

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



Nov 6 2025 10:01am

A Disbarred Member of the Bar of the
District of Columbia Court of Appeals
(Bar Registration No. 461761)

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Board Docket No. 24-BD-057
Disc. Docket No. 2024-D192

Based on the Petition, Disciplinary Counsel's answer thereto, the testimony elicited at the evidentiary hearing, the record exhibits, and the written briefs

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

submitted by the parties, Hearing Committee Number Two (the “Hearing Committee” or “Committee”) concludes that Petitioner has not met his burden of proving, by clear and convincing evidence, that he is presently fit to resume the practice of law under D.C. Bar R. XI, § 16(d) and the factors enumerated by *In re Roundtree*, 503 A.2d 1215 (D.C. 1985).

I. PROCEDURAL HISTORY

A. Prior Disciplinary Proceedings - *In re Omwenga*, 49 A.3d 1235 (D.C. 2012)

Across five matters, Petitioner was originally charged with intentionally misappropriating funds in two matters (in violation of Rule 1.15(a)); failing to safe keep and to deliver to his client advanced costs that were not incurred in one matter (in violation of Rules 1.15(b) and 1.15(d)); failing to return unearned fees and failing to return client property in three matters (in violation of Rule 1.16(d)); engaging in dishonesty, fraud, deceit, and misrepresentation in all five matters, including instances of dishonesty to a tribunal and to Disciplinary Counsel (in violation of Rules 8.1(a) and 8.4(c) in all five matters, and of Rule 3.3(a) in one matter); providing incompetent representation to his clients in all five matters (in violation of Rules 1.1(a) and 1.1(b)); seriously neglecting and failing to communicate with his clients (in violation of Rules 1.3(a), 1.3(b)(1), 1.3(b)(2), 1.3(c), 1.4(a) in all five matters, and of Rule 1.4(b) in three matters); failing to provide a writing setting forth the basis of his fee in three matters (in violation of Rule 1.5(b)); engaging in conflicts of interest in three matters (in violation of Rule 1.7(b)(4)); failing to advise a client of a conflict of interest in one matter (in violation of Rule 1.7(c)); disobeying obligations to a

tribunal in one matter (in violation of Rule 3.4(c)); and seriously interfering with the administration of justice in four matters (in violation of Rule 8.4(d)). *See* DCX 04-0019–DCX 04-0020.¹

After ten days of evidentiary hearings, between November 16, 2009, and February 22, 2010, an Ad Hoc Hearing Committee issued its Report and Recommendation, finding that Petitioner committed fifty-eight violations of twenty Rules involving four of the original five matters. *See* DCX 04-0019–DCX 04-0127.² The Ad Hoc Hearing Committee recommended that Petitioner be disbarred and be required to pay restitution as a condition of reinstatement. *See* DCX 04-0127. On July 28, 2011, the Board on Professional Responsibility adopted the Ad Hoc Hearing Committee’s findings and its disbarment and restitution recommendation. *See* DCX 04-0008–DCX 04-0018. On August 16, 2012, the Court issued its opinion, agreeing with the Board’s recommendation, disbarring Petitioner for intentionally misappropriating his client’s (Dawit Shifaw) funds and engaging in flagrant dishonesty, requiring Petitioner to pay restitution to Dawit Shifaw as a condition of reinstatement, and noting that his “full restitution to his clients”—Dawit Shifaw, Josephine Gitau, Cane Mwihava, and Yeneneh Hailu— “and/or the Clients’ Security

¹ “DCX” refers to Disciplinary Counsel’s exhibits. “PX” refers to Petitioner’s exhibits. “Tr.” refers to the transcript of the hearing held on April 29-30, 2025.

² On December 2, 2010, the Court temporarily suspended Respondent pursuant to D.C. Bar R. XI, § 3(c), on the grounds that he “appear[ed] to pose a substantial threat of serious harm to the public.” Order, *In re Omwenga*, No. 10-BG-1352 (D.C. Dec. 2, 2010). The Court’s order of temporary suspension was based in part on the allegations of misconduct that were at issue in *Omwenga*, 49 A.3d 1235. Respondent remained suspended until he was disbarred.

Trust Fund . . . will be highly relevant if respondent seeks reinstatement.”
DCX 05-0013 (internal quotations omitted); *see* DCX 05-0001–DCX 05-0013.

After the Court issued the disbarment order, Disciplinary Counsel dismissed another complaint pending against Respondent. In the letter of dismissal, Disciplinary Counsel reserved the right to present evidence of the unadjudicated acts of misconduct underlying the complaint should Petitioner seek reinstatement.³

B. The Instant Proceedings

Petitioner filed the instant Petition on October 15, 2024. On April 29 and April 30, 2025, an evidentiary hearing was held in this matter before the Hearing Committee, consisting of Jay Brozost (Chair), Francesca Schoenwandt (Public Member), and Johanna Reeves (Attorney Member).⁴ Petitioner was represented by McGavock D. Reed, Jr., Esquire, and the Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel Carroll Donayre, Esquire. Both parties presented documentary evidence and testimony. Petitioner presented oral argument. The following exhibits were admitted into evidence: DCX 01–DCX 06,

³ Though the dismissal letter was not moved into evidence, Petitioner did not dispute Disciplinary Counsel’s representation that it contained its reservation of rights. *See, e.g.,* Disciplinary Counsel’s Answer to Petition at 8; Petitioner’s Response to Disciplinary Counsel’s Answer at 2-3.

⁴ On July 24, 2025, after the hearing in this matter was conducted but before this Report and Recommendation was completed, Chair Jay Brozost was appointed by the Court of Appeals to the Board on Professional Responsibility. On July 30, 2025, the Committee directed Respondent and Disciplinary Counsel to file written statements indicating whether they had any objection to Chair Brozost continuing to participate in this matter. Neither party objected to his continued participation.

DCX 09-DCX 10, DCX 12-DCX 13, DCX 16, DCX 21, DCX 25, DCX 28, DCX 32, DCX 38, DCX 53-DCX 54, and DCX 64-DCX 70; PX 2, PX 4, and PX 16-PX 19.

II. LEGAL STANDARD

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

1. the nature and circumstances of the misconduct for which the attorney was disciplined;
2. whether the attorney recognizes the seriousness of the misconduct;
3. the attorney’s [post-discipline conduct], including the steps taken to remedy past wrongs and prevent future ones;
4. the attorney’s present character; and
5. the attorney’s present qualifications and competence to practice law.

503 A.2d at 1217.

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

III. FINDINGS OF FACT

A. Background

1. Petitioner received his bachelor's degree in Government and Politics from the University of Maryland, College Park as a returning student in 1994 and graduated from Rutgers University School of Law in 1997. PX 2-015; Tr. 147-150 (Petitioner).

2. Petitioner was admitted to the Bar of the District of Columbia Court of Appeals by examination on January 8, 1999, and assigned bar number 461761. DCX 01-001.

3. Petitioner was subsequently admitted to the U.S. Court of Appeals for the Fourth Circuit on August 8, 2003, and U.S. Court of Appeals for the Tenth Circuit on May 23, 2003. PX 2-019–PX 2-020.

4. Petitioner currently resides in Silver Spring, MD. PX 2-014.

5. After graduating from law school and obtaining his District of Columbia law license, Petitioner opened a solo practice in D.C. Tr. 151-152 (Petitioner).

6. Petitioner's practice consisted primarily of immigration work. Prior to his disbarment, he typically handled a caseload of between 50-100 cases per year. Tr. 152-154 (Petitioner). Petitioner took great satisfaction from this work and enjoyed helping his clients. *See* Tr. 153 (Petitioner).

7. Petitioner would routinely represent clients on a pro bono basis, or on a reduced fee basis. Many of his clients would agree to payment plans, but would not honor them, but Petitioner would represent them anyway to ensure that they were protected. This was a practice that continued until Petitioner was suspended on December 2, 2010. Tr. 152-154 (Petitioner).

8. While in practice, Petitioner primarily operated as a solo practitioner. At different periods he had as many as two legal assistants and some office management staff. The management staff helped with operational matters while Petitioner focused on litigation and filing requirements of his practice. *See* Tr. 155 (Petitioner). In the early part of his career, through 2005, Petitioner routinely worked from 7:00 a.m. until 9:00 p.m. to meet all his deadlines and his clients' needs. *See* Tr. 156 (Petitioner).

9. Sometime in 2004, Petitioner began to work as a political volunteer, in addition to running his law practice. Tr. 156. Petitioner's first major political work was as a volunteer fundraiser with Barack Obama's 2004 senatorial campaign. Tr. 156-157 (Petitioner).

10. Following Barack Obama's successful senatorial campaign, Petitioner decided to continue his political work, and shifted his focus to Kenyan politics. *See*

Tr. 157 (Petitioner). In 2007, Petitioner's friend, Raila Odinga, ran for President in Kenya. Petitioner was deeply involved in this campaign and traveled to Kenya in October of 2007 to execute his responsibilities to the campaign. Tr. 157-158 (Petitioner).

11. According to Petitioner, his political work was enormously taxing as it was entirely unpaid and the number of hours he spent working left little time for his family life, personal responsibilities, and his law practice. *See* Tr. 159 (Petitioner).

12. Petitioner describes great financial suffering during this time because of his focus on his unpaid role in Odinga's political campaign. Tr. 159 (Petitioner). However, in return for his substantial work on the campaign, Petitioner expected to be named either as the Kenyan Ambassador to the United States, or as the Kenyan consulate in California or representative in New York. Tr. 158 (Petitioner).

13. Following the election, which Odinga lost, Kenya devolved into civil unrest because some believed the election's outcome was falsified. *See* Tr. 159-161 (Petitioner).

14. Following the election, Petitioner recalls observing scenes of extreme violence, including dead bodies lining the streets on his way to the Nairobi airport to flee the country in January 2008. Tr. 160 (Petitioner).

15. Returning to the United States, Petitioner led a lobbying effort to have the United States intervene and recognize Odinga as the rightfully elected leader of Kenya. Tr. 160 (Petitioner). Ultimately, the United States was instrumental in the appointment of former United Nations Secretary-General Dr. Kofi Annan, to serve

as the emissary to find a solution to the crisis in Kenya, leading to the end of the conflict in May of 2008. *See* Tr. 161-162 (Petitioner).⁵

16. Following the resolution of the Kenyan political conflict, Petitioner attempted to refocus his attention on his practice. Tr. 162 (Petitioner). Due to the traumatic experience he suffered from witnessing the violence in Kenya, Petitioner had difficulty resuming his law practice. He described feeling as though a “fog” had enveloped him and clouded his thoughts. Tr. 164, 168 (Petitioner); PX 2-039.

17. Petitioner continued his political involvement in Kenya after his disbarment until 2022, including assisting the Presidential candidate as his principal adviser. Tr. 232, 365 (Petitioner).

18. Around May 2008, Petitioner met another immigration lawyer and fellow church member who offered to sell her practice to Petitioner. Tr. 163 (Petitioner). Though no merger or purchase was ever completed, Petitioner decided to relocate his practice from K Street to Potomac Village, MD, and share costs with the other lawyer. Tr. 162-163 (Petitioner); *see* Tr. 235-236 (Petitioner).

19. This relationship deteriorated quickly. The other lawyer was highly disorganized and would bring Petitioner files from clients that had hired her,

⁵ Although the hearing transcript refers to “Dr. Coffee,” this appears to be a typographical error as the Hearing Committee understood that Petitioner’s testimony referred to renown former United Nations Secretary-General Dr. Kofi Annan.

expecting him to complete the work. Eventually Petitioner ended the relationship and relocated his practice to Gaithersburg, MD. Tr. 164 (Petitioner).

B. Misconduct, Disbarment, and Restitution

20. Petitioner claimed, in his affidavit and in his testimony, that there were two periods in his professional life—a “normal” period following his admission to the Bar and a later “troubled” period beginning in 2009. Tr. 169, 329-330 (Petitioner); PX 2-037–PX 2-039. Petitioner testified that during the normal period he focused only on practicing law and contrasted it with the troubled period when he engaged in the misconduct. Tr. 156 (Petitioner); PX 2-037–PX 2-039.

21. Petitioner acknowledged at the hearing that, reading the transcripts of the disciplinary case, he found his testimony to be “disturbing” due to the level of denial he was experiencing and his refusal to show remorse and to accept responsibility for his wrongful actions. Tr. 175-176 (Petitioner).

22. Petitioner was disbarred by the D.C. Court of Appeals on August 16, 2012. *Omwenga*, 49 A.3d 1235.

23. A year into Petitioner’s disbarment, he finally appreciated the gravity of his actions. Tr. 174-176 (Petitioner); PX 2-036–PX 2-037. Petitioner testified about how losing his license affected him and that a year into disbarment he came to the “realization that what I had in my bar admission and my license was something very valuable and with it came a lot of responsibilities.” Tr. 339 (Petitioner).

24. Petitioner also experienced “near financial collapse” and received “very painful rejections from employment as [he] was trying to get employment.” Tr. 340 (Petitioner).

25. In 2012, the District of Columbia Clients’ Security Fund (the “CSF”) approved five reimbursement claims made by Petitioner’s former clients. ODC Br., Attachment A.⁶ A sixth claim was approved by the CSF in 2016. *Id.* Only one client from the four matters leading to Petitioner’s disbarment, Mwihava, filed a claim with and was compensated by the CSF. *Id.*

26. In December 2017, Petitioner began paying the CSF to reimburse it for claims paid to his former clients. PX 4-001; Tr. 204-205 (Petitioner). The total sum owed to the CSF from the six claims was \$23,460. PX 4-001; ODC Br., Attachment A. Petitioner did not make any additional payments to the CSF in 2024. Tr. 313-314 (Petitioner); *see* PX 4-001. He made his final payments of the balance two weeks after the conclusion of the reinstatement hearing in this matter. PX 19-001–PX 19-002.

27. Petitioner filed a prior petition for reinstatement in 2018. Around that time, he paid restitution directly only to one former client, Shifaw, for the amount that Petitioner had misappropriated. *See* DCX 12-0026–DCX 12-0027; PX 2-024; Tr. 308-309, 398 (Petitioner); *see also* Tr. 204 (Petitioner).

⁶ “ODC Br.” refers to Disciplinary Counsel’s Post-Hearing Brief, filed June 6, 2025. “Pet’r’s Br.” refers to Petitioner’s Post-Hearing Brief in Support of his Petition for Reinstatement, filed May 27, 2025, and “Pet’r’s Reply” refers to Petitioner’s Reply to Disciplinary Counsel’s Response Brief, filed June 11, 2025.

28. Petitioner borrowed the funds to make these payments. Tr. 314 (Petitioner).

C. Employment

29. Following his disbarment, Petitioner has held a number of employment positions, both related and unrelated to the legal profession. PX 2-016–PX 2-019. This included general and legal freelance writing, content creation, and legal marketing. Tr. 203, 205-207 (Petitioner).

30. Petitioner has had approximately fifty professional relationships with individuals and organizations since disbarment. *See* PX 2-015–PX 2-019.

31. In 2023, Petitioner worked for an organization named Quimbee. Quimbee prepares legal study materials for its customers. *See* Tr. 304 (Petitioner); PX 2-016; DCX 54. Under supervision, Petitioner prepared case briefs and legal study materials for law students. Tr. 304 (Petitioner). While at Quimbee, Petitioner did not have a formal title. *See* Tr. 207, 304-305, 373-374 (Petitioner).

32. For the past year and a half and at the time of the hearing, Petitioner was employed remotely as a law clerk for Consumer Justice Law Firm in Scottsdale, Arizona. Tr. 303 (Petitioner); *see* PX 2-016. His responsibilities included preparing pleadings, motions, and appellate briefs. Tr. 303 (Petitioner). Petitioner’s full-time employment was terminated shortly after the hearing, but he continues to work at Consumer Justice on a part-time basis. Petitioner’s Motion to Supplement the Record (June 11, 2025) (characterizing part-time as on a “per-project” basis and as a “1099 job”).

33. Since either 2021 or 2022, Petitioner has completed some work for a law firm under the supervision of Laban Opande, Esquire, and his responsibilities include legal research and drafting documents related to immigration cases and appeals. Tr. 98-100, 108-112 (Opande); *see* Tr. 97 (Opande) (stating Petitioner has worked for him “in the last maybe, three, four years”).

34. Beginning in or around 2021, Petitioner held himself out as “in-house counsel” on his LinkedIn profile and to Disciplinary Counsel when referring to his work for the Livingston Group with Lanny Davis, Esquire. Tr. 361-363, 414-415 (Petitioner); DCX 16; *see also* Tr. 35-36, 42, 46-47 (Davis) (calling Petitioner “co-counsel”).

D. Volunteering

35. Giving back to the community is very important to Petitioner. Tr. 215-216 (Petitioner).

36. Petitioner has long served as a community organizer and elder in the Kenyan-American community, continuing after disbarment as a mentor and advisor on legal education and professional ethics. *See* Tr. 212-213 (Petitioner).

37. Petitioner has been volunteering at Love Justice, a nonprofit serving migrant communities, since 2024. Petitioner volunteers approximately two hours per week writing immigration-related news and commentary for Love Justice. Tr. 248-249, 363-364 (Petitioner). Petitioner will continue to volunteer with Love Justice if he is reinstated. Tr. 248-249 (Petitioner).

38. Petitioner offered to volunteer at other legal organizations but was turned down because he was disbarred. Tr. 363-364 (Petitioner). When asked about attempts to volunteer in non-legal settings, he provided no instances, stating “I’m one of those people, I really have to have a passion and belief that I’m doing something that I like to enjoy doing as well” Tr. 364 (Petitioner).

E. Finances

39. Petitioner registered three businesses related to international trade finance and project finance during the disbarment period, but none of them were ever profitable. Tr. 325-326 (Petitioner); PX 2-015–PX 2-016.

40. Petitioner opened or maintained several bank accounts during his disbarment. *See, e.g.*, Tr. 366 (Petitioner); DCX 38; DCX 53. Two of these accounts went into overdraft status. *See, e.g.*, Tr. 367-368, 380-382 (Petitioner).

41. He opened a bank account with Bank of America in the name of Universal Bioenergy Technologies, LLC (“Universal Bioenergy”). *See* Tr. 367 (Petitioner); DCX 38; *see also*, PX 2-015–PX 2-016. From January 2018 through May 2018, the Universal Bioenergy account carried a negative balance. As of May 2018, the balance was negative \$178.91. Tr. 367-369 (Petitioner); DCX 38-0003–DCX 38-0023. The account statement reflects the account was “force[d] close.” DCX 38-0023. Petitioner could not recall whether he reimbursed Bank of America. Tr. 369-370 (Petitioner).

42. Petitioner opened a bank account for Intrepid Investment Services International, LLC (“Intrepid Investment”) with Chase Bank. *See, e.g.*,

DCX 53-0004; PX 2-015–PX 2-016. From July 2022 through October 2022, the Intrepid Investment account carried a negative balance. Tr. 381-382 (Petitioner); DCX 53-0143–DCX 53-0171. On October 6, 2022, the bank closed the account with a negative balance of \$1,104.12. *See* DCX 53-0171; Tr. 382 (Petitioner).

F. Reinstatement Petition and Tax Return Omissions

43. Petitioner admits he failed to disclose in his reinstatement petition the income generated by Intrepid Investment. Tr. 376-377 (Petitioner); *see* ODC Br. at 16-17; Pet’r’s Reply at 6. In 2021, Intrepid Investment received a check for \$40,000 from Rawlings International Advisory Group. DCX 53-0067; Tr. 377-380 (Petitioner). Petitioner testified that this payment was “in connection with a military general who we were representing in conjunction with Livingston Group.” Tr. 379 (Petitioner).

44. Petitioner included deductions for “farm income” in his federal tax returns for 2021, 2022, and 2023, even though he admitted he did not have farm income for any of these years. Tr. 356-360 (Petitioner); DCX 21-0023–DCX 21-0024, DCX 21-0034, DCX 21-0043. Thus, he claimed deductions to which he was not entitled.

45. Petitioner testified that he worked for Quimbee in 2023 but failed to disclose income from Quimbee on his taxes for the 2023 tax year. Tr. 207, 304-305, 373-374 (Petitioner); DCX 54-0004.

46. Petitioner failed to include his employment with Opande for the past three years in his Reinstatement Questionnaire and did not declare income from

working with Opande on his tax returns. DCX 21; Tr. 326-327 (Petitioner); *see* Tr. 97 (Opande); Tr. 209 (Petitioner); PX 2-015–PX 2-019.

47. Petitioner failed to disclose in his Reinstatement Questionnaire several debts and liens of which he was aware and did not amend the questionnaire to do so before the hearing. Tr. 385-386 (Petitioner); *see, e.g.*, DCX 67.

48. Wagner Law Group recorded a lien on his property because of overdue water and sewer charges. Tr. 386-388 (Petitioner); DCX 64. Petitioner did not disclose this debt. *See* Tr. 387-388 (Petitioner). He did not disclose a debt to his Homeowners Association for unpaid dues. Tr. 389-391 (Petitioner); DCX 66. He failed to disclose a tax debt to the Comptroller of Maryland. Tr. 391-392 (Petitioner); DCX 39. When questioned about these debts and his failure to disclose them, Petitioner claimed he did not view certain of these amounts owed as debts because they were in negotiation. He also claimed he had inadvertently omitted one of them. He also claimed that he was not aware of other debt. *See* Tr. 386-392. When questioned further about the debts he was aware of, he could not offer any explanation for his failure to make full disclosures, and he admitted that he “should have.” Tr. 390, 392 (Petitioner).

G. Continuing Legal Education Courses

49. Petitioner has kept up to date and educated in the legal field by following legal news and analysis, taking Continuing Legal Education (“CLE”) courses, reading law blogs, and by continuing to work in a non-lawyer capacity in law-related roles. Tr. 62-63 (Bahimba); Tr. 115 (Opande); Tr. 129 (Salima

Omwenga (“S. Omwenga”)); Tr. 247-249 (Petitioner). Petitioner has not taken any courses in trust accounts or managing client funds. Tr. 323 (Petitioner).

H. Future Practice

50. If Petitioner is reinstated, he intends to practice appellate work. Tr. 198, 224-225, 235 (Petitioner).

51. When questioned about what systems or programs he would put in place to help manage his practice, he testified his daughter, Salima Omwenga, would be his “number one system,” once she begins practicing. Tr. 353 (Petitioner); *see* Tr. 118-119 (S. Omwenga).

52. When questioned about using specific software to handle client funds, Petitioner testified only that “I am sure we will find appropriate software to do the financial management aspect of the firm.” Tr. 354 (Petitioner).

I. Witness Testimony

53. Petitioner reflected on the absence of mentorship during his troubled period and how cultural expectations previously discouraged him from seeking help. Petitioner testified he has made it a priority to develop a robust support network with individuals who have served as role models and sources of support. Tr. 220-221, 238-244 (Petitioner); *see* PX 2-016–PX 2-019. He described forming close relationships with individuals of high moral and ethical character since his disbarment. *See, e.g.*, Tr. 200-201 (Petitioner).

54. Five witnesses appeared at the hearing and offered testimony on his behalf to demonstrate his character and support network. The witnesses included:

Lanny Davis, Esquire, Petitioner’s former work colleague; Salima Omwenga, Petitioner’s daughter; Dr. Phenias Bahimba, Petitioner’s father-in-law; Captain Bruce Jorgensen, Petitioner’s friend; and Laban Opande, Esquire, Petitioner’s former employer and colleague.

IV. CONCLUSIONS OF LAW

A. Nature and Circumstances of the Misconduct

The nature and circumstances of Petitioner’s prior misconduct is a significant factor in the reinstatement determination, because of its “obvious relevance to the attorney’s ‘moral qualifications . . . for readmission’” and the Court’s “duty to insure that readmission ‘will not be detrimental to the integrity and standing of the Bar.’” *In re Borders*, 665 A.2d 1381, 1382 (D.C. 1995) (quoting D.C. Bar R. XI, § 16(d)). Where a petitioner has engaged in grave misconduct “that . . . is so 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.

It is undeniable that the Petitioner’s misconduct was closely bound up with his roles and responsibilities as an attorney. *See In re Joseph*, 287 A.3d 1248, 1251, 1253 (D.C. 2023) (per curiam) (denying reinstatement where the petitioner’s misconduct in making false statements to the courts and bar related to petitioner’s “honesty, integrity, and judgment—foundational qualities in the practice of law”); *In re Patkus*, 841 A.2d 1268, 1269 (D.C. 2004) (per curiam) (intentional misappropriation was tied to petitioner’s responsibilities as an attorney, requiring the application of heightened scrutiny to the remaining *Roundtree* factors).

Accordingly, the Committee has given heightened scrutiny to the other *Roundtree* factors.

1. The Adjudicated Misconduct

The Gitau Matter, Bar Docket Number 231-06.

In 2002, Petitioner represented Josephine Gitau in connection with an immigration proceeding and application for permanent residence status. *Omwenga*, 49 A.3d at 1241 (appended Board Report); DCX 04-0034–04-0035. Petitioner failed to submit promised documentation to the United States Citizenship and Immigration Services, failed to communicate with Gitau, advised her not to attend a critical February 2006 hearing that he also failed to attend, and drafted an affidavit for Gitau falsely stating a reason for her absence from the hearing. *Omwenga*, 49 A.3d at 1241-42 (appended Board Report). An order of removal in absentia from the United States was issued to Gitau. *Id.* at 1242. Petitioner failed to advise Gitau that his incorrect advice led to the removal order and that she had the right to challenge his ineffective assistance. *See id.* Petitioner admits he failed to notify Gitau that her appearance in court was obligatory and that as a result she was deported. Tr. 188-189 (Petitioner); *see* DCX 04-0047. He also made multiple false statements during disciplinary proceedings, both in his answer to Disciplinary Counsel and in testimony before the hearing committee. *Omwenga*, 49 A.3d at 1242 (appended Board Report). Petitioner's conduct violated fourteen Rules: 1.1(a), 1.1(b), 1.3(a), 1.3(b)(1), 1.3(b)(2), 1.3(c), 1.4(a), 1.4(b), 1.5(b), 1.7(b)(4), 1.7(c), 8.1(a), 8.4(c), and 8.4(d). DCX 04-0111–04-0115; *see* DCX 04-0010; *Omwenga*, 49 A.3d at 1235.

The Mwihava Matter, Bar Docket Number 106-08

Petitioner was hired by Cane Mwihava in 2005 to file an immigration application but failed to do so. *Omwenga*, 49 A.3d at 1242 (appended Board Report). Petitioner lied to Mwihava multiple times by stating that he had filed the application. *Id.* Mwihava paid legal fees and advance costs, which Petitioner did not refund. *Id.*; DCX 04-0054. In October 2006, Mwihava was arrested and placed in removal proceedings. *Omwenga*, 49 A.3d at 1242 (appended Board Report). Petitioner agreed to represent him in the removal proceedings but failed to appear at the hearing or secure a timely continuance. At the hearing, the immigration judge, after questioning Mwihava, ordered him removed from the United States, noting that the immigration petition had not been filed. *Id.* Petitioner appealed the determination but missed the deadline to file an appeal brief to the Board of Immigration Appeals. *Id.* Successor counsel thereafter filed a motion to reopen Mwihava's case based on ineffective assistance of counsel, which was granted by the Board of Immigration Appeals, and the case was remanded to the Immigration Court. *Id.* Petitioner admits to having not filed required paperwork for Mwihava after Petitioner told him he would. Tr. 192 (Petitioner). Petitioner admits that Mwihava was ordered to be deported due to Petitioner's failure to file paperwork on his behalf. *Id.* Petitioner also made knowingly false statements during the disciplinary investigation, both to Disciplinary Counsel and to the hearing committee. *Omwenga*, 49 A.3d at 1242 (appended Board Report). Petitioner's conduct violated fifteen Rules: 1.1(a), 1.1(b), 1.3(a), 1.3(b)(1), 1.31(b)(2), 1.3(c), 1.4(a), 1.4(b), 1.7(b)(4), 1.15(b), 1.15(d),

1.16(d), 8.1(a), 8.4(c), and 8.4(d). DCX 04-0115–04-0117; *see* DCX 04-0010; *Omwenga*, 49 A.3d at 1235.

The Hailu Matter, Bar Docket Number 142-08.

In 2006, Petitioner represented Yeneneh Hailu in an asylum case in which he failed to attend a critical hearing and misinformed Hailu of its time. DCX 04-0066–DCX 04-0067; *Omwenga*, 49 A.3d at 1242-43 (appended Board Report). As a result, the immigration court ordered Hailu’s removal. *Omwenga*, 49 A.3d at 1243 (appended Board Report). Petitioner admits to having given Hailu the wrong date to appear in court. Tr. 194-195 (Petitioner). Petitioner knowingly misrepresented the circumstances of his absence from the hearing, drafted a false affidavit for Hailu, along with a false notarization page with the immigration court to support a motion for reconsideration. *Omwenga*, 49 A.3d at 1243 (appended Board Report). Petitioner failed to take timely and appropriate action, neglected to keep Hailu informed, delayed filing a motion to reopen, and did not inform him when it was rejected. DCX 04-0118–DCX 04-0120; Tr. 194-197 (Petitioner). Petitioner was found to be dishonest with the immigration court, Board of Immigration Appeals, and the hearing committee. *Omwenga*, 49 A.3d at 1243 (appended Board Report). Petitioner’s conduct violated thirteen Rules: 1.1(a), 1.1(b), 1.3(a), 1.3(b)(1), 1.3(b)(2), 1.3(c), 1.4(a), 1.4(b), 1.5(b), 1.7(b)(4), 8.1(a), 8.4(c), and 8.4(d). DCX 04-0118–04-0120; *see* DCX 04-0010; *Omwenga*, 49 A.3d at 1235.

The Shifaw Matter, Bar Docket Number 016-09

Petitioner was hired by Dawit Shifaw in 2004 to represent him in the purchase of a laundromat. On Shifaw's behalf, Petitioner purchased equipment for the agreed upon price of \$48,050. *Omwenga*, 49 A.3d at 1236. After signing the bill of sale, Petitioner continued negotiating with the seller to reduce the purchase price by \$2,050, paid the seller, and then withdrew and kept \$2,050 in cash. *Id.* at 1236-37; *see id.* at 1243 (appended Board Report). After Shifaw demanded Petitioner return his funds, Petitioner paid him \$1,500 and retained the remaining \$550. *Id.* at 1237. Petitioner admits to taking the \$550 as his legal fees even though Shifaw had not authorized him to do so. Tr. 183-187 (Petitioner).

Petitioner also failed to provide copies of the laundromat sale documents to Shifaw, obtain essential documents, and verify that the seller released its lien on the equipment. *Omwenga*, 49 A.3d at 1243 (appended Board Report). Shifaw sued Petitioner for malpractice and during those proceedings Petitioner made misrepresentations to the court, which resulted in the court issuing five orders assessing monetary sanction awards against Petitioner. *Id.*; *see also id.* at 1238. Petitioner had not fully paid the sanction awards by the time that the hearing committee report was issued. DCX 04-0092–DCX 04-0094, DCX 04-0110. Petitioner also made false statements to Disciplinary Counsel. *Omwenga*, 49 A.3d at 1243-44 (appended Board Report). His conduct demonstrated a pervasive pattern of dishonesty, fraud, and misrepresentation, and violated fifteen Rules: 1.1(a), 1.1(b), 1.3(a), 1.3(b)(1), 1.3(b)(2), 1.3(c), 1.4(a), 1.5(b), 1.15(a) (intentional

misappropriation), 1.16(d), 3.3(a), 3.4(c), 8.1(a), 8.4(c), and 8.4(d). DCX 04-0120–04-0122; *see* DCX 04-0010; *Omwenga*, 49 A.3d at 1235; *see also* Tr. 180-186 (Petitioner).

Petitioner was dishonest with Disciplinary Counsel and the hearing committee because he was in denial about his actions and the situation. He was proud and did not want to appear vulnerable and wished to maintain his reputation. Tr. 170-175, 196 (Petitioner). In total, Petitioner was found to have violated Rules 1.1(a), 1.1(b), 1.3(a), 1.3(b)(1), 1.3(b)(2), 1.3(c), 1.4(a), 1.4(b), 1.5(b), 1.7(b)(4), 1.7(c), 3.3(a), 3.4(c), 1.15(a), 1.15(b), 1.15(d), 1.16(d), 8.1(a), 8.4(c), and 8.4(d). DCX 04-0010 (adopting the hearing committee’s findings of facts and conclusions, found at DCX 04-0127, but failing to adopt the hearing committee’s finding of a D.C. Bar R. XI, § 2(b)(3) violation); *Omwenga*, 49 A.3d at 1235.

2. Unadjudicated Acts of Misconduct

Apart from the misconduct that led to Petitioner’s disbarment, the Hearing Committee may consider acts of unadjudicated misconduct that occurred prior to the Court’s disbarment order and were dismissed after its issuance if Disciplinary Counsel demonstrates, by a preponderance of the evidence, that Petitioner committed the violations in question. *See* Board Rule 9.8(b).⁷ *See In re Marshall*,

⁷ Board Rule 9.8(a) permits Disciplinary Counsel to introduce evidence of unadjudicated acts of misconduct occurring prior to the Court’s disbarment order at a reinstatement hearing so long as Disciplinary Counsel (i) provided notice to the attorney in its dismissal letter that it was reserving its right to address the acts at the reinstatement hearing (or can show that the petitioner was not prejudiced by the lack of notice), and (ii) gave notice in its Answer to the reinstatement petition. *See* Board

Bar Docket No. 274-96, at 5 n.4 (BPR Sept. 29, 2003) (appended Hearing Committee report). “[T]he preponderance standard means that the fact in issue needs only to be proved more likely true than not. . . .” *Roberson v. United States*, 961 A.2d 1092, 1097 (D.C. 2008). We find that Disciplinary Counsel met its burden of proof and, as such, we conclude that the acts of unadjudicated misconduct are admissible and appropriately considered in this matter. *See* Board Rule 9.8(b).

The complainant, Miguel Morales-Zuleta, retained Petitioner in 2010 to assist him in obtaining asylum. DCX 09-0001. Morales-Zuleta paid Petitioner a \$5,000 fee for the representation. Tr. 426-427 (Morales-Zuleta). Petitioner accompanied Morales-Zuleta to court several times and filed an asylum application on his behalf. DCX 09-0001. Petitioner did some work for Morales-Zuleta, but he did not communicate with Morales-Zuleta after a July 27, 2010, court appearance or prepare him for his May 26, 2011, hearing. *See id.* Petitioner could no longer represent Morales-Zuleta after he had been suspended by the Court on December 2, 2010. *See supra* note 2. Even though Petitioner did not complete the representation, he did not return the fee or any portion thereof paid to him and did not return the file.⁸ DCX 09-0001; Tr. 431-432 (Morales-Zuleta). Morales-Zuleta learned that Petitioner’s license had been revoked when he went to look for him at his office. Tr. 429 (Morales-Zuleta). Since Petitioner had been suspended, he did not appear at the May

Rule 9.8(a). Petitioner does not challenge Disciplinary Counsel’s compliance with these requirements.

⁸ Morales-Zuleta’s testimony to this effect was not rebutted.

26, 2011, hearing and Morales-Zuleta proceeded with the hearing pro se. Tr. 431 (Morales-Zuleta); DCX 09-0001. Morales-Zuleta was ultimately deported. Tr. 431 (Morales-Zuleta).

Disciplinary Counsel alleges that Petitioner engaged in misconduct by failing to represent Morales-Zuleta with competence, diligence, and zeal, abandoning him, and failing to return legal fees. DCX 03-0008; *see* ODC Br. at 25. Disciplinary Counsel also argues that Petitioner has not acknowledged this misconduct and the harm to Morales-Zuleta, has not apologized to him, and has not provided him with a refund. ODC Br. at 25-26, 29, 31.

Petitioner “acknowledges the legitimacy of the complaint.” Pet’r’s Reply at 16; *see also* Pet’r’s Reply at 20-21. Petitioner admitted that he did not communicate with Morales-Zuleta after July 27, 2010, but argues that his December 2010 suspension prevented him from continuing to serve as Morales-Zuleta’s counsel. *See* DCX 10-0001. He insists that, while he cannot locate Morales-Zuleta’s file, he generally notified his clients of his suspension after receiving the notice, advising them to seek new counsel. He also insists that he had another attorney inform his Spanish-speaking clients of the same. DCX 10-0001–DCX 10-0002. Petitioner also disputes that the record evidence demonstrates that Morales-Zuleta is owed a refund. He argues that neither the terms of the representation, nor any fee schedule was addressed at the hearing. He asserts that, if an “authoritative body such as the D.C. Client Security Fund or the D.C. Attorney Client Arbitration Board conclude[s] that Mr. Zuleta is owed a refund, he will pay.” Pet’r’s Reply at 17. Petitioner further

challenges Morales-Zuleta's credibility. He argues that Morales-Zuleta's hearing testimony was inconsistent, evasive, uncooperative, contradicted itself, and failed to include any evidence to substantiate his claims. *Id.* at 14-16.

To be sure, there were challenges with Morales-Zuleta's testimony. It was, at points, inconsistent with his complaint; he had trouble remembering exact dates and at times contradicted himself. *See* Tr. 427-428 (Morales-Zuleta) (contradicting testimony about whether Petitioner appeared in court). *Compare* Tr. 426 (Morales-Zuleta) (claiming the representation began in 2013), *with* Tr. 433 (Morales-Zuleta) (testifying that 2010 is the date he met Petitioner). Nevertheless, we find that the evidence demonstrates that Petitioner clearly failed to comply with the most basic of an attorney's duties to this client.

The order suspending Petitioner directed his attention to D.C. Bar Rule XI, § 14. *See* Order, *In re Omwenga*, No. 10-BG-1352 (D.C. Dec. 2, 2010). D.C. Bar Rule XI, § 14(a)-(b) requires prompt notice to clients "by registered or certified mail, return receipt requested, . . . of the order of disbarment or suspension and of the attorney's consequent inability to act as an attorney after the effective date of the order." D.C. Bar Rule XI, § 14(d) further requires that suspended or disbarred attorneys

promptly deliver to all clients being represented in pending matters any papers or other property to which the clients are entitled, or . . . notify the clients and any co-counsel of a suitable time when and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.

Notwithstanding these unambiguous instructions, Petitioner failed to notify Morales-Zuleta of his suspension by registered or certified mail or give his client his file.⁹ The client was not notified of his suspension by Petitioner himself and, in fact, the client only learned of the suspension when he went in search of his lawyer, who he was unable to reach. *See* DCX 10-0001–DCX 10-0002; ODC Br. at 18-19; Pet’r’s Reply at 7, 16; Tr. 429, 431 (Morales-Zuleta). Nor has Petitioner provided any refund to Morales-Zuleta. As addressed above, Petitioner did some work on the client’s behalf and there is no record evidence as to what the value of that work would have been. *See* DCX 09-0001; DCX 10-0001–DCX 10-0002; Pet’r’s Reply at 7, 17. However, since Petitioner was unable to complete the representation, it seems fairly apparent that the client was owed some portion of the fee paid. Petitioner simply abandoned his vulnerable client, and he was ultimately deported. This misconduct weighs against reinstatement.

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.’” *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)). Here,

⁹ We are mindful that our determination may raise a question as to whether Petitioner complied with D.C. Bar Rule XI, § 14 and, consequently, whether the instant reinstatement petition is premature. *See* D.C. Bar Rule XI, § 16(c). However, we have taken judicial notice of the fact that the Court ordered that “for purposes of reinstatement the five-year period commenced on January 23, 2019.” Order, *In re Omwenga*, No. 11-BG-942 (D.C. April 2, 2019). The proscribed five-year period has elapsed.

Petitioner did not acknowledge his misconduct or show remorse during the initial disciplinary proceedings and did not recognize the seriousness of his actions until a year after disbarment. That unfortunate pattern continued through these proceedings.

The Hearing Committee was initially misled by Petitioner's claims regarding his "normal" and "troubled" periods. He claimed that there were two periods in his professional life, a "normal" period and a "troubled" period that began in 2009. FF 20; Tr. 169, 329-330 (Petitioner). Petitioner testified that the troubled period was when he engaged in misconduct. FF 20; Tr. 156 (Petitioner); PX 2-037–PX 2-039. However, on cross-examination, Disciplinary Counsel elicited testimony from Petitioner clarifying that all four of the disciplinary matters that involved misconduct and resulted in his disbarment began *before* what Petitioner describes as his "troubled" period. *E.g.*, Tr. 329-330, 348 (Petitioner). Gitau's representation was from 2002 to 2006; Mwiha's representation took place from 2005 to 2006; Shifaw's matter was from 2004 to 2006; and Hailu's representation was from 2006 to 2007. *See Omwenga*, 49 A.3d at 1241-44 (appended Board Report); DCX 04-0034, DCX 04-0053, DCX 04-0057, DCX 04-0066, DCX 04-0074, DCX 04-0077, DCX 04-0092.

In addition, the Committee notes Petitioner's attempt to cast blame on others while seeking reinstatement, which we find demonstrates his failure to take full accountability for his misconduct. Petitioner stated in his affidavit and in his testimony that Marcos Cardenas, a non-lawyer whom he relied on to bring him clients, was part of the reason for his misconduct. PX 2-039–PX 2-041; Tr. 417

(Petitioner); *see* Tr. 165-168 (Petitioner). Later in his testimony, Petitioner admitted that Cardenas was not involved in the four disciplinary cases that led to his disbarment, and that Cardenas did not know the clients in those cases. Tr. 193 (Petitioner). Petitioner also seemed to shift blame onto the immigration lawyer he worked with in 2008, by characterizing her as disorganized and testifying that “she would bring [him] files to [his] office that have been collecting dust and tell [him] to handle them.” Tr. 164 (Petitioner); FF 18-19; *see* Pet’r’s Br. at 6. However, there is no indication that she was involved in any of the four adjudicated cases. *See* FF 18-19; Tr. 163-64, 170-72, 350 (Petitioner). Petitioner has not fully accepted the seriousness of the misconduct for which he was disbarred and this factor does not favor reinstatement.

C. Petitioner’s Conduct During His Period of Disbarment and Present Character

Under the third *Roundtree* factor, the Court considers a petitioner’s “conduct since discipline was imposed, including the steps taken to remedy past wrongs and prevent future ones.” *Roundtree*, 503 A.2d at 1217. “In reinstatement cases[,] primary emphasis should be given to matters bearing most closely on the reasons why the attorney was suspended or disbarred in the first place.” *In re Mba-Jonas*, 118 A.3d 785, 787 (D.C. 2015) (per curiam) (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”).

“It is almost self-evident that an attorney disbarred for dishonest misappropriation must pay scrupulous attention to his financial obligations during the five-year period before he is eligible for and seeks reinstatement.” *In re Robinson*, 705 A.2d 687, 689 (D.C. 1998) (denying reinstatement where, among other things, petitioner had exhibited mismanagement of personal finances which was “behavior reminiscent of actions that led to his disbarment”). Additionally, “restitution is always an appropriate consideration in weighing the third *Roundtree* factor” *In re Roxborough*, 775 A.2d 1063, 1078 (D.C. 2001) (per curiam) (appended Board Report).

To satisfy the fourth *Roundtree* factor, Petitioner must demonstrate, among other things, that “those traits which led to the petitioner’s disbarment no longer exist and . . . that the petitioner is a changed individual having a full appreciation for his mistake.” *In re Brown*, 617 A.2d 194, 197 n.11 (D.C. 1992) (quoting *In re Barton*, 432 A.2d 1335, 1336 (Md. 1981)). As evidence of this change, Petitioner should also proffer the testimony of “live witnesses familiar with the underlying misconduct who can provide credible evidence of petitioner’s present good character.” *In re Yum*, 187 A.3d 1289, 1292 (D.C. 2018) (per curiam) (quoting *Sabo*, 49 A.3d at 1232) (denying reinstatement where petitioner’s witnesses were unfamiliar with the details of his misconduct).

1. Petitioner’s Financial Affairs

Petitioner’s misconduct underlying his disbarment included issues related to mismanagement of client funds and dishonesty. Yet, Petitioner has not proven that

he has acquired a sound ability to manage his financial affairs. To the contrary, Petitioner has woefully failed to demonstrate that “those traits which led to the petitioner’s disbarment no longer exist.”

Petitioner worked for Opande and Quimbee for several years, but his tax returns and Reinstatement Questionnaire failed to disclose that income. FF 45-46. When Petitioner testified about these omissions, he was not candid or forthright. When questioned about failing to disclose income from Opande on the Reinstatement Questionnaire, he stated “I can’t really explain it. . . . There’s no reason for me not to have disclosed him,” said “it must have just been an omission,” and called it “a simple oversight.” Tr. 327, 408 (Petitioner).

Petitioner’s issues with his personal financial management were also very concerning to the Committee. Petitioner claimed deductions for farm income to which he was not entitled on his tax returns for tax years 2021, 2022, and 2023. FF 44; Tr. 356-360 (Petitioner). Petitioner could not “remember if [TurboTax] ever corrected” his 2023 return. Tr. 357 (Petitioner). When asked about his 2021 and 2022 returns, Petitioner said he had not corrected them because it was “the first time [he] actually notic[ed] this,” he “didn’t know that it was there,” and “wasn’t aware of it until now.” Tr. 359-360 (Petitioner).

Petitioner also failed to disclose several debts and liens in his Reinstatement Questionnaire but could not explain why. Tr. 390 (Petitioner); FF 47-48. Petitioner said he knew about some of the debts, but because he was “in negotiations to settle them. . . . [he] didn’t feel like it was necessary to disclose yet.” Tr. 394 (Petitioner).

Petitioner also stated he did not become aware of his debt to Bank of America until “[Disciplinary] Counsel brought it to [his] attention at some point.” Tr. 409 (Petitioner). Petitioner was attempting to mislead the Hearing Committee and was not genuine in his confusion. *See Robinson*, 705 A.2d at 690 (petitioner’s “evasiveness” concerning his financial affairs made it “impossible . . . to conclude that petitioner has established his fitness to resume practice by the required clear and convincing evidence”).¹⁰

2. Restitution

When disbarring Petitioner, the D.C. Court of Appeals ordered that “as a condition of reinstatement to membership in the bar, Samuel N. Omwenga shall make restitution to Dawit Shifaw in the amount of \$550, with accrued interest at the legal rate from December 1, 2004.” *Omwenga*, 49 A.3d at 1240.¹¹ However, because the record did not permit a determination of the precise amount owed to each client deserving restitution, the Court “defer[red] the issue of restitution related to [his] failure to return other unearned fees or advanced costs until reinstatement and remind[ed] respondent that whether he has made full restitution to his clients and/or

¹⁰ Petitioner has not proven to this Hearing Committee that he has complied with each of the five court orders assessing monetary sanctions against him in the malpractice action filed by Shifaw. *See* DCX 04-0092–DCX 04-0094, DCX 04-0110.

¹¹ The Board was able to determine a sum certain of \$550 in misappropriated funds owed to Shifaw. *Omwenga*, 49 A.3d at 1245 (appended Board Report). Petitioner paid this amount to Shifaw by 2018. FF 27.

the [CSF], as appropriate, will be ‘highly relevant’ if respondent seeks reinstatement.” *Id.* at 1240; *see id.* at 1245 (appended Board Report).

On May 2, 2025, the Hearing Committee issued an order instructing the parties to specifically address in their respective briefs:

What was the amount of restitution owed to each of Petitioner’s clients (Dawit Shifaw, Josephine Gitau, Cane Mwihava, and Yeneneh Hailu) based on Mr. Omwenga’s failure to return unearned fees or advanced costs? Which of these clients, if any, have already had their losses reimbursed in full by the Clients’ Security Fund? Which of these clients, if any, are currently owed restitution? What is the amount of the restitution owed to each of these clients?

Order at 2-3.

The Clients’ Security Fund

Disciplinary Counsel appended to its post-hearing brief a copy of thirteen claims that had been filed with the CSF against the Petitioner. *See* ODC Br., Attachment A (introducing the CSF’s summary of claims).¹² Mwihava was one of

¹² The CSF reimburses claimants for losses caused by the “dishonest conduct of a lawyer.” CSF Rules of Procedure, § I(H). “Dishonest conduct” includes “wrongful acts committed by a lawyer in the manner of defalcation or embezzlement of money, or the wrongful taking or conversion of money, property or other things of value.” CSF Rules of Procedure, § I(H). “Dishonest conduct may include the failure to refund an unearned legal fee.” CSF Rules of Procedure, § I(G). Claimants are required to “supply relevant evidence to support the claim by a preponderance of the evidence.” CSF Rules of Procedure, § III(E).

Although thirteen claims were filed, five of Petitioner’s former clients satisfied the trustees of the CSF of the Petitioner’s dishonest conduct in their cases during this period. ODC Br., Attachment A. There is no record evidence explaining the basis for these claims. As discussed above, if Disciplinary Counsel intended to prove that these payments constituted evidence of further unadjudicated misconduct, it had to the obligation to provide advance notice thereof to Petitioner. *See* Board Rule 9.8.

the clients who had been reimbursed by the CSF in the amount of \$2,610. *See* ODC Br., Attachment A. The parties agree that Petitioner has repaid the CSF the full amount that it paid to Petitioner's former clients.¹³

Payments to Clients

Petitioner argues that he has satisfied his restitution obligations by fully reimbursing the CSF and by repaying Shifaw the sums that he misappropriated. He contends that he owes no additional restitution. *See* Pet'r's Br. at 33. Petitioner is incorrect. The Court determined that he owed restitution to Shifaw, Gitau, Mwihava, and Hailu for his failure to repay unearned fees or advanced costs. Only Mwihava has thus far been compensated by the CSF. Shifaw, Gitau, and Hailu continued to be owed restitution.

There is no evidence that it did so. Thus, the Committee did not take them into consideration when evaluating the *Roundtree* factors.

¹³ Petitioner commenced making payments to the CSF in 2017, after he first applied for reinstatement. FF 27. The total amount was \$23,460. He made the final payment to the CSF two weeks after the completion of the May 2025 hearing. *Id.* Disciplinary Counsel argues that the timing of Petitioner's restitution payments are negative factors because he did not begin paying until seeking reinstatement or until reminded by Disciplinary Counsel. ODC Br. at 26, 28. Petitioner disagrees that this weighs negatively, stating there is "no legal support" for their position, that "he had no money," and had to borrow money to pay back CSF in full. Pet'r's Reply at 24-25. We agree with Petitioner that the failure to repay CSF in full prior to the filing of the Petition should not be fatal to reinstatement. *See In re Kerr*, 675 A.2d 59, 60 (D.C. 1996) (per curiam) (reinstatement granted where petitioner had not yet paid restitution in full but acknowledged her financial responsibility and submitted a plan for making restitution).

However, since neither party has addressed the Hearing Committee's specific question regarding the amount of restitution owed to these clients based on Petitioner's failure to return unearned fees or advanced costs, the Hearing Committee is unable to respond directly to the Court's inquiry. But we are mindful that it is Petitioner's burden to prove to this Hearing Committee that he should be reinstated. Because we ultimately recommend that Petitioner's reinstatement be denied, the resolution of this issue is not critical to our decision.¹⁴

3. Character Witnesses

The Committee has combined the third and fourth *Roundtree* factors because Petitioner relies on character witnesses to demonstrate he has met both factors. (Pet'r's Br. at 28-31). Petitioner indicates that the development of a support network is part of the steps he has taken to remedy his past wrongs and prevent future ones. Many of those people he cites as his support network are also his character witnesses for his present character. But Petitioner has not proven that these witnesses or his support network were fully apprised of the nature and circumstances of his misconduct. *See Yum*, 187 A.3d at 1292.

Lanny Davis

Lanny Davis, Esquire, testified that he has been a member of the Bar of the District of Columbia for forty years. Tr. 33 (Davis). Prior to starting his own law

¹⁴ Should the Court adopt this Hearing Committee's recommendation that the Petition be denied, we recommend that Petitioner be prepared to present evidence in any future reinstatement petition concerning the amount of restitution owed to his clients.

firm, he worked for the White House, worked for President Clinton personally, and was a partner at several major law firms including Patton Boggs; Orrick, Herrington & Sutcliffe; and McDermott, Will & Emery. Tr. 33-34 (Davis). After opening his practice, he focused on government contracts and administrative litigation. Tr. 34 (Davis).

Davis testified that he worked with Petitioner on a complex international matter involving law, diplomacy, and politics. Petitioner provided valuable input in policy and diplomatic strategy and was part of a team advising an international client and a former member of Congress. Tr. 35-36, 40-41, 45 (Davis).

Davis emphasized that when he first met Petitioner, Petitioner voluntarily and immediately disclosed that he had been disbarred due to serious misconduct. Davis noted the disclosure occurred before they had even begun to work together, which he found unusually candid and commendable. Tr. 38-39 (Davis). Davis testified that he was impressed with Petitioner's capabilities and had no concerns about his integrity and honesty. Tr. 40-41 (Davis). He based this opinion on his belief that Petitioner had been transparent with him about his misconduct. Tr. 40 (Davis).

Davis characterized Petitioner as a person of honesty, candor, and high intellectual capability, highlighting his professionalism, sound judgment, and creativity in resolving issues for clients. Tr. 40-41, 45 (Davis). He expressed confidence in Petitioner's judgment and expressed his desire to work with him again. Tr. 41-42 (Davis). On cross-examination and follow-up, Davis reiterated that he believes Petitioner's remorse was sincere, and he believes him to be a person of

honesty and integrity. Tr. 45, 51-52 (Davis). He testified to Petitioner's current qualifications to practice law stating Petitioner has demonstrated the wisdom, knowledge, and skill while working with Davis in a non-lawyer capacity. Tr. 41 (Davis).

However, the Committee finds that Davis was not provided with all the details of Petitioner's misconduct that led to his disbarment. *See* Tr. 38 (Davis) (recalling that Petitioner told Davis that he had "misused" client funds). It is also concerning that the two have been in limited contact, only connecting two or three times in the past year as Davis testified. Tr. 52 (Davis) (testifying that they speak via phone "[o]nce in a while" and "[n]ot very often").

Davis gave conflicting testimony about Petitioner's title while working with him. Initially, Davis testified that Petitioner's title was "co-counsel," Tr. 35, then testified Petitioner was "an advisor." Tr. 46 When questioned about Petitioner calling himself in-house counsel during that representation, Davis testified that the title of in-house counsel was accurate because "I do believe we were all acting as attorneys because we had client-attorney privilege." Tr. 47 (Davis). Petitioner admitted that during the period of disbarment and while working with Davis, he held himself out as in-house counsel. Tr. 361-362 (Petitioner).¹⁵

¹⁵ Although not addressed in Disciplinary Counsel's Brief, it concerns the Committee that, at one point, Petitioner held himself out as "in-house counsel for major lobbying group" on his LinkedIn profile. Tr. 362 (Petitioner). LinkedIn is a business networking platform where individuals can professionally advertise, seek employment, apply for positions, and it often can act as a resume. For Petitioner to

Disciplinary Counsel states that Petitioner “had no authority to hold himself [out] as legal counsel while disbarred,” that it is “misconduct in and of itself,” and that it is evidence that Petitioner does not understand the disciplinary rules. ODC Br. at 29. Petitioner argues that “he never held himself out as a lawyer,” did not sign any legal documents, and did not appear in negotiations or in any tribunal. Pet’r’s Reply at 26. He further states that the Livingston Group and its lawyers “assured him” that the job title was “not problematic” because he would not do work requiring a law license. *Id.* Additionally, Petitioner asserts that he removed the title from his LinkedIn when Disciplinary Counsel took issue with it. *Id.*; Tr. 362 (Petitioner).

The Hearing Committee concludes that, under any circumstances, for Petitioner to refer to himself as “in-house counsel” or “co-counsel” without having an active law license was inappropriate. *See In re Joseph*, 287 A.3d at 1251-52 (petitioner failed to demonstrate the requisite post-discipline personal growth where he held himself out as an attorney when he had not been reinstated to practice law).

Salima Omwenga

Salima Omwenga is Petitioner’s daughter. Tr. 118 (S. Omwenga). At the time that she testified, Salima Omwenga was a 3L student at the University of Maryland School of Law.¹⁶ Tr. 119 (S. Omwenga). Salima testified how Petitioner influenced her decision to pursue a career in law and further how Petitioner has provided her

hold himself out as “in-house counsel” on such a platform underscores the severity of this behavior.

¹⁶ In his brief, Petitioner represents that, since the hearing, Salima has graduated with a juris doctor degree. Pet’r’s Br. at 13.

with guidance in important life lessons. Some of these lessons included honesty, fairness, never giving up, being diligent, having goals, and seeing them through. Tr. 119-121 (S. Omwenga). Salima also testified that when she came of age and Petitioner disclosed his disbarment, he expressed remorse and would talk to her about the experience to prevent her from making the same mistake as a lawyer. Tr. 125-128 (S. Omwenga). Salima testified that she did not recall reading the disbarment order and that she did not know the specific facts around the Rule violations or the specific misconduct that led to Petitioner's disbarment, except that she knew there was misappropriation of funds, dishonesty, and ineffective assistance of counsel. Tr. 135 (S. Omwenga). While the Committee found his daughter's testimony to be sincere, the testimony of a third-year law student and a daughter about prospective ethical conduct is deemed by the Committee to be of limited value. *See also* FF 51, 53-54.

Dr. Phenias Bahimba

Dr. Phenias Bahimba is Petitioner's father-in-law and testified that he has known him for approximately thirty-five years, describing a very close personal relationship. Tr. 54-55 (Bahimba). As a Seventh-day Adventist gospel minister and former pastoral care director at Washington Adventist Hospital, Dr. Bahimba testified that he and Petitioner attend church together and share spiritual discussions. He confirmed that Petitioner is well-regarded within their church community, actively participates in church life, and has the full support of that community. Tr. 54, 56-57, 62-63 (Bahimba).

Dr. Bahimba testified that following Petitioner's disbarment, they had candid conversations about what occurred. Petitioner admitted his mistakes and demonstrated remorse and self-awareness. He also stated that Petitioner had taken steps to improve himself professionally, including legal education to refresh his knowledge. Tr. 57-59, 61, 63-66 (Bahimba). Dr. Bahimba expressed his firm belief that Petitioner is ready to return to law practice as a trustworthy, honest professional, and affirmed that both he and the broader church community would continue to support Petitioner if reinstated. Tr. 61, 63-65 (Bahimba).

Dr. Bahimba did not read the Court's Order disbarring Petitioner. Tr. 67-68 (Bahimba). Dr. Bahimba testified that Petitioner got involved with politics and he failed to keep his promises to his clients. Tr. 59 (Bahimba). When asked if Petitioner has taken any steps to prevent the misconduct from reoccurring, Dr. Bahimba testified that Petitioner has been suffering because he was unable to practice law and Dr. Bahimba helped him financially "because his family could not survive." Tr. 68 (Bahimba).

Captain Bruce Jorgensen

Captain Bruce Jorgensen testified that he is a retired pilot and current real estate entrepreneur. Tr. 71-72 (Jorgensen); *see also* Tr. 200 (Petitioner). He testified that he knows Petitioner and that they were introduced by a mutual friend seven years ago. Tr. 74-75 (Jorgensen). Jorgensen testified that he is aware of Petitioner's disciplinary history, that Petitioner disclosed his disbarment candidly, stating that he was facing a reinstatement hearing and asked Jorgensen to testify. He viewed this

transparency as a sign of integrity. Tr. 78-80, 93-94 (Jorgensen). Jorgensen also testified that he believes Petitioner is honest. Tr. 82 (Jorgensen).

Jorgensen testified that he knew the disbarment involved claims of dishonesty and misappropriation of \$550 from a client. Tr. 78-79 (Jorgensen). Jorgensen testified that he knew there was a financial issue that led to the disbarment, but he did not know the details. Tr. 83-84 (Jorgensen). When questioned about the misconduct leading to Petitioner's disbarment, Jorgensen testified "it was claims of dishonesty by somebody that didn't even speak English" referring to Petitioner's former client. Tr. 90-91 (Jorgensen).

He stated that while these claims were serious, he personally does not see dishonesty in Petitioner's present character. Tr. 78-79, 82 (Jorgensen). He expressed a desire to hire Petitioner to perform legal work should he be reinstated. Tr. 74-77 (Jorgensen).

Laban Opande

Laban Opande, Esquire, testified that he is a licensed attorney based in Texas since 2008. Tr. 96 (Opande). He testified that he has known Petitioner for many years both socially and professionally. They share a Kenyan heritage and connected socially before engaging in professional collaborations over the last three to four years. Tr. 97 (Opande); FF 33.

Petitioner assisted Opande with immigration appellate work and research on a piecework basis, such as drafting documents related to immigration cases and appeals, that Petitioner was compensated for this work for the past three years, and

the work did not require a law license. Tr. 98-100, 108-112 (Opande); FF 33. However, Petitioner failed to disclose this income on his Reinstatement Questionnaire or tax return. FF 46.

Opande testified that, prior to working with Petitioner, he voluntarily disclosed his disbarment when Opande attempted to refer a client to him. Opande testified that he did not know the specific details of Petitioner's disbarment, other than it was misconduct related to misappropriation of funds and lack of communication, and did not recall receiving or reading the full disbarment order. Tr. 99-99, 106-108 (Opande). Opande further testified that he has known of the disbarment for about three to four years and has discussed it on a general level but that he and Petitioner have never delved into the details of the particular misconduct. Tr. 99 (Opande). "I never discussed specifics of cases he was having issues with." Tr. 108 (Opande). Opande stated that Petitioner has been "very regretful and remorseful" about his disbarment and views it as a significant loss in his legal career. Tr. 113 (Opande). Opande emphasized that he could empathize with Petitioner's emotional burden as a fellow attorney. Tr. 113-114 (Opande).

Opande expressed confidence in Petitioner's readiness to return to the practice of law, stating he has no concerns about Petitioner's ability to practice ethically and competently. He also pledged continued support post-reinstatement, including any transitional assistance that might be recommended. Tr. 103-104 (Opande). When asked if he was aware of any steps Petitioner has taken to avoid future misconduct, Opande testified that he did not know of any specific steps. Tr. 113 (Opande).

Though Petitioner’s witnesses generally expressed confidence in his character, they consistently lacked a full appreciation of the details of his misconduct. And, given the heightened scrutiny that must be applied here in light of the egregiousness of Petitioner’s misconduct and its close relation to his role and responsibilities as an attorney, we cannot conclude that that Petitioner has demonstrated himself to be a changed individual. *See In re Alamgir*, 282 A.3d 81, 86 (D.C. 2022) (per curiam). Thus, we find that Petitioner’s witnesses knew too few details about Petitioner’s misconduct to accord their testimony significant weight.

D. 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 CLE courses, acquisition of computer skills, improvements to her case management system, and plans to use additional staff for assistance as evidence of her qualifications and competence to practice law. *Id.* at 1217-18. In other cases, the Court has also considered whether the petitioner has performed legal work or kept abreast of developments in the law by reading legal journals and periodicals. *See In re Bettis*, 644 A.2d 1023, 1029-1030 (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, 23 (D.C. 1986) (petitioner’s competence established where he testified that he kept up with developments in the law by reading legal journals, bar publications, and other legal publications, and his professional skills were never questioned by those involved in the disciplinary proceedings). As the *Roundtree* Court noted, however, “the longer the suspension, the stronger the showing that must be made of the attorney’s present competence to practice law.” *Roundtree*, 503 A.2d at 1218 n.11.

Petitioner has kept up to date with legal news and continues to work in a non-lawyer capacity in law-related roles. FF 49. At the hearing, Opande described Petitioner as “very proficient,” “useful,” and a “good writer.” Tr. 100 (Opande). Davis testified that he was “impressed” with Petitioner’s “very high” level of professional skill and his ability to advise and suggest a creative solution for the client. Tr. 40-41 (Davis). Petitioner indicated he worked for Quimbee writing case briefs, FF 31, but the Committee never received or saw any comments or review from his supervisor as to the quality of the work. In addition, we did not hear about the quality or nature of his work in his current position with Consumer Justice Law Firm, *see* FF 32.

When asked about future systems he would put in place to manage client funds if reinstated, Petitioner pointed to his daughter as his “number one system,” that she is “on top of all the money issues.” Tr. 353 (Petitioner); FF 51. Petitioner testified that he had not identified a specific software to help with financial management,

because he has “no interest or desire to handle client money” and that he was “not going to deal with clients in that sense.” Tr. 354 (Petitioner). However, he stated that if he opened a practice with his daughter, they would find “appropriate software.” Tr. 354 (Petitioner); FF 52.

Petitioner admits that, prior to his disbarment in 2012, he did not take any CLE courses. *See* Tr. 315 (Petitioner). Since the disbarment, Petitioner has taken five CLE courses, one in avoiding malpractice in 2017, three related to legal writing and appellate advocacy in 2017, and one related to appellate advocacy in 2023. PX 2-074; Tr. 317-321 (Petitioner). Petitioner has not taken any courses in trust accounts or managing client funds. Tr. 323 (Petitioner).

Disciplinary Counsel takes issue with the CLEs completed by Petitioner, specifically that none of them included topics on client funds or financial management. ODC Br. at 34. Petitioner states there was no specific requirement for CLE topics or number he had to take, but he offers to take “any CLEs that the Committee deems appropriate.” Pet’r’s Reply at 31.

Four of the five courses completed by Petitioner concerned legal writing and appellate advocacy, which is the type of law he intends to practice if reinstated. FF 50; *see* Tr. 235 (Petitioner); *cf. In re Tinsley*, 668 A.2d 833, 837-38 (D.C. 1985) (per curiam) (appended Board Report) (finding petitioner did not establish present legal competence when the three CLE courses he completed did not relate to the type of practice he intended to engage in if reinstated). Additionally, his witnesses testified favorably about his present competencies and skill. These factors weigh in

his favor. *See Bettis*, 644 A.2d at 1029-1030 (establishing competence to practice law through work as a law clerk and with witness testimony on petitioner's expertise). However, in relation to Quimbee and his current position, the lack of testimony or evidence as to the "quality or nature of his work" gives those positions limited value in support of his qualifications. *Yum*, 187 A.3d at 1293 (failing to establish competence to practice law because petitioner did not call witnesses to testify to the "quality or nature of his work").

Petitioner's testimony as to his future systems or programs if reinstated concerned the Committee because he did not specify any "definite plans designed to avoid any problems with handling clients' funds." *Bettis*, 644 A.2d at 1030. Petitioner's reliance on his daughter as his "number one system" to help him manage finances is of limited value due to her status as a recent law graduate. FF 51. Further, without a CLE course in managing funds and with Petitioner's ongoing personal financial management issues, we are not convinced that Petitioner has the present competence and qualifications to handle client funds even if he states he will not "deal with clients in that sense." Tr. 354 (Petitioner).

Despite the presence of some favorable evidence in this *Roundtree* factor, the Committee does not find clear and convincing evidence that Petitioner has met his burden to prove he is presently qualified and competent to resume the practice of law.

V. CONCLUSION

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

HEARING COMMITTEE NUMBER TWO



Jay Brozost
Chair



Francesca Schoenwandt
Public Member



Johanna Reeves
Attorney Member