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

In the Matter of:	:	
	:	
VICTOR MBA-JONAS,	:	
	:	
Petitioner.	:	Board Docket No. 11-BD-019
	:	Bar Docket No. 2011-D157
A Suspended Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 452042)	:	

REPORT AND RECOMMENDATION
OF THE AD HOC HEARING COMMITTEE

I. BACKGROUND

This is a contested reinstatement proceeding. Petitioner's Petition for Reinstatement followed an order of the District of Columbia Court of Appeals (the "Court") suspending him in two consolidated reciprocal discipline matters. In the first case, *Mba-Jonas I*, the Court suspended Petitioner for 90 days with a requirement to prove fitness as a condition of reinstatement, and in the second, *Mba-Jonas II*, the Court suspended Petitioner for six months, also with a fitness requirement. *See In re Mba-Jonas*, 993 A.2d 1071, 1076-77 (D.C. 2010).[1] The discipline was based on Petitioner's repeated overdrafts of his trust account, other account mismanagement, and concealment of information from the Maryland Bar investigator who was investigating one of the overdrafts.

[1] Petitioner filed separate D.C. Bar R. XI, § 14(g) affidavits in each of these cases. Both affidavits were initially deficient. The Court held that the 90-day suspension in *Mba-Jonas I* would not commence until March 3, 2010, and that the six-month suspension in *Mba-Jonas II* would begin *nunc pro tunc* to January 7, 2008, the dates Petitioner filed compliant supplemental affidavits. *Mba-Jonas*, 993 A.2d at 1076-77.

It is Petitioner's burden to prove by clear and convincing evidence that he has satisfied the criteria for reinstatement. D.C. Bar R. XI, § 16(d)(1). Petitioner has failed to carry that burden, primarily because the evidence presented to the Ad Hoc Hearing Committee (the "Hearing Committee") showed that during the period of his suspension, he repeatedly overdrew his personal accounts, despite the warning of the Court of Appeals of Maryland (the "Maryland Court") that he would not be readmitted until "the sloppiness which has characterized his handling of his escrow account will no longer obtain." *In re Mba-Jonas*, 919 A.2d 669, 677 (Md. 2007). In addition, Petitioner has refused to acknowledge the seriousness of his dishonest responses to the Maryland Bar investigator. The Hearing Committee thus recommends that the Petition for Reinstatement be denied, as more fully explained below.

II. PROCEDURAL HISTORY

Petitioner first filed a Petition for Reinstatement on April 13, 2011. He withdrew the petition on May 5, 2011, when he filed the instant Petition for Reinstatement.[2] On May 19, 2011, Petitioner filed a supplement to the Petition for Reinstatement and the Reinstatement Questionnaire required by Board Rule 9.1(b).

On August 17, 2011, Bar Counsel filed a motion to dismiss the Petition for Reinstatement with the Board pursuant to Board Rule 9.4, asserting that Petitioner had not fully responded to Questions 16, 17, 19 and 20 of the Reinstatement Questionnaire.[3]

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[2] The first petition sought Petitioner's "reinstatement as a member of the Maryland Bar." The second petition corrected this error. BX 14.

[3] Question 16 required Petitioner to identify all banks or other financial institutions where he maintained accounts while suspended. Question 17 required him to identify any obligations that were or had been more than 90 days past due during his suspension, to

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BX 18.[4] In response to the motion to dismiss, Petitioner supplemented his responses to the Reinstatement Questionnaire. *See, e.g.*, BX 20 at 158-59.[5] The Board found that the supplemental answers provided "full and complete response[s]" to Questions 16, 19 and 20. BX 23 at 3-5. With respect to Question 17, the Board recognized that Petitioner had failed to answer the question in full, because he did not list the dates on which he incurred the financial obligations that he disclosed. *See* Order, *In re Mba-Jonas*, Board Docket No. 11-BD-019 at 5-7 (Board Order Nov. 7, 2011); BX 20 at 158 (referring to BX 14 at 124 and BX 13 at 125). However, the Board found that this omission was not a basis to dismiss the petition because (1) it did not involve issues that were central in assessing his fitness to practice law, and (2) he had provided sufficient information to allow Bar Counsel to obtain the missing information by subpoena if Bar Counsel determined that it was material to its investigation. BX 23 (Board Order at 6-7). The Board thus denied Bar Counsel's motion to dismiss on the ground that the petition was "not insufficient [on its face] as a matter of law[.]" BX 23 (Board Order at 5-7).

In its order denying the motion to dismiss, the Board also granted Bar Counsel's motion for an additional 60 days to complete its investigation of the Petition for

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identify the date the obligations were incurred and to provide the name and address of all creditors. Question 19 required Petitioner to disclose if he had filed for bankruptcy while suspended, and Question 20 required him to disclose whether any of his credit cards had been revoked during his suspension.

[4] "BX" is used to designate Bar Counsel's exhibits.

[5] Petitioner's supplemental response identified the bank accounts and creditors required by Questions 16 and 17, respectively. Petitioner also asserted that he had not declared bankruptcy and had not had a credit card revoked during his suspension, in response to Questions 19 and 20, respectively.

Reinstatement. *Id*. at 7; *see* Board Rule 9.5 (requiring Bar Counsel to investigate the material facts alleged in a reinstatement petition). On January 5, 2012, Bar Counsel filed an answer to the Petition for Reinstatement. BX 24. On January 17, 2012, Petitioner filed a reply, and submitted additional documentary evidence. BX 25. A reinstatement hearing was held on March 26, 2012, before an Ad Hoc Hearing Committee composed of Catherine S. Duval, Esquire, Chair; Lula Ivey, public member; and Miriam B. Riedmiller, Esquire. Tr. at 3.[6] Petitioner appeared *pro se.* Tr. at 2. Bar Counsel was represented at the hearing by Assistant Bar Counsel William R. Ross, Esquire, and Assistant Bar Counsel Joseph Perry, Esquire. Tr. at 2.

Petitioner testified on his own behalf and presented the testimony of Ethel Ngozi Nwanna (Petitioner's friend and a Certified Public Accountant); Felix Anyanwu (Petitioner's friend and an attorney); Garrick Mba-Jonas (Petitioner's brother); Henry Ejemole (Petitioner's friend); Victoria Mba-Jonas (Petitioner's daughter); Pamela Mba-Jonas (Petitioner's wife); Chidiadi Mba-Jonas (Petitioner's son); and Nnenna Mba-Jonas (Petitioner's daughter). The Hearing Committee received Petitioner's Exhibits ("PX") 1, 3, 9, 11-13, 15-17, 19-26, 28-32 into evidence without objection. Tr. at 17.[7]

Bar Counsel did not call any witnesses. The Hearing Committee received Bar Exhibits 1-55 into evidence. Tr. at 17.

III. FINDINGS OF FACT

[6] "Tr." is used to designate the transcript of the March 26, 2012, hearing.

[7] Petitioner moved exhibits 1-32 into evidence (Tr. at 17), and the Hearing Committee admitted them. However, the record shows that he tendered only the exhibits enumerated above. *See* Petitioner's Index of Exhibits (filed Mar. 16, 2012).

A. Petitioner's Background

1. On September 6, 1996, Petitioner was admitted to the Bar of the District of Columbia Court of Appeals and assigned Bar Number 452042. BX 1.

2. Petitioner was previously admitted to the Bars of Pennsylvania (May 23, 1994), Maryland (April 6, 1995) and Virginia (June 11, 1996). BX 1.

B. The Nature and Circumstances of the Misconduct

3. The Court's order of reciprocal discipline is based on discipline imposed by the Maryland Court in two separate matters: *Attorney Grievance Comm'n v. Mba-Jonas*, 919 A.2d 669 (Md. 2007) ("*Mba-Jonas I*") and *Attorney Grievance Comm'n v. Mba-Jonas*, 936 A.2d 839 (Md. 2007) ("*Mba-Jonas II*"). Each of these matters arose from Petitioner's mismanagement of his trust account, including numerous overdrafts. At the reinstatement hearing, Petitioner offered the following explanation for his account mismanagement:

> Essentially, I was writing checks to clients before I could deposit the checks. So I would write a check to client A, but I have client B's money in my escrow, for instance and then client A would withdraw his money before client B withdraws her money. They call get [sic] their money, but at some point, I'm out of trust with client B who had their money in there for a longer period of time.

Tr. at 6.

4. In *Mba-Jonas II*, Petitioner also provided misleading information to a Maryland Bar investigator. 936 A.2d at 843-45; Tr. at 6-7.

5. In the reciprocal proceeding in this jurisdiction, Bar Counsel sought the imposition of substantially different discipline of disbarment, on the grounds that Petitioner's conduct constituted reckless or intentional misappropriation.

6. The Board found that the record in the Maryland proceeding did not support a finding of intentional or reckless misappropriation, and thus recommended reciprocal discipline of a six-month suspension with a fitness requirement. *See In re Mba-Jonas*, Bar Docket No. 463-07 at 14, 23 (BPR Dec. 30, 2008). Specifically, the Board noted that if the Maryland Court had determined that Petitioner's "misappropriations were attributable to a 'conscious indifference' on his part" in handling his trust account, "the Maryland Court would have deemed his conduct 'intentional misappropriation.'" *Id*.; *see also id*. at 13 (noting that under Maryland law misappropriation resulting from a respondent's "conscious indifference" in the use and management of a trust account is considered "intentional misappropriation"). The Court found that Bar Counsel did not overcome the presumption in favor of reciprocal discipline given the findings in the Maryland proceedings. *Mba-Jonas*, 993 A.2d at 1073-74.

i. Mba-Jonas I

The findings of the Maryland Court are set forth below.

7. In *Mba-Jonas I*, Petitioner overdrew his trust account, failed to pay certain clients amounts due to them, paid other clients more than the amounts due to them, and deposited client funds into the trust account when it had a negative balance (and thus money meant for that client "was used for other purposes"). *Mba-Jonas I*, 919 A.2d at 673.

8. Petitioner admitted "the careless nature of the management of his escrow account" in the Maryland proceeding. *Id*. He acknowledged that he did not reconcile the account monthly and that he left personal injury protection ("PIP") funds and his fees in

the escrow account. Petitioner maintained inaccurate settlement sheets and kept very few records. Petitioner did not retain escrow account statements and had to obtain them from the bank in order to provide these records to the Maryland Attorney Grievance Commission. Petitioner also did not maintain a ledger, and he agreed to post-date checks as an accommodation to his clients. *Id.*

9. Based on the findings that funds deposited into Petitioner's attorney escrow account "were not used for the persons intended," and that Petitioner did not keep complete records of his handling of entrusted funds, the Maryland Court held that Petitioner violated Maryland Rules of Professional Conduct 1.15 (failure to safeguard client property, commingling, and recordkeeping violations) and 8.4(d) (conduct prejudicial to the administration of justice); Maryland Rules 16-604 (client funds must be deposited in trust account), 16-607 (commingling), and 16-609 (writing escrow check payable to cash); and Maryland Business Professions and Occupations Article § 10-306 (misuse of entrusted funds). *Id.*[8]

10. The Maryland Court found three important mitigating factors. First, it found that Petitioner did not intend to defraud his clients or steal from them, and noted that "many of his problems resulted from his desire to accommodate his clients and to keep them satisfied with his representation." *Id*. at 674. Second, Petitioner had "extremely distracting family problems" during this time, including the fact that his mother passed away and his brother-in-law required dialysis. *Id*. Third, and "most importantly," the Maryland Court noted that "[Petitioner] testified without contradiction

[8] The relevant text of these Maryland Rules is set forth at *Mba-Jonas I*, 919 A.2d at 670 n.2, 671 nn.4-7, and 672 n.9.

that he has taken the appropriate remedial actions to maintain his escrow account in accordance with the Rules of Professional Conduct, and that his account is now in order." *Id.*

11. The Maryland Court rejected Petitioner's argument that he should be reprimanded, and instead imposed an indefinite suspension with the right to apply for readmission after 90 days. The Maryland Court imposed the readmission requirement, because Petitioner would have "to demonstrate lessons learned and, critically, that the sloppiness which has characterized his handling of his escrow account will no longer obtain." *Id.* at 677.

ii. Mba-Jonas II

12. The findings of the Maryland Court are set forth below.

13. In *Mba-Jonas II*, Petitioner overdrew his trust account numerous times, deposited client funds into his trust account while it had a negative balance (and thus the entire amount due to the client was not immediately available), failed to timely disburse client funds, and paid certain clients more than they were entitled to receive. 936 A.2d at 842-43.

14. The Maryland Court held that in connection with the handling of entrusted funds, Petitioner had violated Maryland Rules of Professional Conduct 1.15 and 8.4(d); Maryland Rules 16-607 and 16-609; and Maryland Business Occupations and Professions Article § 10-306.[9] *Id*. at 843.

15. In addition, Petitioner provided misleading information to a Maryland Bar Counsel investigator during the investigation, which was opened after Maryland Bar Counsel received a notice dated April 26, 2005, of a $39.79 overdraft in Petitioner's attorney escrow account. The precise date of the overdraft is not clear in the record. *Id*. at 841-42.

16. In connection with Maryland Bar Counsel's investigation of that overdraft, Petitioner's counsel sent Maryland Bar Counsel a letter that Petitioner had obtained from McDonald C. Okechukwu of Bank of America, which purported to explain the overdraft. The letter read in full as follows:

To Whom It May Concern:

[9] The relevant text of the Maryland Rules is set forth at 936 A.2d at 840 nn.1-4 and 841 nn.5-6.

> On August 2nd, 2005, a deposit of $15,800.00 was made into [Petitioner's] account, which funds were delayed until August 11, 2005.
>
> [Petitioner] issued a check which cleared his account on August 11, 2005 with the assumption that the funds would be available on the same business day. However, according to our deposit agreement the funds are available the next business day after the expiration of hold. In this case, the funds were made available on August 12, 2005 causing [Petitioner's] account to become overdrawn.

Id. at 843 n.8.

17. The Maryland Court found that the letter was "totally non-responsive[,]" to Maryland Bar Counsel's inquiry, because the letter referred to an August 2, 2005 deposit, which was three months after the overdraft at issue. *Id*. at 842. The Maryland Court accepted the trial court's finding that

> [t]he letter obtained from Bank of America [was] another example of the extreme carelessness exhibited by the [Petitioner] and not an attempt at deliberate deception, [because] the letter was so clearly non-responsive, there was no question that it would be accepted as a resolution of the overdraft by the Attorney Grievance Commission.

Id. at 844.

18. Petitioner testified at the reinstatement hearing that he had contacted Mr. Okechukwu about the overdraft issue, and Mr. Okechukwu provided him with this letter, which Petitioner did not review before his counsel sent it to Maryland Bar Counsel, and thus, he did not know that the letter did not address the overdraft at issue. Tr. at 134-35. There is no evidence in the record to suggest that any of the overdrafts in Petitioner's accounts resulted from bank "holds" on the proceeds of deposited checks. As such, it is not clear what Petitioner was attempting to do when he obtained the letter from Mr. Okechukwu. However, whatever his intent, the letter did not explain the overdraft at issue.

19. The Maryland Court accepted the trial court's finding that Petitioner "deliberately tried to conceal his connection to" Mr. Okechukwu, when he twice told Maryland Bar Counsel Investigator Marc Fiedler that he did not know Mr. Okechukwu. *Id*. at 844. In fact, Petitioner had represented Mr. Okechukwu in a divorce in 1999. *Mba-Jonas II*, 936 A.2d at 843. Yet, Petitioner maintained that he did not know Mr. Okechukwu even after Mr. Fiedler "said he hoped he would not find out that [Petitioner] had represented the banker." *Id*. Petitioner testified in the Maryland proceeding that Mr. Fiedler did not ask whether Petitioner *knew* Mr. Okechukwu, but rather, whether they were friends, to which Petitioner responded "no." *Id*. at 843-44.

20. The Maryland Court held that the Petitioner violated Maryland Rule of Professional Conduct 8.1 (failure to provide information despite lawful demand) in his response to Maryland Bar Counsel's inquiry about the overdraft notice and that his cooperation had lessened since the first disciplinary matter, when the disciplinary process "should have induced more cooperation rather than less." *Id*. at 844.[10] Finding that these two matters involved similar violations of the Maryland Rules of Professional Conduct that occurred close in time, the Maryland Court concluded that "the appropriate sanction [in *Mba-Jonas II*] is a continuation of the indefinite suspension [imposed in *Mba-Jonas I*] with the right to reapply for readmission after six months[.]" *Id.* at 847.

[10] The full text of Maryland Rule 8.1 is set forth at 936 A.2d at 840 n.3.

C. Reciprocal Discipline in Virginia, Pennsylvania, and Discipline Imposed by the Immigration Courts

21. Petitioner was indefinitely suspended in Virginia beginning on September 28, 2007, and he cannot be reinstated there until he is reinstated in Maryland. *See* BX 5 at 46-47. He was indefinitely suspended in Pennsylvania on February 4, 2008, and the conditions of his reinstatement there are not clear in the suspension order. *See* BX 6 at 49. On May 29, 2008, the Board of Immigration Appeals (the "BIA") indefinitely suspended Petitioner from practice before the BIA, the Immigration Courts, and the Department of Homeland Security ("DHS"). *See* BX 7 at 50. In order to be reinstated to practice before the BIA, the Immigration Courts and DHS, Petitioner must show that he has been reinstated in D.C., Maryland, Pennsylvania and Virginia. *Id*. at 51.

D. Petitioner's Post-Discipline Conduct, Including Steps Taken to Remedy Past Wrongs and Prevent Future Ones.

i. Petitioner's Efforts to Learn How to Maintain Ledgers and Reconcile His Trust Account

22. Ethel Ngozi Nwanna, a Certified Public Accountant, has trained Petitioner on Quickbooks. Tr. at 19-21. Petitioner went to Ms. Nwanna's office for two full weeks of training on how to keep a ledger and reconcile bank accounts.[11] *Id*.

23. Ms. Nwanna opined that based on her training, Petitioner has the "sufficient knowledge and skill to ensure" that he always has sufficient funds in his trust

[11] The timing of this training is not clear on this record. Ms. Nwanna initially testified that "it was in February of [2011]" (Tr. at 21), but then later clarified that the training in February 2011 may have been "the overview of what needed to be done[,]" and that additional training occurred in October 2011. Tr. at 34. Petitioner testified that his training with Ms. Nwanna occurred in February 2011 (Tr. at 111), but then said that it might have been in December 2010. Tr. at 114. This uncertainty regarding timing is not

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account before issuing a check[.]" Tr. at 21. However, she conceded that Petitioner would need "[o]ne more training, two more, sitting down together and making sure it sinks in." Tr. at 38. She also testified that she would keep Petitioner's books on a monthly basis if he is reinstated. Tr. at 38.

24. Petitioner has made arrangements with "Ledger Concepts," an accounting firm in Greenbelt, Maryland, to provide accounting services in the event that Ms. Nwanna can no longer provide such services. Tr. at 140.

ii. Petitioner's Failure to Properly Manage His Personal and Business Bank Accounts Since His Suspension

25. Petitioner's personal and business bank accounts have been in repeated overdraft status following his suspension by the Court.

26. SunTrust account ending in 2298 – Three times between March 20, 2007, and October 5, 2007 (when the account was closed), Petitioner wrote checks on insufficient funds or made purchases with his debit card that caused this account to have a negative balance. BX 51 at 386, 391, 392.

27. M&T Bank account ending in 9597 – On at least eight occasions between February 8, 2008, and September 8, 2011, Petitioner wrote checks on insufficient funds or made purchases with his debit card that caused this account to have a negative balance. *See* BX 52 at 429-30, 434-35, 441, 446, 450-51, 454, 457-58, 463, 471, 473, 475, 477, 485, 496-98; *see also* BX 53 at 617, 622, 734, 751, 753-55, 765, 810, 812-13.

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material to our consideration of any issue, as it is clear that Petitioner attended training with Ms. Nwanna.

28. SunTrust business account ending in 2329 – Six times between March 1, 2007, and February 28, 2011, Petitioner wrote checks on insufficient funds or made purchases with his debit card that caused this account to have a negative balance. BX 54 at 875, 877, 878, 881, 882, 883.

29. Petitioner acknowledged at the reinstatement hearing that during his suspension, he purposely wrote checks on his personal accounts, when he knew there were insufficient funds to cover them, testifying as follows:

> I knew all they were going to charge me $25[sic], but I had to pay the bill for daycare for my little son who's not here today, otherwise he would be out in the street. . . . I knew that [an overdraft fee] was going to come, but I didn't mind the hit coming from there because I was going to pay the money for the kid at the daycare center, things like that.

Tr. at 101.

> I did take some hits purposefully to the account, I knew that. I was going to take that hit for instance to pay the rent and pay the mortgage.

Tr. at 138-39.

iii. Petitioner's Reinstatement Attempts in Maryland

30. Petitioner has sought reinstatement in Maryland, the original disciplining jurisdiction, at least four times. *See* Tr. at 113 (Petitioner testified that he has "filed about three or four [petitions for reinstatement] in Maryland"). Those petitions, all of which were denied, are substantially the same as the petition filed in this matter. *Compare* BX 43, BX 46, and BX 49, *with* BX 8, BX 12. Petitioner remains suspended in

Maryland. *See* BX 45, BX 48, BX 55, and BX 57 (orders denying petition for reinstatement).[12]

iv. Petitioner Held Himself Out as a Lawyer while Suspended

31. Petitioner worked at the Ubom Law Group while suspended. *See* Tr. at 96, 115. On December 11, 2007, Petitioner sent a letter to Lynne Campbell, Claim Adjuster, at Geico Insurance. BX 34. The letter notified Ms. Campbell that "[t]he above named individuals in connection with personal injuries sustained and property damage incurred in the above referenced auto accident *have retained us.*" *Id.* (emphasis added). Petitioner also requested "all pertinent forms *our client* is required to fill out with respect to this claim[,]" and "a copy of any statement(s) you may have taken from *our client.*" *Id.* (emphasis added). Petitioner signed the letter: "Victor Mba-Jonas, Esq., Personal Injury Claims Dept." *Id.*

32. Bar Counsel investigated whether Petitioner was engaged in the unauthorized practice of law. BX 35. On January 24, 2008, Petitioner responded to Bar Counsel's inquiry and stated that "I am a little confused as to what the allegation is, however I wrote the letter as assistant to Mr. Uduak James Ubom, Esquire, who is the attorney in that matter." BX 38; PX at 12. Petitioner testified that he did not understand that he could not use "Esquire" while suspended, and that he "thought [that he] was still a lawyer, just not active[.]" Tr. at 97. He also testified that the Pennsylvania, Maryland and Virginia Bars referred to him as "Esquire" in correspondence with him after his

[12] By Order dated March 18, 2013, the Hearing Committee granted Bar Counsel's motion to admit BX 57, the February 21, 2013 order of the Maryland Court denying Petitioner's Petition for Reinstatement.

suspension. Tr. at 97-98, 117. Bar Counsel did not challenge this testimony, and we credit Petitioner's explanation.

33. In a February 4, 2008 letter to Bar Counsel, Mr. Ubom confirmed that Petitioner had been hired as an assistant, performing duties similar to those performed by insurance adjusters. BX 39 at 308. Mr. Ubom also noted that his firm's letterhead, which identifies the firm's attorneys, did not identify Petitioner. *Id*. Finally, Mr. Ubom expressed his understanding that Petitioner could use the "Esquire" title because Mr. Ubom had seen correspondence from the Maryland Bar that referred to Petitioner as "Esquire." *Id*. However, Mr. Ubom said that he would instruct Petitioner to use the title "Legal Assistant" when signing letters in the future. *Id*. at 309.

34. By letter dated March 5, 2008, Bar Counsel informed Petitioner that it had concluded its investigation, and would not bring charges, but warned that it "may well decide to proceed differently" if Petitioner "continue[d] to hold [him]self out as an attorney or give a member of the public the impression that [he is] an active attorney[.]"[13] BX 40.

35. On February 8, 2008, after Petitioner was aware of Bar Counsel's investigation, Petitioner opened a personal bank account at M&T Bank. BX 52 at 424. Petitioner testified that he might have been required to present two forms of identification in order to open the account. Tr. at 119-120. The signature card reflects that Petitioner's secondary identification was his Maryland Bar card, with the notation that it had an

[13] Although Bar Counsel's letter states that it is "CONFIDENTIAL," Petitioner waived any confidentiality by submitting the document to the Hearing Committee as part of his Reply to Bar Counsel's Answer to Petition For Reinstatement, BX 25 at 196, and as one of his own exhibits. PX at 26.

expiration date of "05/09" and was issued by the "MD BAR ASSOC." BX 52 at 424. Petitioner testified that when asked by a bank employee for a second form of identification, he said "I used to be a lawyer but can that card work and he said, let's see." Tr. at 120. The signature card reflects that Petitioner's employment at the time of opening the account, on February 8, 2008, was "LAWYER." BX 52 at 424. Petitioner stated that "I can only guess why he wrote that[,]" and that "[s]ince he have [sic] the bar card maybe he said let me put that in as his profession." Tr. at 120.

36. We do not believe that Petitioner intended to improperly hold himself out as a lawyer when he worked for Mr. Ubom, but his use of the title "Esquire," and the proffering of his Maryland Bar card as a form of identification had that effect. We credit Petitioner's testimony, and the unchallenged assertions in Mr. Ubom's letter to Bar Counsel that Petitioner believed in good faith that the use of the title "Esquire" was permitted, notwithstanding Petitioner's suspension. Similarly, we do not find the evidence sufficient to prove that Petitioner intended to hold himself out as a lawyer when he used his Bar card as a second form of identification in opening his personal bank account. Having had the opportunity to observe Petitioner testify, the Hearing Committee finds that he testified credibly on this point. There is no evidence that Petitioner expected any benefit or special treatment from the bank by virtue of the fact that he was a member of the Maryland Bar, and thus, we accept his explanation that he simply used his Maryland Bar card to establish his identity at the bank, not to hold himself out as a lawyer.

v. Petitioner's Pending Charges of Driving Under the Influence and Other Offenses

37. On March 28, 2012, at 10:33 p.m., Petitioner was stopped while driving a motor vehicle in Anne Arundel County, Maryland. BX 56.[14] Petitioner was charged with the following offenses: "Driving vehicle while under the influence of alcohol," in violation of Maryland Transportation Article § 21-902(a)(1); "Driving while impaired by alcohol," in violation of Maryland Transportation Article § 21-902(b)(1); "Reckless driving vehicle in wanton and willful disregard for safety of persons and property," in violation of Maryland Transportation Article § 21-901.1(a); "Negligent driving vehicle in careless and imprudent manner endangering property, life and person," in violation of Maryland Transportation Article § 21-901.1(b); "Driver failure to obey properly placed traffic control device instructions," in violation of Maryland Transportation Article § 21-201(a)(1); "Driver changing lanes when unsafe," in violation of Maryland Transportation Article § 21-309(b); "Willfully driving motor veh. at slow speed impeding normal and reasonable traffic movement," in violation of Maryland Transportation Article § 21-804(a); and "Failure to equip veh. with required rear stop lamp," in violation of Maryland Transportation Article § 22-219(a). BX 56 at 921-22.

38. A first offense of driving a vehicle while under the influence of alcohol in violation of Maryland Transportation Article § 21-902(b)(1) is punishable by "a fine of not more than $1,000, or imprisonment for not more than 1 year, or both." Maryland Transportation Article § 27-101(k)(1).

[14] By Order dated May 9, 2012, the Hearing Committee granted Bar Counsel's motion to admit BX 56.

39. On April 6, 2012, Petitioner requested a trial on these charges. BX 56 at 921-22.

40. Neither Bar Counsel nor Petitioner moved to supplement the record to include evidence regarding the resolution of these charges.[15]

vi. Petitioner's Failure to Disclose Relevant Information in Response to Question 11 of the Reinstatement Questionnaire

41. Question 11 of the Reinstatement Questionnaire asks: "Have there been or are there now any charges, complaints, or grievances pending concerning your conduct as an attorney in any bar of which you are a member or have ever been a member other than the District of Columbia Bar." BX 10 at 104; BX 14 at 124-25.

42. In his responses to Question 11 of the Reinstatement Questionnaire that Petitioner submitted in support of both his first Petition (which he withdrew) and the instant Petition, he failed to disclose that a client named Gerardo A. Somarriba had complained that Petitioner filed a lien in excess of his fee agreement with Petitioner. BX 10 at 104 ("None"); BX 14 at 125 ("Not Applicable"). He also failed to disclose that on July 23, 2007, he was notified that a Maryland Peer Review Panel had found that his conduct in the Somarriba matter "*violated the Maryland Rules of Professional Conduct* and [that the panel had] recommended that [he] should receive a warning to insure that

[15] Following the close of the hearing, Petitioner submitted a letter dated September 20, 2013, to the Hearing Committee in which he asserts that he received "probation before judgment" for his "traffic matter." However, Petitioner did not move to introduce the letter into evidence or supplement the record to include it, and the Hearing Committee thus has not considered it. Moreover, even if the record were supplemented with Petitioner's letter, his ambiguous statement that he received probation before judgment is insufficient to support a finding by clear and convincing evidence that this was in fact the disposition of the case.

such conduct is not repeated."[16] BX 25 at 215 (emphasis added) (finding violations of Maryland Rules 1.5, 8.4(a) and 8.4(d)); PX at 19 (emphasis added). Despite these omissions, Petitioner signed statements certifying that he had read the Reinstatement Questionnaire, "answered all questions fully," and that his "answers [were] complete and true to the best of [his] knowledge." BX 10 at 108-09 (signed Apr. 8, 2011); BX 14 at 129 (signed May 5, 2011).

43. Bar Counsel argues that Petitioner's testimony at the reinstatement hearing about the *Somarriba* complaint "was at best carelessly incorrect and at worst intentionally misleading." BC Brief at 41. Bar Counsel's argument rests on Petitioner's general testimony at the reinstatement hearing that "a prior complaint . . . was dismissed as unwarranted." Tr. at 87. Although Bar Counsel believes that this testimony related to the *Somarriba* complaint, neither Petitioner nor Bar Counsel specifically addressed the *Somarriba* complaint during the hearing. Bar Counsel did not ask Petitioner whether the above-referenced "prior complaint" was the *Somarriba* complaint, or if so, to explain his assertion that it was "dismissed as unwarranted." Thus, the Hearing Committee does not find by that Petitioner gave "carelessly incorrect" or "intentionally misleading" testimony regarding the *Somarriba* complaint.

vii. Petitioner's Failure to Disclose Relevant Account Information in Response to Reinstatement Question 16

44. Petitioner's original disciplinary proceedings addressed "financial irregularities," and thus, Question 16 of the Reinstatement Questionnaire required

[16] Although the Maryland Attorney Grievance Commission warning letter states that it is "PRIVATE AND CONFIDENTIAL," Petitioner waived confidentiality by submitting the document to the Committee as part of his Reply to Bar Counsel's Answer to Petition For Reinstatement, BX 25, and as part of his own exhibits, PX at 19.

Petitioner to "identify all banks and other financial institutions at which [he] maintained accounts during the period of . . . suspension." BX 10 at 105; BX 14 at 125. He did not do so.

45. In his response to Question 16 and in his first supplement to the Reinstatement Questionnaire, Petitioner disclosed only one of his three accounts. *See* BX 10 at 105 (referring to BX 9 at 64) (disclosing SunTrust account ending in 2329, and failing to disclose M&T Bank account ending in 9597 and SunTrust account ending in 2298); BX 14 at 125 (referring to BX 13 at 120) (same).

46. Petitioner did not disclose the two additional bank accounts—an M&T Bank account ending in 9597 and a SunTrust account ending in 2298—until after Bar Counsel noted in its Motion to Dismiss that Petitioner's answer to Question 16 was not responsive because he did not represent that the joint SunTrust account ending in 2329 was the only account he held during the suspension. BX 18 at 152; BX 20 at 158.

47. At the hearing, Petitioner testified about his failure to disclose the existence of the two personal bank accounts by stating:

> If you look at my petition for reinstatement, in fact there's some other documents and those documents are what I used in Maryland. If you look at the Maryland papers which is part of this government exhibit, it did refer to those accounts. I'm using the same form, in fact I filed it at the same time, in a two or three week area, so I thought that particular extra document which I give to Maryland, it was also attached. I put see attached whatever. I didn't know that wasn't attached. Those things answered more specifically those issues regarding the account. The account it referred to those issues, when I had those papers. If I was actually being direct, I would have tried to hide from Maryland also. I didn't do that in Maryland, I just didn't attach the extra exhibit to D.C. only. It was my own mistake. It was a whole lot of documents. First I had to write all of them, then I have to copy papers and put in front of you.

Tr. at 137 [sic].

48. Petitioner's purported disclosure of bank account information in the Maryland proceeding did not alter his obligation to fully respond to the Reinstatement Questionnaire in this jurisdiction. Petitioner failed to timely disclose relevant financial information in response to Question 16 of the Reinstatement Questionnaire relating to two additional personal bank accounts.

E. Petitioner's Character Witnesses

49. Petitioner presented character witnesses who testified that he is of good moral character, is remorseful, and will not repeat his past mistakes concerning the handling of funds in his trust account. However, none of his character witnesses were familiar with his misconduct or banking practices since discipline was imposed, or offered any detail to support their testimony that the misconduct would not recur.

50. Although the Hearing Committee credits the testimony of Petitioner's character witnesses, and finds that Petitioner is generally a man of good character, the Hearing Committee must determine whether the character traits that caused Petitioner to mismanage his trust account have been addressed. As none of his character witnesses spoke to the precise character issue before the Hearing Committee, we cannot find that he has carried his burden of proving that he is of sufficient character to resume the practice of law.

F. Petitioner's Efforts to Stay Abreast of Developments in the Law While Suspended

51. Petitioner submitted documents with his first Petition for Reinstatement reflecting that he had attended various continuing legal education courses. BX 9 at 67-71 (Virginia State Bar), 73 (D.C. Bar), and 75-76 (Nigerian Law School). Bar Counsel argues that none of these exhibits demonstrate that Petitioner actually attended the

sessions described, because Petitioner failed to sign the certifications. *See* BX 9 at 67-71; PX 1, 3, and 9.

52. The Hearing Committee disagrees in part. Petitioner submitted a letter from "Virginia CLE" explaining that Certificates of Completion (like those Petitioner submitted) were available for download only after each segment of the CLE seminar had been played to the end. BX 25 at 192; PX 3. In addition, Petitioner represented to the Hearing Committee that he "did take classes, my documents are in anyway as part of the exhibits." Tr. at 146. On this record, we find that Petitioner presented clear and convincing evidence that he took the Virginia CLE classes for which he submitted a Certificate of Completion.[17] We also find by clear and convincing evidence that Petitioner attended a March 26, 2010 D.C. Bar CLE course entitled "Fee Agreements in the District of Columbia: Ethical and Practical Guidance." We recognize that Petitioner did not sign the copy of the Uniform Certificate of Attendance for this course that he submitted in his reply to Bar Counsel's answer to the Petition for Reinstatement. *See* BX 25 at 194. However, he submitted a signed copy of the certificate as part of PX 1 at 2.

53. Petitioner has not shown by clear and convincing evidence that he took courses at the Nigerian Law School. He submitted an email acknowledging his admission to the Nigerian Law School, and a document purporting to show the results of

[17] PX 3 contains Certificates of Completion for the following Virginia CLE courses: "Criminal Defense of Immigrants," "Trial Tales: I Lost, But Here's What I Learned," "Landmines on the Way to the Top and How to Avoid Them: Ethics and Professionalism," and "2009 Recent Development in Ethics." PX at 3 also contains a list of eight other CLE courses for which no Certificates of Completion were provided. As such, Petitioner has not proven by clear and convincing evidence that he attended these courses.

"Bar Part I Examination Session." PX 9. However, he did not provide any testimony or documents that explain his course of study at the Nigerian Law School, or that explain the meaning of the results of "Bar Part I Examination Session." Because the evidence submitted regarding the Nigerian Law School does not clearly identify the courses he took, Petitioner has not proven by clear and convincing evidence that he took courses at the Nigerian Law School.

IV. CONCLUSIONS OF LAW AND RECOMMENDED DISPOSITION

D.C. Bar R. XI, § 16(d)(1), places upon an attorney seeking reinstatement the burden of proving by clear and convincing evidence:

> (a) That the attorney has the moral qualifications, competency, and learning in law required for readmission; and
>
> (b) That the resumption of the practice of law by the attorney will not be detrimental to the integrity and standing of the Bar, or to the administration of justice, or subversive to the public interest.

In *In re Roundtree*, 503 A.2d 1215, 1217 (D.C. 1985), the Court set forth five criteria governing reinstatement:

> 1) the nature and circumstances of the misconduct for which the attorney was disbarred;
> 2) the attorney's recognition of 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.

In re Richardson, 874 A.2d 361, 362 (D.C. 2005) (per curiam). The Hearing Committee concludes that Petitioner failed to meet his burden of demonstrating by clear and convincing evidence that he meets the criteria for reinstatement, for the reasons set forth below.

A. Petitioner's Original Misconduct was Serious

Petitioner mismanaged his trust account over a substantial period of time, resulting in what amounted to the negligent misappropriation of client funds. *See Mba-Jonas,* 993 A.2d at 1074 (noting that the record in the Maryland proceedings did not support a finding that Petitioner had engaged in reckless or intentional misappropriation.). Although the Maryland Court specifically found that Petitioner did not intend "to defraud, deceive, or steal from his clients," and that much of his mismanagement resulted from his effort to accommodate his client's wishes, his misappropriation was serious. As Petitioner conceded in his testimony, he was writing checks to Client A before Client A's money was available in his account, thus risking that he would have insufficient funds in his account to pay all his clients. *See* FF ¶ 3.

Petitioner also misled the Maryland Bar investigator regarding his relationship with Mr. Okechukwu during the investigation of an overdraft, when he failed to tell the investigator that he had previously represented Mr. Okechukwu. As Petitioner acknowledged during the hearing, he "was being technical quite frankly," when he responded to the investigator and denied that Mr. Okechukwu was his friend. *See* Tr. at 134; FF ¶ 18. Even if his answer was technically true, it was dishonest. *See In re Shorter*, 570 A.2d 760, 767-68 (D.C. 1990) (per curiam) (citation omitted) ("technically true" responses to revenue agents envinced a lack of integrity and straightforwardness, and were dishonest). Petitioner's failure to disclose material facts about his relationship with Mr. Okechukwu was a misrepresentation. *See In re Scanio,* 919 A.2d 1137, 1143 (D.C. 2007); *In re Mitchell.* 727 A.2d 308, 315 (D.C. 1999).

B. Petitioner Does Not Recognize the Seriousness of the Misconduct

The Court has consistently relied upon this *Roundtree* factor "as a predictor of future conduct." *In re Reynolds*, 867 A.2d 977, 984 (D.C. 2005) (per curiam) (appended Board report). The failure to acknowledge the seriousness of misconduct is a potential bar to reinstatement. *See id*.; *In re Molovinsky*, 723 A.2d 406, 409 (D.C. 1999) (per curiam); *In re Lee*, 706 A.2d 1032, 1035 (D.C. 1998) (per curiam) (appended Board report); *In re Fogel*, 679 A.2d 1052, 1055 (D.C. 1996). "If 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." *Reynolds*, 867 A.2d at 984.

i. Mishandling of Trust Account

Petitioner testified that the sanctions imposed on him "got my attention all right[,]" and he admitted that he had been reckless in the way that he had handled his escrow account. Tr. at 132-33 ("It was just that I was reckless in the way I kept the account . . . .").[18] Petitioner explained that in certain instances, when he received a settlement check he would write a post-dated check to his client before the settlement check had cleared. Tr. at 87-88. Some of these clients deposited their checks before the date on the check, and thus, before the settlement check had cleared. *Id*. Petitioner acknowledged in his post-hearing brief that post-dating checks was "against the rules," and that his conduct "caused the other client's funds whose money is still in escrow not

[18] Although Petitioner said that he was "reckless" in handling his account, we do not understand this as an admission that he engaged in "reckless misappropriation." Instead, placed in context, we understand that Petitioner meant that he had not been sufficiently careful, or had been negligent, in handling his account.

to be safe guarded [sic] therefore out of trust." Petitioner's Brief at unnumbered pages 7-8, ¶ 42.

> Petitioner testified that he will not repeat these mistakes if he is readmitted:
>
> > I have taken accounting lessons on Quickbooks and how to keep a ledger, how to consolidate my account every month for every client. That is essentially what did me in and I cannot see how that can repeat itself again if I'm let back in the D.C. Bar.

Tr. at 8; *see also* Tr. at 99 ("I wouldn't write checks if the money is not there"); Tr. at 111 (Petitioner would tell a client that "[i]f the money is not in the escrow, you're not going to get a check. If you don't want me next time go somewhere else."). We find that Petitioner testified credibly that he understands what he did wrong with regard to his trust account, and we find that he has accepted responsibility for his misconduct.

However, although Petitioner expressed his understanding of the wrongfulness of his misconduct, and how he should handle his accounts in the future, he has been unable to translate that understanding into conduct that shows that he can properly handle a trust account. As Bar Counsel argues, and as discussed in Section C *infra*, Petitioner's handling of his personal accounts following his discipline shows that he is either unwilling or unable to properly manage his financial accounts. We cannot base a finding that Petitioner appreciates the seriousness of his misconduct on his testimony alone—that the suspension "got [his] attention all right" and that he will not write checks when there are insufficient funds in his account. Instead, we must also examine Petitioner's conduct, which shows that his actions do not match his words.

Thus, if Petitioner actually appreciated the seriousness of his misconduct, he would have scrupulously monitored his accounts to prevent any overdrafts. He did not do so. The record shows multiple overdrafts during his suspension, some of which were

intentional because Petitioner needed the money. *See* FF ¶¶ 25-29. His failure to manage his own accounts shows that he does not truly appreciate the seriousness of his misconduct regarding his attorney trust accounts. *See In re Robinson*, 705 A.2d 687, 689 (D.C. 1998) (reinstatement denied where, *inter alia*, "petitioner's conduct of his financial affairs had been considerably 'less [than] exemplary' and 'demonstrate[d] the same financial irresponsibility and lack of restraint which led to his disbarment.'") (brackets in original).

ii. False Statement to Maryland Bar Investigator

With respect to his false statement to the Maryland Bar investigator concerning his relationship with Mr. Okechukwu, Petitioner concedes that he "should have volunteered that he did represent the banker in a divorce matter previously[,]" but he continues to maintain that he "believed the question be whether the banker was a friend of his." *See* Petitioner's Br. at unnumbered page 10, ¶ 53. Petitioner's continued effort to justify his answer to the investigator as "technically correct" and not deliberately false, shows that he does not understand the seriousness of his misconduct.

Petitioner further maintains that "it would not have made any difference in the investigation," had he told the investigator that he had previously represented Mr. Okechukwu. Petitioner's Br. at unnumbered page 10, ¶ 53; *see also* Tr. at 134 (Petitioner testifying that "If I told [Mr. Fielder] that [Mr. Okechukwu] was my old client, it wouldn't have changed anything."). This shows that Petitioner does not recognize that he should not have misled Mr. Fiedler, regardless of whether it would have made a difference in the investigation. *See In re Stanton*, 860 A.2d 369, 382 (D.C. 2004) (per

curiam) (failure to accept seriousness of misconduct where "[p]etitioner continues to believe that the Court erred in finding violations in respect of any of his conduct.").

For the foregoing reasons, the Hearing Committee finds that Petitioner has failed to show by clear and convincing evidence that he understands the seriousness of his misconduct.

C. Petitioner's Post-Discipline Conduct Does Not Support Reinstatement

Petitioner's personal accounts were overdrawn on numerous occasions. Indeed, Petitioner testified that he purposely overdrew his personal accounts when he needed the money to pay the rent or mortgage, or for child care. Tr. at 138-39. Unable to challenge the fact of the overdrafts, Petitioner argues that his handling of his own accounts is irrelevant to his reinstatement because he was never accused of taking client money for his own use. *Id*. at 139. Petitioner is wrong. The Court has recognized that when an attorney has misappropriated entrusted funds, particular attention is to be paid in a reinstatement proceeding to an attorney's handling of his personal finances prior to reinstatement. *See Robinson*, 705 A.2d at 688-89 (denying reinstatement because of an "unmistakable pattern of writing checks without sufficient funds [during suspension]," and failure to accurately provide all information required on Reinstatement Questionnaire).

Here, Petitioner misappropriated entrusted funds when he acceded to client demands for settlement funds before the settlement checks had been deposited into his trust account, and thus, he paid Client A with money held in trust for Client B. Tr. at 6. His handling of his own accounts is especially important here because the Maryland Court warned that he would not be reinstated there until he could demonstrate "that the

sloppiness which has characterized his handling of his escrow account will no longer obtain." *Mba-Jonas I*, 919 A.2d at 677. His conduct shows that Petitioner still does not understand the basic proposition that he cannot spend money that is not his to spend. His conscious and intentional decisions to overdraw his personal bank accounts give us no confidence that he will be able to responsibly manage client accounts and, specifically, refuse client demands for settlement funds before they are ready for distribution. In short, Petitioner's mismanagement of his personal accounts during the period of his suspension shows that he cannot be trusted to manage a trust account.

Finally, even Ms. Nwanna, the accountant who trained Petitioner on escrow accounting, testified he would need one or two more training sessions "sitting down together and making sure it sinks in." Tr. at 38. We cannot find that Petitioner has remedied his prior misconduct when his own witness testified that he needed more instruction, and his conduct in managing his own accounts shows that he cannot be trusted to properly handle client funds.

We find that Petitioner has not shown by clear and convincing evidence that his post-discipline conduct supports reinstatement.

D. Petitioner's Present Character

Under this *Roundtree* factor, a petitioner is required to prove "that those traits which led to his [suspension] no longer exist . . . that the petitioner is a changed individual having a full appreciation for his mistake and a new determination to adhere to the high standards of integrity and legal competence which this Court requires." *In re Brown*, 617 A.2d 194, 197 n.11 (D.C. 1992) (quoting *In re Barton*, 432 A.2d 1335, 1336 (Md. 1981)). Petitioner is expected to "put on live witnesses familiar with the underlying

misconduct who can provide credible evidence of . . . petitioner's present good character." *Reynolds*, 867 A.2d at 986 (appended Board Report).

Petitioner has failed to carry his burden because he did not present witnesses who were familiar with his misconduct who could testify that the traits that led to Petitioner's suspension no longer exist. Felix Anyanwu, Garrick Mba-Jonas and Henry Ejemole all testified that Petitioner has worked hard and would handle things differently in the future. However, none offered any specifics, and none had any knowledge of Petitioner's management of his accounts. Ms. Nwanna, who testified regarding her training of Petitioner regarding proper account handling, was the only witness who testified regarding his ability manage financial accounts, and her testimony was equivocal.

We find that Petitioner has not shown by clear and convincing evidence that he has the present character necessary to practice law.[19]

E. Petitioner's Qualifications and Competence to Practice Law

Petitioner maintains that if reinstated, he will not engage in litigation but instead intends to do document review. Tr. at 125. This was not a consideration for the Hearing Committee, because if reinstated, Petitioner would not receive a partial or limited license to practice law. *See Roundtree*, 503 A.2d at 1218 n.10 ("Petitioner also testified that she does not intend to engage in the full-time practice of law, and that she will work with co-counsel in all her future cases in order to improve her 'administration of justice.' Neither of these factors has any bearing on whether petitioner is reinstated, for there is no such

[19] The record regarding the March 28, 2012 traffic charges against Petitioner is not sufficiently developed for the Hearing Committee to determine whether that alleged incident reflects adversely on his present character.

thing as partial reinstatement."). Moreover, Petitioner acknowledged that he may "get the itch to open an office again[.]" Tr. at 126.

Petitioner's conduct during this reinstatement proceeding shows a level of disorganization and lack of attention to detail that is unfortunately consistent with his sloppy management of his trust account and his personal accounts. Petitioner did not prepare his own petition with necessary care. He failed to disclose on his Reinstatement Questionnaire that a Maryland Peer Review Panel had found that he violated the Maryland Rules in the *Somarriba* matter. He failed to disclose the existence of two bank accounts in response to a question in the Reinstatement Questionnaire that required him to identify all banks or other financial institutions in which he maintained an account. Petitioner testified that he disclosed the accounts in one of his Maryland Petitions, but did not know why they were not disclosed here, and he noted that he had to prepare and copy "a whole lot of documents." Tr. at 137. That may be true, but we would expect that Petitioner would take extra care to include all responsive information in this proceeding, where the Hearing Committee must determine whether Petitioner is fit to practice law.

We recognize that the CLE classes Petitioner has taken during the period of his suspension (including classes on ethics and trust account management) can support a finding that he is competent to practice law. *See e.g.*, *Roundtree*¸ 503 A.2d at 1218 (considering petitioner's "participation in continuing legal education programs" and "acquisition of computer skills" when granting reinstatement). However, the fact that Petitioner attended CLE classes does not, on its own, overcome the evidence of his continued lack of competence shown by his wholly inadequate, disorganized and ineffective presentation of his own reinstatement case.

We find that Petitioner has failed to establish by clear and convincing evidence that he has the competency and learning in law required for readmission to the Bar.

V. CONCLUSION

As discussed above, Petitioner has not met the heavy burden under D.C. Bar R. XI, § 16(d) to support his reinstatement to the D.C. Bar. The Hearing Committee thus recommends that the Petition for Reinstatement be denied. Due to the delay in issuing this report, the Hearing Committee further recommends that the Court exempt Petitioner from the requirement that he not be permitted to apply for reinstatement until at least one year following the denial of his Petition for Reinstatement, and that it instead allow Petitioner to petition for reinstatement immediately. *See* D.C. Bar R. XI, § 16(g) ("If a petition for reinstatement is denied, no further petition for reinstatement may be filed until the expiration of at least one year following the denial unless the order of denial provides otherwise.").

AD HOC HEARING COMMITTEE

By: /CSD/
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Dated: May 29, 2014