

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 587, Disciplinary Docket
: No. 3 – Supreme Court
: :
RUSSELL F. D’AIELLO, JR. : No. 83 DB 2000 - Disciplinary Board
: :
: Attorney Registration No. 22811
: :
PETITION FOR REINSTATEMENT : (York 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 (“Board”) hereby submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Reinstatement.

I. HISTORY OF PROCEEDINGS

On May 23, 2002, Petitioner, Russell F. D’Aiello, Jr., filed a Petition for Reinstatement to the Bar of the Supreme Court of Pennsylvania. Petitioner was suspended

by Order of the Supreme Court dated December 28, 2001, for a period of two years retroactive to June 16, 2000, as result of his conviction of loan application fraud.

A reinstatement hearing was held on October 30, 2002 before Hearing Committee 3.09 comprised of Chair Jeffrey A. Ernico, Esquire, and Members Robert E. Benion, Esquire, and Lawrence B. Abrams, III, Esquire. Petitioner appeared pro se.

The Committee filed a Report on April 30, 2003 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 of July 16, 2003.

II. FINDINGS OF FACT

This Board makes the following findings of fact:

1. Petitioner was born in 1949 and was admitted to the practice of law in the Commonwealth in 1976. He currently resides at 218 Locust Street, Wrightsville PA 17368.

2. By Order of the Supreme Court dated December 28, 2001, Petitioner was Suspended from the practice of law for two years retroactive to June 16, 2000.

3. In December 1998, Petitioner was convicted of one count of false loan application to a federal credit union.

4. Petitioner submitted a fraudulent loan application to a federal credit union in order to obtain a \$20,000 second mortgage loan to purchase computer equipment for some new offices. Petitioner filed the fraudulent loan application at the urging of a mortgage broker.

5. Petitioner satisfied the loan within six months and also obtained several other loans from the credit union based upon the fraudulent application, all of which were paid in full.

6. Petitioner cooperated fully with the investigation by the FBI once the fraudulent application was discovered.

7. Petitioner was sentenced to thirty days of incarceration in the Cumberland County Prison beginning on March 13, 2000 and was placed on supervised release for two years. He paid a fine of \$7,500.

8. Petitioner completed all of the penalties imposed upon him.

9. After his suspension, Petitioner remained active in the law by working as a legal assistant for John H. Arnold, Esquire, whose office is located in York, Pennsylvania.

10. Petitioner's law work involves preparation and review of documents and research of legal matters, including divorce, bankruptcy, real estate, and decedent estates.

11. Petitioner did not hold himself out as a licensed attorney during his employment.

12. John Arnold, Esquire, testified on behalf of Petitioner. He has been impressed with the quality of Petitioner's work, his activities, and his character. Attorney Arnold has found Petitioner to be an invaluable resource to his law practice.

13. Since his suspension, Petitioner has remained involved in his community. He is president of the Rotary Club and Sons of Italy and is a member of the Wrightsville Municipal Authority and the Trinity Lutheran Church Council.

14. Petitioner completed his required Continuing Legal Education course credits.

15. Petitioner was sincerely remorseful for his misconduct and described his experience as extremely sobering.

16. If reinstated, Petitioner plans to continue working with Attorney Arnold.

17. Office of Disciplinary Counsel does not oppose Petitioner's reinstatement.

III. CONCLUSIONS OF LAW

1. Petitioner has proven that he has the moral qualifications, competency and learning in the law required to practice in Pennsylvania.
2. Petitioner's resumption of the practice of law will neither be detrimental to the integrity and standing of the bar or administration of justice nor be subversive to the public interest.

IV. DISCUSSION

This matter is before the Disciplinary Board on a Petition for Reinstatement filed by Russell F. D'Aiello, Jr. By Order of the Supreme Court dated December 28, 2001, Petitioner was suspended for a period of two years retroactive to June 16, 2000.

Pursuant to Rule 218(a), Pa.R.D.E., 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. In order for Petitioner to gain reinstatement, he has 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. In addition, Petitioner has the burden of demonstrating that the resumption of the practice of law will not be detrimental to the integrity and standing of the

bar or administration of justice, nor be subversive of the public interest. Rule 218(c)(3)(i), Pa.R.D.E.

A reinstatement hearing is a searching 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 the lawyer has made since the time the sanction was imposed, and the degree of success achieved in the rehabilitative process. Philadelphia News, Inc. v. Disciplinary Board of the Supreme Court, 363 A.2d 779 (Pa. 1976).

Petitioner was suspended as a result of his criminal conviction for one count of submitting a false loan application to a federal credit union. He served a thirty day prison sentence and two years of supervised release. He paid a fine of \$7,500.

Petitioner has presented evidence that he is rehabilitated and is ready to resume the practice of law. He has had no further involvement in the criminal system. During the term of his suspension he worked as a legal assistant for Attorney John H. Arnold, a York County sole practitioner. That work included legal research and document preparation for a variety of cases. His work and services to Attorney Arnold have been valuable and impressive. Petitioner plans to continue his work with Attorney Arnold. Petitioner maintained his competency in the law by completing his required CLE course credits and by reviewing legal publications in the course of his work.

Petitioner has expressed sincere remorse for his misconduct. Despite the awkwardness inherent in his position as a suspended attorney in a small town, he maintained his commitment to community activities through his participation in the Rotary Club, Sons of Italy and his church. He has proven himself to be a moral, competent and qualified person, currently fit to be a member of the bar of Pennsylvania.

For these 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, Russell F. D'Aiello, Jr., 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: _____
J. Michele Peck, Member

Date: October 2, 2003

PER CURIAM:

AND NOW, this 18th day of December, 2003, upon consideration of the Report and Recommendations of the Disciplinary Board of the Supreme Court of Pennsylvania dated October 2, 2003, 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.