

IN THE SUPREME COURT OF PENNSYLVANIA

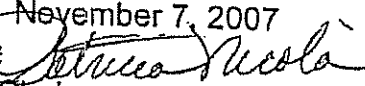
In the Matter of	:	No. 307 Disciplinary Docket No. 3
	:	
ROBERT EDWARD FABER	:	No. 13 DB 1997
	:	
PETITION FOR REINSTATEMENT	:	Attorney Registration No. 25076
	:	(Bucks County)

ORDER

PER CURIAM:

AND NOW, this 7th day of November, 2007, upon consideration of the Report and Recommendations of the Disciplinary Board dated October 2, 2007, 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.

A True Copy Patricia Nicola
As of: November 7, 2007
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 307 Disciplinary Docket
: No. 3
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ROBERT EDWARD FABER : No. 13 DB 1997
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: Attorney Registration No. 25076
PETITION FOR REINSTATEMENT :
: (Bucks 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

Petitioner is Robert Edward Faber, who seeks reinstatement to the bar of the Supreme Court of Pennsylvania following his disbarment on consent entered by Order of the Court on February 24, 1997. Petitioner's disbarment arose from his criminal conviction of mail and wire fraud, as well as aiding and abetting the criminal conduct of others.

Petitioner filed a Petition for Reinstatement on February 1, 2007. Office of Disciplinary Counsel filed a Response in which it indicated that it did not oppose the reinstatement.

A reinstatement hearing was held on May 3, 2007, before a District I Hearing Committee comprised of Chair James K. Fetter, Esquire, and Members Mary Ann Rossi, Esquire, and Steven B. Barrett, Esquire. Petitioner was represented by Charles T. Kovler, Esquire. Petitioner presented testimony from three witnesses, as well as his own testimony.

The Hearing Committee filed a Report on July 17, 2007 and recommended that the Petition for Reinstatement be granted.

This matter was adjudicated by the Disciplinary Board at the meeting on September 10, 2007.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Robert Edward Faber. He was born in 1952 and was admitted to practice law in the Commonwealth of Pennsylvania in 1977. His current business address is 265 Second Street Pike, Southampton PA 18966.

2. Following his graduation from Temple Law School, Petitioner worked for several law offices, including that of Jack Litz from 1983 until 1993.

3. During his years of practice, Petitioner practiced general law, with an emphasis on personal injury litigation.

4. During 1991, Dr. Howard Schreiberstein and others sent about 16 fall down cases to Petitioner, who was employed at the Litz office at that time.

5. All of the cases were based on false and fraudulent claims. Petitioner knew this initially or learned this during the course of the matters.

6. Acting under suspicion that the cases might be fraudulent, Petitioner wrote a letter to each of the 16 clients seeking verification from them that their claims were valid.

7. During the course of prosecution of the aforesaid cases and after learning of their fraudulent nature, Petitioner settled two of the cases and received approximately \$2,800 in fees for himself.

8. In 1992, after learning of the suicide of another lawyer involved in false and fraudulent cases and being made aware that a federal investigation was underway, Petitioner wrote to each client terminating his involvement in the cases.

9. The aforesaid conduct formed the basis for a federal indictment for mail and wire fraud, which was issued in or about 1996.

10. The indictment charged Petitioner with 16 counts of mail fraud, wire fraud, and aiding and abetting the criminal conduct of others.

11. At a non-jury trial before the Honorable James T. Giles, United States District Court for the Eastern District of Pennsylvania, Petitioner was found guilty of mail and wire fraud as well as of aiding and abetting in criminal conduct of others.

12. Petitioner was sentenced to 12 months in federal prison, fined, and ordered to pay restitution.

13. Petitioner completed all of the terms of his sentence.

14. On January 19, 1997, Petitioner voluntarily resigned from the practice of law and was disbarred on consent by Order of the Supreme Court dated February 24, 1997.

15. Upon his release from prison, Petitioner went to work as a paralegal for Dwight Peterson, Esquire, who had employed Petitioner from 1978 to 1983. Petitioner worked for Mr. Peterson as a paralegal from 1998 until 2002.

16. Neither Mr. Peterson nor Petitioner gave notice of employment to the Disciplinary Board as required by Pa.R.D.E. 217, as neither was aware of the obligation to do so.

17. Mr. Peterson did supervise Petitioner and Petitioner performed his work under the direction of Mr. Peterson.

18. In 2002 Petitioner left Mr. Peterson's employ due to a decline in available work.

19. In 2002 Petitioner and his family opened a small candy and nut store in Southampton, Pennsylvania, which is still in operation.

20. Petitioner volunteered for the Leukemia Foundation and for diabetes during his disbarment and did other charity work.

21. Petitioner completed his Continuing Legal Education requirements for readmission to the bar and has kept up with the changes in the law through reviewing case updates, the Legal Intelligencer, and other PBI books.

22. Petitioner expressed remorse for his criminal conduct and acceptance of the adverse impact such misconduct had on his family, friends and the legal profession. He believes he has learned from his past experiences.

23. Petitioner credibly asserted his intention to avoid illegal actions in the future.

24. Petitioner desires to regain his law license in part because his only son is a law school student and Petitioner wants to maintain his son's respect. Also, Petitioner wishes to seek gainful employment in an occupation that he has always loved and deemed important.

25. If reinstated Petitioner plans to seek employment with a law office, and possibly with Charles Kovler, Esquire, his counsel in the instant matter.

26. Three witnesses testified on behalf of Petitioner.

27. Dwight Peterson, Esquire, has known Petitioner since 1978, when he hired him to work as an associate at Mr. Peterson's law firm. He rehired Petitioner in 1998 as a paralegal after Petitioner's disbarment based on his talents, integrity and character.

28. Petitioner performed basic paralegal work, including drafting pleadings and generating correspondence. Petitioner did not hold himself out as a lawyer.

29. Barbara Faber is Petitioner's wife and has been married to him for 26 years. Mrs. Faber described Petitioner as embarrassed about his misconduct and remorseful. She believes he has learned from his experience and has used his experience to help guide their son in his life choices.

30. Susan Konell is a schoolteacher who has known Petitioner for 12 years. She described him as a very sincere person whom she respects. Ms. Konell would have no hesitation in using Petitioner's legal services were he to be reinstated.

III. CONCLUSIONS OF LAW

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

2. Petitioner engaged in a qualitative period of rehabilitation over a ten year period of disbarment sufficient to dissipate the taint of the underlying misconduct. In re Verlin, 731 A.2d 600 (Pa. 1999).

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

4. Petitioner's resumption of the practice of law will be neither detrimental to the integrity and standing of the bar and administration of justice nor subversive of the public interest. Pa.R.D.E. 218(c)(3)(I)

IV. DISCUSSION

Petitioner seeks readmission to the bar following his disbarment on consent in February 1997. Petitioner bears the burden of proof by clear and convincing evidence that he is qualified for readmission. Pa.R.D.E. 218(c)(3)(i).

Petitioner's request for reinstatement after disbarment is governed, in part, by the standard set forth in Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). Therein, the Supreme Court articulated a threshold standard which must be met by a disbarred attorney before that attorney's qualifications under Pa.R.D.E. 218(c)(3)(i) are considered. The threshold inquiry is whether the magnitude of the breach of trust would permit the resumption of practice without a detrimental effect upon the integrity and standing of the bar or administration of justice nor be subversive of the public interest. Keller requires a determination that the original misconduct was not so offensive as to preclude reinstatement.

It is helpful for the Board to examine the circumstances surrounding the misconduct which resulted in Petitioner's disbarment. Here, Petitioner was convicted of mail fraud, wire fraud and aiding and abetting the criminal conduct of others for his participation in prosecuting personal injury cases that were fabrications. At some point

after accepting 16 fall down cases, Petitioner learned that the claims were false. He did not act to remove himself from the cases in a prompt manner; he settled two of the cases and received about \$2,800 in fees for himself.

Although this conduct was reprehensible, the Board cannot find that it is worse than other acts of misconduct previously considered by the Supreme Court. In the case of Matter of Perrone, 777 A.2d 413 (Pa. 2001), Mr. Perrone was disbarred following his criminal conviction for filing false and misleading fee petitions which requested payment for legal services purportedly provided to indigent defendants in the City of Philadelphia. When considering Mr. Perrone's request for reinstatement some six years following his disbarment, the Court determined that the misconduct in question was not so egregious as to forever preclude reinstatement. The Court ultimately denied reinstatement at that time on the basis that Mr. Perrone's six years of disbarment was insufficient to dissipate the detrimental impact of the misconduct on the public trust.

Having concluded that Petitioner's misconduct is not so egregious as to preclude the Board from considering his Petition for Reinstatement, the Board must determine whether Petitioner has met his burden of proving by clear and convincing evidence that his resumption of the practice of law at this time would not have a detrimental impact on the integrity and standing of the bar, administration of justice, or the public interest, and that he has the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania. Pa.R.D.E. 218(c)(3)(i). In order to

make this determination, the Board must consider the amount of time that has passed since Petitioner was disbarred as well as his efforts at rehabilitation. In re Verlin, 731 A.2d 600 (Pa. 1999).

Petitioner has been without a license to practice law for approximately ten years. Evaluation of Petitioner's disbarment period suggests that it was a time of successful qualitative rehabilitation, sufficient to dissipate the taint of his misconduct. During that time Petitioner fulfilled his criminal sentence and paid all restitution. Upon his release from prison Petitioner worked as a paralegal for Dwight Peterson, Esquire. This employment lasted until 2002. As a result of a decline in the amount of work, Petitioner left Mr. Peterson's law office and embarked on a business venture with his family consisting of a candy store. This store is still in operation; however, Petitioner wishes to return to the practice of law.

Petitioner engaged in community and charitable activities while disbarred and fulfilled his requirements for Continuing Legal Education. He kept apprised of changes in the law through reviewing legal journals and case updates.

Petitioner presented the testimony of three witnesses. Dwight Peterson, Esquire, has known Petitioner since 1978, when he hired Petitioner to work at his law firm. Mr. Peterson rehired Petitioner as a paralegal in 1998, despite his criminal conviction, due to his talents, integrity and his character. Mr. Peterson has no hesitation in recommending Petitioner for reinstatement. Petitioner's wife, Barbara Faber, and his friend, Susan Konell, also testified as to Petitioner's good character.

Petitioner expressed sincere remorse for his misconduct. He takes his past involvement with the criminal system and the disciplinary system very seriously and has no intention of repeating the missteps that led him to commit criminal misconduct. He is looking forward to regaining his law license and putting it to good use.

Considering all of the above facts, the Board is persuaded that Petitioner has engaged in a qualitative period of rehabilitation during his ten year period of disbarment. Petitioner has met his burden of proving that he has the moral qualifications, learning in the law and competency to practice law, and his resumption of the practice of law will not have a detrimental impact on the integrity and standing of the bar, the administration of justice, or the public interest.

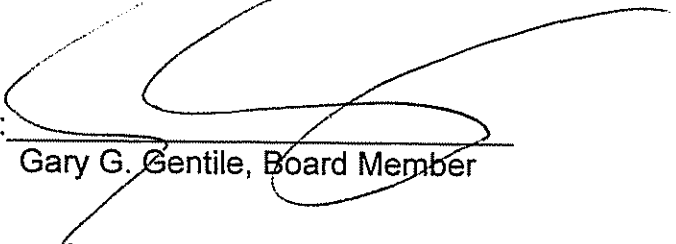
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Robert Edward Faber, be reinstated to the practice of law.

The Board further recommends that, pursuant to Rule 218(e), 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: 

Gary G. Gentile, Board Member

Date: October 2, 2007

Board Members Pietragallo, Baer, Cognetti and Buchholz did not participate in the adjudication.