

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 762 Disciplinary Docket No. 2
: :
: :
LAWRENCE D. GREENBERG : No. 93 DB 1990
: :
: : Attorney Registration No. 12561
: :
PETITION FOR REINSTATEMENT : (Montgomery County)

ORDER

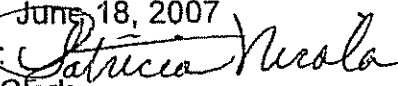
PER CURIAM:

AND NOW, this 18th day of June, 2007, upon consideration of the Report and Recommendations of the Disciplinary Board of the Supreme Court of Pennsylvania dated May 11, 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 June 18, 2007

Attest: 
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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: No. 2
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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 dated October 3, 1990, the Supreme Court of Pennsylvania disbarred Lawrence D. Greenberg on consent. Mr. Greenberg filed a Petition for Reinstatement on December 20, 1996. The Supreme Court denied reinstatement by

Opinion of March 22, 2000. Mr. Greenberg filed a second Petition for Reinstatement on October 26, 2005. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on May 1, 2006 and stated its opposition to reinstatement.

A reinstatement hearing was held on July 25, 2006 before a District II Hearing Committee comprised of Chair Mark D. Damico, Esquire, and Members Terry D. Weiler, Esquire, and Robert A. Auclair, Esquire. Petitioner was represented by James C. Schwartzman, Esquire. Petitioner introduced eight exhibits and offered the testimony of four witnesses as well as his own testimony. Office of Disciplinary Counsel offered 11 exhibits.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on December 22, 2006 and recommended that reinstatement be granted.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on March 20, 2007.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Lawrence D. Greenberg. He was born in 1942 and was admitted to practice law in Pennsylvania in 1966. His current business address is 222 Clifton Ave., Collingdale PA 19023.

2. Petitioner was disbarred on consent by the Supreme Court of Pennsylvania on October 3, 1990.

3. Petitioner filed a Petition for Reinstatement from disbarment on December 20, 1996.

4. The Supreme Court denied reinstatement by Opinion and Order of March 22, 2000. The basis for the denial was that Petitioner's eight years of disbarment was not sufficient to dissipate the taint of the underlying misconduct.

5. Petitioner was disbarred due to a criminal conviction related to the bankruptcy filing of his businesses. He entered a plea of guilty to the concealment from creditors of a transfer in the amount of \$1.7 million dollars and the taking of approximately \$220,000 to \$230,000 after the bankruptcy was filed. The majority of the monies Petitioner took were used to pay past due taxes and personal expenses.

6. The bankruptcy papers which failed to identify the transfer of the \$1.7 million dollars were not prepared by Petitioner but Petitioner was aware that the documents did not disclose the pre-bankruptcy transfer of funds to another corporation and to Petitioner for personal expenses. The transferred amount was eventually returned to another company to pay payroll and taxes.

7. Petitioner was sentenced to five years in prison, five years suspended sentence, \$250,000 fine, restitution of \$1.7 million dollars and 1,200 hours of community service. In addition, Petitioner cooperated in the investigation with the authorities.

8. Petitioner served two years of his sentence at Allenwood prison from May 1990 through July 1992, and then was released to serve his remaining sentence in a half-way house.

9. Petitioner satisfied the community service requirement of his sentence in January 1995 by working with the Homeless Advocacy Project of the Philadelphia Bar Association. After satisfying the 1,200 hours, Petitioner continued to work with the Project for another 14 months.

10. The restitution portion of the sentence was vacated but the fine was not. Petitioner has made monthly payments and averages about \$1,200 per year.

11. Immediately after being released from prison, Petitioner obtained employment with American Theater Arts for Youth, a non-profit organization that provides musical theater to children throughout the United States. His salary was \$40,000, with health benefits. Although Petitioner had to leave his paid employment due to financial reasons, he continues to volunteer with the organization.

12. In April 1996 Petitioner found new employment with Creative Media International in Edison, New Jersey, a public relations firm. He performed administrative duties for \$750.00 per week.

13. Petitioner's job with Creative Media was eliminated in December of 1997. From January 1998 through June 1999 Petitioner worked for Green Leaf Technologies in Iselin, New Jersey, performing administrative functions.

14. In 1993 Petitioner met Dr. Janet Crane, with whom he formed a personal relationship. In 1999 Dr. Crane hired Petitioner to work full-time in her medical practice wherein he handles insurance submissions, bookkeeping, and computer updating, among other things. Petitioner also provides Dr. Crane with separate business consulting services regarding Dr. Crane's real estate investments.

15. Petitioner's total compensation for various services rendered to Dr. Crane gradually diminished as follows: in 1999 he earned approximately \$61,000.00; in 2000 he earned approximately \$64,500.00; in 2001 he earned approximately \$33,500.00; in 2002 he earned approximately \$32,000.00; in 2003 he earned approximately \$24,000.00; and in 2004 he earned approximately \$12,000.00.

16. In addition, in 2003 and 2004, Petitioner performed part-time services for CNE Group, Inc., and received as compensation stock options which were sold for \$17,000.00.

17. After his first attempt at reinstatement failed, Petitioner took an inappropriate deduction when he wrote off \$7,400.00 of expenses incurred in seeking readmission as a "business expense" on Schedule C of his 1999 tax return. Petitioner incorrectly believed that the legal fees he incurred were permitted as a business expense. Petitioner's tax returns disclosed his occupation as a previously admitted attorney seeking readmission. The deduction of the expenses was not questioned by the IRS.

18. Petitioner did not make payments for estimated taxes when he started working for Dr. Crane because he did not know the amounts he would receive in

commissions and did not realize that he may want to consider payments for estimated tax payments.

19. Petitioner filed tax returns for years 1999 through 2005 which were supplied to Office of Disciplinary Counsel. He paid additional assessments and penalties because of the installment plans. The installment plans were approved for each year involved and Petitioner was current with his tax obligations as of the date of the reinstatement hearing on July 25, 2006.

20. Petitioner did not timely resign from the United States Tax Court nor notify it of his disbarment. Petitioner had no recollection of his admission to that Court. Petitioner did not realize until after his second Petition for Reinstatement was filed in 2006 that he had been admitted before the Tax Court many years ago. After learning this information Petitioner resigned from the Tax Court.

21. Petitioner recognizes a responsibility that he has to the people who have supported him in the reinstatement process and he intends to live up to that responsibility. His actions betrayed his family and devastated himself. Petitioner expressed sincere remorse and acknowledged that his actions were completely wrong.

22. Petitioner presented credible testimony from four witnesses.

23. Maureen DiMaggio manages part of Dr. Janet Crane's medical practice and works with Petitioner. Ms. DiMaggio described Petitioner as honorable and respected despite his criminal conviction.

24. Laurie Wagman is the founder and producer of American Theater Arts for Youth. Ms. Wagman hired Petitioner when he was just out of confinement and gave him the opportunity to work for the organization. Ms. Wagman described Petitioner as a loyal friend, a helpful person, and someone who has a strong moral approach to everything he does.

25. Michael Abraham is a retired surgeon. He has known Petitioner for over 30 years and is aware of his conviction and knows others in the community who are aware of the conviction. Dr. Abraham described Petitioner as a person who is honest, intelligent, caring, and ethical. He believes Petitioner paid dearly for his actions.

26. Robert Marmon is a business person and Petitioner's friend for over 25 years. He and their common circle of friends know about Petitioner's conviction and the events preceding the conviction. Mr. Marmon testified that he and the community believe Petitioner's action was out of character and despite the conviction his excellent reputation has not changed.

27. Petitioner kept apprised of the law by attending PBI courses and fulfilling his Continuing Legal Education credits for reinstatement.

28. If reinstated Petitioner plans to practice tax, business and real estate law.

III. CONCLUSIONS OF LAW

1. As previously found by the Supreme Court of Pennsylvania in Matter of Lawrence D. Greenberg, 749 A.2d 434 (Pa. 2000), Petitioner's misconduct was not so egregious as to preclude Petitioner from reinstatement.

2. Sufficient time has passed since the underlying misconduct.

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. Pa.R.D.E. 218(c)(3)(i)

4. Petitioner's resumption of the practice of law will not be 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

This matter is before the Disciplinary Board for consideration of Lawrence D. Greenberg's Petition for Reinstatement from disbarment. This is Petitioner's second attempt at reinstatement; his initial Petition was denied by the Supreme Court on March 22, 2000. The Court issued an Opinion therein and concluded that the eight year length of time that Petitioner was disbarred was insufficient, considering the magnitude of his misconduct, and allowing Petitioner to resume the practice of law would have a detrimental

effect upon the integrity and standing of the bar and on the administration of justice and would subvert the public interest. Matter of Lawrence D. Greenberg, 749 A.2d 434 (Pa. 2000).

Petitioner's request for reinstatement following disbarment is initially governed by the standard set forth by the Supreme Court in Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). As a threshold matter, the Board must determine whether Petitioner has demonstrated that his breach of trust was not so egregious that it precludes him from reinstatement. This question has already been answered by the Court in the Greenberg opinion. The Court concluded that Petitioner's misconduct was not so great that he could never be reinstated to the bar. Greenberg at 436.

In the instant matter the Board's focus is on the question of time. This is an important aspect of reinstatement from disbarment, as it goes to the concept that in Pennsylvania reinstatement from disbarment is not automatic. While a petitioner is rule-bound to wait five years before applying for readmission after disbarment, there exists no guarantee that the petitioner will be reinstated. The Board and the Court undertake a careful analysis of the length of time that a petitioner has waited before requesting reinstatement, and the impact on the public that reinstatement will have. This is the point on which the Supreme Court denied Petitioner's first readmission request. In 2000 the Court decided that eight years was simply too soon for reinstatement. Now, sixteen years have passed since disbarment. During that time, Petitioner's work, volunteer activities and personal life indicate that he has been genuinely rehabilitated. Sixteen years is long

enough for the taint to have dissipated from the original misconduct. In the Matter of Jerome J. Verlin, 731 A.2d 600 (Pa. 1999).

With the Keller threshold having been met, an examination under Pa.R.D.E. 218(c)(3)(i) is required. The current Petition was presented to the Hearing Committee on July 25, 2006. At the hearing, Office of Disciplinary Counsel's argument against reinstatement focused on: (i) Petitioner's pattern of untimely filing of returns or late payment of taxes, interest and penalties to the IRS; (ii) an improper tax deduction taken by Petitioner in 1999; and, (iii) failure to pay quarterly withholding taxes over a term of years. Office of Disciplinary Counsel argues that those acts, coupled with Petitioner's failure to disclose his admission to the Tax Court in his Petition for Reinstatement, his failure to withdraw from the Tax Court promptly and his failure to notify it of his disbarment in writing, collectively raise serious questions regarding his current moral qualifications.

The Board is satisfied that Petitioner's moral qualifications have been established by clear and convincing evidence that shows his rehabilitation, acceptance of responsibility for his actions, volunteer service to the community, acceptance of his status as a disbarred attorney, and willingness to acknowledge his past wrongful misconduct to others. Petitioner's character witnesses vouched for his good reputation in the community.

Petitioner is current on his tax obligations and has paid all monies owed to the IRS as a result of his misconduct. Petitioner has satisfactorily proven that he has fulfilled the continuing legal education requirements necessary for reinstatement, and has demonstrated learning in the law.

The Hearing Committee duly considered the contentions of Office of Disciplinary Counsel and was persuaded that the concerns were not significant enough to preclude reinstatement. Review of the record leads the Board to the same conclusion. Petitioner appears to have his financial house in order as far as his taxes, and was candid with Office of Disciplinary Counsel and the Committee regarding such issues. His failure to list on his Reinstatement Questionnaire his admission to the Tax Court may reasonably be called an oversight and should not be held against Petitioner; he resigned from the Tax Court upon finding out his status.

The totality of the evidence presented leads the Board to conclude that Petitioner met his burden of proving by clear and convincing evidence that he is qualified for reinstatement and he will not be a detriment to the bar or the public if reinstated.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Lawrence D. Greenberg, 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: May 11, 2007



THE DISCIPLINARY BOARD
OF THE
SUPREME COURT OF PENNSYLVANIA

First Floor
Two Lemoyne Drive
Lemoyne, PA 17043-1226
(717) 731-7073

May 11, 2007

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LAWRENCE D. GREENBERG	:	No. 93 DB 1990
	:	
	:	Attorney Registration No. 12561
	:	
PETITION FOR REINSTATEMENT	:	(Montgomery County)

**Expenses Incurred in the Investigation and Processing
of the above Petition for Reinstatement***

10-03-1990	16 Copies of Supreme Court Order & Opinion	\$ 216.00
10-25-2005	16 Copies of Petition for Reinstatement and Reinstatement Questionnaire	280.00
04-27-2006	16 Copies of Office of Disciplinary Counsel's Response to Petition for Reinstatement	16.00
07-19-2006	Transcripts of Prehearing Conference held 06-20-2006	158.75
08-21-2006	Transcripts of Hearing held 07-25-2006	963.50
10-04-2006	16 Copies of Petitioner's Brief to Hearing Committee	192.00
10-23-2006	16 Copies of Office of Disciplinary Counsel's Brief to Hearing Committee	192.00
12-20-2006	16 Copies of Hearing Committee Report	<u>136.00</u>
TOTAL AMOUNT DUE		<u>\$ 2154.25</u>

Make Check Payable to PA Disciplinary Board
PAYMENT IS REQUIRED UPON RECEIPT OF ORDER

*Submitted pursuant to Rule 208(g) of the Pa.R.D.E. and §93.111 of the Disciplinary Board Rules.