

IN THE SUPREME COURT OF PENNSYLVANIA

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| In the Matter of | : | No. 1062 Disciplinary Docket No. 3 |
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| THOMAS S. ROMAN, JR. | : | No. 121 DB 2005 |
| | : | |
| | : | Attorney Registration No. 61254 |
| | : | |
| PETITION FOR REINSTATEMENT | : | (Berks County) |
| | : | |
| | : | |

ORDER

PER CURIAM

AND NOW, this 26th day of October, 2016, the Petition for Reinstatement is granted. Petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement. See Pa.R.D.E. 218(f).

A True Copy Patricia Nicola
As Of 10/26/2016

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 218(c)(5) of the Pennsylvania Rules of Disciplinary Enforcement, The Disciplinary Board of the Supreme Court of Pennsylvania submits its findings and recommendations to your Honorable Court with respect to the above captioned Petition for Reinstatement.

I. HISTORY OF PROCEEDINGS

By Order dated September 26, 2005, the Supreme Court of Pennsylvania disbarred Thomas S. Roman, Jr., on consent. Mr. Roman filed a Petition for Reinstatement to the bar on April 20, 2015. Petitioner filed a Supplement to Petition on July 1, 2015. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on August 18, 2015.

A prehearing conference was held on October 6, 2015, and a reinstatement

hearing was held on December 1, 2015, before a District II Hearing Committee comprised of Chair Daniel J. Rovner, Esquire and Members Philip D. Press, Esquire and Charles J. Meyer, Esquire. Petitioner appeared was represented by Brian S. Quinn, Esquire. Petitioner presented the testimony of seven witnesses and testified on his own behalf. Petitioner introduced eighteen exhibits. Office of Disciplinary Counsel did not call any witnesses or present any exhibits.

Following the submission of a Brief by Petitioner, the Hearing Committee filed a Report on April 25, 2016, and recommended that the Petition for Reinstatement be granted.

The parties did not take exception to the Report and recommendation of the Hearing Committee.

The Disciplinary Board adjudicated this matter at the meeting on July 23, 2016.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Thomas S. Roman, Jr. He was born in 1964 and was admitted to the practice of law in the Commonwealth of Pennsylvania in 1991. Petitioner's attorney registration address is 129 Wilander Drive, Cary, North Carolina 27511. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. On May 25, 2005, in the Court of Common Pleas of Berks County, Petitioner entered guilty pleas to four counts of theft by unlawful taking, theft by deception and misapplication of entrusted property. Reinstatement Questionnaire ("DB-36").

3. Petitioner's convictions resulted in the imposition of six to twenty-three months of incarceration, followed by two years of probation, along with fines and court costs. DB-36.

4. Petitioner served a thirty day period of incarceration in the Berks County Prison and five and a half months on house arrest. N.T. 249; DB-36.

5. All fines, court costs, probation and parole in each criminal case were completed successfully by Petitioner. DB-36.

6. Petitioner's underlying misconduct involved the conversion of funds totaling \$37,881.41 from accounts that belonged to beneficiaries for whom Petitioner had been appointed Guardian of the Estate by the Berks County Court of Commons Pleas. DB-36.

7. Prior to the entry of his guilty pleas and sentencing in 2005, Petitioner made full restitution of \$37,881.41. N.T. 234; DB-36.

8. Petitioner filed a verified statement of resignation from the bar on July 19, 2005, and was disbarred from the practice of law by Order of the Pennsylvania Supreme Court dated September 26, 2005. DB-36.

9. Petitioner credibly testified at the reinstatement hearing.

10. Petitioner began his legal career in 1991 with a judicial clerkship in Berks County, followed by employment as a guardian ad litem for Berks County, which primarily involved representing children in termination of parental rights matters. N.T. 197-198.

11. In 1999, Petitioner opened his own office for the general practice of law in Reading, Pennsylvania. Soon thereafter, Petitioner began to accept appointments from the Court to represent either the personal interest of an incapacitated individual or the

estate of that individual. In general, these individuals were elderly and the primary goal of the representation was to ensure and protect the funds of these individuals. N.T. 199-200.

12. Petitioner's problems with alcohol use began in the 1990s and progressively worsened during 2000. According to Petitioner, by January 2001, his drinking was the most important thing in his life. Petitioner discharged his secretary and began to purchase alcohol in the morning as soon as the state liquor stores opened and drank immediately, until he blacked out. N.T. 204, 206-208.

13. If he did not have to appear in court, Petitioner stayed in his office with an electric heater, a camp mat and a bottle of Absolut vodka. N.T. 205-206.

14. Petitioner was unable to practice law in 2002, as a result of the physical effects caused by his drinking. N.T. 205-206.

15. With respect to the guardianships that were the subject of his discipline, in early 2002, Petitioner was entrusted as guardian for the estates of at least six individuals. N.T. 81, 220, 230.

16. In 2001 and 2002, Petitioner took money to which he was not entitled from the estates and deposited this money into personal accounts. Petitioner pled guilty to converting funds from four of the estates. N.T. 222-223.

17. Following an intervention by his family, Petitioner went into treatment on April 3, 2002, at the Caron Foundation ("Caron") in Wernersville, Pennsylvania, where he underwent medical detox treatment. He remained at Caron for a thirty-day inpatient stay. N.T. 214-215.

18. After successfully completing his inpatient treatment at Caron, Petitioner continued with outpatient treatment and concentrated solely on his recovery. N.T. 31, 231-233; Exhibit P-14. In 2002 and 2003, he began to wind down his law practice

by discontinuing his work with the Office of Aging, giving up the lease on his law office, and resigning his position as guardian ad litem. N.T. 226-230.

19. Following completion of the inpatient program, Petitioner became active in lawyer recovery groups and attended meetings in Berks County, as well as those facilitated by Lawyers Concerned for Lawyers ("LCL"). By listening to the experiences of members of the legal profession who did not drink alcohol, regardless of stressful situations, Petitioner testified he was able to identify with those individuals and to develop a full and complete program of recovery which would significantly reduce the chances of relapse if he faced similar stressful situations. N.T. 236-238.

20. Petitioner has maintained continuous, uninterrupted sobriety since his release from Caron in 2002. N.T. 291.

21. Petitioner attends daily Alcoholics Anonymous ("AA") meetings, reads recovery literature and is actively involved in lawyer assistance programs. N.T. 34, 35, 51, 174.

22. Petitioner began treatment for depression in 2001 and has been prescribed various non-narcotic, non-dependency producing medication, which he continues to take under the supervision of his current primary care physician, Dr. Gregory Gibbons. N.T. 218, 280.

23. Petitioner worked in various capacities at Caron while his criminal charges were pending, including as a counselor's assistant and in the maintenance department. N.T. 248-249, 250-251.

24. Petitioner's family has moved several times since his disbarment. Petitioner worked for four years as a mental health technician in Raleigh, North Carolina,

and resumed work for Caron for a short period of time in 2011 in the professional outreach department until that position was eliminated for economic reasons. N.T. 251-252; DB-36.

25. From July 2015 through November 2015, Petitioner worked for Origins Behavioral Health Care, a multi-state addiction treatment provider doing professional outreach, which allowed him to maintain his contacts with many recovery programs. He took committee positions with the Commission on Lawyer Assistance Programs dealing with senior lawyers, as well as the law school committee for the ABA Commission on Lawyer Assistance Programs. The position at Origins was eliminated due to economic issues. N.T. 115, 253-255.

26. Petitioner has shared all the details of his criminal acts and the results that occurred, including his incarceration and disbarment, not only with friends and family in Pennsylvania, but with his neighbors and other people in recovery in North Carolina, where he resides. N.T. 240, 242-243.

27. In the past thirteen years of Petitioner's sobriety, he has attended numerous lawyer recovery conferences and meetings in the United States, as well as internationally, and has spoken at lawyer recovery events in North Carolina and Virginia. N.T. 171, 253, 255.

28. Although he currently lives in Cary, North Carolina, Petitioner seeks reinstatement in Pennsylvania in order to maintain an office for the purpose of consultations and referrals, as he has many family members and friends who reside in Pennsylvania. DB-36.

29. Petitioner intends to remain in the recovery field if reinstated to practice law in Pennsylvania. According to Petitioner, the reinstatement of his law license will allow him to interact with other attorneys in a more significant manner and will allow him

to assume positions in recovery assistance programs that require admission in good standing to a bar. N.T. 255-256.

30. Petitioner believes his reinstatement will serve as an incentive and will benefit other attorneys who suffer from the disease of addiction. He testified that other attorneys in recovery value how Petitioner has been able to make amends in relationships in his life and make restitution for wrongs. N.T. 256-257, 282, 303.

31. Petitioner testified that regardless of the outcome of his reinstatement request, he respects and appreciates the opportunity to participate in the process, because practicing law is a privilege. He will continue to share his experiences with others. N.T. 258-260, 282.

32. Petitioner accepts full responsibility for his misconduct, is remorseful and is genuine about and committed to his recovery. N.T. 44, 233-234.

33. Petitioner offered the credible testimony of seven witnesses.

34. Adeline Roman has been married to Petitioner for more than twenty years and they have two sons. N.T. 22.

35. Mrs. Roman noticed that Petitioner began to drink more frequently over the course of their marriage and recognized the increased drinking as a problem in 2000. N.T. 26, 27, 55.

36. Mrs. Roman confirmed that as Petitioner's drinking escalated, he began to isolate himself from his family and became defensive and withdrawn. N.T. 27, 28.

37. Mrs. Roman described life in their household during this time period as chaotic and unmanageable, with Petitioner physically ill on a daily basis. N.T. 29, 56.

38. Mrs. Roman has noticed a distinct contrast between Petitioner's life during his sobriety and his life prior to recovery. Currently, Petitioner is very engaged and involved in family life. N.T. 33. Alcoholics Anonymous is a priority for Petitioner and he attends AA meetings on a daily basis, including when he travels. N.T. 34, 35, 51.

39. Petitioner and Mrs. Roman communicate frequently about how Petitioner approaches problems and negative issues in life. Petitioner's family has a plan to deal with any signs of relapse. This plan includes checking on Petitioner's attendance at AA, calling Petitioner's AA sponsor, and requiring Petitioner to leave the family home if he starts drinking again. N.T. 37, 40, 41, 488, 50, 59-64.

40. There has never been a time since Petitioner entered treatment that Mrs. Roman suspected that he was drinking alcohol. N.T. 42, 61-64.

41. Mrs. Roman opined that Petitioner has a good reputation in his community for being a law-abiding, honest person and a good family man. N.T. 43, 66-67.

42. James Marasco is Petitioner's brother-in-law and has been employed as a Pennsylvania State Trooper for more than twenty-four years. He has known Petitioner for thirty years. N.T. 73.

43. Mr. Marasco was Petitioner's neighbor for many years and witnessed Petitioner's alcohol use and abuse and behavioral changes prior to his treatment at Caron. N.T. 75-79.

44. Mr. Marasco has observed that Petitioner takes his sobriety seriously by attending daily AA meetings and has a solid support system of family, friends and neighbors. N.T. 82, 85-86, 89-90.

45. Mr. Marasco opined that Petitioner was well-liked in the legal community of Berks County and the majority of the community would not object to Petitioner's reinstatement. N.T. 95-97.

46. Andrew J. Rothermel, Esquire is the CEO of Origins Behavioral Health Care, and has known Respondent since 1992, when Mr. Rothermel clerked for a law firm in Reading, Pennsylvania. N.T. 102, 103.

47. Mr. Rothermel opined that Petitioner had a good reputation among the members of the bar and the bench in Berks County. N.T. 103.

48. Mr. Rothermel indicated that Petitioner is committed to his recovery and that, despite very difficult personal circumstances, Petitioner has become a much better person, and if reinstated, he will have empathy for his clients and he will be a better lawyer than he was before the problems that led to his disbarment. N.T. 108.

49. Mr. Rothermel is willing to provide Petitioner with a reference for future employment. N.T. 109.

50. Mr. Rothermel does not believe that Petitioner's resumption of the practice of law will be detrimental to the integrity or standing of the bar or legal profession in Pennsylvania. N.T. 109-110.

51. Joseph Marasco is a Special Agent with the FBI and has known Petitioner for nearly thirty years. N.T. 116-117.

52. Mr. Marasco testified that Petitioner was very forthcoming about the fact that he had stolen money from clients while addicted to alcohol. Mr. Marasco has observed that Petitioner regrets his actions. N.T. 117-118.

53. Mr. Marasco has been able to observe the positive progress made by Petitioner since his treatment at Caron and attributes Petitioner's success to the remorse

he felt for his actions, the steps Petitioner took to get sober and Petitioner's continuing help to others with addictions. N.T. 119, 120.

54. Mr. Marasco is part of Petitioner's support system and believes that no one in the support system of family and friends will allow Petitioner to fall back into his former situation. N.T. 121-124.

55. Mr. Marasco indicated that Petitioner accepts full responsibility for his actions, is remorseful, and is genuinely committed to his recovery. N.T. 125.

56. Mr. Marasco knows other people in the legal community, within law enforcement, and individuals from Caron who are familiar with Petitioner's good reputation in the community. N.T. 126.

57. Barbara Gough resides in Florida and is employed as a chemical addictions registered nurse manager. From March 2001 through November 2012, Ms. Gough was a detox nurse at Caron and met Petitioner in April 2002, when he was a patient at Caron. N.T. 134-136.

58. Ms. Gough observed that Petitioner was grateful and accepting of the program from the beginning, and she believes that such acceptance is the foundation of recovery. N.T. 136.

59. Ms. Gough maintains a close personal relationship with Petitioner and is aware of his high level of commitment to his recovery and to his family. N.T. 140-141.

60. Ms. Gough is familiar with the warning signs of relapse and sees none of these warning signs in Petitioner's behavior. N.T. 141-143.

61. Ms. Gough indicated that Petitioner has integrity, humility, empathy, gratitude, and remorse and has made amends for his wrongdoing. N.T. 144-145.

62. Edward Daniel Nelson, Esquire resides in Raleigh, North Carolina and has been licensed to practice law in that state since 1975. N.T. 147.

63. Mr. Nelson met Petitioner through the Lawyers Assistance Program ("LAP") in North Carolina and also through Caron. The LAP is a part of the North Carolina State Bar supervised by that state's Supreme Court, which provides support assistance to attorneys with addiction problems. N.T. 147-148.

64. Mr. Nelson has been in recovery since 2005 and is Petitioner's AA sponsor. N.T. 150, 155.

65. Mr. Nelson testified that Petitioner regrets the criminal offenses he committed while he was addicted to alcohol and is active in his recovery. Mr. Nelson believes that Petitioner is an honest and sincere individual who is trying very hard to live a different life than he did when he was drinking. N.T. 154-156.

66. Mr. Nelson has never observed Petitioner exhibiting the warning signs that precede a relapse. N.T. 161, 163.

67. Mr. Nelson opined that Petitioner's reputation in the Cary, North Carolina community and within the lawyer recovery community for truth and veracity is excellent. N.T. 165-166, 168.

68. Laurie J. Besden, Esquire is the Executive Director of LCL in Pennsylvania. She met Petitioner in October 2011, at conferences related to lawyer assistance programs in Tampa, Florida. N.T. 171, 175.

69. Ms. Besden and Petitioner communicate on nearly a daily basis via text, telephone and social media related to their work in the recovery field. N.T. 174.

70. Ms. Besden believes that if reinstated, Petitioner will be able to balance the practice of law with both his home life and his personal program of recovery because of his solid support system, of which Ms. Besden is a part. N.T. 174-177.

71. According to Ms. Besden, Petitioner has admitted openly the nature of his transgressions to others, is remorseful and accepts full responsibility for his acts. Petitioner is committed to recovery and to assisting other people who suffer from addiction and consistently offers his help to LCL. N.T. 182-183.

72. Ms. Besden believes that Petitioner will be an asset to the legal profession if reinstated. N.T. 178, 186.

73. Ms. Besden personally went through the attorney reinstatement process in 2008 following her suspension for criminal acts that occurred while she was an addict. She encouraged Petitioner to apply for reinstatement. N.T. 178, 179.

74. Twelve affidavits in lieu of testimony were presented at the reinstatement hearing. Each of the individuals stated that they were aware of the facts and circumstances surrounding Petitioner's criminal convictions and disbarment, and each stated that Petitioner was dedicated to his sobriety and possessed the moral qualifications, competency and learning in the law required to practice law in Pennsylvania. None of the witnesses believed that Petitioner's reinstatement would be contrary to the public interest. Exhibits P-1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 16.

75. Petitioner fulfilled the Continuing Legal Education ("CLE") requirements necessary for reinstatement. During his disbarment, he regularly reviewed the ABA Journal and the Duke University Law Journal, as well as various legal newsletters. DB-36.

76. Office of Disciplinary Counsel does not oppose reinstatement.

III. CONCLUSIONS OF LAW

1. The misconduct for which Petitioner was disbarred is not so egregious as to preclude reinstatement. *Office of Disciplinary Counsel v. John J. Keller*, 506 A.2d 872 (Pa. 1986).

2. Petitioner demonstrated by clear and convincing evidence that a sufficient period of time has passed since the misconduct. *In re Jerome J. Verlin*, 731 A.2d 600 (Pa. 1999).

3. Petitioner demonstrated by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required to practice law in Pennsylvania, and his resumption of the practice of law within the Commonwealth will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. Pa.R.D.E. 218(c)(3).

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following his disbarment on consent by Order of the Supreme Court dated September 26, 2005. The misconduct giving rise to Petitioner's resignation was his conversion of client funds totaling \$37,881.41, resulting in his guilty plea to theft by unlawful taking, theft by deception and misapplication of entrusted property.

The threshold issue is whether the misconduct that resulted in Petitioner's disbarment was of such magnitude that his reinstatement would have a detrimental effect

upon the integrity and standing of the bar or would be subversive of the public interest. **Keller**, 506 A.2d at 875.

In light of the Supreme Court's previous holdings, we cannot say Petitioner's misconduct was so great that he can never be reinstated to the bar. There are numerous examples where the threshold question has been met in cases involving conversions of substantial amounts of client funds and other misconduct. See **In re Lawrence D. Greenberg**, 749 A.2d 434 (Pa. 2000) (misappropriation of two million dollars and commission of perjury in bankruptcy proceeding); **In re William J. Perrone**, 777 A.2d 413 (Pa. 2001) (filing 254 false and misleading fee petitions with the court that requested payment for legal services provided to indigent defendants; respondent-attorney ordered to pay \$130,000 in restitution); **In the Matter of Michael K. Simon**, 49 DB 2005 (D. Bd. Rpt. 3/4/14) (S. Ct. Order 6/16/14) (conversion of nearly half a million dollars of client funds).

The above-cited cases are examples of serious and deplorable criminal acts by Pennsylvania lawyers, all of whom were able to meet the threshold standard for reinstatement. The Board concludes that Petitioner's acts were not so egregious as to prevent reinstatement.

Our review of the misconduct in the instant case convinces us that allowing Petitioner to resume the practice of law at this time would not have a detrimental effect upon the integrity and standing of the bar or the administration of justice, nor would it subvert the public interest. In reaching this conclusion, the Board considered the amount of time that has passed since Petitioner was disbarred and his efforts at qualitative

rehabilitation, in order to determine whether the detrimental impact of the misconduct on the public trust had dissipated. *Verlin*, 731 A.2d at 602.

Petitioner has been removed from the practice of law for approximately eleven years. The only firm timetable set by the Supreme Court in reinstatement from disbarment matters is the five year waiting period after disbarment. Pa.R.D.E. 218(b). The record in this case demonstrates that the lengthy period of disbarment has been qualitative and meaningful to Petitioner's rehabilitation and has dissipated the impact of the original misconduct on the public trust.

Petitioner expressed genuine remorse for his misconduct and fully acknowledged his wrongdoing as evidenced by his voluntary resignation of his law license. He made serious mistakes, which he has regretted for many years. His lengthy period of disbarment has afforded him the opportunity to reflect on his egregious acts.

Petitioner's addiction to alcohol was a prime factor in his misconduct and he has devoted his disbarment period to the treatment of his addiction and the maintenance of his hard-won sobriety. Even before his disbarment in 2005, Petitioner sought treatment through an inpatient stay at Caron in 2002, followed by outpatient therapy and daily AA meetings. Petitioner participated in this recovery program up until the time he went to prison, and resumed his involvement immediately after his release from prison. Petitioner has maintained continuous, uninterrupted sobriety since his release from Caron in May 2002. Petitioner is fully invested in his recovery program and has worked tirelessly to stay committed to his sobriety. In addition to concentrating on his personal recovery program, Petitioner has worked in the addiction recovery community for many years, helping other lawyers to maintain sobriety. Petitioner's family and friends provide a solid support system,

which is crucial to Petitioner's continued sobriety. Many of the witnesses who appeared at the hearing are part of that system and credibly testified that Petitioner has not wavered in his commitment.

The credible and compelling testimony of Petitioner's character witnesses confirms Petitioner's current excellent reputation and the support he enjoys as he seeks reinstatement. The witnesses extolled Petitioner's dedication to his recovery from addiction and his active participation and high level of commitment in helping other individuals, particularly lawyers, who are engaged in the process of addiction recovery. These witnesses observed that Petitioner has been candid about his misconduct and his alcoholism and sincere in his efforts to make amends for his previous bad acts.

Petitioner demonstrated his competence by fulfilling the CLE requirements necessary for reinstatement and maintaining his currency in the law through review of various law journals and legal newsletters. If reinstated, even though Petitioner currently resides in North Carolina, he plans to maintain an office in Pennsylvania solely for the purpose of consultations and referrals in order to serve his many family members and friends who reside in Pennsylvania. Further, Petitioner intends to continue his work in the attorney recovery field. Regaining his law license will enable him to assume various positions in the North Carolina attorney recovery programs that require admission in good standing to the bar. He has maintained a close relationship with the attorneys at LCL in Pennsylvania and plans to play a more active role in that organization upon reinstatement.

The evidence of record demonstrates that Petitioner's eleven years of disbarment have been a time of genuine rehabilitation and personal achievement. See *In the Matter of Robert Eric Hall*, 176 DB 2006 (D.Bd. Rpt. 2/19/15) (S. Ct. Order 3/17/15);

In the Matter of Robert S. Teti, 30 DB 1999 (D.Bd. Rpt. 12/13/12) (S. Ct. Order 2/28/13).

Petitioner has met his reinstatement burden by clear and convincing evidence that he is morally qualified, competent and learned in the law, and of equal importance, that his reinstatement will not be detrimental to the public or to the profession. Petitioner is fit to resume the practice of law. For all of the above reasons, we recommend that the Petition for Reinstatement be granted.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Thomas S. Roman, Jr., be reinstated to the practice of law.

The Board further recommends that, pursuant to Rule 218(f), Pa.R.D.E., Petitioner be directed to pay the necessary expenses incurred in the investigation and processing of the Petition for Reinstatement.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 
David E. Schwager, Vice-Chair

Date: 10/3/14

Board Member Cordisco did not participate in the adjudication.