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THE DISCIPLINARY BOARD
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SUPREME COURT OF PENNSYLVANIA



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May 10, 2024

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Thomas N. Sweeney, Esquire
Chair, Hearing Committee
Messa & Associates, PC
123 S. 22nd Street
Philadelphia, PA 19103

RE: In the Matter of JIMMIE MOORE
PETITION FOR REINSTATEMENT
FROM SUSPENSION
No. 2608 Disciplinary Docket No. 3
No. 87 DB 2019
Attorney Registration No. 24513
(Philadelphia)

Dear Mr. Sweeney:

Attached please find a PDF and Word version of the Brief of Office of Disciplinary Counsel to the Hearing Committee. Under cover of this letter, PDF copies of the Brief are being e-mailed to the Hearing Committee Members and Petitioner's Counsel.

Sincerely,

A handwritten signature in cursive script that reads "Harriet R. Brumberg".

Harriet R. Brumberg
Disciplinary Counsel

HRB:red
Enclosure

cc: Samuel C. Stretton, Esquire, Petitioner's Counsel
Zanetta Maree Ford, Esquire, Member, Hearing Committee
Dean E. Weisgold, Esquire, Member, Hearing Committee
Kimberly M. Henderson, Special Counsel to the Hearing Committee
Marcee Sloan, Board Prothonotary
Thomas J. Farrell, Chief Disciplinary Counsel
Raymond S. Wierciszewski, Deputy Chief Disciplinary Counsel

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 2608
: Disciplinary Docket No. 3
:
: No. 87 DB 2019
:
JIMMIE MOORE :
: Atty. Reg. No. 24513
:
PETITION FOR REINSTATEMENT :
FROM SUSPENSION : (Philadelphia County)

**BRIEF OF OFFICE OF DISCIPLINARY COUNSEL
TO THE HEARING COMMITTEE**

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell
Chief Disciplinary Counsel

Harriet R. Brumberg
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(215) 560-6296

I hereby certify that I have this day served by E-mail the within document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code § 89.22.

Harriet R. Brumberg

Harriet R. Brumberg
Counsel for Office of Disciplinary Counsel

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METHOD OF CITATION

Numbers and letters in parentheses indicate documents as follows:

J- _____ refers to a joint exhibit from Office of Disciplinary Counsel and
Petitioner;

NTPHC _____ indicates a page of the transcript from the January 30,
2024 prehearing conference;

NT I _____ indicates a page of the transcript from the March 6, 2024
reinstatement hearing;

NT II _____ indicates a page of the transcript from the March 7, 2024
Reinstatement hearing;

ODC- _____ refers to a numbered exhibit of Office of Disciplinary
Counsel;

P- _____ refers to a numbered exhibit of Petitioner;

PBrief _____ indicates a page from Petitioner's Brief to the Hearing
Committee; and

PFOF _____ refers to Office of Disciplinary Counsel's Proposed Finding
of Fact.

I. STATEMENT OF THE CASE

This matter is before the Hearing Committee on Jimmie Moore's Petition for Reinstatement (Petition) from a four-year suspension retroactive to May 13, 2019, the date of Petitioner's temporary suspension. Office of Disciplinary Counsel (ODC) opposes the Petition and granting Petitioner the privilege of being reinstated to the practice of law at this time.

On October 3, 2017, Petitioner appeared before the Honorable Jan E. Dubois of the United States District Court for the Eastern District of Pennsylvania and pled guilty to the crime of False Statements, 18 U.S.C. § 1001(a)(1) and (2), for having knowingly and willfully filed false campaign finance reports with the Federal Election Commission. On December 12, 2019, Judge Dubois sentenced Petitioner to two years of probation and a \$100 assessment. Following a disciplinary hearing and de novo reviews by the Disciplinary Board and the Pennsylvania Supreme Court, on March 16, 2022, the Supreme Court imposed a four-year suspension retroactive to Petitioner's temporary suspension. Thirteen months later, on April 28, 2023, Petitioner filed for reinstatement. By letter to the Board dated October 23, 2023, ODC raised concerns about Petitioner's reinstatement.

On January 30, 2024, a prehearing conference was held before Hearing Committee Chair Thomas N. Sweeney, Esquire, who established a

schedule for the exchange of exhibits and names of witnesses as well as the filing of motions and responses thereto. The parties subsequently exchanged exhibits and witness names, agreed to the admission of all exchanged exhibits, and did not file any prehearing motions.

Petitioner's reinstatement hearing commenced on March 6, 2024, before Chair Sweeney and members Zanetta Maree Ford, Esquire, and Dean Eric Weisgold, Esquire. Petitioner presented nine character witnesses, introduced exhibits J-1 through J-3(c) and P-1 through P-3, and testified on his own behalf. ODC also cross-examined Petitioner's character witnesses. Petitioner's hearing continued on March 7, 2024, during which Petitioner completed his testimony, ODC cross-examined Petitioner, and ODC introduced its exhibits ODC-1 through ODC-64(d). At the conclusion of the hearing, the parties made closing arguments and the Chair established a briefing schedule, granting the parties 30-days to file their brief and increasing the word limit on the briefs to 10,000. On April 30, 2024, Petitioner filed a brief in support of his reinstatement.

ODC has carefully reviewed the testimony of Petitioner's character witnesses, many of whom were unfamiliar with the factual basis for Petitioner's criminal conviction. ODC also examined Petitioner's false statements and omissions in his reinstatement petition, purported ignorance

of his attorney license status, improper receipt of referral fees, failure to timely pay his taxes, and financially unsuccessful law firm, title company, and real estate ventures. In addition, ODC considered Petitioner's admission that he failed to perform *any* research to prepare his Reinstatement Petition and to ensure that his rental property complied with the L&I Code. Lastly, ODC scrutinized Petitioner's conduct, including Petitioner's failing to cooperate with ODC's requests for information, providing erroneous information in his Petition, inability to recognize the hypocrisy of him sitting as a criminal court judge while being investigated for federal crimes, and having his prior counsel falsely represent to the Supreme Court that Petitioner did not intend to practice law again. Based on all the foregoing, ODC concludes Petitioner failed to meet his burden of proof, by clear and convincing evidence, that he should be reinstated to the practice of law at this time. Accordingly, ODC submits its brief opposing Petitioner's reinstatement.

II. PROPOSED FINDINGS OF FACT

ODC relies upon Petitioner's Reinstatement Petition and Questionnaires, ODC's, Petitioner's, and Joint exhibits, the testimony of Petitioner's character witnesses, and the testimony of Petitioner himself. ODC also relies upon the reasonable inferences therefrom. ODC concludes the foregoing amply support the findings of fact enumerated below.

1. ODC incorporates by reference the following numbered Proposed Findings of Fact set forth in Petitioner's Brief: 1 through 65(i).

2. ODC incorporates by reference all Findings of Fact set forth in the Disciplinary Board's June 18, 2021 Report and Recommendation, FOF 1 through 81. (ODC-4/Bates-0006, 0008-0021)

3. ODC incorporates by reference all aggravating factors set forth in the Disciplinary Board's Report. (ODC-4, 19-20/Bates-0025-0026)

A. LACK OF COMPETENCE AND MORALS

a. Financial Problems

4. Petitioner operated his own law firm, J. Moore & Associates, prior to being elected judge in 1999. (Bates-608)

5. Petitioner's law firm had problems paying "City taxes, federal taxes, Commonwealth taxes." (NT II, 95)

6. Petitioner's law firm failed to timely pay City taxes and on August 30, 1999, the City filed a \$24,135.20 tax lien against the firm. (ODC-59/Bates-0479)

7. Petitioner's law firm failed to timely pay federal taxes and the IRS filed two tax liens against the firm. (ODC-57/Bates-0473, ODC-58/Bates-0476)

a. Petitioner's \$24,672.10 federal tax lien is marked "Active." (ODC-58/Bates-0476)

1) Petitioner failed to have the active tax liens on the docket marked "satisfied."

8. Petitioner owned and operated Locust Abstract, as an agent for Industrial Valley Title company. (ODC-27/Bates-0347; NT II, 98)

a. The IRS filed three tax liens against Locust Abstract for failing to timely pay taxes. (ODC-27(b)/Bates-350; ODC-27(c)/Bates-0352; ODC-27(d)/Bates-0354)

1) Petitioner's tax liens are marked "Active."

b. The Commonwealth filed two Labor & Industry liens against Petitioner for failing to timely pay taxes. (ODC-27(e)/Bates-0356; ODC-27(f)/Bates-0358; ODC-7(g)/Bates 0360)

1) Petitioner failed to pay the Commonwealth's liens until September 2023, after ODC notified Petitioner of the open liens. (ODC-18/Bates-0319; NT II, 99-100)

9. Petitioner is in the real estate business and has been engaged in buying, selling, developing, and renting properties in Philadelphia. See ODC-33, 34, 35, 36, 37, 38/Bates-0373, 0376, 0378, 0392, 0395).

10. Petitioner failed to competently handle his real estate investments and lenders foreclosed on four of Petitioner's properties. (64(c)/Bates-0495; N.T.II, 106)

a. Petitioner admitted that he was not a very good real estate business man. (NT II, 33)

11. Petitioner failed to competently handle his personal finances and has had three bankruptcies, two in Delaware and one in Pennsylvania. (ODC-45, 46, 47, 48/Bates-0428, 0435, 0437, 0448; NT II, 108)

12. Petitioner blamed his financial difficulties on: having to pay \$42,000 to a drug dealer who threatened to kill his mother (NT II, 37-39); checks from the City "were coming slow" (*id.*, 44); the economy had "gone up and down" (*id.*, 54); and tenants "started moving out of the building and/or not paying the rent" on the office building he had owned. (*Id.*)

13. In 1999, Petitioner was elected Municipal Court judge and served until 2011. (Bates-0609)

a. Petitioner inscrutably testified that he decided to leave the bench and run for Congress because he read a Pew Research study that "the children of Chester could not distinguish vegetables, sweet potatoes from white potatoes and all that stuff." (NT I, 285)

14. Petitioner did not stay in the Congressional election campaign because he “ran out of money.” (NT I, 288)

15. Petitioner’s Congressional election campaign (Bates-010), law firm, real estate business, and title company had financial difficulties.

a. Petitioner agreed his financial difficulties predated being elected judge and running for Congress. (NT II, 94)

16. Between the years 2000 to 2011, when Petitioner was earning a steady income as a Municipal Court judge, there were no lawsuits filed against Petitioner for unpaid taxes or utilities. (ODC-64(a), (b), (c), and (d)/Bates-0493, 494, 0495, 0496)

a. Petitioner agreed that there was a pattern in the dates of the lawsuits against him for money owed. (NT II, 140)

b. False Statements and Omissions in Reinstatement Petition

17. Reinstatement Questionnaire, Part 1, Question 6(b) asks for all employment, including self-employment, during the period of Petitioner’s suspension (Bates-0611); in answer to the foregoing question, Petitioner failed to list his self-employment at:

a. Matrix Industries (ODC-26/Bates-0346), which Petitioner incorporated to manage Petitioner’s real estate (NT II, 21);

b. Red Oak Development (ODC-28/Bates-0363, Bates-109) (NT II, 135), which Petitioner incorporated to develop real estate (NT II, 22);

- c. Work Green Solutions (ODC-29/Bates-0365; Bates-109), which Petitioner incorporated to develop environmental solutions to the community (NT II, 23-24);
- d. Longame Productions (ODC-32/Bates-0371), which Petitioner incorporated to transform his novel into a movie/musical similar to *Hamilton* (NT II, 28); and
- e. Jimmie Moore Consulting (ODC-31/Bates-0369-0370), in which Petitioner sold framed Nigerian masks (NT II, 26-27, 137).

18. Reinstatement Questionnaire, Part I, Question 9 asks if the proceeding that led to Petitioner's suspension involved improper handling of funds and Petitioner marked "Yes." (Bates-682)

19. Question 9(d)(ii) asks Petitioner to "provide detailed information as to the way in which and for what purpose the funds were expended" (Bates-683).

- a. Petitioner wrote that the \$90,000 he received from former Congressman Brady's campaign was used "to liquidate campaign debts as well as to reimburse me for funds which I loaned the campaign";
- b. Petitioner omitted that he also used the money for personal expenses, including buying a Cadillac and going on vacation (ODC-4/Bates-018); and
- c. Petitioner admitted he "could have been more detailed" (NT II, 74) and stated he had used the money he received from the campaign for "personal" expenses. (*Id.*, 80)

20. Reinstatement Questionnaire, Part 1, Question 12 (a), asks if Petitioner has been involved in a civil action as a party. (Bates-0695)

- a. Petitioner failed to include 38 lawsuits where Petitioner was a named party (ODC-15/Bates-0112-0116; NT II, 156, 160); and
- b. Petitioner wrote that he either “erroneously omitted,” “forgot or did not know of [the] existence” of the omitted 38 lawsuits. (Bates 0112-0116)

21. Petitioner failed to do any research to ascertain whether there were any civil actions in which he was a named party. (NT II, 173-174)

22. Reinstatement Questionnaire, Part II, Question 5(b) asks if Petitioner has “any outstanding unpaid federal, state, or local individual income taxes and/or related business and/or payroll taxes” (Bates-0724) and Question 5(c) asks if there are “any unsatisfied judgments or outstanding tax liens against you.” (Bates-0725)

- a. Petitioner checked “No” in answer to the foregoing questions.

23. Petitioner’s answers to Questions 5(b) and (c) are false. (NT II, 103); at the time Petitioner filed for reinstatement, court dockets listed:

- a. 2 active unpaid Commonwealth tax liens against Locust Abstract (ODC-27(e)/Bates-0356; ODC-27(f)/Bates-0358);
- b. three active federal tax liens against Locust Abstract (ODC 27(b), (c), (d)/Bates-0350, 0352, 0354); and

- c. 1 active unpaid tax lien against Petitioner and his law firm. (ODC-58/Bates-0476)

24. Petitioner admitted he failed to do any research or docket searches when completing his Reinstatement Petition to ensure that all his tax liens and judgments were paid. (NT II, 104, 105, 155)

- a. Petitioner failed to do any research until ODC alerted him to his unpaid taxes. (NT II, 103)

25. Reinstatement Questionnaire, Part II, Question 5(d) asks if Petitioner has any debts that are currently 90 days past due. (Bates-0725)

- a. Petitioner checked “No” in answer to the foregoing question.

26. Petitioner’s answer to Question 5(d) is false. (NT II, 132)

- a. At the time Petitioner filed for reinstatement, court dockets showed Petitioner had three open gas service liens. (ODC-64(a)/Bates-0493)

27. Petitioner failed to do any research before he answered the Reinstatement Questionnaire to confirm whether he had any debts more than 90 days past due. (NT II, 133, 155-156)

- a. On September 18, 2023, Petitioner satisfied a February 20, 2013 gas lien after ODC alerted Petitioner to its open status. (NT II, 133)

28. Petitioner agreed he wanted to be truthful and accurate in completing his answers to the Reinstatement Petition and “gave it [his answers] some thought.” (NT II, 154)

- a. Petitioner knew his answer to the Petition would be reviewed by ODC, the Disciplinary Board, and the Supreme Court.

29. In the completion of his Petition, Petitioner failed to act with the competence necessary to practice law.

c. Retired Attorney Status and Receipt of Referral Fees

30. By letter dated October 17, 2017, sent to Petitioner's home address (ODC-1/Bates-0002), the Attorney Registration Office advised Petitioner:

- a. since his judicial status ceased on September 17, 2017, the Office "changed [his] status to retired";
- b. should Petitioner seek to resume the practice of law, he "must submit a 2017-2018 PA Attorney's Annual Fee Form with payment of \$225"; and
- c. he is "on retired status and [] prohibited from practicing law in the Commonwealth."

31. On March 18, 2018, Petitioner completed his 2017-2018 Pennsylvania Annual Attorney's Fee Form (ODC-1(a)/Bates-0003); in response to the Fee Form's question asking:

- a. "Current Status," Petitioner handwrote "Retired";
- b. "Status Requested," Petitioner checked the box marked "Active \$225"; and
- c. about Professional Liability Insurance, Petitioner checked the box stating he does "not maintain professional liability

insurance because I do not have private clients and have no possible exposure to malpractice actions.”

32. Petitioner’s completed 2017-2018 Fee Form was received by the Attorney Registrar on March 26, 2018. (*Id.*)

33. Petitioner repeatedly testified that he did not know he had been on retired status. (NT I, 321; NT II, 84, 89, 90, 91; PBrief, 33-34)

34. Petitioner claimed that he did not know he had been on retired status until the first day of his reinstatement hearing. (NT I, 322)

35. Petitioner’s testimony regarding knowledge of his attorney license status is not credible.

a. Petitioner knowingly completed his Attorney’s Annual Fee Form requesting a change in status from “Retired” to “Active.” (NT II, 91-92)

36. To the extent Petitioner did not know he was on retired status, Petitioner patently lacks the competence necessary to practice law.

37. While Petitioner was on retired status, Petitioner referred two cases to his friend James J. McEldrew, Esquire. (NT II, 93)

a. on December 5, 2017, Petitioner referred Carroll Tillman, who was injured on December 1, 2017 (Bates-0117; NT I, 221); and

b. on March 8, 2018, Petitioner referred Kendra Watson, who was injured on March 8, 2018. (Bates-0612)

38. Tillman settled on April 11, 2019 (Bates-405-405); Watson settled on June 8, 2021. (NT I, 229)

39. RPC 5.4(a) prohibits a lawyer from sharing a legal fee with a nonlawyer.

- a. A lawyer on retired status is a nonlawyer. See Pa.R.D.E. 102(a) (defining formerly admitted attorney)

40. Prior to Mr. McEldrew's paying Petitioner a referral fee, Mr. McEldrew asked Petitioner "to check to make sure [Petitioner] was a lawyer at the time" he referred the *Tillman* and *Watson* cases to Mr. McEldrew. (NT I, 231-232)

- a. Mr. McEldrew testified he had asked Petitioner his attorney status as Mr. McEldrew knew RPC 5.4(a) prohibited Mr. McEldrew from sharing a fee with a non-lawyer. (NT I, 232)

41. Petitioner failed to recall Mr. McEldrew testifying the previous day that Mr. McEldrew had asked Petitioner his attorney status prior to paying Petitioner a referral fee. (NT II, 93)

42. Petitioner falsely informed Mr. McEldrew that Petitioner was a lawyer at the time of his referrals. (NT I, 231)

43. On June 20, 2019, Mr. McEldrew's law firm paid Petitioner \$2,000 for the *Tillman* referral. (ODC-39/Bates-0399; NT I, 223)

44. On June 28, 2021, Mr. McEldrew's law firm paid Petitioner \$6,666.66 for the *Watson* referral. (ODC-40/Bates-0409; NT I, 229)

45. Petitioner falsely advised Mr. McEldrew that Petitioner was on active status at the time of Petitioner's referral of the *Tillman* and *Watson* matters so that Petitioner could receive a referral fee.

46. Petitioner knowingly induced Mr. McEldrew to share a legal fee with a nonlawyer in violation of RPC 5.4(a).

47. Petitioner admitted that he was wrong to have accepted referral fees from Mr. McEldrew for cases Petitioner referred to Mr. McEldrew while Petitioner was on retired status. (PBrief, 16; NT II, 93)

48. In answer to Reinstatement Questionnaire I, 13(b), inquiring as Petitioner's maintenance of "Currency, Competency, and Learning in the Law," Petitioner wrote he has "read and familiarized myself with [the] Rules of Professional Conduct."(Bates-714)

49. Petitioner testified:

- a. on direct examination, if he knew he was on retired status, he would "absolutely not" have taken the referral fees from Mr. McEldrew (NT I, 321); and
- b. on cross examination, he "didn't know that" it violated RPC 5.4(a) for Mr. McEldrew to share his legal fee with a non-lawyer. (NT II, 94)

50. Petitioner's testimony regarding his knowledge of the RPCs prohibiting his acceptance of a referral fee is inconsistent.

51. Petitioner's testimony is not credible.

52. Petitioner failed to act with morals and competence in his acceptance of the referral fees from Mr. McEldrew.

d. Rental Property

53. From April 4, 1984, to January 2000, Petitioner was a member of the City of Philadelphia's Licenses & Inspections Appeal Board. (Bates-0610)

- a. The Board is tasked with adjudicating appeals of violations the Philadelphia Code and its safety and building standards. (NT II, 121)
- b. Petitioner served as Vice Chair of the Board. (Bates-0569)

54. Petitioner agreed that he had a duty to obey the L&I Code. (NT II, 122)

55. The Philadelphia Code, Chapter 9-3902(1), Rental Licenses, provides:

- a. the owner of any rental dwelling unit must obtain a rental license; and
- b. no person shall collect rent for any property that is required to be licensed unless a valid rental license has been issued for the property.

56. Owners of rental units must pay an annual \$63 licensing fee to the City and a \$300 daily fine for non-licensure. (PM-A-601.1)

57. Petitioner owns 1801 N. 33rd Street, Philadelphia, PA, a four-unit rental property. (ODC-36/Bates-0381; NT II, 110)

- a. During the past five years, Petitioner's rental property was fully rented and no family members have resided at the property (NT II, 125);
- b. Petitioner provides leases to his tenants and Petitioner's tenants pay him rent (NT II, 111-112); and
- c. Petitioner reported receiving \$135,632 in rental income. (Bates-0611)

58. Petitioner has not had a rental license since August 31, 2012. (Bates-0384; NT II, 113-114)

59. On December 21, 2020, December 13, 2021, June 30, 2022, and August 12, 2022, L&I issued notices to Petitioner that he was in violation of the Philadelphia Code for renting 1801 N. 33rd Street without a license. (Bates-0388-0391)

60. Petitioner knew he was required to obtain a rental license to rent his property at 1801 N. 33rd Street and agreed he failed to do so. (NT II, 34, 114, 119, 123)

- a. Although Petitioner has appealed his rental license violations to the Board of Revision of Taxes, Petitioner agrees he will owe money to the City because he knowingly continued to rent his property without a license when no family members resided at the property. (NT I, 301)

61. On December 13, 2021, June 30, 2022, and August 12, 2022, L&I imposed violations on 1801 N. 33rd Street for Petitioner's failure to have

his fire alarm system inspected annually as mandated by the Philadelphia Fire Code, C-13-915. (Bates-0388-391)

- a. Petitioner agreed he failed to have the fire system inspected (NT II, 116-117);
- b. Petitioner stated that he owned the property since 2005 and claimed he did not know that he had to have the fire alarm system inspected annually (NT, II, 115, 117-118);
- c. ODC alerted Petitioner to his violation of the Fire Code (NT I, 308; NT II, 117); and
- d. Petitioner failed to take prompt remedial action, and as of January 26, 2024, Petitioner failed to have his fire system inspected. (Bates-0388)

62. On December 13, 2021, June 30, 2022 and August 12, 2022, L&I imposed violations on 1801 N. 33rd Street for Petitioner's failure to maintain the decorative features on his property in good repair with proper anchorage as mandated by Phila. Code, PM15-304.8. (Bates-0388, 390, 391)

- a. Petitioner failed to take prompt remedial action, and as of January 26, 2024, Petitioner failed to properly repair the decorative features on his rental property. (Bates-0388)

63. Petitioner agreed that a landlord has the responsibility to rent property that is safe and compliant with the Philadelphia Code. (NT II, 112, 119)

64. Petitioner testified that he would not have done any research to determine if a rental property he owned comports with the L&I Code “[u]nless there’s an obvious violation or a leak or you get notification.” (NT II, 122)

65. As a former member of the L&I Appeals Board who sat in judgment of L&I appeals, Petitioner’s handling of his rental property demonstrated a lack of morals and competence.

66. Petitioner’s conduct as an owner of a rental property demonstrated a lack of competence and morals.

e. Unpaid Liens

67. Petitioner failed to timely pay the City for gas service resulting in eight liens being filed against Petitioner. (ODC-64(a)/Bates-0493)

68. Petitioner failed to timely pay his outstanding tax liens. (ODC-64(b)/Bates-0494; 64(d)/Bates-0496)

69. Petitioner had the resources to pay his outstanding liens. (Bates-740-843)

70. Petitioner’s failure to timely pay his outstanding liens and judgments when Petitioner had the resources to do so demonstrates a lack of morals.

71. Wadud Ahmad, Esquire, Petitioner’s character witness, agreed that an attorney’s failure to pay taxes, follow L&I Building Code, and satisfy

outstanding liens and judgments when an attorney has the resources to do so reflects a lack of morals. (NT I, 107)

72. While Mr. McEldrew “agree[d] with Disciplinary Counsel that [Petitioner] should have” timely paid his city, state, and federal taxes, not rented his property without a license, and obeyed L&I Code (NT I, 233, 234), Mr. McEldrew did not think Petitioner’s conduct should disqualify him from being a lawyer because this standard would disqualify “half the lawyers in the city.” (*Id.*, 235)

- a. The fact that “half the lawyers in the city” could be disqualified from practicing law because of their violation of the law does not negate Petitioner’s wrongdoing.

f. Resume Practice of Law

73. During oral argument in Petitioner’s disciplinary matter on March 10, 2022, in advocating for less discipline, Petitioner’s attorney informed the Supreme Court that Petitioner “does not intend to practice law again” and “certainly not the private practice of law.” (NT II, 146-147,148)

74. Thirteen months later, on April 27, 2023, Petitioner filed for reinstatement and wrote in answer to Part I, Question 14(b), that if reinstated, he “intends[s] to resume a civil practice in the Court of Philadelphia and surrounding counties.” (Bates-0720)

75. Petitioner testified that when he “filled out this application, I didn’t want to limit myself that I couldn’t if necessary go into the counties” (NT II, 150) and “I want the ability, in the event that I do want to take on certain cases and some of them are pro bono . . . I want to have the ability to do that.” (*Id.*, 151; *see also* p. 172)

76. Petitioner’s Reinstatement Petition and testimony are inconsistent with Petitioner’s representations to the Supreme Court.

77. Petitioner failed to present any evidence or testimony regarding what steps he has currently taken to ensure that he avoids the financial difficulties he experienced in operating his law firm and multiple business ventures.

78. Given Petitioner’s serious financial difficulties in operating his law firm, abstract company, and real estate business, Petitioner’s resumption of a civil practice of law would be a danger to the public and profession.

79. Petitioner failed to present clear and convincing evidence that he has the competence and morals to be reinstated to the practice of law.

**B. LACK OF FULL RECOGNITION OF PRIOR WRONGDOING
AND ABSENCE OF SINCERE REMORSE**

a. Criminal Conduct

80. Petitioner minimized his conduct that resulted in his criminal conviction and attorney license suspension; Petitioner testified:

- a. “it was a “[l]apse of judgment. I mean my back was up against the wall.” (NT II, 290)

81. Petitioner failed to express unequivocal remorse for the harm his criminal conduct and suspension inflicted on the bench, bar, and public; Petitioner testified (NT II, 61):

I apologize for *any* embarrassment, disgrace I *may* have brought to my colleagues on the bench, in terms of my colleagues in the practice of law, you know, the general community that had confidence in me. (emphasis added)

82. While Petitioner apologized to the general community who had confidence in *him*, Petitioner failed to recognize that his conduct also impacted the community’s confidence in the bench and bar.

83. Petitioner failed to recognize the harm his criminal conduct inflicted on the electoral system.

b. Service as a Senior Judge

84. After Petitioner withdrew from the Congressional race, he applied to be a senior judge on November 1, 2016. (Bates-019)

- a. Petitioner initially testified it “didn’t strike [him] as wrong. Because, frankly, I just moved on from the campaign.” (NT II, 80)

85. Upon questioning by the Hearing Committee, Petitioner admitted he “knew it was wrong, when I applied, it was wrong.” (NT II, 181)

86. From December 8, 2016 until September 11, 2017, Petitioner sat as a senior judge knowing he had violated the federal campaign finance laws. (NT II, 80)

87. On April 12, 2017, the FBI contacted Petitioner about his criminal activities, including taking money from the Brady campaign, conspiring with Mr. Kenneth Smukler, and filing false campaign finance reports. (NT II, 81-82)

88. Petitioner testified that he failed to grasp the hypocrisy of continuing to sit knowing he was being investigated by the FBI because he:

- a. “wasn’t sure whether or not [he] was going to get immunity” (NT I, 312);
- b. “didn’t know where it was going to go. [] they did not arrest me at that point in time” (NT, II, 82-83); and
- c. “put [his] head in the sand and hoped that it passed over.” (*Id.*, 180)

89. Petitioner failed to express sincere remorse for his conduct, and only upon questioning by the Hearing Committee, did Petitioner express recognition of his wrongdoing.

**C. DETRIMENTAL TO THE ADMINISTRATION OF JUSTICE AND
SUBVERSIVE TO THE PUBLIC INTEREST**

90. Schedule C of Petitioner's 2019 tax return for Jimmie Moore Consulting lists a \$9,200 deduction for Petitioner's "rent or lease of a business property." (ODC-31/Bates-0369)

- a. ODC repeatedly requested information regarding the business property that Petitioner rented or leased (ODC-12, q. 15/Bates-089; ODC-19, q.11/Bates-0328);
- b. Petitioner failed to provide support for his purported rent or lease of a business property despite repeated requests from ODC;
- c. Petitioner failed to consult with his accountant about the rental expense and report back to ODC as ODC had requested (NT II, 138); and
- d. Petitioner testified that he could not recall where he rented a business property for Jimmie Moore Consulting. (NT II, 137)

91. On June 28, 2023, ODC requested that Petitioner provide information in support of his Petition, including real estate holdings, omitted lawsuits, referral fees, and tax returns. (ODC-12/Bates-0086)

92. ODC granted Petitioner two requests for continuances to provide the information. (ODC-13, 14/Bates-0105, 0106; NT II, 161-162)

93. On August 15, 2023, Petitioner provided ODC with most of the information requested in ODC's letter of June 28, 2023.

- a. The information Petitioner provided exceeded 200 pages. (ODC-15, 16, 17/Bates-0107, 0119, 316; NT II, 162)

94. Following ODC's review of the information, on September 19, 2023, ODC sent Petitioner follow-up questions. (ODC-19/Bates-0326)

95. By responsive letter dated September 21, 2023, Petitioner's counsel wrote, "[m]y client has advised he has cooperated enough and does not want to provide any more material, and wishes to have a hearing now." (ODC-20/Bates 0332)

96. When ODC asked Petitioner at the reinstatement hearing to explain his September 21, 2023 letter, Petitioner tersely replied, "[t]he letter speaks for itself" and read the letter aloud to the Hearing Committee. (NT II, 165)

97. By letter dated September 25, 2023, Petitioner subsequently agreed to "cooperate but once we get a hearing on this matter." (ODC-21/Bates-0333)

98. On November 3, 2023, the Disciplinary Board scheduled Petitioner's prehearing conference for January 20, 2024, and reinstatement hearing for March 6 and 7, 2024.

99. Petitioner failed to provide the requested information once the hearing date was set.

100. Petitioner failed to cooperate and provide the requested information once the hearing was scheduled as he had agreed to do.

101. Petitioner testified, “I just thought I had answered most of the things relative to the reinstatement and that I was entitled or should be entitled to a hearing.” (NT II, 170)

- a. Petitioner added that “quite frankly, after I got a hearing, I just—I really forgot about this September 18th [sic] [letter] in terms of responding.” (*Id.*)

102. Petitioner failed to agree with his attorney that “[i]n hindsight, perhaps we should have cooperated on that September letter.” (NT II, 12)

103. Petitioner did not agree with his attorney’s advice to “answer the questions” and told his attorney, “I’ve had enough.” (NT II, 170)

104. Petitioner’s failure to cooperate with ODC and provide complete answers to ODC’s questions demonstrates that Petitioner is not fit to resume the practice law and his reinstatement would be detrimental to the administration of justice and subversive to the public interest.

D. PETITIONER’S CHARACTER WITNESSES

105. The majority of Petitioner’s character witnesses did not fully or accurately know the factual basis for Petitioner’s criminal conviction that led to Petitioner’s suspension. (Wadud Ahmad, NT I, 98; Damone Jones, NT I,

121-122; Rose Harper, NT I, 165-166; Khadijah Aziz, NT I, 245-246, 253; Kawana Shaw, NT I, 265-267)

106. Petitioner's character witnesses were unaware that Petitioner intended to open a law firm and resume the civil practice of law should he be reinstated. (Miller, NT I, 66; Ahmad, NT I, 101)

107. Petitioner's character witnesses agreed that it was important to obey the law, pay taxes, and follow the L&I building code. (Ahmad, NT I, 107; Jones, NT I, 123-124; Lewis, NT I, 147-148, 152-153; Harper, NT I, 163, 169-170; McEldrew, NT I, 234)

108. Petitioner's character witnesses agreed lawyers should be truthful, honest, and law abiding. (Miller, NT I, 70; Ahmad, NT I, 89, 96; Jones, NT I, 120; Lewis, NT I, 145-146; Harper, NT I, 161-163; Marcus Brandt, NT I, 197; Aziz, NT I, 247-250)

109. None of Petitioner's character witnesses were aware of the tax liens against Petitioner's former law firm and title company, unsuccessful real estate ventures, L&I violations of his rental property, or open liens/judgments. (Miller, NT I, 67-69; Ahmad, NT I, 103; Jones, NT I, 123; Lewis, NT I, 148-149; Harper, NT I, 167-168; McEldrew, NT I, 215; Aziz, NT I, 253-254)

110. Petitioner's character witnesses are entitled to minimal weight.

III. PROPOSED CONCLUSIONS OF LAW

1. Petitioner has failed to meet his burden of proof that he has the competency required for admission to practice law in this Commonwealth.

2. Petitioner has failed to meet his burden of proof that he has the moral qualifications required for admission to practice law in this Commonwealth.

3. Petitioner has failed to meet his burden of proof that his resumption of the practice of law within the Commonwealth will not be detrimental to the administration of justice or subversive of the public interest.

IV. ARGUMENT

A. PETITIONER FAILED TO PROVE BY CLEAR AND CONVINCING EVIDENCE THAT HE HAS THE COMPETENCY AND MORAL QUALIFICATIONS REQUIRED FOR REINSTATEMENT TO PRACTICE LAW IN THIS COMMONWEALTH.

There is a “stringent standard for reinstatement in this Commonwealth.” *In the Matter of Jon Ari Lefkowitz*, No. 125 DB 2018 (D.Bd. Rpt. 1/3/2022, 35)(S.Ct. Order 4/1/2022). Pursuant to Pa.R.D.E. 218(c)(3), an attorney suspended for a period exceeding one year must prove, 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 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.”

To be competent, an attorney must be attentive to details. *Office of Disciplinary Counsel v. Michael E. Davis*, 614 A.2d 1116, 1123 (Pa. 1992)(Cappy, J., dissenting) (The “practice of law requires enormous dedication and attention to detail.”) To “prov[e] one’s morality to practice law involves [a petitioner] demonstrating he is trustworthy.” *In the Matter of Sebastian M. Rainone*, No. 60 DB 2004 (D.Bd.Rpt. 1/12/2016, 26)(S.Ct.

Order 3/17/2016). See also *In the Matter of Costigan*, 664 A.2d 518, 522 (Pa. 1995) (an attorney applying for reinstatement must prove “that he is, in a word, trustworthy”). Petitioner’s conduct, including numerous false answers and omissions in his Reinstatement Questionnaires, purported ignorance of his retired attorney status and receipt of fees for referring cases when Petitioner was on retired status, repeated failure to comply with the Philadelphia Code in the rental of his property, and long history of liens and judgments against him, paint a picture of Petitioner as an individual who has not adhered to written instructions, regulations, and the law. Whether the foregoing is a result of Petitioner’s lack of competence, morals, or both, Petitioner is unfit to practice law and his reinstatement should be denied.

Petitioner’s handling of his Reinstatement Questionnaires demonstrates Petitioner lacks the competence necessary to practice law. On April 27, 2023, Petitioner filed his completed Questionnaires with the Disciplinary Board; Petitioner’s signed certification to the Questionnaires states Petitioner “certifies that the foregoing responses are true and correct to the best of my knowledge, information, and belief.” (Bates-721, 726) Petitioner testified he wanted to be as truthful and accurate as possible in completing the Questionnaires and gave his answers “some thought.” (NT II, 154) Nonetheless, Petitioner failed to completely and truthfully answer

numerous questions posed by the Questionnaires. (PFOF 17-27) Petitioner's deficient answers ranged from Petitioner's failing to list all his self-employment, 38 lawsuits in which Petitioner was a party, unpaid taxes and open liens, to Petitioner not providing a detailed description of his handling the funds he received from the Brady campaign. Although errors in reinstatement questionnaires may not prevent reinstatement if explanations for errors are credible and convincing, errors like those of Petitioner's are "not excusable and only compounds his overall appearance of incompetence and lack of fitness." *In the Matter of Anthony Richard Patete, Jr.*, No. 99 D.Bd. 2001 (D.Bd. Rpt. 10/21/2009, 16)(S.Ct. Order 12/29/2009).¹

Petitioner further compounds the appearance of his incompetence by repeatedly and unabashedly admitting he failed to do *any* research or check *any* dockets when completing the Questionnaires. (NT II, 104, 105, 133, 155-156, 173-174) Petitioner also wrote he "erroneously omitted," "forgot or did not know of [the] existence" of the undisclosed 38 lawsuits. (Bates-0112-0116) Under these circumstances, Petitioner's omissions and false statements are "not excusable." *Patete, supra*. Indeed, Petitioner's "inability

¹ The Disciplinary Board has aptly noted that a petitioner's "errors and omissions [in the Questionnaire] show carelessness and inattention to detail that is bewildering for an individual interested in resuming his professional licensure." *In the Matter of John J. Mogck, II*, No. 78 DB 1992 (D.Bd. Rpt. 6/22/2004, 8)(S.Ct. Order 9/28/2004).

to fill out a pre-printed questionnaire . . . constitutes a competency problem.”
In the Matter of Galfand, No. 25 DB 2004 (D.Bd. Rpt. 5/2/2008, 9)(S.Ct.
Order 11/5/2008).²

Petitioner’s testimony concerning his ignorance of his attorney license status and the RPCs is yet another “competency problem.” On October 17, 2017, the Attorney Registration Office advised Petitioner that he was “on retired status and [] prohibited from practicing law in the Commonwealth,” and should Petitioner seek to resume the practice of law, he “must submit a 2017-2018 PA Attorney’s Annual Fee Form with payment of \$225.” (ODC-1/Bates-0002) On March 18, 2018, Petitioner completed his 2017-2018 Pennsylvania Annual Attorney’s Fee Form, which was received by the Attorney Registrar’s Office on March 26, 2018. (ODC-1(a)/Bates-0003) In response to the Fee Form’s question asking “Current Status,” Petitioner

² See, e.g., ***In the Matter of Douglas M. Marinos***, No. 42 DB 2018 (D.Bd.Rpt. 6/2/2023, 26)(S.Ct. Order 8/22/2023)(Disciplinary Board found Marinos’ “Reinstatement Questionnaire was false and incomplete, demonstrating his lack of competence, candor and honesty”); ***In the Matter of Jon Ari Lefkowitz***, No. 125 DB 2018 (D.Bd.Rpt. 1/3/2022, 31-32)(S.Ct. Order 4/1/2022) (Lefkowitz’s lack of thoroughness, misrepresentations, and omissions in preparing his reinstatement documents reflected a lack of competency); ***In the Matter of Nkem Odinkemere***, No. 129 DB 2005 (D.Bd Rpt. 3/14/2012, 12)(S.Ct. Order 7/18/2012) (Supreme Court denied reinstatement to Odinkemere, who took no affirmative steps to gather answers to the Questionnaire, stating “he was not obligated to ‘search every record and court system’ and was entitled to rely on his recollection of events.”).

handwrote "Retired," and in response to the Fee Form's question asking "Status Requested," Petitioner checked the box marked "Active \$225."

Petitioner repeatedly testified that he did not know he had been on retired status (NT I, 321; NT II, 84, 89, 90, 91) and shockingly claimed he did not know he had been on retired status until the first day of his reinstatement hearing. (NT I, 322) Petitioner's testimony that he did not know he was on retired status is not credible. Petitioner personally completed his 2017-2018 Annual Fee Form requesting a change in status from "Retired" to "Active." To the extent Petitioner did not "know" he had been on retired status, Petitioner surely lacks the competence necessary to practice law and is a clear danger to the public, courts, and profession. See, e.g., *In the Matter of Sebastian M. Rainone, supra*, D.Bd. Rpt., 25 ("Petitioner's pervasive lack of attention to detail, his lack of fitness to resume the practice law, and his tendency to deceive" warranted the conclusion that the petitioner was not worthy of reinstatement) (S.Ct. Order 3/17/2016).

While Petitioner was on retired status, Petitioner referred the *Tillman* and *Watson* cases to Mr. McEldrew. (PFOF 37) Petitioner's subsequent receipt of a referral fee from Mr. McEldrew is further of evidence of Petitioner's lack of competence and morals. Prior to Mr. McEldrew's paying Petitioner a referral fee, Mr. McEldrew testified that he specifically asked

Petitioner “to check to make sure [Petitioner] was a lawyer at the time” he referred the *Tillman* and *Watson* cases.³ (NT I, 231) Mr. McEldrew asked Petitioner to check his attorney license status because Mr. McEldrew did not want to violate RPC 5.4(a). (*Id.*, 232) Petitioner failed to act with the necessary competence and confirm his attorney status, falsely informing Mr. McEldrew that Petitioner was a lawyer at the time of the referrals and inducing Mr. McEldrew to share his legal fee with a nonlawyer. (NT I, 231)⁴

Similar to Petitioner’s purported ignorance of his attorney status, Petitioner testified that he was unaware of the L&I Code violations assessed against his property prior to ODC alerting him to these violations. (NT II, 308) The L&I violations involved licensing and safety issues, including failure to have a rental license, an annual inspection of the property’s fire alarm system, and maintenance of the exterior structure in good repair with proper anchorage. (ODC-36(b)/Bates-0387-0391) Given that Petitioner has been

³ Curiously, on cross-examination, Petitioner claimed he did not recall Mr. McEldrew’s testifying the previous day that Mr. McEldrew had specifically asked Petitioner his attorney status prior to paying Petitioner a referral fee. (NT II, 93)

⁴ Petitioner also offered contradictory evidence regarding his knowledge of RPC 5.4(a)’s prohibition on sharing a legal fee with a nonlawyer. On direct examination, Petitioner testified that if he knew he was on retired status, Petitioner would “absolutely not” have taken the referral fees from Mr. McEldrew. (NT I, 321) On cross-examination, Petitioner testified he “didn’t know that” it violated RPC 5.4(a) for Mr. McEldrew to share his legal fee with a non-lawyer. (NT II, 94) In his Reinstatement Questionnaire, Petitioner wrote that he had familiarized himself with the RPCs. (Bates-714) Plainly, Petitioner’s learning in the law is lacking.

involved in the real estate business since at least 2005 and was a former Vice Chair of L&I, Petitioner's claimed ignorance of the Code requirements rings hollow. Petitioner's failure to know the relevant L&I Code and ensure his rental property is compliant with the Code reveals another layer of Petitioner's lack of competence and morals.⁵

Finally, Petitioner's dearth of morality is fully exposed by Petitioner's testimony regarding his decision to apply to be a senior judge knowing he had violated the campaign finance laws and his contradictory testimony regarding his decision to continue sitting as a senior judge knowing he was being investigated by the FBI.⁶ On cross-examination, Petitioner initially testified his continuing to sit as a senior judge "didn't strike [him] as wrong. Because, frankly, I just moved on from the campaign." (NT II, 80) But when questioned by the Hearing Committee, Petitioner admitted "[t]he deal is I knew it was wrong, when I applied, it was wrong" (*Id.*, 181) and he continued sitting as a senior judge after being contacted by the FBI because he "put [his] head in the sand and hoped that it passed over." (*Id.*, 180) At no time, did Petitioner express sincere remorse for the impropriety of his conduct, and

⁵ Similarly, Petitioner testified he did not know he had open liens and judgments against him until being apprised by ODC. (NT II, 99-100) Petitioner failed to act with competence and examine court records to confirm all his debts had been satisfied. (NT II, 104-105)

⁶ Petitioner admits he made a "mistake" in his failing to report to the AOPC that he was being investigated by the FBI. (PBrief, 33)

only upon questioning by the Hearing Committee, did Petitioner express recognition of his knowing wrongdoing. ***In the Matter of Paul Joseph Staub, Jr.***, No. 36 DB 2010 (D.Bd. Rpt. 1/9/2018, 14)(S.Ct. Order 3/1/2018)(Supreme Court denied Staub’s reinstatement from disbarment, finding that while Staub “admitted that he engaged in criminal acts and made restitution, the evidence did not support a finding that he fully acknowledged that his actions harmed others and damaged the integrity of the legal system, as he failed to express genuine remorse or apologize for his actions.”)

ODC recognizes that Petitioner took remedial action after ODC apprised him of his outstanding liens, judgments, and L&I Code violations. (PBrief, 40, FOF 40; NT I, 308; NT II, 99-100) Petitioner’s belated conduct, however, does not equate with rehabilitation nor negate the fact Petitioner had no knowledge of these matters until receiving correspondence from ODC. ODC also recognizes that Petitioner had eight character witnesses who spoke highly of Petitioner and his community service activities. (PBrief, 29-30) While commendable and to be encouraged, community service is not enough to demonstrate fitness for reinstatement. Moreover, a majority of Petitioner’s character witnesses did not fully or accurately know the factual basis for Petitioner’s criminal conviction, none of the witnesses knew of the tax liens against Petitioner or the L&I violations against Petitioner’s property,

and all of Petitioner's witnesses agreed that attorneys should be truthful, honest, and law abiding. (PFOF 105, 109, 107) Thus, the testimony of the character witnesses is entitled to little weight. ***In the Matter of Neil E. Jokelson***, No. 201 DB 2014 (D.Bd.Rpt. 8/10/2023, 15)(S.Ct. Order 10/6/2023) (Disciplinary Board afforded little weight to character witnesses who "were unaware of the factual details of the underlying misconduct"); ***In the Matter of Casper***, No. 44 DB 1992 (D.Bd. Rpt. 1/25/2007, 16-17)(S.Ct. Order 4/20/2007) (The testimony of character witnesses, who were not fully informed about Casper's misconduct, were entitled to little weight).

In sum, the foregoing demonstrate Petitioner failed to establish, by clear and convincing evidence, that he has the competency and morals to be reinstated to the practice of law. See, e.g., ***Marinos, supra***, 26 ("a petitioner lacks competence and moral qualifications when he engages in a pattern of inaccuracies and falsities on the Questionnaire and fails to credibly explain the omissions and deficiencies."); ***In the Matter of William J. Helzlsouer***, No. 197 DB 2018 (D.Bd.Rpt. 9/27/2022, 12)(S.Ct. Order 12/7/2022) (Helzlsouer's "false, inaccurate, and incomplete responses on his Questionnaire show not only his lack of competence in carefully completing a critically important reinstatement document, but further demonstrate his

lack of moral qualifications by making false statements on the Questionnaire.”)

B. PETITIONER’S REINSTATEMENT WOULD BE DETRIMENTAL TO THE ADMINISTRATION OF JUSTICE AND SUBVERSIVE TO THE PUBLIC INTEREST.

Petitioner failed to fully cooperate with ODC’s investigation and provide requested information, ignored his attorney’s advice to cooperate with ODC, and offered unrepentant testimony about this conduct at his reinstatement hearing. Given Petitioner’s conduct and attitude, granting Petitioner the privilege of practicing law again would be detrimental to the administration of justice and subversive to the public interest. *Rainone, supra*, D.Bd.Rpt., 29 (“[B]ased on the evidence presented, [Rainone’s] reinstatement at this time would be detrimental to the . . . administration of justice, and would be subversive to the public interest.”)

As a result of Petitioner’s woefully incomplete answers to the Questionnaires, ODC requested missing information and clarification of the information Petitioner had provided. By letter dated June 28, 2023, ODC inquired about Petitioner’s real estate holdings, omitted lawsuits, referral fees, and tax returns. (ODC-12/Bates-0086) Petitioner then requested two continuances to answer ODC’s inquiries. (ODC-13, 14/Bates-0105, 0106)

Finally, on August 15, 2023, Petitioner provided ODC with most of the requested information.(ODC-15, 16, 17/Bates-0107, 0119, 0316)

After ODC reviewed the new information, which exceeded 200 pages, on September 19, 2023, ODC sent Petitioner follow-up questions. (ODC-19/Bates-0326) By responsive letter dated September 21, 2023, Petitioner's counsel wrote, "[m]y client has advised he has cooperated enough and does not want to provide any more material, and wishes to have a hearing now." (ODC-20/Bates-0332) Then on September 25, 2023, Petitioner's counsel wrote Petitioner "has advised that he will cooperate but once we get a hearing on this matter." (ODC-21/Bates-0333) On November 3, 2023, the Disciplinary Board scheduled Petitioner's prehearing conference for January 20, 2024, and reinstatement hearing for March 6 and 7, 2024. Petitioner failed to provide the requested information "once" he received a hearing date on his matter or at his reinstatement hearing.

At Petitioner's reinstatement hearing, ODC asked Petitioner to explain the September 21, 2023 letter informing ODC that he has "cooperated enough" and does "not want to provide any more material." Petitioner continued his evasive conduct, acerbically answered "[t]he letter speaks for itself," and read the letter aloud to the Hearing Committee. (NT II, 165) On redirect, Petitioner's counsel asked Petitioner why he became "so stubborn"

when ODC requested follow-up information. Petitioner replied he “thought I had answered most of the things relative to the reinstatement and that I was *entitled or should be entitled* to a hearing.” (emphasis added) (NT II, 170) Petitioner added, “quite frankly, after I got a hearing, I just—I really forgot about this September 18th [letter] in terms of responding.” (*Id.*) Petitioner reiterated he did not agree with his attorney’s advice to “answer the questions” and told his attorney, “I’ve had enough.” (*Id.* 170, 171)

An attorney seeking admission to the Bar has a duty to cooperate with attorney discipline authorities and respond to lawful demands for information. See RPC 8.1(b), **Marinos**, *supra*, D.Bd.Rpt., FOF 114. Whether Petitioner thought he “cooperated enough,” was “entitled to a hearing,” or “really forgot,” Petitioner’s attitude and answers highlight his need for further rehabilitation. Clearly, the admission of an attorney who fails to cooperate with ODC’s investigation into his reinstatement would be detrimental to the administration of justice and subversive to the public interest. See, e.g., **In the Matter of Craig B. Sokolow**, No. 83 DB 2028 (D.Bd.Rpt. 8/2/2023, 26-27)(S.Ct. Order 9/28/2023) (Sokolow’s lack of cooperation prolonged ODC’s investigation and reflected adversely of Sokolow’s fitness for reinstatement); **Marinos**, *supra*, FOF 114 (Supreme Court denied reinstatement to Marinos,

who among other shortcomings, failed to comply with his duty to cooperate with ODC's investigation of his reinstatement).

In his Brief, Petitioner argues “[w]hether he was right or wrong, there was certainly no harm to Office of Disciplinary Counsel” by his failure to cooperate. (PBrief, 40) It is irrelevant whether ODC was harmed by Petitioner's conduct. Petitioner had a duty to cooperate with disciplinary authorities. Moreover, Petitioner's argument is factually incorrect and underscores that Petitioner's admission would be detrimental to the administration of justice and subversive to the public interest. ODC never received requested tax returns, information on Petitioner's rental properties, and proof of Petitioner's payment of judgments. ODC was unable to complete its investigation, to the detriment of the public, profession, courts, and administration of justice.⁷

The Pennsylvania Supreme Court has explained that in determining whether a petitioner has met his burden of proof under Pa.R.D.E. Rule 218(c)(3), a Hearing Committee must undertake a:

searching inquiry into a lawyer's present professional and moral fitness to resume the practice of law. The object of concern is not solely the transgressions which gave rise to the lawyer's suspension, but rather the nature and extent

⁷ ***Odinkemere***, *supra*, D.Bd. Rpt., 12 (denying reinstatement to Odinkemere, who disregarded instructions to provide truthful and accurate information and to submit requested documents).

of the rehabilitative efforts the lawyer has made since the sanction was imposed, and the degree of success achieved in the rehabilitative process.

Philadelphia News, Inc. v. Disciplinary Board of the Supreme Court, 363 A.2d 779, 780-781(Pa. 1976).

Here, the foregoing searching inquiry reflects different facets of Petitioner's deficient professional and moral fitness, including Petitioner's: false statements and omissions in his Questionnaires; violations of licensing and safety mandates on his rental property; financial mismanagement of his law firm, abstract company, and real estate business; professed ignorance of his retired attorney status; inducing Mr. McEldrew to share a referral fee with a nonlawyer; and sitting as a senior judge knowing he had violated the criminal laws and was being investigated by the FBI. Petitioner's failure to cooperate with ODC's reinstatement investigation and unrepentant attitude about his lack of cooperation casts a dark shadow on Petitioner's present fitness to practice law. When viewed collectively, the evidence is clear that Petitioner has not met "the stringent standard for reinstatement to this Commonwealth." Accordingly, ODC requests the Hearing Committee to recommend the denial of Petitioner's reinstatement.⁸

⁸ See, e.g., ***Mogck, III***, *supra*, D.Bd. Rpt., 9 (explaining that while each piece of evidence alone may not prevent a petitioner from being reinstated, combining all of these factors produces a record insufficient to support a finding that petitioner has been rehabilitated

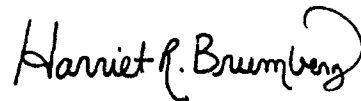
V. CONCLUSION

For the foregoing reasons, Office of Disciplinary Counsel respectfully requests the Hearing Committee recommend to the Disciplinary Board that Petitioner's Petition for Reinstatement from Suspension be denied.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell
Chief Disciplinary Counsel



By _____
Harriet R. Brumberg
Disciplinary Counsel

and is fit to practice law); and **Galfand**, *supra*, D.Bd. Rpt., 10 ("the totality of the record" before the Board demonstrated that Galfand was not ready for reinstatement).

CERTIFICATE OF COMPLIANCE

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

Submitted by: Office of Disciplinary Counsel

Signature: Harriet R. Brumberg

Name: Harriet R. Brumberg, Disciplinary Counsel

Attorney No. (if applicable): 31032