THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

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

In the Matter of:	:	
	:	
RITU SINGH,	:	
	:	Board Docket No. 20-BD-056
Petitioner.	:	Disciplinary Docket No. 2020-D235
	:	
A Disbarred Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 493198)	:	

REPORT AND RECOMMENDATION OF THE
AD HOC HEARING COMMITTEE

This is a contested proceeding on the Petition for Reinstatement (the "Petition") of Petitioner Ritu Singh ("Petitioner") filed on November 2, 2020. Petitioner was admitted to the District of Columbia Court of Appeals Bar on July 8, 2006 but was disbarred as of August 24, 2011, as reciprocal discipline, following her consent to disbarment from the Bar of the State of New Jersey in the face of allegations of commingling and knowing misappropriation of client funds, engaging in improper business transactions with a client, and the unauthorized practice of law in the State of New York. Disciplinary Counsel opposes the Petition on numerous grounds.

Based on the Petition, Disciplinary Counsel's Answer thereto, the testimony elicited at the evidentiary hearing, the record exhibits, and the written briefs submitted by the parties, this Ad Hoc Hearing Committee (the "Hearing

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

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), and therefore we recommend that the Petition be denied.

I. PROCEDURAL HISTORY

A. Original Disciplinary Proceedings

Petitioner was originally disbarred in New Jersey by a consent order entered on March 8, 2011. *In re Singh*, D-82 September Term 2010 067755 (N.J.); *see* Disciplinary Counsel Exhibit ("DCX") 46 at pp. 66-68.[1] Petitioner was the subject of an investigation by the New Jersey Office of Attorney Ethics (the "OAE") into allegations made to it by an attorney for a former client of Ms. Singh. These allegations included the unauthorized practice of law, entering into an improper business relationship with a client, commingling client and personal funds, and the knowing misappropriation of client trust account funds. Because Petitioner consented to the disbarment during the course of the OAE's investigation, no disciplinary charges were formally filed against her there, no hearing was held, and no judicial findings – other than disbarment – were made. NJ OAE Docket No. XIV-2009-0513E; *see* DCX 46 at pp. 5-68.

[1] DCX 46 is a fax transmission from the Office of Attorney Ethics ("OAE") for the State of New Jersey to the Office of Disciplinary Counsel for the District of Columbia dated January 24, 2018, enclosing much of the documentation of the OAE's investigation and disbarment of Petitioner in New Jersey.

B. The Instant Proceedings

Petitioner filed the instant Petition on November 2, 2020. DCX 39 at 1 (received on November 2, 2020). On June 14, 2021, an evidentiary hearing was held in this matter before the Hearing Committee, consisting of Leonard J. Marsico, Esq. (Chair), Roxanne Littner (Public Member), and Leonard O. Evans, Esq. (Attorney Member). Petitioner appeared *pro se* and the Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel Traci M. Tait, Esq. Both parties presented testimony and oral argument. Only Disciplinary Counsel presented documentary evidence that consisted of Disciplinary Counsel Exhibits 1-42 and 44-48, which were all moved and accepted into evidence.

II. LEGAL STANDARD

D.C. Bar R. XI, § 16(d)(1) sets forth the legal standard for reinstatement, placing upon Petitioner the heavy burden of proving – by clear and convincing evidence – that (a) she has the moral qualifications, competency, and learning in law required for readmission; and (b) her resumption of the practice of law will not be detrimental to the integrity and standing of the Bar, or to the administration of justice, or subversive to the public interest. Clear and convincing evidence is more than a preponderance of the evidence: it is "evidence that will produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established." *In re Cater*, 887 A.2d 1, 24 (D.C. 2005) (quoting *In re Dortch*, 860 A.2d 346, 358 (D.C. 2004) (citation omitted)). *Roundtree* remains the seminal precedent in this

area, identifying the following 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 the steps taken to remedy past wrongs and prevent future ones;
> 4. the attorney's present character; and
> 5. the attorney's present qualifications and competence to practice law.

503 A.2d at 1217.

Based on the following findings of fact and conclusions of law, we find that the evidence before the Hearing Committee, in light of the *Roundtree* factors, strongly weighs against reinstating Petitioner to the practice of law. Petitioner has failed to present clear and convincing evidence that she is fit to resume the practice of law and, for the reasons set forth below, we recommend that her Petition be denied.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

We address each of the *Roundtree* factors below:

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

As we have indicated, there were no charges ever filed against Petitioner because she consented to disbarment. Instead, a letter making certain allegations against Petitioner was sent to both the New Jersey OAE and the District of Columbia Board on Professional Responsibility, dated September 18, 2009. DCX 46 at pp. 5-8, plus attachments. Based on this letter, the OAE began an investigation during the course of which Petitioner consented to the disbarment. Neither Petitioner's written consent to disbarment nor the New Jersey Supreme Court order of disbarment made any findings of any kind. *Id.* at pp. 68 and 66-67, respectively.

The letter containing the initial allegations was from New York attorney Philip R. Schatz, who was then representing a former client of Petitioner, Ms. Dafna Schwartz. The letter made the following allegations:

> I am writing to request a formal investigation against attorney Ritu Singh. Although this complaint arises from Ms. Singh's practice of law

in New York, and apparent commingling of escrow monies in New York, the Departmental Disciplinary Committee had advised me, because she is not admitted to practice in New York, that the complaint should be addressed to the states in which Ms. Singh is admitted. I am informed and believe that Ms. Singh is admitted to practice in New Jersey[] and the District of Columbia,[] but that she does not actively practice law in either jurisdiction.

I have come to the conclusion, based upon my investigation and preparation of the enclosed civil complaint on behalf of a client who lent money to Ms. Singh while Ms. Singh was acting as her attorney in a New York real estate matter, that Ms. Singh has violated at least the following ethical rules:

1. Rule 5.5, which prohibits the unauthorized practice of law, because Ms. Singh has been practicing law in New York, using engagement letters issued from a New York address [Exhibit A to the enclosed complaint] and an attorney IOLA account bearing a New York address [Exhibit B], advising clients concerning real estate and other matters;[2]

2. Rule 1.8(a), which prohibits an attorney from entering into business transactions with clients containing unfair and unreasonable terms, and without the opportunity for independent review, because Ms. Singh borrowed (and has failed fully to repay) $370,000 from a client to buy a penthouse apartment, drafted promissory notes that contain unusual and unfair terms that no independent lawyer would have approved (Exhibits C and D), and discouraged the client from seeking independent legal advice; and

3. Rule 1.15(a), which prohibits the commingling of lawyer/client funds, because Ms. Singh has made payments on the personal loans from her attorney IOLA account (Exhibit B). This concern is heightened by Ms. Singh's reported delay in forwarding escrowed moneys to another of her clients in New York.

[2] In addition to my client, the plaintiff in the enclosed civil action, I have spoken to two other residents of New York who were represented by Ms. Singh in New York real estate transactions. One of the clients felt obligated, as a result of Ms. Singh's failure to timely pay-over funds from a closing, to hire a lawyer to obtain the funds.

> The factual basis for this complaint is set forth in the attached civil complaint (which seeks repayment of the loans, on which Ms. Singh has defaulted) and attachments.

Id. at pp. 7-8 (some footnotes omitted).

The attachments to Attorney Schatz's letter included a complaint he filed in the New York State Supreme Court on behalf of Ms. Schwartz against Petitioner for unpaid amounts Petitioner had borrowed from Ms. Schwartz while Petitioner was acting as her attorney (*id.* at pp. 9-17); a "Retainer Agreement Regarding Contract for Sale" dated January 26, 2006, from Petitioner to Lynn Diamond and Dafna Schwartz confirming their retention of Petitioner at a New York address to represent them in a real estate transaction (*id.* at p. 18); two promissory notes to Ms. Schwartz dated March 16, 2006 and April 3, 2006 signed by Petitioner in the principal amounts of $200,000 and $170,000 (the "Singh Notes") (*id.* at pp. 23 and 25), and a March 12, 2007 letter from Petitioner to Ms. Schwartz confirming the full amount of the Singh Notes and accrued interest remained due in full, notwithstanding that the $170,000 note was due in full by December 3, 2006 and was therefore already in default. *Id.* at pp. 27 and 25.

While the OAE filed no formal complaint before Petitioner consented to her disbarment, it did conduct an investigation into Mr. Schatz's allegations. Based on the information contained in DCX 46, it is clear that the OAE's investigation began no later than November 10, 2009 (*id.* at pp. 28-29) and continued for over 15 months until February 17, 2011, when Petitioner executed her consent to disbarment in her attorney's office during a meeting with OAE Asst. Ethics Counsel Walton W.

Kingsbery, III. *Id.* at p. 65. During that investigation, OAE sent several requests for documents from Petitioner and others relating to her representation of Ms. Schwartz; conducted an audit of her trust accounts and her books and records relating to her representation of Ms. Schwartz; interviewed Ms. Schwartz, Petitioner, and others; and spoke and met with Petitioner's counsel. DCX 46.

This investigative information contained various conclusions by the OAE which we adopt because they were all communicated to Petitioner and her counsel prior to her informed consent to disbarment, because she consented to disbarment with the advice of counsel based in part upon these conclusions, because she never challenged them, because she stipulated to the admissibility of these records in this proceeding, and because an independent review of them by this Committee confirms their accuracy.

Among these OAE findings are the following, made directly to Petitioner in its July 14, 2010, letter to her:

> 1) You deposited $48,800 into your trust account on October 26, 2006 on behalf of Rosa Valente. Those funds represented a 10% deposit for a client's real estate sale. You disbursed $10,000 out of that deposit to yourself on October 31, 2006. After that disbursement to yourself, the balance in your trust account stood at $38,701.95. You disbursed $8,000 out of that deposit to yourself on December 1, 2006. After that disbursement to yourself, the balance in your trust account stood at $27,243.64.
>
> 2) You deposited $233,627.43 into your trust account on July 17, 2007 on behalf of Jarosalw and Agnieska Wiernasz. Those funds represented the principal amount of new mortgage for a client's purchase of real estate. You disbursed $50,000 to Dafna Schwartz on July 20, 2007. After that disbursement to Dafna Schwartz, the balance in your trust account stood at $210,742.

> 3) You deposited $149,455.62 into your trust account on April 12, 2007 on behalf of Rajesh Singh, M.D. Those funds represented settlement funds of a law suit. You disbursed $50,000 to Dafna Schwartz on April 17, 2007. After that disbursement to Dafna Schwartz, the balance in your trust account stood at $7,635.28.
>
> These three transactions provide *prima facie* evidence of your unauthorized misappropriation of client trust account funds. Despite our requests for you to explain the apparent misappropriations, you have failed to do so.

Id. at pp. 55-56.

In her brief, Petitioner admits that she was disbarred in New Jersey for engaging in misappropriation. Pet. Br. at 4. Disciplinary Counsel agrees. ODC Br. at 6. We concur that Petitioner was disbarred for engaging in misappropriation. In her sworn statement consenting to disbarment in New Jersey, Petitioner acknowledged that she was under investigation for allegedly knowingly misappropriating client trust account funds, and she conceded her misconduct:

> I acknowledge that these allegations are true and if I went to a hearing on these matters, I could not successfully defend myself against those charges.

DX 1 at p. 5, ¶ 5; *see also, e.g.*, *In re Yum*, Board Docket No. 15-BD-067, at 22 (HC Rpt. Aug. 22, 2016), *adopted in relevant part*, 187 A.3d 1289 (D.C. 2018) (per curiam) (misconduct admitted in a consent disbarment affidavit was considered when the petitioner sought reinstatement).

B. <u>Petitioner's Conduct During Her Period of Disbarment</u>

Under this *Roundtree* factor, the Court considers a petitioner's "conduct since discipline was imposed, including the steps taken to remedy past wrongs and prevent

future ones." *Roundtree*, 503 A.2d at 1217. "[I]n reinstatement cases[,] primary emphasis should be given to matters bearing most closely on the reasons why the attorney was suspended or disbarred in the first place." *In re Mba-Jonas*, 118 A.3d 785, 787 (D.C. 2015) (per curiam) (second alteration in original) (quoting *In re Robinson*, 705 A.2d 687, 688-89 (D.C. 1998)) (denying reinstatement where the petitioner's post-suspension handling of personal financial accounts "reflect[ed] the very conduct that led to his indefinite suspension"). The hearing committee may not "disregard petitioner's mismanagement of personal finances [where that behavior is] reminiscent of actions that led to [the] disbarment." *Mba-Jonas*, 118 A.3d at 787 (citation and internal quotation marks omitted).

In *Mba-Jonas*, the reinstatement hearing committee found that the petitioner's personal and business bank accounts had been in repeated overdraft status during his period of suspension and the petitioner acknowledged that he had purposely written checks on his personal accounts, knowing that there were insufficient funds in the account to cover them. Board Docket No. 11-BD-019, at 13-14 (HC Rpt. May 29, 2014). During Petitioner's period of disbarment, she engaged in similar conduct that bears directly on the third *Roundtree* element which we therefore outline as well.

C. <u>Whether the Attorney Recognizes the Seriousness of the Misconduct for which She was Disbarred</u>

The Court assesses "a petitioner's recognition of the seriousness of misconduct as a 'predictor of future conduct.'" *In re Sabo*, 49 A.3d 1219, 1225 (D.C. 2012) (quoting *In re Reynolds*, 867 A.2d 977, 984 (D.C. 2005) (per curiam)).

In *In re Cleaver-Bascombe*, 220 A.3d 266 (D.C. 2019) (per curiam), the Court denied a petition for reinstatement where the petitioner's reinstatement hearing testimony minimized her original misconduct. *Id.* at 269. The petitioner had originally been disbarred for submitting a fraudulent voucher for services not rendered and providing knowing false testimony to a hearing committee. *Id.* at 267. Yet, during the reinstatement hearing, Petitioner "repeatedly described her original conduct as inadequate, deficient, or shoddy recordkeeping, and she initially denied having committed perjury before the Hearing Committee in the original proceeding." *Id.* at 269.

At the outset, we note that Petitioner's claimed recognition of the seriousness of her prior misconduct is belied by her conduct during her period of disbarment. Although Petitioner made intermittent expressions of remorse at the hearing and in her post-hearing brief, based on her testimony and the documents submitted as part of the Hearing Committee record, we find that Petitioner does not recognize the seriousness of the misconduct for which she was disbarred.

We now discuss portions of the Petitioner's conduct during the period of disbarment that demonstrates she does not recognize the seriousness of the misconduct for which she was disbarred.

1. **Petitioner's Failure to Acknowledge Her Misappropriation**

Throughout the course of the hearing, Petitioner displayed a shocking refusal to recognize the seriousness of the misconduct that led to her disbarment. As mentioned, in part, above, she did not "merely" mix her money with entrusted client

funds: Commingling; she *took* client funds and *spent them for herself*: Misappropriation. In each of the three instances described by the New Jersey OAE in its July 14, 2010, letter to Petitioner, Petitioner used funds for her own purposes that brought the balance in her trust account below the amount of client funds that should have been in there. DCX 46 at pp. 55-56. So, she did not "simply" commingle her money with client funds and spend for herself "merely" what she had personally deposited into the account, she spent her clients' funds on herself: Classic misappropriation.

During her cross-examination of Petitioner, Disciplinary Counsel proved additional instances of Petitioner paying personal expenses from her trust account. Hearing Transcript ("HT") 51:12-56:10; DCX 21 at pp. 32-38.[3] Among them was another instance in which Petitioner not only paid personal expenses from her trust account, but in so doing left a trust balance lower that the amount of client funds that should have remained in the account. According to Petitioner's own trust ledger, on April 12, 2007, her beginning IOLA account balance was $186.64. On that day she deposited $151,955.62 in client entrusted funds into the IOLA account. On April 16, 2007, she paid $33,636.76 from that account for her personal mortgage payment. Between those two dates, only $4,000 had been deposited. So, it is irrefutable she took client funds for her personal use.[4] DCX 21 at p. 35.

[3] Citations to the Hearing Transcript are made to page and line numbers separated by a colon (":").

[4] Disciplinary Counsel also secured Petitioner's admission that she paid personal expenses from her IOLA account in the amount of $8,245.02 on August 31, 2007 and $8,245.02 again on October 2, 2007; however, there was no evidence whether or not the balance in the account on those dates contained her personal funds in at least those amounts. So, these payments, while clearly evidence

During the course of the Hearing, Petitioner admitted she had committed misappropriation. But she repeatedly explained it only in terms of having commingled funds, never once forthrightly acknowledging that she had taken client funds, at times even suggesting it was a technical matter.

Her direct testimony teed-up this tenor to her entire treatment of the matter:

> Pretty much my disbarment from – this is a reciprocal disbarment from the D.C. Bar. I was disbarred originally from New Jersey Bar. I took a voluntary disbarment. The cause of the initial disbarment was one client – I had a private practice in New Jersey. One client raised an issue – not a client of mine, but pretty much raised an issue with regards to a loan that I had taken from her for a purchase.
>
> When disciplinary counsel from New Jersey – ethics counsel asked about my books and records, I did not have a secondary books and record. I only had one account, which was a trust account. I did not have a business attorney account. And therefore, the issue that I raised – that was raised was how did I make payments. I did do four or five different transactions through my trust account for real estate closings. And in that particular transactions [sic], I would flow all of the activity though my IOLA account and did not have a separate business account for any payments that were made that were outside of the transaction.
>
> That, in itself, in the State of New Jersey was sufficient to show that I did not have a separation between business and my practice. I could not – there was nothing at that point that I could show that I had a different business account. So, therefore, I took a voluntary disbarment from the State of New Jersey and D.C. had a reciprocal disbarment based on the voluntary disbarment that I took in New Jersey.
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> * * * * *

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of commingling, may or may not have been misappropriated as well. HT 55:13-56:9; DCX 21 at pp. 36-37.

> [B]ut I just got caught because of one item, again, a huge issue. I'm . . . not undermining it. I'm not understating the facts. I should know better as an attorney.
>
> * * * * *
>
> This was a very, very wrong step on my part and I should've been more knowledgeable on it . . . .

HT 14:13-15:18, 18:18-21; 19:17-18. This was the full extent of her explanation of the reasons for her disbarment. During the Disciplinary Counsel's cross-examination, she elicited the following testimony from Petitioner regarding her misappropriation.

When asked what facts led to her being accused of misappropriation, she said: "[B]ased on their records and my attorney IOLA account, I had transactions in those [sic] attorney IOLA account that were business transactions and not escrow transactions." HT 33:22-34:3. When pressed to distinguish between commingling and misappropriation, she, with some coaching, ultimately distinguished them, but then only admitted to the facts that make out commingling:

> Q. Ms. Singh, please, I'm sorry. I did not hear your full answer. What exactly was the basis of the disbarment?
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> A. The basis of the disbarment was misappropriation of funds. I had business transactions that were flowing through my IOLA account.
>
> Q. Is that your understanding of misappropriation?
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> A. That is my understanding of misappropriation, yes.
>
> Q. What is your understanding of commingling?

A. It's similar. I mean misappropriation is probably more client-driven. Commingling is having similar transactions running through the same account and dipping into clients' funds.

Q. I'm sorry. Can you repeat what you were just defining?

A. Commingling is obtaining funds – your funds with your client funds, mixing them into one account.

Q. And what is your understanding of misappropriation?

A. Misappropriation is taking client funds.

Q. And what were you disbarred for?

A. Both; at this point, it would be – if it's one account, I commingled business information, or business funds in an account that was a [sic] IOLA account, which is a client account; therefore, it could be both of those type [sic] of activity, commingling as well as misappropriation.

Q. And misappropriation necessarily involves taking funds that you were not entitled to.

A. Yes.

HT 34:13-35:20. Later, in her cross examination she – again – insisted,

> [T]he misappropriation was because I just could not prove that I had two separate accounts to show and therefore any funds that I took was [sic] considered misappropriation in my IOLA account and that is the essence of that.

HT 48:13-17. And still later she again describes the basis for the misappropriation charge as a mere matter of not having separate accounts:

Q. Well, would you clarify? What was happening in the IOLA since that is presumably the account that provides the basis for the knowing misappropriation disbarment?

A. The only thing that was happening in the IOLA was real estate transactions to close real estate matters for a couple of clients and

> that's it. The only thing is that I paid funds out of the IOLA rather than a separate business account.

HT 49:1-8; *see also* HT 56:22-57:14 (In her Petition she described the basis for her disbarment as "not having two separate accounts.").

Nothing disclosed Petitioner's failure to acknowledge the true nature of her misconduct better than her own, unsolicited redirect testimony: "I've never taken money, even though it's misappropriation based on the way the activity looks." Followed, in nearly the same breath, five transcript lines later with, "All my clients were paid back. There was never any money left in any of my accounts. However, the manner in which I kept records were [sic] deficient, and solely very deficient." HT 153:18-154:4.

Based on all of this testimony, the Petitioner's Reinstatement Petition, and her demeanor and attitude during the hearing, it is incontrovertible that Petitioner has not come to understand the full seriousness of the conduct that led in part to her disbarment.

2. <u>Petitioner's Disregard of Her Financial Obligations</u>

In "behavior reminiscent of actions that led to [her] disbarment," *see Mba-Jonas*, 118 A.3d at 787 (citation and internal quotation marks omitted), Petitioner persists in flouting her monetary obligations to others. Both before and after her disbarment, Petitioner flatly disregarded her financial obligations to Ms. Schwartz. This conduct is unlawful in normal circumstances but more problematic since these

obligations were the basis for her disbarment. In light of that fact, one would expect Petitioner to repay these obligations first or at least as agreed. But she did not.

On November 19, 2009, 62 days after his initial letter to the New Jersey OAE alleging ethical violations by Petitioner, Attorney Schatz again wrote to the OAE to advise it that his client, Ms. Schwartz, had settled the lawsuit he had commenced against Petitioner. DCX 46 at p. 31. In the Stipulation Settling Action dated November 9, 2009 (the "First Settlement") Petitioner confessed to judgment in the full amount then due under the Singh Notes, and Ms. Schwartz agreed to stay execution on the judgment provided that Petitioner would make monthly payments of $1,750. *Id.* at pp. 31-41.

But Petitioner – after breaching the terms of the Singh Notes in the first place and thereby forcing her client to hire counsel to collect what she was due – did the same thing again: She defaulted on the First Settlement, requiring Ms. Schwartz to hire counsel again and negotiate a second settlement reducing her monthly payments to $1,000 (the "Second Settlement"). *See* "The Modification of the monthly amount by email from Phil Schantz [sic]," 6th Singh Reinstatement Petition, Ex. E; DCX 39 at pp. 445-48. Then on September 17, 2019 after making $1,000 payments for several years, she made a lump sum payment to Ms. Schwartz of $125,000 in exchange for a full release of the amounts she owed and "shorted" Ms. Schwartz by approximately $100,000. HT 39:11-42:18 and 58:12-60:11.

Throughout this period of repeated disregard for the financial obligations to her client, Petitioner insisted on maintaining ownership of both her own expensive

Manhattan penthouse condominium that she purchased with the money she borrowed from Ms. Schwartz in the first place and a second one she purchased for investment purposes. Indeed, Petitioner points to her penthouse mortgage as the source of the lack of funds to timely perform her financial obligations to Ms. Schwartz. But never does she mention considering or even trying to sell one or both of them to meet her legal obligations to Ms. Schwartz or her other creditors, choosing, instead, to continue living beyond her means at the expense of her client.

Compounding her wrongful failure to repay the full amounts of money she took from her clients in violation of her ethical duties was her dogged insistence on lying about it by repeatedly insisting she had paid Ms. Schwartz in full. At the hearing she said,

- "I have . . . fully paid my initial debt." HT 9:8-9.
- "[E]very single debt I had I negotiated with each party, made them whole, and made sure that they understood the reason for my issue." HT 17:7-10.
- After renegotiating her debt with Ms. Schwartz several times, "I fully paid her back." HT 39:1-10.
- She contends she made Ms. Schwartz "whole" by paying her less than she was owed. HT 60:22-61:5.

Similarly, in her Petition that is the subject of this proceeding, Petitioner described her personal business transaction with Ms. Schwartz to some extent, and

concluded by saying, "Therefore, based on the above . . . I have made full restitution on this matter . . . ." DCX 39 at p. 37.

As Ms. Schwartz was resigned to accepting $100,000 less than she was owed in order to get the $125,000 payment from Petitioner's refinancing, we find that none of the statements by Petitioner are true: She did not fully pay her debt to Ms. Schwartz and she did not make Ms. Schwartz whole.

Notably, Petitioner also repeatedly permitted her bank account to overdraft during her period of disbarment. In one instance, the overdraft amount was for $10,272.03. HT 139 (Petitioner admitting that the negative balances ranged from $523.03 to as much as $10,272.03). When asked to explain the overdrafts, she stated "I had not put in the amount that I needed to, therefore, it was overdrawn." HT 140. Petitioner then denied that these overdrafts were evidence of "financial difficulty." *Id.*

D. <u>Petitioner's Present Character</u>

To satisfy this fourth *Roundtree* factor, Petitioner must demonstrate, among other things, that "those traits which led to [her] disbarment no longer exist and . . . [she] is a changed individual, having a 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 (citation and internal quotation marks omitted) (denying reinstatement based

on Report and Recommendation reflecting that the petitioner's witnesses were unfamiliar with the details of his misconduct). Significantly, Petitioner called no witnesses to testify at her reinstatement hearing.

As the forgoing demonstrates, Petitioner's character is lacking in several traits necessary for readmission to the Bar. She has insufficient concern for the necessity of performing her legal obligations. She not only repeatedly breached her contractual obligations to Ms. Schwartz in part because she preferred, instead, to keep two condominiums she clearly could not afford. Of equal or greater concern, she repeatedly lied that she had in fact paid Ms. Schwartz in full. Of additional serious concern is Petitioner's refusal to admit that she not only failed to have separate business and IOLA accounts, but that she freely used her client's trust funds as her own. Having done this merited disbarment; refusing to acknowledge it merits a denial of reinstatement.

Financial responsibility and honesty straddle between character and qualifications necessary for reinstatement. But irrespective of under which heading they are placed, Petitioner has clearly and convincingly shown that she does not possess either of them.

The following are just some examples of Petitioner's failure to meet her financial responsibilities and to act and speak honestly:

- She repeatedly defaulted on her loans from Ms. Schwartz (*supra* at pp. 17-19);

- She testified that she does not make money from Natura Miracles (HT 62:16-22) and then, when she needed an excuse to defer repayment of what was referred to as her "SPS loan", she claimed she could not meet her payment obligations because the COVID-19 pandemic had caused Natura to fail to pay her the "two or three thousand sometimes more" she typically makes there. (HT 110:3-114:3);

- She defaulted on her residential mortgage, requiring the lender to file suit and secure a judgment of foreclosure in order to get repaid (HT 64:17-66:8);

- She failed to pay her condominium fees, requiring the Condominium Association to file suit to collect them (HT 87:12-19);

- She falsely swore that none of her reinstatement petitions were denied when, in fact, two had been denied (HT 121:20-122:20);

- She defaulted on her credit card debt, forcing the lender to file suit in order to get repaid (HT 89:8-18);

- She has failed to pay over many years $300,000 in student loan debt (HT 168:21-170:1);

- She repeatedly missed payments on her "SoFi loan" (HT 104:12-105:8);

- She falsely stated in her Petition that she withdrew a prior Petition because she was "trying to resolve the matter of my mortgage and making sure I paid back all my debt. I have done so now and, thus, I feel that I am fit for

reinstatement"; as her mortgage and debt are not all paid back by any stretch (HT 118:11-120:15);

- She falsely denied that she had told Disciplinary Counsel she withdrew her consent to New Jersey disbarment when that is precisely what she had told Disciplinary Counsel (HT 146:18-149:13);
- She missed payments on her mortgage of her second condominium (HT 108:10-109:8 and 164:17-165:6);
- She falsely swore and testified repeatedly that she is current on all her debts and pays all her bills on time when she has not (HT 142:18-143:6);
- She failed to pay her federal taxes when due (HT 123:14-126:22 and 166:17-168:20);
- She failed to pay her state taxes when due (HT 166:17-168:20); and
- She has had frequent bank overdrafts in her account by amounts exceeding $10,000 (HT 136:21-140:12 and 170:2-171:18).

In light of her complete and utter financial mismanagement both before and, most pertinently, after her disbarment, it would simply be irresponsible to provide Petitioner a license to handle the business affairs of the people of the District of Columbia.

E. <u>Present Qualifications and Competence</u>

The fifth Roundtree factor examines Petitioner's present qualifications and competence to practice law. As the Court explained, "[a] lawyer seeking

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

In *Roundtree*, the Court cited the petitioner's participation in continuing legal education ("CLE") courses, acquisition of computer skills, improvements to her case management system, and plans to use additional staff for assistance as evidence of her qualifications and competence to practice law. *Id.* at 1217-18. In other cases, the Court has also considered whether the petitioner has performed legal work or kept abreast of developments in the law by reading legal journals and periodicals. *See, e.g.*, *In re Bettis*, 644 A.2d 1023, 1030 (D.C. 1994) (Court finding that the 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) (the 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).

Petitioner contends that she has indeed spent considerable time to maintain and improve her competence to practice law, at least in terms of "book learning."[5]

[5] She explained that her efforts to study included the following:

> I have taken several steps to maintain my competence to practice law. First, I have taken recently 6 continuing legal education courses ("CLEs") offered by the District of Columbia Bar in September 2020 and one CLE Ethics course on June 7, 2021.
>
> A second way in which I maintained my competence in the law was by

While the importance of maintaining the competence to practice law is essential to securing a reinstatement, it is not sufficient, alone, to secure reinstatement. Petitioner's disregard of her financial responsibilities, dishonesty, and failure to acknowledge the seriousness of her misconduct all outweigh the benefit of continuing education. In addition to these deficiencies, Petitioner's abominable handling of her own Petitions for Reinstatement cries out for her most recent Petition to be denied. Initially, it is not clear how many Petitions she has filed, but the parties agree there were at least six. Several earlier ones were withdrawn, others abandoned, and Petitioner's explanation of the termination of some of these was simply incoherent. HT 121:5-122:19 and 158:5-159-13.

As for her Petitions for Reinstatement and her responses to Disciplinary Counsel's questions regarding them, they were riddled with inaccuracies, deficiencies, and outright falsehoods in numerous respects, including the following:

- She couched the reason for her original disbarment in terms of "mere" comingling as opposed to misappropriation (*supra* at pp. 11-16);

> working in compliance as Compliance Officer for the past 9 Years. . . .
>
> Finally, I have stayed current with developments in finance, law and compliance by reviewing developments in the field by on-line postings by Securities and Exchange Commission, Commodity Futures Trading Commission, and Federal Reserve Board web sites. In addition, I have been attending and continue to participate in Securities Industry and Financial Markets Association (SIFMA) forums, along with reviewing law firm website to get guidance on several new rules like Volcker such as Davis Polk and Morgan Lewis.

Pet. Br. at 14-15.

- She repeatedly failed to provide documentation of her transactions with Ms. Schwartz or even provide proof of amounts allegedly paid (HT 58:6-11 and 159:14-162:20);
- She failed to disclose the mortgage foreclosure action filed against her (HT 72:15-74:1);
- She failed to disclose and repeatedly denied that a judgment of foreclosure was entered against her on her residential mortgage even though one was entered (HT 74:6-79:7);
- She failed to disclose she was a defendant in a suit by Wilmington Trust against Natura Miracles (HT 80:5-81:22);
- She claimed – incredibly – to have thought the Reinstatement Questionnaire merely asked for "pending" actions against her rather than all actions since her disbarment and so failed to disclose many actions filed against her, including eight filed in New York alone, even though – as she admitted under cross examination – there is nothing unclear about the question (HT 86:10-87:11 and 172:14-173:16);
- She failed to disclose that her condominium association sued her and falsely testified it did not (HT 87:12-89:17);
- She failed to disclose that Capital One sued her and falsely testified that it did not (HT 89:8-92:14);
- She submitted numerous false statements about payments to SoFi that she never actually made to the point that she herself admitted at the hearing that she

doubted the accuracy of her entire statement of payments made during her period of disbarment (HT 97:1-105:8);

- She failed to disclose her several previous reinstatement petitions even though the questionnaire clearly asks for them (HT 120:16-122:8);
- She failed to clearly disclose her back due federal taxes (HT 123:14-126:22); and
- She repeatedly – and wrongly – insisted that a credit report suffices for the financial information requested by Disciplinary Counsel when it clearly does not. (HT 135:12-136:7 and 177:6-178:11).

In conclusion, we quote approvingly from the hearing testimony of Disciplinary Counsel Investigative Attorney assigned to Petitioner's Petition, Azadeh Matinpour, Esq. Attorney Matinpour spent an extraordinary amount of time investigating Petitioner's fitness for reinstatement and her convoluted financial affairs and incomprehensible reporting of them. She testified at length to many of the issues listed above (HT 156:19-176:11), and concisely described the results of that extraordinary effort:

> So, in summary, I would say in all the petitions I reviewed there was not really a meaningful response to our questions . . . .
>
> By looking at her petition, we didn't have a clear idea of what her financial situation was, which is really important because she went out on a misappropriation charge. What I can tell you by what I found and what we subpoenaed is that even though she makes more than $120,000 per [year] she's still not paying her student loan. She's still falling behind in her paying back her personal loan. She owes over a million dollars of mortgages that she hasn't paid. She's having overdrafts on her accounts.

> So, to me, that's someone who doesn't know how to manage their money. And I don't know how we can have her come to D.C. and have access to client's money and manage their money.

HT 175:10-176:3.

In light of the gross deficiencies and falsehoods contained in Petitioner's Petitions and responses to Disciplinary Counsel's questions and the investigation by Ms. Matinpour, we find that Petitioner has failed to show she possesses the necessary qualifications and competence to practice law and in fact manifestly proved she does not possess those qualifications and competencies.

IV. CONCLUSION

Based on the findings of fact and conclusions of law set forth above, the Ad Hoc Hearing Committee concludes that Petitioner has failed to satisfy her burden to prove by clear and convincing evidence that she is presently fit to resume the practice of law. The Ad Hoc Hearing Committee therefore recommends that her Petition for Reinstatement be denied.

AD HOC HEARING COMMITTEE

LJ Marsico

Leonard Marsico, Esquire
Chair

Roxanne Littner

Ms. Roxanne Littner
Public Member

Leonard O. Evans, Esquire
Attorney Member