

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1461 Disciplinary Docket No. 3
: Nos. 156 DB 2007
FRANK ANTHONY MAZZEO : Attorney Registration No. 38016
: (Lackawanna County)
PETITION FOR REINSTATEMENT

ORDER

PER CURIAM:

AND NOW, this 25th day of March, 2015, upon consideration of the Report and Recommendations of the Disciplinary Board dated February 20, 2015, the Petition for Reinstatement is granted.

Pursuant to Pa.R.D.E. 218(f), 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 3/25/2015

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of	:	No. 1461 Disciplinary Docket No. 3
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FRANK ANTHONY MAZZEO	:	No. 156 DB 2007
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	:	Attorney Registration No. 38016
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PETITION FOR REINSTATEMENT	:	(Lackawanna County)

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 the Supreme Court of Pennsylvania dated April 28, 2009, Frank Anthony Mazzeo was suspended from practice for a period of five years. Petitioner filed a Petition for Reinstatement to the bar of Pennsylvania on March 24, 2014. Office of Disciplinary Counsel filed a Response to Petition on May 23, 2014.

A reinstatement hearing was held on July 29, 2014, before a District III Hearing Committee comprised of Chair Barbara A. Zemlock, Esquire, and Members Maria P. Cognetti, Esquire and Sandra L. Meilton, Esquire. Petitioner was represented by

Joseph G. Price, Esquire. Petitioner presented the testimony of four witnesses and testified on his own behalf. Petitioner submitted letters of reference and recommendation. Office of Disciplinary Counsel submitted Exhibit ODC-1 and presented no testimony.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on October 30, 2014 and recommended that the Petition for Reinstatement be granted.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on January 15, 2015.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Frank Anthony Mazzeo. He was born in 1958 and was admitted to the practice of law in the Commonwealth of Pennsylvania in 1983. His attorney registration address is 532-534 Wyoming Avenue, Wyoming, PA 18644. Petitioner is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Following his admission to the bar, Petitioner practiced in Wilkes-Barre, Pennsylvania, in the area of Social Security Disability matters. (N.T. 36) In addition to his legal practice, Petitioner did collection work. (N.T. 36)

3. By Order dated April 28, 2009, the Pennsylvania Supreme Court suspended Petitioner from the practice of law for a period of five years.

4. The misconduct for which Petitioner was suspended consisted of his actions in the matter of one client, a person without education or economic means, wherein

he charged an excessive fee, collected the money and then kept the money when confronted. Petitioner lied to his client, lied to the Social Security Administration, and lied to the Disciplinary Board in attempting to hide his misconduct. Ultimately, Petitioner admitted his misconduct and made his client whole. Petitioner's misconduct violated Rules of Professional Conduct 1.5(a), 8.1(a) and 8.4(c).

5. Due to the misconduct for which Petitioner was suspended in Pennsylvania, he is also under separate suspension by the Social Security Administration. (N.T. 40 – 41)

6. Petitioner continued to reside in Wyoming, Lackawanna County during his period of suspension. (N.T. p. 37-38)

7. During his suspension, Petitioner was self-employed as the owner – operator of a debt collection agency, known as FM Collection Services, located in Scranton, Pennsylvania. (N.T. 38)

8. Aside from the matter which resulted in his suspension, Petitioner had no disciplinary infractions either before or after his suspension. (N.T. 35)

9. Petitioner did not hold himself out as a practicing lawyer nor did he engage in the unauthorized practice of law.

10. One lawsuit has been filed against Petitioner and FM Collection Services alleging unfair debt collection practices which lawsuit was disclosed by Petitioner on his Questionnaire. (N.T. 26; Questionnaire # 10)

11. The action against Petitioner and FM Collection was still pending at the time of the reinstatement hearing. (N.T. 25)

12. There have been no complaints filed against Petitioner or FM Collection Services with the Better Business Bureau. (See letter from Joseph J. Huss, Disciplinary Counsel dated May 23, 2014)

13. There is no evidence of record of problematic financial circumstances or dealings with Petitioner or through his business.

14. Petitioner made full restitution, in 2007, directly to the victim of his disciplinary misconduct. (Questionnaire # 5 with attachments)

15. Petitioner has maintained his currency in the law by fulfilling the requisite Continuing Legal Education requirements and by reading the Lackawanna Jurist and reviewing developments in the area of Social Security Disability Law. (N.T. 39; Questionnaire #19))

16. Petitioner acknowledged and was fully cognizant of the egregious nature of his actions and was remorseful for the damage his actions caused his client, family, and legal community. (N.T. p. 37, 40, 41)

17. Petitioner has been married for 30 years and enjoys the support of his wife, Sharon Mazzeo. Mrs. Mazzeo appeared at the reinstatement hearing and testified credibly to the emotional and financial impact Petitioner's actions had on their family. She stated that Petitioner has suffered daily from his guilt and has expressed his remorse to her. Mrs. Mazzeo believes that Petitioner has learned from his mistakes and recognizes that what he did was wrong. (N.T. pgs. 30-33)

18. Prior to his suspension, Petitioner was a respected lawyer in his community. (N.T. pgs. 10, 14-16, 22)

19. Thomas J. Jones, Jr., Esquire and Paul Ackourey, Esquire, practicing lawyers in the Scranton area, testified on behalf of Petitioner. Both expressed their belief

that Petitioner has accepted responsibility for his actions and has shown remorse for his behavior. Both witnesses indicated that they have no reservations about Petitioner returning to the practice of law, indicating that he has learned his lesson and noting that there was never any question about the quality of his legal work. (N.T. pgs. 9-11; 13-17)

20. Joseph Colbassani, Esquire testified on behalf of Petitioner. Mr. Colbassani practices in Scranton, Pennsylvania and has known Petitioner since the mid-1980s. He credibly testified that Petitioner was respected for his knowledge of the Social Security Disability law and his spirited advocacy. Mr. Colbassani believes that Petitioner's misconduct was an isolated incident and out of character for Petitioner. Mr. Colbassani stated that Petitioner has the skills necessary to resume the practice of law and would be a valued member of the legal community. He has no reservations with regard to Petitioner's return to the practice of law. (N.T. pgs. 18-23)

21. Petitioner presented letters from other attorneys and members of the community who are familiar with him and who vouched for his character and were in favor of his return to the legal profession. (Pet's. Exh. 1)

22. If reinstated, Petitioner intends to conduct a general practice of law in the Scranton area.

23. Office of Disciplinary Counsel does not oppose reinstatement.

III. CONCLUSIONS OF LAW

Petitioner has met his burden of proving by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law and that his 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 readmission to the practice of law in Pennsylvania following his suspension for a period of five years. Rule 218(c)(3) requires that a suspended attorney demonstrate by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission, and that the 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.

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).

Petitioner represented an individual with marginal reading and writing abilities in a social security matter for which Petitioner's fee was paid in full from the proceeds of the award. Nonetheless, Petitioner sought from his client additional fees above the amount to which Petitioner was entitled. When Petitioner's client questioned the propriety of the additional fees, Petitioner took various actions to cover up his misconduct. These actions included misrepresentations to the Social Security Administration and Disciplinary Counsel. For these acts, Petitioner received a suspension of five years.

The record supports the conclusion that Petitioner is morally qualified for reinstatement. Petitioner was candid and credible in his expression of remorse for his actions and the consequences of those actions. He did not attempt to minimize or deny his actions, nor did he attempt justification. His commitment to properly serve the profession was clearly and convincingly expressed in his testimony.

While Petitioner's offenses were clearly egregious, there is no evidence that his misconduct went beyond the scope of this one particular client. Indeed, the individuals who testified on behalf of Petitioner noted this misconduct was very much out of character for Petitioner, and they believed it to be an isolated incident. Petitioner's wife noted the emotional impact on Petitioner caused by his actions, and the guilt he has experienced. She sincerely believes he has learned from his actions and has recognized his wrongdoing. Petitioner's character witnesses fully support his return to the practice of law, as they believe he has much to offer the legal profession. Petitioner's character letters are also indicative of the support he has received from members of his community and the general feeling that his readmission to the bar would be positive for the community.

Petitioner continues to reside in Wyoming, Pennsylvania and is self-employed as the owner-operator of FM Collection Services, a collection agency. He revealed that a lawsuit has been filed against him and his agency, which remains unresolved. Petitioner has had no other disciplinary issues, has not held himself out as a practicing lawyer, and has not engaged in the unauthorized practice of law while suspended. If reinstated, Petitioner intends to engage in the practice of civil and criminal law in Scranton.

Petitioner has demonstrated his learning in the law and competency by satisfactorily fulfilling the requirements of Continuing Legal Education for reinstatement. He

has maintained his currency in the law by reviewing developments in the area of Social Security and by reading the Lackawanna Jurist.

Petitioner has met his burden pursuant to Rule 218(c)(3). The Board recommends that he be reinstated to the practice of law.

V. RECOMMENDATION

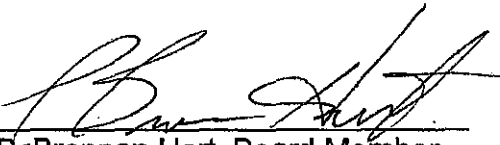
The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Frank Anthony Mazzeo, be reinstated to the practice of law.

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:


P. Brennan Hart, Board Member

Date: February 20, 2015