SUMMARY OF AMICUS BRIEF ON BEHALF OF SECTION
ON COURTS, LAWYERS AND THE ADMINISTRATION OF JUSTICE,
JOINED BY SECTION ON CRIMINAL LAW AND INDIVIDUAL RIGHTS

The Section on Courts, Lawyers and Administration of Justice of the D.C. Bar, joined by the Section on Criminal Law and Individual Rights, has prepared a brief amicus curiae at the request of the D.C. Court of Appeals regarding the applications to the Bar of three individuals previously convicted of felonies. The Committee on Admissions has recommended that each be admitted.

The Sections urge that the Committee's decision be upheld. Focusing on the policy issues raised by these applications, the Sections endorse the Court of Appeals' prior rejection of a per se rule precluding admission of anyone ever convicted of a felony. The Committee and the Court should review all the facts related to a particular application in determining whether the applicant possesses the requisite good moral character.

The Sections also recommend that the Court adopt a rule requiring an independent investigation by the Committee on Admissions of any applicant previously convicted of a felony. Such an investigation would enhance the reliability of the Committee's assessment regarding the applicant's character.

Finally, the Sections argue that substantial evidence supports the findings of the Committee on Admissions in these cases, and that those findings therefore should be accepted by the Court.

A dissenting statement of one member of the Steering Committee of Section 4 urges adoption of a per se rule against admission of convicted felons.

IN THE DISTRICT OF COLUMBIA
COURT OF APPEALS

In the Matter of	
DANIEL E. MANVILLE, Applicant,	No. 84-1362
and	
In the Matter of	
WALTER STRAUSS, Applicant,	No. 87-92
and	
In the Matter of	
GEORGE L. BROOKS, Applicant.	No. 87-93

ON CONSIDERATION EN BANC OF THE
REPORT OF THE DISTRICT OF COLUMBIA
COMMITTEE ON ADMISSIONS

BRIEF AMICUS CURIAE OF THE SECTION ON COURTS, LAWYERS AND THE ADMINISTRATION OF JUSTICE OF THE DISTRICT OF COLUMBIA BAR, JOINED BY THE SECTION ON CRIMINAL LAW AND INDIVIDUAL RIGHTS OF THE DISTRICT OF COLUMBIA BAR

SECTION ON COURTS, LAWYERS AND THE ADMINISTRATION OF JUSTICE	SECTION ON CRIMINAL LAW AND INDIVIDUAL RIGHTS
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The views expressed herein represent only those of the Section on Courts, Lawyers and the Administration of Justice and the Section on Criminal Law and Individual Rights of the District of Columbia Bar and not those of the D.C. Bar or its Board of Governors.

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* Did not participate in the preparation of this Brief.

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BRIEF AMICUS CURIAE
OF THE SECTION ON COURTS, LAWYERS
AND THE ADMINISTRATION OF JUSTICE
OF THE DISTRICT OF COLUMBIA BAR,
JOINED BY
THE SECTION ON CRIMINAL LAW AND INDIVIDUAL RIGHTS
OF THE DISTRICT OF COLUMBIA BAR

Pursuant to the Court's request, the Section on Courts, Lawyers, and the Administration of Justice of the District of Columbia Bar, joined by the Bar's Section on Criminal Law and Individual Rights ("the Sections") submit this brief amicus curiae in support of the applications for membership in the Bar of Daniel E. Manville, Walter Strauss, and George L. Brooks. This brief will focus on the questions of policy raised by the applications of these individuals.

STATEMENT OF THE CASE

George L. Brooks, Daniel E. Manville and Walter Strauss seek admission to the Bar of the District of

Columbia. Because these applicants were previously convicted of felonies, the Committee on Admissions and this Court have given their applications special attention. These three applications are now before this Court upon favorable recommendations from the Committee on Admissions. Following the Committee's favorable report on Mr. Manville, this Court consolidated his application with those of Mr. Brooks and Mr. Strauss. The Court heard argument en banc and subsequently requested amicus briefs from the Sections of the D.C. Bar and voluntary bar associations.

I. The Admissions Process.

Pursuant to D.C. Code § 11-2501(a), this Court has authority to "make such rules as it deems proper respecting the examination, qualification, and admission of persons to membership in its bar." The Court has exercised this authority in D.C. App. R. 46. The Rule provides for a Committee on Admissions to process applications to the Bar, to administer the bar examination, and to certify to the Court the applications the Committee approves. D.C. App. R. 46(a). The Rule provides further that

> No applicant shall be certified for admission by the Committee until a careful examination has been made into the applicant's moral character and general fitness to practice law and a favorable report is rendered thereon.

D.C. App. R. 46(d). The applicant bears the burden of establishing, by a preponderance of the evidence, that he or she is fit to practice law in the District of Columbia. D.C. App. R. 46(e).

In determining the applicant's character and moral fitness, the Committee may hear the applicant's sworn testimony. If the Committee is unwilling to certify the application for admission, it must give the applicant an opportunity to withdraw. Applicants who do not withdraw have a right to a hearing before the Committee. If, after the hearing, the Committee is still unwilling to certify the application, it must again permit the applicant an opportunity to withdraw, and absent a withdrawal, must report its findings to the Court of Appeals. The Court thereafter holds hearings on an order to show cause why the applicant should not be denied admission to the Bar. D.C. App. R. 46(i).

II. The Application of George L. Brooks.

Mr. Brooks first applied for admission to the bar on May 23, 1981. He disclosed on his application a prior conviction for attempted armed robbery. The Committee on Admissions met to consider Mr. Brooks' application on March 23, 1982, and was unwilling at that time to certify him for admission. The Committee gave Mr. Brooks the requisite opportunity to withdraw his application. Instead, he requested that the Committee defer any decision until the Maryland Court of Appeals considered his application to its Bar.

Following that court's decision not to admit Mr. Brooks, In re George B., 297 Md. 421, 466 A.2d 1286 (1983), the Committee informed him that it would not certify his application. Mr. Brooks then requested and received a formal hearing on his application. Based on the evidence developed during the hearing, the Committee reversed itself and certified Mr. Brooks' admission.

See Report of Findings And Conclusions on Moral Character And Fitness To Practice Law of Applicant George L. Brooks.

III. The Application of Daniel E. Manville.

Daniel E. Manville passed the District of Columbia Bar examination in July 1982. Upon learning from Mr. Manville that he had been convicted in 1973 of manslaughter, the Committee held hearings on his fitness for admission to the Bar. The Committee was equally divided on whether Mr. Manville should be admitted. It therefore did not certify him for admission. Mr. Manville appealed to this Court.

On appeal, a panel of this Court held that while an "ex parte showing is adequate for consideration of a routine application, it may not serve the needs of the public and the legal community where a convicted felon applies for admission." In re Manville, 494 A.2d 1289, 1293 (D.C. 1985). The Court therefore remanded Mr. Manville's application to the Committee for an independent investigation of his moral character. Following that investigation and further hearings, the Committee recommended on March 20, 1987, that Mr. Manville be admitted to the Bar. See Report of Findings And conclusions On Moral Character And Fitness To Practice Law of Applicant Daniel E. Manville.

IV. The Application of Walter Strauss.

Mr. Strauss applied for admission to the Bar on October 4, 1985, after being admitted to the New York and New Jersey Bars. Mr. Strauss' application revealed convictions on several criminal drug charges and a

history of bad conduct from 1954 to 1966. Upon consideration of the extensive record that Mr. Strauss presented, the Committee determined that he had been rehabilitated and was of good moral character. The Committee therefore certified his admission. See Report Of Findings and Conclusions On Moral Character And Fitness To Practice Law of Applicant Walter Strauss.

The applications of all three individuals are now before this Court for decision.

ARGUMENT

I. This Court Has Correctly Held that There Should Be No Per Se Rule Barring Convicted Felons from Admission to the District of Columbia Bar.

A. The Rationales for a Per Se Rule Do Not Apply.

This Court ruled in its prior decision regarding Mr. Manville's application that "the ultimate determination to be made is whether, at present, an applicant has the good moral character required for admission to the Bar." Manville, supra at 1295. In outlining how to approach that determination, the Court rejected any per se rule that conviction of a felony forever precludes the Committee from finding an applicant to be of "good moral character."[1] In fact, the Court noted that even a conviction of homicide does not inevitably dictate denial of an application. Id. Yet, as the Court also recognized, a convicted felon has much to overcome in demonstrating his or her good moral

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[1] The term "felony" as used herein includes "serious crimes," as defined in D.C. Bar Rule XI § 15(2) relating to suspension from practice, even if they are not defined as felonies under the applicable criminal statutes. See D.C. Court of Appeals, Rules Governing the Bar of the District of Columbia Rule XI § 15(2) (1985).

character by a preponderance of the evidence, as D.C. App. R. 46(e) requires.

The Sections endorse this Court's position rejecting a per se rule that would invariably deny admission to anyone convicted of a felony. Certainly, an insistence that applicants to the Bar possess high moral character is critical to the integrity and standing of the profession. As noted in the proposed Section III.7 of the ABA's Code of Recommended Standards for Bar Examiners:

> The primary purpose of character and fitness screening before admission to the bar is the protection of the public and the system of justice. The lawyer licensing process is incomplete if only testing for minimal competence is undertaken. The public is inadequately protected by a system that fails to evaluate character and fitness as those elements relate to the practice of law. The public interest requires that the public be secure in its expectation that those who are admitted to the bar are worthy of the trust and confidence clients may reasonably place in their lawyers. Code of Recommended Standards for Bar Examiners § III.7 (Proposed Draft 1987).

The Committee on Admissions thus should apply a rigorous standard to screen out those applicants who ought not to be entrusted with the fiduciary responsibilities attorneys routinely shoulder.

A per se rule, however, is not the proper means to that end. Such an approach would amount to an irrefutable generalization that no showing an applicant made could establish that he or she is fit to practice law. It would irrebutably presume that a person convicted of a felony, no matter how long ago, no matter what the nature of the crime, no matter what he has done since, could never be rehabilitated to a level of good moral character. In the view of our Sections, that

premise is simply not valid across the board. Indeed, one operating principle of the penal system is that rehabilitation, in some instances at least, is both possible and desirable. Cf. Morrissey v. Brewer, 408 U.S. 471, 477 (1977) (purpose of parole is integration into society). The possibility of embarking on a productive and rewarding career after completion of the punishment imposed is a substantial incentive for inmates to attempt to rehabilitate themselves.

One rationale for a per se rule might be its utility as a prophylactic measure. Even if such a rule excluded from the Bar some persons who were in fact of good moral character and who posed no threat to their future clients, the argument runs, it would also exclude others of contrary inclination who might otherwise slip through the process. This argument is not persuasive. Absent any indication that incompletely reformed ex-convicts admitted to the Bar have posed and continue to pose a threat to their clients or to the profession in general, the burden of such a rule on persons who are of good character cannot be justified. Moreover, attempting to predict future professional conduct by a review of past actions is too unreliable an exercise to sustain such a rigid rule. See Rhode, Moral Character as a Professional Credential, 94 Yale L. J. 491 (1985); McChrystal, A Structural Analysis of the Good Moral Character Requirement for Bar Admission, 60 Notre Dame L. Rev. 67 (1984). In antitrust cases, by analogy, per se rules are reserved for conduct which always produces anticompetitive results. See Broadcast Music, Inc., v. Columbia Broadcasting System, Inc., 441 U.S. 1, 19-20 (1979); Jefferson Parish Hosp. Dist. No. 2 v. Hyde, 466

U.S. 2, 15-16 n.25 (1984). No comparable level of certainty is attainable in judging and attempting to predict one's character.

A per se rule might also be justified if the effort to ascertain an applicant's moral character were particularly burdensome. Cf. Northwest Wholesale Stationers, Inc. v. Pacific Stationery & Printing Co., 472 U.S. 284, 289 (1985) (purpose of antitrust per se rule is to avoid unnecessary and burdensome inquiries). While the ultimate decision on the applicant's character may be difficult, the evidentiary review required to reach a conclusion is not inherently cumbersome or drawn out.

Another possible justification for a per se rule is that it would provide guidance to both the applicant and the Admissions Committee. However, while the conception of moral character may have "shadowy rather than precise bounds," Schware v. Board of Bar Examiners of New Mexico, 353 U.S. 232, 249 (1957)(Frankfurter, J., concurring), the standards for ascertaining the moral character of applicants are readily accessible. Common sense is a reliable guide. This Court has identified factors to be considered in assessing the fitness of an applicant with a criminal record to practice law. They include:

- the nature and character of the crimes;
- the number and duration of offenses;
- the applicant's age and maturity when the offenses were committed;
- the social and historical context in which the applicant committed the crimes;

- the sufficiency of the punishment undergone and the restitution that the applicant made;
- the grant or denial of a pardon for the offenses committed;
- the number of years since the crime;
- the applicant's conduct since the crime;
- the applicant's acceptance of responsibility for and remorse concerning the offense;
- the applicant's full disclosure in the Committee's investigation;
- the applicant's constructive activities subsequent to the conviction; and
- the opinions of character witnesses about the applicant's moral fitness.

Manville, supra at 1296-97. See also In re James G., 296 Md. 310, 462 A.2d 1198, 1201 (1983) (considering many of these factors). The determination of the Committee on Admission thus is by no means standardless, and the Committee and the Court are competent to weigh these factors.

B. The Rule Disbarring Attorneys for Crimes of Moral Turpitude Does Not Preclude Admission of Applicants Previously Convicted of a Felony.

In this jurisdiction, when a member of the Bar is "convicted of an offense involving moral turpitude, and...a final judgment of conviction is certified to the court, the name of the member of the bar so convicted shall be struck from the roll of the members of the bar and he shall thereafter cease to be a member." D.C. Code Ann. § 11-2503(a) (1981). This Court has interpreted this provision as requiring permanent

disbarment. In re Kerr, 424 A.2d 94 (D.C. 1980). Some members of this Court, however, appear ready to reconsider that decision in the appropriate circumstance. See In re Wolff, 511 A.2d 1047 (D.C. 1986).

The permanent disbarment requirement, though, does not mandate a per se rule prohibiting the Court from admitting the three applicants before it. For one, the statute by its terms applies only to persons who already are members of the Bar. It does not mention applicants to the Bar who were previously convicted of felonies, but who have made a strong showing of rehabilitation and their fitness now to practice law. As to such applicants, the D.C. Code affords this Court the power to "make such rules as it deems proper respecting [their] examination, qualification, and admission" to the Bar. D.C. Code Ann. § 11-2501(a) (1981).

Moreover, many of the reasons for disbarring a convicted felon do not apply to an applicant previously convicted of a felony. An attorney is an officer of a court who has taken an oath to "demean [himself or herself] uprightly and according to law." D.C. App. R. 46(h). A lawyer convicted of a felony has breached that oath. Further, such a person has had legal training, and is or should be especially aware of his or her legal obligations as well as the possible consequences of illegal activity, including the prospect of disbarment. Finally, disbarment may be appropriate because illegal conduct by attorneys denigrates the profession. As the New York Court of Appeals wrote in affirming the disbarment of former Attorney General John

Mitchell, "To permit a convicted felon to continue to appear in our courts and to continue to give advice and counsel would not advance the ends of justice, but instead would invite scorn and disrespect for our rule of law." Mitchell v. Association of the Bar of City of New York, 40 N.Y. 153, 351 N.E.2d 743, 745, 386 N.Y.S.2d 95, (1976).

These considerations have far less force in the case of an applicant to the Bar previously convicted of a felony. Most applicants at the time of the offense will have taken no oath to uphold the law and occupied no position of public trust. Generally, the applicant will not have had a legal education at the time of the offense and in any event will not have as full an understanding of the requirements of law or as much of an appreciation of the consequences of a violation as a practicing attorney would.[2] Before such an applicant is admitted to practice, the Committee must find that he or she has progressed, at the least, to an understanding of the seriousness of the prior illegal activities, to an acceptance of responsibility, to sincere remorse, and to an unquestionable readiness to take and abide by the attorney's oath. Admission of such an applicant may engender some adverse public comment. Nonetheless, admission of qualified individuals who can shoulder the requisite burdens of proof publicly exhibits respect for the principle that prior offenders who can demonstrate

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[2] If the applicant had completed all or part of a legal education or if there were other evidence suggesting that the applicant appreciated all the implications of his conduct at the time of the offense, the Committee should weigh that as one factor in assessing moral character and fitness to practice law.

their full rehabilitation ought to be allowed to attain a productive role in the community.

C. In Evaluating the Applicant's Showing of Rehabilitation, the Committee and This Court Should Focus on the Nature of the Prior Offense.

Thus, a careful case by case approach, applying the factors this Court identified in Manville, is appropriate. All of the factors listed in Manville are important and should be examined closely. However, the nature of the applicant's offenses may merit special attention. To take one of many examples, conviction of a serious crime of violence should place upon an applicant a heavy burden of persuasion to prove his or her fitness to practice law. See, e.g., In re Wright, 102 Wash. 2d 855, 690 P.2d 1134 (1984) (conviction for second degree murder); In re Belsher, 102 Wash. 2d 844, 689 P.2d 1078 (1984) (conviction for attempted murder); In re George B., 297 Md. 421, 466 A.2d 1286 (1983) (armed robbery); In re Moore, 308 N.C. 771, 303 S.E.2d 810 (1983) (conviction for assault and murder). Indeed, some crimes, such as a premeditated murder, may be so heinous that almost no showing realistically could overcome the lingering moral taint. As the New Jersey Supreme Court stated in In re Mathews, 94 N.J. 59, 462 A.2d 165, 176 (1983),

> "The more serious the misconduct, the greater the showing of rehabilitation that will be required. . . . However, it must be recognized that in the case of extremely damning past misconduct, a showing of rehabilitation may be virtually impossible to make."

Nonetheless, that determination should be made in each individual case.

An applicant convicted of a crime involving a breach of a fiduciary duty, forgery, embezzlement, or deceit also should bear a considerable burden of persuasion. Such conduct by its nature calls into serious question the applicant's fitness to assume a position of public trust and act as a fiduciary to clients.[3]

A number of other jurisdictions pay special attention to crimes that impeach a person's sound judgment and trustworthiness in a fiduciary relationship with clients. For example, California permits summary disbarment of an attorney convicted of a felony when an element of the crime is to deceive, defraud, steal or make a false statement. Cal. Bus. & Prof. Code § 6102(c) (West Supp. 1987). See also Koseff v. Board of Bar Examiners, 475 A.2d 349, 350 (Del. Super. Ct. 1984) ("extraordinarily serious incident" of applicant representing himself as official from state consumer agency to gain information for use in civil action,

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[3] See In re Monaghan, 126 Vt. 53, 222 A.2d 665, 676 (1966) (Holden, C.J., dissenting) ("Attorneys are officers of the court appointed to assist the court in the administration of Justice. Into their hands are committed the property, the liberty and sometimes the lives of their clients. This commitment demands a high degree of intelligence, knowledge of the law, respect for its function in society, sound and faithful judgment and, above all else, integrity of character in private and professional conduct.").

It may be that such an offense is of greater concern in evaluating an application for admission to the Bar than a prior conviction for a violent "crime of passion." See In re James G., 462 A.2d at 1205 ("The temptations facing lawyers lead more often to crimes of stealth and subterfuge than to crimes of confrontation such as armed robbery. We are of the opinion that such wrongdoing of this type requires closer scrutiny than other failings.").

along with other factors, led to rejection of application); In re Mathews, 94 N.J. 59, 462 A.2d 165, 175 (1983) (applicant's involvement in fraudulent pyramid type investment scheme "provides a clear indication that he does not possess the character traits of trustworthiness and reliability required of an attorney to safeguard the interests of clients"); Lark v. West, 182 F.Supp. 794 (D.C. 1960), aff'd 289 F.2d 898 (D.C. Cir. 1961), cert. denied, 368 U.S. 865 (1961) (affirming denial of application to bar of United States District Court for District of Columbia by member of West Virginia bar because of conviction for mail fraud arising out of activities as officer of fraternal insurance organization).

Again, an applicant who has been convicted of crimes involving deceit or breach of a fiduciary duty, who has once shown a lack of moral character, trustworthiness and candor, has much to surmount to prove his or her fitness to practice law. However, such crimes should not in every case preclude admission to the Bar forever, regardless of the showing the applicant makes. See In re James G., 296 Md. 310, 462 A.2d 1198 (1983) (applicant admitted to Maryland Bar despite criminal conduct involving forgery).

The proof of rehabilitation required to justify admission will vary from case to case, depending on the nature of the offenses, the passage of time, and the weight of other factors this Court identified in Manville. The Committee and this Court can and should evaluate each application on its individual merits.

II. This Court Should Mandate an Independent Investigation By the Committee on Admissions of Those Applicants Convicted of Felony Offenses.

There is, of course, a need for the Committee on Admissions, the Bar, the Court, and ultimately the public to have confidence in any determination that an applicant with a prior felony conviction does indeed possess the requisite moral character and has in fact been completely rehabilitated. To provide such confidence, our Sections urge that the Court mandate an independent investigation by the Committee on Admissions of applicants previously convicted of felonies. As a matter of fairness, however, this rule should be prospective and should not apply to the cases now before the Court.[4]

The premise of our Sections' position against a per se rule precluding the admission of convicted felons is that it is possible to determine whether an applicant has in fact been rehabilitated to a level of "good moral character." This determination requires a thorough and careful investigation focusing on each of the factors previously identified, and any others that might be relevant in a particular case. Relying for that investigation solely on the information presented and the witnesses identified by the applicant may be insufficient. Often, applicants will select only the most favorable information, and will not knowingly identify witnesses who would make adverse comments. Yet

[4] The Court nevertheless should look closely at the record the Committee on Admissions compiled without such an investigation of Mr. Brooks and Mr. Strauss. As discussed below, that record appears adequate to sustain the Committee's recommendations.

information beyond these confines may be critical to the Committee's inquiry.

In Manville, supra at 1293, this Court discussed the utility of an independent investigation to assess a former felon's fitness to practice law. The Court noted that such an investigation was one of the "basic tools an admissions committee has." See also Konigsberg v. State Bar of California, 366 U.S. 36, 41-42 (1961). The investigation the Court contemplated

> "would inquire of public authorities, and also colleagues, acquaintances and neighbors, both present and past. It would extend to at least a few persons who knew him before his imprisonment. It would ascertain whether applicant has the qualities of personality and behavior that bespeak rehabilitation and good moral character. It would provide the Committee with an independent look at the applicant's conduct since his release from prison." Manville at 1294.

The Court recommended that such investigations be considered whenever the applicant has committed a felony or other serious crime, and that they invariably be conducted when the crime is as serious as homicide. Id.

In the view of our Sections, the Rule should go even farther. An independent investigation should be mandatory in all cases where a convicted felon seeks admission to the Bar. An independent investigation could bring to light details of an applicant's past that the applicant did not present to the Committee and would be more reliable than an applicant's ex parte presentation. See, e.g., In re Schaeffer, 273 Or. 490, 541 P.2d 1400 (1975) (independent investigation appropriate since applicant did not disclose charges of driving with suspended license); In re Walker, 112 Ariz.

134, 539 P.2d 891(1975), cert. denied, 424 U.S. 956 (1976) (applicant made material misrepresentations on application); In re Davis, 38 Ohio St. 2d 273, 313 N.E.2d 363 (1974) (per curiam) (independent investigation of applicant convicted of felony). The additional information gathered during the independent investigation could prove vital to the Committee's function of shielding the public and the Court from those persons unfit to practice law. Moreover, an independent inquiry might do much to satisfy the professsion and the public that the applicant's fitness to practice law had been established after rigorous examination. Only if the Committee can make a clear finding of rehabilitation based on the results of the investigation should this Court admit such an applicant to the Bar.

There is a related procedural reform that the Court may wish to consider -- appointing counsel to supervise the investigation, and if he or she deems it appropriate, to argue against the application before the Committee and before this Court. In reviewing the record of these proceedings, we sense that the Court is troubled by the non-adversarial nature of the proceedings, and in particular, the absence of a party to make opposing arguments. Appointing counsel who could step into an adversarial role, if appropriate, could be done as a matter of routine or on a case-by-case basis, depending on the Court's or the Committee's preference.

A rule requiring an independent investigation would entail certain costs. For example, in the independent investigation of Mr. Manville, the Committee

on Admissions turned to a private investigator to inquire into Mr. Manville's background, and paid his fees and expenses. In many cases, travel could be required to conduct a thorough inquiry. Delays could be encountered. A disproportionate amount of the time of Committee members could be occupied by a few applications. As a practical matter, however, and given the stringency of the standard an applicant must satisfy, we question whether there would be so many applications from convicted felons that these costs would be a serious burden. The money and effort, in the view of our Section, would be well spent.[5]

III. Each of the Applicants Here Should Be Admitted.

We have reviewed the findings on the Committee on Admissions as to each of the applicants before the Court. There is substantial evidence to support the Committee's conclusions that each applicant possesses the requisite good moral character to be admitted to the Bar. The Committee's findings should therefore be upheld.

CONCLUSION

For these reasons, the Section on Courts, Lawyers and the Administration of Justice of the District of Columbia Bar, joined by the Bar's Section on Criminal Law and Individual Rights, urges the Court to act

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[5] If the Court deemed it appropriate, it could require in the Rule that the applicant shoulder a portion of the cost of the investigation, although the imposition on the applicant should be limited so as not to prohibit financially what the Court allows by its rules.

favorably on the pending applications, and to consider amending Rule 46 to address the procedures to be followed in similar cases in the future.

Respectfully Submitted,

SECTION ON COURTS, LAWYERS AND THE ADMINISTRATION OF JUSTICE AND SECTION ON CRIMINAL LAW AND INDIVIDUAL RIGHTS OF THE DISTRICT OF COLUMBIA BAR

By: _____

Dated: