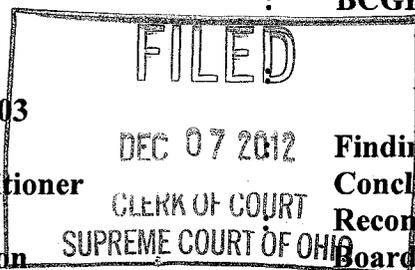


ORIGINAL

BEFORE THE BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO

In Re: : SCO No. 2009-2302
Reinstatement of : BCGD Case No. 08-092
Paul Joseph Kellogg
Attorney Reg. No. 0062303
Petitioner
Cincinnati Bar Association
Relator
Findings of Fact,
Conclusions of Law, and
Recommendation of the
Board of Commissioners on
Grievances and Discipline of
the Supreme Court of Ohio



**ON PETITION FOR REINSTATEMENT TO THE PRACTICE OF LAW PURSUANT
TO GOV. BAR R. V, SECTION 10**

{¶1} This petition for reinstatement matter was heard November 9, 2012, in Columbus, Ohio before a panel consisting of John Polito, Judge Matthew McFarland and William Novak, chair. None of the panel members is a resident of the appellate district in which Respondent resides or of the appellate district in which he resided at the time of his suspension.

{¶2} The petitioner appeared *pro se*, and Susan R. Bell represented Relator and offered no evidence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶3} On July 20, 2010, the petitioner was indefinitely suspended from the practice of law by the Supreme Court of Ohio following a formal hearing held before a panel of the Board.

Cincinnati Bar Association v. Kellogg, 126 Ohio St.3d 360, 2010-Ohio-3285. The Board had

recommended that the petitioner be suspended from the practice of law for a period of two years, with six months stayed.

{¶4} From the time the petitioner was admitted to the practice of law in 2003, his practice consisted of mainly estate planning and small business, until he accepted a position with a childhood friend, Steve Warshak, as general counsel for a pharmaceutical company. From 2003 through 2004, numerous governmental agencies including, but not limited to, the FTC and FDA conducted an investigation of Warshak's pharmaceutical operations. As a result of the investigations, the petitioner was found guilty of two-counts of conspiracy to commit money laundering and two-counts of money laundering, and one-count of conspiracy to obstruct proceedings before the FTC for his role in a scheme to protect Warshak's assets by transferring \$14 million into two separate trusts. Despite the fact that the documents were prepared by outside counsel, the petitioner reviewed these to determine whether or not they comported with Ohio law. The jury also found the petitioner guilty of a single count of conspiracy to obstruct the proceedings before the FDA.

{¶5} Based upon the foregoing, the Board concluded that the petitioner violated DR 1-102(A)(3) [illegal conduct involving moral turpitude]; DR 1-102(A)(4) [conduct involving dishonesty, fraud, deceit, or misrepresentation]; DR 1-102(A)(5) [conduct prejudicial to the administration of justice]; DR 7-102(A)(7) [counseling or assisting a client in conduct that the lawyer knows to be illegal or fraudulent]; DR 7-102(A)(8) [knowingly engaging in illegal conduct]; and DR 7-109(A) [suppressing any evidence that a lawyer or lawyer's client has a legal obligation to reveal or produce]. These findings were accepted by the Supreme Court of Ohio, although the Court imposed the sanction of an indefinite suspension rather than the two-year partially stayed suspension recommended by the Board. *Id.* at ¶26.

{¶6} On July 23, 2012, the petitioner filed a petition for reinstatement.

{¶7} Reinstatement proceedings are governed by the provisions of Gov. Bar R. V,

Section 10(E)(1) which sets forth the parameters for reinstatement:

(E)(1) Requisites for Reinstatement. The petitioner shall not be reinstated unless he or she establishes all of the following by clear and convincing evidence to the satisfaction of the panel hearing the petition for reinstatement:

(a) That the petitioner has made appropriate restitution to the persons who were harmed by his or her misconduct;

(b) That the petitioner possesses all of the mental, educational, and moral qualifications that were required of an applicant for admission to the practice of law in Ohio at the time of his or her original admission;

(c) That the petitioner has complied with the continuing legal education requirements of Gov. Bar R. X, Section 3(G);

(d) That the petitioner has completed a term of probation, community control, intervention in lieu of conviction, or any sanction imposed as part of a sentence for a felony conviction; and

(e) That the petitioner is now a proper person to be readmitted to the practice of law in Ohio, notwithstanding the previous disciplinary action.

{¶8} The evidence presented at the hearing consisted of stipulated facts, exhibits, and testimony of attorneys John Ipsaro and John Henry Phillips, Karen Kellogg, wife of the petitioner, and the petitioner. The petitioner established by clear and convincing evidence the requisites for reinstatement: (1) there are no claims pending and no claims were filed against the petitioner with the Clients' Security Fund of the Supreme Court of Ohio; (2) he possesses all of the mental, educational and moral qualifications that were required of an applicant for admission to the practice of law at the time of his original admission; (3) he has complied with the continuing legal education requirements of Gov. Bar R. X, Section 3(G) by completing the 57.25 hours of continuing legal education including eight hours of instruction relating to professional conduct for the 2010, 2012, and 2014 biennial reporting periods; (4) on December 1, 2010, based upon the recommendation of

the United States Probation Office, U.S. District Court Judge S. Arthur Spiegel terminated the petitioner's supervised release following his conviction and sentence of one year and one day in prison followed by three years of supervised release; and (5) he is now a proper person to be readmitted to the practice of law in Ohio.

{¶9} The petitioner was admitted to the Bar in November of 1993, having graduated from the University of Dayton Law School. At the hearing, the panel heard testimony from John Ipsaro, a law school and long time friend of the petitioner. Ipsaro is a partner in the law firm of Ulmer Berne at the Cincinnati office. Ipsaro knew the petitioner from their time in law school. Following the petitioner's conviction, Ipsaro employed the petitioner as a reviewer on pharmaceutical files for a publicly traded company involving pharmaceutical litigation. Ipsaro testified that despite the petitioner's conviction, it was "completely out of character with the guy that I knew." Ipsaro also testified that the petitioner was a man of highest integrity, that they have many friends in common, and no one would disagree with his opinion of the petitioner. Hearing Tr. 18-19.

{¶10} The panel was also moved by the testimony of John Phillips whose activities involved lecturing on ethics and serving on the Cincinnati Bar Association's Ethics and Professional Responsibility Committee. The petitioner is the office manager/paralegal for Phillips' law firm. Phillips holds the petitioner in highest regard. Phillips testified, "we've planned for this day, candidly, since you walked in the door." (referring the petitioner) *Id.* at 47. In addition, based upon his personal and professional interactions with the petitioner, his opinion was that he had better character and fitness to practice law than many attorneys that he knew. Phillips described the petitioner as being very careful, analyzes things appropriately, and would not get into a situation where anyone could question his integrity. When questioned by the petitioner, Phillips stated, "I can state that I think your character and fitness to practice law far exceed what should be expected

of an attorney.” *Id.* at 49. Phillips also testified, “that once you get to know Paul Kellogg you trust him.” *Id.* at 57.

{¶11} The panel also heard from the petitioner’s wife and the petitioner. The petitioner acknowledged that back in 2004, he made two mistakes while working for a company known as Berkeley. The petitioner was convicted for those mistakes and for that conduct he is sincerely remorseful. The petitioner accepted full responsibility for his actions and appreciated the opportunity to present evidence to establish that he be given the opportunity to practice law again. This panel found nothing during the hearing to suggest that the petitioner be denied this opportunity.

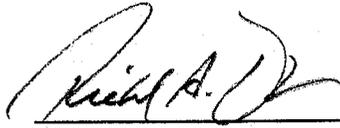
RECOMMENDATION

{¶12} The petitioner requested that his reinstatement petition be granted and that he be reinstated to the practice of law. Relator did not offer any opposition to the reinstatement. Therefore, this panel recommends that the petition be granted and that the petitioner be reinstated to the practice of law.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 10, the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on December 6, 2012. The Board adopted the Findings of Fact, Conclusions of Law, and Recommendation of the panel and recommends that Respondent, Paul Joseph Kellogg, be reinstated to the practice of law in the State of Ohio. The Board further recommends that the cost of these proceedings be taxed to Respondent in any disciplinary order entered, so that execution may issue.

**Pursuant to the order of the Board of Commissioners on
Grievances and Discipline of the Supreme Court of Ohio,
I hereby certify the foregoing Findings of Fact, Conclusions
of Law, and Recommendation as those of the Board.**

A handwritten signature in black ink, appearing to read "Richard A. Dove", written over a horizontal line.

RICHARD A. DOVE, Secretary