THIS REPORT IS NOT A FINAL ORDER

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY
HEARING COMMITTEE NUMBER FOUR*

In the Matter of:	:	
	:	
ALEXANDER M. CHANTHUNYA,	:	
	:	
Petitioner.	:	Board Docket No. 20-BD-038
	:	Disciplinary Docket No. 2020-D086
A Suspended Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 495558)	:	

REPORT AND RECOMMENDATION OF
HEARING COMMITTEE NUMBER FOUR

This is a contested proceeding on the Petition for Reinstatement of Alexander M. Chanthunya ("Petitioner") filed on April 14, 2020 (the "Petition"). Petitioner was admitted to the District of Columbia Bar on December 12, 2005, but was suspended effective December 21, 2016. *In re Chanthunya*, 152 A.3d 148 (D.C. 2017) (per curiam). Petitioner's suspension with fitness was imposed as functionally-equivalent reciprocal discipline for a Maryland indefinite suspension with right to seek reinstatement after sixty days. *Attorney Grievance Comm'n v. Chanthunya*, 133 A.3d 1034 (Md. 2016). The Maryland disciplinary proceedings were based on Petitioner neglecting two immigration clients' matters and providing ineffective assistance of counsel.

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* Consult the "Disciplinary Decisions" tab on the Board on Professional Responsibility's website (www.dcattorneydiscipline.org) to view any subsequent decisions in this case.

Based on the Petition, Disciplinary Counsel's Answer thereto, the testimony elicited at the evidentiary hearing, the record exhibits, and the written briefs submitted by the parties, this Hearing Committee concludes that Petitioner has not met his burden of proving, by clear and convincing evidence, that he is presently fit to resume the practice of law under D.C. Bar R. XI, § 16(d) and the factors enumerated by *In re Roundtree*, 503 A.2d 1215 (D.C. 1985).

I. PROCEDURAL HISTORY

A. Prior Disciplinary Proceedings

Petitioner "represented Souadou Traore ("Traore") in her applications for a green card and a waiver of grounds of inadmissibility, and represented Therese Vanguere ("Vanguere") in an application for asylum[,]" but "failed to engage in sufficient preparation, and failed to adequately communicate, with both clients[.]" *Attorney Grievance Comm'n v. Chanthunya*, 133 A.3d at 1037. Petitioner violated the Maryland Lawyers' Rules of Professional Conduct ("MLRPC") by his misconduct that included filing an application for a green card containing inaccurate statements and spaces that were not filled in, failing to attach essential documents or submit corroborating evidence, failing to prepare clients for immigration interviews and failing to appear at an interview himself, failing to request rescheduling of the interview, failing to pursue an appeal of the denial of the green card applications and request a waiver of grounds of inadmissibility, and failing to communicate with his clients, all of which was prejudicial to the administration of justice. *Id.* at 1048-50.

The Court of Appeals of Maryland ("Maryland Court") found Petitioner violated the MLRPC 1.1 (Competence), 1.3 (Diligence), 1.4(a)(2), 1.4(a)(3), 1.4(b) (Communication), 8.4(a) (Violating the MLRPC), and 8.4(d) (Conduct that is Prejudicial to the Administration of Justice). The Maryland Court indefinitely suspended Petitioner from the practice of law in Maryland with the right to apply for reinstatement after sixty days. As a part of the discipline decision, the Maryland Court ordered Petitioner to "pay all costs as taxed by the clerk of this court, including costs of all transcripts, pursuant to Maryland Rule 16–761(b)," and entered a judgment "in favor of the Attorney Grievance Commission against Alexander Manjanja Chanthunya." 133 A.3d at 1053-54 (capitalizations omitted).

On November 15, 2016, the D.C. Court of Appeals entered an order "suspending respondent and directing him to show cause why the functionally-equivalent reciprocal discipline of a sixty-day suspension with a fitness requirement should not be imposed[.]" *Chanthunya*, 152 A.3d at 148. Petitioner filed his D.C. Bar R. XI, § 14 (g) affidavit on December 21, 2016, but did not file a response to the show cause order. On January 26, 2017, the Court suspended Petitioner "from the practice of law in the District of Columbia for a period of sixty days, *nunc pro tunc* to December 21, 2016." *Id*. The Court ordered that Petitioner's reinstatement be contingent upon his showing of fitness. *Id.*

B. Prior Reinstatement Proceedings in the District of Columbia

Petitioner dated his first Petition for Reinstatement May 16, 2019. He served this Petition on the Office of Disciplinary Counsel, but did not file it with the Office of the Executive Attorney, as required by Board Rule 9.1.

Petitioner filed his second Petition for Reinstatement on December 6, 2019. Disciplinary Counsel filed a motion to dismiss the reinstatement petition on the ground that Petitioner failed to address four of the five requirements set forth in Board Rule 9.1(c). On February 13, 2020, Petitioner filed a motion to withdraw the petition. *In re Chanthunya*, Board Docket No. 19-BD-074 (Motion for Leave to Withdraw Petition). The Board granted the motion to withdraw. *Id*. (Board Order Feb. 18, 2020).

C. The Instant Proceedings

Petitioner filed his third Petition for Reinstatement on April 14, 2020 (the "Petition") and a Revised Reinstatement Questionnaire on June 18, 2020. Disciplinary Counsel filed an Answer to the Petition on August 13, 2020. On December 9, 2020, an evidentiary hearing was held in this matter before Hearing Committee Number Four ("the Hearing Committee"), consisting of Rebecca C. Smith, Esquire (Chair), Billie LaVerne Smith (Public Member), and Mitchell Dolin, Esquire (Attorney Member). Petitioner appeared *pro se*, and the Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel William R. Ross. Both parties presented documentary evidence, testimony, and oral argument.

The following exhibits were admitted into evidence: Petitioner's Exhibits ("PX") 1-25 and 27-29 (26 was omitted)[1], and Disciplinary Counsel's Exhibits ("DCX") 1-32. After the hearing, Petitioner's motion to supplement his exhibits with PX 30 and 31 was granted.

II. LEGAL STANDARD

D.C. Bar R. XI, § 16(d)(l) sets forth the legal standard for reinstatement, placing upon Petitioner the heavy burden of proving – by clear and convincing evidence – that: (a) he has the moral qualifications, competency, and learning in law required for readmission; and (b) 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. Clear and convincing evidence is more than a preponderance of the evidence - it is "evidence that will produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established." *In re Cater*, 887 A.2d 1, 24 (D.C. 2005) (quoting *In re Dortch*, 860 A.2d 346, 358 (D.C. 2004) (citation omitted)). *Roundtree* remains the seminal precedent in this area, identifying five nonexclusive factors guiding any reinstatement determination:

1. the nature and circumstances of the misconduct for which the attorney was disciplined;
2. whether the attorney recognizes the seriousness of the misconduct;

[1] Citation to PX references the final set of exhibits set forth in the unsigned Petitioner's Amended List of Exhibits filed December 10, 2020.

3. the attorney's [post-discipline conduct] . . . including the steps taken to remedy past wrongs and prevent future ones;

4. the attorney's present character; and

5. the attorney's present qualifications and competence to practice law.

503 A.2d at 1217.

Based on the following findings of fact and conclusions of law, we find that the evidence before the Hearing Committee, in light of the *Roundtree* factors, fails to establish by clear and convincing evidence that Petitioner is fit to resume the practice of law and, for the reasons set forth below, we recommend that his Petition be denied.

III. FINDINGS OF FACT

1. Petitioner Alexander M. Chanthunya was born in Malawi on April 18, 1956. Petitioner was admitted to the Malawi Bar in 1978. He worked in Malawi's Ministry of Justice where he rose in the ranks to a position of Chief Public Prosecutor. He came to the United States to study for a Master of Laws Degree at American University in Washington D.C. *See* PX 24 at 468; PX 3 at 007; PX 18 at 422; Tr. 39, 66.[2]

[2] "Petitioner was admitted to [the] Virginia Bar in January 1998, Maryland Bar in June 1999; . . . District of Columbia Bar in December 2005; U.S. District Court for the District of Maryland and U.S. Bankruptcy Court for District of Maryland; the U.S. District Court for the Eastern District of Virginia and U.S. Bankruptcy Court for Eastern District of Virginia; the U.S. Supreme Court; and the U.S. Court of Appeals for the Fourth Circuit. Petitioner was licensed to practice Immigration Law before the Board of Immigration Appeals; all U.S. Immigration Courts and before the Department of Homeland Security U.S. Citizenship and Immigration

(Footnote continued on next page)

2. The Maryland Court of Appeals indefinitely suspended Petitioner from the practice of law in Maryland with effect from April 24, 2016, with the right to apply for reinstatement after sixty days. DCX 3 at 5, 16.

3. The misconduct related to Petitioner's representation of two clients: Ms. Souadou Traore in 2009-2010 in her application for a green card and a waiver of inadmissibility; and Ms. Therese Vanguere in 2009 in an application for asylum. DCX 3 at 5-6; Tr. 9.

4. In the Traore matter, the Maryland Court found that Petitioner violated MLRPC 1.1 (Competence) and 1.3 (Diligence) by filing an incomplete green card application, failing to submit essential documents, failing to prepare Ms. Traore for her U.S. Citizenship and Immigration Service ("USCIS") interview, failing to appear at the interview, failing to ask USCIS to reschedule the interview, and failing to pursue an appeal of USCIS's denial of Ms. Traore's applications. DCX 3 at 12.

5. In the Vanguere matter, the Maryland Court found that Petitioner violated MLRPC 1.1 (Competence) and 1.3 (Diligence) by failing to prepare her for the asylum hearing, failing to advise her of the benefits and risks of postponing her case, failing to submit corroborating evidence that Ms. Vanguere's family members had been persecuted in the Central African Republic, and failing to review the immigration court's file for completeness. DCX 3 at 12; *see also* DCX 3 at 16 n.6.

6. The Maryland Court also found that Petitioner violated MLRPC 1.4

Services; and the U.S. Immigration and Customs Enforcement." Petitioner's Revised Post Hearing Brief ("Petitioner's Brief") at 2 n.1; Tr. 34.

(Communication) by failing to inform Ms. Traore of requests for additional documents by USCIS, and repeatedly failing to respond to Ms. Traore's requests for updates about the representation. The Court found that on at least ten occasions during the representation, Ms. Traore visited Petitioner's office because he was not answering her telephone calls. DCX 3 at 13. The Court also found that Petitioner failed to advise Ms. Vanguere of the benefits and risks of postponing her case. DCX 3 at 13.

7. The Maryland Court found that Petitioner's misconduct violated the MLRPC 8.4(d) prohibition against conduct prejudicial to the administration of justice because his conduct "would negatively impact the perception of the legal profession of a reasonable member of the public." DCX 3 at 13 (quoting *In re Shuler*, 117 A.3d 38, 45 (Md. 2015)).

8. The Maryland Court found that Petitioner's misconduct cost Ms. Traore the opportunity to have USCIS consider her appeal and impeded the efforts of Ms. Traore and Ms. Vanguere to become naturalized citizens of the United States. DCX 3 at 15.[3]

9. The Maryland Court found five aggravating factors: (1) a pattern of misconduct by engaging in similar misconduct in two separate client matters; (2) multiple violations of the ethical rules; (3) Petitioner's refusal to acknowledge the

[3] Ms. Traore and Ms. Vanguere each retained successor counsel. Ms. Traore's application for a green card was subsequently granted in 2012. Ms. Vanguere's application for asylum was reopened and she was granted asylum in 2016. Tr. 13, 61.

wrongfulness of his misconduct; (4) substantial experience in the practice of law; and (5) the vulnerability of Petitioner's victims. DCX 3 at 15. The Maryland Court found two mitigating factors: (1) the absence of prior attorney discipline; and (2) the absence of a dishonest or selfish motive. DCX 3 at 15.

10. The Maryland Court ordered Petitioner to pay "all costs" and entered "sum judgment" against him in favor of the Attorney Grievance Commission. DCX 3 at 16 (capitalization omitted). That judgment was subsequently set at $15,216.44 with an annual interest rate of 10%. DCX 19 at 187.

11. Petitioner self-reported his Maryland suspension to the D.C. Office of Disciplinary Counsel. *See* Tr. 17-19; PX 1 at 001.

12. The D.C. Court of Appeals suspended Petitioner from the practice of law in the District of Columbia for a period of sixty days, *nunc pro tunc*, to December 21, 2016, pursuant to Petitioner's suspension by the Maryland Court. PX 2 at 002. Reinstatement was made contingent upon a showing of fitness. Tr. 18; PX 2 at 002.

13. In December 2016, Petitioner duly filed with the D.C. Court of Appeals an Affidavit of Compliance with D.C. Bar Rule XI. PX 2 at 002; PX 11 at 058, 060.

14. Based upon his Maryland indefinite suspension, Petitioner also was suspended from the practice of law in Virginia, the U.S. Court of Appeals for the Fourth Circuit, the U.S. District Court for the District of Columbia, the U.S. District Court for the District of Maryland, and the U.S. District Court for the Eastern District

of Virginia. DCX 4 (Virginia); DCX 5 (D. Md.); Rev. R. Q. # 7-8[4]. Petitioner has not been reinstated in any jurisdiction or by any tribunal. Rev. R. Q. # 8(b).[5]

15. Between April 2016 and August 2019, Petitioner contested the sanction and the award of costs against him. Petitioner prepared all documents and appeared *pro se*. He engaged in "extensive and spirited research and [b]rief writing to [the] Maryland Court of Appeals, the US Supreme Court and US Bankruptcy Court." Rev. R. Q. # 4; Tr. 44-45; *see, e.g.*, PX 23.

Client Protection Fund

16. Following the disciplinary proceeding, Ms. Traore filed a claim with The Client Protection Fund of the Bar of Maryland seeking fees and expenses in the amount of $4,180. DCX 32. In June 2016, Petitioner opposed the claim, arguing it was "a false claim." DCX 30. In October 2016, The Client Protection Fund approved Ms. Traore's claim and awarded her $2,980. DCX 32.

17. Petitioner failed to pay the award, and on June 7, 2017, The Client Protection Fund sued Petitioner to enforce the award in the District Court for Baltimore County. PX 9 at 054.

18. Petitioner entered into a settlement agreement with The Client Protection Fund for the full amount due and on July 28, 2017, more than a year after Ms. Traore submitted her claim, Petitioner made payment. PX 9 at 055 (Notice of

[4] Petitioner's Revised Reinstatement Questionnaire filed June 18, 2020, is cited as "Rev. R. Q."

[5] Petitioner applied for reinstatement in Maryland, but his petition was denied because he had not completed repaying the costs assessed in the disciplinary proceeding and an IRS lien. Rev. R. Q. #8(b). Petitioner sought reinstatement in Virginia. His request was denied because his reinstatement in Virginia is contingent upon his reinstatement in Maryland. Rev. R. Q. #8(b).

satisfaction).

Challenge to the Award of Costs

19. In January 2019, Petitioner filed for personal bankruptcy. DCX 15. Petitioner's stated purpose in declaring bankruptcy was to avoid paying the costs awarded by the Maryland Court in his disciplinary matter. Tr. 78; DCX 9 at 81 ("I am presently challenging Maryland Bar Counsel in Adversary Bankruptcy Proceedings to admit [sic] that the Maryland Court of Appeals violated my due process rights for a fair hearing."); DCX 17 (bankruptcy filing seeking to discharge Maryland award of costs); Rev. R. Q. # 4 ("I filed Bankruptcy Proceedings to discharge disputed Maryland Bar Counsel's fees $15,000.")

20. On July 18, 2019, Petitioner agreed to dismiss his January 2019 bankruptcy petition. DCX 18 (Motion to Dismiss). Petitioner stated that he dismissed the petition because the trustee was prepared to nullify the offer-in-compromise Petitioner had previously made with the IRS. DCX 10.

21. After agreeing to dismiss his bankruptcy, Petitioner entered into an agreement[6] with the Attorney Grievance Commission to pay the costs awarded in the Maryland disciplinary proceeding. DCX 19 (Agreement beginning August 1, 2019). Petitioner agreed to pay $150 per month. DCX 19 at 187.[7]

[6] Prior to declaring bankruptcy, Petitioner entered into a payment agreement with the Maryland Grievance Commission to pay costs awarded by the Maryland Court. This agreement is not in the record but is alluded to in Petitioner's Motion to Dismiss his bankruptcy. DCX 18 at Para 3.

[7] The payment agreement provides that if he is reinstated "to the practice of law in Maryland or in any of the several States, territories or possession of the United States, then the entire outstanding balance of the Judgment shall be paid prior to the entry of the order of reinstatement unless AGC [Attorney Grievance Commission] waives this condition in a written amendment." DCX 19 at

(Footnote continued on next page)

22. Petitioner acknowledged that while he had been making payments to Maryland for almost a year (Tr. 137), he had not yet satisfied the agreement to pay the full award of costs at the time of the hearing. Tr. 26 ("ODC is saying, well, I haven't complied with Maryland. Yeah, I have not. I agree, I haven't complied because there is this order of [$]15,000 I have to pay. . . . it's because I haven't finished paying. . . . The interest keeps shooting the amount up."). As of August 17, 2020 – four years after the award, Petitioner still owed a balance of $13,832.86 to the Attorney Grievance Commission. DCX 20. Petitioner did not provide evidence showing that he was making regular monthly payments through the date of the reinstatement hearing.

23. While Petitioner eventually satisfied The Client Protection Fund award to Ms. Traore, Petitioner never refunded any fees to Ms. Vanguere. Tr. 63. He did not reimburse Ms. Traore nor Ms. Vanguere for any additional attorney fees and costs they incurred in retaining successor counsel to pursue their immigration claims. Tr. 63 (Vanguere); Tr. 70 (Traore).

Petitions for Reinstatement

24. In May 2019, Petitioner submitted his first Petition for Reinstatement in the District of Columbia to Disciplinary Counsel. DCX 8. This petition was substantially identical to a petition he filed with the U.S. District Court of Maryland seeking reinstatement. DCX 6.

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189. This condition on reinstatement has not been waived. Tr. 26 ("Now this agreement has not been amended.")

25. Petitioner asserted that "any untrained legal mind or even a high school student with an ability to read (**this is not an exaggeration**) can easily tell that the Maryland Court of Appeals violated petitioner's due process right" and "did not read or review the Record before rendering its judgment." DCX 8 at 54 (emphasis in original). Petitioner essentially attempted to relitigate the Maryland discipline.

26. In June 2019, Petitioner supplemented his first Petition for Reinstatement with a letter to D.C. Disciplinary Counsel stating, "I have never and will never commit misconduct." DCX 9 at 81. He wrote that "[t]he punishment of suspension inflicted on me has been brutal and devastating financially, emotionally and physically. I would never place myself in situation that may subject me to suspension again." DCX 9 at 81. He stated that he had "suffered suspension because two clients I represented falsely accused me that I did not prepare properly their immigration applications." DCX 9 at 82. He explained that the biggest lesson he had learned was "the importance [of] screening and selection of clients. . . . to ensure that I don't represent clients who can easily lie and falsely accuse me." DCX 9 at 82. He said that when readmitted, "I do not intend [to] expose myself to malicious clients." DCX 9 at 83.

27. After extensive discussions with Petitioner, Disciplinary Counsel was prepared to file a motion to dismiss the First Petition for Reinstatement for failing to address the factors to be considered in a reinstatement proceeding. DCX 11. After discovering that Petitioner had neglected to file his first Petition with the Board,

Disciplinary Counsel, instead, administratively closed its file in July 2019. DCX 11.

28. On December 9, 2019, Petitioner filed a second Petition for Reinstatement. DCX 12. Petitioner stated that the Maryland Court relied upon "mistaken facts" but disclaimed any intent to relitigate those facts. DCX 12 at 88. Petitioner then listed, in seven numbered paragraphs, purported errors made by the Maryland Court that he sought to challenge. DCX 12 at 88-89.[8]

29. Petitioner stated that the biggest lesson he had learned was not to represent clients "who can easily lie and make false accusations against me." DCX 12 at 90; *see also* DCX 12 at 91 ("When readmitted . . . I do not intend to expose myself to malicious clients.").

30. After discussion with Disciplinary Counsel and facing a motion to dismiss, Petitioner moved to withdraw his second Petition for Reinstatement because it was "improperly framed in that it centered on effect of the punishment." Petitioner wrote that he learned from ethics courses and "self reflection" that "what matters in a client's legal representation is how the clients perceive of the interaction with the lawyer instead of the lawyers' beliefs regarding the representation." DCX 13. The motion to withdraw the second Petition was granted on February 18, 2020. DCX 14.

31. Two months later, in April 2020, Petitioner filed a third Petition for

[8] Petitioner also stated that he had voluntarily dismissed his bankruptcy proceeding "because I got frustrated with delays." DCX 12 at 89. Petitioner previously wrote that he dismissed the bankruptcy proceeding because he would have been required to nullify his settlement with the IRS. DCX 10.

Reinstatement. Petitioner stated that he was suspended because of "ethical blunders and violations" committed in 2010. Petition at 6. He stated that he "suffered and continues to suffer shame and embarrassment. I lost means of earning income. At 64 years I am too old to learn new skills to sustain life." *Id*. at 7. He expressed "regret and remorse for having committed the blunders." *Id*. at 7. He recited lessons he learned. *Id*. at 2-6.

32. In April 2020, Petitioner also submitted a letter to the Attorney Grievance Commission of Maryland, captioned: Apology, Request for Information Where I Should Make Payment and Humanitarian Request for Reinstatement ("April 2020 Letter"). The substance of this letter was similar to his third Petition. PX 8.

33. In the April 2020 Letter, Petitioner stated that he "failed to recognize that in legal ethics what matters most is []'the clients' or a third perception regarding my representation of the clients.'" PX 8 at 047.

34. In his third Petition and in the Reinstatement Questionnaire (Rev. R. Q.), Petitioner recited lessons learned in regard to each violation. For example, as to violations of Rules 1.1 and 1.3, Petitioner recited that he learned the " importance of careful review of instructions," the importance of "attention to details and substance when preparing all legal documents," the importance of "complying with client's instructions to file an appeal against [a] USCIS decision." Petition at 2-3. As to violations of Rules 1.4(a)(2) and 1.4(a)(3), he learned "the importance of communication with a client," that "it is very important to meet with clients; to communicate with clients either by phone or emails; to keep clients informed of

requests for documents from USCIS." *Id*. at 3. As to conduct prejudicial to the administration of justice, stemming from failing to provide competent and diligent representation and adequate communication, Petitioner learned that he must "possess requisite legal knowledge applicable to a client's matter; comprehensive communication with a client; and to be efficient in preparation and presentation of a client's case." *Id*. at 4. He learned "to act with promptness in representing clients." *Id*. He also learned "the ethical requirement to act with commitment and dedication when representing clients before USCIS, tribunals or courts." *Id*. at 4.; *see also* Rev. R. Q. #10.

Employment During Suspension

35. In his second Petition for Reinstatement, Petitioner stated that he "engaged in substantive legal research and Brief writing regarding my case and for lawyers as and when requested." DCX 12 at 91.[9]

36. In the third Petition for Reinstatement, Petitioner stated, "I have been engaged in substantive legal research and Brief writing for lawyers as and when requested." Petition at 6, ¶ 15.[10]

37. At the hearing, when questioned by Disciplinary Counsel, Petitioner

[9] Petitioner "solemnly declare[d] that the contents of this Petition are true and correct to the best of my knowledge, information and belief," and then had the document notarized. DCX 12 at 91; *see also* DCX 12 at 87 ("duly sworn" and "make oath").

[10] Petitioner "solemnly declare[d] that the contents of this Petition are true and correct to the best of my knowledge, information and belief," and he had the document notarized. Petition at 7; *see also* Petition at 1 ("duly sworn" and "make oath").

testified that, in fact, he did not do legal work or brief writing for other lawyers. Tr. 119 (Q: "That sounds like what you just said you didn't do." A: "Yeah. . . . I meant if a lawyer would ask me, but I don't have any specific lawyer I can tell you I did like that. Maybe I blew it. I must confess."); Tr. 120 (no work for other lawyers); Tr. 157; Tr. 125 (Q: "you never did any legal research?" A: "No, no, no."); Tr. 119-20 ("I made a mistake there.").

38. At the hearing, Petitioner admitted that he exaggerated his work, and "maybe it was blowing it up" as "a strategy," to make it appear that he had legal experience working for other attorneys during the period of suspension. Tr. 157; Tr. 150 (Q: "So you just exaggerated to make it seem like you had done that kind of work?" A: Yes."); Tr. 157 (Q: "Who were the lawyers you were doing this for?" A: "No. As I said this was a strategy.")

39. In the Reinstatement Questionnaire for the third Petition, Petitioner stated that he had been "engaged in piecemeal brief writing assignment from and under supervision of the assignor lawyer." R. Q. at 2, ¶4. He further asserted that he "earned on average a sum of $2000 a month from on job assignment." R. Q. at 2, ¶ 5.[11]

40. At the hearing Petitioner, upon questioning, admitted that he did not do legal research or writing for other attorneys. Tr. 120; Tr. 121 ("Yeah, it [statements about work for attorneys] doesn't make sense."); Tr. 125 (Q: "you never

[11] Petitioner certified that these answers were "complete and true to the best of my knowledge." R.Q. at 11.

did any legal research?" A: "No, no, no.").

41. Petitioner submitted a Revised Reinstatement Questionnaire, filed June 18, 2020, and stated, "I on occasions do research, brief writing and form filling for Mr. Eugene A. Williams, Esq.," who "exercises his discretion as to amount to give me [and] decides what to give me based on what he consider[s] to be fair." Rev. R. Q. at 2. He stated that on average, he received "a sum of $2000 a month from piecemeal work described above and support from wife and children." Rev. R. Q. at 3.[12]

42. At the hearing, Petitioner described his work arrangement with Mr. Williams as "if you want me to do a brief, I would do it." Tr. 111. Later in the hearing, Petitioner stated that he had not done legal research for Mr. Williams. Tr. 117. He testified that he did not assist Mr. Williams with legal work other than "filling a form." Tr. 117. He testified that he did not have "any work arrangements with Mr. Williams." Tr. 215-16. When informed of the Maryland rule relating to employment of suspended attorneys and asked again whether he helped Mr. Williams write briefs or motions, Petitioner answered "Oh, no, no, no." Tr. 118.[13]

[12] Petitioner certified these answers were "complete and true to the best of my knowledge." Rev. R. Q. at 12.

[13] On June 23, 2020, Maryland Bar Counsel asked Petitioner to respond to allegations regarding unauthorized practice of law. PX 29 at 610. Those allegations relate to his relationship with Mr. Williams. On July 1, 2020, Petitioner denied the allegations, which he described as malicious and libelous. PX 29 at 615. Maryland Bar Counsel administratively closed its investigation into the matter on November 19, 2020, noting that the matter may be reopened if Petitioner sought reinstatement in Maryland. PX 30. At the reinstatement hearing, Disciplinary Counsel questioned Petitioner extensively about his relationship with Mr. Williams and the allegations regarding
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Other Activities During Suspension

43. Between 2016 and 2019, Petitioner took many CLE courses on various subjects, including ethics. Tr. 21, 31, 43, 44; PX 19, PX 20. He acknowledged that he took many of the courses to meet the requirements for his Bar membership in Virginia. Tr. 30-31. (Virginia was "actually threatening to suspend me.")

44. In March 2019, Petitioner took and passed the National Conference Bar Examiners Multi-State Professional Responsibility Examination with a score of 93. Tr. 41; Tr. 43; PX 18.

45. Petitioner testified that in June/July 2019 he underwent a period of pause and reflection regarding his misconduct. He testified that, as a result of the ethics courses and self-reflection, he realized that he had to consider the client's point of view and put himself in the shoes of the clients and the Maryland Grievance Commission. Tr. 9-10. He realized that had he "taken the perception by the clients and Maryland Bar Counsel and by Maryland Court of Appeals, maybe [his] suspension wouldn't have been long." Tr. 10. He testified that he experienced a "revelation," an "epiphany." "It's like I see the light now." Tr. 156. He stated that he was contrite, remorseful, and apologetic for his misconduct. Tr. 9-13, 24, 28-30, 61, 77-79.

46. At the hearing, when asked to explain how he ended up in this situation, Petitioner testified,

I was on top of my game, over confident. I thought I was one of the

unauthorized practice of law. Petitioner's answers did not fully respond to the questions. Tr. 209-216.

> best. . . . So, popularity brings downfall. I was popular. My office was crowded. Anybody who had a legal problem, money was not the issue. I said, "Walk in." So why did I end up in the mess? Yes, maybe there were just too many clients that I didn't spend time on details . . . . [And] something which I've never discussed, all these clients, the two clients who complained were from French speaking Guinea and Central African Republic. I don't think language is appropriate, but I am saying, yes. You said, why did I end up in this mess? There was just so much. I was just – I thought I was good. Tr. 219-20.

Deficient Filings

47. Petitioner neglected to file his first Petition for Reinstatement with the Board Office. DCX 11 (ODC letter administratively closing its file); Tr. 138-39; FF 24, 27. As a result, the first Petition was never adjudicated. DCX 11.

48. Petitioner submitted a second Petition for Reinstatement but after discussion with Disciplinary Counsel moved to withdraw this second petition because "it was improperly framed in that it centered on effect of the punishment." FF 30; DCX 13.

49. Petitioner filed an exhibit purporting to relate to his former client, Ms. Vanguere. PX 22; Tr. 59 (Q: "You say that Exhibit 22 is the online record of the . . . Immigration case of her asylum." A: "Mm-hmm"). In fact, PX 22 did not relate to Ms. Vanguere, and instead related to another former client of Petitioner. Tr. 60. Petitioner did not have an explanation for how the document for this client came to be included in his exhibits. Tr. 60

50. When asked about the similarities between the shortcomings of his own *pro se* representation in this proceeding and the misconduct that led to his indefinite suspension, Petitioner stated that it was different because "I don't practice

disciplinary law, never." Tr. 142. Petitioner simply stated that after June 2019, "I got the right way." Tr. 143.

Disregard for Filing Deadlines Prior to Hearing

51. Exhibits were due to be filed in this case by November 20, 2020. *See* Order, *In re Chanthunya*, Board Docket No. 20-BD-038 (HC Oct. 26, 2020). This was the date Petitioner had requested in the parties' pre-hearing scheduling motion. Statement Regarding Prehearing Conference, *In re Chanthunya*, Board Docket No. 20-BD-038 (HC Oct. 26, 2020).

52. Petitioner did not file his exhibits on November 20, 2020. Petitioner filed other documents that were due that day. On November 23, 2020, Petitioner filed his exhibit list and his witness list, but no exhibits.

53. On Monday, November 23, 2020, the Board Case Manager notified Petitioner that his exhibits were overdue and suggested he use a particular file uploading service to transmit large files. DCX 31 at 219; Tr. 178. Petitioner did not respond to the email, nor did he file his exhibits.

54. The following day, on Tuesday November 24, 2020, the Board Case Manager reiterated to Petitioner that he had still failed to file his exhibits. This email was labeled as being of high importance. DCX 31 at 220; Tr. 180. Petitioner did not respond to this email, nor did he file his exhibits.

55. The following day, Wednesday, November 25, 2020, Petitioner filed a motion to strike a portion of Disciplinary Counsel's Answer to the Petition for Reinstatement. DCX 31 at 222; Tr. 182. The Board Case Manager confirmed

receipt of Petitioner's motion but also "reiterate[d] that we have not received your exhibits." DCX 31 at 222. Petitioner did not respond to this email, nor did he file his exhibits.

56. Petitioner speculated that some of the Case Manager's emails might have gone into his email spam folder. Tr. 178, 183-84. After learning that important emails might be stuck in his spam folder ("I even told the case manager that maybe things are going to spam"), Petitioner still did not check his spam folder because "I don't give priority to spam." Tr. 186; *see also* Tr. 183-84 ("I don't care to look [in the spam folder] because usually it's not useful email.").

57. On Monday, November 30, 2020, ten days after the filing deadline, Petitioner made his first attempt to file exhibits with the Board Office. The following morning, on Tuesday December 1, 2020, the Board Case Manager informed Petitioner that his exhibits could not be accepted for filing because they were improperly formatted, six exhibits were missing, and some exhibits contained unredacted confidential information. DCX 31 at 223.

58. Petitioner finally filed his exhibits on Wednesday, December 2, 2020, one week before the hearing. Tr. 186-87. Then on Friday December 4, 2020, Petitioner sought to amend his exhibits, but his filing was again rejected due to improper formatting. Tr. 187. Petitioner was aware that his amended exhibits had been rejected but did not resubmit his amended exhibits to comply with the filing requirements. Tr. 187 (Q: "you received that email for sure, right?" A: "Yeah.")

59. On December 8, 2020, the day before hearing, Petitioner finally asked the Case Manager for help with the exhibits. Tr. 188 ("I did [tell her]. . . . I even said it was causing me a headache"). Because the hearing was imminent, the Case Manager formatted Petitioner's exhibits for him. Tr. 189-90.

60. When asked how he would deal with similar sorts of technology problems if he were practicing law for clients, Petitioner said that "within 14 days, . . . 21 days, . . . I would be able to figure out what to do." Tr. 189. Petitioner asserted that Disciplinary Counsel "got the exhibits." Tr. 189; *see also* Tr. 186 ("the bottom line is I sent the files" and the "person [who has the scanner] would not be available at all times").

Disregard for Filing Deadlines Post-Hearing

61. After the hearing, the parties were ordered to submit finalized Exhibit Lists noting the parties' agreement regarding which exhibits had been admitted, as directed by the Hearing Committee Chair. Order, *In re Chanthunya*, Board Docket No. 20-BD-038 (HC Dec. 10, 2020). Petitioner responded to the Case Manager's email that same day, stating "I acknowledge receipt of the Order." ODC Br. at 32, ¶ 105.[14]

62. On December 15, 2020, the day before finalized exhibit lists were due, Assistant Disciplinary Counsel William Ross reminded Petitioner of the requirement

[14] Findings of Fact 61-63 address Petitioner's failure to comply with orders governing post-hearing filings that were issued by the Hearing Committee Chair pursuant to Board Rules 9.7(d) and 12.1. We make these findings based on Petitioner's failure to challenge ODC's recitation of the facts in its post-hearing brief. *See* Petitioner's Response to Disciplinary Counsel's Post Hearing Brief ("Petitioner's Response Brief") at 19, ¶ 36.

and authorized Petitioner to electronically affix the Assistant Disciplinary Counsel's signature to the final copy of Petitioner's Exhibit List. Petitioner acknowledged receipt of Disciplinary Counsel's email, stating "I will do as suggested." ODC Br. at 32, ¶ 106. On the same day, the Hearing Committee Chair granted Petitioner's Motion to Supplement Exhibits, and ordered "that the parties' signed Exhibit List form due to be filed on or [before] **December 17, 2020**, shall include notation that these additional exhibits (PX 30 and PX 31) were admitted after the hearing pursuant to Board Rule 9.7(d) and 12.1(a)." Order, *In re Chanthunya*, Board Docket No. 20-BD-038 (HC Dec. 15, 2020) (emphasis in original).

63. On December 17, 2020, the day the parties' Exhibit Lists were due, the Case Manager reminded Petitioner that he not yet filed a finalized Exhibit List demonstrating the parties' agreement about which exhibits had been admitted. ODC Br. at 32, ¶ 107. Petitioner submitted an Updated Labeling for Petitioner's Additional Exhibits on December 17, 2020, which addressed supplemental exhibits PX 30 and 31. However, Petitioner failed to file the required finalized version of the signed Exhibit List as required by the Hearing Committee Chair's Order.

Petitioner's Character Witnesses

64. At the hearing, Petitioner presented three character witnesses: John Ngale, Nelson Kanthula, and Reazul Hossain.

65. John Ngale testified that he and Petitioner met about eight years ago, after Petitioner had represented his girlfriend in an immigration case. Tr. 225-26. Mr. Ngale testified that Petitioner told him that two clients had alleged that Petitioner

"didn't represent them very well in their cases and it brought a problem with the bar association." Tr. 227. Mr. Ngale testified that Petitioner claimed to have "represented the client very well" but because the clients complained, Petitioner "had to give up and accept what the client said." Tr. 228. Mr. Ngale did not evince any further understanding of Petitioner's misconduct.

66. Nelson Kanthula, Petitioner's childhood friend, testified that Petitioner had not told him about his disciplinary problems. Tr. 233-34. Petitioner also did not tell Mr. Kanthula anything about the reinstatement proceeding other than "it's a proceeding regarding an incident that happened in 2016 and that [he] had apologized for the incident and [he was] applying for reinstatement into the bar." Tr. 234. Mr. Kanthula did not evince any further understanding of Petitioner's misconduct.

67. Petitioner represented Reazul Hossain's son in an immigration matter. Tr. 239. Mr. Hossain testified that Petitioner represented his son effectively. Tr. 240. Mr. Hossain testified that Petitioner had told him that two clients made Bar complaints against him, claiming ineffective assistance of counsel. They said that Petitioner "did not fill out the form," "did not represent them well," "did not prepare them and things of that nature." Tr. 242. When the Maryland Court suspended him, Petitioner told Mr. Hossain that he "had not done anything wrong" because he felt he had "provided good service to the clients and . . . wanted to fight it out." Tr. 242. Mr. Hossain testified that in June or July 2019, Petitioner "had a change of heart" and was starting to see that the clients "had some point of view – they felt that they were right and stuff like that." Tr. 242-43; *see also* Tr. 244-45 ("you said the client

had a point of view, they had a right, you know, they had their own rights so they had their own point of view"); Tr. 243 ("you said that you were very contrite . . . very apologetic about it, that things turned out that way.") Mr. Hossain did not evince any further understanding of Petitioner's misconduct.

IV. CONCLUSIONS OF LAW

D.C. Bar R. XI, § 16(d)(l) sets forth the legal standard for reinstatement, placing upon Petitioner the heavy burden of proving – by clear and convincing evidence – that: (a) he has the moral qualifications, competency, and learning in law required for readmission; and (b) 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. To determine whether a petitioner has met this burden, we look to the five factors as set forth in *Roundtree*, 503 A.2d at 1217.

A. Nature and Circumstances of the Underlying Misconduct

The nature and circumstances of Petitioner's prior misconduct is a significant factor in the reinstatement determination, because of its "obvious relevance to the attorney's 'moral qualifications . . . for readmission'" and the Court's "duty to insure that readmission 'will not be detrimental to the integrity and standing of the Bar.'" *In re Borders*, 665 A.2d 1381, 1382 (D.C. 1995) (quoting D.C. Bar R. XI, § 16(d)). Where a petitioner has engaged in grave misconduct "that [] is [] closely bound up with [p]etitioner's role and responsibilities as an attorney," the scrutiny of the other *Roundtree* factors shall be heightened. *Id*. at 1382 (citation and quotation marks

omitted) (denying reinstatement where the petitioner's misconduct, in soliciting bribes from criminal defendants in exchange for lenient treatment from a judge, involved the practice of law and went to the '"heart of the integrity of the judicial system"' (quoting Hearing Committee Report)).

Petitioner was indefinitely suspended by the Maryland Court, with the right to apply for reinstatement after sixty days, for incompetence, neglect, and failure to communicate in violation of MLRPC 1.1, 1.3, 1.4, 8.4(a) and 8.4(d). FF 2-7. He submitted incomplete and inaccurate filings, failed to make timely filings, failed to respond to clients, and failed to communicate with his clients. FF 4-7. His misconduct involved two separate clients, relating to representations in 2009 and 2010, and involved multiple instances of misconduct over a period of time. FF 3-7. Petitioner's misconduct caused serious harm to his clients. They were forced to retain successor counsel and wait several years before obtaining the relief they initially sought through Petitioner. FF 8, 23; *see also* Tr. 13.

B. Recognition of the Seriousness of the Misconduct

The Court assesses "a petitioner's recognition of the seriousness of misconduct as a 'predictor of future conduct.'" *In re Sabo*, 49 A.3d 1219, 1225 (D.C. 2012) (quoting *In re Reynolds*, 867 A.2d 977, 984 (D.C. 2005) (per curiam)). "If a petitioner does not acknowledge the seriousness of his or her misconduct, it is difficult to be confident that similar misconduct will not occur in the future." *Id*. Assertions of innocence in the underlying disciplinary matter do not necessarily disqualify a petitioner from reinstatement as long as the petitioner accepts

responsibility for the conduct and demonstrates "that he will not engage in similar conduct in the future." *Id.* at 1226-27.

From 2016 into 2019, Petitioner actively contested his suspension, claiming his innocence or that he had been sanctioned on mistaken facts. FF 15. He contested the 2016 award of costs to Ms. Traore (FF 16-18), and, in 2019, filed for bankruptcy for the stated purpose of avoiding paying costs awarded by the Maryland Court in the disciplinary matter. FF 19.

While these challenges do not disqualify Petitioner from reinstatement, Petitioner has the burden of establishing that, despite his previous protestations, he now accepts responsibility for his misconduct. In his Petition, his brief and testimony, Petitioner eloquently describes the hardship he has suffered as a result of the suspension. But, in all of these, he barely mentions, much less details, any of the harm he caused, and the hardship suffered by his clients.

Despite repeated statements of remorse, Petitioner in the same instance blames his clients. In June 2019, Petitioner stated that he was suspended because two clients falsely accused him of misconduct. FF 26. In December 2019, only four months before filing the current Petition, Petitioner claimed that he had been suspended because of "mistaken facts" and suggested that the clients lied. FF 28, 29. He stated that he would avoid future misconduct by screening clients to weed out clients who would "easily lie and falsely accuse me." FF 26, 29.

When asked at the hearing if this is still his belief, Petitioner was equivocal. He testified that screening his clients is one of the lessons that he has learned, "but I

have taken so many lessons." Tr. 147. When asked if he still believes that his clients made false accusations against him, he testified, "I'm saying I changed. Now I'm saying everything you threw at me, I accept, the misconduct." Tr. 148. When pressed on his own view, Petitioner referenced advice that he had been given, "You don't fight with Bar Counsel. . . . I can see from the Bar Counsel's point, the client's point of view." Tr.148-49 (quotation marks omitted).

In the current Petition, he characterizes his misconduct as "ethical blunders and violations" committed in 2010 and expressed "regret and remorse for having committed the blunders." FF 31. In his April 2020 Letter to the Attorney Grievance Commission of Maryland, he explained that he "failed to recognize that *in legal ethics what matters most is [] 'the clients' or a third perception regarding my representation of the clients*." FF 33 (emphasis added). In Petitioner's brief, he writes that he "had an epiphany and recognition that there are two sides to every tale. . . . After the turning point, petitioner stepped out of his shoes and placed himself in the shoes of all who said he was guilty of misconduct." Petitioner's Brief at 11.

Simply put, Petitioner seems to be saying, "I see that these complainants had a point of view." His "epiphany" falls short of identifying his misconduct, accepting responsibility for it, and acknowledging the real harm he caused his clients. While repeatedly claiming remorse, Petitioner's remorse appears to be for the situation he finds himself in, and not for the harm he caused his clients.

Nowhere does Petitioner articulate the particulars of his misconduct or acknowledge the actual harm he caused, including years of additional litigation and costs, and the uncertainty his clients faced. Petitioner summarily notes that: "All of them got their benefits before my suspension went into effect." Tr. 13. Even in his brief, Petitioner minimizes the misconduct, "Petitioner's acts of misconduct did not **permanently** deprive the complainants the benefits they were seeking from US Immigrations Services." Petitioner's Brief at 17 (emphasis added).

Petitioner repeatedly refers to the listing of lessons learned as evidence that he recognizes his misconduct. He claims to have learned the importance of listening to his client, responding to his client, carefully reviewing instructions, and properly filing and preparation of forms. FF 34. This listing appears to be a recitation of basic principles of client representation. Certainly, these are lessons Petitioner should have learned, but there is no evidence that he in fact learned these lessons, or if he did, how these lessons would be applied to his practice.

When asked at the hearing to explain the underlying cause of his misconduct, Petitioner identified few specifics: "Why did I end up in this mess? There was just so much. I was just – I thought I was good." "I was on top of my game, over confident. I thought I was one of the best." He had too many clients, and not enough structure. ("[P]opularity brings downfall. I was popular.") And, again, his clients, somehow were part of the problem. ("[And] something which I've never discussed, all these clients, the two clients who complained were from French speaking Guinea and Central African Republic.") FF 46.

As in *Fogel*, Petitioner "failed to discuss the details of his misconduct with his character witnesses, suggesting that he has not fully acknowledged the seriousness of his misconduct even to those people closest to him." *In re Fogel*, 679 A.2d 1052, 1055 (D.C. 1996). For instance, Petitioner told Mr. Ngale that he had done a good job for his clients. FF 65. Petitioner did not tell Mr. Kanthula anything about the misconduct other than he had apologized. FF 66. Petitioner told Mr. Hossain that he had "provided good service" but, in 2019, told him he had a change of heart and realized that the clients had a point of view. FF 67.

Petitioner has not shown that he recognizes the seriousness of his misconduct.

C. Petitioner's Conduct During The Period of Suspension

Under this *Roundtree* factor, the Court considers a petitioner's "conduct since discipline was imposed, including the steps taken to remedy past wrongs and prevent future ones." *Roundtree*, 503 A.2d at 1217. "'[I]n reinstatement cases[,] primary emphasis should be given to matters bearing most closely on the reasons why the attorney was suspended or disbarred in the first place." *In re Mba-Jonas*, 118 A.3d 785, 787 (D.C. 2015) (second alteration in original) (quoting *In re Robinson*, 705 A.2d 687, 688-89 (D.C. 1998)) (denying reinstatement where the petitioner's post-suspension handling of personal financial accounts "reflect[ed] the very conduct that led to his indefinite suspension").

As Petitioner testified, during the period of suspension, Petitioner's conduct centered around challenging the suspension, the award of costs and the order to pay The Client Protection Fund. FF 15-23. More than four years after the award of

costs, Petitioner still owed $13,832.86 to the Attorney Grievance Commission. FF 22. Petitioner did not provide any evidence to show that he was making regular monthly payments as agreed. *Id.* Petitioner did not take any other steps to further remedy the harm suffered by his clients. Petitioner did not make any effort to refund the legal fees paid him by Ms. Vanguere or compensate his clients for any of the additional fees and expenses incurred in successor representation. FF 23.

Petitioner argues that during the period of suspension he took many Continuing Legal Education courses, including many ethics courses, and that he has a better knowledge of legal ethics. FF 43-44; Tr. 42. Petitioner does not show how the particular courses, or his greater knowledge of legal ethics would prevent future wrongdoing.

Apart from the Continuing Legal Education courses, Petitioner has not demonstrated any affirmative concrete steps taken, but instead relies on his claim that he is a changed man, and, because of this, the misconduct would not occur again. FF 45. Petitioner has failed to demonstrate that the steps taken to remedy the misconduct and prevent future wrongs.

D. Petitioner's Present Character

To satisfy this fourth *Roundtree* factor, Petitioner must demonstrate, among other things, that "those traits which led to [his] disbarment no longer exist and . . . [he] is a changed individual, having a full appreciation for his mistake." *In re Brown*, 617 A.2d 194, 197 n.11 (D.C. 1992) (quoting *In re Barton*, 432 A.2d 1335, 1336 (Md. 1981)). As evidence of this change, Petitioner should also proffer the

testimony of '"live witnesses familiar with the underlying misconduct who can provide credible evidence of petitioner's present good character."' *In re Yum*, 187 A.3d 1289, 1292 (D.C. 2018) (per curiam) (quoting *Sabo*, 49 A.3d at 1232) (denying reinstatement where petitioner's witnesses were unfamiliar with the details of his misconduct).

None of Petitioner's character witnesses had a clear understanding of Petitioner's misconduct. *See, e.g.*, FF 65-67. Vague or incorrect understanding of the misconduct leading to disbarment cannot be sufficient. *See, e.g.*, *Yum*, 187 A.3d at 1292 (fourth *Roundtree* factor not satisfied when character witnesses are "unfamiliar with the details of his misconduct"); *Fogel*, 679 A.2d at 1056 n.8 (discounting character witness testimony that petitioner "says he'll never do it again, whatever it was he did do, which I never did find out" (quotation marks omitted)).

Most significantly, Petitioner made false statements in the petitions for reinstatement, the reinstatement questionnaires and in his hearing testimony. Dishonesty in the reinstatement process raises '"doubts that [p]etitioner has the necessary regard for the truth and his obligations as a member of the Bar to follow and uphold all laws applicable to him, . . . and that he has the requisite honesty to resume the practice of law."' *In re Robinson*, 705 A.2d 687, 689 (D.C. 1998) (alteration in original) (quoting Board Report).

Petitioner represented that during the period of suspension he had done "legal research and Brief writing" for other attorneys. FF 35, 36; *see also* FF 39, 41. When questioned about the details of this work and whom he worked for, he denied that he

in fact had done any work for other lawyers. FF 37, 38, 40, 42. He said that he made the statements in an attempt to make himself look more qualified for reinstatement. He misrepresented his work experience because he thought it was to his advantage to "exaggerate[]" his experience. FF 38.

In his brief, Petitioner acknowledges that these representations were false and "concedes it was wrong to make the false . . . statement" but requests a "reprieve" for "the mistake." Petitioner's Response Brief, at 16-17. He further argues that this should not be held against him under the doctrine of recantation because "Petitioner recanted his false statement before this Committee had been deceived or misled or prejudice by the false statements." *Id.* at 12. Petitioner seems to think there was no harm in his lying because the truth ultimately came out. Of course, the truth only came out upon questioning by Disciplinary Counsel. In a further spin, Petitioner argues that he should get credit for recanting, "By recanting false statements petitioner demonstrated his concern and care for truth." *Id.* at 23.

By his conduct in making repeated false statements and his further arguments and rationalizations, Petitioner demonstrated that he does not have the necessary regard for the truth.

Given Petitioner's lack of regard for the truth and lack of character witnesses with knowledge of the misconduct, Petitioner has not shown that he has the present good character required for reinstatement.

E. Petitioner's Present Qualifications and Competence to Practice Law

Finally, we address the fifth factor articulated in *Roundtree* – Petitioner's present qualifications and competence to practice law. As the Court made clear in *Roundtree*, "[a] lawyer seeking reinstatement . . . should be prepared to demonstrate that he or she has kept up with current developments in the law." 503 A.2d at 1218 n.11.

In *Roundtree*, the Court cited the petitioner's participation in Continuing Legal Education (CLE) courses, acquisition of computer skills, improvements to her case management system, and plans to use additional staff for assistance as evidence of her qualifications and competence to practice law. *Id*. at 1217-18. In other cases, the Court has also considered whether the petitioner has performed legal work or kept abreast of developments in the law by reading legal journals and periodicals. *See In re Bettis*, 644 A.2d 1023, 1030 (D.C. 1994) (Court finding that petitioner established competence where he "worked as a law clerk . . . and improved his legal research and writing skills" and witnesses testified to his developed expertise in the medical malpractice and personal injury fields); *In re Harrison*, 511 A.2d 16, 19 (D.C. 1986) (petitioner's competence established where he testified that he kept up with developments in the law by reading leading journals, bar publications, and other legal publications, and his professional skills were never questioned by those involved in the disciplinary proceedings).

As the *Roundtree* Court noted, however, "the longer the suspension, the stronger the showing that must be made of the attorney's present competence to practice law." *Roundtree*, 503 A.2d at 1218 n.11.

Petitioner has not demonstrated that he possesses the present qualifications and competence to practice law.

Petitioner presented a list of Continuing Legal Education courses he had taken but did not explain how these courses were relevant to his misconduct, or how they helped resolve any deficiencies in his prior practice of law. Tr. 30-31.

Petitioner cited his experience performing legal research and writing assignments for practicing attorneys – but he now says that these claims were false and that he never assisted with legal work during his suspension. FF 35-40.

In this instance, the best indicator of Petitioner's current qualifications and fitness to practice law is his representation of himself in his efforts to be reinstated. In this proceeding – an instance in which he should have known that his conduct would be scrutinized – he submitted deficient filings, failed to meet filing deadlines, and showed a disregard for the tribunal's rules.

The current Petition is the third petition filed by Petitioner. Petitioner failed to properly file the first petition. FF 24-27. Petitioner was forced to withdraw the second petition because it was "improperly framed." FF 28-30. Petitioner filed an incorrect exhibit relating to a client unrelated to the current proceedings. FF 49. Petitioner missed deadlines for filing the hearing exhibits, despite many reminders and follow up by the Board Case Manager. Petitioner did not respond to many

reminders from the Board Case Manager. FF 51-59. He also missed the deadline for filing the finalized exhibit list. FF 61-63.

Petitioner explains that he missed the deadlines because of technological and software challenges but does not demonstrate how he would effectively deal with these challenges in his practice. He claims that he would figure it out within 14 or 21 days, and yet, in this instance, he did not even respond to Board Case Manager, much less seek assistance until the eleventh hour. FF 59-60. Even after knowing that emails from the Board Case Manager might be in his spam folder, he did not check the folder. FF 56. Petitioner seemed unconcerned about the missed filing deadlines, noting that Disciplinary Counsel "got the exhibits" (FF 60), and none of his "acts prejudiced ODC or the Committee. The Committee held the Hearing on its scheduled date." Petitioner's Response Brief at 19.

Petitioner has not met his burden to prove that he has the present qualifications and competence to resume the practice of law.

V. CONCLUSION

Based on the foregoing, the Hearing Committee concludes that Petitioner has failed to demonstrate by clear and convincing evidence the fitness qualifications required for readmission under D.C. Bar R. XI, § 16(d)(1)(a) and as set forth in *Roundtree*. Petitioner has failed to demonstrate by clear and convincing evidence that his resumption of the practice of law would not be detrimental to the integrity and standing of the Bar, detrimental to the administration of justice or subversive to

the public interest, as required by D.C. Bar R. XI, § 16(d)(1)(b). Accordingly, the Hearing Committee recommends denial of the Petition for Reinstatement.

HEARING COMMITTEE NUMBER FOUR

Rebecca C. Smith
Chair

Billie LaVerne Smith
Public Member

Mitchell Dolin
Attorney Member