**THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE**[1]

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY
AD HOC HEARING COMMITTEE



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| In the Matter of: | : | |
| | : | |
| KAREN CLEAVER-BASCOMBE, | : | |
| | : | Board Docket No. 17-BD-035 |
| Petitioner. | : | Disc. Docket No. 2017-D115 |
| | : | |
| A Disbarred Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 458922) | : | |

REPORT AND RECOMMENDATION OF
THE AD HOC HEARING COMMITTEE

This is a contested proceeding on Petitioner Karen Cleaver-Bascombe's ("Petitioner" or "Ms. Cleaver-Bascombe") Petition for Reinstatement filed May 5, 2017 (the "Petition"). Petitioner was admitted to the District of Columbia Bar on July 10, 1998, but was disbarred on January 14, 2010. *In re Cleaver-Bascombe*, 986 A.2d 1191, 1200 (D.C. 2010). Ms. Cleaver-Bascombe's disbarment primarily resulted from two related-but-separate acts of misconduct. First, she submitted a fraudulent CJA voucher to the Superior Court seeking payment for services she knew she did not provide. Second, in aggravation of the first act of misconduct, at

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

the disciplinary hearing, Ms. Cleaver-Bascombe falsely testified that the voucher was accurate, and elicited false testimony from another witness to support her testimony. *Id*. at 1198-1201. Disciplinary Counsel opposes the Petition on numerous grounds.

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 her burden of proving, by clear and convincing evidence, that she 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

Ms. Cleaver-Bascombe was originally charged by Disciplinary Counsel with violations of Rules 1.5(a), 3.3(a)(1), 8.4(c), and 8.4(d). After an evidentiary hearing, on May 5, 2004, Hearing Committee Number 7 issued its Report and Recommendation, finding that Petitioner submitted a CJA voucher to the Court with false claims for legal services performed, in violation of Rule 8.4(c). Hearing Committee Number 7 further found in its report that by including such false claims on her voucher, Petitioner's fee was unreasonable *per se* and thus a violation of Rule 1.5(a). *In re Cleaver-Bascombe*, Bar Docket No. 183-02 at 18 (HC Rpt. May 5,

2004); (DCX 1 at 18.) The Hearing Committee determined, however, that Petitioner's submission of a "single false voucher, which went unpaid" did not warrant disbarment. It instead recommended that Petitioner be suspended for three months with reinstatement conditioned on successful completion of a CLE course on timekeeping and recordkeeping procedures. *Cleaver-Bascombe*, Bar Docket No. 183-02 at 23 (HC Rpt. May 5, 2004); (DCX 1 at 23.)

On December 17, 2004, the District of Columbia Board on Professional Responsibility ("the Board") issued its Report and Recommendation. In its Report and Recommendation, it found that when Petitioner submitted her CJA voucher to the Court, she "charged for meetings that never took place. She knew that these meetings did not take place, yet she included them on her voucher." *In re Cleaver-Bascombe*, Bar Docket No. 183-02 at 20 (BPR Dec. 17, 2004); (DCX 1 at 46.) The Board described Petitioner's CJA voucher as "patently fraudulent," (DCX 1 at 49), and modified the Hearing Committee's findings in concluding that Petitioner's conduct violated all the Rules that Disciplinary Counsel originally charged - Rules 1.5(a), 3.3(a)(1), 8.4(c), and 8.4(d). (DCX 1 at 58.) Nevertheless, the Board adopted the Committee's sanction recommendation. (*Id*.)

On February 9, 2006, the District Columbia Court of Appeals ("the Court") remanded the matter back to the Board, observing that "the findings relating to the [Petitioner's] voucher are in tension with the Board's conclusion regarding

[Petitioner's] testimony with respect to the potentially critical question whether [Petitioner] engaged in deliberate fabrication in order to obtain payment for work which she knew that she had not performed." (DCX 1 at 81.)

On October 21, 2006, the Board issued a Supplemental Report and Recommendation, finding that when Petitioner testified before the Committee in support of her fraudulent voucher, "her testimony was deliberately false." *In re Cleaver-Bascombe*, Bar Docket No. 183-02 at 6 (BPR, Supp. Rpt. July 21, 2006); (DCX 1 at 100.) The Board revised its original sanction recommendation, and recommended that Petitioner be suspended for two years, with a fitness requirement. (DCX 1 at 103.)

On January 14, 2010, the Court adopted the Board's Supplemental Report and Recommendation, but rejected its sanction recommendation. The Court stated:

> In sum, Cleaver-Bascombe submitted a "patently fraudulent" voucher while under oath. She then lied, also under oath, about submitting the voucher. She maintains now, as she has throughout the proceedings . . . that her voucher is accurate and her testimony was truthful.

*Cleaver-Bascombe*, 986 A.2d at 1200. The Court disbarred Petitioner. *Id*.

B. Prior Reinstatement Proceedings

The Board dismissed Petitioner's first two Petitions for Reinstatement without referral to a hearing committee. (DCX 3 at 1 (first Petition for Reinstatement, filed June 29, 2015), 73 (Board Order dismissing first Petition); DCX 4 at 1 (second

Petition for Reinstatement, filed March 28, 2016), 27 (Board Order dismissing second Petition).)

C. The Instant Proceedings

Petitioner filed the instant Petition on May 5, 2017. (DCX 2 at 1.) On March 19 and March 23, 2018, an evidentiary hearing was held in this matter before the Ad Hoc Hearing Committee ("the Hearing Committee"), consisting of F. Nicole Porter, Esq. (Chair), Dr. Robin Bell (Public Member), and Seth I. Heller, Esq. (Attorney Member). Petitioner appeared *pro se* and the Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel Joseph N. Bowman, Esq. Both parties presented documentary evidence, testimony, and oral argument. The following exhibits were admitted into evidence: Petitioner's Exhibit 1 and Disciplinary Counsel's Exhibits 1-9.

## 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) she has the moral qualifications, competency, and learning in law required for readmission; and (b) her 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;
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, strongly weighs against reinstating Petitioner to the practice of law. Ms. Cleaver-Bascombe has failed to present clear and convincing evidence that she is fit to resume the practice of law and, for the reasons set forth below, we recommend that her Petition be denied.

## III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

While we address each of the *Roundtree* factors below, we discuss those factors which most heavily impact our conclusion first.

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)). 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 (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").

Petitioner was disbarred for a pattern of serious misconduct, the gravity of which is best described by the Court's own language:

> The allegations in this case are extremely serious. The compensation of attorneys who represent criminal defendants in the District of Columbia courts pursuant to the Criminal Justice Act is based upon the assumption that members of our Bar are honorable men and women who will accurately report the work that they have done, and who will not demean their noble calling and bring disgrace to themselves and to their profession by swearing that they performed work that they did not do. Attorneys who accept CJA appointments are therefore expected to be scrupulously honest and to exercise a high degree of care in completing their vouchers, which are paid out of taxpayer funds, and which are submitted to the court under penalty of perjury. Where an

> attorney has deliberately falsified a voucher and sought compensation for work that he or she has not performed, or for time that he or she has not devoted to the case, that attorney's fitness to practice is called into serious question. This is especially true if the attorney has compounded his or her initial fraud by testifying falsely during the resulting disciplinary proceedings.

*Cleaver-Bascombe*, 986 A.2d at 1198–99.

In addition to the foregoing, Petitioner offered the false testimony of a correctional officer to substantiate her contention that she had met with her CJA client, when she had not. *See id.* at 1197 n.8. The Court disbarred Petitioner, finding that she submitted a "patently fraudulent" CJA voucher to the Superior Court and that she violated: Rule 1.5(a) by charging an unreasonable fee; Rule 3.3(a)(1) by knowingly making a false statement of material fact to a tribunal; Rule 8.4(c) by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and Rule 8.4(d) by engaging in conduct that seriously interfered with the administration of justice. *Id*. at 1192-93.

The Court characterized Ms. Cleaver-Bascombe's misconduct as "dishonesty of a flagrant kind," and concluded that she "lack[ed] the moral fitness" to practice law. *Cleaver-Bascombe*, 986 A.2d at 1199-1201; (DCX 1 at 126.) For the very reasons identified by the Court, the Hearing Committee finds that Ms. Cleaver-Bascombe's original misconduct was exceedingly serious, particularly in light of the fact that it involved the practice of law.

B. Petitioner's Conduct During Her Period of Disbarment

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. "In 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) (denying reinstatement where the petitioner's post-suspension handling of personal financial accounts "reflect[ed] the very conduct that led to his indefinite suspension") (alteration in original) (quoting *In re Robinson*, 705 A.2d 687, 688-89 (D.C. 1998)). During Petitioner's period of disbarment, she repeatedly engaged in conduct bearing a striking resemblance to that for which she was disbarred – namely submitting false information on court forms for financial gain.

1. Voluntary Bankruptcy Petition Providing False Information to the Bankruptcy Court

On September 9, 2012, Petitioner filed a Voluntary Petition for relief under Chapter 13 in the United States Bankruptcy Court for the District of Maryland (bankruptcy petition). (DCX 6 at 6 (docket sheet, Bankruptcy Petition #: 12-26525, U.S. Bankruptcy Court, District of Maryland (Baltimore)), 8-10 (Petitioner's bankruptcy petition).) On September 21, 2012, Petitioner filed her bankruptcy schedules and her Statement of Financial Affairs (SOFA) with the bankruptcy court, as required by 11 U.S.C. § 521(a)(1)(B)(iii). (DCX 6 at 19-37 (bankruptcy

schedules); 38-45 (SOFA).) Item 10 of the SOFA required Petitioner to "List all . . . property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within two years immediately preceding the commencement of this case," and to disclose the name and address of the transferee, the transferee's relationship to debtor, date of the transfer, and a description of the property transferred and value received. (DCX 6 at 41.)

Petitioner did not disclose on the SOFA that on August 22, 2012, approximately three weeks before filing the bankruptcy petition, Petitioner sold real estate located at 1806 Monroe Street, N.W., Washington, D.C. for $990,000.00 (Monroe Street transfer), and netted $127,666.26 from the sale. (DCX 9 at 2.)[2] She deposited the proceeds into her personal checking account the next day, August 23, 2012, and by September 4, 2012, Petitioner withdrew at least $110,000 to pay expenses related to a construction project in Jamaica. (Tr. 174:14 (Petitioner: "The monies were used for construction.").)[3]

[2] The HUD-1 Settlement Statement concerning this transaction indicated that Petitioner would receive $121,942.09 in cash. (*See* DCX 5 at 12.) However, Petitioner's checking account statement demonstrates that Petitioner received $127,666.26 from the sale. (*See* DCX 9 at 2.) The Hearing Committee recognizes the discrepancy between these two figures, but resolution of this discrepancy is not essential for purposes of this Report and Recommendation.

[3] At some point in September 2012, Petitioner also paid her parents $4,000.00. (DCX 6 at 110.)

Petitioner falsely indicated that there were no such transfers by checking the box labeled "None" on Item 10 of the SOFA. (DCX 6 at 41; Tr. 203-204 (Orenstein).) Petitioner "declare[d] under penalty of perjury that [she] read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct," and filed the SOFA with the bankruptcy court. (DCX 6 at 5.)

Moreover, Petitioner stated on yet another form filed with the bankruptcy court (entitled "Schedule B – Personal Property"), that the current value of her checking account as of September 9, 2012, the date she filed her bankruptcy petition, was $100 when, in fact, her Citibank checking account held $9,715.71 on that date. (DCX 6 at 22; DCX 9 at 4 (Citibank account statement); Tr. 195-200 (Orenstein).) This filing was also "under penalty of perjury that [Respondent had] read the foregoing summary and schedules," which she signed and certified were "true and correct to the best of [her] knowledge, information, and belief." (DCX 6 at 37.) Thus, Petitioner's bankruptcy filing, made under the penalty of perjury, did not disclose the (i) recent sale of her property or the proceeds of the sale, (ii) the prepetition transfer of the proceeds of that sale, or (iii) the cash remaining in her bank account.

Petitioner did not disclose that she had omitted any of the foregoing information from her bankruptcy filing until forced to do so when the Chapter 13

trustee's counsel convened and conducted a "341 meeting of creditors." (DCX 6 at 77 (transcript of creditors' meeting).) During the meeting, Mr. Eric Hartlaub, counsel for a creditor, confronted Petitioner with a HUD-1 Settlement Sheet showing that eighteen days before she filed for bankruptcy protection, she sold the Monroe Street property and received $127,666.26 from the sale. Mr. Hartlaub asked, "is it true that you sold a property located at 1806 Monroe Street, Washington, D.C. on August 22, 2012" and "what have you done with the proceeds?" (DCX 6 at 86-87.) Petitioner answered, "I paid off Bank of America. I paid off some other debts and credits and made some repairs to my second home." (DCX 6 at 87.) Petitioner added that "I know that the entire proceeds of the sale are now gone. If that is what you're asking." (*Id*. at 88.)

After Petitioner's admission, the bankruptcy trustee objected to confirmation of the bankruptcy plan and directed Petitioner to, *inter alia*: (i) file an amended SOFA disclosing the Monroe Street transfer; and (ii) produce "full documentation of disposition of all proceeds from sale of property." (DCX 6 at 108.) On October 16, 2012, Petitioner filed an amended SOFA disclosing the Monroe Street transfer and a $4,000 transfer of funds to her parents. (DCX 6 at 110, 112.) On November 13, 2012, Petitioner's bankruptcy lawyer, Mr. Feichtner, filed a "Line Requesting Order Denying Confirmation," asking the bankruptcy court to deny confirmation of

Petitioner's plan. (DCX at 117.)[4] Accordingly, the bankruptcy court dismissed the bankruptcy proceedings on December 6, 2012, with prejudice. (*Id*. at 118.)

Petitioner contends that she did not report the proceeds from the sale on her bankruptcy form because she did not read the bankruptcy petition "at all" and is not a bankruptcy attorney. (Tr. 103:09-20.) On cross-examination, she modified that statement, testifying that she "didn't read them carefully." (Tr. 119:22–120:08.) She described her bankruptcy forms as merely "deficient" and defends that the false information on the bankruptcy forms was the simple result of "mistakes, oversights, and so forth." (Tr. 326.) She finally defends that she ultimately amended the forms, albeit after the creditors' committee meeting. (Tr. 103:22.)

We do not find credible Respondent's explanation that she submitted an erroneous bankruptcy petition because she failed to read the SOFA form. The SOFA contains 25 questions on eight pages. (DCX 6 at 38-45.) For each question, Petitioner either checked the box "NO," or provided responsive information, as she did in response to Questions 1, 3a, 3c, 4a, and 9. With respect to her bank account, Respondent falsely represented that she had $100 in her checking account. This clearly demonstrates that Respondent read the petition well enough to know that she had to disclose her bank account balance. (DCX 6 at 22.) We find that Petitioner

[4] There is insufficient record evidence explaining why Petitioner voluntarily dismissed her bankruptcy petition and we make no findings in that regard.

dishonestly failed to disclose her bank account balance and her receipt and distribution of the proceeds from the sale of the Monroe Street property on her bankruptcy forms.

2. $600 in Unauthorized Government Cellular Phone Charges During Petitioner's Employment with the USDA

During her period of disbarment, Petitioner was employed from October 2009 to May 2015, as a Civil Rights Investigator and Examiner at the United States Department of Agriculture (USDA). (DCX 2 at 4 (Petitioner's Reinstatement Questionnaire, Question 4); (Tr. 69:6-9).) While at USDA, Petitioner violated USDA policy by using her government-issued business cell phone to make excessive personal international phone calls. Indeed, Petitioner admitted to making the phone calls (Tr. 69:21-70:4), and the evidence showed that USDA issued Petitioner a cell phone with instructions to use it only for work-related purposes, and limited personal calls. (Tr. 283; 290:10-18 (charges for personal calls were not to exceed approximately $5 per day).) The evidence showed that Petitioner made roughly $600 worth of personal international telephone calls and texts on her government-issued cellular phone. (Tr. 293:15-18.)[5] While USDA employees were permitted to call home, the $600 bill was substantial enough that Ms. Stephanie Brown, a USDA management analyst for over twenty years, including during Petitioner's

[5] The dates on which Petitioner incurred these charges are unclear. However, Petitioner does not dispute that the $600 in cellular charges were unreasonable for the time that she was on travel.

employment at USDA, testified that she had never seen such a large business cell phone charge from a USDA employee. (Tr. 287:3-20; 293:21-23.)

Although Petitioner stated that she was "fairly sure" there was no training on how to use the phones (Tr. 149:7-8), the Hearing Committee credits the testimony of witness Andrew Tobin. Mr. Tobin, the deputy director of the USDA Office of Ethics, testified that USDA regulations prohibit the use of government property for personal use or gain. (Tr. 307-308.) Mr. Tobin further testified that USDA employees are trained on those regulations within 90 days of being hired, and are bound by the regulations even if, for some reason, they were unable to attend the training. (Tr. 309-310.) Thus, we find that Petitioner was aware that making excessive personal international calls on a government-issued cell phone at government expense was prohibited by her employer.

Even at the hearing, Petitioner resisted taking responsibility for the unauthorized cellular bill. Initially, she testified that the calls may have been the result of a "purse dial" or "butt dial" but she "manned up and paid [the bill]" because the calls were made from her phone. (Tr. 148:06-149:02) ("[I]t's a very easy thing to put a phone in your back pocket or your handbag or you're squeezing it because you're holding onto the train or a bus or whatever, and you've called someone and you don't know, and you've been on this call for two hours and had no idea. . . .") Petitioner later admitted that she "act[ed] in bad judgment" in incurring the cell

phone bill and stated that her "mindset would have been, 'It's all right to make this call, but if there was an objection, I would simply pay it.'" (Tr. 322:23-323:03; 326:18-327:01.)

In Petitioner's original disciplinary proceeding resulting in her disbarment, the Court cautioned that "[l]awyers have a greater duty than ordinary citizens to be scrupulously honest at all times, for honesty is 'basic' to the practice of law. . . ." *Cleaver-Bascombe*, 986 A.2d at 1200 (emphasis in original) (quoting *In re Mason*, 736 A.2d 1019, 1024-25 (D.C. 1999)). Petitioner has again woefully failed to meet that standard. In fact, her conduct was "reminiscent of the actions that led to [her] disbarment" (*see Mba-Jonas*, 118 A.3d at 787 (quoting *Robinson*, 705 A.2d at 688-89)), and falls short of the scrupulous honesty required of members of the Bar. For these reasons, this factor weighs heavily against reinstatement.

C. Whether the Attorney Recognizes the Seriousness of the Misconduct for which She was Disbarred

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)). At the outset, we note that Petitioner's claimed recognition of the seriousness of her prior misconduct is belied by her conduct during her period of disbarment. Although Petitioner made intermittent expressions of remorse at the hearing and in her post-hearing brief, based on her testimony, documents submitted as part of the Hearing

Committee record, and the testimony of her proffered witnesses, we find that Petitioner does not recognize the seriousness of the misconduct for which she was disbarred.

During the reinstatement hearing, Petitioner repeatedly attempted to minimize her original misconduct. She testified on her direct examination that her "inadequate," "deficient," or "shoddy" recordkeeping caused her disbarment. (Tr. 62-65.) Further, Petitioner disputed the Court's and Board's finding that she perjured herself at the prior disciplinary hearing:

> I don't believe I perjured myself before [Hearing Committee Number 7], but I recognize and I accept that the Court found that and that the Board found that.

(Tr. 77:5-10.)

Regarding the correctional officer's false testimony at the previous hearing that she had visited her CJA client at the prison when she had not, Petitioner initially testified that she was essentially duped by her own witness. (Tr. 78:1-3) ("If you are asking me did I know in advance that he was not going to – or that he was going to offer testimony that was untrue, I didn't."). At a later point in the hearing, however, Petitioner admitted that she had manufactured a "cover-up" by "offering the testimony of the guard" to explain her "initial transgression." (Tr. 159:8-17.)

Petitioner's statements during her bankruptcy proceeding, regarding the basis of her disbarment, are also instructive as to whether she recognizes the seriousness

of her misconduct. At a meeting with her creditors on October 12, 2012, Petitioner responded to questions posed by a lawyer representing a creditor, and stated the following with respect to the reason for her disbarment:

> Mr. Hartlaub: What led to the disbarment? . . .
>
> Ms. Cleaver-Bascombe: I submitted a bill for services with an error on it.
>
> Mr. Hartlaub: This was a bill to a client?
>
> Ms. Cleaver-Bascombe: To the courthouse. . . .
>
> Ms. Cleaver-Bascombe: I was a public defender. And I worked for the [CJA] program. And I submitted a bill that was – had lots of – I think I had maybe 30 or so entries of which two or so fees couldn't be substantiated.

(DCX 6 at 97-98.)

Finally, although Petitioner proffered testimony from three witnesses to support her assertion that she recognizes the seriousness of the misconduct for which she was disbarred, the witness testimony provided meager compelling evidence to support her claim.

Petitioner's witnesses testified that she was embarrassed and upset once she was disbarred and has demonstrated true remorse for her acts. (*See, e.g.*, Tr. 15:12-21 (Testimony of Mr. Everald Thompson: "Oh, as I recall, it had a devastating effect on the petitioner because it was public humiliation . . . [a]nd I know there were lots of tears and dislocation."); 52:6-53:4 (Testimony of Ayanna Kambui: "From what I could see and talking to her subsequently, it was a very devastating turn of events

for her . . . it was very clear that she absolutely regretted having gotten herself into that situation . . . she expressed that if she had it to do all over again, she would never travel down that road.").) However, one witness, Donna Beasley, could not recall the specific acts that led to Petitioner's disbarment or whether Petitioner had ever spoken to her about them. (*See, e.g.,* Tr. 33:2-4, 46:10-12 (Ms. Donna Beasley testifying that she could not recall "the ins and outs of the opinion" or whether she had conversations with Petitioner about the conduct that led to the bar referral). Ayanna Kambui, testified that although Petitioner never went into the "nitty gritty" with her, Petitioner conveyed "that she had erred, she had made mistakes, and she was sorry that she had done so." (Tr. 58:2-7.)

Given Petitioner's equivocating testimony at the hearing, misleading statements at the October 12, 2012 bankruptcy creditors' meeting about the actions that led to her disbarment, and the lack of knowledge by two of her witnesses of her specific misconduct, we find that, while earnestly making *expressions* of remorse, Petitioner has failed to present clear and convincing evidence that she recognizes the seriousness of her misconduct. Indeed, the evidence presented at the hearing shows that Petitioner does not recognize the seriousness of her misconduct. Petitioner cannot minimalize or deflect her wrongdoing when she believes it may best serve her. *See, In re Lee*, 706 A.2d 1032, 1035 (D.C. 1998) (denying reinstatement where "the Committee concluded that the skimpy facts given by Petitioner to his character

witnesses regarding his crimes reflected a lack of recognition by him of the seriousness of his misconduct"); *In re Brown*, 617 A.2d 194, 197 (D.C. 1992) (Court denying petition for reinstatement where the Board found that petitioner was not "straight forward and honest" in prior proceeding). Accordingly, the Committee concludes that Petitioner has not satisfied the third *Roundtree* factor.

D. Petitioner's Present Character

To satisfy this fourth *Roundtree* factor, Petitioner must demonstrate, among other things, that "those traits which led to [her] disbarment no longer exist . . . and [she] is a changed individual having full appreciation of [her] mistake." *Brown*, 617 A.2d at 197 n.11 (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) (denying reinstatement where petitioner's witnesses were unfamiliar with the details of his misconduct).

Petitioner testified at the hearing that she has learned from her mistakes. She stated that she has "come to recognize the seriousness of the misconduct." (Tr. 69:1-2.) However, we find that she has not. As stated earlier in this report, throughout her testimony Petitioner referred to her submission of a false voucher as mere "shoddy recordkeeping." (Tr. 62-65.) She never fully appreciated, or took

responsibility for, the wrongful acts she engaged in which led to her disbarment. When, on cross-examination, Petitioner was asked why she was disbarred in 2010, she testified that the voucher entry pertaining to the client visit "could not be substantiated" and that the "Court of Appeals held that I wrongfully defended my bill." (Tr. 74:9-14.) In fact, when Petitioner was specifically questioned by Disciplinary Counsel as to whether she visited her client at the jail, she stated, "[t]he Court of Appeals found that I had not gone to the jail that day, and I accept the Court's decision." (Tr. 75:17-19.) Although Petitioner, under persistent questioning by Disciplinary Counsel, ultimately admitted that she "made a false representation on the voucher" (Tr. 76:1-2; *see also* Tr. 84-86), given her testimony throughout the hearing, it is clear that eight years after her disbarment, Petitioner is still unwilling to candidly acknowledge her misconduct.

Although Petitioner offered the testimony of witnesses to support her assertion that her character has changed, she failed to produce clear and convincing evidence in support of that assertion. As stated earlier in this report, the majority of the witnesses were only partially familiar with the underlying conduct that gave rise to the misconduct. Further, the record is clear that at least two witnesses were unaware of Petitioner's issues with her bankruptcy petition and the unauthorized personal calls she made while employed as an investigator with the USDA. (*See* Tr.

23:18-21; 43-44.) Accordingly, the Hearing Committee finds that Petitioner has not satisfied the fourth *Roundtree* factor.

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 (D.C. 1986) (petitioner's competence established where he testified that he kept up with developments in the law by reading legal 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. Thus, given that Petitioner has not practiced law in over eight years, she must make a heightened showing that she has the skills and qualifications necessary to practice law.

The Hearing Committee finds that Petitioner has failed to meet her burden as to this last *Roundtree* factor. Although Petitioner has listed fifteen courses on her self-described "CLE List," only three courses appear to be CLE courses taken to ensure that she remains abreast of current legal developments. (PX 1 ¶¶ A, B, P (Karen Cleaver Bascombe CLE List).) Two of these three courses were taken months before Petitioner filed her reinstatement petition in May 2017. (PX 1 ¶¶ A-B.) Additionally, eleven courses were taken as part of her employment as a USDA non-lawyer investigator, as they involve subjects regarding the drafting of final agency decisions, complaint processing and investigation, and understanding various departmental policies and regulations. (PX 1 ¶¶ E-O.) Although Petitioner has completed a mediation training in Jamaica (PX ¶ C), is certified as a mediator in that jurisdiction (PX ¶ D), and is currently employed teaching jurisprudence at the University of Technology in Jamaica, given the strong qualifications and

competency showing that attorneys who have been disbarred for lengthy periods of time must make, Petitioner has not shown that these actions, even when considered in conjunction with the three CLE courses taken, fully satisfy the fifth *Roundtree* factor. Petitioner presented no witnesses who could testify to her competence in her work teaching jurisprudence or letters from supervisors to that effect. She also provided no other details regarding her teaching or mediation experiences. Although one witness, Everald Thompson, testified that he had "conversations with [Petitioner] over a period of years, particularly with respect to criminal law" (Tr. 22:5-11), his testimony is vague and unconvincing. In the Hearing Committee's view, it is not enough for Petitioner to produce a list of employment experiences and certifications to establish that she has the qualifications and competency to practice law. She must actually prove her competence, and in this respect the Committee finds she has failed to do so.

## IV. 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*. She has not demonstrated that her 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.

AD HOC HEARING COMMITTEE

By: _____
F. Nicole Porter, Esquire
Chair

_____
Seth Heller, Esquire
Attorney Member

_____
Dr. Robin Bell
Public Member