

**IN THE SUPREME COURT OF PENNSYLVANIA**

In the Matter of : No. 1531 Disciplinary Docket No. 3  
: :  
LEROY FRANK GRIMM, JR. : No. 107 DB 2009  
: :  
: Attorney Registration No. 24728  
: :  
PETITION FOR REINSTATEMENT : (Allegheny County)

**ORDER**

**PER CURIAM**

**AND NOW**, this 13<sup>th</sup> day of March, 2017, 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 3/13/2017

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 of September 2, 2010, the Supreme Court disbarred Leroy Frank Grimm, Jr. on consent, retroactive to November 25, 2009. Mr. Grimm filed a Petition for Reinstatement on September 2, 2015. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on October 27, 2015.

A prehearing conference was held on December 11, 2015. A reinstatement hearing was held on March 10, 2016, before a District IV Hearing Committee comprised of

Chair Philip Zarone, Esquire, and Members Neva L. Stotler, Esquire and Philip J. Murray, Esquire. Petitioner appeared *pro se*. Petitioner testified on his own behalf and offered the testimony of two witnesses, as well as three evidentiary exhibits. Office of Disciplinary Counsel offered fourteen exhibits which were admitted into evidence.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on June 20, 2016, and recommended that the Petition for Reinstatement be granted.

Office of Disciplinary Counsel filed a Brief on Exceptions to the Hearing Committee's Report.

The Board adjudicated this matter at the meeting on October 13, 2016.

## II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Leroy Frank Grimm, Jr. He was born in 1949 and was admitted to the bar of the Commonwealth of Pennsylvania in 1976. His current attorney registration address is 204 Stettler Drive, Jefferson Hills, Allegheny County, PA 15025. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. By Order of the Supreme Court dated September 2, 2010, Petitioner was disbarred on consent, retroactive to November 25, 2009, the date of his temporary suspension from the practice of law. Exhibit ("Ex") 3.

3. Petitioner was disbarred as a result of his misappropriation of entrusted client funds in the amount of \$8,000.00 and his failure to comply with Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 217. Ex. 2.

4. Prior to his disbarment, Petitioner practiced law for more than thirty years without incident, primarily in the area of real estate law and title insurance. N.T. 7.

5. In or about 2009, Petitioner's partners left the property settlement company, the business declined and lost clients, the real estate market experienced a downturn, and Petitioner failed to adjust to the faltering business, resulting in the collapse of the business and the seizure by the Internal Revenue Service ("IRS") of Petitioner's assets, including escrowed funds. N.T. 7-8.

6. Petitioner immediately did all he could to replace the seized monies, approximately \$130,000.00 to \$150,000.00. He liquidated everything he could and covered all but \$8,000.00. N.T. 8.

7. Petitioner acknowledged his wrongdoing and expressed extreme remorse. N.T. 8, 9, 10, 15, 18.

8. Petitioner suffered from depression after his disbarment and had difficulty functioning. He underwent therapy for several years. N.T. 8-9. During the disbarment period, Peitioner's brother died suddenly, his mother developed Alzheimer's, and he underwent triple bypass surgery in 2012. Petitioner described this time period as a bad time in his life, stating that he was "not prepared to do anything other than basically bury my head in the sand." N.T. 9, 11.

9. Subsequent to his disbarment, on September 26, 2013, Petitioner was convicted of one count of the offense of Theft by Failure to Make Required Disposition of Funds Received in violation of 18 P.S. §3927(a), a misdemeanor of the first degree. The basis for the criminal conviction was related to Petitioner's misconduct that resulted in disbarment. Ex. 6.

10. Petitioner was ordered to pay restitution in the amount of \$8,000.00 to the victim, who was the Kuziemy Estate, and to pay costs in the amount of \$2,366.50.

Ex. 6.

11. Petitioner made restitution to the Kuziemy Estate but the costs remain outstanding. N.T. 10.

12. Petitioner could not afford to pay the costs, but intends to do so upon reinstatement. N.T. 10, 16.

13. Petitioner failed to report his criminal conviction to the Office of Disciplinary Counsel, as required by Pa.R.D.E. 214(a). Ex. 7.

14. Petitioner did not report the criminal conviction because he was already disbarred at the time of the conviction and believed that his actions underlying the criminal conviction were the basis of the disbarment, so it was not necessary for him to report the conviction. N.T. 11. Petitioner described his failure to report as a misunderstanding of his obligations. N.T. 11, 15-16.

15. Petitioner failed to reveal in his Reinstatement Questionnaire that he was disbarred on consent by the United States District Court, Western District of Pennsylvania. Ex. 5.

16. Petitioner believed that his disbarment in the Commonwealth of Pennsylvania included practice in the Pennsylvania federal court and wrongly assumed that Office of Disciplinary Counsel was aware of the federal court disbarment. N.T. 17.

17. Petitioner listed certain judgments and debts in his Reinstatement Questionnaire but failed to list four unsatisfied civil judgments of record. Exs. 8-11.

18. Petitioner described his failure as an oversight and explained that he paid in full the Edward Zehfuss and Midnight Blue Technology Services liens and

submitted signed, original HUD-1 settlement sheets showing that such occurred when he and his wife sold real estate. Pet. Exs. A, B, C; N.T. 17-18.

19. Petitioner was unsure of whether the Pittsburgh Water and Sewer Authority lien for \$40.25 had been paid, but believed that it had. N.T. 17-18.

20. Petitioner and his wife are making monthly payments to the IRS pursuant to an agreement. N.T. 18.

21. Petitioner and his wife filed for Chapter 11, converted to Chapter 7, Bankruptcy. Ex. 12.

22. During his disbarment, Petitioner failed to respond to a letter of inquiry dated October 12, 2012, from Office of Disciplinary Counsel relating to the Barbara Ann Martin/Spak Estate matter, in violation of Pa.R.D.E. 203(b)(7). Petitioner acknowledged his failure and explained that at that time, he was not functioning at a normal capacity and was very sorry for ignoring the letter. Ex. 13; N.T. 9-10. Petitioner made restitution to the Spak Estate. N.T. 10, 16.

23. In January 2013, Petitioner enrolled at Community College of Allegheny County in order to obtain a land management program certification for the shale industry. N.T. 11-12. In connection with this educational program, Petitioner has attended shale conferences. N.T. 12.

24. Petitioner fulfilled his Continuing Legal Education ("CLE") credits necessary for reinstatement and maintained his currency in the law by watching PCN court sessions and reading legal journals and articles on the internet. N.T. 12, 13.

25. Petitioner's disbarment has prevented him from obtaining internships for land management positions. N.T. 13-14.

26. Petitioner started collecting Social Security at age 62 to help with his finances. N.T. 14.

27. Petitioner's wife is employed in a full-time capacity as head of the library department at the Community College of Allegheny County. N.T. 14.

28. Petitioner's wife and adult children have stood by him and given him emotional support during his criminal conviction and disbarment. N.T. 14.

29. Petitioner is very involved with his church as an assistant cantor and with various church charitable activities. N.T. 14-15.

30. Petitioner has recovered from his depression after counseling with a psychiatrist and his pastor. N.T. 15.

31. Petitioner believes he is ready to resume the practice of law and be a contributing attorney in his community. N.T. 15, 18.

32. Although Petitioner doesn't intend to practice law full-time, he wants the opportunity to prove that he is worthy of being an attorney, of which he was always proud. N.T. 19.

33. Two witnesses offered credible testimony on Petitioner's behalf.

34. Vicki Bartoli has known Petitioner for twenty years in her capacity as a mortgage broker and also has a personal relationship with Petitioner. N.T. 20.

35. Ms. Bartoli described Petitioner as efficient and performing a good job with the closings that he handled for her. N.T. 22.

36. Ms. Bartoli recognized that beginning in 2009, Petitioner experienced personal difficulties and she noted that Petitioner's actions and demeanor have improved significantly between 2009 and now. N.T. 25.

37. Father John Freishyn-Chirovsky is a pastor at Saint John's Ukrainian Catholic Church in Pittsburgh where Petitioner is a congregant and has known Petitioner for ten years. N.T. 26-27.

38. Father Freishyn-Chirovsky became aware that Petitioner was having problems when he saw Petitioner acting out of character in 2009 and 2010. N.T. 27-28. At that time, Petitioner appeared distant and was having trouble functioning. N.T. 27.

39. In the past year, Father Freishyn-Chirovsky has interacted with Petitioner at church events and has noticed positive signs that Petitioner has overcome his difficulties, has addressed problems and is coming back into the community life. N.T. 28.

### 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 following his disbarment on consent by order of September 2, 2010, retroactive to November 25, 2009. The misconduct giving rise to Petitioner's disbarment was his misappropriation of entrusted client funds in the amount of \$8,000.00 and his failure to comply with Pa.R.D.E. 217.

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 conversion 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 resulted in payment of legal services provided to indigent defendants; respondent-attorney ordered to pay \$130,000.00 in restitution); ***In the Matter of Grahame P. Richards, Jr.***, No 43 DB 1996 (D. Bd. Rpt. 8/23/2016) (S. Ct. Order 9/21/2016) (misappropriation of one million dollars in client funds).

The above-cited cases are examples of serious and deplorable acts of professional conduct 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.

Once the *Keller* threshold is met, Petitioner bears the high burden of proving by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required for admission to practice law in the Commonwealth and that his readmission would not have a detrimental impact on the integrity and standing of the bar, the administration of justice or be subversive of the public interest. Pa.R.D.E. 218(c)(3). To that end, Petitioner must prove that his post-disbarment conduct and efforts at qualitative rehabilitation were sufficient to dissipate the detrimental impact of his conduct on the public trust. *Verlin*, 731 A. 2d at 602.

Petitioner has been disbarred for approximately seven years. Prior to his disbarment, Petitioner practiced law for more than thirty years with no disciplinary history.

Petitioner placed on the record clear and convincing evidence of his moral character, learning in the law and competency through his testimony and the testimony of his friend and work colleague, Ms. Bartoli, and his pastor, Father Freishyn-Chirovsky. Petitioner credibly described a series of events in or around 2009 that ultimately resulted in the failure of his business and the seizure of escrowed funds by the IRS. Petitioner immediately liquidated assets to cover the funds that were seized, but for \$8,000.00 belonging to the Kuziemyky Estate. Petitioner consented to disbarment, and in 2013, entered a plea of *nolo contendere* to the offense of theft by failure to make required disposition of funds received related to the Kuziemyky funds. Petitioner acknowledged on the record on multiple occasions during the reinstatement hearing his responsibility for the misconduct and his genuine and sincere remorse for his wrongdoing. During his

disbarment, Petitioner experienced many personal setbacks, including suffering from depression, undergoing triple bypass surgery, the sudden death of his brother, and his mother's Alzheimer's diagnosis. He expressed gratitude to his wife and adult children for supporting him during these difficulties.

Petitioner has made concerted efforts to improve his situation and to rehabilitate himself. Petitioner made restitution and credibly testified that he will pay the outstanding costs in the criminal case of approximately \$2,000 as soon as he is financially able to do so. Petitioner disclosed his bankruptcy proceeding and debts, including liens and judgments in his Questionnaire. Petitioner failed to disclose four liens, which appear to remain unsatisfied on the record. However, Petitioner credibly testified that the amounts of the liens were satisfied through the sale of real estate and offered executed settlement sheets as proof of the satisfaction of the judgments. It appears that Petitioner did not take the necessary steps in court to satisfy the liens on the record. Additionally, Petitioner indicated his commitment to continuing to make payments to the IRS pursuant to an agreement. Although the record indicates that Petitioner is not employed and, at the age of 67, is not in a strong financial position, we conclude that he has made diligent efforts to pay his debts and address his financial concerns. Petitioner began drawing early Social Security to support himself and his wife, who works full-time, and in an effort to improve his employment prospects and marketability, he enrolled in college courses at Community College of Allegheny County to receive certification for employment in the shale industry. He completed his CLE courses required for reinstatement and credibly described efforts he made to stay current in the law, including watching PCN court sessions and reading a variety of legal articles.

Petitioner indicates that he has recovered from his depression following counseling with a psychiatrist and with his church pastor and his health is no longer an impediment to his functioning. He has renewed his community involvement by acting as an assistant church cantor and volunteering his time with various church charitable programs. Petitioner believes he is ready to resume the practice of law and be a credit to his community. Although he does not intend to pursue a full-time legal career, Petitioner desires the opportunity to prove he is worthy of continuing his activities as an attorney, which were a source of pride in the past.

Ms. Bartoli and Father Freishyn-Chirovsky credibly described the improvements in Petitioner's life in the past years. Both witnesses were aware of Petitioner's wrongdoing and the difficulties he has experienced in the past. Ms. Bartoli worked with Petitioner prior to his disbarment and described him as efficient and good at his job. These witnesses credibly testified that Petitioner has overcome his past problems. In their view, Petitioner is functioning normally, is "his old self," (N.T. 25, 28-29) and has renewed his efforts at community involvement.

Office of Disciplinary Counsel submits that Petitioner's conduct since his disbarment demonstrates that he has failed to meet his burden of proving his fitness to practice law by clear and convincing evidence. Office of Disciplinary Counsel asserts that Petitioner's errors and omissions contained in his Reinstatement Questionnaire and his testimony, without supporting documentation, weigh against his readmission. In support of its position, Office of Disciplinary Counsel cites to *In the Matter of Sebastian M. Rainone*, No. 60 DB 2004 (D. Bd. Rpt. 1/27/2016) (S. Ct. Order 3/17/2016), a case where a disbarred attorney was denied reinstatement, for the proposition that:

Although not every omission or oversight disqualifies a petition for reinstatement, the multitude of false and misleading answers and discrepancies contained in the Petitioner's Questionnaire discloses a pattern of incompetence and deception that cannot be ignored.

D. Bd. Rpt. at 26.

The following issues were identified by Office of Disciplinary Counsel in opposition to reinstatement: Petitioner's failure to report his post-disbarment criminal conviction; failure to pay costs related to his post-disbarment criminal conviction; failure to disclose on the Reinstatement Questionnaire that he was disbarred on consent from practice in the federal court; failure to disclose in the Questionnaire four unsatisfied civil judgments of record; failure to respond to the letter of inquiry related to the Spak Estate complaint; and, failure to provide evidence regarding his fitness to practice law following mental health and medical problems.

Petitioner testified credibly as to the deficiencies and shortcomings. Petitioner explained that he was already disbarred when the criminal conviction occurred and since the matter underlying the conviction was the subject matter of the disbarment, he wrongly believed he was not required to report the conviction. Similarly, he did not report his disbarment on consent from practice in the Western District as he wrongly assumed the Pennsylvania Supreme Court already had knowledge of such disbarment. Regarding payment of costs, as discussed above, Petitioner did not intentionally try to avoid his obligation but simply has not had the financial ability to cover the costs. He intends to pay the costs upon resumption of work. As to his failure to respond to the letter of inquiry on the Spak Estate, Petitioner sincerely apologized and credibly explained that he was depressed at the time and unable to function. He has made full reimbursement to the Estate.

Petitioner's failure to disclose four liens is discussed above, and we conclude that it was not Petitioner's intent to hide information from Office of Disciplinary Counsel, as he was forthcoming in regard to other debts and liens in the Questionnaire. He provided evidence through executed settlement documents to show that he satisfied the liens. Finally, Petitioner revealed that he suffered from mental and physical health problems following his disbarment. His testimony on these points was credible and genuine, and the testimony of his two witnesses showed that he suffered personal problems which he has overcome.

We conclude that the facts of *Rainone* render that case inapplicable to the instant matter. Mr. Rainone's conduct before, during and after the disciplinary process was calculating and deceptive. The Board found that Rainone displayed a persistent lack of cooperation and deception in response to inquiries from Office of Disciplinary Counsel during the reinstatement process and demonstrated a pervasive lack of attention to detail. Further, Rainone did not demonstrate genuine remorse and did not show that he understood his past lapses that resulted in his disbarment. His testimony indicated that he still believed that disbarment was too harsh a penalty for his misappropriation of funds, which he referred to as "bookkeeping errors." D. Bd. Rpt. at 27. In contrast, Petitioner in the instant matter has offered credible explanations for his Questionnaire omissions, as well as heartfelt remorse, understanding of his wrongdoing and acceptance of his responsibility. We conclude that Petitioner's omissions and oversights, credibly explained, do not disqualify him from reinstatement.

We further emphasize that the Hearing Committee considered these deficiencies and shortcomings but ultimately found them insufficient to preclude

reinstatement. The Committee judged Petitioner to be credible and sincere on these points. We are unwilling to substitute our judgment, based on examination of a cold record, for that of the Committee, who had the opportunity to observe Petitioner's demeanor.

The Board is aware of the serious nature of Petitioner's misconduct and the basis for his disbarment. The totality of the evidence of record demonstrates that Petitioner's seven years of disbarment have been a time of genuine rehabilitation. See *In the Matter of Andrew Keith Fine*, No. 115 DB 1995 (D. Bd. Rpt. 1/24/2014) (S. Ct. Order 5/23/2014); *In the Matter of Jeffrey Marc Robinson*, No. 116 DB 2000 (D. Bd. Rpt. 12/29/2015) (S. Ct. Order 1/22/2016); *In the Matter of Richard M. Corcoran*, 74 DB 2009 (D. Bd. Rpt. 6/22/2016) (S. Ct. Order 8/11/2016); *In the Matter of Thomas S. Roman*, 121 DB 2005 (D. Bd. Rpt. 10/3/2016) (S. Ct. Order 10/26/2016). Petitioner has met the requirements of Pa.R.D.E. 218(c)(3) by showing that he is fit to practice law in Pennsylvania and will not pose a threat to the public interest. 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 recommends that Petitioner, Leroy Frank Grimm, 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:   
Lawrence M. Kelly, Board Member

Date: 12/28/16

Board Chair Penny dissented.  
Board Members Leonard and Goodrich did not participate.