

ORIGINAL

IN THE SUPREME COURT OF OHIO

In re: :
Application of : Case No. 2014-1555
Joseph V. Libretti, Jr. :

MOTION FOR LEAVE
OF APPLICANT JOSEPH V. LIBRETTI, JR. AND AMICI CURIAE CITIZENS' INSTITUTE
FOR LAW AND PUBLIC POLICY AND CURE-OHIO
TO SUBMIT ANSWER BRIEF TO CMBA'S RESPONSE

Deborah Zaccaro Hoffman (0071599)
Law Office of Deborah Zaccaro Hoffman
The Jefferson Centre Building
5001 Mayfield Road, Suite 201
Lyndhurst, Ohio 44124
(216) 381-3400 (o) / (216) 381-3865 (f)
dzh@dzh-law.com (e)

*Counsel for Amici Curiae Citizens' Institute
For Law and Public Policy and CURE-Ohio*

Cleveland Metropolitan Bar Association
Bar Admissions Committee
One Cleveland Center
1375 East 9th Street, Floor 2
Cleveland, Ohio 44114-1785

Paul G. Crist (0011894)
2233 Wellington Circle
Hudson, Ohio 44236
*Counsel for Cleveland Metropolitan Bar
Association*

Rob Wall (0082356), Staff Attorney
Ohio Justice and Policy Center
Cincinnati, Ohio 45202
*Counsel for Amicus Curiae Ohio Justice
and Policy Center*

FILED
DEC 09 2014
CLERK OF COURT
SUPREME COURT OF OHIO

Now come Applicant and Amici, through counsel, and respectfully request the Court grant leave to file Answer Briefs to the Response filed by the Cleveland Metropolitan Bar Association on November 21, 2014. Counsel believes the requested relief is necessary in the present situation in order to respond to issues raised by bar counsel in its Response.

Counsel, who is appearing before this Court for the first time, attempted to submit the filing in question yesterday and discovered she was mistaken in assuming that the Court's Order to Show Cause and Gov.Bar Rule I did not prohibit additional filings beyond the Objections and Answer without leave of Court. Upon re-reviewing the order and consulting with Case Management Counsel, the undersigned has realized her error and her unfamiliarity with the practice of this Court. Without wishing to excuse counsel's error, it was counsel's understanding in good faith based on research that additional briefing or other filings had in the past been allowed in practice of law cases. See, e.g. *Application of Chapman* (1993-2170), *Application of Carr-Williams* (1991-2406), *Application of Grimsley* (2014-509), *Disciplinary Counsel v. Rich* (1993-2517), *Disciplinary Counsel v. Deters* (2013-0999).

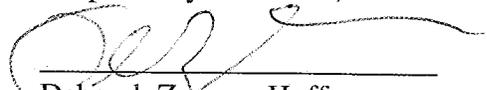
The undersigned's error has unfortunately been compounded by a request by individual attorneys and law professors to join in the Answer; and attorneys at the Cuyahoga County Public Defender's Office who also wished to submit in this case; and who relied on undersigned counsel's erroneous understanding in planning their filing. These individuals will also be penalized as a result of the undersigned's error if leave is not granted.

It is counsel's understanding that the attorneys at the Cuyahoga County Public Defender's Office will be filing a similar request for leave once the present Motion is filed.

In concluding, counsel would also request that any errors or missteps she has made due to her inexperience and lack of knowledge be attributed to her alone and not held against her client in his request for relief or against any other parties in this matter.

Wherefore, Counsel respectfully requests that leave be granted to submit Answer briefs by Applicant and Amici Curiae in the within matter.

Respectfully submitted,



Deborah Zaccaro Hoffman
*Counsel for Applicant, Joseph V. Libretti, Jr.
And Amici Curiae CURE-Ohio and CILPP*

IN THE SUPREME COURT OF OHIO

In re: :
Application of : Case No. 2014-1555
Joseph V. Libretti, Jr. :

ANSWER BRIEF OF
APPLICANT JOSEPH V. LIBRETTI, JR.

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For Law and Public Policy and CURE-Ohio*

Paul G. Crist (0011894)
2233 Wellington Circle
Hudson, Ohio 44236
pgcrist@yahoo.com
*Counsel for Cleveland Metropolitan Bar
Association (CMBA)*

Cleveland Metropolitan Bar Association
Bar Admissions Committee
One Cleveland Center
1375 East 9th Street, Floor 2
Cleveland, OH 44114-1785

Rob Wall (0082356), Staff Attorney
Ohio Justice and Policy Center
215 East Ninth Street, Suite 601
Cincinnati, Ohio 45202
*Counsel for Amicus Curiae Ohio Justice
and Policy Center*

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SUPREME COURT OF OHIO

Upon further reflection and consideration of the arguments advanced by CMBA, Joe concedes that he requires more time to demonstrate he possesses the necessary requirements to become a full-fledged member of the Ohio bar. He desires to commit and re-commit himself, with the guidance of those who have extended themselves so far on his behalf, to learn and to practice the appropriate level of candor and judgment expected of a full-fledged member of the Ohio bar and to complete his transition back into the community.

Joe acknowledges that at the time of the November 15, 2013 hearing before the Board, he was not as open and candid as the Board needed him to be. He acknowledges that he became defensive and argumentative under cross-examination instead of displaying the necessary transparency expected in the professional context. He acknowledges that he should have volunteered more information regarding his business activities at the initial Admissions Committee interview as well as at the Board hearing, and believes that doing so would have prevented the course of events that has ultimately and unfortunately led to the hearing before this Court. Joe acknowledges again that he should have listed his involvement with Spice on his initial Application to Register As A Candidate, as well as his request for immunity even if the Application did not explicitly call for it. He acknowledges that his decision to associate with William Breeden in 2010 and all its resulting sequelae was an exercise in poor judgment, and realizes that his fate rests entirely in the hands of the justices of this Court of final resort in the State of Ohio.

Joe would only humbly request the possibility of being able to re-apply to register as a candidate for admission at some future date, yet to be determined, so he can continue to develop and demonstrate his character and fitness, and that the Court therefore not impose a permanent ban on his reapplication. As previously indicated in his Motion to Withdraw filed February 2,

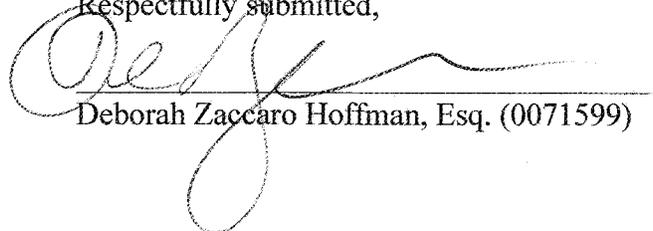
2014, he will obtain additional education in legal ethics and has requested additional speaking engagements with SporTech, the anti-drug and health awareness organization on whose behalf he previously spoke regarding recreational and prescription medications based on his experience. Although Joe's Application to Register As A Candidate has not been approved, in the interests of continued transparency he is preparing an additional Supplement with updates regarding business and litigation matters that will be provided to the Board shortly and supplemented to this Court. Further, a Notice of Dismissal of pending litigation is attached (Ex. A).

Lastly, in support of Joe's request and the interest of judicial economy, which would otherwise require a separate Motion to Supplement the Record, he submits the exhibits he provided at the hearing in the form of recommendation letters, which were omitted when the record was transmitted to this Court (Ex. B). These include a letter from the prosecutor in his 1992 criminal case and letters from many of those who have worked with him in the last few years and who have seen the progress he has made. An additional letter of support is submitted from Emily Hensley, who has been kind enough to waive confidentiality regarding her history of addiction and the effects of the drug trade on her life in support of Joe's efforts at redemption (Ex. C).

Joe respectfully requests the Court consider the information and exhibits and the arguments advanced by amici herein as evidence of his transitional character development. He is grateful to this Court and to the friends and supporters who have volunteered their time in supporting and guiding his efforts to become a licensed attorney.

Joe thanks the Court for its time.

Respectfully submitted,



Deborah Zaccaro Hoffman, Esq. (0071599)

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

JOSEPH V. LIBRETTI, JR.,

Appellant,

-vs-

Case No. 14-3266

STEVEN WOODSON,
IN HIS INDIVIDUAL CAPACITY,

Appellee.

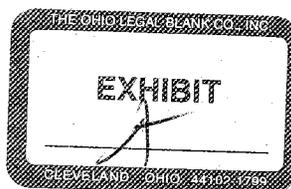
APPELLANT'S MOTION FOR VOLUNTARY DISMISSAL

The Appellant respectfully moves the court to dismiss this appeal pursuant to 42(b), Federal Rules of Appellate Procedure.

Respectfully submitted,

/s/ C. Timothy Murphy III
C. Timothy Murphy III, Esq.(0091128)
Murphy's Law, LLC
5247 Wilson Mills Road# 211
Cleveland, Ohio 44143
Phone:(440)941-3846
Fax:(440)290-4243
murphy@murphyslawllc.com

Counsel for Appellant



CERTIFICATE OF SERVICE

A copy of this document was filed electronically with the U.S. Court of Appeals for the Sixth Circuit on this 5th day of December, 2014. Service will be undertaken through the Court's electronic filing system.

/s/ C. Timothy Murphy III

C. Timothy Murphy III, Esq. (0091128)
Counsel for Appellant

LIBERTY & JUSTICE FOR ALL



GAY WOODHOUSE LAW OFFICE, P.C.

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211 West 19th Street, Suite 308
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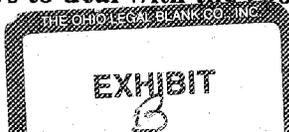
April 13, 2005

Joseph V. Libretti
#04705-091
FCI Phoenix
Federal Correctional Institution
37910 North 45th Avenue
Phoenix, AZ 85086

Dear Mr. Libretti:

I have been thinking about you over the years and even more so recently because I know that you will be released next year. My career has changed a great deal over the years and I am now working as a criminal defense attorney. My attitude about the long sentences which are being imposed on people who have been convicted of drug crimes has changed dramatically over the past several years. I have seen the disparate treatment of people who are convicted of drug offenses as opposed to huge financial crimes and other crimes. There is a marked difference between sentences for cases involving marijuana and those of methamphetamine or crack cocaine. The addition of any type of gun used or not really used in the drug trade also adds on significant mandatory minimum sentences, as you well know.

Now that I'm on the other side and I see the gung ho prosecutors always trying to get the absolute maximum sentence, I have a completely different perspective on it than I had when I was handling your case back in 1990 and 1991. I now see that a much shorter sentence would have the effect of deterring people and keeping the public safe. I also see that when people are addicted to these illegal substances (I know that you were not), no amount of prison time will help them if they don't get into a treatment program and learn how to live life without those substances. Of course, Congress has other ideas and their legitimate concerns about how to fight the drug war has been largely superficially fulfilled by keeping the federal prison population at record levels without confronting head on the underlying issues of finding ways to deal with the root causes of the drug problem in America.



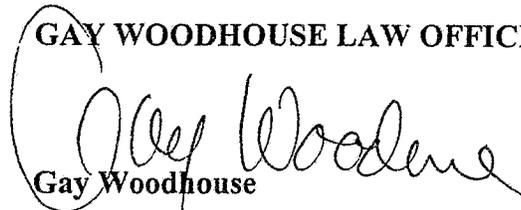
Leaving the philosophical discussion aside, I will tell you that I was extremely impressed by you as a young man. You were very ambitious, extremely bright and a true entrepreneur. Even at the time I was working on your case, I thought that you could have been a millionaire with your talent and hard work alone even at your young age no matter what course you decided to follow. I know from seeing your legal briefs and arguments that you have done on your behalf that you would have been an excellent attorney. You probably know more law and are a better legal researcher and writer than a lot of attorneys in the field.

In any event, I know that you will be released in a relatively short period of time. I have every confidence that you can continue using your considerable talents to make a good life for yourself and it is my sincere hope that you will be able to do so. I believe that the length of your sentence makes it much more difficult than it would have been had you been subject to a more reasonable sentence. I imagine, too, that your bitterness and hatred of the system no doubt has only grown over these many years. I cannot blame you for that at all. In fact, being on the defense side of the system, I can see the oppressive impersonal way the government deals with human beings and I cringe to think that at one time I was convinced this was the best and only way to deal with these problems.

It is my great hope that you will be able to put aside your bitterness and hatred of the system that has imprisoned you for so long and really accomplish great things in your life. I am sure this will be difficult, but I know that it is very hard for anyone to move forward when we are chained to the past by our own anger and hatred. I sincerely want to see you move forward and have a decent, productive and rewarding life in every possible way.

Sincerely,

GAY WOODHOUSE LAW OFFICE, P.C.


Gay Woodhouse

CLEVELAND-MARSHALL COLLEGE OF LAW

June 4, 2013

To: James N. Kline, Esq.
Warren Rosman, Esq.

Re: Application of Joseph Libretti

Dear Sirs:

I am writing to recommend Mr. Joseph Libretti for admission to the Bar.

Mr. Libretti has been a student of mine at Cleveland-Marshall College of Law. He was in my Legal Profession (Ethics) class this past fall semester and was, by far, the outstanding student among the 54 who took the course. He exhibited consistent diligence and understanding, not only of the often conflicting intricacies and specific requirements of the Model Rules and Ohio Rules of Professional Conduct, but also of the areas of discretion within those rules that call for an attorney to exercise judgment consistent with the highest levels of professionalism.

Mr. Libretti has been open with me and with others regarding his background, including the activity that led to his criminal conviction and imprisonment. I have had numerous conversations with him and believe he is determined that no such activity will ever be a part of his life again. I also believe he is fully capable of ensuring that it does not.

I am a current member and former Chair of the Grievance Committee of the Cleveland Metropolitan Bar Association, and a prior member and Chair of the Ohio Supreme Court Commission on Professionalism. I care very much about our profession and consider close examination of all those who seek to become part of it both appropriate and necessary. I would not write this letter were I not convinced that Mr. Libretti is worthy of our trust. I recommend him most highly.

Sincerely,


Stephen R. Lazarus
Associate Professor of Law

**ENERGY
TRANSPORTATION
INC.**

P.O. Box 2848 • Casper, WY 82602 • 800-544-9458 • 307-266-4299 • Fax 307-266-1452

May 22, 2013

To Whom It May Concern:

I met Mr. Joseph Libretti in May of 2008. He had applied for a position in our company, Energy Transportation Inc. The previous year, 2007, we had generated gross revenues of \$37,000,000.00, operating in the crane and rigging and heavy haul trucking industry. Our bookkeeper, of 13 years, was retiring and the person who we had trained for the position had backed out days before she was to start. We were in the midst of starting a \$24,000,000.00 project, adding to payroll an additional 250 employees and purchasing an additional \$20,000,000.00 in equipment. We had no bookkeeper. I requested Joe come to work for us and head up the bookkeeping dept. He reminded me of his past, as well as his absence from the industry, and was unsure of his ability to succeed. I reminded him of riding a bicycle as a child, as well as his consideration of doing something that would place him back where he had been. He decided to take on the responsibility and he committed to do his best.

Together we ramped the business up to speed with Joe managing the finances of what turned out to be the best year in the company's history, generating \$62,000,000.00 in revenue, and a significant profit margin. A new bookkeeper came on line in August, but Joe continued to handle the majority of the load. His work ethic was unquestionable. Although accounting came in at 8:00 AM, Joe was here daily at 6:00 AM with the rest of field management and crews. We never once asked him to come in that early, he just took it upon himself to be available and do whatever he felt necessary to help make the company succeed on a daily basis. The new bookkeeper developed family problems and left our employment in December of that year. Again, Joe stepped up and ran the show.

As the nation's economy had started into a tailspin, our workload dropped off significantly in 2009. With considerable assets on the books and no revenue to offset debt service, Joe and I had to come up with a plan for significant equipment liquidation without cutting too deep to jeopardize our base book of business. Joseph was invaluable in planning this task as well as the follow thru to make it happen. From projected income statements and balance sheets, Joe worked diligently to develop a business plan that fit the times. We worked our plan and succeeded to not only survive but prosper in what has been described as the most difficult economic times in three

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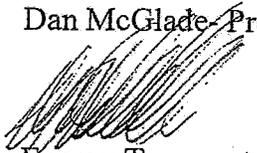
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generations. It is conditions like these that bring out character in an individual. Without a doubt, Mr. Libretti has character. He was invaluable in the process of survival.

Joe requested we release him to enable him to pursue his legal career. He felt he would be a greater asset to us with his degree. Reluctantly, we agreed. Whatever Mr. Libretti did to side track his life, he more than redeemed himself with our organization. I trusted him with the responsibility of handling millions of dollars daily. Throughout his service with our company, he never once did anything to jeopardize his credibility.

In closing, I consider Mr. Libretti a trusted friend, and more important, business associate. In my mind, Mr. Libretti is honest, trustworthy, and has as strong of work ethic as anyone I have been associated with through my 30 years in business. He is welcome to return to Energy Transportation Inc at any time. We look forward to the day he is ready. I strongly recommend him for any position he is requesting.

Dan McGlade - President



Energy Transportation Inc

24 Hour Service
Oversize and Overweight Transportation Specialists
Construction • Mining • Gas Processing

ROBERT KNECHT SCHMIDT

B.S., M.S., Reg. U.S. Pat. Agent No. 65,458

1721 Fulton Road

Cleveland OH 44113

(216) 534-1721

robertks@gmail.com

To the evaluators of character and fitness for the Ohio Bar:

Since I met Joseph Libretti on the day we both started law school in August 2010, he has become a friend, valued study partner, and trusted confidant. Prior to beginning law school, I had trained as an engineer and became a registered U.S. patent agent, in which capacity I assist inventors, as a legal representative, in obtaining patents on inventions. During my academic pursuits in engineering school, I was selected for the engineering honors societies Tau Beta Pi and Eta Kappa Nu, whose members are chosen on the basis not just of scholastic standing, but character and leadership, placing special emphasis in honesty and integrity in academic and professional work. In my capacity as a patent practitioner, I treat as solemn not just my duties of care, confidentiality, and loyalty in working with my clients, but also my special duties of candor and good faith in dealing with the Patent Office under Patent Rule 56, which include the duty to disclose to the Patent Office all information known to me to be material to patentability in each case I am associated with, to help ensure that no patent is granted inequitably. In my personal life, too—interactions with friends and neighbors which on occasion give rise to dispute—I have always sought justice and fairness. I mention all of this only to point out that I take matters of personal integrity and character seriously in all spheres of life. More, I thought, than anyone I knew—until I came to know Joe.

Simply, Joe is a man of superlative character. I am able to say this earnestly, in spite of his complicated past, because I have come to know Joe well by his habits and his philosophy. His first priorities have always been his law studies and his work in his law clinic, in which realms he exhibits prodigious discipline and stamina, never failing to be fully prepared for a class, routinely working for 16-plus-hour stretches when exams approach or an assignment is due, at times making himself a fixture of the law library. Though his efforts and accomplishments have aroused envy on the part of some of our law school colleagues, that has never kept Joe from placing others above himself, reaching out to classmates to help them make the grade. Joe possesses uncannily even-keeled senses for loyalty and fairness; never have I heard him criticize another *ad hominem*, nor can I envision him falling prey to a temptation to gossip. I know him to be concerned, caring, accountable, faithful, and honest.

Confronted with absurdity or injustice, Joe stays positive. His ethic is one of soft-spoken, patient progress. In his studies and writings, Joe seeks always not just the right answer, but to know what is right, in any given set of circumstances. The questions he asks of our professors seem designed not just to help us learn the law, but to learn how the law serves the ideals of justice and liberty, or how it might be perfected toward those aims.

Although I realized Joe was a unique and intellectually talented person when I first met him, my admiration for his commitment to ideals of integrity and faith in the legal system has grown as I have come to know him. I have observed both his natural successes and his struggles over obstacles, including an unjust incarceration that interrupted his first year of law school, and would have devastated any ordinary person, but which only a person like Joe could turn into a triumph through his perseverance. I believe in Joe Libretti. He is not merely of the requisite character and fitness to practice as an attorney: he would do credit to the profession, and he would raise the bar, as he has done for myself and so many others during his time at Cleveland-Marshall College of Law.

If I can be of further service in your evaluation of Joe's character and fitness, please do not hesitate to contact me.

Yours sincerely,

Robert Knecht Schmidt

2013-06-04

Robert Knecht Schmidt

J.D./M.B.A. candidate, May 2014, Cleveland-Marshall College of Law and Monte Ahuja College of Business, CSU

Registered U.S. Patent Agent No. 65,458

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CLEVELAND-MARSHALL COLLEGE OF LAW

OFFICE OF THE DEAN

June 5, 2013

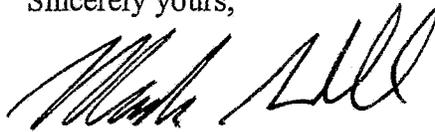
Office of Bar Admissions
Supreme Court of Ohio
65 South Front Street, 5th Floor
Columbus, Ohio 43215-3431

Dear Office of Bar Admissions:

I am writing this letter to accompany the Legal Intern Certificate that I signed for Joseph Libretti. I felt compelled to provide an explanation for my signing of this certificate in light of Mr. Libretti's past criminal record. My knowledge of his past does not cause me to doubt Mr. Libretti's character and fitness to practice law. While here at Cleveland-Marshall College of Law, Mr. Libretti has proven himself to be an ethical and hard-working person. While his criminal record on its own may raise questions about his character, Mr. Libretti has since convinced me that he has overcome his past and now has the ability to serve effectively and ethically as an attorney. Mr. Libretti has been an outstanding student who ranks near the top of his class. He has also integrated well into the fabric of the law school and has gained the respect of students and faculty. For these reasons, I signed the attached certificate and support his request to practice as a legal intern.

If you would like to discuss this matter further, please feel free to contact me at (216) 687-2300.

Sincerely yours,



Mark J. Sundahl
Associate Dean for Administration

Enclosure

Date: June 5, 2013

To : Character and Fitness Committee Members of the Ohio State Bar

From: Malcolm MacLeod Chandler

Subj: Mr. Joseph V. Libretti, Jr.

Dear Committee Members,

I am writing this letter on behalf of my friend and fellow law student, Mr. Joe Libretti, in hopes that you will find him of good character and fit to become an attorney in the State of Ohio. Please let me begin by telling you a little bit about myself, so that my words will carry their intended conviction. I am a combat veteran with over twenty-five service connected decorations. My twenty-some years of government service include sixteen years as a Federal Agent. During that service, I have been assigned to protective details for three Presidents and the Justices of the United States Supreme Court. I am a highly skilled investigator and have been recognized as an expert witness in Federal Court. I have recruited and handled numerous confidential informants during these investigations. I have received advanced training as an interrogator through the Reid School. I have completed seven undercover narcotics smuggling operations, one of which required me to live with two members of the Cali Cartel for two weeks. I suffered debilitating injuries during a high-speed boat chase / shootout with twelve narco-terrorists in 2003, for which I have been undergoing vocational rehabilitation at Cleveland-Marshall College of Law since 2009. I believe that my life's experiences and professional training have enabled me to be an excellent judge of character.

I have come to know Joe through my law school and social experiences since he started there in 2010. I had heard the rumors at school about Joe's prior convictions. A number of students avoided Joe for this reason. I had observed him at school as a "loner," keeping to himself, with no apparent friends or associates.

Being more familiar with our criminal justice system than most of my fellow students, my experience told me that if I believed in that system, I must also believe that convicted persons could be rehabilitated and given a second chance. In some strange way I felt a kinship with Joe, we were both middle-aged men seeking to rehabilitate our vocations. So, when I found myself sitting next to Joe in my Legal Profession class (ethics and responsibilities) and he asked if he could study with our

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group, we befriended him by saying yes. Joe contributed greatly to our study group. He exhibited a high degree of ethical reasoning to derive at the proper conclusions. I wasn't surprised when he later told me how well he did on the MPRE. Joe also helped explain some of the finer points of the Model Rules of Professional Conduct to other study group members. He always showed a mastery of this subject in his arguments, and a deep respect for the legal profession.

I also spent a summer semester working with Joe in the Fair Housing Law Clinic. Joe was a tremendous asset. He showed a sincere desire to help our clients in their causes. He worked well with other team members preparing court documents and legal research. Joe's people skills are superlative. Joe is normally pretty reserved and quiet. Many of our clients would wait to call us at the last minute, just days before they had to appear in court or be evicted. Joe had a calming influence on them and the ability to get the necessary facts from them so we could prepare their cases. After a few successful court cases, the word got out and people would call and ask for Joe by name.

These experiences with Joe lead me to recommend him to my neighbor and friend, attorney Tony Vegh. Tony had asked me to help him with one of his cases as a legal intern. I knew that I would be unable to devote the time necessary, so I told Tony about Joe. Tony later interviewed Joe and hired him as a law clerk at Vecchio & Vegh, Tony's law firm. Tony thanked me for recommending Joe.

I've never known Joe to go to bars or clubs. Joe has attended dinners and social functions at my house with area professors, Cleveland Clinic executives, and other friends of mine. Joe Libretti remains a welcome guest in my home. I consider Joe Libretti to be a true and loyal friend of mine. He has told me of his past and expressed his sincere remorse for his prior actions. It takes a person of extremely high character to even admit their wrongs, let alone to persevere to a higher calling as Joe has in the face of this adversity. I give him all due credit for his strength and tenacity during the process of his rehabilitation. I believe that Joe will make a fine officer of the court and reflect highly upon anyone willing to give him a second chance, as I am.

Sincerely,



Malcolm MacLeod Chandler

CLEVELAND-MARSHALL COLLEGE OF LAW

June 5, 2013

James N. Kline
Ulmer & Berne LLP
Suite 1100
1660 West 2d Street
Cleveland, OH 44113

Warren Rosman
Weston Hurd LLP
Suite 1300
1301 East 9th Street
Cleveland, OH 44113

Re: Joseph V. Libretti

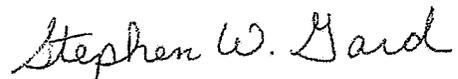
Gentlemen:

I have known Joseph V. Libretti since he was a first year student in my Torts course. On the basis of his outstanding performance in that class I hired Mr. Libretti as a research assistant. Again his performance was outstanding.

I am aware of Mr. Libretti's criminal history. I have no desire to attempt to excuse or minimize that history. It is however, entirely inconsistent with my experience with Mr. Libretti. The Joseph Libretti today, the Joseph Libretti I have come to know very well, is extremely competent, hard working, conscientious, honest and truthful. In summary, my experience is that Joseph V. Libretti has the character and fitness required for admission to the practice of law in the State of Ohio.

Please do not hesitate to contact me at 216.687.2263 or stephen.gard@law.csuohio.edu if you have any questions.

Sincerely,



Stephen W. Gard
Professor of Law

September 26, 2013

To Whom it May Concern:

I am writing to endorse Mr. Joseph Libretti's candidacy for membership in the Ohio Bar. I first met Mr. Libretti during his first year of law school at Cleveland-Marshall College of Law. At that time (I am now retired) I was manager of the Academic Excellence Program. Prior to that, I had been an Assistant Public Defender for 13 years in Jacksonville, Florida.

My responsibilities in the Academic Excellence Program included academic counseling for at-risk law students. Typically, however, many excellent students would seek my advice from time to time. These were students, like Mr. Libretti, who probably did not need my assistance, and would have had successful law school careers using their own intellectual abilities. These very good students, however, knew the value of utilizing all the resources available to them in pursuing their academic careers. That is at least part of the reason they were so successful.

My meetings with Mr. Libretti were always a pleasure. He has great insight and imagination when thinking about legal issues. He always asked good questions, and his practice exams were uniformly good, requiring only a minimum of critical comment.

His excellent academic record speaks for itself. Beyond that, my conversations with him showed him to be highly committed to the study of law and the pursuit of justice. His enthusiasm for the law was always evident. He was also open and candid with me about his own history, which he offered freely, and not as a result of any probing or questioning on my part.

Based on my knowledge and my impressions of Mr. Libretti I believe he has the requisite character and fitness to practice law in Ohio. I make this recommendation enthusiastically and without reservation.

If you have further questions, my contact information is included below. Thank you.

Sincerely yours,



Daniel Dropko (Ohio Bar Number 0075817)

Email: pldorado@centurytel.net



From: John F. Greene, Assistant Public Defender
To: Ohio State Bar Admissions Committee
Re: Recommendation of Joseph V. Libretti, Jr. for Admission to the Ohio State Bar
Date: September 27, 2013

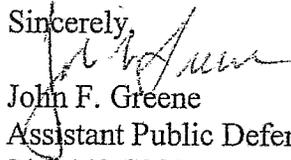
To the Admissions Committee,

Please accept this letter as a recommendation that Joseph V. Libretti be allowed to join us as a member of the Ohio Bar. I have been a member of the Ohio Bar since 1985 and an Assistant Public Defender in Cuyahoga County since 1989. I can attest that Joe has brought a unique zeal and passion for justice on behalf of our clients since working at our office. He has always conducted himself in a professional manner and exhibited the highest of ethical standards.

I am well aware of Joe's 1992 conviction. I assume it's the catalyst for the manner in which he assists our clients, wherein he shows patience, understanding, and persistence unlike younger or less experienced clerks in our office.

Joe specifically worked on three cases with me. In one case, he doggedly pursued an expungement on behalf of our client and presented himself quite professionally in Court. I am confident that other of my colleagues would also support Joe's admission to the bar. Please accept this letter as an indication of my support for Joe's admission. And feel free to contact me at anytime.

Sincerely,


John F. Greene
Assistant Public Defender
216-443-8382

EXHIBIT

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CUYAHOGA COUNTY PUBLIC DEFENDER

Robert L. Tobik
Public Defender

September 30, 2013

Ohio Supreme Court
Office of Bar Admissions
Board of Commissioners on Character and Fitness
65 South Front Street, 5th floor
Columbus, Ohio 43215

Re: *Application of* JOSEPH V. LIBRETTI

I have been a licensed attorney in the state of Ohio since 1991, and am employed in the Felony Division of the Cuyahoga County Public Defender Office. Over the years I have had the opportunity to supervise a great many law clerks. Joe Libretti stands out among that list due to his commitment to justice, his diligence, his intellect, his reliability, and his unwavering commitment to the rule of law.

I am writing to endorse Joe Libretti's petition to sit for the Ohio Bar.

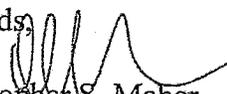
Joe has assisted me on several felony cases. He has attended pre-trial hearings, trials, sentencing hearings, client interviews, *in camera* meetings with judges and prosecutors, and defense strategy sessions. Throughout he has demonstrated the highest level of professionalism and decorum.

I would like to share a specific example. Several months ago I asked Joe to prepare a brief in opposition to the state's request to join two separate indictments in a single trial. Our client was charged with two unrelated sex offenses alleged to have occurred over a two-year period. Joe crafted a brief that was extraordinary in detail and cogent in analysis. We won the issue due to his work. His writing is absolutely top notch.

Joe has made me aware of his 1992 criminal conviction and circumstances surrounding those events. I believe that Joe's situation, having served prison time for criminal conduct, provides him with unique compassion and insight into the persons we represent.

Joe has the dedication, sound judgment, and trustworthiness to make him an asset to the Ohio Bar.

Regards,


Christopher S. Maher

310 Lakeside Suite 400 Cleveland, OH 44113
(216) 443-7223 Felony (216) 443-7583 Appeals
FAX (216) 443-3632



To: The State Bar Board of Examiners
From: Elizabeth Bonham
Date: 10 October, 2013
Re: The Character and Fitness of Joeseeph Libretti

When I met Joe, he was *that* guy in my first year legal writing class. I remember sitting there trying to block out a painful introduction to the IRAC paradigm. On the other side of the front row, he was raising his hand every five seconds to clarify the particulars of Bluebook rule eight-million-and-four. In a roomful of young students, fresh from the Bachelors of English program at Case Western Reserve, this person was apparently committed to learning the law, sincerely and with perfection. Ugh. *That* guy.

Now, more than a year later, I have learned to admire Joe's commitment to excellence in school, at work, and in his life. I strive to model it. I consider Joe a friend, a mentor, and—I hope—a future colleague. But that depends on the judgment of this board.

Top grades, law review, and an excellent rapport with the faculty may not, on their own, attest to Joe Libretti's soundness of character and his fitness to practice law. Neither, maybe, does the successful balance he maintains between a full academic load and criminal defense work. Maybe his accomplishments don't stand alone. Maybe we should consider the ethics that underpin his pursuits.

Honesty. The first time Joe bought me an after-class coffee, straight out the gate he told me the history of his felony conviction.

Openness. During that first discussion, he welcomed my questions. In fact, his willingness to share his story with me was my first exposure to the importance of criminal justice in the context of my legal education. He introduced me to a passion for defense work.

Respect. As willing as he was to share himself with me, Joe was equally ready to listen to my story and accept me where I was. It has, and still does, affirmed and supported my journey through law school.

Integrity. Joe's straightforwardness inspires trust immediately. I would challenge anyone to have one conversation with him and doubt his virtue by the end of it.

Passion. As I've known Joe, his drive to help people and serve his community becomes clearer to me with each anecdote of clients he's helped defend.

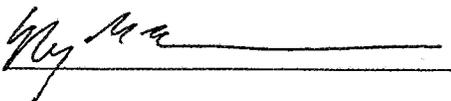
Devotion. Joe has spent years mastering the law. If I have questions, he can answer them better than most of my professors.

Consistency. As clear as each these qualities was on our first meeting, I am even more convinced of them now.

Reflecting on these impressions, I am hard-pressed to think of someone with superior spirit or ability, were I in need of advocacy myself.

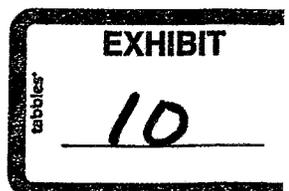
I can find no reason to concern myself with Joe's past choices, beyond the extent to which they have informed the character of the fine man I know today. Someday soon, I hope to become a member of the Ohio bar. I have met no man yet with whom I would rather share that distinguished accomplishment—no man who better deserves it—than Joe Libretti.

Thank you for your consideration.



Elizabeth Bonham

J.D. candidate, 2016
Cleveland-Marshall College of Law



5 June 2013

Cleveland Metropolitan Bar Association
Bar Admissions Committee
1301 East Ninth Street, Second Level
Cleveland, Ohio 44114-1253

Re: Character & Fitness Recommendation for Joseph Libretti

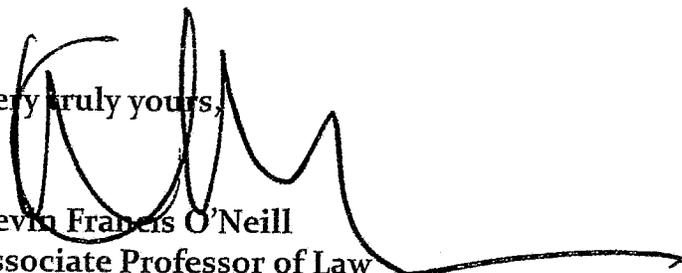
To the Bar Admissions Committee:

I write this letter to express my strong belief that Joseph Libretti has the requisite character and fitness for admission to the Ohio bar. I know Mr. Libretti because he is enrolled as a student at Cleveland-Marshall College of Law, where I have been teaching for 18 years. Mr. Libretti has taken three different courses with me — Civil Procedure I, Civil Procedure II, and Evidence — and he has performed brilliantly in each of them. What impresses me, even beyond his exceptional intelligence, is the honesty, the humility, and the integrity he has shown in all of his dealings with me over a three-year period. I have come to know him much better than I normally get to know my students, we've carried on many discussions about appropriate and inappropriate conduct by lawyers, and I am convinced that he has the requisite moral compass to practice law honorably. I trust him so completely that I wouldn't hesitate to hire him as my own attorney.

I say all of this while fully aware that Mr. Libretti has a criminal conviction in his past. That conviction took place long before he entered my classroom — and it does not negate the trust and confidence he has inspired in me, day after day, after years of interaction.

If I can answer any questions about my experience with Mr. Libretti, please call me at (216) 687-5282. My e-mail address is kevin.oneill@law.csuohio.edu.

Very truly yours,


Kevin Francis O'Neill
Associate Professor of Law

**CLEVELAND-MARSHALL COLLEGE OF LAW
CIVIL LITIGATION CLINIC**

*Kenneth J. Kowalski, Esq.
Doron M. Kalir, Esq.
Jean R. Packard, Office Manager*

2121 Euclid Avenue, LB 138
Cleveland, Ohio 44115-2214
Telephone: (216) 687-3947
Fax: (216)687-9297

May 30, 2013

Character and Fitness Admissions Committee
Cleveland Metropolitan Bar Association
1301 East 9th Street, Second Level
Cleveland, OH 44114-1253

Re: Joseph Libretti

Dear Character and Fitness Committee Members:

I write to ask that the Committee approves Mr. Joseph Libretti's application. Here are my reasons:

1. Mr. Libretti has been my student at the Civil Litigation Clinic during Spring Semester 2013.
2. Throughout the semester, Mr. Libretti has demonstrated exceptional dedication and devotion to his clients. In many instances he was the last person at the Clinic, working late hours to ensure his clients' interests are best served.
3. In one such case, Mr. Libretti was the direct reason for a swift victory: after receiving a letter from the Clinic, the Plaintiff in that case – a national debt-collecting agency – waived its claim against Mr. Libretti's client for collection of several thousand dollars. For that victory, Mr. Libretti was featured on the Law School website as a prime example of how the Civil Litigation Clinic students assist the Cleveland community, in particular those who could not afford legal advice.
4. Other than his stellar performance in the Clinic, for which he was awarded with an "A" grade, Mr. Libretti has proven to be an honest, hard-working, and dedicated student. I could always rely on him to be there, perform his tasks, and report accurately to me. I knew that he would always try his best to assist his clients. Just as an example, this morning I had a hearing at the Cleveland Municipal Court; although Mr. Libretti is no longer a student of the Clinic, and although the semester has ended weeks ago and now he is working full-time for the

Public Defender, Mr. Libretti showed up for the hearing, on time and prepared. That is but one example of his dedication to his clients.

5. I am fully aware of Mr. Libretti's past. In fact, prior to arriving at the Clinic I looked closely into his history and consulted with several colleagues about including him at the Clinic. At the end, we were all unanimous in our decision to accept Mr. Libretti into the Clinic and, as the examples above well demonstrate, we never regretted our decision.
6. Further, I am of the opinion that once a person has fully paid his or her debt to society – and Mr. Libretti has paid dearly for his past actions – they should receive a meaningful and honest opportunity to redeem themselves. I could not think of a better avenue for Mr. Libretti than to become an attorney who could assist others who are in the same position he was once been, but no longer.

In light of these reasons, I would urge the Admissions Committee to APPROVE Mr. Libretti's application for the Committee of Character and Fitness.

Please do not hesitate contacting me should you require additional information regarding Mr. Libretti.

Sincerely,


Deron M. Kalir
Clinical Professor of Law

Robert N. Schmidt
17012 Clemente Court
Fort Myers, FL 33908

May 29, 2013

To whom it may concern:

Subject: Letter of Recommendation for Joseph Libretti for the Ohio Bar

Dear Sirs:

As a professional engineer, attorney, patent attorney, and as an entrepreneur, I understand professionalism and what it takes to practice in multiple professions. I have known Joseph Libretti for about three years. He has been a friend of my son through law school.

It would be logical knowing Joe's background to be skeptical. If I did not know Joe, I would be too. However, after scores of prolonged conversations with him, and understanding the details of his numerous encounters with law officials, I feel comfortable recommending him as a person whom I could trust as a law practitioner.

I own a number of companies in Cleveland, one of which is engaged in munitions development. I have previously worked in chemical defense, and have a few patents in that area. My army career gave me a stint at being a post security officer for a number of installations in Europe. So this, along with a prior secret security clearance, gives me some background in US security interests. With the broadening of powers under the Patriot Act and other legislation, I am reminded almost daily as I read the papers where our law enforcement agencies are taking the nation. I constantly refer back to the paraphrased derivatives of Ben Franklin stating "Any society that would give up a little liberty to gain a little security will deserve neither and lose both." I am also reminded of the Nazi Putsch, Kristallnacht, and the "First they came..." poem by Martin Niemoeller. If they ever come after me, I want Joe as my attorney.

As a board member of the National Small Business Association, and as the Co-Chairman of the Small Business Technology Council in Washington DC, I am in frequent dialog about our inspectors general, and their overzealous attacks on small businesses. Obtaining a "bounty" on soft targets is a *modus operandi* for our government agencies. Again, we need a guy with a white hat who shoots silver bullets to defend us. Joe is one such person.

I am very concerned about our loss of liberty in America. For this reason, I believe we need to have an entire new battalion of attorneys who are willing to fight for our individual liberties and push back on our "overreaction" on security and over-enforcement of nebulous regulations. Joe is that kind of guy. He has proven that he can perform on the firing line. He has won over 100 cases already, assisting his friends, and for himself, fighting for those same individual freedoms that have allowed this country to become great. We need Joe to have a license to fight for our freedoms and rights.

I highly recommend that you allow him to practice law in Ohio. Anyone of us may need him some day.

Sincerely,


Robert N. Schmidt
216-374-7237
rschmidt@CleveMed.com

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Professional Engineer (Ohio, 40821); Attorney-At-Law (Ohio, 0002719); Patent Attorney (USPTO, 30889)

Orbital Research Inc.; Cleveland Medical Devices Inc.; NeuroWave Systems Inc.; Flocel Inc.; Great Lakes NeuroTechnologies Inc.

Vecchio & Vegh LLC

Attorneys & Counselors At Law

Robert J. Vecchio

Robert J. Vecchio Co., L.P.A.
Also Admitted in Florida*
rjvecchio@vecchio-vegh.com

Anthony J. Vegh

tvegh@vecchio-vegh.com

June 4, 2013

Susan Audey, Esq.
Bar Admissions Committee
1301 East 9th Street, 2nd Level
Cleveland, OH 44114

RE: Joe Libretti

Dear Ms. Audey:

I am sending this letter on behalf of Joe Libretti, who I understand is scheduled for a character and fitness interview on June 6th.

I have known Joe for approximately one year. I have hired him on numerous occasions to do research and writing for me on a wide variety of legal issues, mostly civil. Joe does top-notch work. I have found him to be thorough, prompt and conscientious. His age and level of maturity separates him from any other law student who has done work for me in the last 30 years.

I would have no hesitancy in offering Joe a position with our firm if we had a need for a full-time employee. His prior conviction and incarceration is of no significance to me. Based upon my experiences with him and his outstanding success in law school, Joe has been fully rehabilitated. He is going to be a very good attorney with a lot to offer to the community.

Respectfully yours,



Robert J. Vecchio

RJV/lmb

720 Leader Building
526 Superior Avenue, East
Cleveland, Ohio 44114-1401
Phone: (216) 566-1424
Fax: (216) 566-1468

Mansfield Office:
44 Park Avenue, West
Mansfield, Ohio 44902
Phone: (419) 522-1130

EXHIBIT

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Vecchio & Vegh LLC

Attorneys & Counselors At Law

Robert J. Vecchio

Robert J. Vecchio Co., L.P.A.
Also Admitted in Florida*
rjvecchio@vecchio-vegh.com

Anthony J. Vegh

tvegh@vecchio-vegh.com

June 4, 2013

Susan Audey, Esq.
Cleveland Metropolitan Bar Association
1301 East 9th Street, 2nd Level
Cleveland, OH 44114

RE: Joseph Libretti

Dear Ms. Audey:

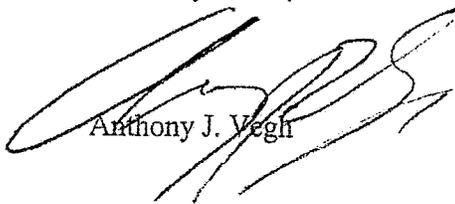
Last Spring, Magistrate Judge White assigned me to represent the lead defendant in the "Bridge Bombing" case. I quickly realized I needed a law clerk to visit with my client (who was incarcerated) and assist him in reviewing video of his meetings with the government's confidential informant. I contacted the CSU law school and they sent Joe to interview with me for the job.

Joe let me know immediately that he was a convicted felon and gave me his background. I appreciated his candor. His writing samples he showed were impressive. I decided to give him a shot. The facility holding my client would not permit Joe to visit him due to his felony conviction, so I asked Joe if he would be willing to assist me in writing and research assignments for the case. He said yes.

I gave Joe several assignments throughout the case and his work was always superlative. He was always willing to meet with me and discuss issues. I found his insight impressive for a law student. He sent me fee bills for all his work and they were detailed and of law firm quality. After the case was completed, I continued to give Joe work and still do so.

In summary, I've found Joe to be a serious-minded, hard working law clerk. He grasps complex issues quickly. His written work is top notch, on time, and requires minimal editing. For all these reasons, I recommend that Joe be given the opportunity to practice law here in Ohio.

Sincerely Yours,



Anthony J. Vegh

AJV/av

720 Leader Building
526 Superior Avenue, East
Cleveland, Ohio 44114-1401
Phone: (216) 566-1424
Fax: (216) 566-1468

Mansfield Office:
44 Park Avenue, West
Mansfield, Ohio 44902
Phone: (419) 522-1130

EXHIBIT

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**CIVIL LITIGATION CLINIC
CLEVELAND-MARSHALL COLLEGE OF LAW**

Kenneth J. Kowalski, Esq.
Doron M. Kalir, Esq.
Jean R. Packard, Office Manager

2121 Euclid Avenue, LB 138
Cleveland, Ohio 44115-2214
Telephone: (216) 687-3947
Fax: (216)687-9297

May 30, 2013

Warren Rossman
James N. Kline
Character and Fitness Admissions Committee
Cleveland Metropolitan Bar Association
1301 East 9th Street, Second Level
Cleveland, OH 44114-1253

Re: Joseph Libretti

Gentlemen:

I am writing to recommend Joseph Libretti as a candidate for the Ohio Bar. I know Joe as a student in two of my courses at Cleveland-Marshall College of Law. I believe he will be a fine attorney who will serve his clients very well.

Joe took my intense, two-week Trial Advocacy course last summer. He worked very hard and impressed me and a number of the attorneys who help out in the course with his interest, talent, and attitude. He was very appreciative of suggestions and critiques of his simulation performances and demonstrated a desire to learn and improve his skills. He was one of the stars of the course.

This past fall, Joe was also enrolled in the Civil Litigation Clinic which I co-teach with Prof. Doron Kalir. Again, Joe was an enthusiastic student, who went well beyond the minimum course work requirements to provide his low-income clients first-rate representation. He spent quite a lot of time in the Clinic working on his case assignments. I have enjoyed my discussions with Joe on any number of topics, especially regarding possible approaches to the issues in his cases. He is a very thoughtful individual.

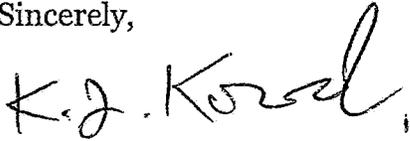


Warren Rossman
James N. Kline
June 4, 2013
page two

I am aware of Joe's pre-law school background and believe that he has truly reformed. Observing his work on behalf of clients in the Clinic, I have no doubt that if he were to become a member of Ohio's Bar, he would diligently, skillfully and honestly represent clients.

For these reasons, I urge the Committee to recommend Joe Libretti as a candidate for the Ohio Bar.

Sincerely,

A handwritten signature in black ink, appearing to read "K.J. Kowalski". The signature is written in a cursive style with a large, sweeping initial "K".

Kenneth J. Kowalski
Clinical Professor of Law

September 5, 2013

Ohio State Bar Admissions Committee
Office of Bar Admissions
65 South Front Street
Columbus, Ohio 43215

RE: Recommendation of Joseph V. Libretti, Jr. for admission to the Ohio State Bar

Dear Committee Members:

I am an attorney with the Cuyahoga County Public Defender's Office and have known and worked with Joseph V. Libretti, Jr. since May 2013. Our office hired Joe as a law clerk, and I have personally worked with him on three cases.

In working with Joe, I have been impressed by his commitment to our clients and the excellent quality of his work. He has diligently completed every assignment he has been given. He is a professional, and his performance has comported with the high ethical standards that our profession demands.

In addition, Joe has a passion and respect for the law and for citizens' constitutional rights that is particularly remarkable. Joe has spoken very candidly with me about his 1992 criminal conviction. And, I truly believe that his experience with the justice system as a criminal defendant contributes to his level of compassion for our clients.

One case in particular stands out. Our office had received a letter from an inmate who, as a result of complicated sentencing issues involving four separate cases, had not received 111 days of jail-time credit. Although the law was somewhat ambiguous in this area, Joe took up this prisoner's cause, advocated for him within the office, and then crafted a well-researched, persuasive brief arguing, among other things, that the improper

EXHIBIT

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calculation of jail credit constituted a violation of the inmate's Equal Protection rights. Had it not been for Joe's strong sense of justice and his diligent efforts this man would have remained unjustly incarcerated for an extra 111 days, his constitutional rights being violated.

I am aware that Joe's admission to the Bar is a unique situation, but Joe is a unique case. In my opinion, it would be fundamentally unfair to deny Joe the opportunity take the Bar exam and to practice law in Ohio due to his past transgressions. Not allowing Joe to practice law would be a disservice to the legal community, and to those members of the public who require legal services. If allowed to seek admission to the Ohio Bar, I am confident that Joe will make a positive contribution to our profession.

I strongly support Joe's admission to the Bar. Please feel free to contact me at (216) 513-0868 if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cullen Sweeney', with a long horizontal flourish extending to the right.

Cullen Sweeney
Ohio Sup. Ct. #0077187



CUYAHOGA COUNTY PUBLIC DEFENDER

Robert L. Tobik
Public Defender

October 18, 2013

To: Board of Commissioners on Character and Fitness of the Supreme Court of Ohio

Joseph Libretti has contacted me to write a letter of reference in support of his application to sit for the Ohio bar examination. I am aware that his application is at risk due to his prior felony conviction.

I have worked for the Cuyahoga County Public Defender's Office as an Assistant Public Defender since January of 2003 in both the Juvenile and Felony Divisions. I have had the opportunity to work with many law students in that capacity. Mr. Libretti began working at the Cuyahoga County Public Defender's Office, Felony Division in May 2013. Mr. Libretti disclosed to me his history from the beginning. My initial reservations were very soon overcome by the integrity Mr. Libretti consistently displayed.

Mr. Libretti handled numerous assignments for me during his employment at the Public Defender's Office. He completed research and writing assignments, interviewed clients, filed motions and briefs, attended court hearings, and drafted and argued suppression motions. I found his work to be exceptional. We worked closely together and discussed details of each case and the appropriate course of action in representing each client. I often requested that he be assigned to more detailed or difficult matters knowing that I could rely on the quality of his work. Mr. Libretti always took time to research issues and sought out senior attorneys to discuss his thoughts and concerns. I am consistently impressed with Mr. Libretti's ease of communicating with other professionals and clients. I found Mr. Libretti to be incredibly intelligent and compassionate.

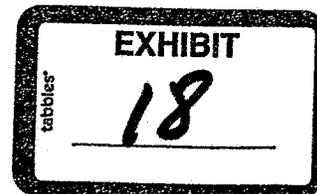
I believe with hard work and dedication people have the ability to turn their lives around and make a better future for them. The best days at my job are the days I see people complete drug treatment, get their records expunged, or be reunified with their children. Mr. Libretti is a success story and his success should not stop here. He has taken what he learned during his incarceration and made it an asset he can use to help others. I can say without reservation that I believe Mr. Libretti respects the law and will be an ethical attorney. Mr. Libretti will be an asset to the legal profession.

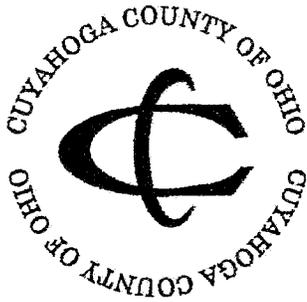
It has been a pleasure to write this letter on behalf of Joseph Libretti.

Very truly yours,

Linda L. Hricko, Esq.
Assistant Public Defender
(216) 443-8377

310 Lakeside Avenue, Cleveland, OH 44113
(216) 443-7223 Felony (216) 443-7583 Appeals
FAX (216) 443-3632





CUYAHOGA COUNTY PUBLIC DEFENDER

*Robert L. Tobik, Esq.
Chief Public Defender*

October 21, 2013

To Whom It May Concern:

I am writing this letter on behalf of Joseph Libretti, with regards to his application to sit for the Ohio Bar Examination. I am aware that his character and fitness is under review due to his prior felony conviction. It is without hesitation, however, that I lend my support to his review.

I have worked as an Assistant Public Defender since 2010. In this role I have developed a sincere belief in rehabilitation. Mr. Libretti exemplifies the idea that one should not be judged for life based upon a scarred past. His desire to enter the legal profession, alone, demonstrates that he aspires to much greater things going forward. I also see a great amount of dedication to his work, and to the justice system as a whole, on a daily basis. He is a conscientious, diligent worker, who goes above and beyond for every client he helps in our office.

Aside from the content of his character, Mr. Libretti has an unquestionable aptitude for the legal profession. I am sure the Committee is well aware of his success in law school. This success extends to his work at this office as well. While I understand his academic qualifications are not what brings about this review, I also feel it cannot go unsaid that preventing such a talented legal mind from entering our profession would be a shame. Undoubtedly, Mr. Libretti would be a valuable asset to the legal profession in Ohio.

Very truly yours,

Sheila C Downs

Sheila Downs, Esq.
Assistant Public Defender
310 Lakeside, Suite 400
Cleveland, OH 44113
216-443-3676

310 Lakeside Ave. Suite 400, Cleveland, OH 44113
(216) 443-7223 Felony (216) 443-7583 Appeals
FAX (216) 443-3632





CUYAHOGA COUNTY PUBLIC DEFENDER

Robert L. Tobik
Public Defender

September 30, 2013

Ohio Supreme Court
Office of Bar Admissions
Board of Commissioners on Character and Fitness
65 South Front Street, 5th floor
Columbus, Ohio 43215

Re: *Application of* JOSEPH V. LIBRETTI

I have been a licensed attorney in the state of Ohio since 1991, and am employed in the Felony Division of the Cuyahoga County Public Defender Office. Over the years I have had the opportunity to supervise a great many law clerks. Joe Libretti stands out among that list due to his commitment to justice, his diligence, his intellect, his reliability, and his unwavering commitment to the rule of law.

I am writing to endorse Joe Libretti's petition to sit for the Ohio Bar.

Joe has assisted me on several felony cases. He has attended pre-trial hearings, trials, sentencing hearings, client interviews, *in camera* meetings with judges and prosecutors, and defense strategy sessions. Throughout he has demonstrated the highest level of professionalism and decorum.

I would like to share a specific example. Several months ago I asked Joe to prepare a brief in opposition to the state's request to join two separate indictments in a single trial. Our client was charged with two unrelated sex offenses alleged to have occurred over a two-year period. Joe crafted a brief that was extraordinary in detail and cogent in analysis. We won the issue due to his work. His writing is absolutely top notch.

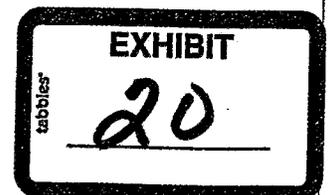
Joe has made me aware of his 1992 criminal conviction and circumstances surrounding those events. I believe that Joe's situation, having served prison time for criminal conduct, provides him with unique compassion and insight into the persons we represent.

Joe has the dedication, sound judgment, and trustworthiness to make him an asset to the Ohio Bar.

Regards,


Christopher S. Maher

310 Lakeside Suite 400 Cleveland, OH 44113
(216) 443-7223 Felony (216) 443-7583 Appeals
FAX (216) 443-3632



SPORTECHSM

NATIONALLY-RECOGNIZED SUBSTANCE ABUSE PREVENTION PROGRAMMING

14394 Washington Boulevard
Suite 400
University Heights, Ohio 44118

Writer's email and phone:
ari@sport-tech.org
216.571.1641

November 4, 2013
Via Personal Delivery

Board of Commissioners on Character and Fitness
c/o Supreme Court of Ohio
65 S. Front Street
Columbus, Ohio 44215

Re: *Joseph Libretti*

Dear Commissioners:

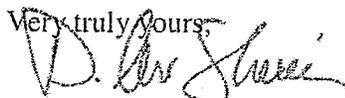
I wish to provide a personal character reference for Joseph Libretti. As founder of SporTech, Inc., I have developed and presented various anti-drug and health awareness programming to over 300,000 people throughout the United States and Europe since 1993. I met Joseph after following his legal case with immense interest. Joseph has spoken to me at length about his history, and he genuinely regrets his previous poor decisions and has never made any excuses regarding his circumstances.

In the time I have known Joseph, he has shown himself to be extremely civic minded and charitable with his time and spirit to the community. For example, Joseph recently spoke with me about the epidemic concerning recreational drugs and prescription medications at various presentations with audiences that included students, parents, and corporate executives. He was honest and sincere about his background, contrite and remorseful about his past dealings, and exudes a passion to educate others about the dangers associated with illegal drugs.

Moreover, he is eager to speak at future events including those geared toward young students and susceptible teenagers. Joseph's participation has been voluntary and he has neither requested nor received any remuneration.

It is my sincere hope that these, as well as Joseph Libretti's other positive attributes, will be taken into consideration.

Very truly yours,



D. Ari Sherwin
Founder of SporTech, Inc.
State of Ohio Attorney Bar No. 0081739

EXHIBIT

21



CUYAHOGA COUNTY PUBLIC DEFENDER

Robert L. Tobik
Chief Public Defender

November 7, 2013

Board of Commissioners on Character and Fitness

Dear Board Members:

I am writing on behalf of Joseph Libretti concerning his application to sit for the Ohio Bar Examination.

I met Joseph Libretti when he was a law student in the Trial Advocacy Class at the Cleveland State University Law School. He was prepared, attentive and serious in his approach to learning the skills that would be necessary to properly and vigorously represent clients as a practicing attorney.

I learned of his past incarceration at that time. I felt then, and feel now that he had put all the negatives of that experience behind him, so much so, that I hired him on as a full time law clerk this past summer. Now that the Fall Semester has begun, his hours have been reduced to part-time, so as not to interfere with his school work.

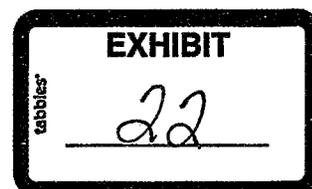
During his tenure here, Joe has done a broad range of assignments. He researched and wrote briefs, memoranda, and motions for various lawyers in our office. He helped clients with various issues, showing care, concern and respect for them.

He also, under the supervision of one of our attorneys, prepared and successfully argued a motion to suppress evidence. His approach to this task was thorough, thoughtful, and studied, coupled with a full appreciation of the importance to and impact on the clients' life.

My opinion is that Joseph Libretti will be an ethical attorney who respects the law and he will be an asset to the legal profession.

Yours truly,

Robert L. Tobik
Chief Public Defender



310 Lakeside Suite 400, Cleveland, OH 44113
(216) 443-7223 Felony (216) 443-7583 Appeals
FAX (216) 443-3632

TERENCE CHECK | 440.840.7046 | 1804 East 23rd St. Walk, Apt. 6209 | Cleveland,
Ohio 44114 | t.a.check@cmlaw.csuohio.edu |

Dear Honorable Justices:

My name is Terence Check, and I am the current Editor-in-Chief of the *Cleveland State Law Review*, the flagship journal of legal scholarship at Cleveland-Marshall College of Law at Cleveland State University, where I am also a third year law student. I am writing to you today in my personal capacity to expound upon the character of Mr. Joseph V. Libretti, a current articles editor on the *Cleveland State Law Review* and fellow colleague.

I have known Mr. Libretti for the past two years. In that time, I have grown to know him as an incredibly insightful, intelligent, and thoughtful law student and classmate. I know that Mr. Libretti has earned several "High A" awards in a wide range of subjects, and while I cannot speak to the rest of Mr. Libretti's academic record, I can say with the utmost confidence that he has excelled academically, showcasing a keen, inquisitive mind and a passion for knowledge.

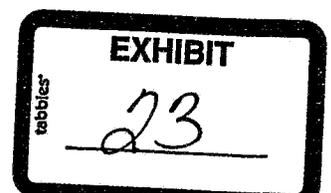
As an articles editor for the *Cleveland State Law Review*, Mr. Libretti has been part of an elite group within law review responsible for reviewing dozens of submissions for placement within our publication. The humble title belies the importance of such a position because reviewing articles and inviting authors to publish their work with us is a challenging, tedious, and time-consuming process. Mr. Libretti has performed exceedingly well as a part of this team, and I know personally that the *Cleveland State Law Review* has become a better journal because of his service.

Thank you for allowing me to write to you this day. Please note that any and all errors, omissions, breaches in protocol or other faults in this writing are mine alone and not Mr. Libretti's. Please do not hesitate to contact me at (440) 840.7046, or at terence.check@cmlaw.csuohio.edu. Thank you for your time and consideration.

Respectfully,



Terence A. Check Jr.



Office of the
FEDERAL PUBLIC DEFENDER
NORTHERN DISTRICT OF OHIO

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(By Appointment Only)*

December 31, 2013

Re: Letter of Reference for Mr. Joseph Libretti

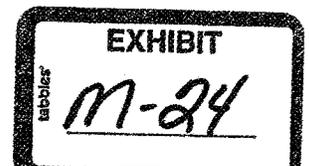
Dear Sir/Madam:

About two years ago, I was called by a private lawyer in Cleveland to see if we could seek appointment to pursue a federal habeas claim for one of his clients who was serving a lengthy sentence in an Ohio prison. We sought and received the appointment, but the federal magistrate eventually denied our claim. We nevertheless felt that justice had not been done. We then turned to the state court system for relief via a motion for early release of our client through post-release control. To assist us in the effort since we normally appear in federal court and not state court, we turned to the Cuyahoga County Public Defender's Office. Joe Libretti was assigned to handle the case, so I speak from first-hand experience when I write this letter of reference for him.

The results speak for themselves here. Judge Nancy Margaret Russo said from the bench that the motion made on behalf of the client was one of the most thorough and carefully prepared requests she had ever seen. Judge Russo granted our motion, and released our client in August. Since that month, she has further permitted our client to travel to a prison to give a presentation to inmates there, and also granted permission for our client to travel to Wisconsin and California to visit with family. Simply put, none of this would have happened without Joe's hard work and diligence.

Joe is reminded everyday of his own previous run-in with the law many years ago. At an Inn of Court program I attended three weeks ago, Joe described for the lawyers and judges in attendance his past life and how he has made amends for it. He told us how he will come out of his law school near the very top of his class, and how his experiences working at places like the Cuyahoga County Public Defender's Office will make him a better lawyer. What Joe didn't say but what I already knew was this: His performance on the work he did for our client was first-rate, far better than many other licensed lawyers would have submitted, and the proof is in the results we received in court.

I have no doubt that Joe will be an asset to our profession. I will be proud to have him as a fellow member of our bar. If there should be any doubt whatsoever about Joe's fitness to be



FEDERAL PUBLIC DEFENDER

December 31, 2013

Page 2

an attorney in our state or anywhere else for that matter, please call me. I will provide you with further reasons why I am taking the time on this last day of the year to make sure a very talented law student in 2013 will be a very talented lawyer of our state in 2014. I can be reached at 216-256-4059 (personal cellphone) or through the main number above if anyone considering Joe's application wishes to speak with me further about him.

Thank you, and best wishes to you for a Happy New Year.

Sincerely,



DENNIS G. TEREZ
Federal Public Defender

January 28, 2014

Todd C. Hicks, Esquire, Chair
Board of Commissioners on Character and Fitness
OHIO SUPREME COURT
65 South Front Street, 5th Floor
Columbus, OH 43215-3431

Re: Joseph V. Libretti, Jr.

Dear Mr. Hicks ~

I have been serving as President of the William K. Thomas Inn of the American Inns of Court which is comprised of roughly eighty judges and lawyers in the Greater Cleveland area. I write to you not in any capacity relating to my Inn, but to inform you and the commission of the extraordinary presentation Joseph Libretti made to our membership in December.

Mr. Libretti made a moving presentation to us about what he did twenty-five years ago and the debt for which he has paid because of his actions. He appeared to me forthright and open about his crime, but, more importantly to me, what he has done since his conviction and incarceration. Mr. Libretti now stands with a handful of students at the top of his law school class and promises to offer the potential of what good lawyers are able to do if he is permitted to sit for the bar and practice.

It may be the decades in practice and my teaching at law schools throughout the country starting over forty years ago that has helped me formulate my instincts, but one develops of sense of what law students and young lawyers can offer our profession and our society. Mr. Libretti might be one of those special exceptions in his acknowledgement of his past, his extraordinary development and his capacity to serve us with honor. That message came across to us with sustained applause I witnessed that night. I joined many of my colleagues that night in their expression of hope and appreciation that Mr. Libretti might be given the opportunity to serve our community as a lawyer.

With warmest regards,

8/14/2014

Peter Sayegh Esq.
Sayegh Enterprises Ltd.
1175 Irene Rd.
Lyndhurst OH, 44124

Board of Commissioners on Character and Fitness of the Supreme Court of Ohio
65 South Front Street, 5th Floor
Columbus, Ohio 43215-3431

Dear Sir or Madam:

Hello and my name is Peter Sayegh. I am a newly-minted Ohio attorney who graduated from Cleveland-Marshall College of Law. During law school, I had the pleasure and honor of cultivating a relationship with Joseph V. Libretti, Jr. I am writing in support of Mr. Libretti's admission to the Ohio Bar.

I am aware of Mr. Libretti's criminal history, including his 2011 federal case wherein he was wrongfully accused of a crime and subsequently acquitted. Nevertheless, in the four years that I have known Mr. Libretti he has consistently displayed the highest degree of character, integrity, and ethics that make him fit to be an attorney. What's more, Mr. Libretti has one of the most brilliant legal minds I have ever encountered in my life. That said, I strongly believe that preventing Mr. Libretti from obtaining his law license will deprive society of an asset that comes by only once in a lifetime.

It is true that Mr. Libretti has had an unfortunate past. It is also true he has engaged in conduct that some might consider immoral (namely, the selling of a legal product called Spice). His past, however, is not his future. As such, it should not preclude him from taking the Bar Exam. Mr. Libretti is incredibly remorseful and has taken his experience and used it to become a better man. In fact, Mr. Libretti's past has made him a well-spring of legal knowledge and I have no hesitation in relying on him for assistance in my practice. What's more, my hope is that I can bring Mr. Libretti on full-time one day because of his unmatched competence, ethical conduct, and reputation for honesty.

In analyzing Mr. Libretti's application under the character and fitness factors set forth in Gov. Bar R. I(12)(D)(3), it is incumbent upon the Board to distinguish between legal activities it finds to be questionable and conduct that has an actual nexus with the applicant's fitness or capacity to practice law, as required under both federal and Ohio law. While state bars can require an applicant to meet high standards of moral character before accepting an applicant to the bar, the United States Supreme Court has held that "any qualification must have a rational connection

with the applicant's fitness or capacity to practice law."¹ Similarly, Ohio has recognized a distinction between these two issues in the controlling case of *In re Application of Davis*,²

To be admitted to the bar in this state, an applicant must establish that he has the requisite moral character to fulfill the position of trust in which he will be placed by his clients. The focus of inquiry in these matters is directed toward the assimilation and evaluation of that evidence which primarily reflects upon an applicant's ability to function honestly and effectively in the practice of law. Highly probative of an applicant's ability in this regard is his or her performance in past and current professional endeavors, including the applicant's performance in academic pursuits and his ability to function in the work-environment. Less relevant for purposes of these proceedings is the manner in which the applicant conducts personal matters, such as those involving marital or financial relationships, or associations with certain persons or organizations, unless it can be demonstrated that such matters bear substantially upon applicant's ability to execute the professional responsibilities with which he will be charged.

Here, Mr. Libretti's has exhibited nothing short of a remarkable performance in academic and professional endeavors as evidenced by the following: (i) he is ranked first in his class; (ii) he is the recipient of a full merit-based scholarship; and (iii) he has undoubtedly demonstrated the ability to function in the work-environment, both during the period of incarceration and as testified to by a post-incarceration employer, Mr. Dan McGlade, the President of Energy Transportation Inc.

The Ohio Rules of Professional Conduct also shed light on assessing an applicant's character and fitness:

Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate a lack of those characteristics relevant to law practice.

Additionally, Ohio Rules for the Government of the Bar provide that:

In determining an applicant's character, fitness, and moral qualifications for the practice of law, the admissions committee shall not consider factors that do not directly bear a reasonable relationship to the practice of law.³

¹ *Schwartz v. Bd. of Bar Exam. of State of N.M.*, 353 U.S. 232, 239, 77 S. Ct. 752, 756, 1 L. Ed. 2d 796 (1957).

² 61 Ohio St.2d 371, 374, 403 N.E.2d 189, 190 (1980).

Here, the sale of a *legal product*, and, the cessation of that activity upon its becoming illegal, does not bear a reasonable relationship with the applicant's fitness or capacity to practice law under the standards articulated in *Davis, Schware*, the Ohio Rules of Professional Conduct, and the Ohio Rules for the Government of the Bar. Rather, the fact that Mr. Libretti voluntarily ceased his involvement in the sale of the Spice (when it was temporarily scheduled as a Controlled Substance) only reflects positively upon his ability to function honestly and effectively in the practice of law. Specifically, he legally and prudently disposed of the remaining product after obtaining the advice of counsel on the matter.

Similarly, Mr. Libretti's association with the now deceased individual he met at the halfway house (where Mr. Libretti resided pursuant to the terms of his probation) is also not proper justification for denying his application. The Board bears, and has failed to meet, the burden that the association with the deceased bore "substantially upon [Mr. Libretti's] ability to execute the professional responsibilities with which he will be charged."⁴

Assuming arguendo that the sale of legal Spice and contact with a former co-resident of a halfway house did have a rational connection with Mr. Libretti's fitness or capacity to practice law, or, bore substantially upon his ability to execute his professional responsibilities, it is incumbent upon the Board to consider the Mr. Libretti's moral character as it exists in the present. That is, to assess his character some three years after the cessation of the activity. That said, presuming that the sale of legal Spice evidenced a lack of good moral character, on the part of Mr. Libretti, the absence of good moral character in the past is secondary to the existence of good moral character in the present—the transitional character development in between comprising the process of rehabilitation, or lack thereof.⁵ Whether the Applicant is viewed as having not adapted to the unwritten rules of acceptable businesses in the legal community, or as having exercised poor moral judgment more than three years ago, the appropriate outcome is not a permanent ban on taking the Bar exam.

Mr. Libretti has an extraordinary passion and commitment to the practice of law. Denying Mr. Libretti the opportunity to take the Bar Exam would not further any interest in protecting the general public. Rather, it would be a tragedy to society that would deprive future clients of his talents—namely, indigents, *pro bono* beneficiaries, criminal defendants, and the like.

Mr. Libretti has learned from his mistakes and has used that knowledge to benefit the legal community, its lawyers, and its clients. He is making amends for his past. I can assure you that Mr. Libretti respects the law and would be an ethical attorney. In turn, I would respectfully request the Board to grant Mr. Libretti permission to take the Ohio Bar Exam and allow him to fulfill his potential as a productive member of society.

³ Ohio Bar. R. 1 (12)(D)(6).

⁴ *Davis*, 61 Ohio St.2d at 374, 403 N.E.2d at 190.

⁵ *In re Application of Davis*, 38 Ohio St.2d 273, 313 N.E.2d 363 (1974).

Best Wishes,

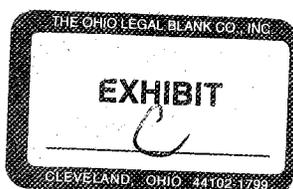
Peter Sayegh Esq.
Owner/Attorney
Sayegh Enterprises Ltd.

December 4, 2014

To: The Board of Commissioners on Character and
Fitness, Supreme Court of Ohio,

I have known Joseph Victor Libretti since September of 1981, when we started college together as freshmen at the University of Denver in Denver, Colorado. We soon became good friends. He is an extremely intelligent man. He has always been driven and expects nothing less than perfection from himself. We were very young when Joe got involved with the drug trade. At that time, I felt that he looked at drugs as a commodity - only seeing the commerce side of the equation.

Over time, I became a cocaine addict. My life was miserable. When Joe saw what the drugs were doing to me, he refused to provide me with drugs. By 1990, I had moved back to Indiana with my mother and was starting to put my life back together. To my knowledge, Joe was no longer involved in the drug trade although we still stayed in touch. I was quite surprised when he was arrested in 1991 because I was under the impression that he was completely done with that part of his life.



When I would go to the prison to visit Joe, he expressed a great deal of guilt and remorse for my drug addiction. Once again, I was surprised as I had never felt that my addiction was Joe's responsibility or fault in any way. I explained to him that drug addiction as in most addictions is the sole responsibility of the afflicted individual. Would I like to blame someone else? My ex-boyfriend who had introduced me to drugs perhaps? Yes, I would, but I know that there is no one on this earth who can make me neither take drugs nor stop doing them when I was using. I have to be responsible for myself...and I am. I also pointed out to Joe that he would avoid providing drugs to me, even if I begged for them, because of his concern for what was going on with me. He still carries that guilt and remorse even though I have told Joe many times that there is no cause for him to feel that way with me. I was happy to hear that he was aware of the consequences of drugs on people though. He understood (and understands) the harm that may have occurred as a result of his actions. Over the years, we have discussed at length his remorse and guilt for his actions. I don't believe that our friendship would have lasted these 33 years if he was not remorseful, as am I, for the lives that we led back then. We have moved on and made the best of our lives.

While I have a lot of regret for the years that I was addicted, I know it was my own doing. I always offer advice and guidance for friends, relatives and co-workers who have drug problems. Perhaps my struggles have saved people's lives.

Sincerely,

Emily A. (Coolidge) Hensley

Emily A. (Coolidge) Hensley

Emily Hensley

Field and Shop Operations Supervisor

WVS Metering

Off. 602-236-4868

Cell 602-309-4656

Emily.Hensley@srpnet.com

CERTIFICATE OF SERVICE

A true copy of the foregoing has been served by U.S. mail this 9 day of December,

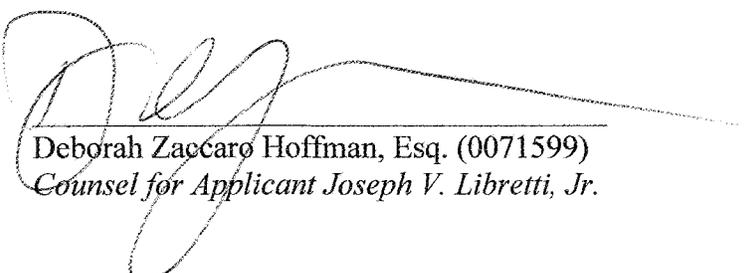
2014 upon the following:

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Deborah Zaccaro Hoffman, Esq. (0071599)
Counsel for Applicant Joseph V. Libretti, Jr.

IN THE SUPREME COURT OF OHIO

In re: :
Application of : Case No. 2014-1555
Joseph V. Libretti, Jr. :

**ANSWER BRIEF OF AMICUS CURIAE,
CITIZENS' INSTITUTE FOR LAW AND PUBLIC POLICY
IN SUPPORT OF APPLICANT JOSEPH V. LIBRETTI, JR.**

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DEC 08 2014

**CLERK OF COURT
SUPREME COURT OF OHIO**

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V. NEW ALLEGATIONS AGAINST WHICH APPLICANT CANNOT DEFEND HIMSELF SHOULD NOT BE CONSIDERED AT THE FINAL BRIEFING STAGE BUT REMANDED FOR HEARING ON THE MERITS

VI. APPLICANT’S OUTSTANDING RECORD OF ACCOMPLISHMENTS AND STRONG SUPPORT FROM THE LEGAL COMMUNITY WARRANT A DELAY WITH PERMISSION TO REAPPLY, NOT A PERMANENT BAN FROM THE PRACTICE OF LAW.

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CERTIFICATE OF SERVICE

INTRODUCTION AND STATEMENT OF FACTS

Amicus incorporates the Introduction and Statement of Facts filed by co-amicus CURE-Ohio .

TABLE OF AUTHORITIES

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LAW AND ARGUMENT

I. THE PANEL'S CONCERNS ABOUT CANDOR AND SINCERE REGRET ARE A BASIS FOR A DELAY WITH PERMISSION TO REAPPLY, NOT A PERMANENT BAN FROM THE PRACTICE OF LAW.

As co-amicus CURE-Ohio has indicated, this Court has historically rejected Board recommendations that an applicant never be permitted to re-apply in favor of a delay, where there is evidence of an applicant's redeeming qualities. In *Application of McKinney*, the applicant had provided what the Panel, Board, and Court found to be a false reason for her employment termination, did so repeatedly, and gave multiple explanations under oath for not telling the truth initially. See *McKinney*, 134 Ohio St.3d 260, 2012-Ohio-5635, 981 N.E.2d 847, ¶ 23. The Court did not find it determinative that she made a false statement on her Application and ultimately permitted her to reapply and submit to a new investigation. *Id.* at ¶ 22. In *Application of Holzhauser* (66 Ohio St. 3d 43) the Board's recommendation of a permanent ban was set aside in favor of a two-year delay because the Court found the Applicant did not "completely lack rehabilitation potential." This is all the more true with the present Applicant, who has displayed rehabilitation and redeeming qualities, and requests additional time to demonstrate them.

Instances in which a candidate has been permanently banned from reapplication include a former pharmacist whose license had been revoked for felony drug theft, and who ten years later still blamed his supervisor, the pharmaceutical profession, and his attorney for the outcome. See *In re Poignon*, 132 Ohio St. 3d 395, 2012-Ohio-2915 (2012). Another permanently banned applicant failed to take responsibility even for admitted violent conduct (*In re Keita*, 74 Ohio St. 3d 46, 656 N.E.2d 620). The holdings in *In re Nerren*, *In re Cvammen*, 102 Ohio St. 3d 13, 2004-Ohio-1584, 806 N.E.2d 498, and *In re Wiseman*, 135 Ohio St. 3d 267, 2013-Ohio-763, all

involved candidates who refused to accept responsibility for their actions, indicating that this Court judges most severely not the person who engages in conduct she or he acknowledges was unwise but the person unable to admit to error, and hence to correct it.

The Applicant's acceptance of responsibility ("[T]he issue in any direct appeal wasn't whether I sold drugs. I did that. I own that. I don't deny that. I never have.") should weigh strongly in favor of his being permitted to re-apply for permission to register as a candidate for the practice of law, an opportunity this Court granted to the applicant in the seminal case of *In Re Davis* 38 Ohio St. 2d 273, 313 N.E.2d 363 (1974) and 61 Ohio St. 2d 371, 403 N.E.2d 189 (1980). Though the Court had "significant doubts" due to Davis' evasiveness while testifying, the Court remanded the Application to the Board with instructions to hold another hearing in 6 months to consider "current evidence," noting Davis' accomplishments, which included academic achievements and a prior position of considerable responsibility. *Id.* at 276, 313 N.E.2d 363. Upon rehearing the Board again disapproved Davis, but the Court held that despite some evidence which supported the Board's decision, it was impressed with his academic and professional accomplishments to approve his application. *In re Davis*, 61 Ohio St. 2d at 373-374, 405 N.E.2 at 189.

II. THE OHIO SUPREME COURT HAS ORIGINAL JURISDICTION TO DETERMINE CHARACTER AND FITNESS THAT SHOULD NOT BE LIMITED BY COLLATERAL ESTOPPEL AND WAIVER.

In Ohio the Supreme Court is the ultimate arbiter of an Applicant's character and fitness and of the conditions under which an individual may engage in the practice of law. Ohio Const. Article 4.02. Collateral estoppel, requests for deference, and claims of waiver cannot limit the Court's authority to regulate the practice of law in Ohio, which is exclusive and

absolute. See *Smith v. Kates*, 46 Ohio St.2d 263, 348 H.E.2d 320 (1976). A bar admissions proceeding is *sui generis* and unrelated to other types of criminal or civil proceedings, which have differing standards of proof and may or may not have provided a chance to fully and fairly litigate an issue, or have provided sufficient notice that a procedural misstep resulting in a default, or a concession made for strategic reasons unrelated to “what actually happened,” would later be invoked in a bar admissions proceeding. The argument that Applicant has waived any objections—a discretionary doctrine in any event—cannot apply since this Court has original and not appellate jurisdiction in practice of law cases. See *In re M.D.*, 38 Ohio St.3d 149, 151, 527 N.E.2d 286 (1988); *State v. Awan*, 22 Ohio St.3d 120, syllabus, 489 N.E.2d 277 (1986).

This Court has full and exclusive jurisdiction over the practice of law in Ohio and may draw its own conclusions based on the facts before it, as well as fashion an appropriate remedy.

III. OMISSIONS FROM A BAR APPLICATION THAT ARE OPENLY RAISED AND DISCUSSED BY AN APPLICANT IN AN ADMISSIONS INTERVIEW, A PANEL HEARING, AND A SUPPLEMENT SHOULD BE CONSIDERED AS MITIGATION AND A BASIS FOR A DELAY WITH PERMISSION TO REAPPLY, NOT A PERMANENT BAN FROM THE PRACTICE OF LAW.

Applicant’s discussion of his activity with the admissions committee and panel and submission of requested documentation should be considered evidence of no deliberate attempt to deceive. Amicus would note that Applicant’s conduct exceeds the transparency of another recent candidate, who actually made false statements, repeatedly, and did not disclose the truth even when questioned by the Panel, but was still permitted to reapply. See *McKinney, Id.*

IV. NEW “FINDINGS” ALLEGED BY ONE PARTY THAT ARE NOT PRESENT IN THE PANEL REPORT ARE NOT A SUFFICIENT BASIS TO PERMANENTLY BAN AN APPLICANT FROM THE PRACTICE OF LAW

As a preliminary matter, amicus notes that numerous statements are made in the Brief to

which it responds that are not present in the underlying Panel Report.

For example, there is no finding in the Panel Report that Applicant's "Post-Conviction Accomplishments Alone Do Not Adequately Demonstrate Full Rehabilitation, Acceptance of Responsibility And Candor" and there is no finding in the Panel Report that Applicant demonstrated "A Significant Deficiency In [Libretti's] Honesty."

The Report did find Applicant characterized his activity as "stupid," "foolish," that he "expressed regret" that "his conduct had resulted in humiliation and pain," (13), that he had "serious questions that this may not be very moral," (6) that he "didn't feel good about it," (7) did "think it was wrong" (7) yet concluded that he had an "amoral view of what he had done" (13) based on his demeanor without considering the typical and documented effects on an individual's demeanor of lengthy incarceration and post-traumatic stress. Both Amici respectfully submit that it is possible the candidate's level of remorse was underestimated, but that in any case there is no reason Applicant should not be permitted to withdraw and reapply at some future date when he can better demonstrate the level of acknowledgement of his wrong.

Neither the Panel Nor the Probation Office found that Applicant violated his probation multiple times between 2008-2013. The Report mentions and Applicant admits that he should not have been associating with William Breeden in 2010.

There is no finding (or mention) in the Panel Report regarding new and very serious allegations that Applicant engaged in tax evasion, held an undisclosed ownership interest in JPL Marketing, failed to obtain a license to run a business or to remit sales tax, or was engaged in the sale of controlled substances since 1990, and these issues should be remanded for full hearing if they are to form the basis of a practice of law decision.

Amicus respectfully submits that the tenor of the filings, the continuing presentation of

more and more new allegations not addressed in the Panel Report, and the willingness to piece together data from disparate and unproven sources to paint the most unflattering possible portrait relying on such doctrines as collateral estoppel and waiver for support bears a striking resemblance to the treatment of the bar candidate Loss in the case of *In re Loss*, 518 N.E.2d 981 (Ill. 1987) discussed in its initial Amicus Brief filed with this Honorable Court.

V. NEW ALLEGATIONS AGAINST WHICH APPLICANT CANNOT DEFEND HIMSELF SHOULD NOT BE CONSIDERED AT THE FINAL BRIEFING STAGE BUT REMANDED FOR HEARING ON THE MERITS

There is simply insufficient notice or inability to defend against the following allegations raised at this late date.

There is no finding (or mention) in the Panel Report regarding new allegations that Applicant engaged in tax evasion, held a 42% undisclosed interest in JPL Marketing, failed to obtain a license to run a business or to remit sales tax, or sold a controlled substance since 1990. Applicant may be a convicted felon and hence incur the automatic suspicion of those he encounters, but he is still entitled to present evidence in his defense when serious allegations are raised and to have a fair investigation conducted.

VI. APPLICANT'S OUTSTANDING RECORD OF ACCOMPLISHMENTS AND STRONG SUPPORT FROM THE LEGAL COMMUNITY WARRANT A DELAY WITH PERMISSION TO REAPPLY, NOT A PERMANENT BAN FROM THE PRACTICE OF LAW.

Amicus refers and supports the Answer filed by Applicant within and the Answer filed by co-Amicus CURE-Ohio and Fifteen Attorneys and Law Professors in support of Applicant.

CONCLUSION

Amicus supports the relief requested by Applicant, by co-amicus CURE-Ohio, and Fifteen Attorneys and Law Professors.

CILPP is grateful for the opportunity to provide the enclosed information in consideration of the important issues raised by this case.

Dated: December 6, 2014

Respectfully submitted,



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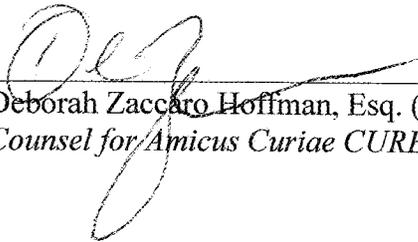
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IN THE SUPREME COURT OF OHIO

In re: :
Application of : Case No. 2014-1555
Joseph V. Libretti, Jr. :

ANSWER BRIEF OF AMICUS CURIAE,
CURE-OHIO
AND FIFTEEN ATTORNEYS AND LAW PROFESSORS
IN SUPPORT OF APPLICANT JOSEPH V. LIBRETTI, JR.

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CERTIFICATE OF SERVICE

INTEREST OF AMICUS CURIAE

CURE-Ohio (Citizens United for Rehabilitation of Errants) is a state chapter of National CURE, a non-profit prisoner advocacy group. Our mission is to educate the Ohio public and elected leaders about the need for responsible prison management, humane treatment of prisoners, fairness in the parole process, and training in job and life skills for Ohio prisoners so that they can become productive members of society. Our expectation is that once released, a restored citizen can become a productive member of society without the barriers of his or her prison record. CURE believes that the isolation of prisoners, the destruction of their support systems, and barriers to gainful employment discourage rehabilitation. When someone takes the initiative to obtain further education or to build a professional career, he or she should not be denied that chance.

Co-submitters **Fifteen Attorneys and Law Professors** are individual law professors and attorneys, some of whom submitted letters of recommendation on Applicant's behalf to the Admissions Committee and Board of Commissioners or who otherwise have personal knowledge of the Applicant, and who join in the above submission in support of Joe's being provided the opportunity to re-present his candidacy at a future date, subject to any conditions of the Court's choosing.

Pamela Daiker-Middaugh is Clinical and Director of the Pro Bono Program at Cleveland-Marshall College of Law. She previously served as the Associate Director of the Street Law Program from 1987-84. She has taught Juvenile Law and Special Education Law and also serves as a Guardian ad Litem. She has chaired the Cleveland Bar Association's Young Lawyers' Section and served as President of the Board of Trustees of the Cleveland Rape Crisis Center.

Avery Friedman is the principal of Avery Friedman and Associates, a civil rights firm dedicated to advancing the interests of those whose voices might not otherwise be heard. He has served as an Instructor or Visiting Lecturer at Cleveland State University, Case Western Reserve University, Stanford University Law School, Duke University Law School, University of California Berkeley, University of Michigan Law School, University of Hawaii Law School, University of Texas Law School, Tulane University Law School, Temple University Law School, and numerous others; was Special Counsel to the President of the International Association of Official Human Rights Agencies from 1996-2001, has been Visiting Professor in Constitutional Law at Ursuline College since 2005, and has been Saturday Legal Analyst for CNN since 2003.

Joseph Buckley and **Christopher Maher** are Cuyahoga County Assistant Public Defenders in the Felony Division. **Amy Hollaway** is a Cuyahoga County Assistant Public Defenders in the Juvenile Division. Felony Division attorneys, by assignment of the

court, represent indigent individuals in Cuyahoga County charged with felony offenses. They represent clients in trials, probation violation and psychiatric hospitalization hearings, and diversion hearings for first-time offenders. They also represent individuals seeking post-sentence relief such as expungement, shock probation and jail time credit. Juvenile Division attorneys represent indigent minors in delinquency and unruly matters, including cases in which the State desires to prosecute or “bindover” the child to adult court. They also represent parents of children who have been removed from their custody by Children and Family Services.

Carole Heyward is Clinical Professor and Director of Engaged Learning at Cleveland-Marshall College of Law. She teaches in the Urban Development Law Clinic, which provides law students the opportunity to gain valuable practical skills by providing legal assistance to community development organizations that focus on improving Cleveland’s neighborhoods through real estate and economic development activities. She was previously General Counsel of the Housing Research and Advocacy Center and an associate with Messerman & Messerman, and has provided expert testimony and litigated cases in state and federal courts. She serves on the Board of Directors of the Legal Aid Society of Cleveland and the Equal Justice Foundation and volunteers as a magistrate with the Cuyahoga County Juvenile Court Juvenile Diversion Program as a diversion magistrate.

Doron Kalir is Clinical Professor and Director of the LL.M. Program at Cleveland-Marshall College of Law. Previously he practiced antitrust and other federal litigation law with several prominent New York firms, most notably Skadden Arps. A native of Tel Aviv, Professor Kalir served in the Israeli Defense Forces prior to obtaining his LL.B. (cum laude) and LL.M (summa cum laude) degrees from Hebrew University Law School and clerking for the Honorable Justice M. Naor, currently the Vice Chief Justice of the Israeli Supreme Court.

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Stephen Lazarus is Associate Professor at Cleveland-Marshall College of Law and teaches Ethics and Professional Responsibility. He has been admitted to state and federal courts in New York, the District of Columbia, and Ohio, and has practiced with the Legal Aid Society and Williamsburg Neighborhood Legal Services in New York and with the Urban Law Institute in Washington, D.C. A Trustee and Vice President of Housing Advocates, Inc. he has been Chair of the Certified Grievance Committee of the Cleveland Metropolitan Bar Association and past Chair of the Ohio Supreme Court's Commission on Professionalism. He is also a consultant and trainer for the Legal Services Corporation Trial Advocacy Skills Training courses and a consultant and lecturer for the Supreme Bar Review course.

Kevin O'Neill is Associate Professor at Cleveland-Marshall College of Law, where he teaches First Amendment Rights, Civil Procedure, and Evidence. He served a Legal Director of the American Civil Liberties Union of Ohio from 1991-1995, supervising all litigation statewide as well as trying cases and lecturing on constitutional issues. Prior to that, he was a trial lawyer at Scmith & Schnacke (now Thompson, Hine) and Arter & Hadden (now Tucker, Ellis). Professor O'Neill's work has spanned all phases of trial and appellate practice, including cases decided by the Ohio and United States Supreme Courts.

O'Neill's work has spanned all phases of trial and appellate practice, including cases decided by the Ohio and United States Supreme Courts.

John Plecnik is Assistant Professor at Cleveland-Marshall College of Law and Councilman-at-Large for the City of Willoughby Hills, Ohio. His scholarship focuses on the intersection of taxation and public policy. Professor Plecnik was formerly an ERISA attorney with the Wall Street law firm of Thacher Proffit & Wood and clerked for Judge David Gustafson at the United States Tax Court following his graduation from law school. He has also taught Tax Penalties and Tax Crimes as an Adjunct Professor at the Georgetown University Law Center.

Peter Sayegh and **C. Timothy Murphy** are solo practitioners. Mr. Sayegh is owner of Sayegh Enterprises, Ltd. and interned with IMG, the General Counsel's Office at Cleveland State University, the Cuyahoga County Prosecutor's Office, and served as a Clinician at the Urban Development Legal Clinic at Cleveland-Marshall College of Law.

Daniel Dropko is Retired Manager of the Academic Excellence Program at Cleveland-Marshall College of Law and for 13 years was an Assistant Public Defender in Jacksonville, Florida. He is licensed in both Ohio and Florida.

Dennis Terez is the Federal Public Defender for the Northern District of Ohio (NDOH), Acting Public Defender for the Southern District of Ohio, and Adjunct Clinical Assistant Professor of Law at the University of Michigan School of Law. From 1998 to 2006, he was an assistant federal public defender and prior to that a litigation partner with Squire, Sanders & Dempsey, L.L.P. A graduate of Georgetown University's School of Foreign Service (*summa cum laude*, valedictorian) and the University of Michigan Law School (*magna cum laude*, Order of the Coif), he served as law clerk to the late Chief Judge Frank J. Battisti. He has studied law in Germany as a Fulbright Scholar and at The Hague Academy on an American Bar Association

scholarship program, published articles in numerous law reviews and law journals, and is author of *Baldwin's Ohio Statutory Charges* and coauthor of *Baldwin's Ohio Civil Practice*.

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INTRODUCTION

Now comes Amicus Curiae CURE-Ohio and submits its Answer to CMBA's Brief filed with this Court on November 21, 2014. In June 2013 the Admissions Committee of the Cleveland Metropolitan Bar Association ("Admissions Committee") determined that Joe's Application to Register As A Candidate for Admission to the Bar should be approved without conditions, although the third member of the Committee who was unable to be present noted her preference for seeing "more years of work experience post-incarceration" prior to approving his application prior to a decision being made (Ex. A). After a hearing before a three-member Panel of the Board of Commissioners on Character and Fitness ("Panel"), the Board recommended Joe's Application be denied and that he never be permitted to re-apply. Joe's Motion to Withdraw his Application in order to have more time to demonstrate his character and fitness had previously been denied by the Board without explanation. An Order to Show Cause was issued from this Court on September 4, 2014, followed by briefing and submissions by amici curiae. Oral argument in this matter is scheduled for February 25, 2015.

STATEMENT OF FACTS

Joseph V. Libretti, Jr. is the top-ranked student in his law school class and a Senior Editor of its Law Review. Joe received a full scholarship to law school, has earned numerous awards, and has been practicing law under a Legal Intern Certificate for over a year. He has never lost a motion argued in Court under his Certificate and recently participated in oral argument at the Eight District Court of Appeals (State of Ohio v. Jeffrey A. Hood, Jr., Case No. CA 101200). More than two dozen letters of recommendation from attorneys, law professors, former employers, and others were submitted on his behalf in support of his Application,

and copies of several more recently submitted to the Board have been included in his individual Answer filed separately herein.

Amicus CURE-Ohio and the additional undersigned submitters support the granting of additional time for the Applicant to demonstrate his character and fitness under the guidance of those in the legal community who are familiar with his work and who have come forward to support his Application, and respectfully request this Court not confirm the recommendation that he be forever precluded from re-applying. The unusual circumstances of this case, the level of documented talent possessed by the candidate, and the support of the legal community make this the most appropriate result.

LAW AND ARGUMENT

I. LENGTHY AND DISPROPORTIONATE FEDERAL SENTENCES FOR NON-VIOLENT CRIMES DO NOT REFLECT AN INDIVIDUALIZED DETERMINATION OF AN APPROPRIATE PUNISHMENT, BUT CAN BE EXPECTED TO EXTEND THE RE-ENTRY PERIOD.

CMBA's Brief ("Brief") notes, correctly, that the Applicant spent a substantial portion of his adult life in prison, having been sentenced to a mandatory minimum sentence of 20 years for distributing controlled substances in Colorado and Wyoming in the 1980s (Brief 1). The Anti-Drug Abuse Act of 1986 established the basic framework of mandatory minimum penalties currently applicable to federal drug trafficking offenses. The drug quantities triggering those mandatory minimum penalties, which range from five years to life imprisonment, differ for various drugs, and in some cases different forms of the same drug *See*, United States Sentencing Commission, *Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System* (2011), 349. Mandatory minimum sentences by their nature remove discretion

from the sentencing judge and require that an individual receive a particular sentence for an offense, thus eliminating the sentencing judge's ability to fit the punishment to the individual and the circumstances of his or her offense. According to the United States Judicial Conference, mandatory minimums create a situation whereby:

a severe penalty that might be appropriate for the most egregious of offenders will likewise be required for the least culpable violator The ramification for this less culpable offender can be quite stark, as such an offender will often be serving a sentence that is greatly disproportionate to his or her conduct.¹

Moreover, in a 2010 survey of federal district judges, nearly 2/3 of responding judges found the mandatory minimum penalties to be too high (Mandatory Minimum Report 94).

The striking length of Applicant's sentence can therefore not be held to reflect an individualized determination as to the level of threat to society he represented. Indeed, in Joe's case the sentencing judge expressed regret at the sentence he was obligated to impose (Tr. 488). Shortly before his release, Joe received a letter from the former United States Attorney who had prosecuted him, expressing regret for the length of the sentence, acknowledging the misuse of firearms allegations in charging practices, referring to him as a "true entrepreneur" whom she hoped would not give in to bitterness and hatred of the system as a result of his experiences, and noting he would have made "an excellent attorney" (Ex. B). That opportunity, so long delayed, should not be permanently foreclosed.

There is moreover a large disparity between federal and state-level sentences for parallel conduct.² It is axiomatic that someone who receives a lengthy sentence will spend a large portion of his or her adult life in prison. Had Joe's case been heard in state court instead of

¹ United States Judicial Conference, quoted in United States Sentencing Commission, Report to Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System (2011), 92

² Penalties in Ohio for drug trafficking range from 6 months to 11 years and for racketeering 10 years. R.C. 2925.03, 2929.14.

portion of his or her adult life in prison. Had Joe's case been heard in state court instead of federal, chances are he would have been released in the 1990's rather than in 2007 with a remaining period of supervised release which, as CMBA correctly points out, ended just one month before his initial interview with the Admissions Committee in 2013. Although the length of the federal sentence delayed the start of Joe's return to society, which could have taken place a decade or more before it did, it should not be used in support of precluding him from ever joining a profession for which he has shown so much aptitude and received so much support.

Applicant's achievements are all the more striking, as detailed below, considering the psychological impact of incarceration and the typical fate of a former prisoner attempting re-entry. Only a handful of former prisoners have gone on to complete a law degree, and none of them approach the length of the sentence completed by Applicant or the academic and professional success he has engendered in the process. The closest perhaps is Shon Hopwood, a college dropout who completed a ten-year sentence for armed robbery in 2008, assisted a fellow prisoner in drafting a petition for certiorari to the United States Supreme Court case while incarcerated, and is currently clerking for a federal appellate judge. *See Hopwood, Law Man: My Story of Robbing Banks, Winning Supreme Court Cases, and Finding Redemption*, Random House (2012). The present Applicant is also one of the rare exceptions, as the undersigned would encourage the Court to consider in its deliberations. As those in the re-entry community well know, it is "unheard of" for someone to complete as lengthy a sentence as Joe has and gone on to succeed to the degree he has, as was expressed in an unexpected communication Joe received from a federal judge to whom he had submitted an employment application (Ex. C).

II. JOE'S ACCEPTANCE OF RESPONSIBILITY AND EVIDENCE OF REHABILITATION DISTINGUISH HIS CANDIDACY FROM OTHER CASES IMPOSING A PERMANENT BAN ON REAPPLICATION.

One of the most striking aspects of Applicant's candidacy, and one that distinguishes it sharply from other cases in which an applicant has been permanently banned from re-applying to take the bar examination in Ohio, is his blunt acceptance of responsibility: "[T]he issue in any direct appeal wasn't whether I sold drugs. I did that. I own that. I don't deny that. I never have." (Objections and Brief in Support 42). The initial Admissions Committee noted he said, "I deserved to be caught and punished" (CMBA Ex. 56). As noted above, Joe received acceptance of responsibility points at his sentencing for his 1980s activity. He did and continues to express remorse and to accept responsibility for his conduct.

This Court has historically rejected Board recommendations that an applicant never be permitted to re-apply in favor of a delay, where there is evidence of an applicant's redeeming qualities. In *Application of McKinney*, the applicant had provided what the Panel, Board, and Court found to be a false reason for her employment termination, did so repeatedly, and gave multiple explanations under oath for not telling the truth initially. *See McKinney*, 134 Ohio St.3d 260, 2012-Ohio-5635, 981 N.E.2d 847, ¶ 23. The Court did not find it determinative that she made a false statement on her Application and ultimately permitted her to reapply and submit to a new investigation. *Id.* at ¶ 22. In *Application of Holzhauser* (66 Ohio St. 3d 43) the Board's recommendation of a permanent ban was set aside in favor of a two-year delay because the Court found the Applicant did not "completely lack rehabilitation potential." This is all the more true as concerns Joe, who has displayed rehabilitation and redeeming qualities, and who would only ask at a minimum that this Court provide him with additional time to demonstrate those qualities and

to continue to develop his professional qualities under the guidance of those in the legal community who have been generous enough to lend their advice and support to his candidacy. Even the Panel's Report does not go so far as to unequivocally state that Joe lacks any rehabilitation potential but limits its finding to its "doubt whether he is, or in the future will be, rehabilitated" based on "noted lack of candor" (Report 17).

Instances in which a candidate has been permanently banned from reapplication include a former pharmacist whose license had been revoked for felony drug theft, and who ten years later still blamed his supervisor, the pharmaceutical profession, and his attorney for the outcome. See *In re Poignon*, 132 Ohio St. 3d 395, 2012-Ohio-2915 (2012). Another permanently banned applicant failed to take responsibility even for admitted violent conduct (*In re Keita*, 74 Ohio St. 3d 46, 656 N.E.2d 620). The holdings in *In re Nerren*, *In re Cvammen*, 102 Ohio St. 3d 13, 2004-Ohio-1584, 806 N.E.2d 498, and *In re Wiseman*, 135 Ohio St. 3d 267, 2013-Ohio-763, all involved candidates who refused to accept responsibility for their actions, indicating that this Court judges most severely not the person who engages in conduct she or he acknowledges was unwise but the person unable to admit to error, and hence to correct it.

Joe's acceptance of responsibility weighs strongly in favor of his being permitted to re-apply for permission to register as a candidate for the practice of law, an opportunity this Court granted to the applicant in the seminal case of *In Re Davis* 38 Ohio St. 2d 273, 313 N.E.2d 363 (1974) and 61 Ohio St. 2d 371, 403 N.E.2d 189 (1980). Though the Court had "significant doubts" due to Davis' evasiveness while testifying, the Court remanded the Application to the Board with instructions to hold another hearing in 6 months to consider "current evidence," noting Davis' accomplishments, which included academic achievements and a prior position of considerable responsibility. *Id.* at 276, 313 N.E.2d 363. Upon rehearing the Board again

disapproved Davis, but the Court held that despite some evidence which supported the Board's decision, it was impressed with his academic and professional accomplishments to approve his application. *In re Davis*, 61 Ohio St. 2d at 373-374, 405 N.E.2 at 189.

III. THE AMICI BRIEF IS FAR FROM ACADEMIC BUT CONTAINS WELL-DOCUMENTED FINDINGS REGARDING THE RE-ENTRY PROCESS THAT AFFECT ASSESSMENT OF CANDOR AND REMORSE.

As discussed in the amicus brief previously submitted by this organization, there are documented stages of re-integration that accompany a former prisoner's return to the outside world and that parallel in reverse a process that occurs upon entering prison. These phenomena are well-noted in many different contexts and have specific applicability to the present Applicant who is returning from a lengthy sentence. Logic would suggest that a longer period of adaptation would require a longer period of re-adjustment. In addition to those previously submitted, a study was recently conducted on the psychological impact of imprisonment on interactional habits as that affects employment prospects, and the need to deconstruct some adaptations. *See Harper, The effects of prisonization on the employability of former prisoners: First-hand voices* (January 1, 2011). The final stage of reintegration, a process that begins with the expectancy of release from incarceration, has been identified as that of post-release integration (employment, re-adaptation to family roles, participation in larger civil society such as voting, volunteering and neighborhood involvement), ultimately resulting in full integration back into the outside world. *See Visher and Travis, Transitions from Prison to Community: Understanding Individual Pathways*, Vol. 29 Annual Review of Sociology 89 (2003), 94.

It is logical that an Applicant with a lengthy sentence would need a longer period of time than others to acquire (or re-acquire) the nuanced knowledge to implement unwritten rules that

most attorneys who have been through the bar approval process have encountered and that favor such things as expansive answers to inquiries over literal ones and unquestioning submission to a jurist or other authority, even one behaving in a disrespectful or abusive fashion. Even former United States Attorney Woodhouse acknowledged that the length of Joe's sentence makes it "much more difficult" than had he been "subject to a more reasonable sentence" (Ex. B). The support of future colleagues cannot but be crucial in this process.

As previously mentioned, a prison environment is typically characterized by a complete lack of control and social status, as well as an unwritten set of norms or "prison code" to which an inmate must adapt in order to survive and stay safe in an institutional environment. For reasons of survival and accommodation, habits are typically acquired of not showing fear, not trusting, not informing, avoiding fights by looking capable, keeping your problems to yourself, and not sharing personal information or showing emotions that might indicate weakness, such as sadness, fear or shame. See Karp, *Unlocking Men, Unblocking Masculinities: Doing Men's Work in Prison*, *The Journal of Men's Studies*, Vol. 18 No. 1, 66, 67, and 78 (Winter 2010). The most universal adaptation is the "prison mask," a hypermasculine public façade that covers a more nuanced private identity and that protects the inmate from revealing vulnerabilities and weaknesses that might provide an opening for exploitation or domination. Karp, 66. As one volunteer in a prison program known as Inner Circle put it (Karp, 77):

There is a look about men who have spent a long time in prison. I just call it the "look"... It's dead, the face gives off no hint. You may be thinking homicidal thoughts or you may be in ecstasy, but your face doesn't give anything away because in prison it's dangerous. That whole culture says, "Don't show what's going on inside, be a mask."

This construct has relevance to a licensing panel's evaluation of a candidate's candor and remorse regarding the events leading to a conviction based on his or her demeanor. Here, the

panel admittedly found the candidate's demeanor "reluctant" and "combative" under intense cross-examination (Report 13), and came to the most negative possible conclusion concerning the meaning of that demeanor, even to the extent of refusing permission to withdraw the Application and resubmit at a later date and a later stage of integration. It is not clear from the record whether the information presented at the panel level, which was nearly identical to the amicus brief previously submitted, was considered in the panel's deliberations.

It is well-documented that the emotional over-control demonstrated by former prisoners can cause difficulties with promoting "trust and authenticity." Haney, *The Psychological Impact of Incarceration: Implications for Post-Prison Adjustment*, University of California, Santa Cruz, 15 (December 2001). This is so even where no cause for distrust exists, resulting in interpersonal difficulties as a result of the adaptations they have made that need to be unlearned (Haney 8, 10). In contrast to the opaque social veneer necessary to adapt to incarceration, the unwritten norms of civil society include displaying an openness in gestures and demeanor in order to inculcate trust in a business context. Attorneys and future attorneys must also adapt themselves to the necessity of displaying complete and utter deference before a licensing or disciplinary authority, even under circumstances where their integrity and worth is questioned in a harsh and demeaning fashion as may happen during the bar admissions process. An adaptive response in this context—utter deference and submission—would have made an inmate an easy target for abuse, exploitation, and possibly death while incarcerated. Yet an important part of the bar admissions experience is the panel's evaluation of a candidate's remorse as a demonstration of his or her rehabilitation. Remorse in the outside world is expected to be accompanied by tears and wringing of hands, and not by a stoicism that has been termed "emotional flatness" (Haney 15)

and that occurs both in individuals experiencing post-traumatic stress (which also affects this candidate) and in those who have experienced incarceration.

Amicus would reiterate its previously-expressed concern that an admissions panel that rates a candidate's level of remorse based on a view of expressive norms—in other words, judging what remorse should look like based on what it looks like in those who have not experienced post-traumatic stress or the trauma of incarceration—that does not take into consideration the context of a former prisoner's experience risks seriously misjudging the nature and extent of a candidate's remorse. It would also urge the Court to consider actions that demonstrate rehabilitation—in this case educational achievements, respect and positive evaluation by supervisors and peers, volunteer work, and speaking engagements regarding the subject of one's regrets—over a subjective evaluation of the Applicant's reserved demeanor in determining remorse as a component of character and fitness.

As indicated in his individual Answer submitted herein, Joe deeply regrets the conduct as well as the demeanor that led to a finding of lack of disclosure, has done his best to remedy that non-disclosure and is preparing a third supplement to his previous Application, and continues to accept full responsibility for his actions.

IV. FOREVER PRECLUDING APPLICANT FROM REAPPLYING SERVES NO POSITIVE SOCIAL PURPOSE AND NO HARM WILL RESULT FROM AN OPPORTUNITY TO REAPPLY.

The Applicant has indicated his desire to continue working in the public service sector as a public defender in order to assist others and make amends for his past. Permanently precluding him from the opportunity even to re-apply at a more suitable time for character and fitness determination serves no positive purpose and deprives future low-income clients of high quality

legal assistance. Joe's candidacy presents an unparalleled opportunity to give back to the community through application of the principles of restorative justice. *See* Sweig, Michael, *In Felony's Mirror, Reflections on Pain and Promise*, Institute for People With Criminal Records (2014), 30. No harm will result to the community as a result of his being permitted to continue to learn and improve, and possibly to re-apply in future to register as a candidate for admission.

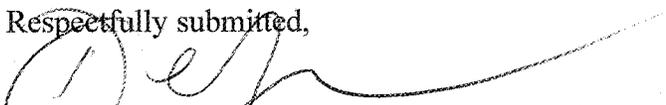
CONCLUSION

Amici curiae respectfully request the Court consider all the issues raised above in its evaluation of this Applicant, and that it grant the Applicant's request for the opportunity to re-apply to register as a candidate for admission in the future, if possible by being permitted to withdraw the Application as previously requested. The Applicant has expressed his willingness to submit to conditions such as additional speaking engagements or acquiring a mentor, and CURE-Ohio would urge the Court to grant this request in lieu of permanently prohibiting Applicant from re-applying.

The undersigned are grateful for the opportunity to provide the enclosed information in consideration of the important issues raised by this Application.

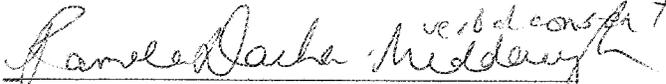
Dated: December 6, 2014

Respectfully submitted,



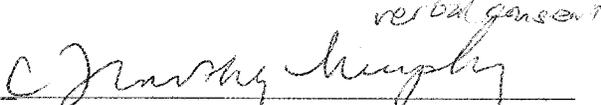
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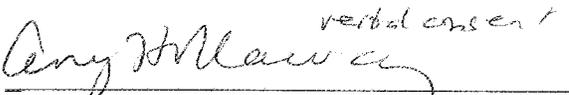
The undersigned join in the above submission and extend their support to Joe's being permitted to withdraw and re-present his candidacy at a future date, subject to any conditions of the Court's choosing:

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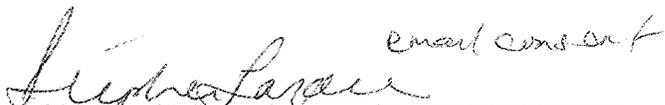
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BEFORE THE SUPREME COURT OF OHIO

In the Matter of the Application of

Admissions Committee Report

Joseph Libretti
for Admission to the Practice of Law

Approval

The Admissions Committee certifies that it has reviewed the application and the NCBE report of the above applicant, personally interviewed the applicant, and applied the standards promulgated by the Supreme Court in Gov. Bar R. I, Section 11(D) in considering the applicant's character, fitness, and moral qualifications to practice law.

The Committee further certifies that the applicant currently possesses the character, fitness, and moral qualifications required for admission to the practice of law in Ohio.

The Committee recommends that the applicant be approved as to character, fitness, and moral qualifications to practice.

This is a:

- Per phone call (ma)* Provisional Report
- Final Report
- Both Provisional and Final Reports



CMBA
Admissions Committee

RECEIVED

JUN 20 2013

ADMISSIONS OFFICE
SUPREME COURT OF OHIO

Ellen K Meehan, vice-chair
Name of Chair

Ellen K Meehan *
Signature of Chair

6/18/13
Date

As vice-chair I'm signing off on this approval because the two interviewers approved the applicant. However, if it was up to me, I would like to see more years of work experience post-incarceration prior to approving his application.



LIBERTY & JUSTICE FOR ALL



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307-432-9399
307-432-7522 (Fax)

*Also licensed in Colorado

April 13, 2005

Joseph V. Libretti
#04705-091
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Federal Correctional Institution
37910 North 45th Avenue
Phoenix, AZ 85086

Dear Mr. Libretti:

I have been thinking about you over the years and even more so recently because I know that you will be released next year. My career has changed a great deal over the years and I am now working as a criminal defense attorney. My attitude about the long sentences which are being imposed on people who have been convicted of drug crimes has changed dramatically over the past several years. I have seen the disparate treatment of people who are convicted of drug offenses as opposed to huge financial crimes and other crimes. There is a marked difference between sentences for cases involving marijuana and those of methamphetamine or crack cocaine. The addition of any type of gun used or not really used in the drug trade also adds on significant mandatory minimum sentences, as you well know.

Now that I'm on the other side and I see the gung ho prosecutors always trying to get the absolute maximum sentence, I have a completely different perspective on it than I had when I was handling your case back in 1990 and 1991. I now see that a much shorter sentence would have the effect of deterring people and keeping the public safe. I also see that when people are addicted to these illegal substances (I know that you were not), no amount of prison time will help them if they don't get into a treatment program and learn how to live life without those substances. Of course, Congress has other ideas and their legitimate concerns about how to fight the drug war has been largely superficially fulfilled by keeping the federal prison population at record levels without confronting head on the underlying issues of finding ways to deal with the root causes of the drug problem in America.

EXHIBIT
D

EXHIBIT
B

Leaving the philosophical discussion aside, I will tell you that I was extremely impressed by you as a young man. You were very ambitious, extremely bright and a true entrepreneur. Even at the time I was working on your case, I thought that you could have been a millionaire with your talent and hard work alone even at your young age no matter what course you decided to follow. I know from seeing your legal briefs and arguments that you have done on your behalf that you would have been an excellent attorney. You probably know more law and are a better legal researcher and writer than a lot of attorneys in the field.

In any event, I know that you will be released in a relatively short period of time. I have every confidence that you can continue using your considerable talents to make a good life for yourself and it is my sincere hope that you will be able to do so. I believe that the length of your sentence makes it much more difficult than it would have been had you been subject to a more reasonable sentence. I imagine, too, that your bitterness and hatred of the system no doubt has only grown over these many years. I cannot blame you for that at all. In fact, being on the defense side of the system, I can see the oppressive impersonal way the government deals with human beings and I cringe to think that at one time I was convinced this was the best and only way to deal with these problems.

It is my great hope that you will be able to put aside your bitterness and hatred of the system that has imprisoned you for so long and really accomplish great things in your life. I am sure this will be difficult, but I know that it is very hard for anyone to move forward when we are chained to the past by our own anger and hatred. I sincerely want to see you move forward and have a decent, productive and rewarding life in every possible way.

Sincerely,

GAY WOODHOUSE LAW OFFICE, P.C.


Gay Woodhouse

Khan, Rasheeda

From: Khan, Rasheeda
Sent: Thursday, November 07, 2013 3:18 PM
To: Khan, Rasheeda
Subject: FW: application/Libretti

From: Joseph Libretti [<mailto:joelibretti45@yahoo.com>]
Sent: Tuesday, November 05, 2013 9:30 PM
To: Khan, Rasheeda
Subject: Fw: application/Libretti

----- Forwarded Message -----

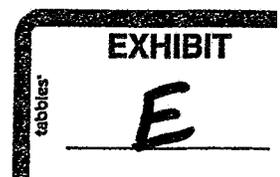
From: "[William Sawyer@almb.uscourts.gov](mailto:William_Sawyer@almb.uscourts.gov)" <William_Sawyer@almb.uscourts.gov>
To: joelibretti45@yahoo.com
Sent: Thursday, August 15, 2013 12:27 PM
Subject: application

Dear Mr. Libretti:

I have carefully reviewed your application for my clerkship position and I am tremendously impressed by your personal story. In my experience as an Assistant United States Attorney, it is unheard of for someone to spend as much time in prison as you have and yet has succeeded to the degree you have. In my former life as an AUSA, I frequently clashed with colleagues regarding the length of prison sentences for drug offenders as I thought they were ridiculously long. Moreover, I thought our use of money laundering and conspiracy counts to run up the guidelines was, in some cases, unconscionable. As you are aware, the vast majority of individuals who serve long prison sentences do not come out the better for it. I say this because I want you to know how much I admire what you have done and to further understand I am not rejecting your application because of your criminal record.

While I would like to talk with you, Government regulations do not permit me to reimburse travel expenses and it would be unfair to you to ask you to come to an interview for a job that I would probably offer to someone else. Based upon my review of your application, I do not believe that you would make a good fit here as your bankruptcy and commercial law qualifications are not particularly strong. I further question whether you would be content doing bankruptcy law.

Having said that, I believe that with your talent and your drive, that you will be very successful. Please accept my best wishes for your future.



Kindest Personal Regards,

William R. Sawyer
United States Bankruptcy Judge
Middle District of Alabama

CERTIFICATE OF SERVICE

A true copy of the foregoing has been served by U.S. mail this 6 day of December,

2014 upon the following:

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For Law and Public Policy and Applicant
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and upon the following via electronic mail:

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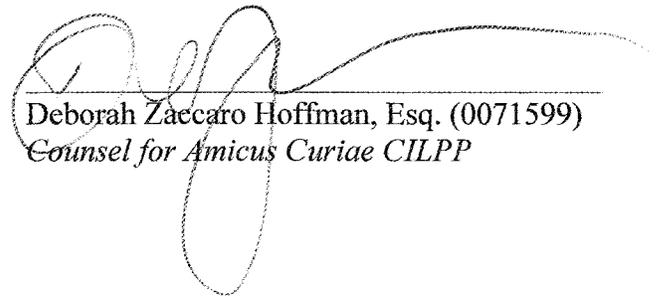
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