr. Lord has been a partner in a major firm where he fabricated client billings. He had a severe alcohol problem which he later overcame. As a result, he was suspended from the practice of law but then when suspended he engaged in the unauthorized practice of law. He worked as a paralegal during his disbarment. He presented character witnesses and expressed remorse and reform and his reinstatement was granted.

The fact that a lawyer seeking reinstatement made mistakes on his Reinstatement Questionnaire is not usually fatal. In the case of In the Matter of Robert Creem 181 DB 2004 (2008), Mr. Creem was reinstated by the Pennsylvania Supreme Court in 2009 after a two-year suspension for misuse of clients' funds. Mr.

Creem had made numerous errors on his reinstatement questionnaire and in fact, did not list any of his reported judgements. He also still owed substantial federal taxes and did not pay any taxes during the time of his two-year suspension and had made no effort to work or make any income. Yet, he was reinstated. The Disciplinary Board noted as follows:

"None of his errors were material when answering the fundamental question of whether the petitioner possesses the fitness to resume the practice of law. The errors and omissions were not intended to mislead the Office of Disciplinary Counsel. Moreover, the petitioner and his counsel cooperated with the Office of Disciplinary Counsel. The petitioners' testimony at the reinstatement hearing credibly explained any inaccuracies on the questionnaire," (see Disciplinary Board Report in the unreported case of In the Matter of Robert Creem 181 DB 2004 [2008]).

In the case of In Re Mark Manoff Supreme Court Docket No. 1703 DD 3, Disciplinary Board Docket 10 DB 2011 (2017), Mr. Manoff was reinstated to the practice of law. He had been suspended for five years after pleading guilty to criminal conspiracy for security fraud and two counts of security fraud. He was then sentenced to five years of probation by the federal judge. During the disciplinary hearing, he presented testimony as to his charitable activities involving his synagogue, and his excellent character testimony. Disciplinary Counsel alleged he was still practicing law. Despite his criminal convictions, he was reinstated by the Pennsylvania Supreme Court and the Court found he did not practice.

Another case where a lawyer made errors when he was reinstated was the case of In the Matter of Richard Moore Supreme Court Docket No. 171 DD 3, Disciplinary Board No. 153 DB 2003 (2009). Mr. Moore was reinstated after a two-year suspension. During his suspension, he continued to list himself as an attorney on his tax returns. He also handled several estates as an administrator and took excessive fees. But he presented excellent character testimony as to his change and reform and he accepted responsibility. The Pennsylvania Supreme Court reinstated him. Similarly, in the case of In Re Maria Delsole Morell Supreme Court Docket No. 694 DD 3, Disciplinary Board No. 136 DB 2001 (2017), Ms. Morell had been suspended due to criminal convictions years before and was reinstated to the practice of law even though she failed to list her judgments on the reinstatement questionnaires. She subsequently corrected the petition and presented good character testimony and was reinstated.

Similarly, in the case of In Re: Anonymous 29 D&C 3rd, 407 (1984), the attorney failed to list a number of outstanding judgements on his reinstatement questionnaire. Despite that omission, he was admitted to the practice of law. He did present evidence of remorse, reform and character testimony.

In the case of In the Matter of Abrams Supreme Court Docket No. 42 DD 2, Disciplinary Board No. 25 DB 1985 (2005), Mr.

Abrams was reinstated to the practice of law despite the fact that he had not removed his listing as an attorney and disbursed checks to former clients after being suspended. The Disciplinary Board noted as follows:

"The petitioner engaged in a few missteps during his rehabilitative process, but the consideration of these matters show them to be minor and not an impediment to reinstatement."

Recently, in the case of In Re Kenneth Andrew Rubin Supreme Court Docket No. 1476 DD 3, Disciplinary Board No. 192 DB 2008 (2024), the Pennsylvania Supreme Court reinstated Mr. Rubin to the practice of law. Mr. Rubin had stolen substantial funds from clients and had been denied his initial reinstatement because he did not make sufficient efforts to find and pay the clients. His original questionnaire also had errors. Despite those problems, the Pennsylvania Supreme Court reinstated Kenneth Rubin to the practice of law.

Mr. Farrell had the clients' monies which he transferred to his New Jersey IOLTA account, then to his personal account and then escheated the monies. He was not aware, unfortunately, of the recent change in the Rules of Professional Conduct, Rule 1.15(v) which provides a procedure if clients cannot be found and monies are still being held. Mr. Farrell did not benefit from the monies and although he made a mistake as to the

process, the monies were escheated. He testified that he could not find the clients and had made efforts to do so.

In the disciplinary case of In the Matter of Samuel Sagett 686 DD 2, 38 DB 1989 (2003), Mr. Sagett had been originally denied reinstatement because he did not know how much money he had misused from the clients and made no real effort to find out. Mr. Sagett then filed a second reinstatement petition. This time he was successful and reinstated. The Disciplinary Board recommended his reinstatement and the Supreme Court subsequently ordered it. In reading the second Disciplinary Board Opinion, Mr. Sagett took many steps that Mr. Farrell took. Mr. Farrell, once he returned from prison, made efforts to find the clients and ultimately, escheated the money to the Pennsylvania and New Jersey Departments of Treasury. The Disciplinary Board noted on the Sagett case:

“While no direct evidence is available that would allow petitioner to prove conclusively that he made all of his clients whole, the available circumstantial evidence established that the clients received the restitution that was due and owing to them,” Id 89.

Mr. Farrell has made efforts to handle those funds and although he made a mistake because he did not realize about the rule change, he handled the funds responsibly after not being able to find the clients. He did not misuse the funds.

Similarly, the items he left off in the original Reinstatement Questionnaire were errors on his part and were

corrected and he explained them. As Mr. Farrell pointed out, he has resolved all civil litigation and any monies due have been paid. His taxes are timely filed.

Disciplinary Counsel raised the issue that Mr. Farrell should wait. It has now been six-seven years since his disbarment. The weakness of that argument is that Mr. Farrell is 72 years of age. The process is such that it will take at least another eight months to 14 months before the Pennsylvania Supreme Court acts and makes a final decision either reinstating or not. In other words, he will be out over eight years. More importantly, he is 72 years of age. He is still in good health and mentally fit to practice as seen from the trial testimony. But if he had to wait and start this process again, by the time he would be reinstated, he could be 76, 77 or 78. At his age, there is no reason to wait.

In conclusion, J. Michael Farrell, through his counsel, Samuel C. Stretton, Esquire, respectfully requests this Honorable Hearing Committee recommend to the Disciplinary Board and then to the Pennsylvania Supreme Court Mr. Farrell's reinstatement. The total picture shows a person who has changed, reformed and done many of good acts since he has been released from prison. Mr. Farrell is ready to come back, will be an asset to the bar and this will give him an opportunity to make amends.

V. CONCLUSION

The Petitioner, J. Michael Farrell, by his counsel Samuel C. Stretton, Esquire, respectfully requests this Honorable Hearing Committee recommend to the Disciplinary Board of the Supreme Court of Pennsylvania and to the Supreme Court of Pennsylvania, the Petitioner, Mr. Farrell's, reinstatement to the practice of law since he has met his burden of proof by clear and convincing evidence of the elements set forth in Pennsylvania Rules of Disciplinary Enforcement, Rule 218(c)(3).

Respectfully submitted,

s/Samuel C. Stretton
Samuel C. Stretton, Esquire
Attorney for Petitioner,
J. Michael Farrell
103 South High Street
P.O. Box 3231
West Chester, PA 19381
(610) 696-4243
Attorney I.D. No. 18491

BEFORE THE DISCIPLINARY BOARD
OF THE SUPREME COURT OF PENNSYLVANIA

IN THE MATTER OF : DOCKET NO. 2362 DD NO. 3
J. MICHAEL FARRELL : 34 DB 2017
PETITION FOR REINSTATEMENT : ATTORNEY REGISTRATION NO.
: 33803 (PHILADELPHIA)

CERTIFICATE OF COMPLIANCE

I, Samuel C. Stretton, Esquire, 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.

Respectfully submitted,

April 12, 2024
Date

s/Samuel C. Stretton
Samuel C. Stretton, Esquire
Attorney for Petitioner,
J. Michael Farrell
103 South High Street
P.O. Box 3231
West Chester, PA 19381
610-696-4243
Attorney I.D. No. 18491

EXHIBIT "A"

BEFORE THE DISCIPLINARY BOARD
OF THE SUPREME COURT OF PENNSYLVANIA

IN THE MATTER OF : DOCKET NO. 2362 DD NO. 3
J. MICHAEL FARRELL : 34 DB 2017
PETITION FOR REINSTATEMENT : ATTORNEY REGISTRATION NO.
: 33803 (PHILADELPHIA)

CERTIFICATE OF WORD COUNT

I, Samuel C. Stretton, Esquire, certify that this filing complies with the word count limitations of the Disciplinary Board of the Supreme Court since this Brief contains 11,995 words.

Respectfully submitted,

April 12, 2024
Date

s/Samuel C. Stretton
Samuel C. Stretton, Esquire
Attorney for Petitioner,
J. Michael Farrell
103 South High Street
P.O. Box 3231
West Chester, PA 19381
610-696-4243
Attorney I.D. No. 18491

EXHIBIT "B"

BEFORE THE DISCIPLINARY BOARD
OF THE SUPREME COURT OF PENNSYLVANIA

IN THE MATTER OF : DOCKET NO. 2362 DD NO. 3
J. MICHAEL FARRELL : 34 DB 2017
PETITION FOR REINSTATEMENT : ATTORNEY REGISTRATION NO.
: 33803 (PHILADELPHIA)

CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the
Petitioner's Brief to the Hearing Committee in the captioned
matter upon the following persons in the manner indicated below.

Service by Electronic Mail addressed as follows:

1. Marcee Sloan, Board Prothonotary
Disciplinary Board of the Supreme Court of
Pennsylvania
601 Commonwealth Avenue
Suite 5600
P.O. Box 62625
Harrisburg, PA 17106
Emails: Marcee.Sloan@pacourts.us
padboardfilings@pacourts.us
2. Richard Hernandez, Esquire
Assistant Disciplinary Counsel
Office of Disciplinary Counsel
District I Office
1601 Market Street, Suite 3320
Philadelphia, PA 19103
Email: Richard.Hernandez@pacourts.us
3. Michael T. Scott, Esquire
Hearing Committee Chair
Mike Sott Law LLC
1116 Red Rose Lane
Villanova, PA 19085
Email: Mike@mikescottlaw.com

4. Patrice Smith O'Brien, Esquire
Hearing Committee Member
Rawle & Henderson LLP
Centre Square West
1500 Market Street, 16th Floor
Philadelphia, PA 19102
Email: Pobrien@rawle.com

5. Patrick Joseph Cosgrove, Esquire
Hearing Committee Member
Freeman, Mathis & Gary
1600 Market Street, Suite 1210
Philadelphia, PA 19103
Email: Patrick.Cosgrove@fmglaw.com

6. Kimberly Henderson, Esquire
Special Counsel
Disciplinary Board of the Supreme Court of
Pennsylvania
601 Commonwealth Avenue
Suite 5600
P.O. Box 62625
Harrisburg, PA 17106
Email: Kimberly.Henderson@pacourts.us

7. J. Michael Farrell
502 South 49th Street
Philadelphia, PA 19143
Email: Jmichaelfarrell188@gmail.com

Respectfully submitted,

April 12, 2024
Date

s/Samuel C. Stretton
Samuel C. Stretton, Esquire
Attorney for Petitioner,
J. Michael Farrell
103 South High Street
P.O. Box 3231
West Chester, PA 19381
610-696-4243
Attorney I.D. No. 18491