

128.PCB

[5-May-1998]

STATE OF VERMONT  
PROFESSIONAL CONDUCT BOARD

In Re: Vincent Illuzzi, Respondent  
PCB Docket Nos. 89.47R and 94.41R

DECISION NO. 128

This case involves a Motion for Reinstatement filed by the above-named Respondent. A Hearing Panel consisting of Paul Ferber, Esq., Chair; Robert O'Neill, Esq. and Rosalyn Hunneman was appointed by the Board to hear the evidence in this case. The Hearing Panel's Findings of Fact and Recommendation, dated April 21, 1998, a copy of which is attached hereto, was reviewed by the Board at its May 1, 1998 meeting.

A. Case History

The history of this case is as follows:

(1) Petitioner, Vincent Illuzzi, was admitted to the Vermont bar in 1979.

(2) In PCB File No. 89.47, Petitioner was suspended from the practice of law for six months, effective September 1, 1993, by decision of the Vermont Supreme Court, dated July 30, 1993. Petitioner also was required to take and pass the Multi-State Professional Responsibility Examination, which he did.

(3) Petitioner filed a Motion for Reinstatement from that suspension. After four days of hearings, the Hearing Panel found that Petitioner failed to establish, by clear and convincing evidence, that he should be reinstated under A.O. 9, Rule 20(D) and recommended against reinstatement. The Professional Conduct Board adopted that recommendation. Petitioner withdrew his Motion for Reinstatement before a decision by the Supreme Court.

(4) In PCB File No.94.41, Petitioner received a further eighteen month suspension from the Supreme Court, effective August 1, 1996.

(5) That eighteen month period ended February 1, 1998. Petitioner has again filed a motion seeking reinstatement.

(6) Petitioner has not practiced law since September 1, 1993, nor has he worked as a law clerk from that date to the present.

B. Conclusions & Recommendation

Based upon the evidence presented to the Hearing Panel, and our agreement with their conclusions, we find by clear and convincing evidence, that as to the elements required for reinstatement, under A.O.9,

Rule 20(D):

1. Petitioner has the moral qualifications required for admission to practice law;
2. Petitioner has the competency required for admission to practice law;
3. Petitioner has the learning required for admission to practice law; and
4. Petitioner's resumption of the practice of law will not be detrimental to the integrity of or standing of the bar, nor detrimental to the administration of justice, nor subversive of the public interest.
5. Petitioner has been rehabilitated.

The Professional Conduct Board recommends to the Vermont Supreme Court that Vincent Illuzzi be reinstated to practice law in the state of Vermont. Dated at Montpelier, Vermont this 5th day of May, 1998.

PROFESSIONAL CONDUCT BOARD\*

BY:

Robert P. Keiner

Robert P. Keiner, Esq. Chair

\*Members Cahill, Hunneman, Porter, Stokes and Woodruff did not participate in this decision.

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STATE OF VERMONT  
PROFESSIONAL CONDUCT BOARD

In re: Vincent Illuzzi, Petitioner

PCB Docket Nos. 89.47 and 94.41

HEARING PANEL'S FINDINGS OF FACT  
AND RECOMMENDATION

On Thursday, March 19, 1998, a hearing was held on a Motion for Reinstatement by Petitioner, Vincent Illuzzi, before a Panel of the Professional Conduct Board composed of Paul S. Ferber, Esq., Rosalyn Hunneman and Robert F. O'Neill, Esq. Petitioner was represented by David Putter, Esq., and himself. The Bar was represented by Bar Counsel, Shelley A. Hill, Esq.. The following are the Hearing Panel's findings of fact and recommendation based on the testimony, exhibits, and balance of the record

of the proceedings in PCB Docket Nos. 89.47 and 94.41.

GENERAL FINDINGS OF FACT

1. Petitioner, Vincent Illuzzi, was admitted to the Vermont bar in 1979.

2. In PCB File No. 89.47, Petitioner was suspended from the practice of law for six months, effective September 1, 1993, by decision of the Vermont Supreme Court, dated July 30, 1993. Petitioner also was required to take and pass the Multi-state Professional Responsibility Examination, which he did.

3. Petitioner filed a motion for reinstatement from that suspension. After four days of hearings, the Hearing Panel found that Petitioner failed to establish, by clear and convincing evidence, that he should be reinstated under A.O. 9, Rule 20(D) and recommended against reinstatement. The Professional Conduct Board adopted that recommendation. Petitioner withdrew his motion for reinstatement before a decision by the Supreme Court.

4. In PCB File No. 94.41, Petitioner received a further eighteen month suspension from the Supreme Court, effective from August 1, 1996.

5. That eighteen month period ended on February 1, 1998. Petitioner has again filed a motion seeking reinstatement.

6. Petitioner has not practiced law since September 1, 1993, nor has he worked as a law clerk from that date to the present.

7. Petitioner has been a member of the Vermont Senate for a period of 18 years.

FINDINGS OF FACT REGARDING THE ELEMENTS OF Rule 20(D)

Administrative Order 9, section 20(D) provides that in order to be reinstated following a suspension, Petitioner must prove, by clear and convincing evidence, that:

(a) he has the moral qualifications required for admission to practice law;

(b) he has the competency required for admission to practice law;

(c) he has the learning required for admission to practice law;

(d) the resumption of the practice of law will not be detrimental to the integrity of the bar;

(e) his resumption of the practice of law will not be detrimental to the standing of the bar;

(f) his resumption of the practice of law will not be detrimental to the administration of justice;

(g) his resumption of the practice of law will not be subversive of the public interest; and

(h) he has been rehabilitated. Administrative Order 9, Rule 20(D).

The following is a summary of the evidence regarding each element and our findings with respect to each. We address rehabilitation first because we view it as the core of the case for reinstatement.

(h) Whether Petitioner has been rehabilitated.

1. Judge Edward Cashman has been a Vermont District Court judge for 16 years. He has also served as an assistant attorney general, Grand Isle state's attorney, Chittenden County court clerk, and commissioner of the Department of Public Service. Judge Cashman has known Petitioner since 1978. Petitioner appeared before him as a lawyer representing parties in both criminal and civil actions. He has also dealt with Petitioner in the latter's capacity as a state senator, working on legislative issues impacting on and involving the judicial branch of government.

Judge Cashman testified that in the past, Petitioner was "immature and impatient." Today, he is mature, has mellowed and understands that he has too much to offer and too much at stake to "cut comers." Petitioner has become the foremost legislative spokesperson for the commissioner of the Department of Corrections, a former adversary, in supporting restorative justice legislation. Petitioner's change in attitude about the commissioner of corrections reflects a positive change. It reflects an abandonment by Petitioner of a "friend or foe" mentality.

The philosophy underlying the "restorative justice" legislation is that the offender takes responsibility for the behavior that caused harm to the victim and to the community. It is a "let's solve the problem" rather than a "punishment and retribution" response to a criminal act. Petitioner's active support of this approach reflects an abandonment by Petitioner of the "win at any cost" mentality.

Since the restorative justice legislation runs contrary to the public demands for a tougher response to crime, Petitioner has no incentive to promote it, other than a personal belief that he thinks it is a better policy for the state. Petitioner's actions show a change: "he has moved from a mentality of vindictiveness and not caring about the means, to a person who advocates for resolution, looks to solve problems, is not vindictive."

Petitioner's reputation in the community since the suspension has changed from being perceived as "very result oriented" and believing that the "ends justify the means" to treating people "fairly".

2. Robert Gensberg has been an attorney practicing law in St. Johnsbury since 1967. He has been a State's Attorney, has served in a range of state government agencies, has been a member of the Professional Conduct Board, has been Special Bar Counsel and counsel for the Judicial Conduct Board. In the latter position, he investigated the three complaints made by Petitioner against Judge Suntag which resulted in Petitioner's second suspension.

Mr. Gensberg had interviewed Petitioner several years ago in connection with Mr. Gensberg's investigation of the complaints filed against Judge Suntag. He also spent about 1 « hours talking with Petitioner shortly before the current hearing. He testified that

Petitioner has become "less defensive" and "more realistic" about the matters that led to his suspension. Petitioner truly seems to understand and accept that he should not have filed the complaints against Judge Suttgart.

3. Stephen Webster has been in practice since 1970. He served as State's Attorney for six years and has been in private practice in Orange County since then. He served in both the House and Senate beginning in 1983.

Mr. Webster testified that since 1993, Petitioner has not been as "cocky." He testified that "I think this -- these proceedings have really devastated him. I -- think humble is probably a word that applies to some degree."

When the late Senator John Bloomer of Rutland died in January, 1995, Petitioner and Mr. Webster were candidates to fill the leadership vacancy of "president pro tem" of the Vermont Senate. Although winning the contest meant a great deal to Petitioner, Petitioner lost the race in the Republican Senate Caucus. Although Petitioner could have gone outside the Republican Caucus and sought the position from the full 30-member Senate, he did not do so, despite a likelihood that doing so would have allowed him to win the election. Petitioner showed no resentment at losing the election, even though winning the election would have meant a great deal to Petitioner. Thereafter, Petitioner was "supportive" of Mr. Webster as president pro tem of the Senate.

Even though Petitioner was at odds with Mr. Webster on issues and votes, "as time progressed, I never sensed we couldn't talk about issues." Petitioner "never held [disagreeing] votes" against him

4. David Kelley is an attorney who has been practicing in the Northeast Kingdom since several months prior to Petitioner's initial suspension in 1993. He took over many of Petitioner's cases at that time, and has been a good friend of Petitioner's for many years. Based on his personal experiences with Petitioner over many years (including having helped him study to take the Multi-state Professional Responsibility examination), and as a lawyer practicing in the Northeast Kingdom.

Mr. Kelley testified that as time passed after the initial suspension, Petitioner abandoned the "friend or foe" and "win at any cost" mentality which had characterized him previously. He has "changed radically" because of the hardship, failure and difficult times during his suspension. Petitioner is "less arrogant" and has become a very humane person.

In dealing with opponents, Petitioner's attitude used to be one of "do it my way or the highway." Today, Petitioner is a person who "makes things work," who "communicates" and who "solves problems." Petitioner has become a "force for compromise and conciliation."

5. Robert Appel has been Vermont's Defender General since March 1, 1993. In that capacity, he heads a statewide law practice. He has been admitted to the Vermont Bar since 1984. He has worked as an assistant attorney general, public defender in St. Johnsbury and deputy defender general. Mr. Appel acts as an unofficial adjunct to the Legislative Council on legal issues of interest to the Defender General's office.

Mr. Appel has had substantial contact with Petitioner as a member of the Senate Judiciary Committee, the Senate Institutions Committee, and a committee investigating the death of a corrections in-mate in St. Albans.

Defender General Appel testified that "Over the last three years, the sanction has had a `significant humbling' impact on Petitioner. Petitioner has exhibited "growth and maturity." In earlier years, Petitioner may have been "less willing to hear someone out." In recent years, Petitioner displays "more patience" and "civility." Petitioner is "more open to hearing" what others have to say, "even though they don't support" his initial position. Today, Petitioner is "better at listening to opposing views" than he was in 1993. Petitioner synthesizes those views and "comes up with a better product." Although Mr. Appel and Petitioner disagree "on a fairly regular basis," they maintain a "professional, collegial" relationship.

6. Kimball Johnson has known Petitioner as his Senator, his attorney, and his friend over an 18 year period. He is a businessman in the Northeast Kingdom, has been President of the Lake Willoughby Chamber of Commerce and has been heavily involved in regional economic development.

Mr. Johnson testified that Petitioner used to be inclined to "Jump and do something," displaying a propensity to be "impetuous . . . too quick to draw" and not put things in proper context. Petitioner has been "humbled" by his suspension and is not as "apt to jump the gun." Now, he doesn't move as quickly. He wants more background information. He now has the ability to step back and request more information.

7. Charles Bristow has been practicing law for 34 years, in Vermont since 1970. He has been a Vermont District Court judge, an assistant attorney general, deputy attorney general, commissioner of public safety, professor of law at Vermont Law School, and general counsel for the Department of Environmental Conservation. Since January, 1993, Mr. Bristow has been a member of the office of Legislative Counsel, where he is an attorney for the House and Senate Judiciary Committees. The legislation referred to those two committees deal with "all areas of the law," criminal law, juvenile law, and civil law.

He has served as a member and chair of the Character & Fitness Committee, which determines whether an applicant to the bar has the requisite character for admission to practice law in Vermont. He has also prosecuted disbarment cases.

Mr. Bristow has had significant contact with Petitioner since January, 1993, when Bristow joined the office of the Legislative Counsel. Petitioner is an active member of the Senate Judiciary Committee.

Mr. Bristow testified that Petitioner previously exhibited an "us and them" attitude. But this attitude has substantially diminished over the past few years. Petitioner's behavior has changed for the better with the passage of time. He is more "cautious," has "slowed down," is more "thoughtful" and "much more introspective." Petitioner's change is not due to just maturation, but also to a "conscious choice to change behavior."

Petitioner's conversations show "insights into the events" that led to his suspension, making him more respectful to witnesses and staff.

8. Thomas Costello is an attorney practicing in Windham County. He is also a member of the Vermont House, where he serves as chair of the House Judiciary Committee. For the last four years, Representative Costello has had a "close and intense" working relationship with Petitioner. They are members of opposing political parties who frequently interact in an attempt to reconcile differences in Senate and House versions of legislation.

Representative Costello is a House Democrat while Petitioner is a Senate Republican. As political adversaries they often find themselves on opposing sides of legislative issues. He and Petitioner regularly "clash" and "severely disagree" over major issues. Nevertheless, he testified, that since 1994, Petitioner has changed from being "cavalier" to being a more "considerate," "thoughtful," "reserved" and "mature" person. Petitioner does not exhibit a "friend or foe" or "win at any cost" mentality. Rather, "he looks at issues, takes them one at a time, without recrimination."

9. Former Governor Philip Hoff stated that Petitioner was "bright and energetic, in the 1980's, but also was ambitious, self-absorbed and immature. His ambitions combined with his immaturity to get him into trouble. Over the past five years, Petitioner has "matured" He is more reflective and more considerate of people. He no longer acts impulsively.

Bar Counsel presented no witnesses dealing with this issue although she cross-examined Petitioner's witnesses. We find that all of the witnesses testifying regarding rehabilitation were credible on this issue.

Ultimately, the focal point for determining reinstatement is rehabilitation. Indeed, Bar Counsel's opposition to Petitioner's reinstatement is rooted in this issue. Since the purpose of the suspension is to protect the public, proving rehabilitation deals with whether Petitioner has changed such that returning to the practice of law is not likely to subject the public to the risk of repeated violations. Since Petitioner has not been practicing law during the period of time during which he needs to prove his rehabilitation, we have no direct evidence on this point.

However, the record contains substantial evidence that Petitioner has recognized that he made a mistake in filing the complaints against Judge Suntag with the Judicial Conduct Board. Rehabilitation begins with the recognition of the mistakes made and acceptance of responsibility for the mistakes. In this regard, we found compelling the testimony of Robert Gensberg, Defender General Appel, Charles Bristow, and Representative Costello. Each of them represent neutral witnesses who have observed significant changes in Petitioner's behavior on a daily basis, particularly in contexts which are filled with conflict and disagreement. Without exception, they described Petitioner as a mature, reflective person, more interested in solving problems than winning or having his way.

Bar Counsel raises three specific issues regarding Petitioner's rehabilitation. They are:

1. Petitioner's act of providing witnesses with summaries of his history of ethical violations which minimize "his actual culpable conduct suggests that Petitioner was attempting to guide their beliefs and thereby, elicit their favorable testimony." [Bar Counsel's Proposed

Findings of Fact and Conclusions of Law, p. 7.]

2. Petitioner's continued failure to send a promised letter of apology to Judge Suntag from 1994 to Feb. 20, 1998.

3. An apparent conflict between Petitioner's testimony in 1994 and a statement made to a TV reporter in 1996 regarding the clarity of a statute dealing with the location where certain lawsuits must be heard.

While there is some validity to each of Bar Counsel's points, we do not find that they bear sufficient weight to alter our conclusion that the record contains clear and convincing evidence that Petitioner has been rehabilitated.

Bar Counsel's first point overstates the record. She suggests that the entire packet appears "to be instructions to the witness about that to which she should testify." [p.5] Our reading of Exhibit 15 is far less sinister. The overall packet seems to us to be an attempt to acquaint witnesses with the subject matter to be covered. While it is possible to question particular parts of the packet, when she had an opportunity to examine Petitioner, she did not ask Petitioner any questions regarding Exhibit 15. We recognize that Bar Counsel first saw the document during the hearing. Nevertheless, we are left with the record which was made at the hearing. We cannot say that Exhibit 15, standing alone, can support the negative inference Bar Counsel suggests.

Bar Counsel's second point does raise some concern. Petitioner agreed to send a letter of apology to Judge Suntag several times as part of earlier proceedings in this matter. Apparently that letter was never received by Judge Suntag. Petitioner testified that he thought the letter had been sent by his lawyer. When the fact that the letter had not been received was brought to Petitioner's attention in connection with these proceedings, he sent, and Judge Suntag received, the letter of apology. Petitioner also suggested in a phone conversation with Judge Suntag that they should get together over a cup of coffee.

In view of the repeated notice to Petitioner that the letter was not received in 1994 and 1995, the record suggests at least a lack of careful follow-up on this issue by Petitioner. Whether it suggests more than that is debatable. What is most significant is that Petitioner acted effectively upon receiving notice earlier this year that the apology never had been received. Since the focus of rehabilitation is on current conduct, it is Petitioner's current conduct which we need to consider, and it supports rather than undercuts our conclusion regarding rehabilitation.

Bar Counsel's third point is that the quote Petitioner gave to a TV reporter regarding the clarity of certain statutes [Defendant's Exhibit 8 is a transcript] proves that Petitioner has not truly abandoned his position that his original claim that Judge Suntag ignored the only clear meaning of section. The record does not clearly support this conclusion. Rather, there is a reference to unidentified statutes. Petitioner's testimony is that the statement includes reference to a statute passed subsequent to Petitioner's second suspension to clarify the original statute at issue in the complaint Petitioner filed against Judge Suntag. Therefore, it does not support Bar Counsel's argument.

For the foregoing reasons, we find that Petitioner has established by

clear and convincing evidence that he has been rehabilitated.

(a) Whether Petitioner has the moral qualifications required for admission to practice law. Numerous witnesses who have known Petitioner for many years testified to his moral qualities, as follows:

1. Judge Cashman has recently observed Petitioner conduct a hearing, and has appeared as a witness at a committee meeting chaired by Petitioner. Judge Cashman has interacted with Petitioner in connection with the restorative justice legislation Petitioner is promoting.

Judge Cashman has sat in Orleans County several times, including since September, 1997, as presiding judge in family, district and superior court in Newport. He feels he has a good relationship with the bar in that area and has a good sense of the community at large. It is his conclusion that Petitioner is viewed in those communities as a "trustworthy individual."

2. Mr. Kelley testified that Petitioner's honesty, integrity and reliability are "stellar."

3. Defender General Appel testified that based on his experiences working with Petitioner concerning Senate Judiciary and Institutions Committee matters, and as an attorney practicing on a statewide basis, he has "no hesitancy" in concluding that Petitioner has the "proper moral character" for readmission. Petitioner has "never been anything but straight with me." "Sometimes, we vehemently disagree," but Petitioner has never engaged in any misrepresentation of the law or facts. Rather, he has always been straightforward in their dealings.

4. Mr. Johnson testified that "everything I've ever been told by Vince Illuzzi has been truthful and forthright and that I would not in the past and not in the future - or present and future question his integrity.

5. Mr. Bristow testified that Petitioner is one of the more straightforward and direct persons in the legislative process. Petitioner "has never been dishonest" or contradictory "with me or anyone else." There is "no doubt about [Petitioner's] integrity." He has never known Petitioner to "not do what he said he was going to do." Based on his personal experience with Petitioner and with his experience as a former member and chair of the Vermont Supreme Court's Character & Fitness Committee, Mr. Bristow concluded that Petitioner has the requisite honesty, integrity and reliability to be admitted to the practice of law.

5. Mr. Costello testified that he has found Petitioner to be "very honest and to be straightforward, to be someone you can rely on." Petitioner has always "forthright and honest and reliable." been "very up-front" and "open."

Bar Counsel presented no witnesses dealing with this issue although she cross-examined Petitioner's witnesses. We find that all of the witnesses were credible on this issue. Therefore, the Panel finds that Petitioner has established by clear and convincing evidence that he possesses the moral qualifications required for admission to practice law.

(b) Whether Petitioner has the competency required for admission to practice law, and (c) Whether Petitioner has the learning required for admission to practice law. We have chosen to consolidate the evidence

regarding these two issues because they are highly inter-related. We understand "competency" to refer to actual performance abilities. We understand "learning" to refer to a petitioner's substantive knowledge-base.

1. Judge Cashman testified that based on his contacts with the bar in Orleans county and his own personal experience, Petitioner is a competent lawyer who has a good working knowledge of the law.

2. Mr. Gensburg testified that Petitioner is a very competent lawyer.

3. Mr. Kelley, who took over approximately three quarters of the cases that Petitioner had been handling prior to his initial suspension, reviewed each such case. Relying, in part, on that review, Mr. Kelley was able to assess Petitioner's competency and learning of the law. Mr. Kelley testified that Petitioner's work established that he is an "extraordinarily competent" lawyer and that Petitioner's knowledge of the law is "exceptional."

4. Defender General Appel's interaction with Petitioner predominately revolves around "legal issues." He acts as an unofficial adjunct to the Legislative Counsel on legal issues of interest to the Defender General's office, and the Senate Judiciary Committee, on which Petitioner serves. They deal with both criminal and civil areas of the law.

As a result of his frequent contacts with Petitioner, Defender General Appel testified that Petitioner has displayed a "significant working knowledge of statutes and case law." Petitioner is "tireless" in his efforts to produce "perfect bills" and is "very diligent" at producing the best laws for the state. Petitioner has legal skills which enable him to "understand and construct legal arguments." Petitioner is familiar with recent court decisions that "invite a legislative response." Petitioner is familiar with court decisions that are discussed in legislative committees. He views Petitioner as "a walking encyclopedia of Vermont statutes", with "a significant working knowledge of both statutory and decisional law." He concluded that "Petitioner has the requisite knowledge and skills" to be admitted to practice law.

5. Mr. Bristow testified that Petitioner is "very competent." He based his judgment on the extensive debates in the legislative committees about legal issues, what the law is now, what process is and what the significance of particular changes would be in the existing law. Senate Judiciary Committee members regularly use the law books. Since the General Assembly can amend judicial rules, Petitioner is involved in a continuing discussion about the rules of civil and criminal procedure. Mr. Bristow testified that Petitioner is "as competent as I or most other people I know would be."

6. Representative Costello testified that Petitioner is both competent and diligent, sometimes providing legislators with recent court decisions not previously provided by the Legislative Counsel legal staff. He would be "very comfortable" with Petitioner representing him, his wife, or his daughter.

7. Petitioner has participated in numerous continuing legal education programs although they are not required of a suspended lawyer.

Bar Counsel presented no witnesses dealing with this issue although she cross-examined Petitioner's witnesses. We find that all of the witnesses testifying to Petitioner's competency and learning were credible. Therefore, the Panel finds that Petitioner has established by clear and convincing evidence that he possesses the competency and learning qualifications required for admission to practice law.

(d)-(g) Whether the Petitioner's resumption of the practice of law will be detrimental to the integrity or standing of the bar; detrimental to the administration of justice; or subversive of the public interest. We have chosen to consolidate the evidence regarding these issues because the testimony on them are intertwined.

1. Judge Cashman testified that Petitioner's reinstatement would allow Petitioner to play a "valuable, important" role in the bar in the Northeast Kingdom. At this point, there are many criminal and juvenile cases awaiting appointments "that we need lawyers on that we're delaying and delaying trying to find counsel." Petitioner's reinstatement would generate a positive reaction from the public in the Northeast Kingdom. There, the public perception is that Petitioner made some serious misjudgments but that he has learned his lesson and his reinstatement would be a positive thing.

2. Mr. Gensberg testified that Petitioner's reinstatement would improve, rather than subvert, the public standing of the bar. Petitioner is a very "public personality," who the public believes has paid a "heavy price" for his violations, particularly because they did not involve client-related misbehavior.

3. Mr. Webster testified that allowing Petitioner to resume the practice of law would "dispel the notion" that the Judiciary and the Professional Conduct Board are "against" him. "It is time to welcome Vince back into the fold of lawyers. Enough is enough. It is time to get over this."

4. Mr. Kelley testified that allowing Petitioner to resume the practice of law in the Northeast Kingdom would improve the administration of justice in the Northeast Kingdom in view of Petitioner's willingness to take cases that many attorneys would not,. Mr. Kelley's review of Petitioner's caseload showed that about one third of his clients and cases were such that they would have been unable to find competent legal counsel in the Northeast Kingdom.

5. Defender General Appel testified that Petitioner's resumption of practice "would favorably" impact on the administration of justice. Petitioner traditionally has been "an advocate for less favored socioeconomic constituents whom he represents in the Northeast Kingdom, and has demonstrated his willingness to accept cases on a pro bono and ad hoc basis. I certainly think he has substantial legal knowledge, skills and abilities that could be put to good use on behalf of Vermonters who are desperately in need of legal services."

6. Mr. Johnson testified that the Orleans community would benefit from having another local attorney. If Petitioner is not allowed to resume practice, "people will start to wonder" about the propriety of the sanction imposed relative to Petitioner's wrongdoing. Reinstatement is

proper at this point considering that Petitioner has lost his livelihood for four and one-half years.

7. Mr. Bristow testified that Petitioner's readmission will not have any adverse effect on the standing of the bar. As to lawyers who practice at the Statehouse, the standing of that bar would be improved because Petitioner's participation will raise the level of competence. There is a sense that Petitioner's suspension has been for a long time and the "penalty" has been "sufficient."

8. Representative Costello testified that Petitioner is a "caring person" and the bar would be "strengthened" by a person of his "disposition serving the public. The passage of time and the disposition of Petitioner's offenses makes it appropriate to reinstate him.

9. Governor Hoff stated that Petitioner's reinstatement will not be detrimental to the integrity of the bar. "Rather, I believe that his reinstatement will be helpful to the Bar." Petitioner routinely interacts with members of the bar and is respected and has proven to be reliable and fair." The public's perception of Petitioner "has improved significantly over the last few years and he is perceived to be thoughtful, fair and thorough." His resumption of practice would not "impair the public perception of the bar nor will public confidence in the integrity of lawyers be lost by his reinstatement." There is a general sense that "Enough is enough."

Bar Counsel presented no witnesses dealing with this issue although she cross-examined Petitioner's witnesses. We find that all of the witnesses testifying on issues (d)-(g) were credible. Therefore, the Panel finds that Petitioner has established by clear and convincing evidence that Petitioner's resumption of the practice of law will not be detrimental to the integrity or standing of the bar; will not be detrimental to the administration of justice nor subversive of the public interest.

In view of the foregoing, the Hearing Panel finds that Petitioner has established by clear and convincing evidence the elements required by Administrative Order 9, Rule 20(D) to justify reinstatement, and recommends that the Professional Conduct Board recommend to the Supreme Court that Petitioner be reinstated.

Dated April , 21 1998

Paul S. Ferber  
Paul S. Ferber, Esq.  
Rosalyn L. Hunneman  
Rosalyn L. Hunneman  
Robert O'Neill  
Robert F. O'Neil, Esq.

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In re Illuzzi (98-191)

[Filed 28-Jul-1998]

ENTRY ORDER

SUPREME COURT DOCKET NO. 98-191

JUNE TERM, 1998

In re Illuzzi } APPEALED FROM:  
                  }  
                  }  
                  } Professional Conduct Board  
                  }  
                  }  
                  } DOCKET NO. 94.41

In the above-entitled cause, the Clerk will enter:

The Professional Conduct Board's recommendation that petitioner be reinstated tot he practice of law is accepted. Petitioner is reinstated as of the date of this order.

BY THE COURT:

\_\_\_\_\_  
Jeffrey L. Amestoy, Chief Justice

\_\_\_\_\_  
John A. Dooley, Associate Justice

\_\_\_\_\_  
James L. Morse, Associate Justice

\_\_\_\_\_  
Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice