

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 533 Disciplinary Docket No. 3
: :
: : No. 134 DB 1999
M. ABRAHAM AHMAD : :
: : Attorney Registration No. 48939
: :
PETITION FOR REINSTATEMENT : (Out of State)

ORDER

PER CURIAM:

AND NOW, this 11th day of October, 2007, upon consideration of the Report and Recommendations of the Disciplinary Board dated August 17, 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: ~~October 11, 2007~~

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

On November 1, 1999, the Supreme Court of Pennsylvania entered an Order disbaring M. Abraham Ahmad, as reciprocal discipline from the State of Maryland. Mr. Ahmad filed a Petition for Reinstatement to the bar of the Supreme Court of Pennsylvania

on December 4, 2006. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on February 1, 2007 and stated its position of no opposition to the reinstatement.

A reinstatement hearing was held on March 28, 2007 before a District I Hearing Committee comprised of Chair Marc P. Weingarten, Esquire, and Members Arthur S. Novello, Esquire, and Alison Tanchyk Dante, Esquire. Petitioner was represented by Dana Pirone Garrity, Esquire. Petitioner presented testimony of four character witnesses who testified by speaker phone, with consent of Office of Disciplinary Counsel and permission of the Hearing Committee. Petitioner testified on his own behalf.

The Hearing Committee filed a Report on May 31, 2007 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 July 21, 2007.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is M. Abraham Ahmad. He was born in 1953 in Tehran, Iran. He is a naturalized citizen of the United States. He was admitted to the practice of law in Pennsylvania in 1987. His current business address is 3 Bethesda Metro Center, Suite 700, Bethesda MD 20814.

2. Petitioner came to the United States in 1970 to attend Catholic University of America where he received a joint bachelor's degree and master's degree in engineering in 1974. Following a brief sabbatical, Petitioner resumed his post-graduate studies and received a PhD in mechanical engineering from Catholic University in 1977.

3. Petitioner worked in the engineering field in the United States and abroad, including Iran. Due to political unrest in Iran in the late 1970's Petitioner decided to permanently return to the Washington, D.C. area.

4. In the fall of 1982, Petitioner enrolled in the evening program at Georgetown University Law School, from which he graduated in 1985.

5. Petitioner took and passed the Maryland and Pennsylvania bar examinations.

6. Petitioner worked at a law firm for two years before opening his own firm. Petitioner's law practice was primarily focused on business and commercial matters. Thereafter Petitioner hired Stephen Himelfarb, an attorney who concentrated his practice on personal injury lawsuits. Petitioner hired Mr. Himelfarb, first as a contract lawyer, then as a minor shareholder in the law firm.

7. In February 1995, Petitioner investigated a personal injury client's complaint that the firm short changed the client in his personal injury settlement. As a result of the information Petitioner learned, Petitioner: terminated the partnership with Mr. Himelfarb; demanded that Mr. Himelfarb produce all financial documents relating to the personal injury practice including memo drafts from Mr. Himelfarb requesting payment; offered to provide financial documents Petitioner possessed; requested that he and Mr.

Himelfarb place all financial documents in a designated office within the law firm; and advised Mr. Himelfarb that Petitioner intended to hire a forensic accountant to audit the law firm's trust account.

8. Petitioner did not insist that Mr. Himelfarb vacate the law firm office, preferring instead to give Mr. Himelfarb time to locate new office space and await the audit results. From March 1995 until May 11, 1995, Petitioner did not practice law with Mr. Himelfarb.

9. On May 11, 1995, after Petitioner ended his partnership with Mr. Himelfarb, Petitioner's receptionist advised that a process server was at the office and insisted upon serving Petitioner personally with certain legal papers. The "process server" was actually Assistant Maryland Bar Counsel, Walter D. Murphy, Jr., who was accompanied by an armed Sheriff's Deputy. Petitioner was served with an ex parte Order obtained from the Circuit Court of Maryland (state court) by means of an ex parte Complaint for Interlocutory and Permanent Injunctive Relief, Appointment of a Receiver and Attachment before Judgment.

10. After being served with the Order and ex parte Complaint, Petitioner was required to surrender his law practice immediately to Bar Counsel and was escorted from the premises by Mr. Murphy. Mr. Murphy followed Petitioner to his residence for the purpose of searching Petitioner's home for anything related to the law practice. Petitioner initially consented to the demand, but later questioned where the ex parte Order permitted Bar Counsel to search his residence. Mr. Murphy left Petitioner's home at that point.

11. The Order froze all of Petitioner's assets, including bank accounts to which he was a signatory. As a result, all marital accounts and bank accounts over which Petitioner had signatory rights, including non-law firm business accounts, were frozen. The consequences which flowed from the Order included many lawsuits.

12. Petitioner submitted his resignation from the Maryland Bar on October 10, 1995. He was reciprocally disbarred by the Maryland Federal Court on October 17, 1995. Petitioner was reciprocally disbarred in Pennsylvania on November 1, 1999.

13. Petitioner later learned from the Maryland Review Board that Bar Counsel did not conduct an investigation regarding the allegations and the Affidavit upon which Bar Counsel relied (which Mr. Himelfarb supplied) was false. As determined by the Maryland Review Board, in an effort to deflect attention away from himself, Mr. Himelfarb alleged that Petitioner misappropriated between \$400,000 and \$600,000 from client funds.

14. Three weeks after Petitioner was forced out of his law office, he was permitted to return. He immediately went to the location where he and Mr. Himelfarb had placed the financial records for review by the forensic accountant. The documents were not there.

15. Faced with no income from his law practice and a family to support, Petitioner resumed his former career as an engineer until the summer of 2002.

16. Petitioner's accounts remained frozen from May 11, 1995 until June 29, 2000 when the Maryland state court finally dismissed the injunctive action without prejudice. During this time frame, Petitioner cooperated with Bar Counsel in its

investigation and in Bar Counsel's request for several Court orders releasing funds from Petitioner's frozen accounts.

17. Despite a five year investigation, Maryland Bar Counsel found no deficiency in Petitioner's accounts. Instead, it concluded that the remaining unreleased funds held in the frozen accounts belonged to Petitioner.

18. Although Maryland Bar Counsel had sent Petitioner's file to the Maryland Attorney General and the IRS, no criminal prosecution was ever brought against Petitioner by any entity.

19. On June 29, 2001, Petitioner filed for reinstatement before the Maryland Bar. On June 24, 2002, a reinstatement hearing was held in the matter. Maryland Bar Counsel did not oppose reinstatement. According to the Maryland Attorney Grievance Commission's Report:

Throughout the Inquiry Panel hearing, Bar Counsel's only questions of Petitioner were related to his keeping current on the law and whether he appreciates the necessity of closely supervising his trust accounts. I got the strong feeling that Bar Counsel is extremely embarrassed it ruined Petitioner's law practice on what it appears was a false affidavit from Himelfarb.

20. On October 4, 2002 Petitioner was reinstated in Maryland.

21. On July 26, 2004, Petitioner was reinstated in the federal court of Maryland.

22. Petitioner returned to private practice in Maryland in December 2002 and is currently of counsel to Miles & Stockbridge, P.C., in Maryland.

23. Petitioner has kept up with his learning in the law by attending Continuing Legal Education courses and performing various research projects.

24. Petitioner credibly testified that he learned from his mistake in trusting others to properly account for IOLTA funds and the disbursement of client funds. Petitioner testified that in order to be certain that client funds are handled properly, he is the only signatory on the existing firm accounts, he authorizes all checks which are prepared at his direction by an accounting firm, and he has a certified public accountant informally audit firm accounts on a monthly basis and a separate accountant performs a second review of his law firm accounts.

25. Petitioner is current in his financial obligations and has gone to great lengths to make certain that all parties who were even remotely affected by the accounts being frozen received any monies owed to them.

26. Mr. Himelfarb was never prosecuted by the Attorney Grievance Commission or any other authority.

27. Despite Petitioner's significant losses, his fortitude and belief in the American judicial system remains solid.

28. Despite all adversity, Petitioner never lost hope that the truth would be revealed, which it eventually was.

29. Petitioner presented credible testimony from four character witnesses who testified that they are aware of the reason Petitioner was disbarred and are similarly aware of his excellent reputation.

30. Louis J. Ulman, Esquire, has known Petitioner since the 1980's. He described Petitioner as truthful, honest and law-abiding to the extent that Mr. Ulman would like Petitioner to be his law partner.

31. Timothy Tehan is an insurance, estate and business consultant who has had a personal and business relationship with Petitioner since 1990. Mr. Tehan's office was in the same building as Petitioner's law practice with Himelfarb. Mr. Tehan knew of the Maryland disciplinary investigation from the beginning and he encouraged Petitioner to get his license back because he is good for the profession.

32. Matthew A. Mace, Esquire, has known Petitioner since 1984, when they worked together as summer associates. He has never heard any negative comments from attorneys concerning Petitioner's truthfulness, nor has he heard negative comments from clients Mr. Mace referred to Petitioner.

33. Sanford Berman, Esquire, first met Petitioner and his family when they needed legal counsel for real estate acquisitions. Mr. Berman represented Petitioner concerning the threatened criminal investigation by the Maryland State Attorney and assisted in concluding the Maryland disciplinary investigation. Mr. Berman knows other people in the community who know Petitioner and has never heard any negative opinions regarding Petitioner's honesty or truthfulness.

III. CONCLUSIONS OF LAW

1. Petitioner's misconduct is not so egregious as to prohibit consideration of the Petition for Reinstatement.

2. At the time of the reinstatement hearing, Petitioner had been disbarred for seven years. Sufficient time has passed since the 1995 allegations of misconduct and the reciprocal disbarment.

3. Petitioner has demonstrated by clear and convincing evidence that he has the moral qualifications, competency and learning in the law to be readmitted to the practice of law in the Commonwealth of Pennsylvania.

4. Petitioner's reinstatement will not be detrimental to the integrity and standing of the bar or administration of justice nor subversive of the public interest.

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of M. Abraham Ahmad's Petition for Reinstatement from disbarment. Petitioner was disbarred by the Supreme Court of Pennsylvania on November 1, 1999, as reciprocal discipline from Petitioner's disbarment in the State of Maryland.

In reinstatement from disbarment cases, the Board must first determine whether Petitioner has satisfied the standard set forth in Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). Petitioner must demonstrate that the misconduct which led to disbarment is not so egregious as to preclude reinstatement. This inquiry involves an analysis of whether a sufficient period of time has passed since the acts of misconduct during which Petitioner engaged in a qualitative period of rehabilitation. If Petitioner meets this standard, the Board must consider whether Petitioner has shown by clear and

convincing evidence that he has the moral qualifications, competency and learning in the law necessary to resume practice in Pennsylvania, and that the resumption of practice will not be detrimental to the integrity and standing of the bar or subversive of the interests of the public. Pa.R.D.E. 218(c)(3)(I) Review of the record evidences that Petitioner has met both the Keller standard and the requirements of Rule 218(c)(3)(i).

The case against Petitioner in Maryland arose out of allegations of misappropriation against Petitioner by his former law partner, Stephen Himelfarb. The allegations were contained in an ex parte Affidavit that resulted in an ex parte Order freezing Petitioner's assets. The ripple effect of the Affidavit and Order led Petitioner to resign from the Maryland Bar on October 10, 1995. Although Petitioner was disbarred, the Maryland Attorney Grievance Commission later concluded that the affidavit from which Petitioner's disbarment arose appeared to be false. Even in the absence of that finding, the Supreme Court has reinstated disbarred attorneys who misappropriated funds, finding that such misconduct is not so egregious as to preclude consideration of a petition for reinstatement. In the Matter of Frederick S. Schofield, III, No. 25 DB 1997, 289 Disciplinary Docket No. 3 (Pa. June 29, 2004) (reinstating petitioner seven years after reciprocal disbarment in Pennsylvania arising from a New Jersey disbarment on consent after an audit by the State of New Jersey found that he had advanced fees from personal injury cases on six occasions).

Further, more than seven years has passed since Petitioner's disbarment, which the Board finds to be a sufficient period of time for rehabilitation. Finally, Petitioner engaged in a qualitative period of rehabilitation. Petitioner has been gainfully employed,

first as an engineer and later as an attorney after his reinstatement to the bar in Maryland in 2002. He is current with all financial obligations. Petitioner endured hardship and adversity due to the investigation by the Maryland Bar Counsel, which revealed no wrongdoing on Petitioner's part.

Petitioner fulfilled his Continuing Legal Education credits for reinstatement and demonstrated his knowledge and learning in the law. He is employed of counsel to a large Maryland law firm, for which he performs legal work and keeps apprised of the status of the law.

Petitioner presented four character witnesses who testified as to his good reputation in the community for honesty and truthfulness. Some of these witnesses have known Petitioner for many years and have never questioned his veracity. These witnesses support Petitioner's reinstatement.

Petitioner credibly testified on his own behalf as to his disciplinary ordeal in Maryland. Petitioner explained that the reason he accepted disbarment was not because he had misappropriated client funds. He knew that he had not abused client funds, but without the ability to immediately determine what had occurred since his records had been removed by his former law partner, he accepted the advice of counsel in order to protect his family and to reduce the likelihood that criminal charges would be lodged against him. Petitioner related that he should have watched the operation of his trust account more carefully instead of letting his former partner handle it, and to that extent Petitioner accepts responsibility for what happened and is sorry for it.

In sum, Petitioner has demonstrated that he has the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania and that the 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. Indeed, in Petitioner's case, there appears to be no misconduct at all, and thus there was no breach of the public's trust in Petitioner's skills as a lawyer.

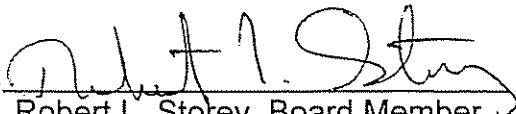
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, M. Abraham Ahmad, 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: 
Robert L. Storey, Board Member

Date: August 17, 2007

Board Members Newman and Raspanti did not participate in the adjudication.