

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1817 Disciplinary Docket No. 3
: :
: No. 142 DB 2011
STEVEN C. FEINSTEIN : :
: Attorney Registration No. 48737
: :
PETITION FOR REINSTATEMENT : (Philadelphia)

ORDER

PER CURIAM

AND NOW, this 16th day of December, 2014, upon consideration of the Report and Recommendations of the Disciplinary Board dated September 17, 2014, the Petition for Reinstatement is granted.

Pursuant to Rule 218(f), Pa.R.D.E., petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement.

A True Copy Patricia Nicola
As Of 12/16/2014

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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PETITION FOR REINSTATEMENT : (Philadelphia)

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 May 4, 2012, the Supreme Court of Pennsylvania suspended Steven C. Feinstein for a period of one year and one day. Mr. Feinstein filed a Petition for Reinstatement to the bar of Pennsylvania on October 24, 2013. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on January 24, 2014.

A reinstatement hearing was held on March 12, 2014, before a District I Hearing Committee comprised of Chair Dionysios G. Rassias, Esquire, and Members A.

Elizabeth Balakhani, Esquire, and Elizabeth J. Rubin, Esquire. Petitioner was represented by Stuart L. Haimowitz, Esquire.

Following the submission of a brief filed by Petitioner, the Hearing Committee filed a Report on June 26, 2014 and recommended that the Petition for Reinstatement be granted.

No Briefs on Exception were filed by the parties.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Steven C. Feinstein. He was born in 1960 and was admitted to practice law in the Commonwealth of Pennsylvania in 1987. His attorney registration address is 107 Wayne Ct., West Chester, PA 19380-1377. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.
2. By Order of the Supreme Court of Pennsylvania dated May 4, 2012, Petitioner was suspended from the practice of law for a period of one year and one day.
3. The suspension resulted from Petitioner's appearance on behalf of a client in the Superior Court of New Jersey before the Honorable Jean C. McMaster while not licensed to practice law in New Jersey. At that time, Petitioner's license in New Jersey was administratively revoked due to non-payment of licensing fees. Petitioner informed the Court that he was licensed to practice in New Jersey, and then later confessed to the Judge that he was not eligible to practice.

4. In addition, Petitioner engaged in the unauthorized practice of law in New Jersey in approximately 33 other matters and falsely represented on his letterhead that he was eligible to practice law in New Jersey. (Joint Petition in Support of Discipline on Consent paragraphs 7-38 appended to Reinstatement Questionnaire 3(b))

5. The initial encounter with Judge McMaster was reported to Office of Disciplinary Counsel by a third party. Petitioner, on his own, provided Disciplinary Counsel with the additional list of cases of his unauthorized practice. (Joint Petition in Support of Discipline on Consent paragraph 46(b) appended to Reinstatement Questionnaire 3(b))

6. As noted in the Joint Petition in Support of Discipline on Consent, had the underlying matter proceeded to a hearing, Petitioner would have presented the testimony of Steven Samuel, Ph.D. Dr. Samuel evaluated Petitioner and subsequently diagnosed him with a mental infirmity known as Adjustment Disorder with Mixed Anxiety and Depressed Mood. Dr. Samuel further would have testified that the mental infirmity was a causal factor in Petitioner's misconduct. (Joint Petition in Support of Discipline on Consent paragraph 47(b) appended to Reinstatement Questionnaire 3(b). Dr. Samuel's report was appended to the Joint Petition)

7. Petitioner testified credibly on his own behalf. He is currently employed as a public adjuster for Alliance Adjustment Group. This is his second job as a public adjuster since his suspension. (N.T. 14, 80-81)

8. One of the roles Petitioner voluntarily took on in his current job is to help other adjusters write more professional letters, as most of his co-workers have a background in construction, not law. (N.T. 82).

9. Petitioner has no contact with the general counsel of Alliance or with attorneys from insurance companies. When he believes that a matter exists for counsel's review, "I bring it to Mike's [employer's] attention and Mike and [counsel] discuss how it should be resolved." Moreover, when other adjusters come to him and ask for guidance, Petitioner advises them to "[g]ive it to Mike because that's an issue for an attorney to respond to." Petitioner explained that "[t]he biggest no-no that we can commit other than insurance fraud is the unauthorized practice of law." Petitioner further testified that when he receives letters that cite case law or statutes, he gives such letters to his employer. (N.T. 83-85)

10. Petitioner began treating with his psychiatrist, Edward McGonigle, M.D., in 2010, after his unauthorized court appearance in New Jersey. Dr. McGonigle prescribed Zoloft, which Petitioner takes daily. In March 2012, Petitioner lost his job and lost his health insurance. At that time he stopped treating and stopped taking the medication, fearing that he could afford neither. Realizing that the decision to stop treatment and medication was harming him, and realizing that he could afford to pay for his medication out of his own pocket, Petitioner resumed treatment with Dr. McGonigle and resumed taking medication in August 2013. (N.T. 88-91)

11. Currently, Petitioner sees Dr. McGonigle every three months for maintenance. Petitioner testified that, "We go over what my stressors are, we discuss what's going on in my life...and the last thing he says to me before I leave is, if you have any problems you can always call me...But, you know, knock wood, I've been okay." (N.T. 14, 91)

12. Petitioner did not present medical testimony at the reinstatement hearing. He credibly testified that his psychiatrist refused to testify because he is a treating physician. Petitioner considered seeing Dr. Samuel for a forensic evaluation prior to the reinstatement hearing but was unable to afford the cost. (N.T. 101-102,111)

13. Since Petitioner's suspension in May of 2012, his income has gone down \$100,000 or more. He was compelled to cash in \$32,000 from his 401K account, and has had to borrow money from family members for his mortgage and for his son's education. Although he has timely filed his taxes, he has been behind in paying the amounts due. Currently, he owes approximately \$2,000 for federal taxes, although he is current on his back taxes and local taxes. In describing his changed lifestyle, Petitioner testified, "We eliminated anything that you might deem to be a luxury in order to live within the income we were making. But again, the problem is the fixed debt...And in order to pay those bills I had to defer paying the taxes...I would have lost the house." (N.T. 92-97)

14. Although Petitioner was eligible to seek reinstatement in the fall of 2012, nine months prior to the expiration of his suspension, he decided to wait an additional year until the fall of 2013 to petition for reinstatement. In explaining why he waited, Petitioner credibly testified that, "I wasn't ready to come back to the practice of law...I had to get past the difficult part of my life emotionally before I was willing to come before...the hearing committee – to ask to be reinstated." N.T. 98-99)

15. In describing how he currently keeps his life grounded, Petitioner testified, "It's not just the medication...[being a public adjuster] has given me a lot more empathy than I had for the clients when I was representing them. And it's a sign to me anyway that I'm reconnecting with people in a different way or connecting with people in a

different way than I did when I was practicing law. And that would be true whether I was on medication or not.” (N.T. 100)

16. Petitioner was honest in his self-assessment in that, “I’m not that same person. I don’t have that same kind of arrogance. I’m just a different person. “ (N.T. 106)

17. Petitioner testified credibly on the issue of remorse. He blamed no one but himself for his disciplinary problems. He explained that “I’ve never been ashamed of the fact that I was actually suspended, because I deserved to get suspended based upon my conduct. I am ashamed of the conduct that I engaged in and that to me was important that I had come to grips with that. “ (N.T. 122)

18. Petitioner fulfilled the Continuing Legal Education requirements necessary for reinstatement.

19. If reinstated, Petitioner plans to engage in a general practice of law with an emphasis on assisting homeowners collect money from insurance companies. He plans to be based in Chester County. (Reinstatement Questionnaire #18)

20. Petitioner has maintained his currency in the law by reading many cases involving insurance issues, due to his employment as a public adjuster. (Reinstatement Questionnaire #19(b))

21. Petitioner presented the testimony of three witnesses.

22. Michael Pacchione is chief operating officer of Alliance Adjustment Group and is Petitioner’s current employer. Petitioner is one of 20 full-time employees. Mr. Pacchione has had no complaints from any client about Petitioner’s work. (N.T. 14-17)

23. Mr. Pacchione emphasized that Petitioner does not have any professional relationship with the general counsel in the office. When adjusters see

something on file that may require the attention of an attorney, the adjuster brings it to the attention of Mr. Pacchione who then assigns the matter to the general counsel. Petitioner is more conservative than other adjusters with respect to the identification of legal issues and Mr. Pacchione credibly testified that "I wish some of the other adjusters would bring things to me [for assignment to the attorney] as quickly as Steve does." (N.T. 20-24)

24. Mr. Pacchione further testified that in addition to being his current employer, he has known Petitioner for approximately ten years. When Petitioner was an attorney and represented plaintiffs, Mr. Pacchione often was an expert witness for the defense. He described Petitioner as "[a] very strong advocate who sometimes I thought went over the line. I saw him...get much more aggravated or worked up and take things more personally than I would have on a professional level." In contrast, Mr. Pacchione testified that today, Petitioner is "[f]ar more reserved now, he's more controlled, he's far more in control of his emotions and I don't believe that he takes things personally anymore. He views it as his job responsibility and he focuses on getting that accomplished." (N.T. 18-19)

25. David Bergstralh, Esquire, is a former legal associate of Petitioner and knew Petitioner when Petitioner engaged in the instant misconduct. Mr. Bergstralh inherited some of the legal work Petitioner had been doing and described the quality of the work as excellent. In describing the difference in Petitioner's outlook on life before and after his suspension, Mr. Bergstralh stated, "I think he's [Petitioner] gotten back in touch with or has gotten in touch with a more human, softer side."

26. Valerie Feinstein is Petitioner's wife of twenty-eight (28) years. They are the parents of three children, ages 25, 22 and 20. Concerning Petitioner's disciplinary

problems, she testified that, "I felt this whole thing was a tragedy, but it was a blessing in disguise." For years Petitioner had "depression problems...and when this happened, it completely changed him." Petitioner began seeing a psychiatrist and began taking medication. (N.T. 57-61)

27. As an example of the difference in Petitioner's behavior before and after he sought professional help, Mrs. Feinstein described her children's interaction with their father. "My kids didn't want to come home from school to see dad, because of the way he was acting." After Petitioner started with medical treatment, "[their son] just said, what happened to dad? He's changed so much, it's great, it's awesome. And the girls would talk to him, like wow, dad's changed, you know, it's great. Where's this been?" (N.T. 57-61)

28. Mrs. Feinstein further described Petitioner's positive transformation saying, "[H]e's wonderful. He's calm, you can talk to him...it's like a different person that I always knew was there." (N.T. 57-61, 65)

29. Mrs. Feinstein described the financial problems her family has endured since the suspension. "It's very tough. You know we have to borrow money from family members. It's hard. It's very hard." She described Petitioner's reaction to this financial stress as "amazingly good." "[H]e's upset about it, which anyone would be upset about it...He's just calm about it. Like, we're going to be okay, things are going to be okay. You know I'm not going to stress about it. And I believe him." (N.T. 62-63)

30. Mrs. Feinstein compared Petitioner's career as a lawyer with his present occupation. "Well, my husband loves being a lawyer. That's his life. That's his

passion. He was born to be a lawyer...What he does now - he does fine with it. It's fine. I mean it's not what he likes to do, but he's managing." (N.T. 63-64)

31. Office of Disciplinary Counsel does not oppose reinstatement.

III. CONCLUSIONS OF LAW

1. Petitioner has demonstrated the moral qualifications, competency and learning in the law required to practice law in Pennsylvania. Pa.R.D.E. 218(c)(3)

2. Petitioner's resumption of the practice of law 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 reinstatement to the bar following a suspension of one year and one day imposed on May 4, 2012. Pursuant to Rule 218(a), an attorney who is suspended for a period exceeding one year may not resume the practice of law until reinstated by the Supreme Court of Pennsylvania. Petitioner carries the 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 this Commonwealth. Further, Petitioner must prove that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or administration of justice nor subversive of the public interest. Rule 218(c)(3), Pa.R.D.E.

This burden is not light and reinstatement is not automatic. A reinstatement proceeding is an 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 of the rehabilitative efforts made since the time the sanction was imposed and the degree of success achieved in the rehabilitative process. Philadelphia Newspapers, Inc. v. Disciplinary Board of the Supreme Court, 363 A.2d 779 (Pa. 1976).

Instantly, the misconduct which gave rise to Petitioner's suspension was his appearance on behalf of a client in Superior Court of New Jersey while he was not licensed to practice law in that jurisdiction. Petitioner initially misrepresented to the Court that he was admitted in New Jersey and then confessed that he was not. Petitioner also engaged in the unauthorized practice of law in New Jersey in approximately 33 other matters, and falsely represented on his letterhead that he was eligible to practice law in New Jersey.

The underlying disciplinary matter was resolved on consent, but had it proceeded to a hearing, the testimony of Steven Samuel, Ph.D would have demonstrated that Petitioner suffered from depression and an adjustment disorder which was a causal factor in the misconduct. Petitioner's evidence at the reinstatement hearing convincingly demonstrates that since the time of the misconduct, he has addressed his mental disorders through treatment and medication and is doing well. His family and co-workers described the positive changes in Petitioner's demeanor and his ability to handle stressful situations. Although Petitioner's wife described the misconduct and ensuing suspension as a "tragedy", she was grateful in that it has turned into a "blessing in disguise" for Petitioner and his interaction with his wife and children.

Petitioner's character witnesses fully support his reinstatement and believe his return to the practice of law will not be detrimental to the profession.

Petitioner has remained employed as a public adjuster during his suspension. He is very careful to direct any potential legal issues that he encounters to his employer for review by the general counsel. Petitioner has not practiced law during his suspension. Petitioner's work as a public adjuster has kept him apprised of insurance law, which he plans to practice if reinstated.

Petitioner has expressed genuine remorse for his misconduct, and has explained that he is not ashamed of his suspension, as he deserved it, but is ashamed of the underlying misconduct and has come to terms with it. He has used the time of suspension to rehabilitate himself and to be a better lawyer upon his return to the practice. Of note is the fact that Petitioner was eligible to seek reinstatement in the fall of 2012, but chose to wait almost an additional year to do so, in order to focus on getting his life in order.

For the foregoing reasons, the Board recommends that the Petition for Reinstatement be granted.

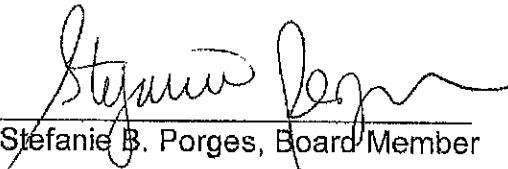
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Steven C. Feinstein, 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: 
Stefanie B. Porges, Board Member

Date: September 17, 2014



THE DISCIPLINARY BOARD
OF THE
SUPREME COURT OF PENNSYLVANIA

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September 17, 2014

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STEVEN C. FEINSTEIN	:	No. 142 DB 2011
	:	
	:	Attorney Registration No. 48737
	:	
PETITION FOR REINSTATEMENT	:	(Philadelphia)

**Expenses Incurred in the Investigation and Processing
of the above Petition for Reinstatement***

05/04/2012	2 Copies of Supreme Court Order	\$ 1.00
10/24/2013	2 Copies of Petition and Reinstatement Questionnaire	102.00
12/23/2013	State Police Criminal History Check	10.00
01/24/2014	2 Copies of ODC's Response to Petition	3.00
02/05/2014	Publication of Hearing Notice in The Legal Intelligencer	410.59
03/06/2014	Publication of Hearing Notice in The Inquirer	639.87
03/31/2014	Transcripts of Hearing held 3/12/2014	1,376.75
04/09/2014	2 Copies of Petitioner's Brief to Hearing Committee	14.00
06/26/2014	2 Copies of Report of Hearing Committee	13.00
TOTAL AMOUNT DUE		<u>\$ 3,733.67</u>

Make Check Payable to PA Disciplinary Board
PAYMENT IS REQUIRED UPON RECEIPT OF ORDER

*Submitted pursuant to Rule 208(g) of the Pa.R.D.E. and §93.111 of the Disciplinary Board Rules.