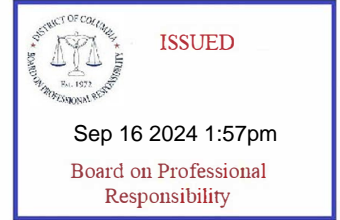


THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE\*

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



In the Matter of: :  
 :  
 :  
 DANA W. JOHNSON, :  
 :  
 : Board Docket No. 23-BD-016  
 Petitioner. : Disc. Docket No. 2023-D032  
 :  
 :  
 A Disbarred Member of the Bar of the :  
 District of Columbia Court of Appeals :  
 (Bar Registration No. 420592) :

REPORT AND RECOMMENDATION  
OF HEARING COMMITTEE NUMBER TWO

Petitioner, Dana W. Johnson, was disbarred in Maryland for violating Maryland Attorneys' Rules of Professional Conduct ("Rules") 1.7(b) (conflict of interest), 3.3(a)(1) (candor toward the tribunal), 5.5(a) (unauthorized practice of law), 7.1 (communications concerning a lawyer's services), 7.5(a) and (b) (firm names and letterheads), and 8.4(a) (violating or attempting to violate the Rules), 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation), and 8.4(d) (engaging in conduct that is prejudicial to the administration of justice). *Att'y Grievance Comm'n v. Johnson*, 770 A.2d 130, 150-52 (Md. 2001). Among other misconduct, Petitioner filed a bankruptcy petition on behalf of his clients without their knowledge, and forged their signatures and another lawyer's signature. Petitioner directly and personally benefited from this misconduct at his clients' expense. He was disbarred in the District of Columbia on

\* Consult the 'Disciplinary Decisions' tab on the Board on Professional Responsibility's website ([www.dcattorneydiscipline.org](http://www.dcattorneydiscipline.org)) to view any subsequent decisions in this case.

November 27, 2002, as reciprocal discipline. *In re Johnson*, 810 A.2d 917 (D.C. 2002) (per curiam). In this proceeding, Petitioner seeks reinstatement to the Bar of the D.C. Court of Appeals—his seventh petition for reinstatement.

Based on the present Petition for Reinstatement (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 the D.C. Court of Appeals in *In re Roundtree*, 503 A.2d 1215 (D.C. 1985). We recommend that the Court deny the Petition because Petitioner has failed to satisfy any of the *Roundtree* factors. It is our considered judgment that Petitioner has shown no appreciation for the seriousness of his misconduct, and that his lack of candor and cooperation over the course of these proceedings has actively hindered the Hearing Committee's ability to apply the *Roundtree* factors.

## I. PROCEDURAL HISTORY

Petitioner filed the Petition on March 28, 2023. An evidentiary hearing was held on April 9 and 16, 2024, before Hearing Committee Number Two ("the Hearing Committee") consisting of Jay Brozost, Esquire (Chair), Thomas Alderson (Public Member), and Candice Will, Esquire (Attorney Member). Petitioner appeared without counsel. The Office of Disciplinary Counsel was represented by Deputy Disciplinary Counsel Julia L. Porter, Esquire. Both parties presented documentary

evidence, testimony, and oral argument. Petitioner also presented one audio recording as evidence. All of Disciplinary Counsel's and Petitioner's exhibits were admitted into evidence: Petitioner's Exhibits ("PX") 1-11; Disciplinary Counsel's Exhibits ("DCX") 1-128. Pet'r's Signed List of Exs. (Apr. 23, 2024); Disciplinary Counsel's Signed List of Exs. (Apr. 23, 2024).

## II. LEGAL STANDARD

D.C. Bar R. XI, § 16(d)(1) 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)). *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;
3. the attorney's [post-discipline conduct] . . . including 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 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 was admitted to the Bar of the District of Columbia Court of Appeals on October 13, 1989. DCX 1.<sup>1</sup> Petitioner was never licensed to practice law in Maryland (Tr. 89-90 (Petitioner); DCX 2 at 2), but by no later than May 1996, he was practicing there as "Of Counsel" with a Maryland firm, Gartrell & Associates ("Gartrell firm"). DCX 5 at 371-72, 770-72.<sup>2</sup>

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<sup>1</sup> Petitioner was admitted to the Virginia State Bar on June 13, 1988. DCX 1. The Virginia State Bar Disciplinary Board reciprocally revoked his license on June 18, 2001, and on March 1, 2002, the Virginia Supreme Court affirmed that decision. DCX 13.

<sup>2</sup> In his post-hearing reply brief, Petitioner disputed Disciplinary Counsel's assertion that he worked "for" Gartrell & Associates, arguing that he had an office sharing relationship only. Pet'r's Reply Br. at 2; *see* Tr. 91-93 (Petitioner). His relationship with Gartrell & Associates clearly went beyond mere office sharing. He signed letters on firm stationery that identified him as "Of Counsel," which he described as a term with "no fixed meaning[ that] describes various professional relationships utilized by attorneys." Pet'r's Reply Br. at 2; *see* DCX 5 at 371-72, 770-72. He also signed a letter on firm letterhead that represented "that this firm has been retained to represent the above-referenced individuals." DCX 5 at 770.

2. By January 1997, Petitioner had left the Gartrell firm and joined John F. McLemore, at the time a Maryland lawyer,<sup>3</sup> to form McLemore & Johnson, a law firm with offices only in Maryland. DCX 6 at 1; DCX 7 at 2-4; Tr. 93-94 (Petitioner); *see also* Tr. 343 (Morales); DCX 5 at 370-71. The firm's letterhead did not disclose that Petitioner was not admitted to practice in Maryland. DCX 7 at 4. According to Petitioner, he had no obligation to disclose this fact because the firm name included only his surname, not his full name. DCX 5 at 368, 721 (transcript pp. 123-24), 777-78 (letterhead).

### **Petitioner's Dealings with the Bantugs**

3. Sometime prior to May 28, 1996, Chase Manhattan Mortgage Corporation ("Chase") had retained counsel to initiate foreclosure proceedings against Rebecca and Arturo Bantug because they were behind on their mortgage payment on a house they owned in Fort Washington, Maryland. DCX 7 at 4-5. By letter dated May 28, 1996, Petitioner informed Chase's counsel that the Gartrell firm had been retained to represent the Bantugs and proposed that they make double payments until the arrearage was satisfied. DCX 5 at 770; DCX 7 at 5. Chase's counsel rejected that proposal. DCX 7 at 5.

4. In June of 1996, Ms. Bantug-who already had made plans to move back to the Philippines, where her husband was living-told Petitioner that she wanted to sell the house because they were several months in arrears on two

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<sup>3</sup> Though the Maryland Attorney Grievance Commission originally brought a joint proceeding against McLemore and Petitioner, McLemore consented to an indefinite suspension, which was granted on January 17, 2001. DCX 7 at 2 n.2.

mortgages on the property, including the Chase mortgage. Petitioner told her that he wanted to buy the property. DCX 5 at 347, 349-350, 674; DCX 6 at 5; DCX 7 at 6.

5. Petitioner never told the Bantugs that his interest in the sale of the property might be adverse to theirs, and he did not advise Ms. Bantug about how to deal with the delinquent mortgages. DCX 7 at 6; *see* DCX 7 at 20-21; Tr. 100 (Petitioner claims no conflict of interest). A relative of the Bantugs, a practicing attorney, assisted the Bantugs with drafting the contract of sale. DCX 7 at 5.

6. On June 13, 1996, Petitioner and the Bantugs signed the contract for his purchase of the Fort Washington property. DCX 5 at 758-59; DCX 6 at 3; DCX 7 at 4. Petitioner agreed to pay the Bantugs \$6,000, to assume and pay all the mortgages on the property, including the first mortgage held by Chase and the second mortgage held by Commercial Credit Corporation, and to pay all the penalties accruing on the debts. DCX 5 at 758-59; DCX 7 at 4. He also agreed to secure refinancing by May 30, 1997, the date after which the contract would terminate if he failed to do so. DCX 7 at 4; *see* DCX 5 at 759. The contract required the Bantugs to designate Petitioner as the principal beneficiary on their homeowner's insurance but forbade them from notifying their mortgage companies about the sale to Petitioner. DCX 7 at 4; DCX 5 at 759.

7. A few days after the contract was signed, the Bantugs left for the Philippines. DCX 7 at 5. Petitioner moved into the house sometime in June 1996. DCX 5 at 727 (transcript p. 147); DCX 6 at 4. Petitioner did not bring the mortgages

current. Tr. 106 (Petitioner); DCX 5 at 330; DCX 7 at 5. He also did not pay any rent to the Bantugs or taxes on the property. DCX 5 at 727-28 (transcript pp. 147-49); DCX 6 at 17; Tr. 106-07, 145-46 (Petitioner).

8. Petitioner continued to communicate with Chase, holding himself out as the Bantugs' lawyer. Petitioner sought concessions on the mortgage while concealing from Chase that he had purchased the property from the Bantugs and that he was now responsible for paying the mortgage. DCX 5 at 155, 157-58, 771 (July 10, 1996, letter: "the Bantugs are desirous of bringing their account with your client current"), 772-73 (August 5, 1996, letter forwarding "Arturo and Rebecca's proposal for a workout of the arrearage"); Tr. 105-06, 114-15 (Petitioner).

9. In May 1997, almost a year after Petitioner had moved into the Fort Washington property, Chase sent a notice of foreclosure to the Bantugs at the Fort Washington property, where Petitioner was living. DCX 5 at 774-75; Tr. 111-12 (Petitioner). Petitioner received the notice and, four days later, wrote and called Chase again holding himself out as the Bantugs' lawyer in an effort to stop the foreclosure. DCX 5 at 675-76, 776-77; *see* Tr. 111-14 (Petitioner). When those efforts failed, Petitioner filed a bankruptcy petition in the U.S. Bankruptcy Court for the District of Maryland ("Maryland Bankruptcy Court") in the Bantugs' names, without their permission. DCX 5 at 782-87; DCX 6 at 6-8, 18; DCX 7 at 19-25; DCX 127; *see also* Tr. 125-26, 135-36, 144 (Petitioner).

10. In the bankruptcy petition, Petitioner forged the signatures of both Bantugs as well as his law partner, Mr. McLemore, whom he listed as counsel for

the Bantugs. DCX 6 at 6-8, 16, 18; DCX 7 at 19-25; *see* DCX 5 at 308, 421-22, 782-83; DCX 127 at 1. The Bantugs did not know about the bankruptcy and had not given Petitioner permission to file for bankruptcy. DCX 6 at 8, 16; DCX 7 at 6, 18-22. Mr. McLemore did not know about the bankruptcy either; he had never spoken to the Bantugs. DCX 5 at 308-09, 420-22; DCX 6 at 20; DCX 7 at 23-25; Tr. 125-26 (Petitioner). Petitioner claimed that the sales contract gave him authority to file a bankruptcy petition in the Bantugs' names. Tr. 7-8 (Petitioner's opening statement), 115 (Petitioner); DCX 5 at 343-44; *see* DCX 5 at 758-59; DCX 7 at 20. Petitioner cited the following language from the contract with the Bantugs as allowing him to file bankruptcy on their behalf: "Whereas, until such time as Buyer acquires financing, Sellers will take all lawful and necessary steps to protect Sellers['] and Buyer[']s interest in the Premises." DCX 5 at 758; *see, e.g.*, DCX 5 at 343-44.

11. On the same day he filed the bankruptcy petition (DCX 5 at 782-88), Petitioner wrote to counsel for Chase, purportedly as the Bantugs' counsel, demanding that it cease any collection efforts and cancel the foreclosure because of the bankruptcy. DCX 5 at 778. A few days later, Petitioner filed a notice of bankruptcy in the foreclosure action, again forging Mr. McLemore's signature as counsel for the Bantugs. DCX 5 at 799; DCX 7 at 7; Tr. 136, 144-45 (Petitioner).

12. In the following month, Petitioner filed other pleadings in the bankruptcy action, forging the signatures of the Bantugs and Mr. McLemore without their authorization. *See* DCX 5 at 789-798; DCX 6 at 18; DCX 7 at 23-25. In those



pleadings, Petitioner made numerous statements that he knew to be false, including that the Bantugs still lived at the Fort Washington property and that Mr. McLemore, their counsel, had been paid fees and was owed additional fees. He also included falsified schedules of the Bantugs' income and made false representations regarding the amounts the Bantugs could afford to pay. DCX 5 at 364, 392, 728 (transcript pp. 151-52 (Petitioner admitted that "most of the information in [the bankruptcy petition] is not accurate")), 782-798 (petition and pleadings); DCX 6 at 18; DCX 7 at 24-25.

13. Some of the bankruptcy pleadings on which Petitioner forged the Bantugs' signatures required the debtors to swear under penalty of perjury that the statements were true. DCX 5 at 783, 795; *see* DCX 5 at 782-798.

14. Petitioner's misconduct began to come to light when Ms. Bantug returned to the United States in June 1997 and learned about the foreclosure notice and bankruptcy petition. She hired a lawyer and through him learned the full extent of the unauthorized bankruptcy petition and filings. DCX 4 at 2-3; DCX 6 at 5-6; *see* DCX 6 at 8, 18; DCX 7 at 7. Paul Champion, the lawyer the Bantugs retained, contacted Mr. McLemore, whose name was on the bankruptcy pleadings. DCX 4 at 1, 2-3, 7. Mr. McLemore said he did not know anything about the bankruptcy matter or the Bantugs, but recognized Petitioner's handwriting on the bankruptcy pleadings. DCX 4 at 3; *see* DCX 5 at 82-83, 112-14; DCX 6 at 7, 20; DCX 7 at 7; Tr. 136-37 (Petitioner). Mr. Champion eventually spoke to Petitioner, who claimed that Ms. Bantug knew he would file for bankruptcy, while admitting that he did not have the

Bantugs' permission to sign their names on the petition and other pleadings. He admitted that he had never discussed with the Bantugs the consequences of filing for bankruptcy. DCX 5 at 86-87; *see* DCX 4 at 4-5; Tr. 116 (Petitioner: "She didn't care whether or not I filed a bankruptcy She was living in the Philippines. So filing a bankruptcy in Maryland, she didn't care.").

15. Petitioner's unauthorized bankruptcy petition caused the Bantugs difficulty and grief. DCX 4 at 5. Although Petitioner did not pursue the bankruptcy after he was found out, he did not seek to dismiss the matter or mitigate the harm it caused the Bantugs. *See id.*; DCX 7 at 21; DCX 127; Tr. 140-43 (Petitioner). The Maryland Bankruptcy Court later dismissed the case with prejudice, but only after the creditors filed a motion for a default judgment that no one opposed. *See* DCX 127 at 3; Tr. 140-43 (Petitioner).

16. The bankruptcy benefited Petitioner by stopping the foreclosure and allowing him to continue to live at the Fort Washington property without paying rent, taxes, or the mortgages he had agreed to satisfy. DCX 5 at 727 (transcript pp. 147-48); DCX 6 at 17; DCX 7 at 7; Tr. 135-36, 145-46 (Petitioner). It did not benefit the Bantugs, whose debt to the mortgage companies continued to grow.

17. Mr. Champion reported Petitioner and Mr. McLemore to the Maryland Bar. DCX 4.

18. In January 1998, after the bankruptcy case was dismissed and while Petitioner was under investigation, Chase scheduled another foreclosure sale. *See* Tr, 141, 146-47 (Petitioner); DCX 5 at 166, 176, 222-25. Mr. McLemore purchased

the Fort Washington property on Petitioner's behalf for \$120,000 and substituted Petitioner as the purchaser shortly after the sale. DCX 5 at 176-77, 362-63; DCX 6 at 8; DCX 7 at 8; *see* Tr. 146-47 (Petitioner).

### **The Maryland Disciplinary Proceedings**

19. There were two evidentiary hearings in Maryland, the first before the inquiry panel and the second before a judge in the Circuit Court for Montgomery County. Tr. 119, 201-03 (Petitioner). Ms. Bantug testified at the first hearing and Petitioner cross-examined her. DCX 5 at 694-702; *see* Tr. 121-23 (Petitioner: "I asked her some questions. That's not . . . a full-blown cross-examination."); DCX 7 at 15 (noting Petitioner "had an opportunity . . . to conduct cross-examination of [Ms.] Bantug . . . . [and] exercised this opportunity fully"). The inquiry panel found that Petitioner engaged in conflicts of interest, did not have authority to file the bankruptcy petition or sign documents in the name of the Bantugs or Mr. McLemore, and violated multiple Rules, and the panel recommended the filing of formal charges against Petitioner. DCX 5 at 682-84.

20. After formal charges were filed, there was a second evidentiary hearing in the circuit court at which Petitioner and numerous other witnesses testified. *See* DCX 5 at 3, 138, 413, 684; Tr. 202-03 (Petitioner). The judge found that: (1) Petitioner had engaged in the unauthorized practice of law; (2) Petitioner used a misleading letterhead; (3) the Bantugs were not aware of and had not agreed to the bankruptcy; (4) Petitioner engaged in an "obvious" conflict of interest by placing his interests above the Bantugs, holding himself out as the Bantugs' counsel while

pursuing his own interests which were adverse to the Bantugs, and failing to adhere to the terms of the contract while living in the Bantugs' home rent-free for more than a year; and (5) Petitioner made knowing false statements to the court and engaged in dishonesty when he filed a forged bankruptcy petition without the Bantugs' knowledge or consent and with no intention of pursuing it other than stopping the foreclosure. DCX 6 at 8, 13-19. The trial judge found Petitioner's "actions [were] without excuse or mitigation." *Id.* at 22.

21. The Maryland Court of Appeals (now the Maryland Supreme Court) affirmed the trial court's findings and ordered Petitioner's disbarment on April 12, 2001, rejecting Petitioner's exceptions and legal arguments. *See generally* DCX 7. The Court found it "incredible" that Petitioner did not recognize the conflict of interest or that he "truly believed" that the contract for sale authorized him to file a bankruptcy in the Bantugs' names (*id.* at 20)-something Petitioner continues to claim (*see* Tr. 7-8, 115-16). The Court found Petitioner "repeatedly engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation," including when he filed the bankruptcy without the Bantugs' knowledge or consent, forged their names and Mr. McLemore's name to pleadings, and made knowing false statements to the tribunal. DCX 7 at 34; *see* DCX 7 at 24-25, 31-32. Petitioner's failure to recognize that he engaged in any misconduct and express any regret for the harm he caused were aggravating factors. *See id.* at 33-34.

### **Petitioner's Other Pre-Disbarment Misconduct**

22. Before the Maryland proceedings were completed, D.C. Disciplinary Counsel received two other complaints against Petitioner regarding his conduct in a domestic matter with his former wife, Darielys Pinto, and his conduct during his representation of Javier Morales. Disciplinary Counsel did not file charges in those matters because of the pending reciprocal disbarment proceeding, but reserved the right to raise his misconduct in those matters if Petitioner sought to be reinstated. *See* DCX 3 at 8-11; *see also, e.g.*, DCX 16 at 3; DCX 17 at 2; DCX 22; DCX 55 at 2-3.

### **The Pinto Matter**

23. In 2000, Petitioner's then-wife, Darielys Pinto, filed a petition seeking a protective order against him in Maryland because of his physical abuse. *See* DCX 128; DCX 3 at 10. Disciplinary Counsel was made aware of the domestic proceedings shortly after they began. *See* DCX 16 at 3; DCX 17 at 1-2. Petitioner had physically abused Ms. Pinto, at least once in the presence of Ms. Pinto's brother, Javier Morales. Tr. 361-62, 385, 387-88, 393, 395 (Morales). Ms. Pinto obtained an ex parte temporary protective order (DCX 128 at 1-8), and the State filed criminal charges against Petitioner for having assaulted Ms. Pinto. DCX 128 at 9-10. The State filed additional charges when Petitioner violated the protective order. *Id.* at 13-17.

24. On January 18, 2001, after holding a hearing at which Petitioner was represented by counsel, the Maryland district court entered a protective order based

on clear and convincing evidence that Petitioner had assaulted Ms. Pinto. *Id.* at 18-21. By its terms, the protective order-which was not a temporary ex parte order as Petitioner claimed (*see* Tr. 389 (Petitioner proffering rebuttal evidence); DCX 128 at 18)-extended through January 2002. DCX 128 at 19. At some point after its entry, Petitioner appealed the protective order to the Maryland circuit court. *See id.* at 25, 34. It appears that a hearing on Petitioner's appeal was initially scheduled for March 2001, but was ultimately held in April 2001. *See* PX 6 (order continuing hearing to April 2, 2001); PX 5 at 1 (memorandum dated April 2, 2001, indicating Petitioner and his witness were unable to attend the hearing scheduled for that day); DCX 128 at 25, 34. In the course of continuing the hearing to April, the circuit court's order also noted that "the protective order herein place is stayed pending final disposition on April 2, 2001." PX 6. In April 2001, the circuit court affirmed the issuance of the protective order. *See* DCX 128 at 24-25; *see also* DCX 128 at 34 ("That on [Petitioner's] appeal [Ms. Pinto] was issued a new Protective Order."). The circuit court later denied Petitioner's motion to alter the April 2001 order (*id.* at 25-29), and his subsequent motion to modify or rescind the protective order (*id.* at 30-31, 36).

25. While the protective order was in effect, Ms. Pinto alleged that Petitioner violated the order by, *inter alia*, "enter[ing] her home several times . . . including once forcibly." *Id.* at 22 (February 2001 petition for contempt). Petitioner also engaged in further physical abuse of Ms. Pinto and assaulted Mr. Morales on March 12, 2001, for which Petitioner was charged criminally, but not convicted. PX

5 at 4-9; *see also* DCX 105 at 36-37 (proposed findings of fact adopted by the court (DCX 105 at 46)).

26. Ms. Pinto filed two petitions for contempt against Petitioner in February and August 2001, alleging that he failed to pay the support ordered by the protective order. DCX 128 at 22-24. After the divorce was finalized in April 2002 (DCX 105 at 48), and following his disbarment (DCX 7), Petitioner still did not pay the complete required support. He unsuccessfully sought to overturn orders directing him to do so, claiming that he had not been served with pleadings when the court found no evidence to support that claim. *See* DCX 105 at 22-35, 53-54, 57-61, 67.

### **The Morales Matter**

27. At the time he was disbarred in Maryland, Disciplinary Counsel was also investigating a second complaint pending against Petitioner that was filed by his client, Javier Morales, whom Petitioner had agreed to represent in two auto accident matters. Mr. Morales had been rear-ended by the other drivers in both accidents. Tr. 345-48, 354, 360 (Morales); DCX 16 at 2; DCX 17 at 1.

28. Mr. Morales initially understood that he would not have to pay Petitioner any fees, but at some point, Petitioner told Mr. Morales he would take one-third of the recovered funds. *See* Tr. 346-47 (Morales); DCX 16 at 1-2; DCX 25. Mr. Morales may have signed agreements to this effect, but Petitioner never gave him copies. *See* DCX 16 at 2; DCX 25; Tr. 347, 356 (Morales). Petitioner did not tell Mr. Morales what he was doing to pursue the two matters and when

Mr. Morales asked, Petitioner assured him that he was taking care of things, and the matters would take time. DCX 16 at 2; Tr. 347-48, 350-52 (Morales).

29. Rather than pursue claims against the other drivers, Petitioner sought a recovery from State Farm, Mr. Morales's own insurer, but only for the second accident. *See* Tr. 349-350, 355, 359-360, 387 (Morales); DCX 18-2; DCX 19 at 1-2.

30. In July 2000, Petitioner received two checks from State Farm—one for \$243.44 made out only to Mr. Morales and the other for \$3,700 made out to Petitioner and Mr. Morales. DCX 21 at 10, 14. Petitioner did not tell Mr. Morales about the checks. Tr. 350, 358, 376-77, 379 (Morales). He forged Mr. Morales's endorsement on both checks and deposited them into a personal account ending in -4821, not a trust account. Tr. 358, 375-78 (Morales); DCX 21 at 1, 9-10, 13-14; *see* Tr. 161-63, 165-66, 169 (Petitioner admits account was a personal account and admits endorsing checks by signing Mr. Morales's name); DCX 21 at 21-33 (checks drawn on account ending in -4821).

31. Petitioner asked Mr. Morales to sign a release provided by State Farm (DCX 18 at 2) without telling him that he had already received and negotiated checks from the insurer. *See* Tr. 350 (Morales). Mr. Morales did not know about the settlement checks and did not consent to Petitioner's taking more than one-third of the funds. *See* Tr. 375-78 (Morales); DCX 16 at 2; DCX 19 at 1-2; DCX 23 at 3.

32. Petitioner used Mr. Morales's settlement money for his own purposes immediately after receiving the State Farm checks. Petitioner deposited the first



check for \$243.44 on July 7, 2000, and a check for \$200 was drawn on the account that same day, leaving a balance of only \$66.87 in the account. DCX 21 at 1-2. By July 10, only three days later, the account was overdrawn and remained overdrawn until Petitioner deposited the second check on July 14. *Id.* at 1-2, 13-14. When he made the deposit, Petitioner took \$1,000 immediately in cash, and deposited the remaining \$2,700 into the account, resulting in a balance of \$2,188.64. *Id.* Less than a week later, that money was gone; the account was overdrawn again. *Id.* at 1-2.

33. Between July and December 2000, Petitioner overdrew the account in which he deposited Mr. Morales's settlement funds at least fourteen times. DCX 21 at 2, 35, 48, 80, 90, 108; *see* Tr. 189 (Petitioner: "And I know I had overdraft protection. So just because it went over a little bit, that's not that big of a deal.").

34. In December 2000, Mr. Morales contacted his insurer and learned that Petitioner had received and negotiated a \$3,700 settlement check. DCX 16 at 2, 5-6; Tr. 352-53 (Morales). When Mr. Morales confronted Petitioner, Petitioner said he would pay him the money, but he never did. Tr. 353, 355 (Morales); DCX 16 at 3; *see* DCX 23 at 3.

35. Mr. Morales obtained a copy of the \$3,700 check from State Farm and, with the assistance of a lawyer, filed a complaint against Petitioner with Maryland Bar Counsel, which Maryland referred to D.C. DCX 16; Tr. 354, 356-59, 384 (Morales); Tr. 461-62 (Matinpour); *see* DCX 18; DCX 19. *But see* Tr. 170-72, 174

(Petitioner contends that DCX 16 was not the complaint that Disciplinary Counsel had sent him during its investigation).

36. In response to Disciplinary Counsel's investigation, Petitioner falsely denied that he had taken Mr. Morales's money and made a number of other false representations, some of which he repeated in his testimony, including that (1) Mr. Morales was involved in five accidents (DCX 17 at 1; Tr. 364 (Morales)); (2) Mr. Morales had intentionally caused both the accidents in February 2000 and was engaged in insurance fraud (DCX 17 at 1; Tr. 156-58 (Petitioner); Tr. 371 (Morales)); (3) Mr. Morales was using numerous aliases (DCX 17 at 1; Tr. 365-66 (Morales)); (4) Mr. Morales filed the complaint so that Ms. Pinto, his sister, would gain an advantage in the divorce proceedings (DCX 17 at 2; Tr. 169-170, 185 (Petitioner)); and (5) Mr. Morales had stolen Petitioner's files and deleted materials from his computer (DCX 17 at 2; Tr. 184-85 (Petitioner); Tr. 366-67 (Morales)). *See also* Tr. 154-58, 185-86, 189, 195, 198 (Petitioner). None of these representations were true. Tr. 355, 357-360, 364-67 (Morales); DCX 19 at 1-2. Petitioner later provided Disciplinary Counsel with a copy of the release that Mr. Morales signed (DCX 18), but he refused to respond to Disciplinary Counsel's further inquiries or turn over any documents despite having received a subpoena for the client file and his financial records. *See* DCX 20; DCX 22; Tr. 463-64 (Matinpour). *But see* Tr. 182-83, 185 (Petitioner claimed he provided other (unspecified) documents during the investigation, and indicated he still had

documents that he had not produced because he was not prepared to address Morales's matter during this reinstatement hearing).

### **Proceedings Before the D.C. Bar's Clients' Security Fund**

37. In April 2001, Mr. Morales sought compensation from the D.C. Bar's Clients' Security Fund (the "Fund"). DCX 23. In response to Mr. Morales's application for reimbursement, Petitioner told the Fund that Mr. Morales had "received payment in full." DCX 24. When the Fund asked Petitioner for additional information and documentation, Petitioner responded with additional subterfuge. *See* DCX 25; DCX 26; Tr. 406-08 (Lewis). He told the Fund that he had deposited Mr. Morales's settlement check in a trust account that was now closed and "the institution it was drawn on is now defunct." DCX 26 at 1; *see* Tr. 408 (Lewis). Petitioner's representations to the Fund were not truthful.

38. Petitioner made other false representations to the Fund, including that (1) Mr. Morales engaged in insurance fraud (DCX 24) and several lawyers had contacted Petitioner about Mr. Morales's first accident case (DCX 25 at 1); (2) Mr. Morales had taken Petitioner's files (DCX 24; DCX 25 at 1); (3) Petitioner had advanced funds to Mr. Morales and given funds to Mr. Morales's mother in Panama (when it was Mr. Morales who had given Petitioner money directly to deliver to his mother in Panama, though Mr. Morales represented his mother never received this money) (DCX 26 at 1; Tr. 378-79, 396 (Morales)); and (4) Petitioner had represented Mr. Morales in a purported action in district court in Maryland,

where Petitioner was not licensed, and was supposedly owed fees in that matter (DCX 26 at 1). *See also* Tr. 366-67, 371-73 (Morales).

39. Petitioner did not provide the Fund any financial records or any supporting documents; he provided only copies of stamps in his passport. Tr. 407-08 (Lewis); *see* DCX 25; DCX 26. Mr. Morales, by contrast, cooperated with the Fund and provided approximately seventeen months' worth of his own bank records showing that Petitioner had never given him any of the settlement money. Tr. 404, 408-09 (Lewis).

40. The Fund found that Petitioner had dishonestly taken Mr. Morales's settlement funds and awarded Mr. Morales \$2,466-two thirds of the \$3,700 check that Mr. Morales knew about when he filed the application for reimbursement. Tr. 370, 373-74 (Morales);<sup>4</sup> Tr. 417-18 (Lewis); DCX 28. The \$2,466 from the Fund was the only money Mr. Morales received-Petitioner never paid him any portion of the nearly \$4,000 that he received from State Farm. Tr. 374 (Morales); *see* DCX 21 at 1, 9-10, 13-14.

41. The Fund notified Petitioner of the award and asked him to repay the Fund, putting him on notice that his failure to do so would be presented to the Court if he ever sought reinstatement. DCX 28 at 1; Tr. 403, 411-12 (Lewis). Petitioner refused to repay the Fund in 2001, and he ignored the Fund's subsequent requests

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<sup>4</sup> Mr. Morales did not know about the State Farm check for \$243.44. Tr. 370, 378 (Morales).

for payment. DCX 29; Tr. 413-14, 417-19 (Lewis); Tr. 201 (Petitioner); *see* DCX 28.

### **The Reciprocal Matters**

42. Petitioner did not report his Maryland disbarment as required by D.C. Bar Rule XI, § 11(b). Tr. 204 (Petitioner). Disciplinary Counsel initiated a reciprocal proceeding after learning of the Maryland matter. *See id.*; DCX 8. On May 9, 2001, the D.C. Court of Appeals suspended Petitioner on a temporary basis and directed him to file the affidavit required by D.C. Bar R. XI, § 14(g). DCX 8.

43. Petitioner filed an affidavit on May 16, 2001 (DCX 9), but it did not comply with the Rule and contained knowing misrepresentations. More than ten days before he filed the affidavit, Petitioner received notice of the Virginia revocation proceedings and was ordered to appear on May 25, 2001, before the Virginia State Bar Disciplinary Board "to show cause why his license . . . should not be suspended or revoked." DCX 13 at 1 (referencing May 4, 2001, order informing Petitioner of revocation proceedings). Yet, he averred that the Virginia State Bar and Maryland Bankruptcy Court had "objectively investigated" his conduct in Maryland and neither found "unethical behavior or wrongdoing on [his] part." DCX 9 at 1. He knew this was false. *See* Tr. 207-213 (Petitioner). The Virginia Bar revoked his license, and Petitioner knew of the revocation proceedings before he filed his affidavit. DCX 13; *see* Tr. 207-213 (Petitioner). The Maryland Bankruptcy Court had not investigated Petitioner; its docket continued to reflect that Mr. McLemore, not Petitioner, had been the Bantugs' counsel. *See* DCX 127.

44. Petitioner unsuccessfully sought to dissolve the D.C. order of temporary suspension. DCX 11 at 2. In his July 2001 response to the Board, Petitioner claimed that the Maryland courts had denied him due process and there was an infirmity of proof-arguments the Board rejected. *Id.* at 2, 11-12. The Board found that Petitioner's response reflected a "virtual[] complete failure to recognize the seriousness of his misconduct" citing as an example Petitioner's claims that he was "'a victim of a political war'" based on his status as a D.C. and Virginia lawyer and the Maryland court's discipline was a "'message to [a] perceived enemy to stay out of Maryland and nothing more.'" DCX 11 at 13 (quoting Petitioner's response at 9). Petitioner apparently still believes this was the case. *See* Tr. 224-26 (Petitioner).

45. The Board found that Petitioner's "self-dealing regarding the contract to purchase the Bantugs' home and his fabrication of evidence and forgeries regarding the bankruptcy petition, would compel disbarment in an original case." DCX 11 at 13-14. Accordingly, the Board recommended disbarment and noted that Petitioner's initial and supplemental affidavits (DCX 9; DCX 10) did not comply with Section 14(g) and noted that at least the initial affidavit "appear[ed] to contain material, false representations."

46. Petitioner did nothing at that time to correct his affidavits. *See* Tr. 235-36 (Petitioner). He testified that he did not read the Board's report until a couple of years after moving back to the area from California. Tr. 230-33 (Petitioner). But this was false, as Petitioner had filed exceptions to the Board's report, although he

never filed a brief with the Court despite repeated orders directing him to do so. DCX 12 at 2 n.1.

47. The Court disbarred Petitioner in November 2002 and put him on notice that his disbarment would not begin to run for reinstatement purposes until he filed an affidavit that complied with the Court rules. DCX 12. For almost ten years, Petitioner did nothing to correct his deficient affidavits. Petitioner claims he never read the Court's disbarment order, including before he filed his first reinstatement petition in 2012. Tr. 233-36 (Petitioner); *see* DCX 30; DCX 31.

48. Petitioner was not forthcoming with the Virginia Bar in its reciprocal matter. The Virginia Bar initially suspended Petitioner on May 4, 2001, directing him to appear on May 25, to show cause why his license in Virginia should not be suspended or revoked. DCX 13 at 1, 3. Petitioner did not respond or appear, and his license was revoked. *Id.* at 1, 3-4. Petitioner then filed a motion to vacate, claiming that he had been away, did not return until May 22, and did not go through his mail until May 25th. *Id.* at 3-4, 11-12. The Virginia State Bar Disciplinary Board and Supreme Court of Virginia did not credit Petitioner's claims or his objections to the Maryland discipline and affirmed the revocation of his license in Virginia. DCX 13 at 6, 9-13.

49. Petitioner did not report his disbarment to the federal courts to which he was admitted. Tr. 236 (Petitioner). The United States District Court for the District of Columbia learned of the disbarment, issued a show cause order, and then disbarred him in August 2002. DCX 14; Tr. 237 (Petitioner). The Eastern District

of Virginia did not learn of Petitioner's disbarment or the Virginia revocation order until March 2015, and only then from Disciplinary Counsel. DCX 15; DCX 43 at 12, 18-19; Tr. 237-38 (Petitioner).

### **Petitioner's Post-Disbarment Conduct**

#### **Petitioner's Employment**

50. It is not clear what Petitioner has been doing for the past twenty years. He provided little information about his employment since his disbarment, other than stating he worked part-time as a paralegal for Todd Pilot for less than a year, although it is unclear when (*compare* Tr. 14, 33-34 (Pilot), *with* Tr. 232, 292 (Petitioner)), and that he has spent most of the last twenty years working as a contractor in the employment and labor relations field. *See* DCX 2 at 6-7; Tr. 34, 51 (Pilot).

51. Petitioner was unwilling to provide Disciplinary Counsel with much of the information they requested about his past employers, such as contact information for the people who supervised his work. *See* DCX 46 at 1; DCX 47 at 1; DCX 55 at 2; DCX 56 at 1; DCX 57 at 1-2; DCX 75; DCX 89; DCX 94 at 3; DCX 99 at 1-4. At the hearing, Petitioner offered one evaluation from July 5, 2019, evaluating his performance as an Employee and Labor Relations Specialist (Contractor) with the Office of Employee and Labor Relations in the Cybersecurity and Infrastructure Security Agency (CISA) for fiscal year 2019. PX 2. Petitioner also represents that he "receive[s] regular, annual training" in equal employment opportunity and



employee and labor relations law, and he provided materials (PX 1) for training courses he states he took recently. Pet'r's Br. at 4-5.

52. Petitioner's resume (PX 3), his responses to the reinstatement questionnaire (DCX 2 at 6-7), and the limited tax return information he provided (DCX 63) contained inconsistent accounts of his work history. Neither his resume nor his responses to the questionnaire listed his employment with Pilot. *See* DCX 2 at 6-7; PX 3; Tr. 291-92 (Petitioner). Moreover, his resume and questionnaire responses conflict concerning some details during several periods where he claimed to work for various contractors or federal agencies. *Compare* DCX 2 at 6-7, *with* PX 3. His tax returns reflect other sources of income (*e.g.*, from Uber) that are not disclosed in his responses. *Compare* DCX 2 at 6-7, *with* DCX 63 at 43, 59, 66-67.

53. At the hearing, Petitioner testified he has changed jobs four times in the last six years. Tr. 85-89 (Petitioner). While this seems to largely align with the information included in Petitioner's resume (PX 3 at 1-3) there is some discrepancy with the details provided in his reinstatement questionnaire (*see* DCX 2 at 6-7).

### **Petitioner's Petitions for Reinstatement**

54. The D.C. Court of Appeals disbarment order notified Petitioner that he had not yet filed the affidavit required by D.C. Bar R. XI, § 14(g) and advised that this would affect his eligibility for reinstatement. DCX 12 at 2.

55. Petitioner filed his first petition for reinstatement in 2012. In that petition (and every subsequent petition), his description of the "undisputed circumstances of [his] disbarment" bore little resemblance to the Maryland court's

findings. DCX 30 at 1; *see also, e.g.*, DCX 38; DCX 45; DCX 54; DCX 69. Petitioner did not address much of the misconduct, including the false and forged bankruptcy petition and pleadings he filed. *See* DCX 30 at 1-2; Tr. 240 (Petitioner). Instead, he claimed that the misconduct did not involve financial irregularities and refused to provide responsive information to a number of questions on the reinstatement questionnaire. DCX 30 at 7. He also concealed his involvement in numerous criminal matters and other cases (DCX 103), while claiming his responses were "complete and true." DCX 30 at 8; *see, e.g.*, DCX 113; DCX 114; DCX 115; DCX 116.

56. The Board dismissed Petitioner's first petition because he had failed to correct his earlier affidavits, even after multiple warnings. DCX 31 at 6-12. Petitioner filed three revised affidavits (DCX 32; DCX 33; DCX 35), but none of them resolved the inconsistencies that the Board identified (DCX 34), and the Board found that the supplemental affidavit filed in June 2013 (DCX 35) raised even more questions. DCX 36 at 9, 11-12. The Board recommended that the Court enter an order finding that Petitioner's affidavits failed to comply with Section 14(g) and that, for reinstatement purposes, the five years of Petitioner's disbarment had not yet begun to run. *Id.* at 11-13; *see* Tr. 243-44 (Petitioner: "[S]ome of the decisions of the Board were, you know, kind of astounding, quite frankly."); Tr. 247 (Petitioner: "[The Board] dismissed a lot of my petitions. . . . And a lot of the reasons for dismissals were not on sound legal ground"); Tr. 248-49.

57. Petitioner appealed, but did not prevail, and the Court upheld the dismissal of his petition by the Board. DCX 37. *But see* Tr. 247-250 (Petitioner claimed the Court agreed with him and, in his interpretation of the Court's opinion, he "won that decision"). The Court found that the Board had provided Petitioner "very specific instructions" to cure or correct his past affidavits, but he repeatedly refused to provide the required clarifications, and the Court was "left in the dark" on whether he ever complied with Section 14(g). DCX 37 at 5, 9-10. The Court gave Petitioner further instructions and examples of how he could demonstrate his compliance (*id.* at 9-13), but Petitioner failed to follow them when he submitted his second petition with an affidavit on January 29, 2015, and submitted a further supplement to that affidavit on March 6, 2015. DCX 38 at 8-10; DCX 39.

58. The Board dismissed Petitioner's second petition because his affidavits were still "technical[ly] deficien[t]" because they contained false statements about the jurisdictions in which he was admitted to practice. DCX 40 at 9-10. The Board gave Petitioner an opportunity to file another supplement affidavit, which Petitioner did on August 18, 2015. DCX 41. But it too contained false statements about his then-present admissions in other jurisdictions, and the Board maintained its prior dismissal. DCX 42. The Court adopted the recommendation of the Board, finding that Petitioner had not corrected all the deficiencies in his earlier affidavits, though his compliance with one requirement was now impractical given the passage of time. DCX 43 at 2, 16, 19. In further agreement with the Board, the Court stated that if Petitioner filed a compliant affidavit that corrected his false statement, he would not

be entitled to *nunc pro tunc* treatment to any of his previously filed affidavits, and his period of disbarment would begin to run following the date of his fully compliant submission. DCX 43 at 20-21.

59. In August 2016, Petitioner filed another affidavit, this one correcting the false representations identified by the Court when it denied his second petition. DCX 44; *see* DCX 43. Petitioner became eligible to seek reinstatement five years after filing this affidavit. *See* Tr. 261 (Petitioner); DCX 44; DCX 45.

60. Between March 2021 and September 2022, Petitioner filed four more petitions for reinstatement (his third through sixth petitions), sometimes providing Disciplinary Counsel the draft petition and responses to the questionnaire before filing them with the Board. DCX 45; DCX 54; DCX 69; DCX 85; *see, e.g.*, DCX 77; DCX 79. The Board dismissed all of these petitions because Petitioner failed to provide complete and accurate responses to the questionnaire. DCX 53; DCX 68; DCX 73; DCX 92.

61. Among other things, Petitioner concealed his involvement in multiple cases including criminal matters, civil actions, a bankruptcy, a tax matter, and moving traffic violations. DCX 48; Tr. 428-432 (Matinpour); DCX 103; *see, e.g.*, DCX 68 at 4-6. To the extent Petitioner later disclosed some of these cases in his subsequent responses, it was because Disciplinary Counsel found the court records on its own and presented them to Petitioner. Tr. 430-35 (Matinpour); DCX 103; Tr. 262 (Petitioner admitted not disclosing cases; claimed he "didn't have knowledge of them"). *Compare* DCX 48, *with* DCX 54 at 10.

62. When dismissing Petitioner's March 2021 petition, the Board reminded Petitioner of his obligation to provide complete and accurate responses to the questionnaire, including for questions that applied to disbarred lawyers who had engaged in financial irregularities. DCX 53 at 3. *But see* Tr. 265, 277-78, 280 (Petitioner continues to deny that his misconduct involved financial irregularities). The Board also advised Petitioner that it was in his interest to cooperate frankly and completely with the investigation of his petition. DCX 53 at 5.

63. Nevertheless, in support of his petitions, Petitioner continued to befog the record in his arguments to the Board. *See, e.g.*, DCX 68 at 8; DCX 73 at 12-13. When Disciplinary Counsel questioned Petitioner about his obligation to repay the Fund, Petitioner said he had no obligation to do so (*see* DCX 65 at 3-4; DCX 67 at 2-3; *see also* DCX 47; DCX 68 at 6) and claimed that he had paid Mr. Morales and Mr. Morales had endorsed the insurance check. DCX 58 at 1. Both claims were false, and the latter was refuted by Petitioner's own admission that he endorsed the checks in Mr. Morales's name, though he contended he was authorized to do so. Tr. 165-66, 169 (Petitioner); *see* Tr. 353, 358 (Morales). In another response, Petitioner claimed that he had, "[a]t the time of Disciplinary Counsel's inquiry into this matter," provided Disciplinary Counsel with a copy of the settlement check and disbursement memorandum that Mr. Morales allegedly signed, which "authoriz[ed] and acknowledg[ed] settlement of the claim and disbursement of insurance proceeds therefrom." DCX 65 at 3. He never provided these documents. *See* DCX 20; Tr. 463-64 (Matinpour); Tr. 350, 352-53 (Morales).

64. Petitioner told the Board that Ms. Pinto and Mr. Morales had filed complaints against him with multiple police departments and with the Virginia and D.C. Bars and that he had been "vindicated" in all these matters. DCX 50 at 3. But Petitioner had not disclosed these complaints in his responses to the questionnaire and later denied having any knowledge of them. DCX 72 at 2; *see* DCX 69 at 8. The Board noted this discrepancy in dismissing Petitioner's fifth petition. DCX 73 at 3-4. When Petitioner failed to address the discrepancy in his sixth petition, the Board dismissed it for this and other reasons. *See* DCX 85 at 9; DCX 92 at 5. The Board found that "[Petitioner] has not even attempted to resolve the obvious contradiction, despite our prior rulings on the issue. We will not reward obstinance." DCX 92 at 5.

65. Petitioner was not forthcoming about other matters. When Disciplinary Counsel requested additional information about his employment history and the people Petitioner worked with, he provided only minimal responses, if any. DCX 46; DCX 47; DCX 55; DCX 56; DCX 75; DCX 76; DCX 77; DCX 86; DCX 89; DCX 94; DCX 99; Tr. 274-75 (Petitioner).

66. In connection with his August 2021 petition, Disciplinary Counsel sent Petitioner a subpoena for his tax returns and records for 2016 through 2020. DCX 57; Tr. 460-61 (Matinpour). Petitioner eventually responded (*see* DCX 61 at 2; DCX 62), but the returns he produced were incomplete and reflected employment or sources of income from entities (Uber, Draughn and Associate) that Petitioner did

not disclose in his responses to the questionnaire. *Compare* DCX 54 at 6-7, with DCX 63 at 41, 43, 57, 59, 66-67.

67. In connection with the present Petition, Disciplinary Counsel sent Petitioner an inquiry letter purporting to attach a subpoena for tax returns for tax years 2020 through 2022. DCX 99 at 2; *see also* Tr. 460-61 (Matinpour). However, the attached subpoena requests tax returns and supporting documentation for the years 2016 through 2020, and it appears identical to the subpoena sent in prior communication between Disciplinary Counsel and Petitioner. *Compare* DCX 99 at 4, and DCX 100 at 4, with DCX 57 (subpoena attached to letter dated September 7, 2021). Petitioner responded that he had "no documents responsive to the 'subpoena' attached to [Disciplinary Counsel's] email," and documents he did have were previously provided. DCX 101 at 1. Disciplinary Counsel responded that his previously provided tax documents for 2020 were incomplete and renewed its written request for tax documents for the years 2021 and 2022, which Petitioner did not provide. DCX 102 at 1; *see* Tr. 460-61 (Matinpour).

68. Throughout proceedings regarding his previous petitions, Petitioner also failed to fully respond to questions about a Louisa, Virginia address he was associated with in some court documents. *See* DCX 48 at 2; DCX 70 at 2; DCX 75 at 2; DCX 78 at 2; Tr. 269-270 (Petitioner). *But see* DCX 76 at 1 (email from Petitioner to Disciplinary Counsel: "As I have told you on numerous occasions, I have never resided in Louisa County, VA"). In his 2017 tax return, Petitioner claimed his home address was in Louisa, Virginia (DCX 63 at 39), but at the hearing

he denied ever living there. Tr. 269-272 (Petitioner). Petitioner also used the Louisa, Virginia address on one or more of his driver licenses, which he presented to the police in connection with some of his arrests, including in 2012 (DCX 117), 2017 (DCX 121), and 2019 (DCX 124).

69. Disciplinary Counsel requested additional information after receiving Petitioner's present Petition (DCX 2; DCX 94), but Petitioner failed to respond, so Disciplinary Counsel sent an additional request (DCX 95). Disciplinary Counsel requested further information (DCX 99; DCX 100), Petitioner refused to respond, ultimately stating: "This is my last email on this issue: I have no documents . . . responsive to your subpoena. I provided you all information requested in the Questionnaire regarding my employment." DCX 102; *see* DCX 101.

70. Petitioner also failed to disclose a number of criminal matters in Pennsylvania, including in his present Petition. DCX 114 (2006 conviction for disorderly conduct); DCX 115 (2010 charge and disposition for DUI/general impairment); DCX 116 (2008 charge for disregarding traffic devices and operating a vehicle without required financial responsibility); DCX 119 (charges in 2014 for speeding in excess of twenty miles over the speed limit); Tr. 431-32, 451-53, 455 (Matinpour). It is inconceivable that Petitioner could have forgotten about these criminal cases, particularly since he took steps in 2019 to have the court limit access to the records to only criminal justice agencies. Tr. 432-34, 466 (Matinpour); DCX 114 at 3 ("Limited Access Order Processed" on November 15, 2019). Disciplinary Counsel independently learned about these matters and, with the



assistance of Pennsylvania Bar Counsel, obtained copies of his Pennsylvania criminal files. *See* Tr. 432 (Matinpour).

71. On December 29, 2023, Disciplinary Counsel provided Petitioner with copies of the Pennsylvania court records in the proposed exhibit list. Petitioner never sought to amend or correct his response to the questionnaire. He offered no credible explanation at the hearing for concealing these criminal matters. Instead, he suggested that the defendant in some of the criminal cases was not him (*see* Tr. 435-36, 451-52 (Petitioner raising objections to Disciplinary Counsel's exhibits)), despite the court records listing his same date of birth, social security number, or other identifying information. *See* DCX 114; DCX 115; DCX 116; DCX 119; Tr. 452 (Matinpour). Additionally, Petitioner previously lived in Philadelphia, Pennsylvania, and he admitted that the Pennsylvania address listed for the defendant on some of the court records matched his address in Philadelphia. DCX 2 at 7; Tr. 436 (Petitioner responding to question regarding an exhibit); DCX 114 at 1; DCX 115 at 2; *see also* DCX 119 at 1.

72. In both his Petition and testimony at the hearing, Petitioner attempted to minimize his misconduct. For example, Petitioner did not accurately describe the nature of his misconduct in his Petition and omits any mention of the most serious misconduct found by the Maryland court. *See* DCX 2 at 2-3; *see also, e.g.*, Tr. 227-29 (Petitioner).

73. At the hearing, Petitioner acknowledged only that he had made "mistakes" (Tr. 5-8 (Petitioner's opening statement)), and claimed he was a victim

of a political war and that the Maryland decision was a "distortion." Tr. 224-28 (Petitioner).

74. Petitioner testified falsely about many aspects of his misconduct in Maryland including claiming that the Bantugs were separately represented, the sales contract authorized him to file the bankruptcy petition, Ms. Bantug knew about the bankruptcy in advance, and she filed a complaint against him because Petitioner was living with another woman. *E.g.*, Tr. 7-8 (Petitioner's opening statement), 98-99, 115, 118, 132-33 (Petitioner). Although the Maryland court found the Petitioner's claims about the misconduct were incorrect and, in some instances, incredible (*see* DCX 7), Pilot repeated many of Petitioner's claims when testifying in support of Petitioner at the hearing (Tr. 22, 36-37).

75. At the hearing, Petitioner maintained his contention that he did not have a conflict of interest when he bought the Fort Washington property from the Bantugs after claiming to be their counsel in handling the foreclosure on the property. Tr. 100 (Petitioner). *But see* DCX 7 at 20.

76. Petitioner also did not appear to appreciate that he could not sign pleadings on behalf of others when they had to swear under penalty of perjury to the truth and accuracy of the statements. Tr. 127-28 (Petitioner). His doing so was wrong even if the Bantugs had given him permission to file for bankruptcy, but the Bantugs never gave Petitioner permission. *See* DCX 6 at 4, 6, 17-18; DCX 7 at 22-25. Also, Petitioner's claim that this was the first bankruptcy he filed was false. Tr. 127-29 (Petitioner).

77. In responding to the reinstatement questionnaires, Petitioner gave inaccurate information and withheld information he was required to provide while falsely confirming that he had "answered all questions fully" and his "answers were complete and true to the best of [his] knowledge." DCX 2 at 17; *see, e.g.*, FF 52-53, 62, 71. He also made false representations in support of his petitions and refused to cooperate with Disciplinary Counsel's investigation of them. *See, e.g.*, FF 55, 57, 65, 67-69.

#### IV. CONCLUSIONS OF LAW

##### A. Nature and Circumstances of the Misconduct for Which the Attorney Was Disciplined

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)(1)-(2)). 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; *see id.* at 1382-84 (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").

The conduct leading to Petitioner's disbarment was undeniably serious. While representing the Bantugs in an effort to avoid foreclosure of their home,

Petitioner agreed to buy the home from them, and then continued to represent them in the effort to avoid foreclosure. When the effort failed and he was facing foreclosure on his residence (the Bantugs' house), he filed bankruptcy on the Bantugs' behalf, without their knowledge or consent. Worse yet, because they did not know about the bankruptcy petition, he forged their signatures, as well as the signature of his law partner, on all filings in the bankruptcy matter. In short, for his own benefit-to delay foreclosure-Petitioner filed a complete fiction in the bankruptcy court. The Bantugs did not want to file for bankruptcy, and Mr. McLemore was not their lawyer. This conduct violated Maryland Rule 3.3(a)(1) (candor toward the tribunal), 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation), and 8.4(d) (engaging in conduct that is prejudicial to the administration of justice).

Apart from filing the entirely fictitious bankruptcy petition and related filings, Petitioner violated Maryland Rule 1.7(b) (conflict of interest) through his business transaction with his clients. He also engaged in the unauthorized practice of law in Maryland (Rule 5.5(a)) and used letterhead that failed to disclose that he could not practice in Maryland (Rules 7.1 (communications concerning a lawyer's services), 7.5(a) and (b) (firm names and letterheads)).

Disciplinary Counsel also proved by a preponderance of the evidence that Petitioner misappropriated Mr. Morales settlement checks. Petitioner argues that Disciplinary Counsel should not have been allowed to present evidence of the alleged misappropriation because Disciplinary Counsel did not make a proffer of the

misappropriation evidence, as required by Board Rule 9.8(b). Pet'r's Br. at 6-7. Specifically, Board Rule 9.8(b) requires Disciplinary Counsel "to make a written proffer of the evidence to support admissibility of unadjudicated acts to the Chair of the Hearing Committee considering the petition for reinstatement, and to serve a copy of the proffer upon the petitioner." During the reciprocal proceedings based on the Maryland court's findings, Disciplinary Counsel advised the Petitioner that, should he seek reinstatement, certain additional unadjudicated conduct-of which he was aware-would be introduced. FF 22. Disciplinary Counsel did not make a formal proffer regarding the alleged Morales misappropriation; however, in its Answer, it indicated its intention to offer evidence that Petitioner had misappropriated settlement checks payable to Mr. Morales. DX 3 at 9-11. Petitioner was aware that Disciplinary Counsel would present this evidence, and was able to respond to that evidence at the hearing. He submitted a recording of a phone call involving Mr. Morales in an effort to cast doubt on Mr. Morales' credibility. PX 4; *see* Tr. 389-391. He also submitted documents relating to Ms. Pinto's domestic violence allegations and resultant protective order. PX 5; PX 6. Although the information in these exhibits was of limited usefulness to the Hearing Committee, we have no question that Petitioner was prepared to defend against the allegations made by Mr. Morales and Ms. Pinto. Thus, we find no prejudice to Petitioner from Disciplinary Counsel's failure to make the written proffer required by Board Rule 9.8.

B. Petitioner Fails to Recognize the Seriousness of His Misconduct.

The Court assesses a petitioner's recognition of the seriousness of misconduct as a "predictor of future conduct." *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.*

Petitioner does not recognize the seriousness of his misconduct, and continually attempts to minimize his misconduct. In his reinstatement questionnaire, he represented that he has been

disbarred for allegedly filing a bankruptcy petition without the consent of the bankrupt; engaging in the illegal practice of law for failing to list the jurisdictions in which he was admitted on letterhead that listed no attorneys' name and failing to advise someone who was represented by counsel in a real estate transaction that she should retain counsel.

DCX 2 at 8-9. This summary bears little similarity to the actual facts underlying his disbarment. *See also* FF 72-76. His refusal to acknowledge the misconduct resulting in his disbarment is especially troubling giving the Maryland court's clear findings on his misconduct over twenty years ago. Petitioner has had more than two decades to objectively consider the conduct that resulted in his disbarment; but, his presentation in this reinstatement proceeding shows no hint of an objective appraisal of his misconduct.

In his opening statement, Petitioner asserted that his misconduct resulted from "mistakes" he made in a real estate transaction: the first mistake was trusting Ms. Bantug as to the value of the property, the second was filing the bankruptcy to stop

the foreclosure, and the third was that he did not understand the significance of filing the bankruptcy on Ms. Bantug's behalf in order to protect his interest in the property. Tr. 7-8. He did not mention his forgery of the Bantugs's and Mr. McLemore's signatures.

Without their knowledge or consent, Petitioner signed the Bantugs' names under penalty of perjury. DCX 5 at 783 ("We declare under penalty of perjury that the information provided in this petition is true and correct."); DCX 5 at 795 ("I declare under penalty of perjury that I have read the answers contained in the foregoing Statement of Financial Affairs and any attachments thereto and that they are true and correct"); FF 13. During his testimony at the reinstatement hearing, he dismissed the notion that documents signed under penalty of perjury must actually be signed by the person who is swearing under penalty of perjury, "[b]ecause people delegate or grant authority to someone to act on their behalf." Tr. 128 (Petitioner). We are aware of no authority that would permit counsel to make a statement on behalf of a client subjecting the client to the penalty of perjury. However, even if such delegation were permitted, Petitioner's proffered justification for a forgery under penalties of perjury does not fit the facts. He was not acting on the Bantugs' behalf, at their direction, or with their consent. He did not sign the documents in a way that would make clear that he was acting pursuant to delegated authority. He was acting for himself, and was impersonating the Bantugs.

Respondent continues to insist that there was no conflict of interest in his representation of the Bantugs in connection with the foreclosure while

simultaneously entering into a contract of sale to purchase the Bantugs' home himself. He testified that "there's a very common saying in the law. There is no conflict of interest if the parties know -- if all the parties know all the parties' interests." Tr. 100 (Petitioner). We are aware of no such common saying, and more importantly Maryland Rule 1.7(b) requires client consent after consultation:

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

- (1) the lawyer reasonably believes the representation will not be adversely affected; and
- (2) the client consents after consultation.

DCX 7 at 18. There was no consultation and there was no consent. Petitioner continues to insist he did nothing wrong even now, more than twenty years after the Maryland court found "it incredible that Respondent is unable to recognize the conflict of interest." *Id.* at 20.

*Unadjudicated Misconduct.* We find that Disciplinary Counsel has proven that Petitioner misappropriated the settlement funds from Mr. Morales. Additionally, the Hearing Committee notes that evidence of domestic abuse in the record highlights serious character issues. A Maryland court entered a protective order against Petitioner after finding by clear and convincing evidence that he had assaulted his wife. DCX 128 at 18-21; FF 24. The fact that he was not criminally convicted does nothing to lessen the seriousness of this misconduct. As he does not



admit to misappropriation or assault, he does not accept responsibility for this unadjudicated misconduct.<sup>5</sup>

C. Petitioner Has Not Proven that He Has Taken the Steps Necessary to Prevent Future Misconduct.

The third *Roundtree* factor requires a review of Petitioner's conduct since disbarment, to identify steps taken to remedy past wrongs, and prevent future ones. Petitioner has taken no steps to remedy his past wrongs or prevent future ones. As discussed above, Petitioner still does not acknowledge that it was wrong to forge the signatures of the Bantugs and Mr. McLemore on the bankruptcy filings. He similarly does not understand the conflict created by his purchase of the Bantugs' home while representing them in an effort to avoid foreclosure. He has also failed to reimburse the Fund for its payment to Mr. Morales. As he does not acknowledge his prior misconduct, he has failed to prove that he would not repeat the same conduct again in the future.

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<sup>5</sup> As noted above, Disciplinary Counsel did not strictly comply with the requirements of Board Rule 9.8 (in that it did not submit a proffer of the evidence of the unadjudicated misconduct). We conclude that Petitioner was not prejudiced by this procedural error because he knew that Disciplinary Counsel would present evidence on this issue at the hearing. However, we recommend that the Court deny Petitioner's reinstatement request even without considering the unadjudicated misconduct. Thus, in the event that the Court determines that Disciplinary Counsel's procedural error should have resulted in the exclusion of this evidence, our recommendation would be the same: the reinstatement petition should be denied.

D. Evidence Bearing on Petitioner's Present Character Reveals a Lack of Candor.

This *Roundtree* factor requires Petitioner to 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 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, 1292-93 (D.C. 2018) (per curiam) (citation omitted) (denying reinstatement based on Report and Recommendation reflecting that petitioner's witnesses were unfamiliar with the details of his misconduct).

Petitioner presented testimony from Todd Pilot and Mark Johnson. Mr. Pilot is a Virginia lawyer who has known Petitioner since 1992. Tr. 13 (Pilot). Petitioner and Mr. Pilot worked together on cases prior to Petitioner's disbarment, and after his disbarment, Petitioner worked as a paralegal for Mr. Pilot for less than a year. Tr. 14-17, 33-34 (Pilot). Mr. Pilot did not interact with Petitioner on a professional level after Petitioner stopped working as a paralegal. Tr. 35 (Pilot). Mr. Pilot believed that Petitioner engaged in misconduct because he tried to practice in areas that he did not understand: real estate and bankruptcy. *See* Tr. 18-19 (Pilot); FF 74. Mr. Pilot believes that Petitioner has "found [his] lane now" (labor relations), and will not "delve into things that are outside of [his] lane." Tr. 22 (Pilot).

Petitioner also presented testimony from Mark Johnson, his brother. Tr. 64 (M. Johnson). Mr. Johnson testified that Petitioner was a contrite, "good person" (Tr. 68 (M. Johnson)), and that there was "a zero percent chance" of Petitioner repeating his misconduct (Tr. 72 (M. Johnson)). Unfortunately, Mr. Johnson's testimony confirmed that even now, during the hearing, Petitioner is unwilling to accurately portray the extent of his prior misconduct. In response to Petitioner's question about Mr. Johnson's knowledge of the circumstances under which Petitioner was disbarred, Mr. Johnson testified that

It was due to an error, and it was a business-related matter. You did something whereby I guess the law community frowned upon, because according to you, you didn't make a good judgment at the time, which I can understand it's possible. But someone you knew and trusted, you took it upon yourself to help her in a sense, but at the same time that didn't pan out to be totally true.

Your efforts and the compensation that you had related cost you a lot. Now, I personally don't know the lady, but I remember you telling me that that led up to the factors concerning your being disbarred.

Tr. 70 (M. Johnson). Petitioner made no effort to correct his brother's understanding of Petitioner's misconduct. *See id.*

Petitioner has failed to prove that he appreciates his mistakes, and that he has changed.

E. Petitioner Has Not Proven That He is Competent to Resume the Practice of Law.

As the Court explained, "[a] lawyer seeking reinstatement . . . should be prepared to demonstrate that he or she has kept up with current developments in the law." *Roundtree*, 503 A.2d at 1218 n.11.

Petitioner presented one exhibit containing U.S. Federal Labor Relations Authority training materials addressing Litigating Unfair Labor Practices Charges, PX 1 at 1-37; Duty of Fair Representation, PX 1 at 38-73; and Collective Bargaining, PX 1 at 74-133. He testified that he does labor relations work, but did not describe that work with any specificity. *See* Tr. 85-89 (Petitioner). Thus, we have no basis to assess Petitioner's knowledge of labor relations law, or any other area of law.

Petitioner does not include any training on any other substantive areas of law, and none on the Rules of Professional Conduct generally, much less any training on avoiding conflicts. Petitioner acknowledged that he had not taken any ethics courses since his disbarment, but asserted that "ethics are quite apparent to me now," and are "definitely" "more apparent" now than when he was disbarred. Tr. 505 (Petitioner). However, Petitioner offered no evidence to support this contention.

Mr. Pilot testified that Petitioner had developed a specialty in labor relations law, but he did not interact with Petitioner on labor relations issues. *See* Tr. 35, 51 (Pilot). Thus, Mr. Pilot's testimony regarding Petitioner's competence is entitled to little weight.

We conclude that Petitioner's scant evidence is not sufficient to prove by clear and convincing evidence that he has kept up in current developments in the law in the more than twenty years since his disbarment.

V. CONCLUSION

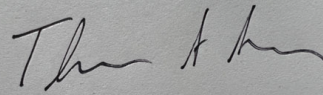
For the foregoing reasons, we conclude that Petitioner has failed to prove by clear and convincing evidence that he is currently fit to resume the practice of law, and we recommend that his Petition for Reinstatement be denied.

HEARING COMMITTEE NUMBER TWO



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Jay A. Brozost, Chair



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Thomas Alderson, Public Member



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Candice Will, Attorney Member