In re Anthony Campion Campanale
Petitioner

Supreme Court No. M.R. 31197
Commission No. 2022PR00019

Synopsis of Hearing Board Report and Recommendation
(June 2023)

Petitioner sought reinstatement after being disbarred on consent based on his participation in a mortgage-fraud scheme in which the sellers, whom Petitioner represented, funded buyers' down payments and concealed that fact from lenders. For his conduct, Petitioner was charged in federal court with multiple counts of mail and wire fraud affecting a financial institution, and ultimately pleaded guilty to one count of mail fraud affecting a financial institution. The Hearing Board concluded that Petitioner did not prove that he should be reinstated at this time, based primarily on his failure to show what the outstanding balance of restitution is and to prove that he has completed it. The Hearing Board also was concerned that Petitioner provided no information about his plan for returning to law practice if he were to be reinstated. The Hearing Board thus recommended that Petitioner's petition for reinstatement be denied.

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:	
ANTHONY CAMPION CAMPANALE,	Supreme Court No. M.R. 31197
Petitioner,	Commission No. 2022PR00019
No. 3126921.	

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

Petitioner sought reinstatement after being disbarred on consent based on his participation in a mortgage-fraud scheme in which the sellers, whom Petitioner represented, funded buyers' down payments and concealed that fact from lenders. For his conduct, Petitioner was charged in federal court with multiple counts of mail and wire fraud affecting a financial institution, and ultimately pleaded guilty to one count of mail fraud affecting a financial institution. The Hearing Board concluded that Petitioner did not prove that he should be reinstated at this time, based primarily on his failure to show what the outstanding balance of restitution is and to prove that he has completed it. The Hearing Board thus recommended that Petitioner's petition for reinstatement be denied.

INTRODUCTION

The hearing in this matter was held remotely by videoconference on November 14, 2022, before a panel of the Hearing Board consisting of Stephen S. Mitchell, Chair; Robert Handley; and Willard O. Williamson. Jonathan M. Wier and Rory P. Quinn represented the Administrator. Petitioner was present and represented by Michael J. Greco.

PLEADINGS

Petitioner was disbarred on consent on January 21, 2016. He filed a petition for reinstatement on March 4, 2022. The Administrator filed objections to Petitioner's petition on August 31, 2022.

EVIDENCE

Petitioner testified on his own behalf and presented testimony from six other witnesses. Petitioner's Exhibits A, C, F, and G1 through G5 were admitted into evidence. (Tr. 10-11, 177-78.) The Administrator called Petitioner as an adverse witness. Administrator's Exhibits 1 through 5 were admitted into evidence. (Tr. 12.)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A disbarred attorney seeking to be reinstated to the practice of law bears the burden of proving by clear and convincing evidence that he has been rehabilitated, is of good character, and has current knowledge of the law. In re Richman, 191 Ill. 2d 238, 244, 730 N.E.2d 45 (2000). In assessing those issues, we consider the following factors, as well as any other factors we deem appropriate, as instructed by Illinois Supreme Court Rule 767(f):

(1) the nature of the misconduct for which the petitioner was disciplined;

(2) the petitioner's maturity and experience at the time discipline was imposed;

(3) whether the petitioner recognizes the nature and seriousness of the misconduct;

(4) when applicable, whether the petitioner has made restitution;

(5) the petitioner's conduct since discipline was imposed; and

(6) the petitioner's candor and forthrightness in presenting evidence in support of the petition.

Each case is unique and must be decided based on its own circumstances. In re Martinez-Fraticelli, 221 Ill. 2d 255, 271, 850 N.E.2d 155 (2006). There is no presumption in favor of

reinstatement, and the mere passage of time is not sufficient grounds for reinstatement. Richman, 191 Ill. 2d at 247-48.

After considering the petition for reinstatement, the evidence presented to us, and relevant authority, we find that Petitioner did not meet his burden of proving that he should be reinstated.

I. Nature of the Misconduct

A. Evidence Considered

On May 16, 2013, a grand jury in the United States District Court for the Northern District of Illinois returned an eight-count indictment against Petitioner in U.S. v. Anthony Campanale, 13 CR 418. The indictment charged Petitioner with mail and wire fraud affecting a financial institution, in violation of 18 U.S.C. §1341 and §1343. (Adm. Ex. 2 at 1.)

In February 2015, Petitioner agreed to enter into a voluntary plea of guilty to one count of mail fraud affecting a financial institution, in violation of 18 U.S.C. §1341. (Id. at 2.) As part of his plea, Petitioner admitted that, from about October 2007 to about November 2008, Petitioner and others, including Steven Klebosits and Thomas Hyland, participated in a scheme to defraud mortgage lenders. (Id. at 3.)

At some time prior to October 2007, Klebosits and Hyland, whom Petitioner represented in real estate matters, told Petitioner that they were paying buyers to purchase their properties. He told them that could not be done but that he would try to "find a way that it could be done." As a result, he created a transactional structure involving limited liability corporations (LLCs) that he believed was legal. (Tr. 110.)

Petitioner directed Klebosits and Hyland to form a separate LLC to serve as the seller of record for each property transaction at issue, and to make the buyer in each transaction a partial owner of the LLC. This allowed Petitioner and his co-defendants[1] to falsely claim that post-closing

payments to the buyers were directed to the buyers as part owners of the LLCs selling the properties, and not in connection with their purchases of the properties. (Adm. Ex. 2 at 6.)

In actuality, however, the payments to the buyers were not given to them as part owners of the LLCs selling the properties, but rather to help fund their purchase of the properties, and were not disclosed to the lenders financing mortgage loans to the buyers. (Id. at 7.) By at least July 2008, Petitioner knew that Klebosits, Hyland, and other individuals and entities were providing money to buyers for their down payments to purchase properties; that the funds were being falsely represented to lenders as the buyers' own down payment funds; and that fraudulent real estate contracts and HUD-1 settlement statements were being submitted to lenders. Information about the source of a buyer's down payment was material to lenders in deciding to fund a mortgage loan, and to any successor's decision to purchase a mortgage loan. (Id. at 8-9.) After learning of the mortgage fraud, Petitioner did not attempt to stop, disclose, or withdraw from it, and the fraudulent scheme continued for at least four more months. (Tr. 112, 114-15.)

The lenders in the fraudulent transactions suffered losses totaling $3,486,940, because the loans were not repaid by the borrowers and because the values of the properties were insufficient to cover the loans. (Adm. Ex. 2 at 13.)

For his role in the fraud, the court sentenced Petitioner to 18 months' imprisonment, followed by one year of supervised release. The court also ordered restitution in the amount of $3,486,940 to be paid to the victim lenders. Along with his co-defendants, Petitioner is jointly and severally liable for the full amount of restitution. (Adm. Ex. 1 at 120-21, 124-27.) Petitioner received no financial benefit from the fraudulent scheme other than $500 in attorney's fees and a commission from the title company for each of the twelve transactions involved in the scheme. (Tr. 115-16.)

Based on his criminal conduct, Petitioner filed a motion to have his name stricken from the roll of attorneys licensed to practice law in Illinois. (Adm. Ex. 2.) The Illinois Supreme Court granted that motion on January 21, 2016. (Pet. Ex. 1 at 1; Adm. Ex. 3.)

B. Analysis and Conclusions

The seriousness of the misconduct leading to discipline is an important factor in determining whether reinstatement is warranted, and cannot be minimized by subsequent exemplary conduct. Richman, 191 Ill. 2d at 245.

The misconduct that led to Petitioner's disbarment was serious. Not only did Petitioner participate in a scheme to defraud mortgage lenders, but he used his law license to facilitate that scheme, in that it was he who created the LLC structure that allowed the fraud to occur. While we credit Petitioner's testimony that he did not know of the fraud until July 2008, he allowed it to continue for months after he learned of it. The entirety of the scheme resulted in losses of over $3.48 million to the lenders. However, it is clear from the evidence that Petitioner was not the mastermind of the scheme, and benefitted financially from it only to the extent that he received typical attorney's fees and a title commission from each transaction.

Accordingly, the seriousness of Petitioner's misconduct weighs against, but does not preclude, reinstatement.

II. Petitioner's Maturity and Experience

A. Evidence Considered

Petitioner was licensed to practice law in Illinois in 1980. He worked for several law firms for the bulk of his years in practice, and handled a variety of matters. He opened a solo practice in 2006 or 2007. While a solo practitioner, he handled litigation, real estate, and corporate work. At the time of his misconduct, Petitioner was about 52 years old and had been practicing law for about 28 years. (Tr. 107-109).

B. Analysis and Conclusions

We consider Petitioner's maturity and experience in determining whether, and to what extent, he should have recognized that the conduct that led to his discipline was wrong. See, e.g., In re Polito, 132 Ill. 2d 294, 301, 547 N.E.2d 465~~, 468~~ (1989) (attorney who had practiced law for over 18 years when he consented to his disbarment "was not a neophyte attorney whose misconduct can be attributed to youth and inexperience").

We find that Petitioner was sufficiently mature and experienced to recognize that his conduct was wrong and choose a different path than he ultimately did. Petitioner's maturity and experience weigh against, but do not preclude, reinstatement. See In re Alexander, 97 RT 3002, M.R. 13340 (Mar. 23, 1999) (Hearing Bd. at 15) (finding that, although attorney's maturity and experience did not excuse his misconduct, that fact alone was insufficient to deny reinstatement).

III. Petitioner's Recognition of the Nature and Seriousness of his Misconduct

A. Evidence Considered

At his hearing, Petitioner acknowledged that, once he learned of his co-defendants' fraud, he did "absolutely nothing" about it. Instead, he "made the choice not to do anything and continued to represent them." (Tr. 114-15.) He testified that, while he did not initially create the LLC structure to conceal the actual loan terms, at the point at which he found out that the buyers' down payments were being paid by his clients, his silence in the HUD statements became a fraud on the mortgage lender. (Tr. 117-18.)

Petitioner further testified about the impact his conduct had on his family, especially his son, who was 14 years old at the time of the criminal proceedings. He testified that "[t]here were too many people, too many institutions, too many parts of [his] life and others that were affected in a negative way." He testified that he is "absolutely" remorseful for his criminal conduct, and that, if he "could do it all over again, it wouldn't happen." (Tr. 124-26.)

As to why he remained silent when he learned that his clients were making under the table payments to the buyers in order to fund the buyers' purchases, he testified that he "was too weak to make the right decision to do otherwise." (Tr. 143.) He testified that he has reflected daily on his conduct, and that it is not going to happen again because he understands himself better, understands what he did to the legal profession, and saw the effect of his conduct on his family. He understands the impact of his choices such that they will not happen again. (Tr. 143-45.)

In addition to his own testimony, Petitioner presented the testimony of six witnesses, each of whom testified that Petitioner affirmatively disclosed his criminal conduct, did not try to minimize it, accepted full responsibility for it, and deeply regretted it. (Tr. 24-25, 27-28, 40-41, 55, 60, 76, 79-81, 94-95, 186-87, 190.)

B. Analysis and Conclusions

Whether a petitioner recognizes the nature and seriousness of his misconduct is an important factor in a reinstatement proceeding. In re Sosman, 2012PR00150, M.R. 25693 (Sept. 12, 2014) (Hearing Bd. at 32). Expressions of remorse and acknowledgements of wrongdoing can indicate that a petitioner recognizes the nature and seriousness of his past misconduct. See Martinez-Fraticelli, 221 Ill. 2d at 276. In contrast, a petitioner's attempts to minimize or rationalize his conduct are signs that he does not appreciate the seriousness of his behavior. See In re Livingston, 133 Ill. 2d 140, 143, 549 N.E.2d 342 (1989). An attorney's failure to recognize or acknowledge the wrongful nature of his or her conduct raises significant concerns regarding the attorney's ability to adhere to ethical norms in the future. See In re Lewis, 138 Ill. 2d 310, 347, 562 N.E.2d 198 (1990).

At his hearing, Petitioner expressed deep regret for his misconduct and repeatedly acknowledged that his actions were wrong. We found Petitioner's testimony to be candid and

sincere, and therefore credible, and we believe that he fully understands the nature and seriousness of his misconduct and is remorseful for it.

Petitioner also presented numerous witnesses who testified that he disclosed his wrongful conduct to them and expressed genuine remorse for it. We found all of the witnesses to be credible, and accept their testimony about Petitioner's acceptance of responsibility and remorse for his actions.

Based upon Petitioner's testimony and the testimony of his witnesses, we conclude that Petitioner fully recognizes the nature and seriousness of his wrongdoing. This factor weighs in favor of reinstatement.

IV. Restitution

A. Evidence Considered

The judgment that was entered in the criminal proceeding required restitution of $3,486,940, which is the total amount of loans made in connection with the scheme to defraud the mortgage lenders without taking into account any amount that the lenders may have recovered through foreclosures or other means. (Tr. 118-19; Adm. Ex. 1.) Petitioner and his co-defendants are jointly and severally liable for the full amount of restitution. (Tr. 119.)

Petitioner has paid about $247,000 through forfeiture of his deferred compensation plans. In addition, the judgment requires Petitioner to pay 10 percent of his income on a monthly basis. He has been paying $300 per month to the Department of Justice since about February 2019. His gross income per year is $57,000 – about $35,000 from his job at a bakery and about $22,000 from Social Security. (Tr. 119-21; Pet. Ex. A at 9.)

Petitioner testified that it is impossible for him to pay the full amount of restitution at his present rate of pay because, based on his current income and assuming he paid no other financial

obligations, it would take him over 50 years, or until the age of 128, to complete restitution. (Tr. 126-27.)

Petitioner does not know if his co-defendants have made any payments toward restitution. (Tr. 119.) When asked what steps he had taken to determine the actual amount of restitution he owes, given that his co-defendants may have paid some of it, Petitioner stated: "To be perfectly frank with you, I don't care. I know they can't come up with three million. I know I still owe money so I'm going to pay until somebody tells me not to." He further stated: "I know it's still there so I've taken no steps because there's no point in doing so." (Tr. 171.)

Notwithstanding that the mortgage lenders were able to recover some of their losses through foreclosure and other means, Petitioner has not filed anything in federal court to have the total amount of restitution reduced because "[t]he courts don't care." (Tr. 181.)

B. Analysis and Conclusions

The Court has held that, in a case in which restitution applies, restitution is a condition of reinstatement except where it has been proven impossible to make. In re Smith, 2017PR00105, M.R. 28983 (Sept. 21, 2020) (Review Bd. at 7) (citing In re Berkley, 96 Ill. 2d 404, 451 N.E.2d 848 (1983)). Petitioner acknowledges that he has not completed restitution. However, he argues that, at his current rate of pay, it would be impossible for him to complete restitution in his lifetime. He cites Berkley for the proposition that restitution is a condition of reinstatement "except in those rare instances where repayment to the victims is conclusively established to be an impossibility." Berkley, 96 Ill. 2d at 412. He contends that, because it is effectively impossible for him to pay the remaining $3 million in restitution based upon his current income, the fact that he has not yet made full restitution should not be held against him in determining whether reinstatement is warranted.

Petitioner misunderstands what constitutes "impossibility" under relevant precedent. As the Review Board explained in Smith, the Court has made clear that "conclusive impossibility

refers to an actual inability to identify either the victims of the wrongdoing or the amount owed to them, and not an inability to pay." Smith, 2017PR00105 (Review Bd. at 9). Based on that definition, we find that Petitioner has not proven that it is conclusively impossible for him to complete court-ordered restitution.

It is also clear from precedent that granting reinstatement where restitution has not been completed is the rare exception, rather than the rule, and the exception is based upon actual impossibility, as described in Berkley, or other unique circumstances, as were present in Smith. Petitioner has provided no evidence of circumstances that would warrant an exception to the rule that restitution is a condition of reinstatement.

Furthermore, despite bearing the burden of proof in this proceeding, Petitioner made no effort to determine whether his co-defendants have made payments toward restitution and, if so, how much. Nor did he ascertain what portion of the loans the lenders were able to recover through means other than restitution, such that Petitioner could seek a reduction in the total amount of restitution that must be paid. Instead, he asserts that "[t]he courts don't care" whether the lenders recovered any of their losses, and argues that, because it is impossible for him to pay over $3 million in restitution in his lifetime, we should ignore the restitution requirement and recommend reinstatement anyway. That position strikes us as cavalier for an attorney seeking reinstatement.

Because Petitioner has presented no evidence to the contrary, we are left with the assumption that about $3 million in restitution remains owing. Based on this assumption, we find this matter to be akin to In re Voltl, 2019PR00051, M.R. 29943 (March 25, 2022), where reinstatement was denied because the petitioner had not completed restitution. See id. (Review Bd. at 5-7). While the petitioner's conduct in Voltl was significantly more egregious than Petitioner's conduct in this matter, the situation regarding restitution is similar, in that Voltl was jointly and severally liable for millions of dollars in restitution, very little of which had been paid at the time

he sought reinstatement for the third time. As in Voltl, we find that Petitioner has paid an insufficient amount of restitution to make reinstatement appropriate at this time.[2]

In short, Petitioner has neither proved that he has completed restitution nor demonstrated that exceptional circumstances exist that would excuse him from completing restitution before being reinstated. Therefore, we find that this factor weighs heavily against, if not precludes, reinstatement.

V. Petitioner's Conduct Since Disbarment

A. Evidence Considered

Character Evidence

Erica Crohn Minchella, an Illinois attorney who has been Petitioner's friend and colleague for 35 years, testified that she has no reservations about him being reinstated to practice. She testified that he has taken full responsibility for his actions, has not blamed anyone else, and has complete remorse for his behavior. She believes he would never repeat his conduct. (Tr. 27-29.)

John Boone, who is the deputy chief of police in Stinesville, Indiana, has known Petitioner for about two years. He believes Petitioner is an honest, sincere, and caring person, and "totally trust[s] him." (Tr. 40, 44.)

Lucy Kirschinger, an Illinois lawyer since 2000, worked with Petitioner from 2001 to 2015. She testified that he is an excellent lawyer and a loyal person with good character. She believes he is trustworthy, would never repeat his conduct again, and is remorseful for what he did. (Tr. 54-59.)

Mary Rothchild, a clinical social worker and psychoanalyst, has known Petitioner since 1985, when he began doing legal work for her family and subsequently became a friend. She finds him to be kind, reliable, honest, and trustworthy. She believes he has changed since engaging in criminal conduct, in that he is more self-observant and more aware of why he did what he did. She

has no concerns whatsoever that he would repeat his conduct because he understands why he did it. She believes he regrets his decision and is honest and extremely trustworthy. She would feel very comfortable having him as her lawyer. (Tr. 93-98.)

Samuel Adcock Denton is Petitioner's brother-in-law. He has known Petitioner since the mid-1990s. He testified that Petitioner would never choose the same path or make the same decision again. He thinks Petitioner is "committed to ensuring the highest levels of integrity and ethics" in terms of complying with the letter and spirit of the law. He believes Petitioner is trustworthy and that his conduct was an anomaly that will not happen again. (Tr. 184, 188-90.)

Positions of Responsibility

Petitioner has worked at Mighty Cake Company as quality assurance director since February 2019. As of the time of hearing, he was planning to start a second job with Lovin Oven Bakery as manager of its Antioch, Illinois facility. As facility manager, he will have signature privileges on the company's bank account. (Tr. 123-24.) Lovin Oven's management knows about his criminal conviction and disbarment. (Tr. 146-47.) The new position will increase his earnings, which will enable him to pay more in child support and restitution. (Tr. 124.)

Petitioner is the treasurer of a condominium association for a building in which his wife owns six condominiums. In that role, he has check-writing privileges for the association. (Tr. 133.)

Volunteer and Charitable Work

Petitioner testified that he is "not a joiner by nature," but participated in a Wills for Heroes event and distributed five or six pallets of croissants to people who were struggling during the pandemic. He helps on a "per-person" basis; when he sees a need, he fills it. (Tr. 132-33.)

Compliance with Illinois Supreme Court Rule 764 and Executive Committee order

Petitioner testified that, following his disbarment on consent, he sent a letter to each of his clients with the information he was required to provide pursuant to Rule 764. He further testified that he sent a list of his current clients to the Court at its Springfield address and to the ARDC, as required by Rule 764(d). (Tr. 136-38; see also Pet. Ex. G1.) With respect to the affidavit that he was required to file pursuant to Rule 764(g),[3] Petitioner testified that he walked to the Illinois Supreme Court's Chicago office at 160 North LaSalle and tried to file the affidavit. He was told to send it to Springfield, so he mailed the affidavit to the Court at its Springfield address. He did not receive a file-stamped copy from the Court. He acknowledged that he did not send a copy of the affidavit to the ARDC. (Tr. 135-38, 154.)

Petitioner testified that he did not receive a copy of the May 26, 2016 order of the Executive Committee of the United States District Court for the Northern District of Illinois striking his name from the roll of attorneys allowed to practice in the Northern District, directing him to inform his clients in matters pending before that court that he could not continue to represent them, and requiring him to file with the clerk of the court a declaration stating, among other things, that he so notified his clients. (Tr. 138; Adm. Ex. 3.) Petitioner testified that he attempted to comply with all of his other post-disbarment obligations and would not have ignored the Executive Committee's order if he had received it. Although he did not comply with the Executive Committee's order after he learned about it, he had no clients in federal court to notify at the time the order was entered. He sent notices to all of his clients about his disbarment shortly after receiving notification that he was disbarred. (Tr. 138-39, 155.)

Presence in a Law Office and Performance of Legal Work Since Disbarment

Petitioner testified that, since his disbarment on January 21, 2016, he has never given legal advice to anyone, appeared before a court or tribunal on behalf of another party, or identified

himself as a lawyer, and, in fact, "go[es] to lengths to tell them otherwise." (Tr. 131.) Similarly, all of Petitioner's witnesses testified that they never observed Petitioner identifying himself as a lawyer or doing anything that could be construed as engaging in the practice of law, and that he affirmatively told them and others that he was not a lawyer and could not give legal advice or help with legal matters. (See, e.g., Tr. 25-26, 42, 57, 80, 96, 186.)

With respect to his work for the condominium association, Petitioner testified that he was the liaison between the association and the attorney who represented the association in an attempted deconversion. The attorney knew Petitioner was not acting as an attorney, as did everyone on the deconversion committee and condominium board. Petitioner did not provide legal advice to the deconversion committee or condominium board. (Tr. 129-30.)

John Boone testified that, when he was trying to set up a security business and form an LLC, he asked Petitioner as a friend to look over the paperwork to see if it was in order. Boone thought of it as business advice. He knew Petitioner was disbarred, did not ask Petitioner for legal advice, and did not think that Petitioner was giving him legal advice. Petitioner was not representing Boone or the business, and told Boone that he could not give him legal advice. (Tr. 46-50.)

Lucy Kirschinger testified that, after Petitioner was released from prison, he worked in her law office for a few pay periods. He did some limited filing but did not perform legal work, meet with clients, interview witnesses, draft legal briefs or documents, or give legal advice to anyone, including her. She has not observed him identifying himself as a lawyer to anyone after January 2016. She asked Petitioner's criminal attorney if Petitioner could work for her, and the attorney said yes. She also asked Petitioner's probation office the same question, and the probation office had no objection. Kirschinger thought that was sufficient, though she now acknowledges that she was mistaken. (Tr. 55-57, 62-64.)

Samuel Adcock testified that, every time he asked Petitioner about a legal issue, Petitioner "was careful to point out that he was not able, allowed, certified, or licensed to consult in any regard," and always referred Adcock to another attorney. (Tr. 186.) In August 2022, when Adcock discussed with Petitioner the implications of a reconciliation bill on real estate investments, he was asking Petitioner for his personal understanding, not a legal course of action. Petitioner did not provide legal advice. Petitioner told Adcock he was not aware of what was in the bill, and that was the end of the discussion. (Tr. 192-94.)

Financial Situation

In addition to his restitution obligation, discussed above in Section IV, Petitioner has the following outstanding judgments and debts:

- $38,500 in child support payments that are in arrears
- $79,000 to IRS for tax penalties
- $20,578.86 to American Express
- $44,398.08 in an unpaid judgment to MasterCard
- $2,955 in medical debts

(Pet. Ex. A at 5-6.)

Petitioner testified that the $79,000 tax deficiency arose when his deferred compensation plans were taken as partial contribution toward his restitution obligation. The funds in those plans were taken without his being able to hold back any amount to pay income tax penalties associated with the plans, which resulted in an unpaid tax obligation. (Tr. 121-22.)

With respect to child support, Petitioner testified that he was unable to pay child support during the time he was in prison. He could have suspended his child support obligations while he was in prison, but chose not to do so and to pay those amounts when he got out. When he started

working after prison, he paid $900 per month toward child support, then increased it to $1,000 per month. At the beginning of 2022, he increased his payment again to $1,100 per month, which is what he was paying at the time of hearing. (Tr. 122, 170.)

Petitioner testified that he is unable to pay his credit card and medical debts at this time. (Tr. 122-23.)

B. Analysis and Conclusions

Rehabilitation involves a return to a beneficial, constructive, and trustworthy role in society, and is a critical issue in a reinstatement proceeding. Polito, 132 Ill. 2d at 300; In re Wigoda, 77 Ill. 2d 154, 159, 395 N.E.2d 571 (1979). The petitioner's conduct since discipline was imposed, including matters such as employment, charitable or volunteer work, and overall responsibility, provides insight into these issues. In re Wexler, 2017PR00071, M.R. 28878 (March 16, 2021) (Hearing Bd. at 16). In addition, the opinion of others regarding the petitioner's present character is relevant. In re Childress, 138 Ill. 2d 87, 100, 561 N.E.2d 614 (1990). Based on the evidence presented to us, we find that Petitioner has returned to a beneficial, constructive, and trustworthy role in society.

Petitioner's witnesses, whom we found credible, testified in detail and at length about his present good character. In addition, Petitioner has been steadily employed for the past four years, and has held positions with increasing responsibilities, including the handling of funds. This demonstrates that his employers trust Petitioner to fulfill his work obligations without engaging in wrongdoing. Similarly, he is in a position of responsibility and trust with the condominium association, which indicates that its members have confidence that Petitioner will not engage in wrongdoing with respect to his duties.

While Petitioner has not engaged in a significant amount of volunteer or charitable endeavors, the evidence established that he assisted with at least one Wills for Heroes event and

spearheaded delivering bakery items to people experiencing food insecurity during the pandemic. We recognize that some attorneys who have been reinstated have demonstrated significantly more volunteer activity than Petitioner has undertaken. See, e.g., Berkley, 96 Ill. 2d at 408; Martinez-Fraticelli, 221 Ill. 2d at 266-67. Given Petitioner's steady employment and the wealth of testimony regarding his present good character and trustworthiness, however, we do not find that his minimal volunteer work precludes reinstatement. See In re Kuta, 86 Ill. 2d 154, 158, 427 N.E.2d 136 (1981) (noting that evidence of community, religious, and charitable involvement may be relevant, but petitioner's conduct in other areas also should be considered).

Regarding Petitioner's significant amount of debts and arrearages, a lack of financial responsibility can be detrimental to reinstatement, Wexler, 2017PR00071 (Hearing Bd. at 18), but indebtedness is not necessarily fatal to reinstatement, as long as the petitioner has shown financial responsibility and has made attempts to reduce his debt. In re Foreman, 2016PR00044, M.R. 28099 (Sept. 20, 2018) (Hearing Bd. at 14) (citing In re Groshong, 83 Ill. 2d 27, 32, 413 N.E.2d 1266 (1980)).

In this matter, virtually all of Petitioner's debts and arrearages arose out of the mandated forfeiture of his deferred compensation plans, his lack of income during his imprisonment and the period immediately following imprisonment, and the relatively low salary he has earned since obtaining post-imprisonment employment. Consequently, Petitioner's financial situation is due to the circumstances that flowed from his criminal conduct and conviction and not due to lack of fiscal responsibility. Moreover, Petitioner is making regular child support and restitution payments as his salary allows, in order to reduce those debts. On the other hand, there is no evidence that Petitioner is making any payments toward the $79,000 that he owes the IRS, and he testified that he currently is unable to pay almost $68,000 in credit card and medical debts. That amounts to about $147,000 in debt that Petitioner is not attempting to pay down, which we find concerning.

We thus decline to find that Petitioner's financial situation weighs in favor of reinstatement, but do not find it to be fatal to his reinstatement petition.

As to Rule 764(g) and the Executive Committee's order, we find that that Petitioner failed to fully comply with both. However, based upon Petitioner's uncontroverted testimony as well as the documentary evidence showing that Petitioner mailed the affidavit to the Court, we find that Petitioner's failure to file the required affidavit with the Court and the ARDC was an unintentional error stemming from inattention to detail rather than a conscious attempt to circumvent the rule. Similarly, we accept Petitioner's testimony that he did not receive the Executive Committee's order and that, after learning about the order, he did not file the required declaration because he believed it was unnecessary for him to do so, based on the fact that he had no clients with cases pending in the Northern District of Illinois. We thus find that Petitioner's failure to file the required declaration was not an attempt to defy the order, but rather was an error based on his not receiving the order followed by his less-than-conscientious though not entirely unreasonable interpretation of the order. We conclude that these mistakes should not preclude reinstatement. See In re Stepter, 07 RT 3003, M.R. 21968 (Sept. 22, 2009) (Hearing Bd. at 21-22) (finding that petitioner's failure to file affidavit required by Rule 764(g) did not evidence intent to disregard the rules or withhold information from the court, and that his unintentional error was not a bar to his reinstatement).

With respect to Petitioner's working in Lucy Kirschinger's law firm as a file clerk following his release from prison, we find that, even if Petitioner's short-term work as a file clerk constituted a technical violation of Rule 764(b), that technical violation is not a reason to deny his petition. The Court has allowed reinstatement where an attorney technically violated Rule 764(b) by maintaining a presence in a law office after his suspension, but where he did not intentionally attempt to mislead others into thinking he was an attorney. See In re Scroggins, 94 SH 638, M.R. 10561 (Sept. 24, 1996) (Review Bd. at 15) (petitioner's lack of compliance with Rule 764(b) was

not an intentional effort to violate or circumvent the rule, but rather was an inadvertent failure based on a misunderstanding of the requirements of Rule 764(b)). As in Scroggins, Petitioner's work in Kirschinger's office was not an intentional effort to circumvent Rule 764(b).

We also find that the evidence does not support that Petitioner engaged in the unauthorized practice of law. In determining what constitutes the practice of law, the focus is on whether the activity in question requires legal knowledge and skill. In re Discipio, 163 Ill. 2d 515-525-26, 645 N.E.2d 906 (1994). Based on that standard, the practice of law has been construed to encompass a broad range of activities, including preparing or explaining legal instruments, preparing pleadings and other papers related to litigation, conducting legal research, and giving advice on questions of law. In re Ward, 09 CH 37, M.R. 24699 (Sept. 20, 2011) (Hearing Bd. at 43) (citations omitted).

We find that none of Petitioner's post-disbarment conduct fell within those activities. His clerical work in Kirschinger's office, his role on the condominium board, and his assistance to his friends did not require legal knowledge and skill but rather were tasks that a layperson could perform. See Scroggins, 94 SH 638 (Review Bd. at 17-18) (petitioner's work as a labor negotiator did not constitute the practice of law because it could be performed by a non-lawyer and required no more than ordinary business judgment and skill). Moreover, the uncontroverted testimony of Petitioner and his witnesses established that Petitioner never identified himself as a lawyer, gave legal advice, or engaged in legal work after his voluntary name strike in January 2016, and that he affirmatively disclosed that he was not a lawyer and could not give legal advice or help with legal matters.

In sum, we find that Petitioner's post-disbarment conduct, while not perfect, has been generally positive and constructive, and has shown him to be responsible and trustworthy. This factor weighs in favor of reinstatement.

VI. Petitioner's Candor and Forthrightness

A. Evidence Considered

In his objections to the petition for reinstatement, the Administrator acknowledged that he had seen no evidence that Petitioner had been less than candid and forthright in presenting evidence in support of his petition.

B. Analysis and Conclusions

The petitioner's candor is one of the elements considered in assessing a reinstatement petition. Ill. S. Ct. R. 767(f). This flows from the importance of honesty as an element of good moral character and general fitness to practice law. See Polito, 132 Ill. 2d at 303.

Based on the Administrator's statement in his objections, and seeing no evidence to the contrary, we find that Petitioner cooperated and was candid with the ARDC during the prehearing stage of these proceedings. In addition, based upon our observing and listening to Petitioner during his testimony, we find he was candid and forthright at hearing. Petitioner's candor and forthrightness weigh in favor of reinstatement.

VII. Additional Factors Relevant to Reinstatement

In addition to the enumerated factors set forth in Rule 767(f), we have considered Petitioner's current knowledge of the law and his plan for law practice if he were to be reinstated.

A. Evidence Considered

Petitioner testified that he regularly reads multiple legal publications and newsletters from law firms and title companies about real estate law, and has done so for several years. He has completed the required 30 hours of continuing legal education (CLE), but did not do so until recently. (Tr. 128-29.)

Petitioner did not address, and presented no evidence regarding, his plan for returning to law practice if he were to be reinstated.

B. Analysis and Conclusions

We find no merit to the Administrator's suggestion that Petitioner's recent completion of 30 hours of required CLE should be held against him. See In re Prusak, 2017PR00042, M.R. 28736 (Jan. 17, 2020) (Hearing Bd. at 19) (noting that the hearing panel was "not aware of a requirement as to when a petitioner must earn CLE credits or attend legal education courses relative to the date of the reinstatement hearing," and, "given that Petitioner must demonstrate current knowledge of the law, it would seem that recent coursework would be preferable to more distant coursework"). Accordingly, based on Petitioner's recent completion of the required hours of CLE, combined with his regular and longstanding independent reading of multiple legal newsletters and journals, we find that Petitioner has stayed abreast of the law, which weighs in favor of reinstatement.

We are concerned, however, that Petitioner provided no information about his plan for returning to law practice if he were to be reinstated. We believe it is important to consider whether Petitioner has a plan for returning to practice that does not present a risk to the public. See Voltl, 2013PR00006 (Hearing Bd. at 20). Given that Petitioner presented no evidence about his plans, we have no way to determine whether his return to the practice of law would present a risk of harm to the public. See id. (citing In re Howard, 2010PR00067, M.R. 23910 (Sept. 25, 2013); In re Hildebrand, 2010PR00102, M.R. 24031 (Nov. 19, 2012)). This lack of information weighs against reinstatement.

RECOMMENDATION

The ability to practice law is a privilege, not a right. See In re Jafree, 93 Ill. 2d 450, 462, 444 N.E.2d 143 (1982). A disbarred attorney seeking to be allowed to resume practice has the burden to prove by clear and convincing evidence that reinstatement is warranted. In re Richman, 191 Ill. 2d 238, 244, 730 N.E.2d 45 (2000). As in disciplinary proceedings, our objective in a reinstatement proceeding is to safeguard the public, maintain the integrity of the profession, and

protect the administration of justice from reproach. In re Berkley, 96 Ill. 2d 404, 410, 451 N.E.2d 848 (1983),

We find that, while Petitioner has taken many positive steps toward rehabilitation, he has paid only a small fraction of the court-ordered restitution for which he is jointly and severally liable, and has not established that any circumstances exist that would excuse him from the general requirement that completing restitution is a condition of reinstatement. We believe that allowing him to be reinstated despite the significant amount of restitution that remains to be paid would undermine the integrity of the profession and harm the administration of justice.

It is not our position that Petitioner should never be reinstated, but only that he did not meet his burden of proving by clear and convincing evidence that he should be reinstated at this time. Accordingly, we recommend that the petition of Anthony Campion Campanale for reinstatement to the practice of law be denied.

Respectfully submitted,

Stephen S. Mitchell
Robert Handley
Willard O. Williamson

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Hearing Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on June 14, 2023.

/s/ Michelle M. Thome
Michelle M. Thome, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

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[1] Petitioner was individually tried, as were the other perpetrators of the fraudulent scheme. However, for the sake of simplicity, we refer to the perpetrators of the scheme to defraud the mortgage lenders collectively as co-defendants.

[2] In making this finding, we take no position on whether Petitioner's paying anything less than full restitution would tilt the scale sufficiently toward reinstatement. However, we note that Court precedent suggests that, except in rare circumstances as noted above, full restitution must be made before reinstatement is allowed. See In re Kuta, 86 Ill. 2d 154, 163, 427 N.E.2d 136 (1981) (allowing reinstatement, but requiring that the petitioner complete restitution before being reinstated to practice); In re Berkley, 96 Ill. 2d 404, 414, 451 N.E.2d 848 (1983) (remanding to Hearing Board to allow petitioner to produce proof of restitution being completed or conclusive proof of its impossibility).

[3] Rule 764(g) provides:

> Within 35 days after the effective date of an order of discipline, the disciplined attorney shall file with the clerk of the supreme court and serve upon the Administrator an affidavit stating:
>
> (1) the action the disciplined attorney has taken to comply with the order of discipline;
>
> (2) the action the disciplined attorney has taken to comply with this rule;
>
> (3) the arrangements made to maintain the files and other records specified in paragraph (a) above;
>
> (4) the address and telephone number at which subsequent communications may be directed to him; and
>
> (5) the identity and address of all other State, Federal, and administrative jurisdictions to which the disciplined attorney is admitted to practice law.