THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

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

In the Matter of:	:	
	:	
JOEL D. JOSEPH,	:	
	:	Board Docket No. 21-BD-029
Petitioner.	:	Disciplinary Docket No. 2021-D104
	:	
A Disbarred Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 183830)	:	

REPORT AND RECOMMENDATION OF
HEARING COMMITTEE NUMBER SIX

This is a contested proceeding on Joel D. Joseph's ("Petitioner") Petition for Reinstatement filed on May 27, 2021 (the "Petition"). Petitioner was admitted to the District of Columbia Bar on December 7, 1973, but was disbarred on October 29, 2015, following Petitioner's disbarment in Maryland. *See In re Joseph*, 128 A.3d 643 (Mem) (D.C. 2015) (per curiam) (Order imposing reciprocal disbarment); *Attorney Grievance Comm'n of Maryland v. Joseph*, 31 A.3d 137 (Md. 2011) (Petitioner's disbarment in Maryland).

Based on the Petition, Disciplinary Counsel's Answer thereto, the testimony elicited and exhibits admitted at the evidentiary hearing held for this matter on February 10, 2022, and the post-hearing written briefs submitted by the parties, this Hearing 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

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

under D.C. Bar R. XI, § 16(d) and the factors enumerated by *ln re Roundtree*, 503 A.2d 1215 (D.C. 1985) ("*Roundtree*").

I. PROCEDURAL HISTORY

As noted above, because Petitioner was disbarred in Maryland, his disbarment in the District of Columbia was a reciprocal disciplinary action. The events and conduct underlying Petitioner's disbarment in Maryland were litigated in the Maryland disciplinary system. The Court of Appeals accepted those findings to impose a reciprocal disbarment.

A. Prior Disciplinary Proceedings

Based on findings of fact and conclusions of law resulting from an evidentiary hearing conducted by a judge on the Circuit Court for Montgomery County, Maryland, the Court of Appeals of Maryland disbarred Petitioner for violating Maryland Lawyers' Rules of Professional Conduct (MRPC) 3.3(a)(1) and 8.4(c) when he falsely represented that he was not a resident of California in his applications for admission *pro hac vice* on June 19, June 28, and November 16, 2007, in California state and federal courts, and when he made false and misleading representations concerning the location of his law office. *See Attorney Grievance Comm'n of Maryland v. Joseph*, 31 A.3d at 154-55. Additionally, the Court of Appeals of Maryland found that Petitioner violated MRPC 8.4(d) when he filed the false applications for admission *pro hac vice* and when he provided false and misleading information to co-counsel and the State Bar of California. *ld.* at 152, 154-55.

Through a reciprocal disciplinary proceeding, the D.C. Court of Appeals ordered Petitioner's disbarment from the practice of law in the District of Columbia. *Joseph*, 128 A.3d 643. In its disbarment order, the D.C. Court of Appeals noted that Petitioner's response to its order to show cause sought to relitigate the discipline imposed by Maryland, which was not an appropriate basis to oppose the imposition of reciprocal discipline. *See id.* (citing *ln re Zdravkovich*, 831 A.2d 964, 969 (D.C. 2003)). The Court explained that

> to the extent that [Petitioner] argues that there was a deficiency of evidence to support [Maryland's] findings that he engaged in misrepresentation as to his residence when he filed a motion to appear *pro hac vice*, he was permitted to submit evidence and argument in [Maryland] on why he should not be disbarred.

ld.

B. The Instant Proceedings

Petitioner filed the instant Petition on May 27, 2021. Disciplinary Counsel filed its Answer opposing Petitioner's reinstatement on November 15, 2021, and Petitioner filed a Response on November 19, 2021. On February 10, 2022, an evidentiary hearing was held by video before Hearing Committee Number Six ("the Hearing Committee"), consisting of Seth I. Heller, Esquire (Chair), George Hager (Public Member), and Michelle Thomas, Esquire (Attorney Member). Petitioner was present and appeared *pro se*. The Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel William Ross. Both parties presented documentary evidence, testimony, and oral argument. The following

exhibits filed by Petitioner were admitted into evidence: PX 1-16. The following exhibits filed by Disciplinary Counsel were admitted into evidence: DCX 1-33.

II. LEGAL STANDARD

To be reinstated, Petitioner bears 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. D.C. Bar R. XI, § 16(d)(l). 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." *ln re Cater*, 887 A.2d 1, 24 (D.C. 2005) (quoting *ln 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 conduct since discipline was imposed, including steps taken to remedy past wrongs and prevent future ones;
4. the attorney's present character; and
5. the attorney's present qualifications and competence to practice law.

503 A.2d at 1217.

Based on the following findings of fact and conclusions of law, in light of the *Roundtree* factors and the evidence before the Hearing Committee, we find that Petitioner has failed to establish by clear and convincing evidence that he 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

The findings of fact have been established by clear and convincing evidence based on the Hearing Committee's evaluation of testimony and documentary evidence admitted at the hearing. *See* Board Rule 11.6; *Cater*, 887 A.2d at 24.

As discussed *infra* in Part IV, Petitioner's numerous academic, literary, and legal contributions have been overshadowed by the troubling series of events that resulted in Petitioner's disbarment in Maryland and reciprocal disbarment in the District of Columbia and which we summarize below. In addition, we describe the facts related to unadjudicated misconduct and Petitioner's significant post-discipline misconduct.[1]

1. Petitioner graduated from Georgetown Law School almost 50 years ago. Tr. 116. Since his graduation, Petitioner has devoted considerable energy towards litigating cases and writing. *See, e.g.*, Tr. 116-117 ("I've been counsel in hundreds of cases . . . I'm the author of 18 books on the law and hundreds of articles."). Notably, Petitioner, by his count, has been published by 300 or more

[1] Where indicated, the Hearing Committee has determined that Disciplinary Counsel has met its burden of establishing unadjudicated misconduct by a preponderance of the evidence. *See* ODC Answer at 25 (proffer of evidence); Board Rule 9.8(a)-(b).

newspapers in the United States, including *The New York Times* and *USA Today*. Tr. 99. In advancing these pursuits, Petitioner has worked with luminaries in the law and the civil rights movement, including Justice Thurgood Marshall, Israeli Justice Eliezer Rivlin, and Reverend Jesse Jackson, with whom he collaborated on a book called *Legal Lynching*, a book about the death penalty in the United States. Tr. 118; PX 2 (letter from Rev. Jesse Jackson).

2. While disbarred from practicing law, see discussion *infra*, Petitioner has continued to focus on academic writing. Most recently, Petitioner has been working on two books, one on the Israeli Supreme Court, *see* PX 10, 11, and another book opining on the role of Attorneys General in the United States. *See* Tr. 16-17; PX 8, 9 (Critical acclaim by *The New York Times* editorial writer Jesse Wegman). Petitioner also reads Supreme Court decisions and other important caselaw. Tr. 33.

3. Prior to and following his disbarment, Petitioner formed at least three non-profit organizations, including Neighbors Opposed to Irritating Sound Emissions, formed in 1979; Made in the USA Foundation, formed in 1989; and California Association for Recycling All Trash, formed in 2020. PX 15 ("List of Non-Profit Organizations formed by Joel D. Joseph").

4. By his account, Petitioner previously litigated a number of "significant cases," including several in the area of false labeling, an area of law that Petitioner has spent time developing in court and through the legislative process. Tr. 32 (Petitioner: "I wrote and lobbied for the Country of Origin

Labeling Act federal law that was signed into law as well as the American Automobile Labeling Act. I testified in favor of that before Senator McCluskie on that act."); *see also* PX 16 ("Significant Cases of Joel D. Joseph").

Petitioner's 1985 Suspension in the District of Columbia and Petitioner's 2005 Failed Petition for Admission *Pro Hac Vice* in the U.S. District Court for the District of Rhode Island

5. Petitioner was administratively suspended from the practice of law in the District of Columbia for non-payment of dues in 1985 and remained administratively suspended in the District until 2015. Tr. 41-42 (Q: "So you had been administratively suspended for quite some time before you were disbarred in this jurisdiction?" Petitioner: "Yes").

6. In 2005, the U.S. District Court for the District of Rhode Island denied Petitioner's motion for admission *pro hac vice* for making "false representation[s]" in his application and for his "consistent and significant history of grossly unacceptable conduct in other courts." DCX 3 at 14 (order). In particular, Petitioner was found to have failed to disclose that he had been sanctioned by three different federal courts and failed to disclose prior applications for admission *pro hac vice* in that court. DCX 3 at 2; *see also* DCX 3 at 3-7 (outlining Petitioner's sanctions for vexatious conduct). The District Court denied Petitioner's application, finding that "Mr. Joseph's history in federal court proceedings is replete with repeated instances of unacceptable conduct," and that "[n]umerous monetary and non-monetary sanctions imposed by other courts have had little, if no remedial affect." DCX 3 at 14. At the reinstatement hearing,

Petitioner acknowledged that this order put him on notice of the importance of honesty when applying for admission *pro hac vice*. Tr. 43-44 (Q: "After reading this order . . . you understood the importance of being honest and upfront when seeking admission *pro hac vice*?" Petitioner: "Yes.").

7. The U.S. District Court for the District of Rhode Island's order noted that, in opposing the defendants' objection to Petitioner's admission *pro hac vice*, Plaintiffs, whom Petitioner was representing, asserted that Petitioner "did not understand the local rules of this court to be concerned with sanctions imposed under Rule 37 of the Federal Rules of Civil Procedure, or under similar rules," and that Petitioner "understood the court to be concerned with bar association and court disciplinary actions for violations of the code of ethics, bar rules, conflicts of interest and the like, not discovery matters." DCX 3 at 2 (quoting opposition). And at the hearing before this Committee, in considering DCX 3, Petitioner testified that he "had been admitted *pro hac vice* numerous times. This is the only time I was ever denied *pro hac vice* status and I think it was wrong. But, you know, things happen and I have to abide by what that court did." Tr. 45.

Adjudicated Misconduct Resulting in Petitioner's Maryland Disbarment[2]

8. Petitioner rented an office at 7272 Wisconsin Avenue in Bethesda, Maryland until January 2007, when he moved to California. Tr. 48-49 (Q: "That was an office address that you had previously occupied in Bethesda before you moved to California, correct?" Petitioner: "Yes, that's correct."); 31 A.3d at 144.

9. On January 31, 2007, Petitioner moved into an apartment at 1431 Ocean Avenue in Santa Monica, California. 31 A.3d at 144 & n.9 (quoting Petitioner's testimony in a 2008 Maryland disciplinary hearing); 31 A.3d at 146 ("There is clear and convincing evidence that [Petitioner] left Maryland on January 31, 2007, and traveled to California with the intent to reside and/or live there"); DCX 29 at 3 (transcript); Tr. 49 (Q: "in May of 2007, did you have a residence in Santa Monica, California?" Petitioner: "I rented an apartment there, yes."). Petitioner signed a twelve-month lease for the Ocean Avenue apartment, which had kitchen and bath facilities, and was where Petitioner kept his clothing and personal effects. 31 A.3d at 144.

10. After moving to California, Petitioner did not own or rent any residential properties or office space in Maryland. Tr. 49; 31 A.3d at 144: "After

[2] The Hearing Committee takes notice that the Court of Appeals of Maryland found these facts supported by clear and convincing evidence and drew its legal conclusions accordingly. *See Attorney Grievance Comm'n v. Joseph*, 31 A.3d at 153-54, 159. Consistent with the D.C. Court of Appeals' order of disbarment, the Hearing Committee and Petitioner agreed during the hearing that the reinstatement proceeding was an inappropriate venue to relitigate whether the Maryland courts' factual findings or legal conclusions were in error. Tr. 19-20 (Chair: "I want to make sure that we're on the same page, that we should not be spending time relitigating the disbarment itself." Petitioner: "I agree with you.").

that [January 2007] he rented no other apartments or condominiums in Maryland," and "owned no real estate in Maryland").

11. Petitioner opened a bank account in California in 2007. 31 A.3d at 145. In April 2007, Petitioner paid his annual assessment to the Maryland Client Protection Fund using a check bearing the Ocean Avenue address. 31 A.3d at 143. The Maryland Client Protection Fund corresponded with Petitioner at that Santa Monica, California, address. 31 A.3d at 143.

12. In April 2007, Petitioner informed a client that he had "moved to Santa Monica recently." 31 A.3d at 156.

13. By May 2007, Petitioner had a valid California driver's license. 31 A.3d at 145 ("he obtained a California license on May 14, 2007. . . . because he was told by a California police officer that if he lived in California for 30 days or more he had to get a California driver's license"); Tr. 49-50 (Petitioner: same). Petitioner registered his motor vehicle in California in mid-2007. 31 A.3d at 144.

14. "California courts do not allow *pro hac vice* admission if the applicant is a 'resident' of the state." 31 A.3d at 155 (citing California Rules of Court and caselaw). For purposes of *pro hac vice* admission, "resident" means a person who maintains an "abode of some permanency" in California, "irrespective of their domicile." 31 A.3d at 156.

15. On May 10, 2007, Petitioner signed an "Application of Non-Resident Attorney to Appear in a Specific Case" in the *Wartell* matter in the United States District Court for the Central District of California. 31 A.3d at 140; DCX 4

(application); Tr. 46-51. In that application, under penalty of perjury that his statements were true, Petitioner declared: "I am not a resident of, nor am I regularly employed, engaged in business, professional or other activities in the State of California," and that "I am not currently suspended or disbarred in any court." DCX 4 at 1. Petitioner stated that his out of state business address was 7272 Wisconsin Avenue, Suite 300, in Bethesda, Maryland. *ld*.

16. In June 2007, Petitioner filed a *pro se* complaint against Whole Foods in which he represented that venue was proper in the Superior Court of California, County of Los Angeles because "Plaintiff [Petitioner] resides here." 31 A.3d at 156-57.

17. On June 15, 2007, Petitioner signed a "Declaration of Joel D. Joseph In Support of *Pro Hac Vice* Application" in the *K-2* matter, a class action suit filed in the Superior Court of the State of California for the County of Los Angeles. 31 A.3d at 140; DCX 5 (declaration); Tr. 51-53. Petitioner declared under penalty of perjury that his statements were true, including "I am not a resident of, nor am I regularly employed, engaged in substantial business, professional or other activity in the State of California," and "I am not currently suspended or disbarred in any court." DCX 5 at 1-2; 31 A.3d at 141. Petitioner stated that his address was 7272 Wisconsin Avenue, Suite 300, Bethesda, Maryland. DCX 5 at 1. Previously, in March of 2007, Petitioner had contacted the Law Offices of Robert M. Moss and spoke with a paralegal assistant, Suzanne Brewer, and told her that he lived in Maryland and had an office in Maryland and was looking for local counsel to

sponsor his admission *pro hac vice* and to act as co-counsel in cases to be filed in California Courts. 31 A.3d at 140. On June 18, 2007, soon after Petitioner's declaration in support of *pro hac vice* application in the *K-2* matter had been submitted, Ms. Brewer was contacted by the California State Bar concerning the application because they needed the address of Petitioner's residence, not only an office address for Petitioner; the Bar employee faxed Ms. Brewer a form to be completed for the residential address. 31 A.3d at 141. Ms. Brewer contacted Petitioner who then emailed her that "My residence address in Maryland is 4938 Hampden Lane, Apt. 118, Bethesda, MD," and when he came to the office to sign the form, Petitioner told Ms. Brewer that he lived with his girlfriend at the Hampden Lane address. *ld.* Petitioner signed the supplemental form attesting that the Hampden Lane address was his residence, and Ms. Brewer returned the form to the California State Bar. *ld*.

18. In July 2007, Petitioner applied for his mail to be received at a UPS Store located at 4938 Hampden Lane in Bethesda, Maryland. 31 A.3d at 142-43; Tr. 52 (Q: "is Hampden Lane the UPS box?" Petitioner: "Yes, it is"). When applying to rent the mailbox, however, Petitioner stated that his "home address" was in Santa Monica, California, and Petitioner provided his California driver's license to prove his identity. 31 A.3d at 143.

19. The Court of Appeals of Maryland concluded that Petitioner was dishonest in his communications with the State Bar of California, Ms. Brewer, and Mr. Moss. "It was clear from Respondent's communication with Brewer that he

understood that the State Bar of California was trying to obtain the address of his residence in the usual sense of the word." 31 A.3d at 149.

20. On November 6, 2007, Petitioner signed a "Declaration of Joel D. Joseph in Support of *Pro Hac Vice* Application in the *Panera* matter, also in the Superior Court of the State of California for the County of Los Angeles. 31 A.3d at 141-42; DCX 6 (declaration). Petitioner declared under penalty of perjury that his statements were true, including "I am not a resident of, nor am I regularly employed, engaged in substantial business, professional or other activity in the State of California," and "I am not currently suspended or disbarred in any court." DCX 6 at 1-2. Petitioner stated that his "out-of-state address" was 4938 Hampden Lane, Suite 118, Bethesda, Maryland 20814. DCX 6 at 1.

21. The Court of Appeals of Maryland concluded that Petitioner's repeated sworn statements that he did not reside in California, did not regularly work in California, and did not engage in other activities in California, were knowingly false. 31 A.3d at 157 ("Thus at no point could [Petitioner] have reasonably believed the truthfulness of his averments in court documents that 'I am not a resident of, nor am I regularly employed, engaged in business, professional or other activities in the State of California'"). Petitioner "clearly knew that both of these representations [regarding using the Hampden Lane address as his residence and office] were false." 31 A.3d at 149. He had "a clear intent to deceive the California courts." 31 A.3d at 159. Petitioner "was a resident of California because he was actually living there for a substantial period of time." *ld*. While

Petitioner used his out-of-state residential and business address in *pro hac vice* applications, evidence in Petitioner's disciplinary hearing in Maryland showed that Petitioner had provided his Ocean Avenue apartment's address in Santa Monica, California as his mailing address for the Client Protection Fund of the Bar of Maryland. 31 A.3d at 142-43. Petitioner also used his Ocean Avenue address on a check he had used to pay for his Maryland bar dues. 31 A.3d at 142-43.

22. Petitioner "was not truthful in declaring that his 'residence' in Maryland was a UPS mailbox at 4938 Hampden Lane." 31 A.3d at 158. Ms. Brewer later learned that Petitioner had maintained an address at Ocean Avenue in Santa Monica, California. 31 A.3d at 142. When she asked Petitioner about his Ocean Avenue address in Santa Monica, and he falsely represented to her that he only used it when he came to California several times a month because it was cheaper than staying in a hotel. 31 A.3d at 142. Ms. Brewer later realized that the Hampden Lane address in Maryland was actually a UPS store, and not an apartment as he had told her previously. 31 A.3d at 143.

23. Petitioner's statements that he maintained a law office at 7272 Wisconsin Avenue in Bethesda, Maryland, were also "false and misleading, in that, at the time, he no longer had such an office." 31 A.3d at 148.

24. The Court of Appeals of Maryland determined that Petitioner's conduct "lacked candor, was dishonest, misleading, prejudicial to the administration of justice, and beyond excuse." 31 A.3d at 159. The court found no

mitigating circumstances and ordered Petitioner's disbarment on October 27, 2011. 31 A.3d at 159.

Petitioner Failed to Self-Report His Disbarment in Colorado Federal Court[3]

25. Petitioner failed to self-report his Maryland disbarment to the U.S. District Court for the District of Colorado ("Colorado district court"), as was his obligation under that court's rules. DCX 7. Instead, Petitioner requested a certificate of good standing from the Colorado district court, following his disbarment but without having disclosed it. *See* DCX 7 at 1 (Letter from Deputy Clerk of the U.S. District Court for the District of Colorado).

26. Had Petitioner fulfilled his obligation to self-report his disbarment, the Colorado district court would have downgraded his status to "not in good standing." DCX 7 at 2 (Stating that Petitioner "was under a duty to report his disbarment by the state of Maryland . . . . Had he complied with [the local rules] his bar status would have been downgraded to reflect his lack of good standing, retroactive to the date of his disbarment").

27. Instead of self-reporting his disbarment, Petitioner entered his appearance in a case in the Colorado district court. *See* DCX 7 at 2; Tr. 56 (Q: "After your disbarment, you entered your appearance in a case in that court[?]" Petitioner: "That's correct."). If the clerk had been aware of Petitioner's Maryland

[3] This misconduct occurred before Petitioner's discipline in D.C., and the Committee finds that Disciplinary Counsel has established the underlying facts by a preponderance of evidence. *See* Board Rule 9.8(a)-(b).

disbarment, Petitioner's appearance "would have been stricken or subject to immediate disqualification upon his filing the complaint." DCX 7 at 2.

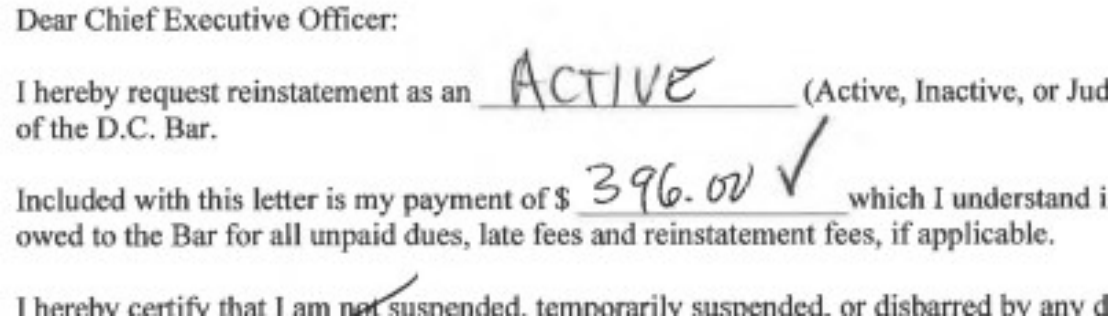
28. After Maryland Bar Counsel informed the Colorado district court of Petitioner's disbarment in 2014, Petitioner's status was downgraded to "not in good standing," retroactive to the date of his Maryland disbarment on October 27, 2011, and the court notified Petitioner that any certificates of good standing were void because they "would not have been issued but for his failure to comply with duties he owed the Court as a member of the bar." DCX 7 at 2.

Petitioner Failed to Self-Report His Disbarment in the District of Columbia[4]

29. D.C. Bar R. XI, § 11(b) provides that attorneys who are members of the D.C. Bar "shall promptly inform Disciplinary Counsel" of any "disciplinary action [imposed] by another disciplining court." Petitioner, however, did not self-report his on October 27, 2011 Maryland disbarment to Disciplinary Counsel.

30. On August 18, 2015, while on administrative suspension in the District of Columbia for failing to pay dues, Petitioner completed the D.C. Bar's form for requesting reinstatement as an active member. DCX 8; *see* Tr. 41-42. The form is a type-written form with blanks for the applicant to fill in. *Id.* This form stated, "I hereby certify that I am not suspended, temporarily suspended, or disbarred by any disciplinary authority." DCX 8 at 1. Petitioner crossed out the word "not" and added "*See Attached." DCX 8 at 1:

[4] This misconduct occurred before Petitioner's discipline in D.C. *See* n.3.


Dear Chief Executive Officer:

I hereby request reinstatement as an ACTIVE (Active, Inactive, or Jud
of the D.C. Bar.

Included with this letter is my payment of $ 396.00 ✓ which I understand i
owed to the Bar for all unpaid dues, late fees and reinstatement fees, if applicable.

I hereby certify that I am not suspended, temporarily suspended, or disbarred by any d

31. Attached to the form was a "Supplement to Reinstatement Form for DC Bar," which disclosed that Petitioner had been disbarred in Maryland, reciprocally suspended in Ohio, and denied reinstatement in Ohio, but argued Petitioner had been denied due process in Maryland. DCX 8 at 2-3.

32. Nothing in the record indicates that anyone at the Bar noticed Petitioner's alteration to the form or reviewed his attachment.

33. After receiving Petitioner's form and payment, the D.C. Bar Membership Department lifted Petitioner's administrative suspension for non-payment of dues and returned Petitioner to Active membership. Tr. 62. Petitioner had not contacted the Office of Disciplinary Counsel (or the D.C. Board on Professional Responsibility) about his disbarment in Maryland, so the D.C. Court of Appeals had not yet suspended his license pending reciprocal discipline proceedings. *See* D.C. Bar R. XI, § 11(d).[5]

[5] On October 8, 2015, the D.C. Court of Appeals issued an order directing Petitioner to show cause why reciprocal discipline should not be imposed. *See Joseph*, 128 A.3d at 643.

34. After the administrative suspension was lifted, Petitioner filed a supplement to his motion to reconsider denial of his reinstatement in Ohio on August 31, 2015. DCX 9. That pleading stated:

> The District of Columbia Bar was fully apprised of the Maryland and Ohio bar sanctions. Nevertheless the DC Bar reinstated [Petitioner]. Similarly, the Ohio Board of Grievances and discipline found that [Petitioner] met all of the requirements for reinstatement to the Ohio Bar, save admission to the Maryland Bar. The DC Court went one step further and readmitted [Petitioner].

DCX 9 at 1.

35. The altered form Petitioner submitted to the D.C. Bar Membership Department was the first time he shared the fact of his Maryland disbarment with the D.C. Bar. Petitioner's assertion that the altered form was a good faith or otherwise "full" disclosure of his disbarment to the Office of Disciplinary Counsel is not credible. *See* Tr. 63-64; DCX 9 at 1.

36. Petitioner was thereafter disbarred in the District of Columbia, as a matter of reciprocal discipline, on December 17, 2015. DCX 1.

Petitioner Was Aware of the Proper Reinstatement Procedure

37. In February 2017, Petitioner wrote a letter to Disciplinary Counsel regarding his possible reinstatement. DCX 31. Petitioner characterized his misconduct as "allegedly falsely stating to a court in California that I was a resident of Maryland." DCX 31. In fact, he was disciplined for falsely certifying that he did *not* have a residence or other connections in California and using false addresses, rather than whether he had any residence in Maryland. *See* FF 21-23.

38. Petitioner's letter to Disciplinary Counsel indicated that he understood that he would be required to petition for reinstatement before reactivating his license in the District of Columbia. *See* DCX 31; Tr. 65 (Petitioner: "Apparently so.").

39. Petitioner thereafter filed a petition for reinstatement in the District of Columbia on March 9, 2017. DCX 10 at 1. That petition was dismissed because five years had not yet elapsed since his disbarment. DCX 10 at 2-3 ("Petitioner is not eligible for reinstatement because five years have not passed since October 29, 2015, the effective date of his disbarment."); Tr. 66 (Q: "This order dismissed a premature petition for reinstatement[?]" Petitioner: "That's correct.").

Post-Discipline Misconduct: Second Improper Reinstatement in D.C.[6]

40. Rather than waiting five years and following the proper procedure by petitioning the Board on Responsibility, Petitioner filed yet another improper reinstatement request with the D.C. Bar's Membership Department. DCX 11.[7] On June 9, 2020, Petitioner filed an online form and falsely certified "I am not suspended, temporarily suspended, or disbarred by any disciplinary authority." DCX 11.

41. Petitioner's online form and certification were dishonest because he knew this was not the proper procedure to follow, *see* D.C. Bar R. XI, § 16(d)(1)

[6] This misconduct occurred after Petitioner's discipline in D.C. *See* Board Rule 9.8(d).

[7] The D.C. Bar Membership Department may reinstate lawyers who were administratively suspended for failing to pay dues, but the Membership Department cannot unilaterally reinstate a disbarred attorney. *See* D.C. Bar R. II (Membership), § 8.

(disbarred attorney to file petition for reinstatement and proof of rehabilitation with the Board on Professional Responsibility), he knew he was not yet eligible for reinstatement because five years had not passed since the effective date of his disbarment, and he knew that he had been disbarred by multiple disciplinary authorities. Tr. 72. When asked about his false certification, Petitioner testified that he had no choice because of alleged deficiencies in the Bar's form: "It's just the form didn't allow me to do anything." Tr. 69-70 (Petitioner). Petitioner also asserted that he filed the form by mistake. Tr. 70 (Petitioner: "I didn't intend for that to be filed. But it was electronically filed anyway.").

42. As a result of Petitioner's online submission, the Bar's records were wrongly updated to reflect that he was in good standing. Tr. 70 (Q: "As a result of this form, did the DC Bar reactivate your license to active status?" Petitioner: "I think it did."). There was no reinstatement hearing, and, in fact, Petitioner was not yet eligible to file a petition for reinstatement with Board on Professional Responsibility, but as a result of the online submission and his false certification, the Bar's records were changed to reflect that Petitioner had been restored to Active status. Tr. 70.

43. Petitioner did not advise the Bar or Disciplinary Counsel that he had been improperly restored to Active status, or that he had incorrectly certified that he was not disbarred. *See* Tr. 73. Based on his false certification, Petitioner wrongfully obtained a certificate of good standing and a letter from the Clerk of the District of Columbia Court of Appeals. DCX 12 at 2-3; Tr. 73.

44. Petitioner submitted this wrongfully obtained certificate and letter to the U.S. Court of Appeals for the District of Columbia Circuit in connection with his efforts to be reinstated before that court. DCX 12 at 1 ("The District of Columbia bar has reinstated petitioner. A copy of his certificate of good standing from the Bar of the District of Columbia is attached."); Tr. 74 (Q: "And [on] the basis of that certificate you tried to be reinstated in the DC Circuit[?]" Petitioner: "That's correct.").

45. The D.C. Bar Membership Department thereafter corrected its records regarding Petitioner's membership status and returned him to disbarred status. Tr. 75.

Petitioner's Post-Discipline Conduct As a Vexatious Litigant[8]

46. In 2006, prior to his disbarment, Petitioner was ordered to pay sanctions in the *Red Carpet Studios* case. DCX 15. The court found that Petitioner's litigation tactics "unnecessarily multiplied the proceedings," he was "vexatious and harassing," and he "needlessly increased the costs of litigation." DCX 15 at 4. Petitioner never paid the $10,000 award. Tr. 78-79 (Q: "Did you satisfy that order?" Petitioner: "No."). At the very least, this order put Petitioner on notice of the importance of avoiding vexatious litigation tactics.

47. In 2016, after Petitioner's disbarment, he filed a suit titled *Joel D. Joseph v. Nordstrom, lnc., et al*. DCX 14. In dismissing his claims, the U.S.

[8] Unless expressly noted, this conduct occurred after Petitioner's disbarment. *See* Board Rule 9.8(d).

District Court for the Central District of California warned Petitioner that he "risks penalties if he makes factual allegations in future complaints that are unlikely to have evidentiary support after discovery." DCX 14 at 5.

48. In 2019, he was found to be a vexatious litigant in *Joel D. Joseph v. CVS Pharmacy*. DCX 13; Tr. 76 (Petitioner: "That's what they found."). Petitioner was ordered to pay $54,486 in attorneys' fees, although he only paid $5,000. DCX 13 at 5, 8; Tr. 76 (Q: "Did you ever pay the $54,000 attorney fee award?" Petitioner: "Part of it. $5,000.").

49. On June 24, 2019, Petitioner threatened to sue Maryland Bar Counsel personally for $10,000,000 "under 42 U.S.C. § 1983 and the libel laws," alleging that she had "wrongfully deprived me of my right to practice law" and "lied to the Court of Appeals." DCX 27; Tr. 97-98. On August 2, 2019, Petitioner again threatened suit, this time requesting a total of $20,000,000 in damages. DCX 28 at 1, 7.

50. Petitioner twice sued the California State Bar after he failed the bar examination but "[f]elt that he did pass." Tr. 111, 113-14. In his closing at the disciplinary hearing, Petitioner acknowledged that these suits were considered vexatious. Tr. 129 (Petitioner: "So they count that as one [vexatious suit]. I filed another case against the bar. And they add these up.").

Information Omitted from the Reinstatement Questionnaire[9]

[9] This misconduct occurred after Petitioner's discipline in D.C. *See* Board Rule 9.8(d).

51. Question 15 of the Reinstatement Questionnaire requested information about "every civil action, in any jurisdiction, during the period of disbarment or suspension wherein the petitioner was either a party plaintiff or defendant or in which he had or claimed an interest "

52. In 2017, Petitioner filed a civil complaint styled *Joel D. Joseph v. Santa Monica*. *See* DCX 16. Petitioner omitted this civil case from his Reinstatement Questionnaire. Tr. 80.

53. In 2017, Petitioner filed a civil complaint styled *Joel D. Joseph v. Lag Sports & Leather Wear LLC*. DCX 17. Petitioner omitted this civil case from his Reinstatement Questionnaire. At the hearing he was non-responsive to a question about whether this case was disclosed in his reinstatement package. Instead, he testified "Well, I actually brought this for another company as Made in the USA issue." Tr. 80. Petitioner was disbarred at the time and ineligible to represent other parties.

54. In 2019, Petitioner filed a civil complaint styled *Joel D. Joseph v. lnternet Archive*. DCX 19. Petitioner was seeking copyright damages of $150,000 per day for online publication of his book, *Black Mondays*, as well as actual and treble damages under the Racketeer Influenced and Corrupt Organizations Act (RICO). DCX 19 at 7. This is the same book admitted into the record as PX 5. Petitioner failed to identify this civil case in his Reinstatement Questionnaire.

55. In 2020, Petitioner filed a civil complaint styled *Joel D. Joseph v. Price Waterhouse Coopers Corporate Finance LLC*. DCX 18. Petitioner's

complaint sought $10,000,000 in total damages. DCX 18 at 4. Petitioner omitted this civil case from his Reinstatement Questionnaire. Tr. 82 (Petitioner: attempting to justify the omission as "inadvertently not disclosed because it was never pursued").

56. Petitioner failed to attach a copy of his Section 14(g) affidavit to his Reinstatement Questionnaire. *See* R.Q. 27.

Post-Discipline Unauthorized Practice of Law in the *Francis* Matter[10]

57. Roger Francis and his wife, Marta Ortega, sought legal assistance online, requesting help with "multiple high-profile court filings ranging from Fair Housing Title VIII to Appeals Court, etc." DCX 20 at 6. On July 26, 2018, Petitioner responded using the business name "Pro Se Filings," stating that a "detailed and documented complaint will take me over 100 hours to prepare. I can do it for a flat fee of $15,000. Can you make a modest advance payment to get me started?" DCX 20 at 4-5, 7. Several days later, Petitioner followed up and told Mr. Francis, "I am excited to work with you. However, in order to set aside time for your cases, I will need an advance payment of $750 to prepay for ten hours of consulting," and "I have previously charged $600 per hour for legal work so you are getting a lot of value." DCX 23 at 3. On December 14, 2018, Petitioner requested an additional $150 for a follow up conversation with two doctors and to "review court orders and interrogatories." DCX 23 at 17.

[10] This conduct occurred after Petitioner's discipline in D.C. *See* Board Rule 9.8(d).

58. At the time Roger Francis and his wife hired Petitioner, they were residents of California. DCX 20 at 2; DCX 20 at 11. The representation involved toxic tort claims stemming from an apartment they had previously occupied in Barberton, Ohio. DCX 25 at 3-10, 14. At all times relevant to the Francis complaint, Petitioner was not authorized to practice law in either California or Ohio. Tr. 111 (Petitioner: "I'm not a member of the California Bar."); R.Q. 8 ("Maryland and Ohio have thus far denied reinstatement.").

59. Mr. Francis sent Petitioner multiple payments, using the Zelle platform, with the description "Legal Services." DCX 23 at 4-9.

60. On October 8, 2018, Mr. Francis organized a telephonic legal consultation with various lawyers who were involved in the case. DCX 24 (audio recording); DCX 25 (transcript); Tr. 90 (Q: "do you recall the telephone conference organized by Mr. Francis on October 8, 2018?" Petitioner: "Yes."). During the call, Petitioner introduced himself as "an attorney out in California," without disclosing that he was disbarred or that he had never been licensed in California. DCX 25 at 11. Petitioner later stated that he had "practiced law for over 40 years," and proceeded to discuss various potential causes of action presented by Mr. Francis's case. DCX 25 at 12-13.

61. Later in the telephone conversation, another attorney asked, "Counsel, just counsel, is that the sort of the question before us right now?" DCX 25 at 25. Without disclosing that he could not practice law or act as counsel because he was disbarred, Petitioner was the first person to answer the question posed only to the

attorneys on the call. DCX 25 at 25 (Petitioner: "I think so."); Tr. 93 (Q: "you were the first person to respond[?]" Petitioner: "Yes.").

62. Mr. Francis became dismayed and upset when he later learned that Petitioner was disbarred, and he asked, "How are you charging for 'legal services' as an 'attorney,' when you are not admitted to the California Bar, and you have NO right to practice law???" DCX 21 at 1 (emphasis in original). Mr. Francis also asked similar questions about Petitioner's disbarment and whether he disclosed to other attorneys involved that he was disbarred. DCX 21 at 1-2.

63. In response to Mr. Francis's questions, Petitioner answered "I am an attorney and never said I was a member of the California bar." DCX 21 at 1.

64. On March 5, 2019, Mr. Francis filed a complaint with the Office of Disciplinary Counsel, alleging that Petitioner had engaged in the unauthorized practice of law in California. DCX 20.

65. Petitioner responded June 11, 2019, that, "I did not offer him legal services" but simply "drafted the FOIA letter in his name." DCX 22. Petitioner stated that he never held himself out as a member of any bar, "expressly told him that I was not a member of the California bar," and "I never acted as Mr. Francis's counsel." DCX 22. He also admitted speaking to another attorney about Mr. Francis's matter. DCX 22 (presumably referring to the conversation transcribed as DCX 25).

66. On August 7, 2019, the Office of Disciplinary Counsel dismissed Mr. Francis's complaint without prejudice to reopening if Petitioner sought

reinstatement. DCX 26. Petitioner was copied on this letter, and it put him on notice for purposes of Board Rule 9.8(a) (notice to attorney of evidence of unadjudicated acts of misconduct).[11] DCX 26; Tr. 96 (Q: "So you knew that Mr. Francis' complaint was dismissed without prejudice[?]" Petitioner: "Yes."). Petitioner was further put on notice by Disciplinary Counsel's Answer to the Petition.

Petitioner's Improper Use of the Term "Lawyer"[12]

67. Petitioner maintains an active presence online, including on the website, OpEdNews. PX 12; Tr. 99.

68. On OpEdNews, Petitioner describes himself as a "lawyer." DCX 32. As of around the February 10, 2022 hearing, Petitioner had been a member of OpEdNews for 477 weeks and 4 days, which means he could not have joined before December 2012. DCX 32; DCX 33 (DateTimeGo calculation); Tr. 102. Petitioner was disbarred in Maryland in October 2011 and was thereafter obligated to self-report his discipline to every other jurisdiction. DCX 2. Even though Petitioner did not promptly self-report his discipline, his ongoing description of himself as a lawyer after that date is misleading to the public.

[11] Disciplinary Counsel's Answer also put Petitioner on further notice and provided a proffer of the anticipated evidence of unadjudicated acts alleged in this proceeding as required by Board Rule 9.8(b).

[12] This misconduct occurred after Petitioner's discipline in D.C. *See* Board Rule 9.8 (d).

Petitioner's Purported Character Evidence

69. Petitioner submitted a letter from Rev. Jesse Jackson dated November 29, 2016. PX 2. Rev. Jackson states that he has known Petitioner for over twenty-five years, had collaborated with him on several books, and was aware of Petitioner's legal work on behalf of indigent clients and organizations that served the public interest. *ld.* Based on his understanding of Petitioner's work and contributions, Rev. Jackson "strongly recommend[ed] that you and the members of the Court enter an order granting [Petitioner] re-admission to the Maryland Bar." *ld.* Rev. Jackson concluded that he was "confident that [Petitioner] will return as a valuable member of the legal profession." *ld.*

70. Rev. Jackson's letter does not specifically address the nature of Petitioner's misconduct, and does not address any steps Petitioner had taken to change his behavior. *ld.*

71. Petitioner submitted an undated copy of a "Corporate Counsel Award" he apparently received from the Los Angeles Business Journal. PX 3. Petitioner has not explained whether this award predated his disbarment or whether he was continuing to act as counsel after his disbarment. Petitioner has not explained the relevance of this award or the criteria used for determining who receives such an award.

72. Petitioner submitted a letter from California legislator Brian W. Jones dated October 19, 2015. PX 4. The letter was written before Petitioner was disbarred in the District of Columbia and does not indicate that Mr. Jones was

aware of Petitioner's misconduct. PX 4. Mr. Jones's letter recognizes that Petitioner's "support has been instrumental in changing California's 'Made in America' standard, which will provide California an opportunity to compete with other states and nations for jobs and investments." *ld.* The letter is signed and includes an apparently handwritten note stating "Joel, Thanks for all your help."

73. Petitioner submitted a declaration from Andrew Maguire dated December 29, 2012. PX 7. This declaration was made before Petitioner was disbarred in the District of Columbia and does not indicate that Mr. Maguire was aware of Petitioner's misconduct. *ld.* Mr. Maguire's declaration states that he has known Petitioner for more than ten years, that Petitioner is "extremely honest and fair in dealing with legal matters," that Petitioner "has provided valuable legal advice to [him] on many occasions," that Petitioner "represented [him] in a case in Maryland and in U.S. District Court in the District of Columbia," that he was "very pleased with the way that [Petitioner] handles the cases for [him]," and that Petitioner "kept [him] in formed [sic] of the status of [his] case, met with [him] to explain the settlement, and made sure [he] was paid promptly." *ld.*

IV. CONCLUSIONS OF LAW

A. Nature and Circumstances of the Misconduct for Which the Attorney was Disciplined

The nature and circumstances of Petitioner's prior misconduct is a significant factor in the reinstatement determination, because of its "obvious relevance to the attorney's 'moral qualifications . . . for readmission'" and the Court's "duty to insure that readmission 'will not be detrimental to the integrity

and standing of the Bar.'" *ln re Borders*, 665 A.2d 1381, 1382 (D.C. 1995) (quoting D.C. Bar R. XI, § 16(d)). Where a petitioner has engaged in grave misconduct "that [] is [] closely bound up with [p]etitioner's role and responsibilities as an attorney," the scrutiny of the other *Roundtree* factors shall be heightened. *ld.* at 1382 (denying reinstatement where the petitioner's misconduct, in soliciting bribes from criminal defendants in exchange for lenient treatment from a judge, involved the practice of law and went to the "heart of the integrity of the judicial system").

The nature and circumstances of Petitioner's misconduct is serious and troubling. In particular, lying to a court about his residency to obtain admission *pro hac vice* directly relates to Petitioner's honesty, integrity, and judgment— foundational qualities in the practice of law and the candor required of officers of the court. Despite living in California at the time, Petitioner chose to declare that his business address and "residence" was a Maryland UPS mailbox to satisfy California's requirement that only non-resident attorneys may be admitted *pro hac vice* in California courts. FF 8-24. While the misconduct for which Petitioner was disbarred was not directed at his clients, the Maryland courts correctly observed that Petitioner misled those sponsoring his *pro hac vice* application and the court. Such dishonesty by a licensed attorney is detrimental to the integrity and standing of the Bar, is prejudicial to the administration of justice, and cannot be taken lightly.

B. Petitioner's Post-Discipline Conduct

Under this *Roundtree* factor, the Court considers a petitioner's "conduct since discipline was imposed, including the steps taken to remedy past wrongs and prevent future ones." *Roundtree*, 503 A.2d at 1217. "In reinstatement cases[,] primary emphasis should be given to matters bearing most closely on the reasons why the attorney was suspended or disbarred in the first place." *ln re Mba-Jonas*, 118 A.3d 785, 787 (D.C. 2015) (per curiam) (quoting *ln re Robinson*, 705 A.2d 687, 688-89 (D.C. 1998)) (alteration in original) (denying reinstatement where the petitioner's post-suspension handling of personal financial accounts "reflect[ed] the very conduct that led to his indefinite suspension").

Petitioner's post-discipline conduct shows that he is an intellectually robust and curious person who continues struggling to deal with the character traits that led to his disbarment. Evidence before the Hearing Committee does not show that the misconduct that led to his disbarment has abated. If anything, Petitioner's conduct since his disbarment shows that he has failed to accept the problems that resulted in his disbarment.

The record and testimony from the hearing shows that Petitioner has been engaged in academic pursuits during his period of disbarment. In particular, he has maintained an active presence writing for online publications including OpEdNews and other newspapers. *See* FF 1, 67; Tr. 99 (Q: "You said you contribute articles to this website about once a month?" Petitioner: "And other publications. I've been published by 300 or more newspapers in the United States."). Petitioner has

also, for example, written two academic books in the past several years. FF 2. These evidence Petitioner's commendable decades-long engagement with legal issues and academia.

However, the record contains more than ample evidence that Petitioner repeatedly misleads others for his personal benefit. The examples are numerous and compelling to the Hearing Committee.

After being disbarred in Maryland, Petitioner failed to report his disbarment to other jurisdictions and, despite knowing he had been disbarred, inexplicably and deceptively requested certificates of good standing and sought reinstatement in the U.S. Court of Appeals for the District of Columbia Circuit and Ohio. FF 25, 28-29, 34, 43-44.

Petitioner was admitted to the bar of the Colorado district court on September 23, 2003. DCX 7 at 1. On October 27, 2011, Petitioner was disbarred from the practice of law in Maryland. DCX 2 at 1, 14. Under the local rules of the Colorado district court, Petitioner had an affirmative duty to self-report his disbarment within ten days of his disbarment order. DCX 7 at 2 (referencing D.C.COLO.LCivR 83.3E.1 and calculating a November 6, 2011 deadline for Petitioner to have reported his disbarment); FF 25. Petitioner failed to self-report his disbarment to the Colorado district court, and he erroneously remained in "good standing" because the court was not aware of his disbarment. DCX 7 at 2 ("[H]ad he reported his disbarment, I would have made the necessary notation in

the court record of his lack of good standing[.]"); FF 25-26, 28.[13] Under the local rules of the Colorado district court, Petitioner's failure to report his disbarment is a cause for disciplinary action. DCX 7 at 2 (citing D.C.COLO.LCivR 83.3E.2); FF 28. However, Petitioner did more than simply fail to report his disbarment; Petitioner requested a certificate of good standing and entered his appearance in a case before the Colorado district court. FF 26-27; DCX 7 at 2; Tr. 56 (Q: "After your disbarment, you entered your appearance in a case in that court[?]" Petitioner: "That's correct.").

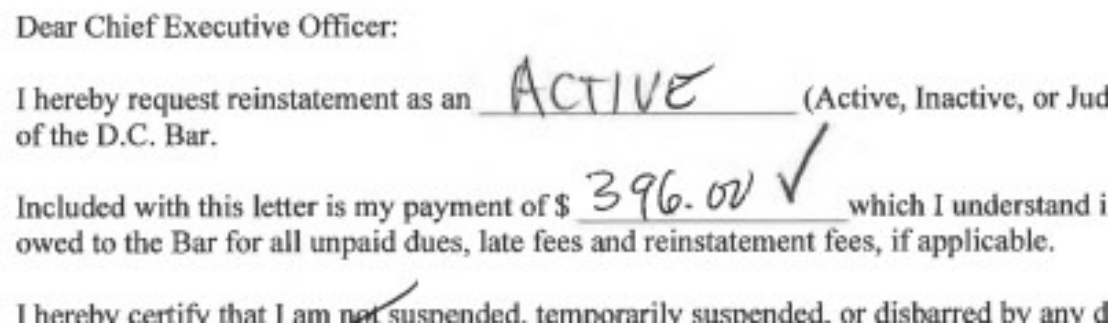
Petitioner demonstrated similar conduct in the District of Columbia. After being disbarred in Maryland, DCX 2 at 14, Petitioner failed to report his disbarment to the Office of Disciplinary Counsel, as required by D.C. Bar R. XI, § 11(b). FF 29; Tr. 62 (Q: "Have you ever disclosed this to the Office of Disciplinary Counsel?" Petitioner: "No, I wasn't an active member of the bar." Q: "So you never disclosed it to the Board on Professional Responsibility?" A: "Not until [August 18, 2015] I disclosed it."). Instead, Petitioner applied for reinstatement as an active member of the District of Columbia Bar and, on his request for reinstatement-a form prepared by the District of Columbia Bar with blanks for the applicant to fill-in—Petitioner crossed out part of the certification to

[13] The Hearing Committee does not credit Petitioner's testimony that he believed that he did self-report his disbarment to the Colorado district court. Tr. 55 (Q: "Do you believe that you did self-report?" Petitioner: "Yes."). DCX 7 makes clear that the Colorado district court would not have granted a certificate of good standing if it was aware of Petitioner's disbarment. And, if Petitioner believed that he had reported his disbarment to that court, his subsequent request for a certificate of good standing and entry of appearance in a litigation while disbarred in Maryland show that his moral and ethical compass has not improved during his period of disbarment.

indicate that he had been disbarred and attached a "supplement" that represented that he had been disbarred. FF 30-31; DCX 8. The District of Columbia Bar erroneously changed its records to reflect that Petitioner was an "Active Member." Petitioner was later disbarred, as a matter of reciprocal discipline, on December 15, 2015. FF 33, 36; Tr. 62; DCX 1.

Petitioner used the erroneous certificate of good standing from the District of Columbia Court of Appeals as a supplemental attachment to motion he had filed for reinstatement to the Ohio Bar. FF 29-34; DCX 9. As part of his supplement to the motion, Petitioner represented that he had been "readmitted to the Bar of the District of Columbia in August 2015," and asserted that the "District of Columbia Bar was fully apprised of the Maryland and Ohio bar sanctions." DCX 9 at 1; FF 34.

Just like the conduct that led to his disbarment, Petitioner's representations and actions in these three jurisdictions, Colorado, D.C. and Ohio, show a blinkered focus on his self-interest and a disregard for candor, honesty, and integrity. Exploiting the Colorado district court's unawareness of his disbarment was dishonest and violated the court's local rules. *See* DCX 7 at 2 (citing D.C.COLO.LCivR 83.3E.2); FF 28. Altering the District of Columbia Bar's type-written certification was also dishonest and deceptive because the certification is clearly a requirement to apply for reinstatement and not a line for applicants to revise; the form makes clear with blank spaces where applicants are intended to modify the form. *See* DCX 8 at 1:


Dear Chief Executive Officer:

I hereby request reinstatement as an ACTIVE (Active, Inactive, or Jud
of the D.C. Bar.

Included with this letter is my payment of $ 396.00 ✓ which I understand i
owed to the Bar for all unpaid dues, late fees and reinstatement fees, if applicable.

I hereby certify that I am ~~not~~ suspended, temporarily suspended, or disbarred by any d

Petitioner knew that this certification language required that he certify that he was "not suspended, temporarily suspended, or disbarred by any disciplinary authority." The form did not include an option for certifying the statement by deleting the word "not." Petitioner's squirrely alterations to the form and attachment of a supplemental statement regarding his disbarment shows Petitioner's penchant for manipulation and deception; and not forthrightness or candor. These qualities are also apparent in Petitioner's statement to the Ohio bar, in which he suggests that he had been readmitted to the Bar of the District of Columbia in August 2015 after the District of Columbia Bar had been "fully apprised of the Maryland and Ohio bar sanctions." DCX 9. Indeed, although it is arguable that Petitioner's "supplement" to his request for reinstatement provided notice to the District of Columbia Bar, the Hearing Committee finds that it was dishonest for Petitioner to represent that the District of Columbia Bar was "fully apprised," based on his alteration of the reinstatement form and the Bar's erroneous decision to change its records to reflect that he was on "active status" without any discussion of his disbarments in Maryland and Ohio. The Hearing Committee further finds it was dishonest for Petitioner to state to the Ohio

Supreme Court that he had been "readmitted" to the Bar of the District of Columbia in August 2015, because it vaguely suggests that Petitioner had been disbarred and subsequently readmitted to practice in the District of Columbia (the very relief he was seeking from the Ohio Bar). *See* DCX 9.

After Petitioner's 2015 disbarment in the District of Columbia, despite a five-year mandatory waiting period to apply for readmission, *see* FF 39; DCX 10 at 3; Tr. 66-67, Petitioner improperly submitted an online form with the D.C. Bar Membership Department for readmission despite his knowledge that, as a disbarred attorney, he had to file a petition for reinstatement and proof of rehabilitation with the Board on Professional Responsibility. *See* FF 40-45. Although he knew his status had been improperly classified as in "good standing," he obtained a certificate of good standing from the D.C. Court of Appeals, which he used to try and gain reinstatement to the United States Court of Appeals for the District of Columbia Circuit. FF 43-44. Again, this manipulative and misleading gamesmanship, intended to exploit administrative errors by the D.C. Bar Membership Department to Petitioner's advantage, does not support readmission and Petitioner failed to provide any reasoned or otherwise acceptable explanation for these sharp tactics.

After his 2015 disbarment in D.C., Petitioner had several other post-discipline incidents that weigh against readmission. In 2019, he was found to be a vexatious litigant in *Joel D. Joseph v. CVS Pharmacy*. FF 48; DCX 13; Tr. 76 (Petitioner: "That's what they found."). Petitioner was found to be a vexatious

litigant in California and Petitioner refused to fully pay a $54,000 attorney fee award entered against him. FF 46-48; Tr. 76 (Q: "Did you ever pay the $54,000 attorney fee award?" Petitioner: "Part of it. . . . $5,000."). After denying that he is a vexatious litigant, *see* Tr. 76 ("I'm not a vexatious litigant. That's what they found."); Tr. 122 ("I've never filed a frivolous case or a vexatious case, so those allegations are completely wrong, completely false."), Petitioner explained that California considers any *pro se* litigant that has five cases dismissed within a five-year period to be "vexatious." Tr. 129. However, Petitioner also asserted that "[e]ven if you are right in those cases, they consider them vexatious." *ld.* Again, this behavior does not support reinstatement. The finding that Petitioner was a vexatious *pro se* litigant in California gives the Hearing Committee less pause than his blinkered insistence that he was "right" to file the cases that were dismissed and that the court was "wrong" to sanction him. The Hearing Committee is additionally troubled by Petitioner's failure to pay fully the attorney fee award that was entered against him. Petitioner demonstrates a continual disrespect for the inherent authority of a court's judgment and refuses to "play by the rules." These are not behaviors that support reinstatement.

Further, while not authorized to practice law anywhere, Petitioner held himself out as an attorney at least two separate times.

First, Petitioner writes for OpEdNews and has an online profile for that site that promotes him as a practicing lawyer. FF 67-68. The Hearing Committee finds this as further evidence that Petitioner does not accept or respect the authority

of the Court of Appeals of Maryland or the D.C. Court of Appeals disbarment orders, and shows that Petitioner is willing to mislead the public to benefit even his activities outside of the courtroom.

Second, and more troubling to the Hearing Committee, is Petitioner's interaction with Roger Francis and his wife, Marta Ortega. FF 57-66. Disciplinary Counsel's evidence made clear that Petitioner deceived Mr. Francis and Mrs. Ortega into thinking he was a licensed attorney so they would hire him to perform legal work. *ld.* Petitioner responded to Mr. Francis's solicitation for help with "high profile court-filings." DCX 20 at 6. Operating under the business name "Pro Se Filings," Petitioner offered to help for a flat fee of $15,000, DCX 20 at 4-5, 7, and offered that he had "previously charged $600 per hour for legal work." DCX 23 at 3. The records shows that Mr. Francis made payments for "Legal Services" to Petitioner using the Zelle platform. DCX 23 at 4-9. And in October 2018, Petitioner participated in a conference call regarding Mr. Francis's matter in which he introduced himself as "an attorney out in California," noted that he had "practiced law for over 40 years," and discussed various legal aspects of Mr. Francis's case. DCX 25 at 11-13. Later, on that same conference call, another attorney asked a question directed at "just counsel," and Petitioner was the first one to respond, without disclosing that he was not licensed to practice law. DCX 25 at 25. Upon learning that Petitioner was not licensed to practice law, Mr. Francis wrote: "How are you charging for 'legal services' as an 'attorney,' when you are not admitted to the California Bar, and you have NO right to practice law???"

DCX 21 at 1 (emphasis in original); FF 62. In response, Petitioner asserted "I am an attorney and never said I was a member of the California bar." FF63; DCX 21 at 1. Once again, Petitioner's deception and sharp reliance on strained semantic arguments, shows that his integrity, honesty, and forthrightness have not appeared to improve during his period of disbarment. Whether Petitioner literally lied to Mr. Francis is not dispositive, the misleading by omission does not support finding that Petitioner is fit to resume the practice of law.

These instances of Petitioner's conduct clearly and convincingly show that he has not taken adequate steps to remedy past wrongs and prevent future ones. Petitioner's pattern of prioritizing his self-interest above his ethical obligations to the courts and others (including his client(s)) is clear. Importantly to this *Roundtree* factor, the Hearing Committee also finds that Petitioner has provided inadequate evidence that he has taken steps to remedy past wrongs and prevent future ones. In particular, it is clear that Petitioner has not come to terms that he was disbarred for any "past wrong," that he maintains the impropriety of the decision, and often resorts to deception by omission and semantic games, instead of directly addressing his misconduct. Indeed, the first sentence of Petitioner's post-hearing brief dispels any notion that his provided evidence shows personal improvement during his period of disbarment: "The evidence demonstrated that Petitioner was disbarred wrongfully." This factor does not favor reinstatement of Petitioner because Petitioner has failed to meet his burden of proof and

Disciplinary Counsel supplied voluminous evidence showing that Petitioner's conduct during his disbarment does not support reinstatement.

C. 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.'" *ln re Sabo*, 49 A.3d 1219, 1225 (D.C. 2012) (quoting *ln re Reynolds*, 867 A.2d 977, 984 (D.C. 2005) (per curiam)).

This factor does not favor reinstatement because, as noted above, Petitioner denies that the conduct leading to his disbarment was improper. *See* Pet. Br. at 3 ("The evidence demonstrated that Petitioner was disbarred wrongfully."). In his brief, Petitioner asserts that whether he was "disbarred wrongfully or not, the punishment has been unreasonably severe. No one was harmed by [his] actions. No clients were harmed." Pet. Br. at 3. At the hearing, Petitioner testified that "if I lied to any court, I think it's serious, but I didn't believe that I misstated anything and I think that the court of Maryland was absolutely wrong." Tr. 125. This is as close as Petitioner came to recognizing the seriousness of his misconduct.

While the Hearing Committee credits that he truly believes that the Court of Appeals of Maryland was "absolutely wrong," Petitioner should have presented clear and convincing evidence in his reinstatement hearing that showed an acknowledgement of the seriousness of his past conduct which led to his disbarment. *See, e.g.*, *Sabo*, 49 A.3d at 1226 ("claim of innocence will not relieve the petitioner of his or her burden to demonstrate recognition of the seriousness of the misconduct that led to the disbarment."). Instead, Petitioner kept fighting and

disputing findings related to his disbarment. The Hearing Committee finds that the weight of the evidence shows that Petitioner does not recognize the seriousness of his misconduct, particularly in light of this post-disbarment conduct showing a continuing proclivity to jettison common sense, truthfulness, and good judgment in favor of sharp tactics designed to benefit Petitioner. Petitioner has failed to produce clear and convincing evidence that he recognizes the seriousness of the misconduct that led to his disbarment. Indeed, Petitioner's statement that "things happen," in response to the denial of his petition for admission in Rhode Island, *see* FF 7, reflects what appears to be a consistent pattern of self-deflection instead of self-reflection. Petitioner has not proven that he recognizes the seriousness of his misconduct.

D. Petitioner's Present Character

To satisfy this fourth *Roundtree* factor, Petitioner must demonstrate, among other things, that "those traits which led to the petitioner's disbarment no longer exist and . . . the petitioner is a changed individual, having a full appreciation for his mistake." *ln re Brown*, 617 A.2d 194, 197 n.11 (D.C. 1992) (quoting *ln 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." *ln 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).

Petitioner has failed to present clear and convincing evidence that traits which led to the Petitioner's disbarment no longer exist or that he is a changed individual having a full appreciation of his mistake. As discussed above, it is clear that Petitioner maintains that he was wrongfully disbarred for proper conduct. Given these representations, the Hearing Committee finds that there is far less than clear and convincing evidence that Petitioner appreciates having made any mistakes that led to his disbarment and there is far less than clear and convincing evidence that the underlying misconduct no longer exists. Further, none of the character evidence propounded by Petitioner, including a letter from Rev. Jesse Jackson, a declaration from Congressman Andrew Maguire, and a letter from California legislator Brian W. Jones, directly or indirectly suggest any meaningful understanding of the serious ethical problems that led to Petitioner's disbarment. FF 69-73. As such, the Hearing Committee cannot identify sufficient evidence in the record to find that Petitioner is presently morally or ethically qualified to practice law.

To the contrary, as discussed above, Petitioner's conduct affirmatively shows that the traits that led to his disbarment still exist. Petitioner's decision to misuse the D.C. Bar Membership Department's form for lifting administrative suspensions and assert that the D.C. Bar had found him to be in good standing is eerily similar behavior to his attempt to argue that he was, in fact, a non-resident of California. *Compare* FF 10-24, *with* FF 29-34. The instances of Petitioner's post-disbarment misconduct show that Petitioner places his self-interest above his

obligations to the bar, the court, and society to act with candor, truthfulness, and integrity.[14] The record demonstrates a pattern of dishonest conduct by Petitioner that becomes an overwhelming counterweight to his intellectual potential. The Hearing Committee finds, once again, that Petitioner failed to provide sufficient evidence showing that his present character justifies reinstatement, and that alone compels the Hearing Committee to recommend denial of his petition.

E. Petitioner's Present Qualifications and Competence to Practice Law

Finally, we address the fifth factor articulated in *Roundtree*—Petitioner's present qualifications and competence to practice law. As the Court made clear in *Roundtree*, "[a] lawyer seeking reinstatement . . . should be prepared to demonstrate that he or she has kept up with current developments in the law." 503 A.2d at 1218 n.11.

In *Roundtree*, the Court cited the petitioner's participation in continuing legal education (CLE) courses, acquisition of computer skills, improvements to her case management system, and plans to use additional staff for assistance as evidence of her qualifications and competence to practice law. *ld.* 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 ln re Bettis*, 644 A.2d 1023, 1030 (D.C. 1994) (Court finding that petitioner established competence where he "worked as a law clerk . . . and

[14] The Hearing Committee was particularly concerned by Petitioner's representation of Mr. Francis and Petitioner's dishonest leveraging of administrative mistakes by the District of Columbia Bar to trick the Supreme Court of Ohio to reinstate him to the Ohio Bar.

improved his legal research and writing skills" and witnesses testified to his developed expertise in the medical malpractice and personal injury fields); *ln re Harrison*, 511 A.2d 16, 19 (D.C. 1986) (petitioner's competence established where he testified that he kept up with developments in the law by reading legal journals, bar publications, and other legal publications, and his professional skills were never questioned by those involved in the disciplinary proceedings).

As the *Roundtree* Court noted, however, "the longer the suspension, the stronger the showing that must be made of the attorney's present competence to practice law." 503 A.2d at 1218 n.11.

The Hearing Committee finds that Petitioner has failed to present clear and convincing evidence that he is currently competent to practice law. Notably, this is not a problem with intellectual ability or Petitioner's interest in the law. Petitioner has authored numerous books and articles and appears to have the intellectual capacity to practice law. FF 1-2. Indeed, a letter from Rev. Jesse Jackson, a declaration from Congressman Andrew Maguire, and a letter from California legislator Brian W. Jones, support the conclusion that Petitioner is intellectually capable of providing valuable legal advice. FF 69-73. He has not, however, offered evidence of the completion of CLE classes or work as a paralegal. In fact, since his disbarment, he has been found to be a vexatious litigant when acting *pro se*-evidence that suggests a lack of competence. Indeed, consideration of Petitioner's arguments and written submissions—substantially focused on the "wrongfulness" of his disbarment instead of the appropriate *Roundtree* factors-

also weigh against finding that Petitioner is currently qualified to practice law. The Hearing Committee finds that this factor conclusively weighs against reinstatement because Petitioner has failed to produce clear and convincing evidence that he is currently competent to practice law.

V. CONCLUSION

Based on the foregoing, the Hearing Committee concludes that Petitioner has not demonstrated by clear and convincing evidence that he has satisfied the fitness qualifications required for readmission under D.C. Bar R. XI, § 16(d)(1)(a) and as set forth in *Roundtree*. Accordingly, the Hearing Committee recommends denial of the Petition for Reinstatement.

HEARING COMMITTEE NUMBER SIX

Seth I. Heller
Chair

George Hager
Public Member

Michelle Thomas
Attorney Member