IN RE: CHARLES L. LONARDO

NO. BD-2006-037

S.J.C. Judgment of Reinstatement entered by Justice Duffly on March 24, 2015.[1]

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[1] The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

COMMONWEALTH OF MASSACHUSETTS
BOARD OF BAR OVERSEERS
OF THE SUPREME JUDICIAL COURT

In the Matter of	)	
CHARLES L. LONARDO,	)	**SJC No. BD-2006-0037**
Petition for Reinstatement	)	

HEARING PANEL REPORT

I. Introduction

The petitioner, Charles L. Lonardo, filed a petition for reinstatement with the Supreme Judicial Court on August 27, 2014, from an order of disbarment entered by the Supreme Judicial Court on October 16, 2009, retroactive to June 21, 2006, the date of his temporary suspension. Matter of Lonardo, 25 Mass. Att'y Disc. R. 360 (2009). The Court referred his petition to the Board of Bar Overseers, which in turn assigned the matter to a hearing panel comprised of Donna Jalbert Patalano, Esq. (Chair), Erin K. Higgins, Esq., and Francis P. Keough.

A public hearing was held on the petition on December 15, 2014. Attorney James S. Bolan represented the petitioner, and bar counsel Constance Vecchione appeared for the Office of Bar Counsel. The petitioner testified on his own behalf. In addition, two witnesses testified in favor of his reinstatement. Bar counsel called no witnesses. The parties jointly submitted eight exhibits with exhibit 4 having 9 separate exhibits. All exhibits were admitted into evidence. The

petition was not opposed by bar counsel; however, Ms. Vecchione stated that she felt it was a "close call" and asked for three conditions should the panel be inclined to recommend reinstatement. After considering the evidence and testimony, the panel recommends that the petition for reinstatement be allowed subject to the three conditions requested by bar counsel.

II. Standard

A petitioner for reinstatement to the bar bears the burden of proving that he has satisfied the requirements for reinstatement set forth in S.J.C. Rule 4:01, § 18(5), namely that he possesses "the moral qualifications, competency, and learning in the law required for admission to practice law in this Commonwealth, and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar, the administration of justice, or to the public interest." Matter of Daniels, 442 Mass. 1037, 1038, 20 Mass. Att'y Disc. R. 120, 122 (2004) (rescript), quoting S.J.C. Rule 4:01, § 18(5). See Matter of Dawkins, 432 Mass. 1009, 1010, 16 Mass. Att'y Disc. R. 94, 95 (2000) (rescript); Matter of Pool, 401 Mass. 460, 463, 5 Mass. Att'y Disc. R. 290, 293 (1988).

In determining whether the petitioner has satisfied these requirements, a panel considering a petition for reinstatement "looks to '(1) the nature of the original offense for which the petitioner was disbarred, (2) the petitioner's character, maturity, and experience at the time of his disbarment, (3) the petitioner's occupations and conduct in the time since his disbarment, (4) the time elapsed since the disbarment, and (5) the petitioner's present competence in legal skills.'" Id., quoting Matter of Prager, 422 Mass. 86, 92 (1996), and Matter of Hiss, 368 Mass. 447, 460, 1 Mass. Att'y Disc. R. 122, 133 (1975).

III. Disciplinary Background

The petitioner, admitted to the bar in 1986, was disbarred October 16, 2009, retroactive to June 21, 2006. The basis of his disbarment was his conviction, after a jury trial in the

Massachusetts Superior Court, of conspiracy to commit automotive insurance fraud in violation of G.L. c. 266, § 111B. His conviction was affirmed. Commonwealth v. Lonardo, 4 Mass. App. Ct. 566 (2009). The facts underlying the conviction include the following: The petitioner owned a law firm handling primarily personal injury automobile cases. It was a busy practice, taking in fifty to seventy-five new clients every week. More than ninety-five per cent of the cases involved automobile claims, and beginning in 2000 many or all of these cases were referred by third parties who were compensated for these referrals, including one Carlos Pinales.

On June 3, 2003, Mr. Pinales staged an automobile accident involving two motor vehicles. Mr. Pinales brought to the petitioner's office three men who allegedly were injured in the accident, and Mr. Pinales was paid $150 for each of these referrals. The purported accident victims never met or spoke with the petitioner, and Mr. Pinales never told the petitioner that this particular accident had been staged, but the accident was in fact staged. When the local police department later began an investigation into whether insurance fraud was being committed in connection with automobile accidents, the petitioner made certain statements to the local police chief concerning his knowledge and involvement of these incidents that an appellate court found to be incriminating.

On April 26, 2006, a jury found the petitioner guilty of one count of conspiracy to commit insurance fraud. He was sentenced to two-and one-half years committed to the house of correction, and beginning on August 1, 2006, he served fifteen months until his release in parole status October 29, 2007. His parole was terminated on October 2, 2008.

IV. Findings

A. Moral Qualifications

The conduct giving rise to the petitioner's suspension is affirmative proof that he lacks the moral qualifications to practice law. Matter of Centracchio, 345 Mass. 342, 346 (1963). To gain reinstatement, the petitioner has the burden of proving that he has led "'a sufficiently

exemplary life to inspire public confidence once again, in spite of his previous actions.'" Matter of Prager, 422 Mass. at 92 (1996), quoting Matter of Hiss, 368 Mass. at 452, 1 Mass. Att'y Disc. R. at 126.

"The act of reinstating an attorney involves what amounts to a certification to the public that the attorney is a person worthy of trust." Matter of Daniels, 442 Mass. 1037, 1038, 20 Mass. Att'y Disc. R. at 123 (2004); Matter of Centracchio, 345 Mass. at 348 (1963). In fact, "considerations of public welfare are dominant. The question is not whether the petitioner has been punished enough." Matter of Cappiello, 416 Mass. 340, 343, 9 Mass. Att'y Disc. R. 44, 47 (1993); Matter of Keenan, 314 Mass. 544, 547 (1943).

In his questionnaire and testimony, the petitioner expressed a clear understanding of the nature of his misconduct. He was forthright in stating that he was consumed by greed when he practiced law. (Tr. 44:14-20; 92:16) He testified, "I was greedy, and it caused me to close my eyes to what could be coming into the firm because I did run into some cases that were problem cases." (Tr. 48:6-9) He testified, "I don't believe I will ever do anything criminal or unethical ever again like I did before." (Tr. 92:14-16) "It was not enjoyable doing a year in jail. It hasn't been enjoyable embarrassing my family and embarrassing the legal community and being ashamed of yourself. It's been a very humbling experience." (Tr. 92:19-23)

After his release, the petitioner returned to live with his wife of twenty-three years and their two then-teenage daughters. The petitioner attempted to find employment in various fields; however, his criminal record proved to be an obstacle to getting hired. (Tr. 61:13-23; 62:11-22; 63:1-11; 64:8-19) The petitioner kept busy performing the maintenance for three properties that he owned – landscaping in the summers and snow blowing and shoveling in the winters. (Tr. 64:20 -23; 65:1-6) He, his wife, and daughters drove around greater Lawrence looking at businesses that were for sale that the family could own and operate. (Tr. 65:14-18) Ultimately, the family decided not to purchase a business due to their lack of expertise in the nature of the particular businesses that were for sale. (Tr. 65:19-23; 66:1-4) In 2011, the petitioner and his

wife, a school guidance/social worker, decided to work together in establishing a small debt collection agency. (Tr. 71:13-23) His wife was the sole owner. (Tr. 7216-18) They had two clients. (Tr. 7310-16) The business was operational for only one year. (Ex. 1, BBO pg. 4)

The petitioner has not been gainfully employed since his release; however, he has used his time sensibly. He became engaged in the lives of his teenage daughters by driving them to various activities, assisting with their homework, and spending time helping them practice tennis for their school tennis team. (Ex. 1, BBO pg. 6; Tr. 83:20-23; 84:1-15) Though these are conventional activities, commonly occurring in many families, they were activities that the petitioner appears to have sincerely enjoyed and ones for which he did not have the time to engage in for many years due to the demands of his law practice. In addition, from 2007 to the present, the petitioner wrote two books of fiction, both set in the time of the Roman Empire. The first book has been published and the petitioner is now in the process of editing the second book, a sequel. (Ex. 1, BBO pg. 4-5; Tr. 81:1-23; 82:1-23; 83:1-3)

The petitioner demonstrated his good moral character not only by forthrightly acknowledging his misconduct and becoming involved in family activities, but also by engaging in volunteer activities both during and after his incarceration. During his incarceration at the Essex County Correctional Facility, the petitioner spent four to five hours a week volunteering his time as a math tutor for those inmates who sought to take the GED test. (Ex. 4 (7), BBO pg. 44) His tutoring efforts helped effect an 85% success rate of first time testers. (Ex. 4 (7), BBO pg. 44) The petitioner also created and updated an inventory of the inmate lending library collection. (Ex. 4 (7), BBO pg. 44)

After the petitioner's release in 2007, a corrections officer visited the petitioner and facilitated a volunteer opportunity at St. Basils Seminary in Methuen. His volunteer activities included driving Bishop John Eleyah to Rhode Island for mass. In addition, the petitioner organized Bishop Eleyah's library by adding and deleting books that he used for his studies. (Ex. 1, BBO pg. 5)

Each spring from 2009 through 2014 (excluding 2012), the petitioner worked with a local activist on community campaigns against drunk driving and bullying. His work included organizing the interns who were to work on the drunk driving campaign and teaching them the anti-drunk driving curriculum. (Ex. 1, BBO pg. 5)

Each Christmas from 2008 through 2012, the petitioner volunteered at a charity Christmas concert held in a local school for the children of Lawrence. He helped to unload and load sound and lighting equipment from trucks into and out of the school and distribute Santa hats, candy canes, and printed material. (Ex. 1, BBO pg. 5)

The petitioner was a volunteer coach at a football tournament called the NFL Challenge that was run by an assistant football coach from the Greater Lawrence Regional Vocational High School. He assisted with the sign-in process, setting up equipment for drills, and assisting with drills for linemen. (Ex. 1, BBO pgs. 5-6)

The petitioner participated in Goundwork Lawrence Earth Day in 2013 and 2014. As part of a city-wide effort, the petitioner participated in a one-day cleanup at a park in south Lawrence. (Ex. 1, BBO pg. 6)

From 2010 until his uncle's death in 2013, the petitioner assisted in caring for his disabled uncle by doing chores in his apartment, taking him out to grocery shop and picking up prescription medicine. He also spent time simply visiting with his uncle before he was placed in a nursing home. (Ex. 1, BBO pg. 6)

The petitioner's two witnesses, both long-time friends, testified as to the petitioner's good moral character. Nicholas S. Guerrera, Esq., testified that he has known the petitioner for more than forty years. (Tr. 10:9-11) When he visited the petitioner at the Essex County Correctional Facility, Attorney Guerrera testified that the petitioner talked about the shame he felt, the burden that he put on his family, and the disgrace that he brought to the profession and to the legal

community. (Tr. 15:6-9) The petitioner also talked about how the whole criminal case was his responsibility as the leader of the firm. (Tr. 17:14-15)[1]

The petitioner's second witness, Stephen Takesian, a retired Lawrence police officer, testified that he too has known the petitioner for more than forty years. (Tr. 173:13-16) Since the petitioner's conviction, Mr. Takesian has spoken with the petitioner many times and the petitioner has consistently admitted that he had made a horrible mistake. The petitioner expressed his embarrassment and shame to Mr. Takesian who testified that he realized that the reason the petitioner went daily to his office in an office building that he owned after his release rather than stay at home was because "[h]e wanted his daughters and his wife not to see him lying on the couch all day." (Tr. 176:9-10)[2]

"Reform is a 'state of mind' that must be manifested by some external evidence ... [and] the passage of time alone is insufficient to warrant reinstatement." Matter of Waitz, 416 Mass. 298, 9 Mass. Att'y Disc. R. at 336 (1993). We find that the information in the petitioner's reinstatement questionnaire and his testimony and that of his witnesses at the reinstatement hearing demonstrate that the petitioner has the moral qualifications to be readmitted to the practice of law.

B. Learning in the Law

S.J.C. Rule 4:01, § 18 requires that, in order to be reinstated, the petitioner demonstrate that he has the "competency and learning in the law required for admission to practice law in this Commonwealth."

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[1] In a letter, Attorney Guerrera wrote that during their meetings the petitioner "never once in our conversations expressed bitterness or complained that his conviction, incarceration, and the revocation of his professional license was somehow unjust. He never denied responsibility for his own unlawful actions." Attorney Guerrera expressed his support for the petitioner's reinstatement and stated that he knows that the petitioner "can rely upon him for support and advice on any issues relating to his practice." (Exhibit 7, BBO pg. 382)

[2] In a letter, Takesian wrote that the petitioner "fully understands the ramifications of what he has done and how it has hurt his family." In addition, he wrote, "I am of the opinion that Charles has learned his lesson and has rehabilitated himself." (Exhibit 7, BBO pg. 377)

The petitioner has been suspended since 2006 after having practiced law since his admission in 1986. On August 17, 2013, he took the Multistate Professional Responsibility Examination (MPRE) and received a passing grade of 115. Between February 14, 2014 and September 25, 2014, the petitioner purchased audio CDs or MP3 recordings of MCLE classes on the following topics: (1) Hardly Common Defenses to Common, But Hard Criminal Cases; (2) Trying Your First (or Next) Civil Case in the Superior Court; (3) Introducing & Excluding Evidence at Trial; (4) How to Make Money & Stay Out of Trouble, (5) Pretrial Litigation: MCLE Plus!; and (6) Anatomy of a Criminal Case. On September 25, 2014, he attended the trust account training that is offered at the Boston Bar Association and taught by attorneys from the Office of Bar Counsel.

The petitioner stayed abreast of Massachusetts law by reading, on a weekly basis, current and back issues of the *Massachusetts Lawyers Weekly*. Between March 2014 and May 2014, he attended hearings and trials on seven different matters in the Essex County Lawrence Superior Court and Lawrence District Court. He researched legal issues that were raised at the hearings and trials by reading pertinent sections of thirteen different volumes of the *Massachusetts Practice Series*, six MCLE publications, and a West publication on the Massachusetts motor vehicle and traffic laws and regulations.

We are mindful of the petitioner's twenty years of practice before his suspension, as well as his above-described efforts to study the law. His testimony and recitation in his sworn reinstatement questionnaire indicate a substantial amount of time and effort devoted to keeping abreast of the law. We find that the petitioner has met his burden of establishing that he possesses sufficient competence and learning in the law to be reinstated to the practice of law.

C. Effect of Reinstatement on the Bar, the Administration of Justice and the Public Interest

"In any disciplinary [or reinstatement] case, the primary factor for the court's consideration is the effect upon, and perception of, the public and the bar." Matter of Daniels,

442 Mass. at 1038, 20 Mass. Att'y Disc. R. at 122, citing Matter of Alter, 389 Mass. 153, 156, 3 Mass. Att'y Disc. R. 3 (1983) and Matter of Keenan, 314 Mass. at 547. "A fundamental precept of our system is that a person can be rehabilitated." Matter of Ellis, 457 Mass. 413, 414, 26 Mass. Att'y Disc. R. 158, 163 (2010) citing Matter of Allen, 400 Mass. 417, 425, 5 Mass. Att'y Disc. R. 10, 23 (1986). "A prior conviction, even of a serious crime, is not an absolute bar to admission or reinstatement and does not preclude a showing of present moral fitness." Ellis, *supra*, citing Matter of Prager, 422 Mass. 86, 91-93 (1996).

There was no opposition from the public to the petitioner's reinstatement. Eight letters in support of the petitioner's reinstatement were submitted into evidence. The letters were from individuals, four of whom are attorneys who have known the petitioner for many years and, in some cases, grew up with him in the same neighborhood and attended the same schools. Each individual wrote that he was aware of the petitioner's criminal conviction and his activities since his release from incarceration. Each individual strongly supported petitioner's reinstatement.

Dennis McCarthy, a twenty-year neighbor wrote, "I believe with my whole heart and soul that Chuck has rehabilitated himself and learned a very painful lesson." (Exhibit 7, pg. BBO 374) Geoffrey M. Fulgione, who has known the petitioner since their early adolescence, wrote that he endorsed the petitioner's reinstatement "knowing without question that he will carry himself with utmost pride and live by the letter of the law." (Exhibit 7, BBO pg. 375) Dib Sarkis, a retired corrections officer who has known the petitioner for thirty-six years, wrote that the petitioner "is a changed man. He has become a more caring and forgiving man who has been humbled. I do not see him as being harmful to the public, or detrimental towards future clients." (Exhibit 7, BBO pg. 376) Peter J. Carrozza, Esq., who has known the petitioner for thirty-six years, wrote that the petitioner "has learned his lesson and his future actions will not be detrimental to the practice of law in Massachusetts. Charles certainly would not pose a threat of harm to anyone including any future clients." (Exhibit 7, BBO pg. 379) Philip J. Doherty, Esq., wrote that "I truly believe Mr. Lonardo is an honest, caring and a morally correct individual. It

is my impression that Mr. Lonardo has rehabilitated himself and learned from his costly mistake." (Exhibit 7, BBO pg. 383) Ronald J. Ranta, Esq. represented the petitioner at his criminal trial. He wrote "I stand ready to assist Mr. Lonardo should he ever confront any question about the law where he felt my particular experience could assist him." (Exhibit 7, BBO pg. 385)

Bar counsel expressed concern that the petitioner has been disbarred for eight years and, despite having successfully completed his period of parole six years ago, still remains at loose ends. His post-conviction work, in bar counsel's opinion, showed that he was capable of doing more. Bar counsel acknowledged that the petitioner's financial situation is strong, enabling him to finance the start of a new law firm. She further acknowledged that no one came forward in opposition to the petitioner's restatement. Bar counsel suggested that if the panel is inclined to recommend reinstatement, that it consider making the reinstatement conditional on three conditions. The petitioner shall: (1) enter into an accounting probation agreement with the Office of Bar Counsel whereby after six months and again after twelve months from the date of his commencement of the practice of law, he will report that his law office financial records are in full compliance with Mass. R. Prof. C. 1.15; (2) consult with LOMAP (Lawyer Office Management Assistance Program) and confirm with the Office of Bar Counsel that he has done so; and (3) attempt to obtain professional liability insurance in a reasonable amount and advise the Office of Bar Counsel of these attempts and whether he was successful.

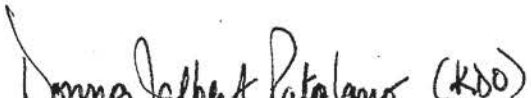
We note that the petitioner would like to recommence a law practice in Lawrence, the city where he was raised and practiced law for twenty years, and where his criminal conviction was widely reported in the media. We take the petitioner at his word that he would never again act in a way that would bring disgrace to his family, himself, the law profession, or his community. We find that the petitioner has demonstrated that his reinstatement to the practice of law will not be detrimental to the administration of justice or the public interest. Our findings are based upon the unique facts that underlie the petitioner's disbarment, his distinctive efforts to

attain competency and learning in the law, and the testimony and letters of many individuals, many having known the petitioner since his early childhood, who described their perception of positive changes within him.

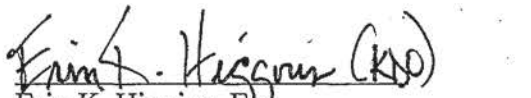
V. Conclusions and Recommendation

Based upon the petitioner's reinstatement questionnaire, the hearing testimony, and the letters of recommendation, we conclude that the petitioner has met his burden. On the three conditions requested by bar counsel discussed above, we recommend that the petition for reinstatement filed by Charles L. Lonardo be ALLOWED.

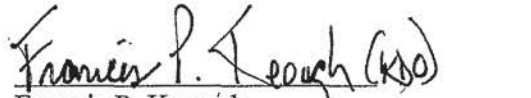
Respectfully submitted,
By the Hearing Panel,



Donna Jalbert Patalano, Esq., Chair



Erin K. Higgins, Esq.



Francis P. Keough

Filed: February 3, 2015