

THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

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



FILED

Jul 26 2022 2:26pm

In the Matter of: :
: :
THERESA M. SQUILLACOTE, :
: Board on Professional Responsibility
Petitioner. : Board Docket No. 20-BD-060
: Disciplinary Docket No. 2020-D234
: :
A Disbarred Member of the Bar of the :
District of Columbia Court of Appeals :
(Bar Registration No. 377466) :

REPORT AND RECOMMENDATION
OF THE AD HOC HEARING COMMITTEE

Petitioner, Theresa M. Squillacote, was disbarred in 2002 following her convictions for (1) conspiracy to commit espionage, in violation of 18 U.S.C. § 794(a) & (c); (2) attempted espionage and aiding and abetting, in violation of 18 U.S.C. §§ 2, 794(a); (3) obtaining national defense information and aiding and abetting, in violation of 18 U.S.C. §§ 2, 793(b); and (4) making false official statements, in violation of 18 U.S.C. § 1001. *In re Squillacote*, 790 A.2d 514 (D.C. 2002) (per curiam). In this proceeding, Petitioner seeks reinstatement to the Bar of the D.C. Court of Appeals.

Based on the Petition for Reinstatement ("the Petition"), Disciplinary Counsel's answer thereto, the testimony elicited at the evidentiary hearing, the record exhibits, and the written briefs submitted by the parties, this Hearing Committee concludes that Petitioner has not met her burden of proving, by clear and convincing evidence, that she is presently fit to resume the practice of law under

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

D.C. Bar R. XI, § 16(d) and the factors enumerated by the D.C. Court of Appeals in *In re Roundtree*, 503 A.2d 1215 (D.C. 1985). As discussed below, we recommend that the Court deny the Petition because Petitioner has failed to prove by clear and convincing evidence that (1) she can be trusted; and (2) she has recovered from the mental health issues that she blames, at least in part, for her criminal conduct.

I. PROCEDURAL HISTORY

Petitioner filed the Petition on November 13, 2020. An evidentiary hearing was held on December 7-8, 2021, before an Ad Hoc Hearing Committee ("the Hearing Committee") of Jay Brozost, Esquire (Chair), Billie LaVerne Smith (Public Member), and Monya Bunch, Esquire (Attorney Member). Petitioner was represented at the hearing by Karen Williams, Esquire and Dominic Litz, Esquire, and the Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsels Sean O'Brien, Esquire, and Joseph Perry, Esquire. Both parties presented documentary evidence, testimony, and oral argument. The following exhibits were admitted into evidence: Petitioner's Exhibits ("PX") 1-12, 14-15, 24-29, and 31; Disciplinary Counsel's Exhibits ("DCX") 1-2, 5, 8-15, 18-27, 29-31, 34, 36-39, 41-47, 49, and 51-52.

II. LEGAL STANDARD

D.C. Bar R. XI, § 16(d)(1) sets forth the legal standard for reinstatement, placing upon Petitioner the heavy burden of proving-by clear and convincing evidence-that: "(a) she has the moral qualifications, competency, and learning in law required for readmission; and (b) her resumption of the practice of law . . . will

not be detrimental to the integrity and standing of the Bar, or to the administration of justice, or subversive to the public interest." Clear and convincing evidence is more than a preponderance of the evidence-it is "evidence that will produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established." *In re Cater*, 887 A.2d 1, 24 (D.C. 2005) (quoting *In re Dortch*, 860 A.2d 346, 358 (D.C. 2004) (citation omitted)). *Roundtree* remains the seminal precedent in this area, identifying five nonexclusive factors guiding any reinstatement determination:

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

503 A.2d at 1217.

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

III. FINDINGS OF FACT

Petitioner's Personal Background

1. Petitioner was born in Chicago, Illinois in 1957. Tr. 144. She was born with significant physical infirmities, and underwent numerous corrective surgeries, requiring lengthy hospitalizations. DCX 1 at 5-6; Tr. 145; PX 27 at 13; PX 28 at 16-17. She has worn an artificial right limb her entire life. PX 28 at 19. At her criminal trial, psychiatrists opined that these traumatic childhood experiences affected Petitioner's adult mental health. PX 27 at 12-13; PX 28 at 17-19.

2. Petitioner's parents were devout Roman Catholics and deeply committed to social justice. Tr. 145. Her father, an attorney, spent his career at the National Labor Relations Board ("NLRB"). Tr. 145; DCX 1 at 12; DCX 9 at 10; DCX 12 at 34. He formed a fair housing organization to integrate red-lined areas. Tr. 145. Petitioner was very close with her father. Petitioner resonated with the belief "that you have to work and make your commitment and get on with the business of it." Tr. 147.

3. Petitioner attended Catholic primary and secondary schools, and graduated high school in three years, spurred by the commitment to action she shared with her father. Tr. 146-47; DCX 2 at 3; DCX 20 at 7. Attending college away from home at the young age of 16, Petitioner floundered and returned to Milwaukee. *Id.*

4. In 1978, Petitioner met her future husband, Kurt Stand, an intellectually powerful New Yorker of German descent, at the University of Wisconsin-Milwaukee. Tr. 143-44, 147, 252; DCX 1 at 8. Stand's family was active in the

socialist/communist movement, deeply committed to Marxist-Leninist beliefs, and rooted in the anti-Hitler underground. DCX 1 at 8; PX 24 at 1-2; Tr. 406. Stand trained Petitioner in their ideologies, which were "very strict, . . . very disciplined." Tr. 143. Petitioner later learned that the Stand family was involved in underground "anti-militarist" activity involving East German communists. Tr. 143-44; PX 24 at 1-2. Petitioner understood this effort required hiding one's beliefs to obtain a position of political acuity and provide political analysis. *Id.* If Petitioner wanted to be with Stand, she had to participate. Tr. 144.

5. Beginning in the early 1970's, Stand worked as an agent of the "HVA," which was the foreign intelligence arm of the East German Ministerium für Staatssicherheit ("MfS"). DCX 9 at 9; Tr. 260. The HVA's primary mission was operational reconnaissance of North America. DCX 9 at 9; Tr. 247. Stand worked for Lothar Ziemer, who headed Section 3 of HVA Department XI, charged with acquiring data "that could not be acquired by legal means." DCX 9 at 9.

6. Petitioner obtained a B.A. degree in history from the University of Wisconsin-Milwaukee in 1978. DCX 2 at 3. She then pursued an M.A. in history, which she received in 1980. *Id.* In 1979, Stand introduced Petitioner to the HVA and recruited her into its clandestine work, which she knew involved at least concealing information from the U.S. authorities. Tr. 252-253, 254 ("It's accurate [that he recruited her]. I mean, he introduced me to these people, introduced me to the concept, yes. [in 1979].").

7. Petitioner married Stand in 1980, and they moved to the District of Columbia, where she began attending Catholic University of America, Columbus School of Law. Tr. 257-58, 266; DCX 2 at 3-4. Petitioner had applied, unsuccessfully, to schools elsewhere, but understood the East Germans would approve this placement. Tr. 260; DCX 36 at 8 (Petitioner telling an undercover FBI Agent that she had always let her effort to support the HVA "drive [her] choices"). Petitioner graduated from law school in May 1983, passed the D.C. Bar exam, and was admitted on February 28, 1984. Tr. 147; PX 2 at 1. She began work at the NLRB on May 26, 1983 and took an oath that she "would honor the Constitution, defend it and have sole allegiance to the United States." Tr. 156; DCX 20 at 4. She took a similar oath upon her bar admission. Tr. 156.

Petitioner's Contacts with the HVA

8. In 1981, while in law school, the couple visited East Germany. Tr. 254-55, 266-67; DCX 18 at 1. Petitioner met Ziemer, who worked for the HVA. DCX 9 at 9. HVA records showed that Petitioner was recruited in 1981 as an agent targeting the "U.S. central government." DCX 19 at 49-50; Tr. 271 (Petitioner testified that she was "Resi" referenced on DCX 19 at 50). However, Petitioner did not then understand Ziemer's position in the HVA. Tr. 235-38. She thought that she had been meeting with "very important communists," but the intelligence-gathering aspect was not clear to her. Tr. 235. Sometime after the Berlin Wall fell in 1989, Petitioner came to understand that Ziemer worked in intelligence-gathering, and that she had been dealing with a foreign intelligence agency. Tr. 235-38.

9. Petitioner and Stand visited East Germany on other occasions. Tr. 266. Stand had extensive political discussions with Ziemer and provided essays he had authored about U.S. politics. PX 24 at 2, 19; DCX 52 at 5. Petitioner believed this dialogue was beyond her capabilities. PX 24 at 2, 19; Tr. 164. Petitioner and Stand were trained in receiving shortwave messages in coded Spanish numbers from Cuba and in using micro-cameras. Tr. 161; DCX 5 at 43; DCX 18 at 2; DCX 47 at 12, 86, 93, 183; DCX 49 at 85, 100. They traveled in and out of East Germany using false passports, which were later destroyed. Tr. 161, 239, 243. HVA files listed their code names and real identities, and travel reimbursements. DCX 19 at 15, 45; DCX 47 at 32, 53.

10. The East German connection did not then affect their regular lives. Petitioner had two children. Her son had clubfeet requiring surgeries, and later experienced encephalitis with secondary learning disabilities. Tr. 146, 149, 154; DCX 1 at 10; PX 24 at 3. Petitioner advocated for him, carrying disproportionate family responsibilities. PX 24 at 3; DCX 1 at 50. Stand became a union official, but his employment was irregular. DCX 47 at 24; Tr. 407.

11. In March 1987, at the height of her son's illness, Petitioner traveled alone to see Ziemer in East Berlin; the two began an extramarital affair. PX 24 at 3. Petitioner became extremely dependent on the much older Ziemer. Tr. 162; PX 24 at 3; PX 28 at 28-29; DCX 49 at 195-99.

12. After the Berlin Wall fell in November 1989, Ziemer began working with the KGB and secretly communicating with Petitioner, Stand, and another

individual, James Clark, via interchangeable memory cards on personal Casio digital diaries. DCX 9 at 10. Petitioner knew that Ziemer was working with the KGB, and that Ziemer and Clark were passing information to the KGB. Tr. 162, 276.

Petitioner's Legal Career

13. As noted above, Petitioner began her legal career at the NLRB. DCX 9 at 10; Tr. 148-49. In 1986-87, Petitioner began to explore other work. She wanted to avoid becoming locked into a narrow expertise, and to "move [her] professional work more in line with the commitments that [she] had made" to the HVA. Tr. 149-52, 277-78, 386; DCX 9 at 10; DCX 36 at 1. From 1986 to 1991, Petitioner applied to more than 30 agencies of the United States government. PX 25; PX 26. Petitioner "might have had authorized access to classified national defense information," had she been hired at the CIA, NSA, Defense Intelligence Agency, Defense Mapping Agency, Army, Navy, Navy Seas Systems Command, or any of thirteen other agencies. PX 25 at 3.

14. In 1988, Petitioner enrolled in the Government Contracts LL.M. program at George Washington University Law School ("GW Law"). DCX 2, at 4. She believed government contract and labor law expertise would make her marketable and contribute to her cooperation with the East Germans. Tr. 150, 278; DCX 36 at 1. She described her job search as follows in a report provided to an undercover FBI agent:

At some point, in the 1986/1987 time, I began to examine how I could move my professional work more in line with the commitments that I had made. As I explored what options were available to me, I noticed many DOD, and even private sector, positions where labor or personnel

law experience was sought in conjunction with procurement or contract law experience. I therefore made up my mind to do graduate law work in the masters of law program at George Washington University in government contract law, and started classes there in the fall of 1988, in the evening.

DCX 36 at 1 (typos corrected); *see* Tr. 258-60 (describing DCX 36).

15. Petitioner also sought work on Capitol Hill. Tr. 151-52. She had consistently heard from Ziemer that a political, congressional position was desirable. Tr. 400; DCX 51 at 2. She wrote to members of Congress acquainted with her father and interned with the House Armed Services Committee in 1990-91, reviewing old federal acquisition statutes. Tr. 149-155; DCX 5 at 3; DCX 36 at 1. Petitioner reported to Ziemer about a congressional hearing during which members shared their thoughts on the authorization for the Gulf War. Tr. 286-87. Around December 1990, Ziemer told her:

It was very clever and courageous how you got the internship at your uncle's office. Thank you for the details of the hearings. Meanwhile you are broadening the experiences with the federal government. I am sure you will get what we want. . . . You should continue to focus all your efforts on the procurement field at DOD. Also, a position in the Congressional staff would be excellent.

DCX 51 at 2 (typos corrected); *see* Tr. 285-89; DCX 5 at 26-27. Petitioner returned to the NLRB at the end of her internship with the House Armed Services Committee. Tr. 154.

16. In October 1991, Petitioner obtained employment with the Department of Defense, serving first as a staff attorney with the Defense Systems Management College, and later as a senior staff attorney in the office of the Deputy Under

Secretary of Defense (Acquisition Reform). Tr. 290-91; DCX 5 at 3; DCX 9 at 10. She swore and signed the oaths about her allegiance to the U.S. Constitution and swearing to defend it. Tr. 272; DCX 20 at 3. Her oath was deliberately false.

17. In April 1992, Ziemer was arrested in Germany on suspicion of spying for the Russian Federation. Tr. 337 (Petitioner); DCX 9 at 10; DCX 47 at 18. He was released from a German prison in September 1992, and Petitioner, Stand, and Clark re-established a system of communication with him to, at least in part, keep apprised about threats to their safety from western services. DCX 9 at 10; DCX 47 at 18; DCX 34 at 60 (Petitioner knew how western services had interrogated "former colleagues" in the HVA and those services knew some of her and/or her co-conspirators "code names"); *see* DCX 5 at 1 (listing codenames, including "Tina," "Schwan," "Margaret," "Resi"). Ziemer and Petitioner continued their personal relationship, meeting in 1993 and 1994. DCX 18 at 4; PX 24 at 3; PX 28 at 67. By 1996, Petitioner was questioning the relationship and trying to extricate herself. Tr. 162; PX 28 at 66-67.

18. In 1993, Petitioner, Stand, and Clark began discussing the possibility of continuing their clandestine work for other nations. Tr. 338-39 ("maybe the next year or something like that?"). In June 1993, in connection with her employment at the Department of Defense, Petitioner signed another oath reiterating her pledge of allegiance to the U.S. Constitution. Tr. 272; DCX 20 at 2. Her oath was knowingly and deliberately false.

19. In January 1994, while working at DOD, she traveled to Amsterdam to meet David Truong (who was earlier convicted of espionage on behalf of North Vietnam), hoping to establish a possible, new intelligence connection. DCX 9 at 10; DCX 34 at 110-11 ("hunt for [] another connection of some kind"). Nothing came of that contact. Tr. 342.

20. In April 1994, Petitioner was granted a "secret" level security clearance. Tr. 340; DCX 22 at 2. In August 1994, in connection with her employment at DOD, she certified that she had reviewed the "Survival Handbook" that addressed protecting classified information. Tr. 341; DCX 21.

21. In 1995, Petitioner obtained a P.O. Box from the U.S. Postal Service using the false name, "Lisa Martin," a fake address, forged documents, and fake information. Tr. 224-27; DCX 23-25 (including forged stationery for "The Cambridge Residential Hotel" and a forged receipt for rent payment). She obtained the P.O. Box just in case it might be useful to her in connection with any future clandestine efforts. *See* DCX 34 at 51. She also joined an open political group and established a political study group with left-wing friends. Tr. 163; DCX 34 at 89, 107, 129.

22. Petitioner read a memoir by Ronnie Kasrils ("Kasrils"), a South African Communist Party leader and the Deputy Defense Minister of South Africa in Nelson Mandela's government. Tr. 164; DCX 9 at 10; DCX 49 at 19. In June 1995, without any prompting, Petitioner sent him a letter, discussing the collapse of socialism, using her false name and postal box. Tr. 342-43; DCX 26; DCX 49 at 18; PX 24 at

4. She hoped to make a connection with Mr. Kasrils that would allow her to continue her clandestine work. DCX 9 at 10, 26 (she told her brother how proud she was that Kasrils "read between the lines"); DCX 34 at 12 (she told the undercover agent she "was hoping that [Kasrils] would read between the lines, and he did").

23. In February 1996, Petitioner received a Christmas card from Mr. Kasrils (addressed to Lisa Martin). Tr. 343-44; DCX 27. She told her husband about the card over the phone and how thrilled she was. DCX 47 at 61-62.

24. In May 1996, Ziemer broke off the relationship with Petitioner. Tr. 163; PX 24 at 4. She collapsed psychologically and suffered a cycle of Major Depression. Tr. 165, 402; PX 28 at 8, 9; PX 27 at 24; DCX 49 at 154. She started psychiatric care and medication. Tr. 165, 357; DCX 38 at 3. Petitioner had experienced Major Depression in 1991, also triggered by perceived rejection by Ziemer. PX 24 at 4.

25. For months afterwards, Petitioner, her brother, Stand, and her psychiatrist discussed her severe mental health distress and their concerns over similarities between her and her older sister, who had committed suicide. Tr. 402; DCX 52 at 8. Petitioner's family has a history of depression and maladaptive personality disorder behavior; she learned about Borderline Personality Disorder. Tr. 194; PX 28 at 15.

The False Flag Operation

26. In January 1996, the FBI obtained authorization and began conducting clandestine electronic surveillance of Petitioner and Stand, including monitoring of

all conversations in their home, and all calls made to and from their home and Petitioner's office, with periodic clandestine searches. DCX 9 at 11-12; DCX 52 at 2-3. Through its investigation, the FBI had learned of Petitioner's letter to Mr. Kasrils, and her and Stand's reaction to the February 1996 note from Kasrils. DCX 9 at 11; DCX 49 at 34-35.

27. The FBI planned a false flag operation to uncover information about Petitioner, Stand, and Clark's prior espionage activities:

The purpose of the "false flag" operation was to invite defendant Squillacote into what she would believe to be a covert espionage relationship with the Republic of South Africa and, through that relationship, ascertain the scope, nature and substance of defendants Squillacote's, Stand's and Clark's prior espionage activities on behalf of the GDR, KGB and Russian intelligence entities.

DCX 47 at 62 (FBI agent affidavit). The FBI decided to use an agent posing as a South African government official for the false flag operation because Petitioner "had already established a correspondence relationship with Mr. Kasrils." DCX 49 at 35. In June 1996, an FBI psychology team constructed a guiding Behavioral Analysis Program ("BAP"), based on surveillance, including conversations between Petitioner and her psychiatrist. DCX 49 at 37; DCX 49 at 152-53. The BAP recommended exploiting Petitioner's "'emotional vulnerability' [while she grieved] the then-recent end of her affair with Ziemer, using an . . . agent 'who possesses the same qualities . . . [as Ziemer],' and [structured] to mirror her relationship with [him]." DCX 9 at 11; DCX 49 at 196-204. The false flag should "exploit her narcissistic and histrionic characteristics," capitalize on her fantasies, but leave her "beguiled and craving more attention." DCX 9 at 11.

28. The FBI, posing as Mr. Kasrils, sent another letter to the Lisa Martin P.O. Box, inviting her into a covert espionage relationship with South Africa:

On the basis of the [June 1995] letter, it seems to me you may have the interest and vision to assist in our struggle. We need help to achieve the changes we seek; and, despite our hardfought advances, face unrelenting opposition from many quarters. Your letter reflects an understanding of the fundamental nature of our objectives, challenges, and enemies.

I have taken the liberty of asking one of our special components to make itself available to you in the States should you agree such a course of action is desirable. I would appreciate your full consideration of this proposal, and ask only that you carefully consider your answer. While your political idealism is unmistakable and appreciated by me, your commitment to a role "in the trenches" must not be made in haste.

Should you wish to set out on this trek, I ask that on October 12th, you travel alone to New York. At 7:00 P.M. my representative will be in The Plaza Hotel in The Oak Bar. Please carry a copy of Armed and Dangerous and have with you this letter. It will be your passport to be my guest for dinner in The Edwardian Room. If this date is inconvenient, come on November 16th. A man representing me will introduce himself to you. He and you can discuss specific measures in support of our goals, commensurate with your capabilities and desires. Of course, my representative will reimburse you for all expenses incurred in connection with this trip.

Given the delicacy of this issue, I suggest we abstain from discussing it further, at least impersonally. My representative can more securely sustain this important dialogue. . . .

DCX 29 at 2.

29. In addition to pursuing her espionage activities, around this time, Petitioner was fraudulently attempting to "clean up" her credit report. Tr. 368-69 (Petitioner) (admitting "fraudulent scheme"). *See generally* DCX 30; DCX 31. She forged letters from her bank, Crestar. Tr. 369; DCX 30 at 5 (describing how she was

"really good" at "taking old letters" from her different accounts and "creating new text"). She also referenced her title and office with the Under Secretary in the Pentagon to further her scheme. DCX 31. In recounting her fraud to her brother, she said, "There's all kinds of ways you can work this ['Laughing'] all kinds of ways . . . the story I gave her was so good, that I'm covered. Believe me ['Laughing']." DCX 31. In two calls on August 28, 1996, Petitioner laughed hysterically with her brother about her efforts to remove credit report late marks by creating a fake bank letter. Tr. 369; DCX 30; DCX 31; PX 27 at 74. Shortly thereafter, her psychiatrist diagnosed Petitioner as being seriously depressed. PX 27 at 74.

30. In October 1996, Petitioner traveled to New York and met with an undercover FBI agent who was posing as a South African intelligence agent. Tr. 346. At the October 12, 1996 meeting, Petitioner relayed extensive details about her East German past, including contacts. DCX 34. She gave the agent her study group outline and her original letter to Kasrils. DCX 34 at 6, 90, 130. She agreed to provide him a report on a computer disk that she was to deliver to a P.O. Box. Tr. 348. At the end of the meeting, Petitioner accepted a \$1,000 payment "for expenses." Tr. 348.

31. The undercover agent asked Petitioner to provide a report identifying the people and information that she could access. DCX 34 at 48. It was to be an important part of the South Africans' determination of her suitability. DCX 34 at 56. The undercover noted that the South Africans had short-term and long-term goals, but cautioned that if Petitioner could not provide information that was useful

in the short term, they may decide that "there's no point in doing something right away." DCX 34 at 56. Thus, the undercover asked that Petitioner's report discuss "what sort of help [she] might be able to render." DCX 34 at 56.

32. Prior to preparing her report, Petitioner told her brother that she "really want[e]d to be up front with [her] new friends." DCX 47 at 73. She delivered the report as instructed. Tr. 349; DCX 36, DCX 47 at 73-74. Her report discussed her employment background and discussed the "political position" as well as the personal and professional details of her superior and several co-workers. DCX 36 at 1-5. She described at some length how her superior at the Pentagon trusted her,

I am perceived as "her person," her confidant, the one individual that she has known the longest and trusts the most (trust, in the Pentagon, is a extremely rare commodity - this is really a vicious place, more than I have ever experienced). I am in charge of legislation, which has been our area of greatest success (see discussion below). *She has absolutely no doubt that I would always, under all circumstances, be forthright with her.*

DCX 36 at 3-4 (emphasis added).

33. In her report, Petitioner addressed various options for her future employment, and opined as to how certain positions would bring access to information useful to the South African government. For instance, she thought that she could use her R&D experience to work toward a job at the Defense Advanced Research Projects Agency, which would "be very good in terms of access to highly technical information." DCX 36 at 7. She thought that such a job would be "dry" and not her "personal preference." *Id.* In the end, she concluded that policy work

in either the Executive or Legislative branch would be the most helpful, and her personal preference. *Id.* at 8.

34. In Petitioner's words, she understood that South African intelligence viewed the United States and "western imperialist powers" as potentially undermining their goals: "the power of imperialist forces is today substantially unfettered." DCX 36 at 8. She recommended that "[p]olicy issues and sophisticated political analysis" were important to undermining the imperialists and particularly U.S. strategy. *Id.* at 8-9. She therefore recommended that she pursue policy work and analysis to assist in "undermining that strategy." *Id.*

35. Meanwhile, Petitioner removed, without authority, four documents from the Pentagon that were classified as secret; three involved U.S. military policy and planning. DCX 5 at 37. The three "Defense Planning Guidance" documents discussed U.S. military responses and Defense Department policy and strategy. Tr. 350-52; DCX 5 at 37-38. She also removed an intelligence memorandum from the CIA about arms trade. *Id.* One document bore instructions that it should not be reproduced without Secretary of Defense approval. *Id.* Two documents bore the NOFORN label, which conveyed it could not be distributed to "non-U.S. government persons or countries." *Id.*; DCX 5 at 37-38. Petitioner and her husband worked together to remove the various designations and warnings from each page of the stolen documents. DCX 5 at 38-39; *see also* Tr. 352 (cutting of the tops and bottoms of pages). Petitioner then burned the trimmings from the confidential

documents. Tr. 352; DCX 5 at 39; DCX 38 at 3 (Petitioner) (she "had a lot to dispose of" and the house "reeked of smoke").

36. Petitioner and Stand debated how to best share the documents with SACP intelligence. Tr. 353; *see* DCX 37. She bought a scanner but did not use it because she was concerned it would leave evidence on her hard drive. Tr. 353-55; DCX 5 at 40; DCX 37; DCX 38 at 1. Instead, on January 5, 1997, she again met the undercover FBI agent in New York, and provided the stolen documents to him in person. DCX 5 at 41, 44; Tr. 358.

37. Within weeks, Petitioner resigned from the Defense Department. Tr. 358-59. She did so in support of her superior, who had been fired. Tr. 155. Upon her resignation, she falsely affirmed that she did not have in her possession any documentation that was "classified" or affected national defense. DCX 5 at 79; *see also* Tr. 359; Pet. Post-Hearing Br. PFF 32. Her statement was the basis of her conviction under 18 U.S.C. § 1001 (making false statements). DCX 5 at 79-80.

38. After she resigned, Petitioner kept corresponding and meeting with the undercover agent. Tr. 359. In March 1997, she met him in Atlanta and discussed traveling with Stand to South Africa. Tr. 359; DCX 5 at 46-49. She wanted to use passports with false names, particularly since she might get a position on a Congressional committee. DCX 5 at 48; DCX 49 at 319-320. She provided fake signatures and a fake name, Patricia Cunningham, to create her fake passport. Tr. 230-32; DCX 41; DCX 49 at 319-20.

39. She and the agent corresponded through the summer. DCX 41-45; *see also* Tr. 232, 363, 364 (Petitioner acknowledging that "Anne" in correspondence is one of her false names). In September 1997, she wrote that she was looking forward to another meeting, and she reported that a job interview for a position that was "highly germane to our work, much more so than I had thought originally" had gone well. DCX 46 at 3. She wrote, "It will necessitate a very high clearance level-SCI. We will really need to talk more about training and equipment." *Id.*

Petitioner's Arrest, Trial, and Appeals

40. The next month, October 1997, Petitioner and Stand were arrested. Tr. 365. In their home, the FBI "uncovered a wealth of incriminating evidence, including a miniature camera, a Casio digital diary and memory cards [that she, Stand, and Clark used to communicate with Ziemer], and an extra copy of two of the documents [Petitioner gave] to the undercover agent." DCX 9 at 12; *see* DCX 51.

41. Petitioner went to trial with Stand. Tr. 158. The government offered pleas which Stand refused. Tr. 159. Their cases were "wired"; if one chose trial, the other could not plea. Tr. 159.¹ Petitioner's defense centered on her mental health issues and the FBI sting operation designed to manipulate her conduct. One defense psychiatrist testified that the Government "use[d] its resources and its knowledge to exploit her psychiatric vulnerabilities in getting her to pass classified documents." PX 28 at 26. Another agreed that "Ms. Squillacote was unusually vulnerable

¹ We recognize that Petitioner had the right to defend herself at trial, to appeal the judgment against her, and to later seek to vacate the sentence imposed. We do not consider her decision to defend against the criminal charges in considering the merits of her Petition.

because of her psychiatric disorders to the Government's approach in the undercover operation" PX 27 at 38. Neither Petitioner nor Stand testified. The jury deliberated for three days, querying the court on predisposition but returning a guilty verdict, convicting Petitioner and Stand of (1) conspiracy to commit espionage, in violation of 18 U.S.C. § 794(a) & (c); (2) attempted espionage and aiding and abetting, in violation of 18 U.S.C. §§ 2, 794(a); (3) obtaining national defense information and aiding and abetting, in violation of 18 U.S.C. §§ 2, 793(b). Petitioner was also convicted of making false statements, in violation of 18 U.S.C. § 1001. DCX 9 at 12; DCX 11 at 1; DCX 12 at 5. Clark pleaded guilty to a single charge of conspiring to commit espionage, and he testified against Petitioner and Stand. DCX 9 at 12.

42. On January 20, 1999, Petitioner submitted a lengthy letter to the court accepting responsibility for her conduct and explaining her view of events. DCX 12 at 56-57, 57 n.18. Despite the government's maximum sentence recommendation, the court sentenced her to the minimum of 262 months. Tr. 159.

43. On January 29, 1999, Petitioner filed a notice of appeal. DCX 8. On appeal, she unsuccessfully raised issues including the use of privileged psychotherapist communications and the validity of the Foreign Intelligence Surveillance Act ("FISA") warrants. DCX 8; DCX 9 at 12, 17, 33.

44. In April 2002, Petitioner filed a § 2255 Motion to Vacate Sentence alleging denial of her constitutional right to testify. PX 24; DCX 11 at 2; DCX 10 at 2. She filed a declaration under penalty of perjury about what she would have

said ("a summary of what the jury would have heard") if she had testified. PX 24 at 1, ¶ 2; DCX 12 at 6-7 (discussing April 15, 2002, affidavit). The declaration included these statements:

- "I did not know until recently . . . that I had a personal constitutional right to testify, that the decision to testify was solely my own." PX 24 at 1, ¶ 2 (emphasis in original).
- "As I learned at trial, Clark had an arrangement with [Zierner] and other East German officials to pass secret information to them." *Id.* at 1, ¶ 4.
- "Missing from the trial was an innocent explanation of Kurt's and my actions, up to the FBI undercover operation. Kurt and I had that explanation." *Id.* at 1, ¶ 5.
- "I wasn't 'recruited' . . . When I 'joined' this movement, there was no 'membership application' and certainly no talk of collecting and passing American secrets; and I've never been asked to do that by any member of the movement. It really was about learning and debating theory and analyzing American politics and culture." *Id.* at 2, ¶ 8.
- "My foreign travel was innocent." *Id.* at 3, ¶ 12.
- "My professional choices were innocent." *Id.* at 3, ¶ 13.

45. The District Court denied Petitioner's § 2255 Motion on March 31, 2003. DCX 12 at 5. Petitioner appealed to the Fourth Circuit, which reversed and remanded for an evidentiary hearing, finding her proposed testimony could have explained the suspicious conspiracy circumstances and strengthened her entrapment defense. DCX 10. Following a hearing, on May 20, 2008, the court concluded that defense counsel did not deny Petitioner her right to testify. DCX 11. She continued to litigate her case, appealing to the Fourth Circuit. In 2009, she filed an informal

brief² relying on her earlier declaration: "In her April 15, 2002[,] affidavit, [Petitioner] set forth what she would have said had her lawyers permitted her to testify." DCX 12 at 6 (footnote omitted). The Fourth Circuit denied Petitioner's appeal. DCX 12, 13, 14 and 15.

46. While the direct appeal was pending, Petitioner was interviewed for "60 Minutes," as part of a larger story involving her criminal case and the FISA court. DCX 52; PX 31 (video). Petitioner asserted she was not a spy. Tr. 381-84; DCX 52; PX 31. The interview aired in the Summer of 2000.

47. During the interview, Petitioner claimed that the undercover agent manipulated her into intelligence gathering: "I was sort of this little [hand gestures] Shirley Temple, going, 'Oh!', 'Okay!'" and she agreed that she "fell right into it." PX 31 (10:57-11:26). When the interviewer questioned why she would brag about doing lots of illegal things already, she said, "Yeah, I think I would have said just about anything to this guy . . . to be what it was that he wanted me to be." *Id.* (11:26-11:52). She summed up her view of the government's case against her:

And, why [the U.S. government] felt compelled to discharge, you know, this massive volley of, of shot at this tiny little, meaningless, little creature, I can't imagine. All is they did was destroy my life and my family's. . . .

You know, I, I made a, a fool of myself roundly; but I, I didn't commit a crime. I got manipulated into a crime. And I was never a spy. And the responsibility for the situation totally lies with them, and the shame is theirs. The shame is theirs.

² Under Fourth Circuit Local Rule 34(b), "the court uses an informal briefing schedule in cases involving *pro se* litigants to permit the court to consider the merits without requiring the *pro se* litigant to comply with formal briefing requirements." See Fourth Circuit Appellate Procedure Guide, available at www.ca4.uscourts.gov/rules-and-procedures/resources/appellate-procedure-guide.

ld. (2:00-2:17, 12:30-12:49). Other stories with extensive details about Petitioner's case were published in legal and professional journals and other outlets and appear in internet searches of Petitioner's name.

48. Following her conviction, Petitioner was suspended on January 5, 1999, pursuant to D.C. Bar R. XI, § 10(c) (suspension after conviction of "serious crimes"). Petitioner was disbarred on January 17, 2002, because the espionage-related charges constituted moral turpitude *per se*. *Squillacote*, 790 A.2d at 515; *see also* D.C. Code § 11-2503(a) (mandating disbarment for conviction of a crime involving moral turpitude).

Petitioner's Mental Health

49. After her arrest, Petitioner's forensic psychiatrist, Dr. Janofsky, diagnosed her with major depression and a "Cluster B" personality disorder, a "nonspecified" disorder with traits from three personality disorders: (1) borderline, (2) histrionic, (3) and narcissistic. PX 27 at 5-6, 11.

50. Another forensic psychiatrist, Dr. Plakun, diagnosed her with major depression, borderline personality disorder, and narcissistic personality disorder. PX 28 at 8-9 (she exhibited six criteria for each personality disorder). Her physical diagnoses of Ehrlös Danlos Syndrome Type IV (a congenital, hereditary deformity with high risk of aneurysm and death) and physical birth deformities were also "part of a complicated context that contributed to [her] psychological makeup." *ld.* at 10. Her case went "quite a bit beyond surface impressions, and really require[d] digging in depth." *ld.* at 5.

51. Petitioner's borderline traits included "frantic efforts to avoid real or imagined abandonment," *id.* at 11, a "fragile and diffuse sense of who [she was]," *id.* at 11, impulsivity and mood instability, *id.* at 11, and "a capacity for rather intense anger, sometimes concealed, but present." *Id.* at 12.

52. Her narcissistic traits included grandiosity, "a certain way of being drawn to the notion that she had something to offer that was really a major contribution[,]" *id.* at 12, she had "a sense of specialness in her, of having kind of a mission in life," *id.* at 12-13, she used "interpersonal exploitation, taking advantage of others to achieve her ends," *id.* at 13, and she had a "sense of wanting to have things be special and especially meaningful, especially important." *Id.* at 31. Consistent with her narcissistic traits, he found that "she [wa]s a manipulative person." *Id.* at 54.

Petitioner's Incarceration

53. Petitioner offered to debrief with the United States government and obtained Ziemer's agreement to debrief also. DCX 1 at 13. Petitioner's debrief "meant little" because she "had told the undercover agent everything there was to tell." *Id.* The U.S. government rejected Ziemer's offer to debrief. *Id.* Throughout her incarceration, Petitioner assisted the government, including prison authorities, by relaying information or notifying them of wrongdoing unrelated to her criminal conduct. Tr. 173-74. *See Confidential Appendix.*

54. While incarcerated at FCI Tallahassee, Petitioner became very involved in prison activities. Tr. 176-77. She helped establish a Catholic congregation. *Id.*

She organized the law library and drafted plans to increase library access. DCX 1 at 15. She helped start an inmate newsletter. *Id.* at 14. When she transferred to FCI Danbury to be near her children, the staff in Tallahassee asked her to stay. *Id.*

55. At FCI Danbury, Petitioner again joined the Catholic community. DCX 1 at 56. She worked in the law library, developed basic legal research and civics training materials for inmates, joined criminal reform groups, and participated on the warden's inmate council. Tr. 176-78, 206-07; DCX 1 at 14, 16. She also continued to work assiduously at physical tasks, such as working on the compound, as an orderly, and in the kitchen. Tr. 176; DCX 1 at 14-15.

56. Petitioner studied the federal sentencing statutes, developed a legislative proposal to partially restore federal parole, and distributed it to Congress. DCX 1 at 16; Tr. 206-07. Petitioner learned of the difficulties inmates faced in securing their right to attorney-client privileged communication. Tr. 211-12.

57. Petitioner pursued substantial self-improvement activities, completing over 70 programs in 183 months, including many volunteer activities. Tr. 178-182; PX 3.

58. Petitioner deliberately sought therapeutic programs: Boundaries, Stress Management, Personal Growth, Positive Attitude, Rational Emotive Therapy, Self-Esteem, Parenting, Healthy Relationships, Wellness, Living Free, Domestic Violence and Healthy Relationships, Self-Awareness, religious retreats, Social Development, and Anxiety Management. Tr. 177-183; PX 3. She completed over 180 hours of programming in a "Women Empowered for Change" Program at

Alexandria Detention Center. Tr. 181; *see* PX 3 at 14. She also sought individual therapy. Tr. 183.

59. Petitioner completed the 500-hour Bureau of Prisons Residential Drug Abuse Program ("RDAP")-a Cognitive Behavioral Therapy ("CBT") program-and its follow-up programming. Tr. 185; DCX 2 at 34. RDAP inmates live separately and study sources of psychological problems: faulty ways of thinking and learned patterns of unhelpful behavior. They build skills to cope with life stressors. Petitioner completed the mandatory six-month follow-on Transitional Drug Abuse Treatment segment and the aftercare community segment in a halfway house. DCX 2 at 31, 34. Her programming time totals roughly 3000 hours. *See* Tr. 181; PX 3.

60. Petitioner maintained a relationship with her children while incarcerated and tried to provide support through contact with their teachers and caregivers. Tr. 174-75; DCX 1 at 50, 54, 57. She was critical in averting life-threatening danger to her son when he experienced a mental health crisis and helped his medical providers thereafter. DCX 1 at 18-19, 50, 56.

Petitioner's Conduct Following Her 2015 Release from Incarceration

61. Petitioner relocated to New York City to be near her children upon release. Tr. 175. She was furloughed to a halfway house in Brooklyn on January 15, 2015. DCX 2 at 4. She confronted a wide range of problems, including significant medical problems. DCX 1 at 19.

62. Petitioner rebuilt family ties and helped support her children. Her son wanted to live with her initially, eliminating transitional housing as an option. DCX 1 at 19. She obtained a Bronx apartment and began the physical task of setting up a household. DCX 1 at 40. She helped her son obtain the braces and orthopedic support he required to walk properly. DCX 1 at 60. She created a GoFundMe petition to help her son resolve a prior tuition bill so he could re-enroll. DCX 1 at 40. He finished his degree. *Id.* Later, he developed pancreatic cancer and Petitioner provided critical support. *Id.*; Tr. 99, 117. She has strong ties with her daughter as well. Tr. 420; DCX 1 at 40.

63. Petitioner rebuilt ties with her extended family. She assisted two elderly uncles, including one with dementia in a Texas nursing home, receiving little or no support from his own children who blocked family input. DCX 1 at 51; Tr. 421.

64. Upon leaving the halfway house, Petitioner asked her Probation Officer to arrange mental health therapy because she anticipated reentry would be difficult. Tr. 188-89; DCX 2 at 30. She saw Brooklyn psychologist Dr. Judith Hope weekly from January 2016 to September 2018 (32 months). *Id.* After her supervision was terminated early (see below), Petitioner sought private mental health treatment at Mt. Sinai, where she saw a psychologist weekly and a resident psychiatrist at least monthly. Tr. 190; DCX 2 at 33-36. Due to difficulty seeking treatment at Mt. Sinai during the Covid-19 pandemic, Petitioner obtained treatment in the Bronx, where

she saw a clinical social worker every two weeks and a psychiatrist once per month. Tr. 190-93.

65. Petitioner quickly became involved with a local Catholic parish. Tr. 25-27, 203; DCX 1 at 39-41. She joined the Hospitality and the Social Justice Committees and became deeply involved: organizing food bank donations and special drives for formerly incarcerated women; leading a drive for Syrian refugees that collected a semi-tractor trailer of goods; organizing film screenings on the "Close Rikers" movement; and participating in programs to protect DACA youth. Tr. 203; DCX 1 at 39-41, 44-45. Petitioner joined New York efforts to end solitary confinement and to reform bail restrictions. Tr. 63, 203. She co-chaired the Social Justice committee and was on the parish council. Tr. 27, 60. She represented the parish in sensitive positions on borough-wide criminal justice and anti-racism task forces, and permanently broadened church ties with the surrounding community. DCX 1 at 39-41, 44-45; Tr. 29, 31-32, 64.

66. Petitioner became involved in Bronx community activities. She joined a New York City parks group to restore the Croton Dam aqueduct. Tr. 203-04; DCX 1 at 40. She volunteered in a local City Council campaign and participated in local precinct community meetings. DCX 1 at 25, 40. During the pandemic, Petitioner volunteered to go out and secure supplies for individuals so they could shelter in place. DCX 1 at 52.

67. Petitioner worked in amputee support activities. DCX 1 at 25, 60, 61. She helped other newly released amputees obtain prosthetic services. *Id.* She joined

an amputee support group. *Id.* She became certified as a peer counselor by the Amputee Coalition of America and is a hospital resource. *Id.*

The Home Depot Incident

68. On April 11, 2016, Petitioner was at a local Home Depot with a neighbor, Mr. Colon. Tr. 202; DCX 1 at 53. She was both purchasing and returning an item. *Id.* The staff person thought she was returning something she had not purchased and had her arrested. *Id.*; DCX 1 at 20; DCX 2 at 11. Petitioner was charged with Attempted Petty Larceny. DCX 2 at 40.

69. On April 12, 2016, in lieu of entering a plea or going to trial, Petitioner consented before the criminal court for Bronx County, to an "Adjournment in Contemplation of Dismissal," which means she, the prosecutors, and the judge all "agreed to dismiss [her] case [after] 6 months as long as [she] did not get re-arrested" and so long as she completed two days of social service. DCX 2 at 40, 46, 48, 49 (adjournment on Apr. 12, 2016, and dismissal on Oct. 11, 2016); N.Y. CPL § 170.55.

70. Petitioner gave the following description of this event in her Petition: "I got into [an] argument with the staff person at Home Depot. I was sarcastic and quick to snap back at him, resulting in an arrest and a disorderly conduct charge, though later dismissed." DCX 1 at 20.

71. In response to Question 24 on the Reinstatement Questionnaire, Petitioner gave more details regarding this incident:

I was involved in an incident at a Home Depot on April 6, 2016 and the staff filed a complaint against me. I was charged with petty theft/disorderly conduct. I was in the return line with a friend to return an item for which I had a receipt; I also had an item I was going to

purchase. I did not know items could be returned without a receipt and the clerk took both. When she did so, the staff person nearby immediately said I was stealing the second item. He called the police. The charge was ultimately dismissed.

DCX 2 at 11.

72. During her reinstatement hearing, Petitioner offered the following testimony regarding the Home Depot incident:

I put both items down, [my friend] and I were talking. The clerk asked if I was returning the items. I thought -- I didn't really perceive she meant both. I said yes. And he and I were not paying attention. And she then called a security official over that I was trying to return something I had not purchased. I think I was a little short-tempered with the guy, and he stopped everything immediately and called the police and he had me arrested.

Q And how was that issue resolved?

A It was dismissed.

Q Did you have to do any coursework or community work?

A I - I'm sorry. I sat in on a class I think for an afternoon.

Tr. 202.

73. Petitioner attached the papers from the criminal case that explain that what she called a "dismissal" was actually the result of her successful completion of the "Adjournment in Contemplation of Dismissal." See DCX 2 at 46, 48, 49.

Petitioner's Post Incarceration Work Experience

74. Petitioner worked at whatever jobs were available, including research assignments for consultant Jack Donson ("Donson"). DCX 1 at 35-36; DCX 2 at 4-5.

75. Petitioner established a sole proprietorship, Core Legal Support, assisting attorneys with drafting, researching, database development, information-gathering, and related assignments. Tr. 205; DCX 1 at 24, 63; DCX 2 at 4.

76. Petitioner volunteered with the National Lawyers Guild. DCX 1 at 46-47. She was Executive Vice President for Jailhouse Lawyers. *Id.* at 24. She assisted in updating the incarcerated membership roster, helped to develop a nationwide assistance network, and developed ways for incarcerated members to vote and more fully participate. *Id.*

77. Petitioner was a board member with the New York City Paralegal Association for two years, focusing on programming. Tr. 205-06; DCX 1 at 48-49, 62. She created a joint event with NYU School of Law on Microsoft Word for legal professionals and updated media materials. DCX 1 at 48-49.

Early Termination of Supervision; Restoration of Rights

78. In August 2018, Petitioner's sentencing court terminated early her five years of supervised release. PX 4. Her probation officer endorsed it, stating that Petitioner's "adjustment to supervision has been favorable . . . [with] genuine efforts to change her life." PX 29 at 2.

79. In 2018, the State of Virginia restored Petitioner's civil rights. PX 15. She already had voting rights in New York, having voted in every post-release election and recently working as a poll worker. Tr. 412-13.

Completion of LL.M. degree

80. In August 2018, Petitioner approached George Washington University Law School to explore completing the LL.M. degree she had started in 1988 (she was 6 credits shy). Tr. 86, 108, 210. She interacted with then-Associate Dean Hank Molinengo ("Molinengo") and Graduate Studies Director Stephanie Allgaier. Tr. 86-88. She "discussed [her] offense conduct with them in detail and provided life chronologies." *Id.*; Tr. 394; DCX 2 at 5. University staff had links to articles about her case, and had researched it and her background on the internet. *Id.*; Tr. 86-88. They presented this information to the Interim Dean. *Id.* Letters of support from other attorneys were submitted. *Id.* By March 2019 the Interim Dean readmitted her on a non-degree basis, which was later converted to degree status. *Id.*; Tr. 88-89.

81. Molinengo agreed to supervise her on an independent writing course. Tr. 89. Petitioner studied constitutional issues relating to attorney-client privilege for incarcerated individuals because she thought it was critically important. Tr. 211-12. She received an A on her 90-page paper, identifying "the constitutional sources of that attorney-client privilege . . . what's the minimum amount of contact . . . that secures that right, and [whether it was] possible to come up with [a] model code." Tr. 90, 95, 212. Petitioner hoped to work with Donson to establish a nationwide working group on the problem, but the Covid-19 pandemic interrupted that effort. Tr. 217-18.

82. Petitioner did not disclose to Molinengo that she initially pursued her LL.M. to further her commitment to the HVA and that she leveraged her status as a GW Law government contracts student to infiltrate the U.S. Government. Tr. 108-110 (Molinengo); DCX 36 at 1; Tr. 289-90 (Petitioner). Upon learning that information during the hearing, he responded: "that sickens me to hear that That sickens me [b]ecause government contracting, you can get access to a lot of super sensitive secret material." Tr. 109. While he thinks he still would have recommended that she have a chance to finish her degree, he noted "this greatly, greatly upsets me [a]nd I'll leave it at that." Tr. 110. When asked by Petitioner's counsel if the "new information" affected his opinions on whether she should be reinstated to the Bar, he responded:

To be candid, it makes me pause for a moment However, at the end of the day, since she's not going to have access to any classified information, never work for the government, if her intent on becoming an attorney is to help people, help underserved people, it would not change my opinion But to say it doesn't - to say that my stomach isn't turning right now would not be the truth. My stomach is turning right now.

Tr. 112 (Molinengo).

83. Petitioner received an A+ in Professor Jonathan Turley's Fall 2019 Supreme Court Constitutional Law seminar, which required drafting two Supreme Court opinions as a class assignment. Tr. 213-14. In Spring 2020 she successfully completed the Professional Responsibility course. Tr. 213-15. In March 2020, she

took the MPRE, scoring 126. Tr. 215; PX 6. Petitioner received her LL.M. degree in May 2020. PX 5.

IV. CONCLUSIONS OF LAW

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

The nature and circumstances of Petitioner's prior misconduct is a significant factor in the reinstatement determination, because of its "obvious relevance to the attorney's 'moral qualifications . . . for readmission'" and the Court's "duty to insure that readmission 'will not be detrimental to the integrity and standing of the Bar.'" *In re Borders*, 665 A.2d 1381, 1382 (D.C. 1995) (quoting D.C. Bar R. XI, § 16(d)(1)). Where a petitioner has engaged in grave misconduct "that is [] closely bound up with [p]etitioner's role and responsibilities as an attorney," the scrutiny of the other *Roundtree* factors shall be heightened. *Id.* at 1382 (denying reinstatement where the petitioner's misconduct, in soliciting bribes from criminal defendants in exchange for lenient treatment from a judge, involved the practice of law and went to the "heart of the integrity of the judicial system").

The seriousness of Petitioner's conduct cannot be understated. Petitioner was recruited by an East German intelligence agency in 1981. Petitioner's criminal espionage activity continued in several different forms with different counterparties. Petitioner engaged in espionage even after East and West Germany were reunified in 1990. She continued her espionage activities through the KGB. In January 1994, while working at DOD, she traveled to Amsterdam to meet David Truong (who was earlier convicted of espionage on behalf of North Vietnam), hoping to establish a

possible, new intelligence connection. In concert with others, Petitioner engaged in protracted deception and ultimately used her position as an attorney in an effort to communicate national defense information with intent or reason to believe that it would be used to the injury of the United States or to the advantage of a foreign nation. In January 1997, Petitioner met with an undercover FBI agent posing as a South African intelligence officer, and provided him with four classified documents. She was arrested later in 1997, and convicted after a jury trial in 1998.

The three espionage-related offenses-(1) conspiracy to commit espionage, in violation of 18 U.S.C. § 794(a) & (c); (2) attempted espionage and aiding and abetting, in violation of 18 U.S.C. §§ 2, 794(a); (3) obtaining national defense information and aiding and abetting, in violation of 18 U.S.C. §§ 2, 793(b)-were crimes of moral turpitude. *Squillacote*, 790 A.2d at 514-15. The elements of the offenses of conviction demonstrate the utmost seriousness of these offenses:

Section 794(a) makes it a crime to communicate or attempt to communicate to any foreign power any information related to the national defense of the United States, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation. Section 794(c) makes conspiracy to commit a violation of § 794(a) a separate, punishable offense. Thus, § 794 punishes espionage in the classic sense: giving secret government defense-related information or documents with intent either to hurt the United States or to give aid to a foreign power Section 793(b) punishes the obtaining of national defense information with the intent or reason to believe that the information will be used to the injury of the United States or to the advantage of a foreign nation.

Id. at 517-18 (appended Board report).

The Hearing Committee recognizes that the Court of Appeals permits all disbarred attorneys to seek reinstatement. *See In re McBride*, 602 A.2d 626, 641 (D.C. 1992) (en banc) (concluding that attorneys "disbarred upon conviction of a crime involving moral turpitude shall no longer be deemed disbarred for life . . . and that such attorneys, like all others who have been disbarred, shall be entitled to petition for reinstatement . . . after five years of disbarment"). We understand that Petitioner's conviction on espionage-related charges is not a permanent bar to reinstatement, but we take particular notice of the protracted nature of her criminal conduct, and the years of deception that facilitated her criminal conduct.

Also, because Petitioner's misconduct was "closely bound up with [her] role and responsibilities as an attorney," we give heightened scrutiny to the remainder of the *Roundtree* factors. *See In re Borders*, 665 A.2d 1381, 1382 (D.C. 1995).

B. Petitioner's Recognition of the Seriousness of Her Misconduct Ts of Limited Value in Assessing Her Fitness to Practice.

The Court assesses a petitioner's recognition of the seriousness of misconduct as a "predictor of future conduct." *In re Reynolds*, 867 A.2d 977, 984 (D.C. 2005) (per curiam). "Tf a petitioner does not acknowledge the seriousness of his or her misconduct, it is difficult to be confident that similar misconduct will not occur in the future." *Id.* However, where, as here, a petitioner blames mental health issues (at least in part) for the misconduct leading to disbarment, her objective understanding of the wrongfulness of her conduct does not provide us with any confidence that the misconduct will not occur in the future. She has not shown that the mental health issues have been treated sufficiently.

We conclude that Petitioner recognizes the seriousness of her misconduct. She admits that she was convicted of very serious criminal offenses-three espionage-related felonies-and sentenced to twenty-one years, ten months imprisonment. She admits that she used her position as an attorney to hurt the United States, the legal profession, and others. She describes her criminal conduct as "inexcusable," "blameworthy," "grossly irresponsible," "stupid and highly irresponsible," "serious," and "egregious." Pet. for Reinstatement at 7-9. Petitioner testified "[t]here's a lot of shame because you hear and see [at her criminal trial] really unpleasant, awful things about yourself, and you did them, you said them, you have to own them." Tr. 184. We see no reason to doubt Petitioner's hearing testimony and the assertion in her reinstatement petition that she is ashamed of her criminal conduct. *See* Pet. for Reinstatement at 7-9. Only a hardened spy would not be ashamed of Petitioner's criminal conduct.

She recognizes that her abuse of her professional status warrants heightened scrutiny of her reinstatement petition:

My conduct was particularly serious because I engaged in it as a government attorney. Any member of the bar swears to uphold the Constitution and to faithfully discharge their duties. Any violation of law violates that duty. Conduct compromising our national security strikes at the heart of it. It violates integrity and honesty. I took advantage of my position and friendships to do so. A government attorney has the unique responsibilities of a public employee. You are serving the public good. I was a career federal civil service employee, so I had sworn to "support and defend the Constitution ... against all enemies, foreign and domestic; [to] bear true faith and allegiance to the

same; [and to] faithfully discharge [my] duties...." I violated that oath and the public trust.

Pet. for Reinstatement at 9.

Petitioner's clear acknowledgement of the seriousness of her criminal conduct is of limited value in proving that she is fit to practice because she explains at length that, due to a range of mental issues, she was prone to suggestion and manipulation, first by Stand and his family, and later Ziemer, and finally the undercover FBI agent posing as a South African intelligence agent. She attempted to convince the Hearing Committee that she was not really serious about her decades of clandestine activity, her furtive efforts to escape detection, her efforts to continue clandestine activity after the reunification of East and West Germany, and her purposeful, deliberate, and calculated decision to pass classified Defense Department documents to someone who she believed to be an agent of a foreign power. Instead, she posits that this criminal conduct arose out of a range of mental health issues, described variously as "maladaptive behavior," "Borderline Personality Disorder and Major Depression," "narcissism," and "grandiosity." In her reinstatement petition, she said that her clandestine conduct "seemed like a compulsion, a route to having an identity without which I would have had none." Pet. for Reinstatement at 3. In short, Petitioner needed to please those around her, and unfortunately for her, those around her drew her into espionage.

We have no reason to doubt Petitioner's contention that she suffered from mental health issues during the period of her criminal conduct. The chronology set out above describes someone slowly but surely drawn into espionage little by little

over many years, until she reached the point that she actually passed classified information to a foreign agent. However, and critically, as discussed below in Section C, Petitioner has not presented clear and convincing evidence that the conditions that she says led to her criminal conduct have been eliminated or at least controlled sufficiently to avoid a repeat of the egregious breach of trust that resulted in Petitioner's conviction and resulting disbarment.

Thus, Petitioner's recognition of the utmost seriousness of her criminal conduct is of limited value without evidence bearing on the alleged causal connection between the mental health conditions and Petitioner's criminal conduct, or evidence that the mental health issues have been addressed such that we can be assured that Petitioner will not fall back into the protracted deception that resulted in her criminal conviction.

C. Petitioner Has Failed to Show that She Has Taken the Steps Necessary to Prevent Future Misconduct.

The third *Roundtree* factor requires a review of Petitioner's conduct since disbarment, to identify steps taken to remedy past wrongs, and prevent future ones. The record reveals nothing that Petitioner could have done to remedy the conduct that resulted in her conviction. We focus our inquiry on evidence bearing on the steps that Petitioner has taken to prevent future wrongdoing.

We commend Petitioner for her apparently successful reintegration into society after her lengthy incarceration. We do not denigrate or ignore the numerous good things that Petitioner has done since her release from prison. Disciplinary Counsel does not contest Petitioner's contention that she was a model inmate, that

she has established a stable and supportive living situation for herself and for her son, that she is a productive and an important part of her Catholic parish, or that she committed herself to community activism. We have no doubt that Petitioner's friends, parish, and neighborhood are better off with her out of prison. However, we are not asked to determine whether Petitioner has proven that she is a good neighbor, or a contributing member of society. Given the protracted deception underlying her past criminal conduct, her extensive community involvement is not probative of Petitioner's efforts to prevent future wrongdoing.

It appears that Petitioner intended to rely on the testimony of her medical and mental health professionals, who were expected to testify regarding Petitioner's "mental status and fitness to resume the practice of law." Petitioner's Disclosure of Expert Testimony at 1. Specifically, Petitioner planned to call Jennifer Hope, Ph.D., to testify to her

assessment of [Petitioner's] recognition of the role mental health issues played in her offense and the seriousness of her offense; the unlikelihood of recurrence of wrongful conduct; and her belief that reinstatement of [Petitioner] to the Bar would not be detrimental to its integrity or endanger the public interest.

Id. at 1-2. Petitioner also expected to call Thomas Hopkins, M.D. (or Dr. Antonia New); Jonathan Galindo, LMHC; and/or Luis Ang, M.D., to testify regarding Petitioner's

prospective ability to manage her mental health status, cope with stressors (both personal and professional), to establish boundaries, and to apply coping skills and cognitive strategies.

Id. at 2.

However, none of these witnesses testified. All of these witnesses live in New York (near Petitioner), and to Petitioner's and counsel's surprise, none were willing to appear voluntarily (even though the hearing was conducted via video conference). Petitioner was unable to compel their testimony, but she asserts that her failure to produce these witnesses "was not from a lack of effort or an attempt to withhold evidence." Pet. Post-Hearing Reply at 18. We do not doubt Counsel's efforts to present this testimony, and we commend Counsel for the thorough presentation of Petitioner's case. However, we are left with a record in which Petitioner relies on her mental health issues to explain her criminal conduct (or at least put the conduct in a more favorable context), but fails to offer live testimony from mental health professionals to support her contention that her mental health issues have been resolved, or at least are sufficiently controlled. Instead, we have only two relatively brief letters (each under three pages) regarding Petitioner's mental health. Dr. Hope, who last treated Petitioner in August of 2018, offered the following conclusion:

In my clinical opinion, Mr. Squillacote recognizes the role that mental health issues played in her offense conduct and its seriousness, and has addressed them since, through CBT and other therapies while incarcerated, as well as psychotherapy since her release. I have seen her consistently apply cognitive skills to ensure rational choices as she went about the difficult process of re-entry. Cognitive analysis has become a regular process for her. In my view, she has addressed relevant issues to a degree such that wrongful conduct is highly unlikely to happen again. She makes sound and mature decisions, even in very difficult and challenging circumstances. I believe that her reinstatement to the Bar would not in the least be detrimental to its integrity or endanger public interest.

DCX 2 at 32.

Dr. Hopkins, who last treated Petitioner in June 2020, noted in his letter that another professional at Mt. Sinai Hospital had determined that Petitioner "no longer meets criteria for Borderline Personality Disorder, [Intermittent Explosive Disorder], or [Post-Traumatic Stress Disorder]." DCX 2 at 34-35. Dr. Hopkins noted that this determination

is of particular relevance as Borderline Personality Disorder is characterized by maladaptive character traits, which include fears of abandonment, unstable relationships, unstable self-image, impulsive/self-destructive behaviors, and emotional reactivity. The fact that [Petitioner] was assessed to no longer meet criteria for this disorder on admission to our clinic is a testament to the effort and psychological growth that have taken place over the past several years in treatment, as both the evaluating psychiatrist and her previous psychiatrist felt that she no longer displayed these character traits.

DCX 2 at 35.

We recognize that the Board Rules permit us to rely on hearsay evidence, like the two letters cited by Petitioner. *In re Shillaire*, 549 A.2d 336, 343 (D.C. 1988) (hearsay is admissible in disciplinary proceedings); *In re Mitrano*, 952 A.2d 901, 918-19 (D.C. 2008) (appended Board Report) (same). Board Rule 11.3 provides that

Evidence that is relevant, not privileged, and not merely cumulative shall be received, and the Hearing Committee shall determine the weight and significance to be accorded all items of evidence upon which it relies. The Hearing Committee may be guided by, but shall not be bound by the provisions or rules of court practice, procedure, pleading, or evidence, except as outlined in these rules or the Rules Governing the Bar.

But our ability to consider hearsay evidence does not require that we give it much weight.

We have reviewed the two letters that Petitioner has submitted regarding her mental health. Taken at face value, these opinions might support a conclusion that Petitioner's prior mental health issues have been addressed sufficiently that she can resume the practice of law.

The parties devote several pages of their post-hearing briefs to argument regarding the meaning and import of the contents of each letter. Disciplinary Counsel argues, among other things that the letters do not address all of Petitioner's prior mental health diagnoses, they contain hearsay within hearsay, are somewhat dated, and rely on medical records that were not offered into evidence. Petitioner attempts to counter each of the purported flaws identified by Disciplinary Counsel. It may well be that Petitioner has the better of the argument, but that is not at all clear on this cold record. We have little other than the letters themselves to assure ourselves of their conclusion that Petitioner's mental health issues are sufficiently controlled.

Because we have not heard testimony from Petitioner's medical providers, we decline to accept their letters at face value. Indeed, we give them little weight. Because Petitioner has failed to show that her mental health issues are controlled, she has not proven by clear and convincing evidence that she has taken the steps necessary to prevent future misconduct.

D. Evidence Bearing on Petitioner's Present Character Reveals a Lack of Candor.

This *Roundtree* factor requires Petitioner to demonstrate, among other things, that "those traits which led to [her] disbarment no longer exist and . . . [she] is a

changed individual, having a full appreciation for [her] mistake." *In re Brown*, 617 A.2d 194, 197 n.11 (D.C. 1992) (quoting *In re Barton*, 432 A.2d 1335, 1336 (Md. 1981)). As evidence of this change, Petitioner should proffer the testimony of "live witnesses familiar with the underlying misconduct who can provide credible evidence of petitioner's present good character." *In re Yum*, 187 A.3d 1289, 1292-93 (D.C. 2018) (citation omitted) (denying reinstatement based on Report and Recommendation reflecting that petitioner's witnesses were unfamiliar with the details of his misconduct). Petitioner has presented character witnesses who are familiar with her criminal conduct (some more familiar than others), and all of whom support her reinstatement to the Bar. Notably, only Ms. Kramer, Rev. Warden, and Petitioner's own daughter, had close, in-person relationships with Petitioner. *See* Tr. 41-43. Dean Molinengo met Petitioner in person only twice (Tr. 103), Mr. Tigar met her in person only once (Tr. 441), and Ms. Balenti never met Petitioner in person. Tr. 133. Had Petitioner's prior discipline resulted from an isolated error in judgment, her character witness testimony might be sufficient to satisfy this *Roundtree* factor, but that is not this case. Because of the protracted and serious nature of Petitioner's criminal conduct grounded in dishonesty, our "character" inquiry is focused heavily on the issue of honesty.

Unfortunately, the record shows that Petitioner continues to display a lack of candor. We focus on two issues. First, Petitioner's description of the Home Depot arrest and subsequent criminal proceedings. Second, when she sought readmission to GW Law, she failed to disclose that she initially pursued her LL.M. to further her

commitment to the HVA and that she leveraged her status as a GW Law government contracts student to infiltrate the U.S. Government.

Petitioner's continued insistence in her Petition, hearing testimony, and even in her post-hearing brief that criminal charges arising from the Home Depot incident were "dismissed," or "ultimately dismissed," is inexplicable. As she disclosed in the documents attached to her reinstatement petition, she agreed to an "Adjournment in Contemplation of Dismissal," which means she, the prosecutors, and the judge all "agreed to dismiss [her] case [after] 6 months as long as [she] did not get re-arrested" and so long as she completed two days of social service. That outcome is qualitatively different than Petitioner's incomplete explanation that the matter was "dismissed" or "ultimately dismissed," which carry a connotation that there was nothing to the allegation of criminal conduct.

Her lack of candor to Dean Molinengo is equally troubling. After her release from prison, she wanted to complete her LL.M. with an eye toward reinstatement to the Bar. She went through a long process with GW Law, but never told Dean Molinengo, her direct advisor, that she had initially pursued the LL.M. to further her clandestine activity. Dean Molinengo was "sicken[ed] to hear that" during the disciplinary hearing because, as he testified, with expertise in government contracting "you can get access to a lot of super sensitive secret material." Tr. 109. Petitioner failed to tell the full truth to her advisor, and someone that she chose to call as a character witness.

We also note that Petitioner concedes that she will never regain the trust of the United States government, as she writes in her brief: "It is virtually impossible to imagine [Petitioner] would ever be cleared for any government slot again, but [she] is equally amenable to any condition restricting her from seeking or accepting any such position." Pet. Post-Hearing Br. at 60. This was consistent with Dean Molinengo's testimony, supporting her reinstatement, but only because she would never have access to classified information, or be allowed to work for the government. Tr. 112. We do not suggest that all lawyers must be able to pass a government background check allowing access to classified information, but it is noteworthy that Petitioner and at least one of her character witnesses recognize the cloud continuing to hang over her reputation for honesty.

The Court has repeatedly observed that "[l]awyers have a greater duty than ordinary citizens to be scrupulously honest *at all times*, for honesty is 'basic' to the practice of law." *In re Cleaver-Bascombe*, 986 A.2d 1191, 1200 (D.C. 2010) (per curiam) (quoting *In re Mason*, 736 A.2d 1019, 1024-25 (D.C. 1999) (emphasis in original)); *see also In re Daniel*, 11 A.3d 291, 300 (D.C. 2011) ("[T]here is nothing more antithetical to the practice of law than dishonesty . . ."). Here, following her criminal convictions that arose out of years of collective, concerted dishonesty, Petitioner's present lack of candor compels us to conclude that she has not proven by clear and convincing evidence "that 'those traits which led to [her disciplinary sanction] no longer exist and . . . [she] is a changed individual having full

appreciation for [her] mistake.” *Brown*, 617 A.2d at 197 n.11 (quoting *Barton*, 432 A.2d at 1336).

E. Petitioner Has Proven That She is Competent to Resume the Practice of Law.

As the Court explained, “[a] lawyer seeking reinstatement . . . should be prepared to demonstrate that he or she has kept up with current developments in the law.” *Roundtree*, 503 A.2d at 1218 n.11. We agree with Disciplinary Counsel that Petitioner’s qualifications and competence support her reinstatement. *See* ODC Post-Hearing Br. at 50.

V. CONCLUSION

For the foregoing reasons, we conclude that Petitioner has failed to prove by clear and convincing evidence that she is currently fit to resume the practice of law, and we recommend that her Petition for Reinstatement be denied.

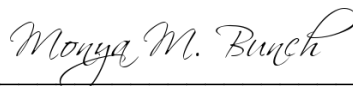
AD HOC HEARING COMMITTEE



Jay A. Brozost, Chair



Billie LaVerne Smith, Public Member



Monya M. Bunch, Attorney Member