

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1116 Disciplinary Docket No. 3
: :
: No. 225 DB 2005
MICHAEL SEDOR : :
: Attorney Registration No. 7115
: :
PETITION FOR REINSTATEMENT : (Dauphin County)

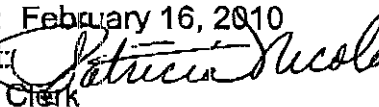
ORDER

PER CURIAM:

AND NOW, this 16th day of February, 2010, upon consideration of the Report and Recommendations of the Disciplinary Board dated December 4, 2009, the Petition for Reinstatement is granted.

Pursuant to Rule 218(e), 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.

Mr. Justice McCaffery dissents.

A True Copy Patricia Nicola
As of: February 16, 2010
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 the Supreme Court dated February 2, 2007, Michael Sedor was suspended from the practice of law for a period of two years, retroactive to the temporary suspension imposed on May 5, 2006. Mr. Sedor filed a Petition for Reinstatement on April 30, 2009. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on June 4, 2009.

A reinstatement hearing was held on July 29, 2009 before a District III Hearing Committee comprised of Chair Daniel J. Barrett, Esquire, and Members Lori J. Hackenberg, Esquire, and Charles J. Vogt, Esquire. Petitioner was represented by Joshua D. Lock, Esquire. Petitioner testified on his own behalf and offered the testimony of four witnesses.

The Hearing Committee filed a Report on August 31, 2009 and recommended that the Petition for Reinstatement be granted.

This matter was adjudicated by the Disciplinary Board at the meeting on October 28, 2009.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Michael Sedor. He was born in 1946 and was admitted to practice law in the Commonwealth of Pennsylvania in 1970. His current business address is 3964 Lexington Street, Harrisburg PA 17109. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court.

2. In 2003, Petitioner was convicted of one count of conspiracy to defraud the United States Department of Housing and Urban Development, in violation of 18 U.S.C. §371.

3. On November 3, 2005, Petitioner was sentenced to a term of imprisonment for seven months, followed by supervised release for two years, with seven

months of home confinement, as well as a fine of \$5,000 and an assessment. No restitution was ordered.

4. The underlying facts of Petitioner's criminal conviction are as follows:

a. Petitioner was the principal of Penn State Abstract Agency and acted as the primary settlement agent regarding sales of properties in Barwood Estates, a single family development community located in Dover, Pennsylvania.

b. Gary Sweitzer Enterprises, Inc. (GSEI) built and marketed the homes at Barwood Estates.

c. Many buyers of properties at Barwood Estates applied for coverage under the Single-Family Mortgage Insurance Program, operated by the U.S. Department of Housing and Urban Development (HUD) through the Federal Housing Administration (FHA), which encouraged lenders to provide mortgages to buyers who might not otherwise qualify for mortgages by providing assurance to lenders that if the buyer with a FHA-insured mortgage defaulted, HUD would pay the balance of the mortgage and assume possession of the property.

d. FHA regulations imposed certain eligibility requirements on applicants, one of which was that the buyer must contribute a minimum of 3% cash investment, which could not be paid by the seller.

e. As proof of compliance with the requirements, the buyer, seller, and settlement agent had to sign a HUD-1 settlement statement certifying

several facts, including that the buyer did not receive any undisclosed payment or reimbursement for closing costs, that the seller did not provide any undisclosed funds to the buyer, and that the settlement agent had no knowledge of any funds paid or received outside of closing as part of the transaction.

f. GSEI advanced money by checks paid directly to Petitioner, which, through the use of false gift checks and false letters, were made to appear to come from relatives of the buyers rather than GSEI.

g. As part of this plan, Petitioner signed HUD-1 forms indicating that funds came from buyers, when Petitioner knew that the funds in fact had come from GSEI. This occurred in 22 closings over a period of four years.

5. Petitioner served his term of imprisonment without incident.

6. Petitioner was suspended by the Supreme Court for a period of two years, by Order of February 2, 2007.

7. Following his suspension, Petitioner obtained employment as a law clerk for the law firm of Beinhaur & Curcillo in Harrisburg.

8. Petitioner has fulfilled his requirements for Continuing Legal Education necessary for reinstatement.

9. Petitioner offered the testimony of four witnesses.

10. William Tully, Esquire, is a licensed Pennsylvania lawyer who has known Petitioner since approximately 1982.

11. Mr. Tully observed that Petitioner dealt with his criminal problems and their aftermath with humility and penitence and did not make excuses for himself. Mr. Tully supports Petitioner's reinstatement.

12. Dr. Albert W. Heck, William Keisling and John G. McRedmond are members of Petitioner's community who are familiar with Petitioner's work with Alcoholics Anonymous in the service and support of others. These witnesses think highly of Petitioner and know his reputation in the community for integrity to be very good.

13. Petitioner presented letters from members of the legal profession regarding his career and his respect for the law, the profession and the community.

14. Petitioner presented a large number of letters from other members of the community who support Petitioner's reinstatement.

15. Petitioner testified on his own behalf.

16. Petitioner expressed sincere remorse for his criminal conduct. He understands the shame he brought on the profession.

17. Petitioner has been in recovery from alcoholism since 1988. He has not suffered any relapses since that time.

18. Petitioner is very involved with Alcoholics Anonymous. He attends five or six meetings a week and sponsors approximately seven people.

19. Petitioner has been on the Board of Directors for Lawyers Concerned for Lawyers and was active in starting lawyers-only meetings in Dauphin County.

20. If reinstated, Petitioner plans to engage in the general practice of law.

21. Office of Disciplinary Counsel does not object to the Petition for Reinstatement.

III. CONCLUSIONS OF LAW

1. Petitioner has met his burden of proof by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law for reinstatement to practice law in the Commonwealth. Pa.R.D.E. 218(c)(3).

2. Petitioner has met his burden of proof by clear and convincing evidence that his resumption of the practice of law will not be 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 bar following his suspension for a period of two years imposed by the Supreme Court on February 2, 2007. For the reasons set forth below, the Board concludes that Petitioner has met his burden of proof pursuant to Pa.R.D.E. 218(c)(3) and recommends that Petitioner be reinstated.

Petitioner was admitted to the Bar in 1970 and practiced law in the Harrisburg area until his temporary suspension in 2006. Aside from the matters which resulted in his suspension, Petitioner has no history of discipline from the years prior to his criminal conduct which formed the basis of his suspension.

Petitioner's misconduct involved handling closings of home sales to customers of a housing developer. Petitioner provided title insurance and closing services. The homes were financed through government-backed loans and the mortgage providers required a three percent down payment from the buyer. Petitioner was to certify that the HUD-1 and other closing forms reported what funds were received and disbursed and from what sources. On 22 closings, the three percent down payment was not provided by the buyers, but was paid by the developer. This was not indicated on the closing forms. Petitioner entered a plea of guilty to conspiracy to defraud the United States Department of Housing and Urban Development and served a seven month prison term.

Petitioner served his sentence without incident and thereafter obtained employment as a law clerk with the firm of Beinhaur & Curcillo. Petitioner offered the testimony of four witnesses and numerous letters of reference from fellow attorneys and members of the community who support Petitioner's reinstatement. Petitioner has kept apprised of the law and fulfilled his Continuing Legal Education requirements for reinstatement. Petitioner has remained involved in community activities, particularly Alcoholics Anonymous and Lawyers Concerned for Lawyers.

Petitioner expressed sincere remorse for his criminal actions. His offense was serious and he does not minimize his wrongdoing. He apologized and offered his assurance that he would not be involved in criminal or unethical activity in the future. He is prepared to return to the practice of law and looks forward to resuming his career.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Michael Sedor, 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: 

Douglas W. Leonard, Board Member

Date: December 4, 2009