DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

IN RE JOEL D. JOSEPH,	:	
(Bar No. 447715)	:	**BDN 21-BD-029**
Petitioner.	:	**DDN 2021-D104**
A Disbarred Member of the Bar of the District of Columbia Court of Appeals	:	
Admitted: December 7, 1973 **Disbarment Effective: October 29, 2015**	:	

DISCIPLINARY COUNSEL'S ANSWER TO PETITION FOR REINSTATEMENT

Petitioner Joel D. Joseph has petitioned for reinstatement. Pursuant to Board Rule 9.7(a), Disciplinary Counsel files this answer opposing Petitioner's reinstatement. Disciplinary Counsel requests that this matter be assigned to a hearing committee and that a hearing be scheduled.

Petitioner was originally disbarred in Maryland for dishonesty to courts and other attorneys in connection with his efforts to seek admission *pro hac vice* in California. He was ineligible for *pro hac vice* admission because he lived in California and regularly worked in California. To conceal his California connections, Petitioner provided misleading addresses purporting to be his Maryland

apartment and law offices, but these were either former addresses or forwarding addresses where he never resided.

Petitioner failed to report his Maryland disbarment in this jurisdiction, resulting in delayed imposition of reciprocal discipline. Petitioner *twice* misled the Bar's membership department into improperly administratively reinstating him to active status, negating any notion that he misunderstood the proper procedure to follow. Petitioner similarly dishonestly obtained a certificate of good standing from the Colorado District Court, where he knew he had never self-reported his Maryland disbarment or been subject to discipline. He then dishonestly submitted his improperly obtained certificates of good standing as purported proof of his fitness to practice law in the hopes of gaining reinstatement in other jurisdictions.

Petitioner failed to acknowledge any wrongdoing. He has continued his campaign of vexatious litigation as a *pro se* litigant in the years since his disbarment. Petitioner also held himself out as an attorney in California, where he lives but has never been licensed.

Petitioner must demonstrate his fitness to resume the practice of law prior to reinstatement, and he bears the burden in this proceeding to demonstrate by clear and convincing evidence that he has the moral qualifications, competency, and learning in the law required for readmission, and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar, or to the

administration of justice, or subversive to the public interest. D.C. Bar R. XI, § 16(d)(1); Bd. Rule 9.1(c). The particular factors to be addressed in this reinstatement proceeding (the "*Roundtree* factors") are: (i) the nature and circumstances of the misconduct for which the attorney was disciplined; (ii) the attorney's recognition of the seriousness of such misconduct; (iii) the attorney's post-discipline conduct, including steps taken to remedy past wrongs and prevent future ones; (iv) the attorney's present character; and (v) the attorney's present qualifications and competence to practice law. Bd. Rule 9.1(c); *see also In re Roundtree*, 503 A.2d 1215, 1217 (D.C. 1985) (setting forth the standard adopted in the Board Rules). Because Petitioner has not produced clear and convincing evidence of his satisfaction of the *Roundtree* factors, Disciplinary Counsel opposes the Petition for reinstatement.

A. <u>Answers to Factual Allegations in the Petition For Reinstatement</u>

As required by Board Rule 9.7(a)(i), Disciplinary Counsel has attempted to respond to each of the material facts alleged in Petitioner's "Revised Petition For Reinstatement" ("R.Pet.") filed August 31, 2021.

1. "Petitioner was disbarred for stating on several petitions to proceed *pro hac vice* in California that he was a Maryland resident." R.Pet. at 2. **ODC denies this averment because it mischaracterizes the gravamen of his misconduct.** Although Petitioner did falsely claim to be a Maryland resident, he was primarily

disciplined for dishonestly stating that he did not reside in California, was not regularly employed in California, and did not engage in business activities in California. These statements were false because Petitioner resided in California at the time, had obtained a California driver's license, had registered his car in California, and regularly conducted business activities in California. Petitioner also misled his sponsoring attorney and the courts by providing false addresses to make it appear as if he had offices and an apartment in Maryland.

2. "Petitioner believed that he was a Maryland resident at the time in question." R.Pet. at 2. **ODC denies this averment.** When he filed his petitions for admission *pro hac vice*, Petitioner knew that he had moved to California and knew that the purported Maryland addresses he provided were not his then-current business and residential addresses.

3. "Petitioner had a Maryland driver's license and paid state income taxes in Maryland for the year in question (2007)." R.Pet. at 2. **ODC lacks sufficient knowledge to admit or deny this averment but notes that even if true, these averments do not disprove the misconduct for which he was disbarred.** Petitioner has produced non-dispositive evidence regarding his driver's license and Maryland taxes. The proper issue, however, was whether Petitioner had connections with California such that he was ineligible for admission *pro hac vice*. At the time of his false statements, Petitioner was in possession of a current California driver's

license because he had moved to California. Possession of a copy of an earlier-obtained Maryland driver's license, which had not yet expired but displayed a non-current address, or payment of taxes in another state, for income earned in that jurisdiction, did not negate Petitioner's clear connections with the state of California. Lawyers in law firms with offices in multiple states frequently pay taxes in those states even if they have no residence there because part of their income is derived from those states.

4. "If Petitioner had lied on his applications to proceed *pro hac vice* it would have been very serious misconduct, but he did not do so." R.Pet. at 2. **ODC denies this averment because Petitioner did lie on his applications for admission *pro hac vice*.**

5. "The Ohio Board that heard his petition for reinstatement found that he presented evidence that he was a Maryland resident at the time in question." R.Pet. at 2. **ODC admits that Petitioner presented evidence on this issue but denies that such evidence disproves that Petitioner was dishonest when stating under oath that he was not a resident of California.** The Ohio petition for reinstatement was denied on other grounds.

6. "After Petitioner was disbarred, he ceased practicing law." R.Pet. at 2. **ODC denies this averment because Petitioner continued to practice law *pro se***

during the period of disbarment. *See* ¶¶ 56-59 below regarding Petitioner's post-disbarment vexatious litigation.

7. "He focused his attention on writing several books and writing more than 100 articles, published in newspapers across the country." R.Pet. at 2. **ODC lacks knowledge regarding this averment.**

8. "There was nothing that he could do to remedy past wrongs." R.Pet. at 2. **ODC denies this averment.** At the very least, Petitioner could have admitted his dishonesty and refrained from making additional misleading or false statements.

9. "By ceasing the practice of law Petitioner prevented any future violations." R.Pet. at 2. **ODC denies this averment because it is possible to engage in misconduct without a law license. For instance, Petitioner has been repeatedly found to be a vexatious litigant while representing himself *pro se*. Petitioner improperly held himself out as an attorney in California even after his disbarment.**

10. "Petitioner has always maintained that he was a Maryland resident at the time he filed petitions for admission in California *pro hac vice*." R.Pet. at 3. **ODC denies this averment.** Petitioner claimed to be a California resident multiple times during the same time period.

11. "Reverend Jesse Jackson wrote to the Maryland Bar that he has known Petitioner for twenty-five years and worked with him on a book on the death penalty." R.Pet. at 3. **ODC admits this averment.**

12. "Mr. Joseph served as a professor of law at George Washington University." R.Pet. at 3. **ODC lacks knowledge of this averment.**

13. "He is author of 16 books on the law including *Black Mondays: Worst Decisions of the Supreme Court.*" R.Pet. at 3. **ODC admits Petitioner has written books but lacks knowledge as to the exact number or his other claims about his works.**

14. "Mr. Joseph, now 73 years old, has litigated many cases in the public interest." R.Pet. at 4. **ODC admits that Petitioner was involved in cases involving assertions of representing the public interest.**

If Disciplinary Counsel is deemed not to have answered any allegation in the Petition for Reinstatement, Disciplinary Counsel denies each such allegation and demands strict proof.

B. <u>Disciplinary Counsel's Additional Allegations and Material Facts</u>

Pursuant to Board Rule 9.7(a), Disciplinary Counsel provides notice of additional allegation and material facts in support thereof that Disciplinary Counsel intends to present at the evidentiary hearing on the petition for reinstatement.

Material facts related to Petitioner's disbarment

Disciplinary Counsel intends to rely upon the findings of the Court of Appeals of Maryland in disbarring Petitioner. *Atty. Griev. Comm'n v. Joseph*, 31 A.3d 137 (Md. 2011). These facts include:

1. Until January 2007, Petitioner leased office space in a commercial building at 7272 Wisconsin Avenue, Suite 300, Bethesda, Maryland. Petitioner vacated that office space in January 2007. After January 2007, Petitioner did not lease, own, or otherwise have a law office in Maryland.

2. Until January 2007, Petitioner rented a condominium in Chevy Chase, Maryland. He vacated that condominium in January 2007.

3. Petitioner moved to California in January 2007 with the intent to reside there. Petitioner thereafter had neither a residence nor a business office in Maryland.

4. Although Petitioner did not affirmatively cancel his Maryland voter registration, he did not vote in Maryland after January 2007.

5. In March 2007, Petitioner signed a one-year lease to rent an apartment on Ocean Avenue in Santa Monica, California. The apartment had kitchen and bath facilities. Petitioner kept his clothing and personal effects at this location.

6. In March 2007, Petitioner contacted California attorney Robert M. Moss about the possibility of sponsoring Petitioner's admission *pro hac vice* in two cases. The *Wartell* matter, a client's civil suit against the United States government,

was filed in the United States District Court for the Central District of California. The *K-2* matter was a class action filed in the Superior Court of Los Angeles County, California.

7. Petitioner told Moss and/or Moss's paralegal that he lived in Maryland and had a law office in Maryland. These statements were false.

8. In April 2007, Petitioner opened a California bank account using his Santa Monica apartment's address.

9. On or before April 2007, Petitioner changed his preferred address with the Maryland Bar to this address in Santa Monica, California. In April 2007, he attempted to pay a Maryland Bar Client Protection Fund fee with a check from his California bank reflecting his Santa Monica apartment's address.

10. In April 2007, Petitioner wrote a letter to a client stating that he had "moved to Santa Monica recently."

11. In May 2007, Petitioner obtained a California driver's license. He also registered his motor vehicle in California. Although Petitioner's Maryland license had not yet expired at that time, it listed an address where Petitioner had not lived since 2004. Petitioner was required to update his address within 30 days of moving. MD Transportation Code § 16-116(a).

12. In June 2007, Petitioner filed suit as a *pro se* plaintiff in a civil matter. The complaint asserted that venue was proper because Petitioner was a California resident and citizen.

13. Petitioner prepared and signed a sworn "Application of Non-Resident Attorney to Appear in a Specific Case" in the *Wartell* matter in the United States District Court for the Central District of California, asserting that his law office was located at 7272 Wisconsin Avenue, Suite 300, Bethesda, Maryland. This statement was false because Petitioner had vacated that office in January 2007. His application contained the following statement: "I am not a resident of, nor am I regularly employed, engaged in business, professional or other activities in the State of California." Petitioner gave the signed application to Moss, who filed it on June 28, 2007.

14. Petitioner signed a sworn *pro hac vice* application in the *K-2* matter in the Superior Court of the State of California for the County of Los Angeles, again falsely asserting that his law office was located at 7272 Wisconsin Avenue in Bethesda, Maryland and certifying that "I am not a resident of, nor am I regularly employed, engaged in substantial business, professional or other activities in the State of California." These documents were filed on June 19, 2007.

15. In mid-2007, Petitioner applied for a mailbox at the UPS Store at 4938 Hampden Lane in Bethesda, Maryland. His application stated that Petitioner's

"home address" was in Santa Monica, California, and included a copy of his California driver's license issued May 14, 2007. Petitioner arranged for all mail delivered to this address to be forwarded to him in California.

16. In response to his applications for admission *pro hac vice* in the *Wartell* and *K-2* matters, the California State Bar contacted Moss's paralegal and requested the physical address of Petitioner's Maryland residence as proof of his out-of-state residency. Moss's paralegal contacted Petitioner, informing him that "We have to have your residence address, the address where you live."

17. On or about June 21, 2007, Petitioner emailed Moss: "My residence address in Maryland is 4938 Hampden Lane, Apt. 118, Bethesda, MD." This address was a UPS Store where Petitioner rented a mailbox for mail to be forwarded to California, not a residence. Petitioner falsely told Moss's paralegal that this address was an apartment where he lived with his girlfriend. There were no apartments at the 4938 Hampden Lane address. Moss's paralegal then entered this address onto a form provided by the California State Bar and Petitioner signed the form.

18. In November 2007, Petitioner signed a sworn *pro hac vice* application in a class action, the *Panera* matter, in the Superior Court of the State of California for the County of Los Angeles. This application falsely asserted that Petitioner's law office was located at 4938 Hampden Lane, Suite 118, Bethesda, Maryland. Moss's paralegal put this address on the form because Petitioner told her that in

addition to living at that address, he also worked out of the apartment. Petitioner certified under penalty of perjury that "I am not a resident of, nor am I regularly employed, engaged in substantial business, professional or other activity in the State of California." These documents were filed on November 18, 2007.

19. Petitioner's sworn statements that he had no residential or business connections to California were intentionally false because he rented an apartment in California, he resided in California, he rented office space in California, and he regularly worked in California.

20. Petitioner's sworn statements that his law office was located at 7272 Wisconsin Avenue in Bethesda, Maryland, were intentionally false because he knew he had vacated that office before moving to California.

21. Petitioner's sworn statements that he resided or had an office at 4938 Hampden Lane, Apartment 118, Bethesda, Maryland, were intentionally false because he never lived or maintained an office at that address. In fact, Petitioner knew that it was not a residence but a UPS Store, and number 118 did not refer to a suite or an apartment but a mailbox.

22. In 2008, Petitioner testified under oath in a Maryland disciplinary matter that he had moved to California in January 2007. He also wrote a letter to Maryland Bar Counsel stating that he had relocated to California and was taking the California bar exam.

Petitioner's False Statements in a Rhode Island *Pro Hac Vice* Application

23. Prior to the California *pro hac vice* applications that led to his disbarment, Petitioner sought admission *pro hac vice* in the United States District Court for the District of Rhode Island on October 19, 2005, in the *Kampitch* matter.

24. Petitioner certified that he had "never been disciplined or sanctioned by any court or other body" and that he had not appeared or applied to be admitted *pro hac vice* in that court in the preceding 24 months. These statements were false because Petitioner had been sanctioned by the United States District Court for the District of Nevada in October 2003, the United States District Court for the Southern District of Ohio in June 2004, the United States District Court for the District of Nevada (again) in March 2005, and the United States District Court for the Middle District of North Carolina in July 2005. These statements were also false because Petitioner had twice sought *pro hac vice* admission in the Rhode Island District Court in the preceding 24 months.

25. On December 14, 2005, Petitioner's application for admission *pro hac vice* was denied. The court noted that in support of his position, Petitioner submitted an affidavit that contained an additional falsehood: that he had never been denied *pro hac vice* status by any court.

26. The Rhode Island District Court found that Petitioner had "engaged in a pattern of behavior that has resulted in the wasting of judicial resources," that

monetary sanction "seem to have had no impact on [Petitioner]'s professional conduct," and instead "his modus operandi is to ignore them, thereby vexatiously and unreasonably multiplying the proceedings." Order, *Kampitch v. Lach*, CA 05-351 at 13 (D.R.I. Dec. 14, 2005). The court denied the motion for admission *pro hac vice* "based upon [Respondent]'s false representation to this court, his failure to comply with local rules in this and other districts, and his recent, consistent and significant history of grossly unacceptable conduct in other courts." *Id.* at 14.

27. After the 2005 *Kampitch* order, Petitioner knew or should have known that honesty and forthrightness were of the utmost importance when filing for admission *pro hac vice*.

Petitioner's Failure to Self-Report to the Colorado District Court

28. Petitioner was admitted to practice in the United States District Court for the District of Colorado.

29. Petitioner failed to self-report his Maryland disbarment to the Colorado District Court. Instead, on June 5, 2014, Petitioner requested and received a certificate of good standing from that court at a time when he knew that he had been disbarred in Maryland.

30. On June 18, 2014, Petitioner's status in the Colorado District Court was retroactively changed to "not in good standing" and any prior certificates of good standing were deemed void.

Petitioner's Improper Administrative Reinstatement to the D.C. Bar in 2015

31. Petitioner was admitted to the D.C. Bar on December 7, 1973.

32. On December 5, 1985, Petitioner was administratively suspended for non-payment of dues. He remained administratively suspended until August 2015.

33. In August 2015, Petitioner filed with the D.C. Bar's membership department a request for reinstatement as an active member of the D.C. Bar.

34. The form required a member seeking reinstatement to certify that they were not suspended, temporarily suspended, or disbarred by any disciplinary authority. Petitioner crossed off the word "not" on the form and attached a supplemental letter arguing that he had been wrongfully disbarred in Maryland.

35. The Bar's membership department did not notice the alteration of the form or the supplemental letter. On August 21, 2015, Petitioner was reinstated to active status without the disciplinary system being alerted to Petitioner's Maryland disbarment.

Petitioner's Reinstatement Efforts in Ohio

36. On August 31, 2015, Petitioner filed a motion to reconsider the denial of his reinstatement in Ohio. Petitioner's request was premised on his improper administrative reinstatement to the practice of law in the District of Columbia: "The District of Columbia Bar was fully apprised of the Maryland and Ohio bar sanctions. Nevertheless the DC Bar reinstated [Petitioner]."

37. Petitioner's statement that the District of Columbia Bar was "fully apprised" of his discipline was misleading or intentionally dishonest. When he filed his Ohio motion, Petitioner knew that he had not self-reported his Maryland disbarment to Disciplinary Counsel. He also knew that he had not been subject to reciprocal discipline in the District of Columbia. Petitioner made these misleading or dishonest statements in the hope that the Ohio courts would mistakenly believe that these matters had been adjudicated in his favor when, in fact, they had never been adjudicated at all.

Reciprocal Discipline in the District of Columbia

38. Ohio Disciplinary Counsel thereafter notified Disciplinary Counsel of Petitioner's prior disciplinary history.

39. Disciplinary Counsel initiated reciprocal disciplinary proceedings on September 29, 2015. Disciplinary Counsel notified the Court of Petitioner's improper reinstatement to the practice of law. Petitioner was aware of this notice because he responded to Disciplinary Counsel's filing.

40. Petitioner was disbarred in the District of Columbia on November 10, 2015.

41. Petitioner filed a petition for rehearing *en banc* on December 28, 2015, which was denied on April 18, 2016.

Petitioner's 2017 Efforts at Reinstatement in the District of Columbia

42. On February 24, 2017, Petitioner wrote a letter requesting that the Office of Disciplinary Counsel consent to his reinstatement. This letter indicated Petitioner's knowledge and understanding that he would have to petition for reinstatement and that he could not be administratively reinstated by the D.C. Bar.

43. On March 3, 2017, Disciplinary Counsel indicated that it would not consent to Petitioner's reinstatement and highlighted the fact that Petitioner would not be eligible to seek reinstatement until October 29, 2020.

44. Petitioner also sent a letter to the Chair of the Board on Professional Responsibility, which was construed as a petition for reinstatement.

45. On March 30, 2017, Disciplinary Counsel filed a motion to dismiss the petition for reinstatement as time barred and insufficient on its face.

46. On April 6, 2017, Petitioner responded and asserted that, *inter alia*, the five-year period of disbarment should not apply to his situation.

47. On May 23, 2017, the Board on Professional Responsibility dismissed Petitioner's request to be reinstated because he would not be eligible to file a petition for reinstatement until five years passed since October 29, 2015.

Petitioner's Improper Administrative Reinstatement to the D.C. Bar in 2020

48. Petitioner knew that in order to be reinstated, he would have to file a formal petition with the Board on Professional Responsibility. Nonetheless, on June

9, 2020, Petitioner filed an online administrative reinstatement request with the D.C. Bar's membership department.

49. The reinstatement form states that it "***should only be completed if your current status is either suspended, retired, or resigned***." (emphasis in original). Petitioner was not eligible to use this form because his status at that time was disbarred.

50. By submitting the form, Petitioner falsely certified that "I am not suspended, temporarily suspended, or disbarred by any disciplinary authority." This certification was false because Petitioner knew that he was disbarred in multiple jurisdictions, including the District of Columbia.

51. Due to clerical oversights at both the D.C. Bar and the Office of Disciplinary Counsel, Petitioner's status was administratively changed to active in the D.C. Bar's records on December 3, 2020. The D.C. Bar membership department lacks authority to reinstate a disbarred attorney – only the D.C. Court of Appeals may do so.

Petitioner's Efforts to be Reinstated in the D.C. Circuit

52. Despite knowing that the Bar's records administratively reinstating him as an active member were incorrect, Petitioner obtained a certificate of good standing and a letter from the Clerk of the D.C. Court of Appeals stating that he was an active member in good standing. Even after receiving these documents, Petitioner

knew that he had not filed a Petition for reinstatement with the Board on Professional Responsibility and had not been reinstated by order of the Court of Appeals.

53. Petitioner took the documents incorrectly reflecting his membership status and submitted them to the United States Court of Appeals for the District of Columbia Circuit. Petitioner argued that because the "District of Columbia bar has reinstated petitioner," he should also be reinstated in the District Court.

54. The D.C. Circuit's disciplinary committee was dubious of Petitioner's asserted reinstatement in the District of Columbia because it could not find an order of the Court of Appeals reinstating Petitioner to the practice of law. On May 14, 2021, the committee requested further information from Disciplinary Counsel.

55. Disciplinary Counsel notified the Bar's membership department that Petitioner had not been reinstated by the Court of Appeals. On May 14, 2021, Petitioner's status with the D.C. Bar was retroactively corrected to "disbarred."

Additional Examples of Petitioner's History as a Vexatious Litigant

56. In March 2016, the Superior Court for the County of Los Angeles, California, declared Petitioner a vexatious litigant because of his history of meritless, self-represented litigation. In that case, *Joel v. CVS Pharmacy,* Petitioner's appeal of the determination that he was a vexatious litigant was dismissed when he did not demonstrate that his appeal was taken for purposes other than harassment or delay.

57. Petitioner was also found to have no reasonable probability of prevailing in the litigation. Petitioner claimed that CVS engaged in unfair and deceptive practices causing Petitioner to be confused in June 2015 as to where a certain prescription drug was manufactured. This asserted confusion was contradicted by Petitioner's own April 2015 declaration in unrelated litigation against another retailer stating that he knew the drug was manufactured in Ireland.

58. The trial court ordered Petitioner to pay CVS's attorneys' fees because Petitioner's "prosecution of the action was not in good faith" and Petitioner knew or should have known that he had no standing to sue. Petitioner was ordered to pay a total of $59,486 in attorneys' fees, constituting the forfeiture of a $5,000 security he had previously paid as a vexatious litigant and the balance of $54,486 in attorneys' fees. The award of attorneys' fees was affirmed on appeal. *Joseph v. CVS Pharmacy*, Case No. B288641 (Cal. App. 2.d Dist. June 17, 2019).

59. In June 2016, the United States District Court for the Central District of California dismissed Petitioner's *pro se* complaint against Nordstrom and warned Petitioner "that he risks penalties if he makes factual allegations in future complaints that are unlikely to have evidentiary support after discovery." Order, *Joseph v. Nordstrom*, 16-cv-2252-PSG-AJW at 5 (C.D.Cal. June 17, 2016).

Petitioner's Incomplete Answers to the Reinstatement Questionnaire

60. In response to Question 8, Petitioner failed to disclose multiple applications for admission to the California Bar.

61. In response to Question 15, Petitioner failed to disclose his involvement in *Joel D. Joseph v. City of Santa Monica, California*, Case No. 17-cv-723-ODW-AFM, a civil matter Petitioner filed *pro se* on January 30, 2017, in the United States District Court for the Central District of California.

62. In response to Question 15, Petitioner failed to disclose his involvement in *Joel D. Joseph v. Lag Sports & Leather Wear*, Case No. 17-cv-421-LMB-TCB, a civil matter Petitioner filed *pro se* on April 7, 2017, in the United States District Court for the Eastern District of Virginia.

63. In response to Question 15, Petitioner failed to disclose his involvement in *Joel D. Joseph v. Internet Archive*, Case No. 19-cv-1357-GPC-MSB, a civil matter Petitioner filed *pro se* on July 22, 2019, in the United States District Court for the Southern District of California.

64. In response to Question 15, Petitioner failed to disclose his involvement in *Joel D. Joseph v. Price Waterhouse Coopers Corporate Finance*, Case No. 20-cv-833-AJB-KSC, a civil matter Petitioner filed *pro se* on May 1, 2020, in the United States District Court for the Southern District of California.

Petitioner Held Himself Out As An Attorney While Disbarred

65. In 2018, Roger Francis and his wife Marta Ortega posted a request for legal assistance on the website Upwork.com. The description of the job stated "We are seeking assistance relating to procedures/methods to follow in effecting multiple high-profile court filings ranging from Fair Housing Title VIII to Appeals Court, etc."

66. On July 26, 2018, Petitioner responded to the advertisement, stating that "a strong, detailed and documented complaint will take me over 100 hours to prepare. I can do it for a flat fee of $15,000. Can you make a modest advance payment to get me started?"

67. On July 29, 2018, Petitioner followed up, stating "I am excited to work with you. However, in order to set aside time for your cases, I will need an advance payment of $750 to prepay for ten hours of consulting. I have previously charged $600 per hour for legal work so you are getting a lot of value." Petitioner did not disclose that he was not then licensed to practice law or that he had been disbarred.

68. Mr. Francis and Ms. Ortega sent Petitioner multiple payments for "legal services." Petitioner accepted the payments and did not object to the characterizations that these were payments for legal services.

69. In October 2018, Petitioner participated in a teleconference with other attorneys regarding Mr. Francis's and Ms. Ortega's case. During this call, Petitioner

identified himself as "an attorney out in California" who had been doing "some legal research on possible theories" for recovery. Petitioner stated, "I've practiced law for over 40 years" and opined on legal actions that should be taken in the case. Petitioner also offered legal advice regarding the statute of limitations. Petitioner did not disclose to any of the callers that he was disbarred or that he was not licensed to practice law in California (or elsewhere).

70. In February 2019, Mr. Francis and Ms. Ortega learned that Petitioner had been disbarred and had never been licensed to practice law in California. They asked Petitioner how he had been charging them for legal services if he was not licensed to practice law.

71. On February 16, 2019, Petitioner responded "I am an attorney and never said I was a member of the California bar." Petitioner's statement was incorrect in that he was not eligible to refer to himself as an attorney because he was disbarred. He also did not correct his clients' misapprehension that he was in fact an attorney performing legal work on their case.

72. On August 7, 2019, Disciplinary Counsel dismissed its investigation of this complaint because Petitioner was disbarred and no further discipline could be imposed. Disciplinary Counsel's letter notified Petitioner that he would have to address the conduct raised by Mr. Francis and Ms. Ortega should he seek reinstatement.

Petitioner's Threats To Sue Maryland Bar Counsel

73. Petitioner has filed at least eight petitions for reinstatement in Maryland. All have been denied and Petitioner remains disbarred in Maryland.

74. On June 24, 2019, Petitioner threatened to file suit against Lydia Lawless, Maryland Bar Counsel, in her personal capacity. Petitioner alleged violations of his civil rights and libel. He demanded $1,000,000 in actual damages, $9,000,000 in punitive damages, and attorney's fees. Petitioner stated that if Ms. Lawless failed to comply with his demands, he would file suit by July 3, 2019.

75. On August 2, 2019, Petitioner sent a copy of an anticipated lawsuit to the Attorney General of Maryland, and an Assistant Attorney General. This document contained similar allegations, although Petitioner increased his demand to $2,000,000 in actual damages, $18,000,000 in punitive damages, and unspecified attorneys' fees. Petitioner stated he would settle the lawsuit if Ms. Lawless agreed to his reinstatement and advised the Maryland Court of Appeals that she had made false statements. Petitioner also said he would also accept $1,000,000 in compensation.

76. Petitioner has not filed suit against Ms. Lawless or the Maryland Office of Bar Counsel.

C. Statement Regarding Board Rule 9.8(b) (Unadjudicated Acts)

To the extent that some of the allegations above involve unadjudicated acts prior to Petitioner's disbarment, Disciplinary Counsel submits this answer as a proffer of the evidence to support admissibility of these unadjudicated acts. Disciplinary Counsel did not learn of the pre-disbarment findings relating to vexatious litigation until after the Petition was filed. Thus, Disciplinary Counsel could not have previously investigated these matters and provided Petitioner with notice that the unadjudicated acts would be considered at reinstatement. All these alleged acts are based on court orders and appellate opinions. Petitioner had opportunity to challenge these judicial findings. Petitioner will not be prejudiced by consideration of judicial findings of vexatiousness or other litigation misconduct.

Nor will Petitioner be prejudiced by consideration of pre-disbarment acts of failing to report his disbarment to various jurisdictions or his subsequent dishonest efforts to be reinstated. Disciplinary Counsel brought these matters to the Court's attention in the underlying disciplinary matter, putting Petitioner on notice that they would be at issue. These acts also provide context to Petitioner's state of mind when he committed similar post-disbarment acts. Conduct since disbarment is not subject to the procedures for unadjudicated acts. *See* Board Rule 9.8(d).

Conclusion

Disciplinary Counsel opposes the Petition for reinstatement and requests that a hearing be scheduled. Disciplinary Counsel reserves the right to amend and supplement this Answer, as its investigation is ongoing.

Respectfully submitted,

s/Hamilton P. Fox, III
Disciplinary Counsel

s/William R. Ross
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CERTIFICATE OF SERVICE

I hereby certify that this 15th day of November 2021 I have caused the foregoing Disciplinary Counsel's Answer to Petition For Reinstatement to be e-mailed to Joel D. Joseph at joeldjoseph@gmail.com

s/William R. Ross