THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

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

In the Matter of:	:	
	:	
PAMELA BRUCE STUART,	:	
	:	Board Docket No. 19-BD-007
Petitioner.	:	Disciplinary Docket No. 2019-D016
	:	
A Suspended Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 220236)	:	

REPORT AND RECOMMENDATION OF
HEARING COMMITTEE NUMBER FOUR

This is a contested proceeding on the Petition for Reinstatement filed on January 15, 2019 (the "Petition") by Pamela Bruce Stuart ("Petitioner"). Petitioner was suspended from the practice of law for one year, with her reinstatement being conditioned upon a showing of fitness. Petitioner's suspension was a reciprocal discipline based upon her suspension from the practice of law in Florida. Petitioner's one-year period of suspension began on July 7, 2017, and she is thus currently eligible to petition for reinstatement under Board Rule 9.1.

Petitioner had been appointed by her deceased father as trustee to his trust. In the Florida disciplinary proceedings, Petitioner acknowledged that as trustee, Petitioner loaned herself money from the trust to pay part of the carrying costs of her failed real estate investment owned by an L.L.C. and to support her own living and medical expenses. Petitioner's plea in the Florida disciplinary proceedings also stated that a Florida trial court judge found that she "breached her fiduciary duties

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

by failing to provide the required annual accountings and loaning herself substantial monies from the trust. . . ." DCX 2 at 16, ¶ 8.E (Conditional Guilty Plea for Consent Judgment, *Florida Bar v. Stuart*, Florida Bar File No. 2016-30548 (Nov. 16, 2016)). In ordering the reciprocal suspension, the D.C. Court of Appeals noted that Petitioner "stipulated to the factual basis underlying her Florida discipline and consented to judgment." *In re Stuart*, 172 A.3d 393, 394 (D.C. 2017) (per curiam).

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

On January 15, 2019, Petitioner filed a Petition for Reinstatement, asserting that she should be reinstated because her period of suspension has passed and she has studied for and passed the Multistate Professional Responsibility Exam; has taken a six-hour course on Practicing with Professionalism for new lawyers in Florida; has completed 30 hours of CLE; and has exhibited remorse for the conduct that resulted in her suspension. Disciplinary Counsel filed its Answer to the Petition on March 1, 2019, opposing reinstatement on the basis of Petitioner's not having satisfied the *Roundtree* factors.

On July 26 and 29, 2019; August 28, 2019; February 8, 2021; and April 19 and 20, 2021, an evidentiary hearing was held in this matter before Hearing Committee Number Four ("the Hearing Committee"), consisting of Leslie Spiegel, Esquire (Chair), Marc Raphael (Public Member), and William Way, Esquire (Attorney Member).[1] Petitioner appeared *pro se* and the Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel Sean O'Brien, Esquire, and Assistant Disciplinary Counsel Eby Kalantar, Esquire. The following exhibits were admitted into evidence: Petitioner's Exhibits ("PX") 1-20, 21A, 22-38 and Disciplinary Counsel's Exhibits ("DCX") 1-108, 111, 112, 114. Petitioner testified on her own behalf and called the following witnesses: Kathleen Voelker, D.C. Superior Court Senior Judge Henry Greene, Paula M. Potoczak, Pauline Thompson, Stephanie Ann Howard, MaryEva Candon, James Connelly, and Diane Fleming. Disciplinary Counsel called Edward Ryan and Catherine Ryan as witnesses.

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

[1] Mr. Way was not able to attend every hearing day. By agreement of the parties, he has participated in this decision after reviewing the record of the matter. *See* Board Rule 7.12.

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, 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 her Petition be denied.

III. FINDINGS OF FACT

Background

1. Petitioner graduated in 1973 from the University of Michigan Law School cum laude. Tr. 29 (Petitioner); PX 1 at 97 (Reinstatement Questionnaire, Response to No. 3). She became a member of the D.C. Bar on November 4, 1975. DCX 1 at 1.

2. Petitioner began her career at the Bureau of Consumer Protection of the Federal Trade Commission. Tr. 33-35 (Petitioner). In May 1979, Petitioner was hired as an Assistant United States Attorney for the District of Columbia. Tr. 37-38. Petitioner joined the Office of International Affairs of the Criminal Division at the Department of Justice in 1985. Tr. 40. In 1987, Petitioner joined a small insurance coverage defense law firm. DCX 4 at 27; *see* Tr. 43-44. In 1989, Lobel, Novins, Lamont & Flug recruited Petitioner to join the firm. DCX 4 at 27; *see* Tr. 44-45. Petitioner started her own practice in April 1992. Tr. 47-48.

3. Petitioner joined the Maryland Bar in 1992, the Virginia Bar in 1993, and the Florida Bar in 1994. PX 1 at 99 (Reinstatement Questionnaire, Response to No. 7); *see* Tr. 51-52 (Petitioner). She was very involved in legal and civic activities in both Washington, D.C. and Florida. Tr. 52-57; PX 1 at 19-20.

4. Petitioner was a member of the Real Property, Probate, and Trust Section of the Florida Bar and served on the Executive Committee of that Section. DCX 2 at 22, 39; DCX 1 at 40. She was familiar with the fiduciary duties required of a trustee, and her areas of legal practice included probate and estate planning. *See*

DCX 2 at 39; Tr. 55-57 (Petitioner); *see also* DCX 1 at 41-44 (showing Petitioner was an organizer and speaker in various Estate Planning talks).

Disciplinary Proceedings Against Petitioner

5. On November 15, 2016, Petitioner agreed to a Conditional Guilty Plea for Consent Judgment in the Florida Supreme Court ("Plea"). DCX 2 at 14-18.

6. In the Plea, Petitioner agreed to a one-year suspension from the practice of law requiring proof of rehabilitation before reinstatement and payment of the Florida Bar's disciplinary costs. DCX 2 at 15, ¶ 6.

7. On January 5, 2017, the Florida Supreme Court approved the Conditional Plea. DCX 2 at 11 (Order, *Florida Bar v. Stuart*, No. SC16-2204 (Fla. Jan. 5, 2017)).

8. Petitioner was subsequently disbarred by the United States Supreme Court and suspended from the Bars of the U.S. Court of Appeals for the District of Columbia Circuit and the U.S. District Courts for the District of Columbia, the Southern District of Florida, the Eastern District of Virginia, the Northern District of New York, the Eastern District of New York, the Southern District of New York, and the District of Maryland. DCX 4 at 41, 55 *et seq.* The Maryland and Virginia state bar authorities imposed reciprocal discipline. DCX 4 at 77 *et seq*. New York state disciplinary authorities imposed reciprocal discipline with a lesser sanction. DCX 4 at 75-76.

9. The Virginia State Bar Disciplinary Board terminated Petitioner's disciplinary suspension on June 19, 2018. DCX 4 at 86 (*In the Matter of Stuart*, VSB Docket No. 17-000-108841 (Va. State Bar Disc. Bd. June 19, 2018)).

10. In imposing reciprocal discipline, the U.S. District Court for the Eastern District of Virginia stated that Petitioner "admits that she 'essentially pled guilty' to a breach of fiduciary duty as trustee of her deceased father's trust" and that Petitioner "specifically admits that she 'does not claim that the Florida proceedings lacked due process or that there was an infirmity of proof.'" DCX 4 at 59 (Suspension Order, Eastern District of Virginia (Apr. 20, 2017)).

11. On November 2, 2017, the D.C. Court of Appeals imposed reciprocal discipline of a one-year suspension with a fitness requirement upon any application for reinstatement by Petitioner. *Stuart*, 172 A.3d at 394.

12. Petitioner has not otherwise been disciplined by any jurisdiction. PX 1 at 102 (Reinstatement Questionnaire, Response to No. 12). She has not otherwise been the subject of other charges, complaints, or grievances in any bar in which she is or was a member. PX 1 at 102 (Reinstatement Questionnaire, Response to No. 11).

Misconduct for Which Petitioner Was Disciplined

Terms of the Florida Plea

13. Florida Rule of Discipline 3-4.3 and Rule of Professional Conduct 4-8.4(a) and (d) provided the basis for the agreed-upon discipline. DCX 4 at 52, ¶ 9. Florida Rule 3-4.3 provides that:

> The standards of professional conduct required of members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration of certain categories of misconduct as constituting grounds for discipline are not all-inclusive nor is the failure to specify any particular act of misconduct be construed as tolerance of the act of misconduct. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice may constitute a cause for discipline whether the act is committed in the course of the lawyer's relations as a lawyer or otherwise, whether committed within Florida or outside the state of Florida, and whether the act is a felony or a misdemeanor.

Florida Rule 4-8.4(a) provides that "A lawyer shall not . . . violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another." Florida Rule 4-8.4(d) provides that "A lawyer shall not . . . engage in conduct in connection with the practice of law that is prejudicial to the administration of justice . . . ."

14. The factual allegations that provided the basis for the Plea were:

    a. Petitioner was appointed by her father as the trustee to his trust. DCX 4 at 50, ¶ 8.A.

    b. "As trustee and pursuant to the terms of the trust and Florida law, [Petitioner] loaned herself money to assist her in carrying out the trust's responsibilities, to pay part of the carrying costs of a failed real estate investment owned by an L.L.C. and to support her own living and medical expenses." DCX 4 at 50, ¶ 8.B.

    c. "The terms of the trust required the loans to be secured by collateral and at an adequate interest rate." DCX 4 at 51, ¶ 8.C.

    d. A promissory note prepared by Petitioner secured repayment of the loans against certain fees and expenses. The note required repayment of the principal plus simple interest at the lower of 3% or the IRS long term applicable federal rate in accordance with 26 U.S.C. §1274(d). DCX 4 at 51, ¶ 8.C.

e. Petitioner intended to repay the loans. DCX 4 at 51, ¶ 8.D.

f. Florida trial court "Judge Paul B. Kanarek both found that [Petitioner] breached her fiduciary duties by failing to provide the required annual accountings and loaning herself substantial monies from the trust and denied [Petitioner's] request for payment of trustee fees and repayment of trust expenses advanced by [Petitioner]." DCX 4 at 51, ¶ 8.E.

15. The Plea stated that in mitigation, Petitioner did not have prior discipline, that she "experienced many personal problems and setbacks over the time period that the misconduct occurred," that she showed a "cooperative attitude during the disciplinary proceedings," that she "faced civil penalties for her misconduct," and that she expressed remorse. DCX 4 at 52, ¶ 10.

16. The Plea stated that in aggravation Petitioner "engaged in a pattern of misconduct" and had "substantial experience in the practice of law." DCX 4 at 52, ¶ 10.

17. Neither the Florida order suspending Petitioner nor the D.C. Court of Appeals order imposing reciprocal discipline explicitly incorporates the Florida trial court order of Judge Kanarek that is cited in the Plea. *Compare* DCX 4 at 51, ¶ 8.E., *with* DCX 4 at 47-48, *and Stuart*, 172 A.3d at 394.

18. As noted above, the Plea identifies specified findings in Judge Kanarek's order as among the "allegations provid[ing] the basis for [Petitioner's] guilty plea." DCX 4 at 50, ¶ 8. In ordering suspension, the D.C. Court of Appeals stated that "it appear[s] that [Petitioner] stipulated to the factual basis underlying her Florida discipline and consented to judgment." *Stuart*, 172 A.3d at 394.

19. Despite the reference to Judge Kanarek's findings in the Plea, Petitioner argues that she did not stipulate in the Florida or District of Columbia disciplinary proceedings to the breaches of fiduciary duty found by Judge Kanarek in the order. *See* Tr. 1223-25 (Petitioner) ("I said that he made findings. The findings were not included"); Tr. 1393-94 (Petitioner's closing argument).

20. Petitioner has repeatedly and strongly disagreed with the findings in Judge Kanarek's order in these disciplinary proceedings and in other litigation. *See, e.g.*, Tr. 123 (Petitioner's testimony that she "vehemently disagreed with the trial judge's order"); Petitioner's Motion to Quash Subpoena and to Strike Supplementary Exhibits of ODC, at 2 (Aug. 21, 2019) ("Petitioner was suspended after a long and distinguished legal career based upon the complaint of her brother in law and the order of a Florida judge who made defamatory remarks about petitioner without benefit of the review of any evidence in a civil proceeding in a Florida state court"). The Florida court system has made a number of other rulings in Florida litigation related to Petitioner's handling of the trust with which Petitioner strongly disagrees, including a judgment that she owes her sisters a deficiency judgment of approximately $1.778 million. *See, e.g.*, Tr. 436-37 (Petitioner describing her disagreement with judgments against her in Florida proceedings); DCX 27 (deficiency judgment).

21. Petitioner testified that "the [Florida] Bar Counsel insisted that there be a statement in this Consent Agreement that a trial judge had found various breaches in my fiduciary duties." Tr. 121:5-8.

22. Paragraphs 8.A.-D. of the Plea do not specify any sanctionable misconduct by Petitioner. Only Paragraph 8.E. identifies sanctionable conduct by Petitioner. Accordingly, it is clear that despite her arguments to the contrary, Petitioner consented to a finding that, as the Plea describes Judge Kanarek's conclusion, Petitioner "breached her fiduciary duties by failing to provide the required annual accountings and loaning herself substantial monies from the trust." DCX 2 at 16, ¶ 8.E. Judge Kanarek's conclusion denying Petitioner's "request for payment of trustee fees and repayment of trust expenses advanced by [Petitioner]" is also incorporated into the Plea. DCX 2 at 16, ¶ 8.E.

23. In the signed Plea, Petitioner stated that she "is acting freely and voluntarily in this matter, and tenders this plea without fear or threat of coercion." DCX 2 at 14, ¶ 4; *see* DCX 2 at 18.

24. Petitioner stated that in the Florida disciplinary proceedings she "cooperated completely with Bar Counsel." Tr. 119:13.

25. Petitioner did not seek reinstatement in Florida where she consented to discipline. Tr. 1250 (Petitioner). Instead, on January 15, 2019, she filed a Petition for Reinstatement to the District of Columbia Bar before she was reinstated in Florida. DCX 4; *see* Tr. 1250 (Petitioner).

Petitioner's Overborrowing from the Trust and Failure to Account

26. After the death of J. Raymond Stuart, Petitioner's father, in 1998, Petitioner acted as co-trustee to the J. Raymond Stuart Revocable Trust, which had total assets of around $2.75 million. Tr. 1068-69, 1121-22 (Petitioner); Tr. 485-88

(E. Ryan). The trust's brokerage account held $1,656,519.64.[2] PX 21 at 11; *see* Tr. 60:12-13 (Petitioner's testimony that "the [trust's] brokerage account . . . started out with about $1,600,000 in stocks, bonds, and cash"). Other assets in the trust included real estate owned by Petitioner's parents. Tr. 486 (E. Ryan).

27. Petitioner's mother was a life beneficiary of the trust, and Petitioner and her siblings, Deborah Stuart and Catherine Ryan, were remainder beneficiaries. DCX 2 at 21-22; Tr. 482 (E. Ryan). Deborah Stuart suffered from a disability and relied on Social Security disability income. Tr. 608 (C. Ryan); Tr. 483 (E. Ryan).

28. The Trust required that there be at least two trustees, at least one of whom was to be an independent trustee, *i.e.*, a non-family member whose own family did not have an interest in the trust. DCX 2 at 22-23. After independent co-trustee Lewis Smith resigned in 2000, Petitioner appointed Edward Ryan, Catherine Ryan's husband and Petitioner's brother-in-law, to be co-trustee. DCX 2 at 22-23; Tr. 488 (E. Ryan).

29. At the time she appointed him, Mr. Ryan had no experience with trusts and estates law. Tr. 995 (E. Ryan). Petitioner knew that as a family member he was ineligible to act as a co-trustee, but she appointed him anyway. PX 20 at 101 ("I was aware that you were not qualified . . . ."); Tr. 1092 (Petitioner). Although she herself knew, Petitioner never told Mr. Ryan that he was ineligible to serve as co-

[2] Petitioner's brother-in-law testified that the value of the trust brokerage account when Petitioner's father died was approximately $1.75 million. Tr. 485:19-22 (E. Ryan); *see* DCX 2 at 21-23. The parties did not explain that discrepancy, and the Committee does not believe the discrepancy is material to the issues in this Report.

trustee under the terms of the trust. Tr. 994-95 (E. Ryan). Petitioner testified, "I didn't really expect [Mr. Ryan] to do anything, except do whatever I asked him to do." Tr. 90.

30. Petitioner paid herself approximately $170,000 with trust assets from 1998-2000. Tr. 1207-08; PX 21A at 1, 37; PX 22 at 1-2, 31-32; PX 23 at 2, 34; DCX 53 at 6. She did not issue 1099s for those payments. DCX 2 at 33.

31. In 2001, Petitioner purchased, through her single-member limited liability company, a commercial building in Washington, D.C. as an investment property. DCX 2 at 24; Tr. 73-75 (Petitioner); Tr. 1094-95 (Petitioner).

32. At the time, she owned real property located at 5115 Yuma Street NW in Washington, D.C. and she also owned a townhouse at John's Island in Indian River Shores, Florida. DCX 2 at 24; Tr. 1096-97 (Petitioner).

33. In late 2001 or early 2002, Petitioner began taking funds out of the trust to pay the carrying costs, including mortgage payments and later litigation expenses, for her commercial building and her two homes in D.C. and Florida. DCX 2 at 24; *see* Tr. 492, 501 (E. Ryan); *see also* Tr. 1136-37 (Petitioner) (funds were used for her commercial building, her law practice, and "ongoing maintenance and support"); Tr. 79:11-13 (testimony of Petitioner that she decided to "to borrow against [her] inheritance, and [her] right to receive trustee fees, to get money to pay for this building"); Tr. 80:8-10 (Petitioner); Tr. 84-86 (testimony of Petitioner that those costs also included expenditures arising from litigation related to the building).

34. Petitioner explained in vague terms to her sisters that she needed to borrow from the trust, but she did not ask for authorization before she took funds from the trust. *See* Tr. 605 (C. Ryan) (C. Ryan wanted to support Petitioner, but she did not understand it was a long-term problem); Tr. 644-45 (C. Ryan) (she only knew Petitioner was taking money out of the trust from financial statements, which did not explain what is was used for); Tr. 492, 1006 (E. Ryan); *see also* Tr. 109 (Petitioner) ("I borrowed in the good faith, but *obviously mistaken* belief that it was authorized" (emphasis added)); *cf.* Tr. 80-82, 89 (Petitioner) (contending disclosures to family came from trust account statements).

35. Although Mr. Ryan received monthly financial statements that showed checks issued to Petitioner (among other payments), he did not initially realize that she was taking large sums of money from the trust for herself. *See, e.g.*, Tr. 495-96 (E. Ryan) (discussing PX 10 at 8, monthly trust account statement for December 2002 showing various payments, but only a single check to Petitioner); Tr. 496-99 (E. Ryan) (later, Mr. Ryan reviewed annual statements that showed all of the checks to Petitioner for each year, which caused him to "wonder[] what they all involved").

36. The governing instrument for the trust required trustees to provide annual accountings. Tr. 514 (E. Ryan).

37. Petitioner failed to provide accountings to Mr. Ryan or the co-beneficiaries that accounted for how much she took from the trust and how she used the funds. DCX 1 at 13 (admitting failure to account); Tr. 1002-03 (E. Ryan) ("She never provided an accounting, none. . . . there weren't any [accountings].")

38. The instrument governing the trust permitted the trustee to make loans from the trust with adequate interest and security. Tr. 515 (E. Ryan). It further required joint co-trustee approval for actions taken on behalf of the trust. *See* Tr. 516-17 (E. Ryan); DCX 1 at 77.

39. Petitioner did not ask her co-trustee Mr. Ryan before borrowing funds from the trust. Tr. 492, 516-17 (E. Ryan); *see also* Tr. 109 (Petitioner). Nor did she provide adequate security or interest as required by the trust. DCX 2 at 33-34; Tr. 514-515 (E. Ryan) (Petitioner provided no collateral and no interest); *see also* Tr. 516-17 (E. Ryan) (co-trustee never authorized any loans to Petitioner, as required by the trust); ; DCX 1 at 19 n.5 (Petitioner admitted that Florida Bar Counsel determined that there was "inadequate" security); Tr. 1116 (Petitioner) (when asked whether her "word" was adequate security, she testified "I believed I was good for it").

40. In 2001, Petitioner paid herself $202,658.13 from the trust. DCX 53 at 6 (summary of withdrawals); DCX 62 at 4. In 2002, she paid herself $247,000. DCX 53 at 6; DCX 65 at 4-5. In 2003, she paid herself $129,500. DCX 53 at 6; DCX 69 at 4; DCX 72 at 4. In 2004, she paid herself $368,570.31. DCX 53 at 6; DCX 76 at 3-4; Tr. 1100-01 (Petitioner); *see also* Petitioner's PFF 28 (acknowledging that "Petitioner withdrew $357,500 from the [trust account] in 2004 . . . which was about equal to the [commercial building] expenses ($332,063.85) plus the . . . trust expenses paid out of Petitioner's accounts ($13,585.42)" (citations omitted)).

41. In 2004, Mr. Ryan reviewed the past statements for the trust financial accounts and found that Petitioner had issued checks to herself totaling around $865,000. Tr. 500 (E. Ryan); *see also* DCX 53 at 2 (showing takings exceeded $865,000 sometime in 2004).

42. Mr. Ryan confronted Petitioner, who said she did not realize how much she had taken and promised to repay the trust. Tr. 500-01 (E. Ryan). Petitioner told Mr. Ryan that she had a "short-term" cash flow problem and promised she would repay everything when she received her share of a large whistleblower case. Tr. 945 (E. Ryan); DCX 2 at 34.

43. In 2005, after Mr. Ryan confronted her, Petitioner took another $26,000 from the trust. DCX 53 at 6; DCX 80 at 4; *see* Tr. 503 (E. Ryan). In that year, she received proceeds from the whistleblower case that she used to pay her personal expenses. *See* DCX 2 at 34; Tr. 1379-1381, 1389-1390 (Petitioner) (Petitioner received at least $500,000 as a fee award in a whistleblower case); DCX 51 at 23. She did not repay the trust. DCX 2 at 34; Tr. 1379-1381.

44. In 2006, Petitioner resumed taking hundreds of thousands of dollars each year from the trust. She paid herself $111,000 from the trust that year. DCX 53 at 6; DCX 83 at 4; DCX 84 at 5.

45. In 2007, she paid herself $450,000 from the trust. DCX 53 at 6; DCX 86 at 3-4; DCX 87 at 4; *cf.* Tr. 1101-02 (Petitioner's own *post hoc* accounting suggests over $400,000).

46. Petitioner used the funds she paid herself from the trust to pay her personal expenses, including primarily the costs and mortgages associated with her commercial building in D.C., as well as expenses related to her D.C. home and her second home in Florida. DCX 2 at 24; *see* Tr. 1108-1110 (Petitioner). However, in many months, she paid herself tens of thousands of dollars in excess of the mortgages of the three properties. DCX 2 at 24; *see, e.g.*, Tr. 501-02 (E. Ryan) (explaining Petitioner's mortgages totaled approximately $20,000 per month or $240,000 per annum); DCX 86 at 4 (Petitioner withdrew over $250,000 between June and December 2007).

47. Petitioner falsely misrepresented to Mr. Ryan, the co-trustee, that much of what she was taking out of the trust was to pay herself trustee and attorney's fees. *See, e.g.*, PX 20 at 87 (Mar. 5, 2006 Email: "The withdrawals I have taken have been for purposes of fees due me for services as the personal representative of the estate, the attorney to the estate, and for initial trust administration, and for ongoing trust administration and some loans."); *see also* DCX 53 at 2 (around $1.2 million spent by March 2006).

48. Petitioner never filed a 1099 or declared to the IRS the funds that she took from the trust as fees. *See* DCX 2 at 33; DCX 52, Fla. Bar Tr. at 32-33 (everything Petitioner took after 2001 was a "loan"). In fact, she failed to file any personal tax returns from 2005-2016. DCX 52, Fla. Bar Tr. at 37, 38 (Petitioner testifying in 2016 that she had "not filed [any tax returns after 2004] yet").

49. During the present proceedings, Petitioner claimed for the first time that for 1998 to 2013 she was owed $1,066,071 in "imputed fees," based on the alleged time value of her work and the value of the estate each year. Petitioner's PFF 38. Petitioner had never previously presented a calculation of the fees she was owed, including in the Florida proceedings. Specifically, Petitioner claimed in the present proceedings that she was owed:

1. 1998: $77,838.15 as an "imputed fee." PX 38 at 8; Petitioner's PFF 19.

2. 1999: $79,472.96 as an "imputed fee." PX 38 at 9, Petitioner's PFF 20.[3]

3. 2000: $68,018.87 as an "imputed fee." PX 38 at 9; Petitioner's PFF 21.

4. 2001: $49,752 in time worked or $93,148.46 as an "imputed fee." PX 38 at 9-10; Petitioner's PFF 25.

5. 2002: $72,463.50[4] as an "imputed fee." PX 38 at 10; Petitioner's PFF 26.

6. 2003: $74,202.85 as an "imputed fee." PX 38 at 10-11; Petitioner's PFF 27.

7. 2004: $70,106.91 as an "imputed fee." PX 38 at 11; Petitioner's PFF 28.

8. 2005: $68,902.91 as an "imputed fee." PX 38 at 11-12; Petitioner's PFF 29.

[3] In her Proposed Findings of Fact, Petitioner refers to this amount as a 1998 amount, but in context she appears to mean that it was the 1999 amount.

[4] In her Proposed Findings of Fact, Petitioner lists the 2002 imputed fee amount as a repeat of the imputed fee amount for 2001, not the amount claimed in Petitioner's Exhibit 38. The Committee presumes this is a typographical error.

9. 2006: $71,991.39 as an "imputed fee." PX 38 at 12; Petitioner's PFF 32.

10. 2007: $67,768.19 as an "imputed fee." PX 38 at 12-13; Petitioner's PFF 33.

11. 2008: $63,937.68 as an "imputed fee." PX 38 at 13; Petitioner's PFF 32.

12. 2009: $57,890.81 as an "imputed fee." PX 38 at 13-14; Petitioner's PFF 33.

13. 2010: $56,516.30[5] as an "imputed fee." PX 38 at 14-15.

14. 2011: $54,536.08 as an "imputed fee." PX 38 at 15; Petitioner's PFF 35.

15. 2012: $60,075.85 as an "imputed fee." PX 38 at 15-16; Petitioner's PFF 36.

16. 2013: $29,200.17[6] as an "imputed fee." PX 38 at 16.

50. Petitioner also claimed in these proceedings to have paid a total of $337,041.64 in "JRS Trust expenses." PX 38 at 16; Petitioner's PFF 38.

51. The Committee finds that these claimed fee and expense amounts are not credible. Many of Petitioner's purported hours spent on trust administration are insufficiently supported by evidence other than Petitioner's bald assertions made years after the fact. *See, e.g.*, PX 25; DCX 51 at 89-90 (Petitioner admitting that she estimated time entries for work done in 2011 when preparing a document in 2015);

[5] Petitioner did not identify an "imputed fee" for this year in her Proposed Findings of Fact despite claiming one in her exhibit.

[6] Petitioner did not identify an "imputed fee" for this year in her Proposed Findings of Fact despite claiming one in her exhibit.

Tr. 1202-03 (Petitioner testifying that certain time entries were not kept contemporaneously). Petitioner acknowledges that she did not maintain contemporaneous records of her handling of trust funds. To the extent Petitioner did offer evidence in support, that evidence often contradicts her claims. Petitioner appears to include in her estimate broad swathes of time that she spent with her mother or generally addressing family matters as well as time spent traveling to and from Florida, where she had a personal residence and engaged in personal activities, without consideration of whether that time actually involved trust administration issues. She also includes other time clearly unrelated to trust management. The Committee does not find that this time was properly charged to the trust.

52. By way of example, for visits to her mother in Florida over the holidays, where Petitioner owned her own home and would conduct business and meetings for the Florida Bar, she charged the trust around fifteen hours at $315-$725 an hour (upwards of $10,000)—just for her travel time. PX 21A at 5 (hourly rates from 1998-2014); Tr. 1202-06 (Petitioner); *see, e.g.*, PX 21 at 51 (showing 16.1 hours billed for travel to and from Florida around Thanksgiving); PX 25 at 16 (showing 20.6 hours billed for, *inter alia*, travel to and from Florida around Christmas). Petitioner explained, "any time I went to [my mother's house], it was a chargeable trip." Tr. 1206. As additional expenses, she claimed reimbursement for time she spent driving to her mother's house, meals, gas, and calls to her mother. *See generally* PX 18; DCX 51 at 13, 90-91. As Judge Kanarek noted, a trust "[is] not like an expense account." DCX 51 at 97.

53. As another example, Petitioner's Exhibit 25 purports to show fees and expenses she was owed for 2002 through a narrative that includes timelines listing multiple calls with family members with no additional information; block time entries such as 7.5 hours on May 12, 2002 for "Pick up drugs for MCS [Petitioner's mother]. Return to DC via MCO," PX 25 at 9; and entries clearly unrelated to trust administration such as an hour on November 20 for "Attempt to retrieve '91 Buick following repairs for sale only to experience total loss. Engine accelerated unexpectedly and caused crash at dealership" apparently in Washington (since Petitioner claimed she left for Florida the next day), PX 25 at 15; *see* DCX 51 at 17, 56. As noted above, Petitioner paid herself $247,000 from the trust in 2002. DCX 53 at 6; *see also* PX 25 at 2 (acknowledging $242,000 in withdrawals). Petitioner's exhibits summarizing purported fees and expenses for other years are similar. *See, e.g.*, PX 30 (purporting to show fees and expenses Petitioner was owed for 2007, a year in which she admittedly took over $400,000 in trust funds for herself).

54. Petitioner admitted that she did not contemporaneously track the time she spent on trust administration. Rather, when submitting charges and expenses in the subsequent litigation (and in this proceeding), she estimated her time after the fact—sometimes *years* after the fact—based on phone and email records and her memory, including information like the time it would take her to drive to and from the post office. DCX 51 at 89-90 (testifying that it probably was not until 2015 that she decided to charge her family 1.2 hours in attorney's fees for an entry dating back to December 2011).

55. By 2008, after Petitioner had taken significant funds from the trust, the value of cash and securities held by the trust had dropped from $2.75 million in 1998 to around $306,000. Tr. 1121-22 (Petitioner).

56. In 2008, Smith Barney, the wealth management firm handling the trust accounts, complied with Mr. Ryan's request to stop permitting Petitioner to unilaterally sell stocks to issue checks to herself; Smith Barney began requiring both Petitioner's *and* Mr. Ryan's approval. Tr. 965-66 (E. Ryan); PX 20 at107 ("As we've mentioned before . . . ALL Trustees must concur"); Tr. 1131 (Petitioner) (agreeing Mr. Ryan sought to cut off her sole access around 2008). Petitioner objected to Mr. Ryan's efforts to work with Smith Barney to prevent Petitioner from unilaterally selling stock. *See, e.g.*, Petitioner's PFF 34 (claiming that "Edward Ryan blocked payment of . . . trust expenses and Petitioner withdrawals from the Smith Barney accounts in 2008" with certain exceptions).

57. Unable to unilaterally access the trust funds in 2008 and 2009, Petitioner took $200,000 in personal loans from her mother and approximately $165,000 in loans from her friend, Bill Ace, to continue to pay her personal expenses. PX 9 at 5; Tr. 1129-32; Tr. 1154 ("I began getting money from my mother . . . sort of late in the process, when Ed blocked the accounts."). She also took $125,000 in checks issued from her mother's separate trust account. DCX 53 at 6 (summarizing totals from DCX 88, DCX 89).

58. By 2009, Petitioner had used about $1.6 million from the trust to pay her personal expenses. Tr. 541 (E. Ryan); DCX 53 at 2 (showing approximately

$1.7 million distributed from the trust to Petitioner by January 2008). In addition, she had depleted her mother's separate trust. *See* PFF 65 (discussing $200,000 in personal loans and over $100,000 in withdrawals from mother's trust); *see also* DCX 88 at 2 (showing Marion C. Stuart's trust value went from $498,006.92 on Dec. 31, 2007 to $88,301.77 by Dec. 31, 2008); DCX 91 at 2 (value dropped to $153.54 in 2009); DCX 91 at 4 (showing an additional $10,000 paid to Petitioner out of her mother's trust in 2009). Petitioner acknowledges that she withdrew $1,454,210.45 from her father's trust between 1998 and 2014. Petitioner's PFF 38; PX 38 at 16-17.

59. In June 2009, Petitioner tried to take an additional $14,000 loan from her mother's trust, but the check "bounced" because the funds were depleted. *See* PX 20 at 108. Petitioner attempted to request the $14,000 from her mother's trust account with Smith Barney in July 2009, but she received only $10,000. PX 20 at 108; DCX 91 at 4 (showing $10,000 payment to Petitioner processed on July 16, 2009). Shortly after, Petitioner attempted to instigate the sale of additional stock to fund her mother's trust account, but the brokers refused unless Mr. Ryan approved. *See* PX 20 at 107.

60. On July 22, 2009, Petitioner sent a letter to Mr. Ryan, telling him that he was "fired" as co-trustee. PX 20 at101-04; Tr. 1124 (Petitioner). Petitioner claimed that the reason for the termination was that he was technically "ineligible" under the terms of the trust to serve as co-trustee—a fact Petitioner had known since she first appointed him nine years earlier. PX 20 at 103. In fact, Petitioner wanted

to be able to continue to loan herself funds unimpeded. *Compare, e.g.*, PX 20 108 (attempting to take an additional "loan" for herself on July 9, 2009), *with* PX 20-101-04 (July 22, 2009 letter terminating Mr. Ryan), *and* Tr. 91 (Petitioner) ("[He] started interfering with my access, and the access of my mother, to funds from the trust accounts at Smith Barney."), Tr. 1129 (Petitioner) ("[My mother] was also supporting me with the building project [on the commercial building], [and] Mr. Ryan was impeding that.").

61. Notwithstanding her attempt to terminate Mr. Ryan as co-trustee, he continued to serve as co-trustee until he was removed by a stipulated order from the court. *See* Tr. 1144, 1176 (Petitioner) (admitting Mr. Ryan never resigned).

62. On July 23, 2009—the day after she purported to fire Mr. Ryan—Petitioner signed a "Loan Agreement and Promissory Note" to herself. DCX 1 at 93-94. She signed the loan agreement both for the trust as the lender and herself as the borrower. *Id.* (loan from Pamela B. Stuart, on behalf of the trusts, to Pamela B. Stuart, individually); DCX 2 at 24; Tr. 541 (E. Ryan); Tr. 1135 (Petitioner). She did not disclose the loan agreement to Mr. Ryan, who had not resigned as co-trustee, or to her co-beneficiaries. They did not know about her loan agreement with herself. *See* Tr. 538-39, 541 (E. Ryan) (Petitioner first provided a copy with a Plan of Trust Administration in 2012); Tr. 538-39 (E. Ryan); DCX 52 at 63 (Petitioner) (admitting she did not immediately provide promissory note to her co-beneficiaries); Tr. 1145 (Petitioner) (same).

63. Although she did not sign the note until July 23, 2009, Petitioner backdated it to July 11, 2001, so that it would purportedly cover all the funds she had taken for the past eight years. DCX 1 at 93; DCX 2 at 24. She did not, however, provide the amount of the loan, *i.e.*, how much she had taken. *See* DCX 1 at 93-94; DCX 2 at 24; Tr. 541-42 (E. Ryan). The "loan" was not secured by any collateral and did not have an adequate interest rate, both of which were required by the trust provisions. *See* DCX 1 at 93-94; DCX 2 at 24. Moreover, the loan agreement purported to allow Petitioner to take loans "continuing indefinitely" and prohibited trust funds from being used to pay for any collection efforts against her. DCX 1 at 93-94; DCX 2 at 24; Tr. 1139-40 (Petitioner) (admitting she purposefully drafted the loan agreement to continue indefinitely). In sum, Petitioner purported to retroactively approve the more than a million dollars she had taken from the trust without providing notice or receiving consent from the co-trustee or the other beneficiaries, and she unilaterally approved her taking more money from the trust in the future.

64. As set forth above, Petitioner initially told Mr. Ryan in 2004 or 2005 that she would repay the money she had taken from the trust with her share of a judgment she expected to receive from a whistleblower lawsuit. DCX 2 at 33-34; Tr. 500-02 (E. Ryan). Petitioner received more than $500,000 from the whistleblower lawsuit some time later, but she did not repay the trust anything. DCX2 at 33; FF 43.

65. Petitioner also committed to repaying the trust from the proceeds of a lawsuit she filed against the seller of the commercial building she purchased. She did not repay the trust any of the funds she received from the lawsuit. DCX 2 at 34; Tr. 84-86 (Petitioner).

66. Yet later, Petitioner promised to repay the trust with the proceeds from the sale of her commercial building in 2009. DCX 2 at 34; PX 20 at 101-04 (Petitioner letter to Mr. Ryan and co-beneficiaries: "I am in negotiations to sell the [commercial] building which will allow a large part of the outstanding loans to be repaid"); Tr. 963 (E. Ryan); Tr. 1162 (Petitioner) (referring to funds she took as "investment" by the trust in the commercial building); Tr. 1138 (Petitioner) (same).

67. Petitioner sold her commercial building in December 2009 for $2.5 million, with net proceeds of around $1.95 million. DCX 2 at 34; PX 32 at 275; Tr. 1170 (Petitioner). She failed to repay the trust anything from the sale proceeds, although she did transfer $200,000 to her mother's separate trust account which she "regarded as repayment for the trust." Tr. 94:21-95:3 (Petitioner); *see also* PX 32 at 275; Tr. 521 (E. Ryan) (testifying that he considered $200,000 paid to Petitioner's mother a "repayment to the trust"). Instead, she used most of the money for herself, including to pay her personal creditors. Tr. at 1170-74 (Petitioner); PX 32 at 275; Tr. 521-23 (E. Ryan).

68. Petitioner borrowed so much money from the trust to finance the commercial property that she claimed she began to consider the investment in that property "a joint investment" with her father's trust since "if this building did well,

the trust would do well." Tr. 88:20-89:2 (Petitioner); *see also* Tr. 465:13-18 (Petitioner's claim that the Committee should "take[] into consideration the fact that I had the right as an investor in a business, in a corporation, to withdraw funds representing my investment just along with the investment by the trust"); PX 25 at 3-4 ("Because of the money I was withdrawing from the trust to help the building project stay afloat, I began to think of the trust as a co-investor in the building.").

69. Petitioner never granted the trust any right or interest in the commercial property. PX 25 at 3-4 ("I did not formally change the ownership of the building or the relationship . . . ."). The only connection between the two entities was Petitioner's extensive withdrawal of money from the trust to fund her own interest in the commercial property. The trust would "do well" from the building only if Petitioner chose to repay the funds she had taken from the trust with proceeds from the building. Tr. 1138 (Petitioner's testimony that "I considered the loans I was taking from the trust as an investment in that building. And had the building made a lot of money, the trust would have been compensated commensurately"). Petitioner did not do so.

70. At settlement, Petitioner paid $485,307.90 to pay off her mortgage on her John's Island home. PX 32 at 275; Tr. 1172 (Petitioner); PX 9 at 5 (referring to her $485,000 mortgage balance on her Florida home). She paid $200,000 to her mother's trust account to repay the personal loans she had taken from her. PX 32 at 275; PX 9 at 5; Tr. 1171 (Petitioner). She paid $174,490 to Bill Ace to repay the personal loans she had taken from him. PX 32 at 275; Tr. 1173 (Petitioner). She

paid $45,000 to her attorneys. PX 32 at 275; Tr. 1173 (Petitioner). She used approximately $24,000 to pay off her personal credit cards. PX 32 at 275 (American Express and FIA Card Services); Tr. 1173 (Petitioner). She paid $10,000 to Don Hawkins to compensate him for architectural and expert witness services. PX 32 at 275; Tr. 1173-74 (Petitioner). She also used funds to pay off her debt to Martindale-Hubbell for her attorney advertising. Tr. 1177, 1319-20 (Petitioner). Finally, Petitioner received $985,131.06 in cash at the settlement. PX 32 at275.

71. Petitioner suggested to Mr. Ryan at the disciplinary hearing that by using funds to pay off her personal mortgage and other personal expenses, she was not technically "stealing the [building proceeds because] it was paying off [her Limited Liability Company's] debt to [herself], to conclude the business of [her] LLC." Tr. 1023 (cross-examination of Mr. Ryan). Mr. Ryan responded:

> You had an asset in Florida, you had another asset, your home in D.C.[,] you had a building in DC. You were spending money from the trust for over a decade --
>
> . . . .
>
> . . . -- to pay for your three assets[.] Your statements to us through all this period of time is when I sell the building, I will pay the trust back what I've taken. That's what you've said, repeatedly. And then you didn't do it. You said no, I'm going to pay off one of my other assets so I get the money, I Pam Stuart, fiduciary of the trust.
>
> . . . You are the one member of that [LLC] so it was your building. It wasn't a corporate building. It was your building.

Tr. 1023-24. Petitioner did not dispute that the building was her own asset (through her own LLC) and never an asset of the trust. Petitioner took hundreds of thousands from the trust to fund expenses related to her building. Then, she used the proceeds

from the sale of the building not to repay the trust but to pay her personal expenses. Tr. 1170-74, 1178, 1189-92.

72. At the time of the settlement, Petitioner knew she would never be able to pay back what she had taken from the trust. Tr. 1167 (Petitioner); Tr. 1178 (Petitioner) (discussing statement to Mr. Ryan that '"the repayment will have to come from my estate . . . ."'); *see also* PX 20 at 130 (Petitioner's December 8, 2009 email to Mr. Ryan, "I'll never be able to completely repay what was borrowed.").

73. Petitioner put the approximately $985,000 in cash from the sales proceeds in her IOLTA account. DCX 94 at 1 (showing deposit); PX 32 at 275. She then used approximately $480,000 that she deposited in the IOLTA to pay her personal expenses. DCX 53 at 4-5; DCX 18 at 1 (July 6, 2010 email: "The proceeds from the sale of the building are in my trust account at Eagle Bank. I have drawn on them as income from the LLC to fund my expenses"); *see* Tr. 96 (Petitioner) ("So after the building was sold, I took some draws from those funds, which I conceptualized as the money that I had put into this investment, to pay my own expenses . . . ."); Tr. 1190 ("[I]t was used to pay off debts to me.").

74. Contrary to the interests of the co-beneficiaries and without their consent, Petitioner transferred $505,000 that she had deposited in the IOLTA into a Charles Schwab account in August 2010. Only Petitioner had access to and control over the funds in the Charles Schwab account. DCX 2 at 34; Tr. 521-26, 544 (E. Ryan); *see* DCX 17 at 3; PX 9 at 5 (Deborah Stuart: "Please put the funds back into the Smith Barney accounts . . . . I think there needs to be a th[ir]d party

auditor."); Tr. 1181 (Petitioner) (admitting co-beneficiaries never received Schwab statements); Tr. 96:18-97:3 (Petitioner).

75. Petitioner continued to withdraw funds from the Schwab account for her personal expenses until the funds were depleted. DCX 2 at 34; Tr. 533 (E. Ryan) ("Again, she didn't [re-]pay anything directly to the trust, zero"); DCX 1 at 144 (Petitioner: "[D]ue to her own health problems . . ., Pamela Stuart had to borrow again [from the funds in the Schwab account] to support herself . . . ."); DCX 1 at 14 (Petitioner asserting to Court of Appeals that, "[a]fter the sale of the [commercial building] . . . . she borrowed again from the trust to provide for her own maintenance and support"); DCX 53 at 4-5 (Petitioner depleted around $480,000 of the building funds from her IOLTA account from December 2009 to January 2011, then depleted the $505,000 from the Schwab account from December 2010 to December 2011).

76. Other than a passing reference to "using some" of the funds, Petitioner did not tell Mr. Ryan or the co-beneficiaries what she did with the building proceeds or where she deposited the $505,000, which she spent with no oversight. Tr. 1013 (E. Ryan); *see also* Tr. 1011 (E. Ryan) ("We kept trying to find out where is the million dollars, which was left over. . . . S[t]ill never got any information about [the $505,000 she put in a Charles Schwab account]."); PX 9 at 5 (Deborah Stuart: "Please put the funds back into the Smith Barney accounts . . . I think there needs to be a th[ir]d party auditor."). *Compare* DCX 17 at 3 (Jan. 8, 2010 email to Petitioner: "If, despite our requests that you repay the existing Trust accounts . . . you established new . . . accounts (location currently unknown!) . . . . Can you please

respond and let us know [the] status of the actions (if any) you have taken . . . ."), *with* DCX 17 at 3 (Petitioner responded that the building proceeds were "sitting in my trust account at the moment and I am using some of it while I attempt to rebuild my practice and repair/renovate my house.").

77. Petitioner testified that she intended that the Schwab statements go to the co-beneficiaries. Tr. 1181-82. The Committee does not find that testimony credible. As Mr. Ryan's testimony and the contemporaneous documents demonstrated, Petitioner deliberately concealed information about the account to prevent Mr. Ryan or her sisters from impeding her use of the funds. *See* FF 60, 67-76; *see also* Tr. 1184 (Petitioner) (testifying that how much of the proceeds she spent on her personal expenses was "really none of [Catherine Ryan's] concern"). Further, the statements clearly showed on their face that they were being sent only to Petitioner. *See, e.g.*, DCX 100 at 1. Regardless, the statements on their own did not explain what she was doing with the funds—only that funds were being withdrawn. *Id.*; Tr. 1186-88 (Petitioner) (admitting statements were inadequate to provide accounting).

78. As set forth above, Petitioner used the money from her IOLTA and from Charles Schwab for her personal expenses. Although she has never explained precisely what she did with those funds, one unredacted credit card statement that she produced for the first time in March 2021 showed that she used the funds in her IOLTA to pay for a trip to Hawaii at the Ritz Carlton hotel for her and her friend, Bill Ace. Tr. 1193-97; *see* PX 33 at 70. Petitioner never declared any of the building

proceeds as income; indeed, she failed to file personal income tax returns from 2005-2016 despite spending the $985,000 and despite feeling "all along [she] was entitled to fees" from the trust. Tr. 1325-26; FF 48.

79. Petitioner declined to answer questions about not filing tax returns, citing her 5th Amendment right not to incriminate herself in criminal conduct. Tr. 1214, 1220, 1334.

80. After depleting the $985,000 from her IOLTA and the Charles Schwab account from 2009 to 2012, Petitioner continued to take even more funds from the trust to pay her personal expenses. DCX 53 at 3. In 2012 and 2013, she took approximately an additional $85,000 from the trust. DCX 53 at 3 (summarizing annual totals); DCX 105 at 8-9 ($5,000 to Petitioner and $912.82 to Petitioner's John's Island Club in 2012); DCX 106 at 11-12 (listing twenty payments or attempted payments to Petitioner in 2013). She took the $85,000 knowing she would never be able to fully repay even the amounts that she had previously taken, let alone the additional funds. *See* FF 72.

81. Petitioner's mother died in 2012. Tr. 101:18 (Petitioner).

82. In a letter titled, 2012 "Plan of Trust Administration", Petitioner told her co-beneficiaries that her estimated expenses as trustee were $20,000 to $30,000 annually. DCX 1 at103. She further told them that she was entitled to "reasonable fees" for her services and "extraordinary fees" for her attorney's fees, which would be based on her normal rate of $675 per hour. DCX 1 at 103-04. Although she had never provided any invoices for fees from 1998-2012, she nonetheless later claimed

she was entitled to $1.4 million in attorney's fees. Petitioner never declared any of these "attorney's fees" she took from the trust as income or paid taxes on them, even though she spent them on her personal expenses. Tr. 550-51; *see also* FF 30, 48.

83. Judge Kanarek found that on the same day that she authored the Plan of Trust Administration, July 26, 2012, Petitioner executed a reverse mortgage on her D.C. home located at 5115 Yuma Street NW in the amount of $938,250. *See* DCX 2 at 29 (identifying the date of the reverse mortgage as July 26, 2013); DCX 1 at 96 (dated July 26, 2012). His ruling concluded that she did so to shield her home from potential creditors, including the co-beneficiaries of the trust (her sisters). DCX 2 at 29, 39. Petitioner testified that she took out the reverse mortgage in 2013, and she denied doing so to prevent her creditors from being repaid. Tr. 121-22, 1305.

84. On November 8, 2013, Petitioner's sisters sued Petitioner to recover the funds that she had taken from the trust. *See* DCX 22 at 1.

85. Judge Kanarek later determined that Petitioner improperly used $25,000 from the trust to hire a law firm to represent her in the lawsuit filed by the sisters. DCX 2 at 46.

86. Petitioner and her sisters entered an Agreed Order on March 4, 2014, which required Petitioner to deliver all trust documents. DCX 2 at 36. By August 2014, however, she had provided "only very limited information" about the fees and expenses she claimed she was owed. DCX 2 at 36. The court ordered her to produce any support for her claimed fees and expenses by January 22, 2016. DCX 2 at 37.

Petitioner did not complete an assessment and detailed explanation of her claimed expenses and fees until this reinstatement proceeding, in early 2021. *See* PX 21-PX 38 (produced as supplemental exhibits in February-May 2021). The Committee finds that Petitioner's voluminous and belated submissions fail to support her claimed fees and expenses.

87. The Florida courts held that Petitioner forfeited her right to claim any fees based on her "multiple and flagrant abuses of her authority as trustee." DCX 2 at 39.

88. On October 21, 2016, Judge Kanarek awarded Petitioner's property interests in her Florida real property to her co-beneficiaries, including her share of the parents' home at 101 South Catalina Court in Vero Beach and the second home she had purchased at John's Island in Vero Beach, Florida. DCX 2 at 40, 42, 47-48.

89. The Florida trial court issued a deficiency judgment against Petitioner for approximately $1.778 million. Tr. 577 (E. Ryan). That amount included a credit to Petitioner for $560,000 for the value of her second home in Florida. Tr. 579 (E. Ryan).

90. Petitioner, however, filed a lis pendens on her second home in Florida that prevented the co-beneficiaries from benefitting from that asset. Tr. 579-80 (E. Ryan) (property still tied up in litigation as of testimony in August 2019). Petitioner challenged the court order directing her to turn over title of her real property in litigation and appeals before the Florida Court of Appeals, the Florida Supreme Court, the U.S. District Court for the Southern District of Florida, the Eleventh

Circuit, and the Supreme Court. Tr. 580-82; DCX 20-DCX 48 (docket sheets and pleadings related to Petitioner's challenges of judgment from 2016-2019). That litigation continued until January 2021, forcing the co-beneficiaries to hire lawyers to address Petitioner's claims for years. *See Id.* Petitioner's various challenges to the Florida courts' ruling were all unsuccessful, and her federal action was finally dismissed with prejudice on January 19, 2021. *See* Final Judgment, 18-14244-CIV-Martinez-Maynard, ECF No. 116 (S.D. Fla. Jan. 19, 2021).

91. The Committee found the testimony of Edward Ryan and Catherine Ryan credible. They both testified in a forthright manner about their dealings with Petitioner. Their testimony was clear, persuasive, and sufficiently detailed. Their testimony was further corroborated by contemporaneous documents, including emails with Petitioner and financial statements.

92. The Committee found Petitioner's testimony less credible. Her testimony was frequently evasive or vague about significant details. There were contradictions between her testimony at the hearings, her written statements, and the contemporaneous documents. She falsely mischaracterized facts and events to deflect blame from herself.

93. For example, she testified that she used the $505,000 that she put in the secret Schwab account "for trust expenses and other lawful purposes," Tr. 1241, without mentioning that she spent those funds on her personal expenses. FF 73-78;[7]

[7] In her brief, Petitioner admits "the amounts withdrawn at that time seem excessive," but asserts she "was just trying to keep up with paying the bills and meeting her mother's needs"—again, without mentioning her spending on herself. Petitioner's Br. at 50-51.

see also FF 77 (falsely contending she intended to disclose statements showing her spending); FF 47 (providing conflicting, self-serving, and false explanations for her withdrawals over time and whether they were for loans or fees).

Petitioner's Position on Her Misconduct

94. According to Petitioner, her misconduct is limited to (1) her failure to file annual accountings, and (2) her "overborrow[ing]" from the trust. Tr. 104, 108 (Petitioner); *see also* Tr. 109:10-11, 120:13-15; Tr. 433:13-14. Neither the Florida Supreme Court order nor the District of Columbia Court of Appeals order imposing discipline on Petitioner specified the amount of her overborrowing. *See* DCX 4 at 47-54, (Order, *Florida Bar v. Stuart*, No. SC16-2204 (Fla. Jan. 5, 2017) and Plea); *Stuart*, 172 A.3d at 394.

95. In the present proceedings, Petitioner never specified how much she "overborrowed." *Compare* Tr. 1315 (she would think about "the amount" that was "overborrowed" before closing arguments), *with* Tr. 1392 *et seq.* (Petitioner's closing argument stating no amount). *See also* Tr. 104:16-18 ("I expected to work this out with my family and get some credits for all of this and explain all of this to them"). As described above, Petitioner claimed for the first time in these proceedings that trust fees and expenses would have represented the bulk of her takings from the trust; however, that position is directly contradicted by Petitioner's own acknowledgment that she took hundreds of thousands of dollars from the trust to support her LLC's commercial building and other personal expenses.

96. Petitioner acknowledges that she failed to provide annual accountings for her father's trust after approximately 2003. *See, e.g.*, Tr. 67:20-68:4, 80:13-81:5, 108:10, 120:11-12 (Petitioner). She also failed "to do the tax returns for the trust." Tr. 81:16-17 (Petitioner).

97. Petitioner testified that it was a "serious error amounting to misconduct to fail to complete the annual accountings of my father's trust in a timely manner" but claimed that she "had no intention of concealing anything." Tr. 430:9-14. She testified that she "was overwhelmed with my responsibilities to my mother, to the trust, taking care of my mother's residences and my clients." Tr. 430:14-16.

98. During the hearing, Petitioner repeatedly sought to minimize the significance of her failure to provide an accounting by noting that after Mr. Ryan was appointed co-trustee in 2000 her sister and brother-in-law received monthly brokerage statements for the trust account that showed her withdrawals. Tr. 63:12-64:4, 80:11-12, 81:7-8, 89:3-10, 111:1-15 (Petitioner); Tr.430:19-431:5, 432 (Petitioner).

99. Not only were the brokerage statements insufficient to comply with Petitioner's accounting obligation, Petitioner acknowledged that the co-beneficiaries did not even receive brokerage statements after she set up the Charles Schwab accounts to which they did not have access. *See* FF 77.

100. Petitioner has consistently asserted her belief that her suspension from the practice of law was not due to any wrongdoing on her part. When notifying clients about her suspension, she blamed her family without mentioning any

misconduct on her part. *See* DCX 4 at 46 (explaining suspension arose "due to a dispute within my family," and "I have my brother-in-law to thank for this").

101. In applying for housing assistance, Petitioner similarly asserted, "I lost my ability to practice my profession due to *no fault of my own* . . . ." DCX 16 at 2 (emphasis added); Tr. 1231; *see also* DCX 14 at 2 ("I was suspended from membership in the bar as a result of a complaint lodged by my brother in law . . . .") ; Tr. 1229 (Petitioner).

102. When posting publicly on Facebook in 2018 (after she had been suspended), Petitioner characterized her actions as follows:

> I had to borrow against my inheritance and right to receive trustee fees and trustee expenses reimbursements to pay the carrying costs [of my commercial building] while I was taking care of my widowed and increasingly frail mother, as well as the clients of my law practice. Now my sisters have connived with my brother-in-law to destroy my ability to earn a living . . . .

Tr. 1233-34 (Petitioner).

103. When late-filing her 2016 tax return in 2019, she explained to the IRS that the reason for the late filing was her suspension, which "had nothing to do with my law practice but arose as a result of my activities as a trustee of my father's trust, which my family disliked." Tr. 1232-33 (Petitioner); DCX 9 at 6. She failed to mention any wrongdoing on her part.

104. Over the course of this proceeding, Petitioner repeatedly contended that nothing she did was unreasonable. *See, e.g.*, Tr. 1113-14 ("Q: . . . . And you admit that you overborrowed; is that right? A [Petitioner]: I think so . . . . [N]ow that I have

done all the calculations, I don't think that what I did was unreasonable under the circumstances."); *see also* Tr. 1252 (Petitioner) ("I felt that my family members were well-informed of the situation with the trust.").

105. While acknowledging (to some extent) that she "overborrowed" from the trust, Petitioner repeatedly sought to justify her conduct. Even before she offered the over-inflated fee estimates in 2021, she sought to justify her conduct by stating that that she was overwhelmed by the responsibility of caring for her mother and by her own serious health problems (Tr. 119:13-20); that her borrowing was justified by Florida law (Tr. 107:6-7, 109:7-9; Tr. 433:10-12); and that her father would have approved of her conduct (Tr. 107:7-10; 433:19-22). Tr. 1297 (Petitioner) (the trust was intended to maintain her mother's standard of living and "[p]art of her customary standard of living, as I've indicated, is to take care of her daughters from time to time"). She also suggested that her sisters should not have expected to receive significant funds from the trusts even if Petitioner had not spent the funds in the trust on herself. Tr. 1276 (Petitioner's testimony that "even if there hadn't been a problem, the trust probably would not have made any of us wealthy"). She complained that her sister Catherine did not help with her mother's care or her own healthcare as much as Petitioner believed she should have, apparently as a justification for her takings from the trust. Tr. 68, 100-101, 102-03 (Petitioner).

106. Petitioner repeatedly blamed her family for the results of her misconduct. *See, e.g.*, Tr. 434-35 (Petitioner's testimony that "while I deeply regret the errors and the destructive impact it has had on my family, they aren't spending

Christmas alone. They're spending it in my mother's house, which they took" through court orders adverse to Petitioner in the Florida proceedings); Petitioner's Motion to Strike at 27 (July 19, 2019) (Edward Ryan "is seeking to use this Hearing Committee and the Board on Professional Responsibility as an appellate forum in his continuing effort to seize petitioner's property, ruin her reputation, and destroy her ability to earn an income"); Petitioner's Opposition to Disciplinary Counsel's Motion to Present Remote Testimony at 4 (July 12, 2019) ("[T]he Hearing Committee may wish to consider why it is that Mr. Ryan and Dr. [Catherine] Ryan (and Deborah Stuart) are seeking to wrest from petitioner the remainder of what she acquired over her distinguished legal career . . . . Petitioner submits that Mr. Ryan and Dr. Ryan merely wish to punish petitioner and seek to damage her regardless of the consequences. This is, in short, a family vendetta against petitioner of epic proportions.").

107. She also blamed the attorney of the seller of the commercial building and the courts that decided against her in various proceedings. *See, e.g.*, Tr. 1117 (Petitioner's testimony that "I think we can agree that we would not be here doing this if David Lamb, the lawyer who sold me the building, hadn't lied to me"); Tr. 1279 (Petitioner's testimony that "I also expected, quite frankly, better service from the court system. I did not get good results in litigation . . .") and Tr. 1287 (the Florida court "didn't pay any attention to" a rule that Petitioner believed should have resulted in a conclusion in her favor on her Florida property).

108. Further, Petitioner has consistently repeated her false narrative that she repaid $700,000 to the trust, including in her Petition for Reinstatement (DCX 4 at 4), in her testimony (Tr. 436), and in a March 2021 letter to the Board on Professional Responsibility (DCX 111 at 2-3) (asserting that she repaid $705,000 to the trust without explaining that she used $505,000 for her own purposes).

109. Petitioner claimed that in the Florida disciplinary proceedings she "expressed all sorts of remorse" and "completely cooperated with [Florida] Bar Counsel." Tr. 119:13, 21 (Petitioner). During the present proceedings, Petitioner's recognition of her misconduct was limited to vague apologies and self-justification. *See, e.g.*, Tr. 1317 ("And for whatever I did, I am profoundly sorry"); Tr. 1311-12 ("[W]hile certainly my actions were not perfect, I think I at least did the best I could under very difficult circumstances.").

110. Petitioner stated that after her suspension, she "engaged in intense introspection about how did this happen to me?" Tr. 125:3-5 (Petitioner). "[A]s part of that introspection," Petitioner "went for counselling with [her] pastors at the Community Church in Vero Beach." Tr. 126:10-12. Her self-examination apparently involved her consideration how she could "forgive" her sisters rather than an examination of her own behavior. Tr. 434:13-15 (her pastors counseled her on the "concept of forgiveness without reconciliation, because I have been unable to speak with my sisters").

111. Petitioner repeatedly testified that she was unable to meet her fiduciary duties throughout the relevant period because she was too busy and "overwhelmed."

Tr. 108, 779, 1252, 1271 (Petitioner). Referring to her whistleblower litigation, her litigation against the individual who originally sold her the commercial building, and a lawsuit she filed seeking payment from a former client, Petitioner said, "All this litigation overwhelmed [her] . . . ." DCX 1 at 11-12.

112. In the civil litigation brought by her sisters, it took Petitioner two years to compile her trustee expense information related to the trust because, as she claimed, she was dealing with personal circumstances. DCX 51 at 88 (Petitioner); DCX 4 at 18.

113. Petitioner did not file her 2016 tax return until 2019, after Disciplinary Counsel requested it. She explained to the IRS that she did not have time to file it because she was overwhelmed by her suspension and her ongoing litigation and appeals against her sisters. DCX 9 at 6; *see* DCX 20-DCX 48.

114. In her reinstatement proceeding, Petitioner sought repeated extensions over a year and a half to produce supplemental exhibits (many of which related to her fees and expenses that she was supposed to have been tracking since 1998 and was supposed to have produced between 2014 and 2016). She again claimed she was too busy or overwhelmed by her personal experiences, including her ongoing litigation against her sisters and other legal proceedings to which she was a party.

Petitioner's Failure to Make Restitution

115. In 2016, Petitioner's adjusted gross income was $83,024.35. DCX 9 at 1; *see* Tr. 1212-13. In 2017, Petitioner's adjusted gross income was $42,929. DCX 8.

116. In 2017 and 2018, Petitioner issued numerous checks to the Cosmos Club, her social club, totaling around $9,000. Tr. 1257-1262 (Petitioner). Petitioner remains a member at the Cosmos Club, which has annual dues of $3,000. Tr. 1261, 1259-1260 ("I wouldn't be alive if I weren't still a member at the Cosmos Club.").

117. In 2017 and 2018, Petitioner issued numerous checks to the Kenwood Golf and Country Club, totaling around $14,000. Tr. 1257-1262 (Petitioner).

118. Petitioner has not made restitution to the trusts or her family members for her misconduct. *See* PX 1 at 106 (Reinstatement Questionnaire, Response to No. 26) (regarding "restitution or other appropriate relief"; "None possible and Petitioner is still litigating the case. Petitioner's circumstances have been so damaged that no restitution has been possible"); *see also* Tr. 123 (Petitioner's testimony that when she received $100,000 from taking out a reverse mortgage on real estate in 2013, she used the funds "to pay off [] real estate taxes and other debts. I didn't end up with money to pay back the trust at that time"); Tr. 436 ("Due to my much-reduced financial circumstances, I have not been able to make any restitution to date, except for the over [$]700,000[8] that was repaid after the sale of the building and a few payments along the way, which were not credited by the judge in Florida . . . .").

[8] As noted above, after the sale of the building, Petitioner never returned $700,000 to the trust as she claimed in her testimony. Rather, she placed $505,000 in a new Charles Schwab account to which neither the co-trustee nor co-beneficiaries had access and she continued to draw down that account for her personal expenses.

119. Despite her total income of around $125,000 in 2016 and 2017, Petitioner has not repaid anything to the trust since her discipline. Tr. 1256 (Petitioner); *see also* FF 115.

120. Petitioner's view of repayment is that "the outstanding judgment . . . is so enormous . . . . there is no way that even a small payment would make a dent." Tr. 1263 (Petitioner).

121. Petitioner claimed that she "would very much like to repay anything [she] owe[s]" but that while the $1.778 million Florida judgment in her sisters' favor "is what it is," she has "a lot of issues with it" because she "got no credit for the trustee fees and expense reimbursements that are supposed to be paid under Florida law." Tr. 438; *see also* Tr. 1309 ("[I]n terms of what I believe I owe, I think [the Florida deficiency judgment is] something of a fiction."). Petitioner did not offer credible evidence that she incurred anything close to $1.778 million in "trustee fees and expense reimbursements."

Petitioner's Activities Since Her Discipline

122. At the suggestion of the Virginia State Bar's disciplinary board, Petitioner sat for the Multistate Professional Responsibility Exam. *See* DCX 4 at 7 (Petition for Reinstatement). She took the exam on August 12, 2017, and received a score of 103. *See* DCX 4 at 88 (Petition for Reinstatement, attached MPRE score report); Tr. 427-28 (Petitioner).

123. In 2018 Petitioner took 30 hours of CLE courses in various jurisdictions, including courses on estate planning, government contracting, and

legal ethics. *See* DCX 4 at 90-93 (Petition for Reinstatement, attached 2018 Virginia MCLE Form 1 End of Year Report and Florida Bar Continuing Legal Education Status and Credit History); Tr. 428-430 (Petitioner). Topics included asset protection, "pre- and post-nup clauses for trust and estate planners," "international tax planning for estate planners," and building trial skills. DCX 4 at 8, 90-93 (Petition for Reinstatement and attached 2018 Virginia MCLE Form 1 End of Year Report and Florida Bar Continuing Legal Education Status and Credit History). The ethics courses she took included information on "the ethics of deception and duty of candor to the tribunal," frequently-asked ethics questions, unauthorized practice, and a six-hour Florida course on "Practicing with Professionalism." DCX 4 at 7-8, 90-93 (Petition for Reinstatement and attached 2018 Virginia MCLE Form 1 End of Year Report and Florida Bar Continuing Legal Education Status and Credit History).

124. Petitioner stated in her Petition for Reinstatement that the CLE courses she took in 2018 included information on "fiduciary service." DCX 4 at 8 (Petition for Reinstatement). None of the courses she took focused on that issue. *See* DCX 4 at 90-93 (Petition for Reinstatement, attached 2018 Virginia MCLE Form 1 End of Year Report and Florida Bar Continuing Legal Education Status and Credit History). Petitioner has not taken courses on the duties of a trustee during the period of her suspension. *See* Tr. 427-30 (Petitioner's testimony about her CLE).

Petitioner's Witnesses in Support of Her Petition

125. Petitioner submitted written testimony and offered live testimony in support of her Petition.

126. Petitioner submitted a letter from Kevin Hogan supporting her reinstatement. DCX 4 at 104-05 (Petition for Reinstatement, attached letter from Kevin Hogan). Mr. Hogan is a Certified Public Accountant, Certified Fraud Examiner, and Licensed Florida Private Investigator. *See id.* at 105. He has known Petitioner for over thirty years and first met her when she was an Assistant United States Attorney and he was a Special Agent with the FBI. *See id.* at 104.

127. Mr. Hogan's letter states that Petitioner "shared with [him] the details of the unfortunate family dispute associated with her accounting deficiencies as executor of the family trust that caused her suspension from the practice of law." *Id.* at 104. Mr. Hogan advised Petitioner that "as a fiduciary to the family trust she had neglected her responsibility to provide an accurate, detailed accounting on a timely basis to the trust beneficiaries and erred in comingling funds for personnel [sic] expenses." *Id.* Mr. Hogan's letter does not otherwise address Petitioner's borrowing from the trust.

128. Mr. Hogan notes "the financial, emotional, and physical hardships [Petitioner] endured during the period," including caring for her mother, suffering a series of physical illnesses that required multiple surgeries, and "seeking legal remedies" related to the commercial real estate investment that "caused her extreme financial hardship." *Id.* Mr. Hogan states that "I don't think there is any possibility [Petitioner] would ever make a similar mistake"; that Petitioner "would be a great asset to the Washington D.C. legal community and [a] strong advocate for those in

need of counsel"; and that she is "possessed of extreme competence and the highest moral character." *Id.* at 105.

129. Petitioner also submitted a letter from Jonathan Groner supporting her reinstatement. Mr. Groner is a friend and former client of Petitioner. *See* DCX 4 at 107 (Petition for Reinstatement, attached letter from Jonathan Groner). He is a member of the District of Columbia Bar and a former reporter at the *Legal Times*. *Id.*

130. Mr. Groner's letter states that he has "the highest possible impression of [Petitioner's] integrity and her concern for the law, for the proper administration of justice, and for those who because of race, poverty and other issues, are sometimes not properly served or well treated in our legal system." *Id.* Mr. Groner also praised her work as his attorney in a "complicated personal matter." *Id.* Mr. Groner "believe[s] that [Petitioner] has fully recognized the mistakes that she made in the unfortunate family dispute" involving her sisters and "know[s] that she has taken steps to ensure that this type of conduct will not occur again." *Id.* The letter does not provide further information about the extent of Mr. Groner's knowledge of Petitioner's misconduct, and it does not specify what "steps" she has taken to avoid a recurrence in the future.

131. Petitioner called Kathleen Voelker, Esquire, a retired attorney, as a witness. Ms. Voelker testified about her work with Petitioner at the U.S. Attorney's Office in the 1970s and 1980s, her subsequent work with Petitioner at Petitioner's law office in 2000 and 2001, her knowledge of Petitioner's experience with the

commercial property, and other topics. Tr. 132-172; Tr. 153:10-21. Since 2003, Ms. Voelker has been in touch with Petitioner "several times a year." Tr. 154:10-13.

132. Ms. Voelker testified that among those who had known Petitioner in her time at the U.S. Attorney's office in the 1970s and 1980s, Petitioner has a reputation for "[a] very high degree of integrity, trustworthiness, reliability. She has a reputation for being extremely thorough, honest, truthful" and "[e]xtremely hard-working." Tr. 136:13-18.

133. Ms. Voelker testified that during the two years she worked with Petitioner at Petitioner's law office in 2000 and 2001, Petitioner dealt with clients "respectfully, always responsibly, always honestly." Tr. 138:14-16. Ms. Voelker believed that "it would be to the benefit of the Bar, and to Pam, if Pam were able to practice law again in the District of Columbia." Tr. 151:12-15.

134. Ms. Voelker testified that Petitioner paid for the commercial property by "a mortgage and out of [Petitioner's] income. And eventually out of [Petitioner's] savings and out of [Petitioner's] retirement accounts. And I believe that Pam's home in Florida was refinanced . . . to obtain funds. And then eventually I became aware -- she told me that she was trustee of her father's trust and had made arrangements to borrow funds from that." Tr. 142:8-15. The only information Ms. Voelker had about Petitioner's borrowing from the trust was the information Petitioner gave her. Tr. 157-58 (Voelker).

135. Ms. Voelker testified that Petitioner experienced significant health problems after the commercial property was sold, including multiple surgeries for arthritis. Tr. 145:8-16. She also testified that during that period Petitioner's law practice was "not [going] very well" and that she "was very busy taking care of her mom and her mom's affairs." Tr. 145-46.

136. Ms. Voelker was aware that Petitioner had been disciplined by Florida and reciprocally by the District, Maryland, and Virginia. Tr. 146 (Voelker). She stated that the circumstances of the discipline "had to do with the lack of providing accountings -- although I understand there was notice given and account statements made available -- and excessive borrowing from Pam's father's trust." Tr. 146:19-147:1.

137. Petitioner asked Ms. Voelker about the "ramifications of my failures to account, and excessive borrowing, and what I feel about it and what it has done to my life?" Tr. 147:10-13. Ms. Voelker testified that without a law license, Petitioner "can't make a living, certainly not as a lawyer" and that Petitioner "doesn't have any funds." Tr. 147-48. Ms. Voelker stated that "[Petitioner] doesn't have $1.7 million [the amount of the outstanding judgment against her], and I know that she can't get work." Tr. 149:4-6. She believed that Petitioner "would pay it back tomorrow if she had the money." Tr. 149:20 (Voelker).

138. Petitioner called Judge Henry Greene, a Senior Judge on the Superior Court, as a witness. Judge Greene testified favorably about Petitioner's work at the U.S. Attorney's Office in the 1970s and early 1980s. Tr. 177-78 (Judge Greene).

Judge Greene also testified that in his thirty-eight years on the court he "never heard an ill word spoken about [Petitioner's] representation of any client or the way she's handled any legal matter." Tr. 181:15-18. Since they stopped working together, Judge Greene has seen Petitioner "maybe once or twice a year" and "some years, probably not at all." Tr. 192:10-12.

139. Judge Greene did not remember discussing "any of the circumstances surrounding [Petitioner's] suspension" with Petitioner until a month or so before the July 2019 hearing. Tr. 196:9-13 (Judge Greene). Judge Greene did not remember how much Petitioner said she had borrowed from the trust. Tr. 197:11-13.

140. Judge Greene testified that he thought Petitioner had "deep remorse" for, in Petitioner's words, "the problems that [Petitioner] caused [her] family and the circumstances that led to the problems that [she] had with trust administration." Tr. 185:19-22. On cross-examination, Judge Greene explained that he thought "she's remorseful for this entire situation. I'm sure she's remorseful for the impact it's had on her. I think she's remorseful for the way it's torn apart her family," and that he "think[s] she's remorseful in retrospect for having done things she shouldn't have done. For having used this trust money in ways that were not prescribed in the trust." Tr. 203:14-20.

141. In describing her misconduct to Judge Greene, Petitioner "mentioned the $1.7 million[9] that she owed," but Judge Greene testified that Petitioner "doesn't

[9] Although Petitioner's witnesses generally referred to the "$1.7 million" judgment, the actual amount of the judgment was $1,777,547.87. *See* DCX 27.

feel the Florida courts treated her fairly." Tr. 202:13-15; 203:8-9. He believed, though, "that [Petitioner] still has an intent, if she can make a living, to repay this debt. I mean, she's not trying to -- I think she may dispute whether the Florida decision in this matter was correct. But she -- I think she recognizes the debt is out there." Tr. 211:16-21. Judge Greene stated that Petitioner's family members' legal proceedings "look[] to me like an effort to do everything they can to just destroy Ms. Stuart, and I don't cotton to it and it doesn't change my view" on whether she should be permitted to practice. Tr. 201:16-19. Judge Greene did not believe that Petitioner's reinstatement would be "detrimental to the integrity and standing of the Bar, or to the administration of justice, or subversive to the public interest." Tr. 189:9-15.

142. Petitioner called Paula Potoczak, Esquire, an attorney with her own law practice in Alexandra, Virginia. Tr. 214.

143. After her suspension, Petitioner assisted Ms. Potoczak with work on the administrative phases and litigation phases of an employment-related matter. Tr. 223. Petitioner assisted with researching and drafting a complaint, an opposition to a motion, and interrogatories. Tr. 223. Petitioner was paid $50 per hour for that work. Tr. 223.

144. Ms. Potoczak testified that Petitioner "is more than qualified" to practice law and that "her work that she has done for me has been excellent." Tr. 224:3-4, 226;16-17. She believed "there's no reason that I can see that the Bar should not readmit you or reinstate your license." Tr. 225:21-226:1 (Potoczak).

145. Ms. Potoczak had only a general idea of the misconduct for which Petitioner was disciplined. Tr. 233-34; Tr. 218:15 (Potoczak) (stating that she was "somewhat" familiar with the circumstances of Petitioner's misconduct). Ms. Potoczak stated that "what [Petitioner] didn't do in terms of filing the requisite . . . quarterly accountings, and borrowing from the trust more than she could or should have, as I understand it, she probably shouldn't have done it" but that "it seems to me that this is sort of a family tiff." Tr. 228. Ms. Potoczak believed that Petitioner "understands that she should not have done it" and "there is no doubt in my mind that she won't ever do it again." Tr. 228.

146. Ms. Potoczak testified that "I don't know that [Petitioner] ever said: I did this wrong. It was more like there was a failure to file the accounting, and that was wrong." Tr. 235:2-4. Ms. Potoczak "didn't ask and [Petitioner] didn't say" how much Petitioner took from the trust. Tr. 236:13.

147. Ms. Potoczak was "very vaguely" aware of Petitioner's purchase of the commercial property but had little knowledge of the purchase or the related litigation. Tr. 236-37.

148. Petitioner called Pauline Thompson, a commercial realtor and owner, founder, and president of Tysons Realty. Tr. 239. Ms. Thompson has known Petitioner for approximately 30 years. Tr. 240:12.

149. In 2018 Ms. Thompson retained Petitioner to provide legal services for Tysons Realty on a human resources issue. *See* Tr. 241. Ms. Thompson found Petitioner's knowledge on that matter "very useful and successful." Tr. 242:20-21.

Ms. Thompson also consulted Petitioner on other legal questions after that time. Tr. 243.

150. Ms. Thompson testified that "a family issue" led to Petitioner's suspension in Florida and other states. Tr. 243. She testified that the effect of Petitioner's "family situation" was "devastating," that Petitioner had expressed feelings about "having [Petitioner's] livelihood taken away," and that Petitioner believed the impact of the situation on her sisters was "devastating." Tr. 244.

151. Ms. Thompson believed that the basis of Petitioner's discipline was that Petitioner "advanced trustee's fees from the trust to herself." Tr. 250:5-6. She did not recall Petitioner saying she had done anything else wrong. Tr. 250:17-22. She believed Petitioner was "very sorry that she did that." Tr. 251.

152. Ms. Thompson was aware of the $1.7 million judgment against Petitioner. Tr. 245. She believed Petitioner was unable to pay that judgment. Tr. 245. Ms. Stuart had not told her how much she paid back, but based on her reading of the documents in the Florida case, Ms. Thompson believed Petitioner had paid back approximately $750,000 after she sold her real estate in the District. Tr. 251.

153. Ms. Thompson believed that Petitioner's "knowledge and experience" are "proof" that she should be reinstated and that her reinstatement would not be detrimental to the Bar or the administration of justice. Tr. 245-46.

154. Petitioner called Stephanie Ann Howard. Tr. 255. Ms. Howard had worked with Petitioner in connection with civic activities for the Anacostia

Economic Development Corporation ("AEDC") at various times since the mid-1990s. Tr. 257.

155. Ms. Howard testified that the Board of the AEDC appreciated the Petitioner's service and legal advice. Tr. 258. Petitioner's work for the AEDC did not include financial responsibilities. Tr. 262-63.

156. Ms. Howard was aware that Petitioner had been disciplined and that because of Petitioner's breast cancer and "a number of other things that interfered with a number of things in your life" she had "borrow[ed] some money or something." Tr. 260. Ms. Howard was "not sure what all the details were." Tr. 260. Ms. Howard understood that Petitioner "use[d] some of the money to help to offset your expenses." Tr. 260. She understood that "everything that is happening at this point is more of a family issue than a business issue." Tr. 261.

157. Ms. Howard believed that Petitioner's reinstatement would not be detrimental to the Bar or the administration of justice. Tr. 260.

158. Petitioner called MaryEva Candon, Esquire, an attorney with a solo practice. Tr. 316. Ms. Candon served on the board of the Bar Association of the District of Columbia ("BADC") with Petitioner between 1994 and 2003, and between 2003 and 2011 she worked with Petitioner in other capacities related to the BADC. *See* Tr. 320.

159. Ms. Candon testified that members of the BADC had "faith and trust" in Petitioner. Tr. 322. She testified that in the late 1990s Petitioner was active on the organization's investment committee and that she successfully advised the

organization to invest in real estate. Tr. 324-27. Petitioner did not handle money in her work for the investment committee, nor did she manage any BADC funds in her own accounts. Tr. 344-45.

160. Petitioner also represented Ms. Candon in connection with a dispute between Ms. Candon and her partners at a law firm. Tr. 327-28 (Candon). Ms. Candon testified that in that matter Petitioner "was excellent and carried me forward and protected my interest extremely well." Tr. 328. Ms. Candon did not specify the date of that representation.

161. Asked for her knowledge of the circumstances that caused Petitioner's discipline, Ms. Candon testified that she was "aware only because I was shocked" that Petitioner's "family did this to [her]." Tr. 328. Ms. Candon testified that "[t]his is a family squabble" (Tr. 330:22) and that Petitioner "did nothing against . . . the profession or against any client. You didn't undermine the rule of law. You just have difficult family members and you should not have your admission to the bar taken away because of that" (Tr. 339:5-9). Ms. Candon believed that "there is a vicious mistake of her family, to sue her." Tr. 338:13-21.

162. She understood that Petitioner's misconduct "had nothing to do with client care or with malpractice." Tr. 331:12-19. She initially stated that she had no other knowledge about that misconduct, but on cross-examination stated that Petitioner "didn't provide an annual accounting of the trust activities" and "was charged with mismanaging the trust fund." Tr. 331:18-19, 343:8-14. Ms. Candon

did not know that Petitioner had used funds from the trust to pay the mortgage on the commercial property. Tr. 347.

163. Ms. Candon said that Petitioner told her she "wished she had not been under so much stress and had paid more attention to accounting for the activities of the -- and keeping her family more informed, even though they were fairly well-informed." Tr. 343-44.

164. Ms. Candon testified that the suspension of Petitioner's law license has taken away "your income, your ability to earn income." Tr. 334:19-22. She believed that Petitioner is unable to repay the $1.7 million Florida judgment. Tr. 335, 353. She believed that Petitioner "ha[s] wanted to pay certain restitution, but it's mainly paying back what [Petitioner] borrowed and what [Petitioner was] going to legitimately pay into the trust." Tr. 335:19-22. Ms. Candon testified that Petitioner has told her that Petitioner is "penniless." Tr. 353.

165. Ms. Candon testified that Petitioner has a "[s]tellar" reputation for honesty, integrity, and competence and that she has "an impeccable record among [her] professional colleagues." Tr. 336. Ms. Candon based that conclusion on Petitioner's representation of her, her work with Petitioner on the BADC from 1994-2011, and more recent discussions with others who worked with Petitioner at the BADC who "say that [Petitioner] remain[s] an excellent attorney." Tr. 336-37.

166. Petitioner called James Connelly, a principal with Summit Commercial Real Estate. Tr. 362. Mr. Connelly contacted Petitioner in spring 2006 about helping Petitioner with the commercial property. Tr. 364-65. Mr. Connelly testified

that because of egress and parking issues it was difficult to sell the building between 2006 and December 2009 (when it was sold). Tr. 368-370. Mr. Connelly testified that during that period Petitioner told him that she refinanced her Florida home to pay carrying costs on the building and to cover her costs in the lawsuit related to the building. Tr. 371-72.

167. Asked about his knowledge of the circumstances that led to Petitioner's suspension, Mr. Connelly testified that in their "regular meetings" Petitioner had told him that she "had a small inheritance that was part of a trust and that [she was] going to have to tap into that" and that "family members were in full knowledge of that." Tr. 382. Mr. Connelly believed that Petitioner's suspension "related to her fiduciary responsibility to her LLC to not lose the building. So apparently, she had a need for additional funds so that she was able to secure, my understanding, talking to some family members;" and that the family members "knew full well that she had a certain right to some of the inheritance, that she was going to be able to tap in, with the full knowledge, again, back to her integrity, that those funds would be repaid." Tr. 389:11-21. Mr. Connelly also believed that Petitioner's suspension "might have had to do with the accounting or something to that effect, that the effect was she was using the funds for some procedural matter." Tr. 390:3-6. Mr. Connelly saw the situation as "a family squabble." Tr. 390:11.

168. Mr. Connelly did not know how much money "the family" had lost as a result of the building. Tr. 392. He has never communicated with any of

Petitioner's siblings. Tr. 393-94. He did not know what Petitioner did with the proceeds of the sale. Tr. 392.

169. Mr. Connelly believed that Petitioner is a person of the "highest integrity," based on their work together on the commercial property, her practice area "helping with estates and wills and trusts and people of a certain age," and her membership in the Cosmos Club and the Consular Corps organizations. Tr. 374-75. Mr. Connelly believed that Petitioner's "reinstatement would be a benefit to the community and those that [she] served in [her] practice area." Tr. 383:8-10.

170. Petitioner called Diane Fleming. Tr. 401. Ms. Fleming is retired from United Airlines. Tr. 401-02. She is on the board of the AEDC. Tr. 402. She has worked with Petitioner at the AEDC and a related scholarship foundation and has known her for 26 years. Tr. 402-03, 412, 424. That work is ongoing. Tr. 405. Seven or eight years ago, Petitioner helped Ms. Fleming's mother with estate issues. Tr. 403-04, 411.

171. Ms. Fleming said that Petitioner told her that "in handling [Petitioner's] father's estate, the accounting that was necessary was not filed timely, and she was aware of that, but she did not misappropriate funds. The family members knew about what she was doing." Tr. 413. She testified that she understood that "there were funds borrowed from the trust, which the other members knew about, and that they were to be repaid" but that "because of extenuating circumstances it was not on a timely manner." Tr. 414:18-415:1. She did not know how much Petitioner sold the commercial property for. Tr. 415-16.

172. Ms. Fleming believed that Petitioner had repaid the funds she took. Tr. 413-14. Ms. Fleming believed that in making restitution Petitioner should have been allowed reimbursement or deduction for "the care that she had taken care of her parent, the back and forth, her experience and expenses." Tr. 414:5-14.

173. Ms. Fleming believed that Petitioner's suspension was not "something that should have been done because it is a family matter" and that "[t]here should be no reason why this should have ever occurred." Tr. 406:13-14; 408:12-13. Ms. Fleming understood that the suspension was "based on not even a major legal issue." Tr. 409:4-5.

174. Ms. Fleming stated that Petitioner is "one of the most credible, honest people that I know. Everything is above the law with Pam." Tr. 407:18-20. Ms. Fleming believed that Petitioner "should definitely be reinstated." Tr. 408:11-13.

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)). 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's misconduct was serious. Over a period of many years, Petitioner took well over a million dollars from a family trust without the consent or even the knowledge of her co-trustee or the other beneficiaries, her sisters. *E.g.*, FF 34-35, 37, 39, 47, 58. She used those funds for her personal expenses, including hundreds of thousands of dollars worth of expenses related to a personal commercial real estate investment. FF 33, 40, 46.

She failed to provide accountings as required by the trust, and she actively resisted her co-trustee's efforts to learn more about the operations of the trust and to prevent her from taking further sums. *E.g.*, FF 34-37, 76-77, 82. When her co-trustee discovered the extent of her taking from the trust and objected to further withdrawals, she (1) attempted to remove him as a trustee and (2) drafted a promissory note to which she was the only signatory (as both borrower in her individual capacity and lender in her capacity as trustee), characterizing her takings as loans, at an interest rate and other terms she selected. FF 41-42, 56, 60-63. The note was backdated by years to cover her previous takings. FF 63. She did not provide notice to or seek or authorization from her co-trustee or co-beneficiaries for the promissory note. FF 62. Nor did she seek the consent of the other beneficiaries (her sisters) to the removal of the co-trustee. *See* FF 60-61.

Over the more than fifteen years during which she took funds from the trusts, she made almost no efforts to repay the sums she took. FF 42-43, 64-67, 70. Even when she received a large sum of money from the sale of her commercial building, she elected to pay off other obligations before the trust. FF 64-67, 70. When she subsequently repaid approximately $200,000 to her mother and transferred approximately $505,000 to a separate account, she did not give her co-trustee or her co-beneficiaries access to those funds, and she continued to withdraw funds from that separate account without disclosing the withdrawals or providing any accounting. FF 67, 70, 74-78. At the time of these proceedings, Petitioner testified that she had no means of repaying the trust (or her sisters' judgment against her) and the Committee believes she has no intention of doing so. FF 72, 80, 118-121.

Petitioner's witnesses suggested, based on Petitioner's own description of her misconduct, that she should have been disciplined less severely because her misconduct was in connection with a "family matter" and not in a client matter. *See* FF 127, 130, 140-141, 145-146, 150, 156, 161, 167, 173; *cf. In re Sabo*, 49 A.3d 1219, 1224, 1234 (D.C. 2012) (granting reinstatement when among other factors the misconduct "'did not involve or pertain to the practice of law nor go to the heart of the integrity of the judicial system'" (citation and internal quotations omitted)). Petitioner's misconduct was not directly linked to her law practice, but her misconduct with respect to the family trust related to her role and skills as an attorney. During these proceedings she took the position that she should have been reimbursed for her time spent on trust matters at her attorney rates, and she often

claimed to have relied on her interpretation of the law to justify her conduct. FF 34, 49-51, 68, 78, 93, 95, 102, 105. As a trustee, she significantly mishandled money, failed to account for funds entrusted to her, and breached her fiduciary duties to the trust beneficiaries. *See, e.g.*, FF 30, 33-37, 39-47, 56-60, 62-63. Even if her misconduct was not "bound up with [p]etitioner's role and responsibilities as an attorney," her role and responsibilities as an attorney were highly relevant to her role and responsibilities as a trustee under the circumstances. *Borders*, 665 A.2d at 1382.

The Committee notes Petitioner's claims that her misconduct came about at least in part because she was "overwhelmed" by various business and personal concerns, including serious health problems. FF 97, 105, 111. However, the evidence in these proceedings indicated that Petitioner's actions were intentional and even justified in her own mind. *See, e.g.*, FF 33-37, 39-47, 57-60, 62-63, 68, 78, 82, 93, 95, 102, 104. Contrary to her obligations as a fiduciary, Petitioner believed she was entitled to drain the family trusts for her personal benefit. *See* FF 34, 47, 49-51, 67-71, 75, 78, 82, 95, 102, 104. The Florida consent judgment cited an order of the Florida court finding that Petitioner's conduct breached her fiduciary duties. FF 21-22. This factor disfavors reinstatement. *See In re Yum*, 187 A.3d 1289, 1292 (D.C. 2018) (per curiam) ("'The first *Roundtree* factor is of primary importance in considering the petition for reinstatement'" (citation omitted)).

B. Whether the Attorney Recognizes the Seriousness of the Misconduct

The Court assesses "a petitioner's recognition of the seriousness of misconduct as a 'predictor of future conduct.'" *Sabo*, 49 A.3d at 1225 (quoting *In*

re Reynolds, 867 A.2d 977, 984 (D.C. 2005) (per curiam)). This factor strongly counsels against granting the Petition. Petitioner failed to present clear and convincing evidence that she recognizes the seriousness of her misconduct. In fact, Petitioner's testimony and other evidence during the reinstatement proceedings made it very clear that she does not recognize the seriousness of her misconduct.

Petitioner repeatedly sought to justify her conduct. Among other justifications, she suggested that her overborrowing was consistent with father's intent; that her taking hundreds of thousands of dollars in trust funds to spend on her LLC's building was acceptable because the trust could have benefited if the building did well as an investment and she chose to pay the trust back; that her sisters would not have greatly benefited if she had not taken the trust funds; and that her health and financial problems justified her overborrowing. FF 68-69, 105. Finally, late in these proceedings, she suggested that the bulk of her millions of dollars in borrowing (which she acknowledged taking to pay her personal expenses including expenses associated with the commercial building) was justified as trustee fees or expenses. FF 49-50, 95. The evidence that she offered in support of that claim was not convincing. FF 51-54.

Petitioner minimized the importance of providing accountings, claiming that her co-trustee could have learned about her overborrowing from the trust account brokerage statements sent to him. FF 34-35, 98. This argument overlooks the facts that (1) the trust instrument required her to provide accountings to her co-beneficiaries; (2) the brokerage statements would have provided only the bare

amounts that Petitioner was taking and would not have shown that she was taking those large amounts for her personal use; (3) after mid-2010 the co-trustee and co-beneficiaries did not have even that limited information about the trusts, since after essentially emptying the existing account Petitioner set up a new account to which they did not have access. FF 34-35, 74, 77. Petitioner completely denied breaching her fiduciary duties, despite her stipulating to the reference to Judge Kanarek's findings in the Florida consent plea. FF 19-21.

Much of Petitioner's testimony was focused on her view that the Florida proceedings were unfair and her criticism of other family members' conduct. FF 100-106, 121. She repeatedly referred to her brother-in-law's supposed interference in trust matters, her sister's alleged failure to help with the care of her mother, and her objections to her family's lawsuit against her without addressing her own ethical misconduct. FF 56, 60, 100-106, 109, 121.

In justifying her misconduct, Petitioner cited difficulty at various times during this period from her roles as caregiver to her mother and solo practitioner, serious difficulties with her health, and financial and legal problems with the commercial office building she bought in the District of Columbia. FF 97, 105, 107, 111. While those difficulties were doubtless considerable, they do not, as Petitioner suggested, mitigate the seriousness of her misconduct.

Petitioner and the witnesses she offered repeatedly minimized the significance of her conduct, describing the events that gave rise to her discipline as merely a family dispute. FF 99, 103, 106, 127, 130, 140-141, 145-146, 150, 156, 161, 167,

173. Neither Petitioner nor any witness she presented clearly articulated what, if anything, Petitioner believes she had done that justified discipline. *See* FF 94-97, 127, 130, 134, 136, 141, 145-147, 151, 156, 161-162, 167-168, 171. While Petitioner's witnesses testified that she was saddened by the family situation and by the judgment against her, none of Petitioner's witnesses testified that she was remorseful about her overborrowing or her failure to account to the trust. *See* FF 140, 145, 151, 163-164. Nor did they testify that Petitioner believed that she had breached a fiduciary duty or had remorse for doing so. *See* FF 94-97, 127, 130, 134, 136, 141, 145-147, 151, 156, 161-162, 167-168, 171.

Petitioner asserts that the serious misconduct for which she was disciplined was unique to the circumstances of a family dispute. *See* FF 106; Petitioner's Reply at 19. The Committee believes it is unlikely that this precise situation will arise in the future. It is unlikely that Petitioner will have almost exclusive control over a family trust for an extended period of time and will misuse that authority by borrowing excessively from the trust to fund personal expenses while failing to provide an adequate accounting to the other beneficiaries.

However, Petitioner's repeated efforts to justify her conduct and minimize its significance suggest a real possibility that Petitioner's handling of entrusted funds in the future could be questionable. *See In re Cleaver-Bascombe*, 220 A.3d 266, 269, 271 (D.C. 2019) (per curiam) (denying reinstatement when among other factors a petitioner "minimized her original misconduct" at the reinstatement hearing and in other proceedings); *Sabo*, 49 A.3d at 1227 (granting reinstatement when an attorney

established that "he has accepted responsibility for the conduct that led to his conviction and that he will not engage in similar conduct in the future"). It would be deeply problematic if Petitioner borrowed excessively from a client trust and then argued as she did in these proceedings that the borrowing represented trustee fees and expenses based on unconvincing calculations made years after the fact. It would be deeply problematic if Petitioner took the position in a client matter, as she did in these proceedings, that a trust for which she served as a trustee was not harmed by her failure to provide an annual accounting because a co-trustee or beneficiary had access to monthly bank statements. This factor strongly disfavors reinstatement.

C. Petitioner's Conduct During Her Period of Suspension

Under this *Roundtree* factor, the Court considers a petitioner's "conduct since discipline was imposed, including the steps taken to remedy past wrongs and prevent future ones." *Roundtree*, 503 A.2d at 1217. "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, 787-88 (D.C. 2015) (per curiam) (denying reinstatement where the petitioner's post-suspension handling of personal financial accounts "reflect[ed] the very conduct that led to his indefinite suspension") (citing *In re Robinson*, 705 A.2d 687, 688-89 (D.C. 1998)). This factor also indicates that the Petition should not be granted. During Petitioner's period of suspension, she has taken CLE classes, including ethics classes. She has also apparently performed some legal work successfully and has been reinstated in Virginia. Against those considerations the

Committee weighs the fact that Petitioner has taken no steps to "remedy past wrongs" by reimbursing the trust or her sisters for her excessive overborrowing and indeed has actively resisted doing so.

During her suspension Petitioner has taken 30 hours of CLE courses and has also taken the MPRE. FF 122-123. None of Petitioner's CLE courses related directly to trust administration or accounting. FF 124. Arguably, these steps could be seen as efforts to "prevent future wrongs," but the Committee does not believe they are significant given their limited relevance to Petitioner's past misconduct. Petitioner has also been reinstated in Virginia. FF 9. Petitioner's witness Ms. Potoczak testified that that Petitioner's work since her suspension has been of high quality. FF 144.

More significantly, though, during her period of suspension Petitioner has failed to take any steps to "remedy past wrongs." She has made no effort to repay the trust or its beneficiaries the well over a million dollars she took from the trust. FF 115-121. In fact, she has strenuously objected to doing so. *See* FF 83-90, 118. Not only has she pursued extensive (ultimately unsuccessful) legal proceedings in Florida to avoid her obligations to her sisters,[10] in these proceedings she offered, for

[10] Petitioner vigorously contested the findings in the civil proceedings related to her handling of the trust, including the $1.77 million judgment. The Committee does not find that her participation in those civil proceedings necessarily indicates a failure to "remedy past wrongs." Petitioner was entitled to defend herself in the civil suit by her family members. *Cf. Sabo*, 49 A.3d at 1228-29 (reinstating an attorney who continued to deny the facts underlying his felony conviction). Given the undisputed misconduct to which Petitioner stipulated in her negotiated discipline in Florida, though, her failure in these reinstatement proceedings to identify any concrete step or plan to make restitution to the trust is significant.

the first time, a supposed estimate of her fees and expenses that would have justified most of her takings. FF 49-50. The Committee finds that estimate not credible.

While Petitioner claimed in her testimony that she would be willing to repay the trust (FF 121), the evidence showed that (1) she has failed to make any efforts to do so since her discipline, even as she spent money on country clubs, vacations, and other luxuries and (2) she does not believe she owes any real restitution to the trust, as demonstrated by her grossly overinflated and unconvincing estimate of the fees and expenses the trust supposedly owed her. FF 49-51, 108, 116-119, 121. Petitioner has never presented a good-faith payment plan or taken any other serious steps to make restitution. *See* FF 118-120. Petitioner's failure to take any steps to remedy her admitted overborrowing counsels against reinstatement. *See In re Daniel*, 135 A.3d 796, 797 n.5 (D.C. 2016) (per curiam) (denying reinstatement when among other factors an attorney failed to show that he "has given complete and accurate information to the IRS and the Bar and that he is at least working in good faith to resolve any outstanding deficiencies"); *see also In re Patkus*, 841 A.2d 1268, 1270 (D.C. 2004) (per curiam) (denying reinstatement when among other factors "petitioner had done little to rectify the circumstances which led to his disbarment"). *Compare In re Mance*, 171 A.3d 1133, 1141 (D.C. 2017) ("[D]elayed restitution is not a barrier to reinstatement where there is an adequate excuse for non-payment.").

Petitioner has also failed to take steps to manage her own financial records adequately since her suspension. She repeatedly testified that she did not manage the trust adequately because she was distracted by personal legal, financial, and

health problems. FF 97, 105, 111. Since her suspension, she filed her 2016 personal income tax return two years late, asserting that she did not have time to file it earlier because of her suspension and litigation against her family. FF 102. Petitioner's failure to manage her own financial records since her suspension suggests that she has not taken steps to prevent future financial mismanagement.

D. Petitioner's Present Character

To satisfy this fourth *Roundtree* factor, Petitioner must demonstrate, among other things, that "those traits which led to [her disciplinary sanction] no longer exist and . . . [she] is a changed individual having full appreciation for [her] mistake." *In re Brown*, 617 A.2d 194, 197 n.11 (D.C. 1992) (quoting *In re Barton*, 432 A.2d 1335, 1336 (Md. 1981)). As evidence of this change, Petitioner should also proffer the testimony of "live witnesses familiar with the underlying misconduct who can provide credible evidence of . . . petitioner's present good character." *Yum*, 187 A.3d at 1292 (denying reinstatement where "petitioner's witnesses were unfamiliar with the details of his misconduct"). This factor does not support reinstatement. Petitioner's witnesses spoke highly of her character, but they were unfamiliar with the details of her misconduct and they could not testify that she had a "full appreciation for [her] mistake." In addition, many of Petitioner's witnesses based their testimony on their experiences with her before her discipline and not on more recent knowledge. Finally, Petitioner's own testimony and conduct in these

proceedings demonstrated that Petitioner is not a "changed individual" unlikely to repeat her errors in the future.

Petitioner's character witnesses were unfamiliar with her misconduct, and to the extent they were aware of it, they minimized the misconduct as a mere family dispute. FF 127, 130, 134, 136, 140-141, 145-147, 150-151, 156, 161-161, 167-168, 171, 173. Several of the witnesses incorrectly portrayed Petitioner as the victim and her family as the wrongdoers. FF 141, 161. The witnesses' views on the issue were based on Petitioner's own description of her misconduct to them. *See, e.g.*, FF 127, 134, 139-140, 146, 163, 168. Their unfamiliarity with Petitioner's misconduct diminishes the value of their testimony. *See Cleaver-Bascombe*, 220 A.3d at 269-270 ("Although [a petitioner] offered witnesses in support of her contention that she understood the seriousness of her original misconduct, those witnesses did not persuade the Hearing Committee, particularly given that two of them were not familiar with details of [the petitioner's] misconduct."); *Yum*, 187 A.3d at 1292.

The character witnesses testified in glowing terms about Ms. Stuart's character and skill as an attorney. FF 130, 132-133, 138, 144, 149, 159-160, 165, 169, 174. The Committee found that testimony sincere and compelling. Nevertheless, much of that testimony related to Ms. Stuart's character and work in the past, in some cases many decades ago. *See* FF 130-133, 138, 158-160, 165, 169, 170, 174. There was relatively little testimony about Ms. Stuart's present character or skills, although what testimony there was on that issue was positive. *See* FF 137, 140-141, 144-145, 149. The testimony was therefore insufficient to establish that

Petitioner satisfied the fourth *Roundtree* factor. See *Yum*, 187 A.3d at 1292 (the fourth factor was not established when petitioner "offered no examples of post-discipline conduct from which his personal growth can be reasonably inferred").

Petitioner's own testimony and conduct in these proceedings failed to show that her present character supports reinstatement. Petitioner repeatedly claimed that her misconduct occurred in part because she was "overwhelmed" by her personal obligations, including legal problems and health issues. FF 97, 105, 111. Her demonstrated inability to meet her personal and professional obligations and deadlines has continued throughout her suspension. She has failed to file personal tax returns in a timely manner (FF 113) and she repeatedly failed to comply with deadlines in these proceedings, allegedly because of other legal obligations. *See, e.g.*, Petitioner's Consent Motion to Extend Time Within Which to File Additional Exhibits (Jan. 3, 2020) (listing other proceedings that had allegedly interfered with her ability to meet the deadline to submit exhibits); *see also* FF 114. Petitioner has not met her burden to show that she is successfully managing the traits that led to her discipline.

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 1216-18. In other cases, the Court has also considered whether the petitioner has performed legal work or kept abreast of developments in the law by reading legal journals and periodicals. *See In re Bettis*, 644 A.2d 1023, 1030 (D.C. 1994) (Court finding that petitioner established competence where he "worked as a law clerk . . . and improved his legal research and writing skills" and witnesses testified to his developed expertise in the medical malpractice and personal injury fields.); *In re Harrison*, 511 A.2d 16, 19 (D.C. 1986) (petitioner's competence established where he testified that he kept up with developments in the law by reading 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, "the longer the suspension, the stronger the showing that must be made of the attorney's present competence to practice law." 503 A.2d at 1218 n.11. This factor is not favorable to Petitioner in light of her conduct in these proceedings.

During her suspension Petitioner has taken CLE classes. FF 123. That evidence is favorable to reinstatement. Petitioner has also been reinstated in Virginia, and a witness testified that her work in Virginia matters has been satisfactory. FF 9, 144. That witness did not describe Petitioner's work in detail, though, and it is not clear that it "required legal analysis or otherwise improved [her]

legal knowledge or skills." *Yum*, 187 A.3d at1293 (finding the petitioner had not met this factor despite the work he engaged in post-disbarment).

More significantly, during these proceedings Petitioner did not demonstrate a high level of competence to practice. Petitioner represented herself *pro se* in the reinstatement hearing. The Committee may properly consider her performance in weighing her present qualifications and competence to practice law. *See Sabo*, 49 A.3d at 1233 (citing the fact that a petitioner "represented himself *pro se* in the reinstatement proceedings" and in other matters as evidence that the attorney "possesses the competence and qualifications to practice law"). During the hearing, Petitioner presented voluminous and repetitive evidence on irrelevant matters while failing to offer evidence on significant points; she repeatedly failed to meet filing deadlines and hearing schedules; and she relied on inapposite precedent related to the burden of proof and scope of evidence in these proceedings.

Petitioner presented extensive and duplicative evidence that did not support her arguments while failing to offer information about the nature of her misconduct and other required *Roundtree* factors. For example, the portion of Petitioner's opening statement made under oath that describes her childhood and early career before she was appointed trustee of her father's trust upon his death in 1998 covers thirty pages of transcript. Tr. 25-55. Much of that information, including descriptions of matters she worked on in the 1970s and 1980s, is almost entirely irrelevant to the issue of Petitioner's reinstatement. Petitioner offered extensive testimony and evidence about the difficulties she had with the commercial property,

although the trusts never had a legal interest in that property and its only relevance to the reinstatement proceeding was that Petitioner acknowledged that she borrowed hundreds of thousands of dollars from the trust to cover costs related to it. *See* FF 68-69, 107.

During her examination and cross-examination of witnesses, Petitioner repeatedly inquired about irrelevant subjects, despite multiple reminders to be aware of the relevance and scope of her questions. *See, e.g.*, Tr. 630-33 (Petitioner's cross-examination of C. Ryan, asking about Dr. Ryan's work history and her daughter's educational expenses, which were not at issue in the restatement petition). On some occasions, she did so after the Chair sustained an objection by Disciplinary Counsel. *See, e.g.*, Tr. 638-39 (Petitioner's cross-examination of C. Ryan continuing to ask the witness if she had a mortgage on her personal home after the Chair stated the witness did not have to answer the question). Those lines of questioning unnecessarily extended the proceedings without advancing Petitioner's arguments.[11]

After many months of delay Petitioner produced thousands of pages of documents purporting to relate to trust expenses that she claimed showed that much

[11] Petitioner also took other steps that unnecessarily extended these proceedings. For example, she declined to stipulate to the authenticity of records from the Florida proceedings to which she was a party, even after having a month to review the proffered copies. Tr. 561-65. While of course Petitioner was not required to so stipulate, her declining to do so without offering any reason to believe that the copies were of questionable authenticity or completeness (*see, e.g.*, Tr. 564, Petitioner's statement that she can neither "dispute [n]or authenticate" the copies) unnecessarily prolonged these proceedings without providing any evidentiary benefit to the parties or the Committee.

of her borrowing was justified. *See* PX 21-38.[12] The documents were presented with little explanation beyond Petitioner's bare assertions of supposed expenses contained in them. FF 86. Upon examination, they failed to support Petitioner's arguments and contained significant amounts of entirely irrelevant information (as well as information contradicting Petitioner's claims). FF 86. Petitioner continued to offer voluminous and irrelevant materials well after the repeatedly-extended deadlines for submitting exhibits had passed. *See, e.g.*, Tr. 1265-68 (discussing late-filed submissions); Petitioner's Offer of Proof Disputing ODC Proposed Findings of Fact and Supporting Petitioner's Proposed Findings of Fact (June 7, 2021) (92-page, 18,000-word document offering extensive unsupported narrative about factual issues which the Committee declined to receive).

Petitioner repeatedly estimated times incorrectly and failed to meet deadlines. As an example, Petitioner initially estimated that the hearing would take one day. *See* Disciplinary Counsel's Pre-Hearing Statement Regarding Agreed-Upon Dates (June 21, 2019). By 12:30 on the first day of the hearing (which began at 9:30 a.m.), Petitioner had not completed her opening statement or called any witnesses. Tr. 127:9-22. The hearing eventually extended over multiple dates, largely because of Petitioner's digressions and delays during questioning and testimony. Similarly, between August 2019 and March 2021, Petitioner requested seven extensions of time to submit additional evidence.

[12] Certain of these exhibits were filed after the deadline for production that had been extended many times at Petitioner's request, and the Committee declined to admit them. *See* Order dated June 15, 2021.

On multiple occasions, Petitioner appeared to disregard or misunderstand procedures that had been previously established. For example, at the August 28, 2019 hearing, the Committee had an extended discussion about the day's schedule with the parties. Tr. 593-97. At the end of that discussion, to accommodate scheduling issues of Disciplinary Counsel's witness Dr. Catherine Ryan and to ensure that Dr. Ryan was not required to attend a second day of hearings, the Committee directed that Dr. Ryan's testimony and her husband Edward Ryan's (Mr. Ryan's) testimony be taken in the following order: Disciplinary Counsel's examination of Mr. Ryan, Disciplinary Counsel's examination of Dr. Ryan, Petitioner's cross-examination of Dr. Ryan, then Petitioner's cross-examination of Mr. Ryan, on a subsequent hearing day if necessary. Tr. 596-97. Despite that agreed-upon arrangement, when the Committee called Petitioner to conduct her cross-examination of Dr. Ryan later that day, she stated that she "was going to defer questioning Dr. Ryan until after I get done cross-examining Mr. Ryan." Tr. 620:2-4. After being reminded of the decided-upon arrangement, Petitioner did cross-examine Dr. Ryan, while noting that she "was not thinking [she] would have to do this right away." Tr. 620:16-18.

Finally, Petitioner repeatedly relied on inapposite precedent to support her argument that the Committee should exclude evidence about the misconduct for which she was disciplined. Petitioner repeatedly relied on reciprocal cases to support her argument that the Committee should not consider evidence related to her handling of the trust other than the Plea and the Court of Appeals' reciprocal

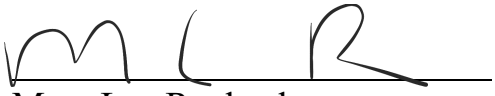
discipline order. *See, e.g.*, Petitioner's Notice of Additional Authority in Support of Petitioner's Motion to Strike, at 2-5 (July 23, 2019) (relying on reciprocal discipline cases to support her argument that the Committee should not admit information about her misconduct from the Florida proceedings); Prehearing Tr. 24 (July 24, 2019) (relying on *In re Maxwell*, a reciprocal discipline proceeding, to argue in favor of limiting the evidence before the Committee); Tr. 464:5-11 (Petitioner) ("Melinda Maldonado, who was the subject of the court of appeals case in June, is a friend of mine, and if she was disbarred based solely on the materials from Maryland, I do not think that in a reinstatement proceeding that the kind of document dump that is going on from the other side is at all appropriate."). Petitioner's argument failed to address the Committee's obligation to examine the misconduct for which the Petitioner was disciplined or the relevance or irrelevance of the proffered evidence to that issue.

V. CONCLUSION

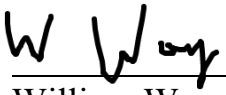
Based on the foregoing, the Hearing Committee concludes that Petitioner has failed to demonstrate by clear and convincing evidence the fitness qualifications required for readmission under D.C. Bar R. XI, § 16(d)(1)(a) and as set forth in *Roundtree*. Petitioner has not demonstrated that her resumption 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.

HEARING COMMITTEE NUMBER FOUR

Leslie Spiegel, Esquire
Chair



Marc Lee Raphael
Public Member



William Way, Esquire
Attorney Member