Meiklejohn v. People. 10PDJ113. January 19, 2011. Attorney Regulation. Following a Readmission Hearing, a Hearing Board granted Scott A. Meiklejohn readmission to the practice of law in the State of Colorado pursuant to C.R.C.P. 251.29. Petitioner provided clear and convincing evidence of his competence to practice law, his solid program of recovery from substance dependence, his remorse for his past misconduct, his active involvement in treatment and assistance to others with their addiction issues, his record of community service and involvement, and substantial changes in his personal life and character. The Hearing Board concluded Petitioner has been rehabilitated, is professionally competent, is fit to practice law, has complied with all past court orders, and should be readmitted to the practice of law.

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1560 BROADWAY, SUITE 675 DENVER, CO 80202	
Petitioner: SCOTT A. MEIKLEJOHN **Respondent:** THE PEOPLE OF THE STATE OF COLORADO	Case Number: **10PDJ113**

OPINION AND ORDER GRANTING READMISSION PURSUANT TO C.R.C.P. 251.29

On January 7, 2011, a Hearing Board composed of David A. Helmer, a member of the bar, Michael B. Lupton, a citizen Hearing Board member, and William R. Lucero, the Presiding Disciplinary Judge ("PDJ"), held a Readmission Hearing pursuant to C.R.C.P. 251.29(d) and 251.18. David L. Worstell appeared on behalf of Scott A. Meiklejohn ("Petitioner"), and James C. Coyle appeared on behalf of the Office of Attorney Regulation Counsel ("the People"). The Hearing Board now issues the following Opinion and Order Granting Readmission Pursuant to C.R.C.P. 251.29.

I. ISSUE AND SUMMARY

An attorney seeking readmission must prove by clear and convincing evidence his rehabilitation and full compliance with all applicable disciplinary orders. Rehabilitation is an overwhelming change of character from the conduct that led to disbarment, evidenced by positive and meaningful action. Petitioner provided clear and convincing evidence of his competence to practice law, his solid program of recovery from substance dependence, his remorse for his past misconduct, his active involvement in treatment and assistance to others with their addiction issues, his record of community service and involvement, and substantial changes in his personal life and character. Accordingly, the Hearing Board concludes Petitioner has presented clear and convincing evidence of his rehabilitation, and it finds Petitioner should be reinstated to the practice of law.

II. PROCEDURAL HISTORY

On October 15, 2010, more than eight years after the effective date of his disbarment, Petitioner filed a "Verified Petition for Readmission After Disbarment Pursuant to C.R.C.P. 251.29." The People filed an answer to Petitioner's petition for readmission on October 19, 2010. The People agreed to the technical sufficiency of the petition but took no position regarding Petitioner's readmission pending an investigation concerning his qualifications for readmission. On December 28, 2010, Petitioner and the People filed a stipulation of facts and Petitioner filed exhibits 1-6, to which the People also stipulated.

During the January 7, 2011, hearing, the Hearing Board heard testimony and considered Petitioner's stipulated exhibits 1-6. The PDJ also admitted Petitioner's exhibit 7. Following the presentation of evidence, the People conceded Petitioner's fitness to practice law, stated that the evidence had shown Petitioner's overwhelming rehabilitation and regeneration, and joined in and supported the petition to readmit Petitioner to the practice of law.

III. FINDINGS OF FACT

The Hearing Board finds the following facts by clear and convincing evidence. The parties submitted a "Stipulation of Facts" and a proposed "Opinion Concerning Readmission," both of which are incorporated in the Hearing Board's findings below.

Petitioner was admitted to the Bar of the Colorado Supreme Court on November 14, 1986. On June 11, 2002, the Colorado Supreme Court disbarred Petitioner, with an effective date of July 12, 2002.

Petitioner's Disbarment

On August 15, 2000, Petitioner and the People filed an amended stipulation, agreement, and affidavit containing Petitioner's conditional admission of misconduct in *People v. Meiklejohn,* Case No. 00PDJ036.[1] The stipulation involved three separate client matters. In the first matter, Petitioner failed to advise his client of the statute of limitations on her case and neglected to inform her as to whether he would file a civil action after reviewing the pertinent medical records, in violation of Colo. RPC 1.3. Further, Petitioner failed to inform that same client that her right to file medical malpractice claims had expired and did not adequately respond to her requests for information, in violation of Colo. RPC 1.4(a).

[1] At various times during the course of Petitioner's involvement in the disciplinary process, he has been referred to as "Respondent" or "Petitioner," depending on the procedural posture of the matter before the Court. For the sake of consistency here, however, we refer to him throughout this order as "Petitioner," since he is now before the Court on his petition for readmission.

In the second matter, Petitioner failed to adhere to the terms of a contingent fee agreement with the client, instead applying over fifty percent of two lump sum distributions to his attorney's fees and thereby prepaying his own fees contrary to the fee agreement and without permission from the client, in violation of Colo. RPC 1.5(a). Petitioner also failed to provide an accounting as to how he arrived at the gross recovery figure upon which he based his prepayment of attorney's fees, in violation of Colo. RPC 1.15(b). Petitioner later provided a refund check to said client for $4,690.51—the amount of the prepayment of fees that Petitioner had collected—prior to entering into the stipulation for his suspension.

In the third matter, Petitioner negligently converted client funds, although he immediately addressed and reimbursed those funds upon learning of the same.

The parties stipulated to an eighteen-month suspension, with six months stayed and the requirement of reinstatement proceedings. On September 7, 2000, an order was entered approving the parties' stipulation of discipline. Petitioner was thus suspended from the practice of law for a period of eighteen months, with six months stayed and the requirement of a reinstatement hearing. The effective date of the suspension was November 1, 2000.

On September 25, 2000, while still licensed to practice law in the State of Colorado, Petitioner settled a personal injury lawsuit for $50,000.00 on behalf of James McVaney in *McVaney v. Nguyen.* Workers' compensation carrier Pinnacol Assurance Company ("Pinnacol") possessed a subrogation interest in the case and was to receive $25,000.00 of the proceeds, while McVaney was to receive $25,000.00 less attorney's fees and costs, which were later calculated to be $4,000.00. Following execution of the settlement, the defendant's insurance carrier issued a check payable to both Pinnacol and McVaney. Pinnacol endorsed the check and tendered it to Petitioner, who agreed to deposit it into his trust account. Once the check cleared, Petitioner was to issue one trust account check to Pinnacol and one trust account check to McVaney.

On October 6, 2000, the balance in Petitioner's trust account was $158.00. On that same day, Petitioner deposited the $50,000.00 settlement check into his trust account, creating a balance of $50,158.00. At no time did Petitioner have authorization from McVaney or Pinnacol to use their funds for his own purposes. Over the next ten days, however, Petitioner withdrew $11,500.00 from the trust account in five withdrawals ranging from $1,000.00 to $5,000.00. These unauthorized withdrawals were not made on behalf of McVaney or Pinnacol, but rather were made by Petitioner for his own benefit. Petitioner's withdrawals continued, such that by November 30, 2000, Petitioner's trust account balance was only $2,948.23, despite the fact that

Petitioner had not made any payments or disbursements to McVaney or Pinnacol.

When several weeks went by and Pinnacol had still not received its check, Pinnacol attorney Charles M. Pratt began leaving messages with Petitioner's office to inquire about the status of the payment. Over the next several months, Pratt received assurances from Petitioner that the check had been mailed and would arrive shortly. These representations were not true. Eventually, Pratt asked Petitioner to stop payment on the alleged check and to issue a new one, which Petitioner agreed to do. Thereafter, Pratt called Petitioner on several occasions, and Petitioner repeatedly promised that the check would be cut shortly.

During this same time period, McVaney failed to receive his check and inquired with Petitioner as to the status of that payment. On December 1, 2000, McVaney received a settlement check from Petitioner, even though Petitioner knew at the time that he wrote this check that he did not have sufficient funds to cover it. On December 1, 2000, McVaney deposited Petitioner's trust account check into a bank account. McVaney's subsequent attempts to withdraw from that account were unsuccessful, and Petitioner's trust account check was returned for insufficient funds.

Over the next two weeks, McVaney attempted to reach Petitioner, who assured McVaney that he would take care of the check immediately. On December 21, 2000, sufficient funds had been deposited into Petitioner's trust account to clear Petitioner's check to McVaney.

By December 31, 2000, Petitioner's trust account balance had been depleted to $33.23, yet Pinnacol had still not received a check for its proceeds from the McVaney suit. In January 2001, Pratt, Pinnacol's attorney, began to threaten litigation over Petitioner's failure to send Pinnacol its proceeds from the suit; Pratt established a deadline of February 28, 2001, to either release the check or commence litigation. On February 28, 2001, Petitioner provided Pinnacol a check, dated February 5, 2001, for $25,000.00. At the time this trust account check was written, the balance in Petitioner's trust account was $3.23. Pinnacol attempted to cash the check during the first week of April 2001. The check was returned due to insufficient funds in Petitioner's trust account. A second presentment was also returned for insufficient funds.

Pinnacol turned the matter over to its outside collections firm to recover funds on the bad check and sent a demand letter to Petitioner on May 8, 2001, pursuant to C.R.S. § 13-21-109. Petitioner was also personally served with the demand letter on May 17, 2001. Thereafter, Petitioner's house was sold, from which Petitioner received $25,000.00. On June 11, 2001, Petitioner provided Pinnacol a certified check in the amount of $25,000.00.

Through his unauthorized exercise of dominion or ownership over client and third-party funds as described above, Petitioner knowingly converted such funds. On May 7, 2002, Petitioner and the People entered into a stipulation agreement and affidavit containing Petitioner's conditional admission of misconduct in *People v. Scott A. Meiklejohn,* Case No. 02PDJ032. In that stipulation, Petitioner admitted the facts discussed above. Petitioner stipulated that his knowing conversion should result in disbarment; he chose not to contest the discipline, knowing that "it was clear what I had done was wrong [and] there was no reason to defend it."

On June 11, 2002, an order was issued approving the conditional admission made by Petitioner and imposing the sanction of disbarment on Petitioner, effective July 12, 2002. Petitioner made payments of all restitution owed to clients and third parties prior to entry of the respective orders of suspension and disbarment.

Petitioner's Rehabilitation

Each episode described here arose from Petitioner's addiction to alcohol. Indeed, in February 2000, Petitioner was referred to the Colorado Lawyers Health Program, where Karen Moreau, Ph.D., evaluated Petitioner and concluded he had a problem with alcohol. Moreau recommended that Petitioner seek outpatient treatment, but he refused treatment at that time.

Between 2001 and 2003, Petitioner came under the care of Wallace Arthur, M.D., a psychiatrist and specialist in addiction treatment. Arthur also determined that Petitioner suffered from alcoholism, and he recommended that Petitioner attend regular Alcoholics Anonymous ("AA") meetings. Petitioner refused to comply with Arthur's recommendations. During the time of Petitioner's conduct resulting in a stipulated suspension, Petitioner was suffering from acute alcoholism, which substantially contributed to the behavior in question.

As a result of his addiction to alcohol, Petitioner's personal and professional life fell apart. Although Petitioner was employed as a professional lobbyist for several clients from approximately 2000 to early 2002, he lost all of those clients due to his addiction to alcohol. He also divorced his wife in late 2001, having become estranged from her and his three sons by the time of his disbarment. Following his disbarment, he had only infrequent contact with his children until 2004. In 2002, he was evicted from a rental house in Denver and spent the next two years living with friends doing sporadic part-time menial work. He notes that "[e]ventually, in January 2004 my life had come to where I was sleeping in a friend's basement on a pad on the floor with a TV and half a gallon of vodka to keep me company."[2]

[2] Petitioner's Exhibit 7.

On January 31, 2004, three friends of Petitioner staged an intervention, checking him into Parker Valley Hope for an intensive twenty-eight-day program of treatment. Petitioner had his last drink on that day. After successfully completing the twenty-eight-day inpatient treatment program on February 28, 2004, he moved into an Oxford House, a sober group home, for an additional fifteen months, where he lived with several other recovering alcoholics to manage his transition back into the community. While there, Petitioner served as house president, and he eventually assumed the role of chapter president of the Oxford Houses in Colorado to promote that organization's mission of providing alcohol-free living environments to people newly attempting to become sober.

Since the date of his sobriety, Petitioner has attended regular AA meetings; during 2004, he attended several daily, and since then he has attended approximately five to seven meetings a week. In addition, he has been involved in service by counseling other alcoholics and by acting as sponsor to several members of AA in recovery. He has also been active in the leadership of AA as a Group Service Representative for his home group, the District Chair of the Committee on Cooperation with the Professional Community, the Central Office Representative, a District Committee Member of his AA district comprising west Denver and Lakewood, and presently as Archives Chair for Area 10 AA, covering the entire state of Colorado.

Petitioner attained full-time employment in January of 2005 when he was hired as the Executive Director of the Colorado Association of Mortgage Brokers. As Executive Director, Petitioner was responsible for managing the day-to-day operation of the association, keeping records, soliciting membership, and safeguarding funds and assets of that Association. B. Glenn Bartholomew, who served as president of the Association during Petitioner's tenure there, testified that Petitioner did an "outstanding" job and proved trustworthy and reliable in all of his affairs—particularly in his handling of funds, insofar as Petitioner guided the Association "back to a sound position financially," bringing it from "the red into the black." Bartholomew was also grateful for Petitioner's expertise in lobbying, which assisted the Association in successfully overcoming challenges to the regulation of mortgage brokers. Bartholomew declared that he would trust Respondent to manage his personal funds or handle his own legal matters "in a heartbeat."

Following this employment, Petitioner returned to the state capitol to work as a professional self-employed registered lobbyist. He serves in this capacity today, representing a diverse array of interests, including tobacco, life insurance, water, labor, architects, and energy. In that position, Petitioner is required to review all legislation introduced in the state legislature, stay current on legal issues that could impact his clients, and assist his clients in understanding the legislative process. Petitioner also assists his clients to

develop presentations to legislative committees, individual legislators, state administrative agencies, and administrators.

Petitioner has been involved in numerous community service activities since he became sober. He has served as treasurer and chairman of the board of EDIT Inc., a Colorado non-profit organization that provides meeting space for AA and Al-Anon meetings in Lakewood. Charles Adams, a member of EDIT's board, served with Petitioner during the time Petitioner was treasurer of the organization and Adams the chairman. Adams testified that Petitioner had custody of the funds of the organization and was responsible for the preparation of the accounting records and reports. He testified that Petitioner had no trouble with this responsibility, but rather "quite the opposite:" Petitioner improved the organization's financial systems, brought in an outside accountant, and made the organization's finances more transparent. He was trustworthy and reliable in these affairs. In Adams's opinion, Petitioner is highly regarded and "has become a very strong presence in the recovery community" in the area. Adams believes Petitioner's transformation has been an "overwhelming change of character," and that "the Scott [Meiklejohn] I know" is "a very different person from the person who took other people's money" in 2002.

Petitioner is also involved with the Hep C – Connection, a Denver-based national non-profit organization that provides support and resources for people affected with and by the Hepatitis C virus. Petitioner served as a member of the non-profit's board of directors and chairman of the board, and he is currently acting as treasurer for the organization. Nancy Steinfurth, longtime executive director of Hep C – Connection, testified that in the capacity of both chairman and treasurer, Petitioner has been and continues to be a signatory on the non-profit's accounts, sharing custody of the funds. "He's done a fabulous job" in handling the funds, she said. "He's been straightforward, reliable, and responsible," and he has made a "huge contribution" to the organization, lending his lobbying expertise to successfully oppose withdrawal of state funding due to budgetary cuts. Steinfurth would "absolutely" entrust her own funds to Petitioner, and she finds him very honest and trustworthy.

In addition, Petitioner serves as treasurer and a member of the board of directors of the Peter Emily International Veterinary Dental Foundation, an organization that provides veterinary dental services to animals in captivity worldwide.

Petitioner's personal life has also changed dramatically from the period during which he was abusing alcohol. Petitioner now maintains a network of supportive friends, family, and colleagues. He has frequent contact with his three boys and he has recently remarried, having met his wife in AA. He is stable, living in the same residence for over four years, and is a member of a church, which he attends regularly.

Petitioner has demonstrated that he can remain sober during times of stress and difficulty. Most of the witnesses Petitioner presented by affidavit[3] noted that the job of a professional lobbyist is a particularly stressful one, a job that Petitioner handles well by all accounts. Further, Petitioner has dealt with the deaths of both of his parents, which took place within approximately eight months of each other: his mother passed away on June 30, 2009, and his father died on March 1, 2010. Petitioner has remained sober throughout.

Dr. Charles Shuman, a psychiatrist from Denver Health Medical Center Behavioral Health and an expert in alcoholism and addiction, recently evaluated Petitioner. His November 2, 2010, findings state:

> At this time, Mr. Meiklejohn is not impaired in his ability to interact with others, cope with stress and emergencies, or to understand and deal with complicated situations. He has demonstrated a good program of recovery from alcohol dependence and he is actively involved in treatment, and is likely a low risk to go back to alcohol use in the future. I do not see any psychiatric or substance abuse related reason at this time that he could not function as an attorney . . . . Based on the information available to me at this time it is my opinion that the unethical behavior that resulted in his disbarment was most likely related to his alcohol dependence and that if he continues to abstain from alcohol and engage in a program of recovery he will be unlikely to repeat the unethical activity that he engaged in while under the influence of alcohol.[4]

Through his recovery process, Petitioner has gained a deep understanding of the nature of the disease of alcoholism and the character flaws that led to his discipline and disbarment. Specifically, Petitioner understands that due to his addiction, he was not able, during the period of time leading up to his disbarment, to conform his behavior to what he knew was right. He learned that "alcohol deadened that part of [his] brain that care[d] about the consequences of [his] actions," and that the "progressive nature of the disease made it so that drinking became [the most] important" thing to him over time. He testified that while he was drinking, the "most important thing was to be able to feed my addiction to alcohol."

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[3] *See* Petitioners Exhibits 3-6.

[4] Petitioner's Exhibit 1.

Petitioner has come to recognize that "drinking is the same as a death sentence for me. I react to alcohol differently than the normal population," such that "I believe I am a very trustworthy person, very honest, but I know that could change if I ever drank." Petitioner even acknowledges that the nature of alcoholism frustrates his desire to provide concrete assurances about his future conduct: "I wish I could say I can guarantee 100% I will never drink again, but as an alcoholic I cannot say that." He can guarantee, however, that he will remain active and involved with AA, which is what has given him success and stability over the past seven years, and he notes that "I'm going to do whatever it takes to make sure I never return to that lifestyle again."

The Hearing Board finds that Petitioner is genuinely remorseful for his past behavior and takes full responsibility for his conduct. He testified, "I am still aghast that I reached a point in my life where I was capable of [taking client money]," and he discussed at length the shame he feels for what he has put his parents and family, his clients, and his profession through. He said, "I can't believe I would ever have been selfish enough to behave as I did." Indeed, Petitioner stated that part of his motivation in seeking readmission to the bar is "to make amends and clear up what happened before. I drug my dad's name through the mud, and this is one way to try to straighten it out a bit." He also wants to be of service to others by providing them legal counseling and advice, particularly to those coming through AA and the recovery process. In short, Petitioner continues to use the tools he acquired through AA to remain sober, and he is determined to make a positive contribution to the legal community.

Petitioner has also demonstrated competence in law by passing the July 2010 Colorado bar examination and the August 2010 multistate professional responsibility exam. He has taken legal refresher courses totaling over 125 hours. He took the mandatory professionalism course in October 2010, and he attended the 2010-11 trust account school through the Office of Attorney Regulation Counsel on December 10, 2010.

IV. LEGAL ANALYSIS

C.R.C.P. 251.29(a) provides that to be eligible for readmission, an attorney must demonstrate, by clear and convincing evidence, his or her "fitness to practice law and professional competence." *People v. Klein* enumerates several factors to guide evaluation as to whether an attorney has been rehabilitated and is thus qualified for readmission.[5] These factors

[5] 756 P.2d 1013, 1016 (Colo. 1998) (interpreting language of C.R.C.P. 241.22, which embodied an earlier version of the rule governing readmission to the bar).

include: character; conduct since the imposition of the original discipline; professional competence; candor and sincerity; recommendations of other witnesses; Petitioner's present business pursuits; personal and community service aspects of Petitioner's life; and Petitioner's recognition of the seriousness of his previous misconduct. The *Klein* criteria help to assess whether an attorney has been rehabilitated[6] such that there is little likelihood the attorney will repeat in the future the misconduct that led to the attorney's disbarment.

Imposition of discipline upon an attorney includes a determination that some professional or personal shortcoming existed. The shortcoming may have resulted either from personal deficits or from a combination of personal deficits, professional deficits, and environmental inadequacies. It necessarily follows that the analysis of rehabilitation should be directed at the shortcoming that resulted in the discipline in order to ensure protection of the public welfare. Ultimately, each case for readmission must be reviewed on its own merits and must fail or succeed on the evidence presented and the circumstances peculiar to that case.[7]

In this case, each episode leading to Petitioner's discipline and disbarment arose from Petitioner's addiction to alcohol. In order to be readmitted to the practice of law the Petitioner must establish that those character deficits present at the time of his misconduct have now been removed so as to ensure that similar misconduct does not recur.

Petitioner has established that he has undergone a fundamental character change. From the date of his sobriety in January 2004, he has maintained a long-standing commitment to AA, has acted as a sponsor to others, and has served in other leadership positions involving a significant time commitment. He has a renewed commitment to his family and his community. He gives a great deal of his time to volunteer activities with various non-profit organizations. During his period of disbarment he has established an outstanding reputation for reliability, trustworthiness, honesty, and good character in the business and non-profit community. He has responsibly handled large sums of money and company property without incident. He is committed to assisting others with addiction problems in their recovery, and he is open and honest about his past. He has exhibited remarkable candor and humility by admitting that he was at fault in engaging in alcohol abuse and by taking full responsibility for his actions. The Hearing Board finds that

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[6] For purposes of readmission to the bar, rehabilitation has been defined as "the reestablishment of the reputation of a person by his or her restoration to a useful and constructive place in society." Avrom Robin, *Character and Fitness Requirements for Bar Admission in New York*, 13 TOURO L. REV. 569, 583 (1997) (*quoting In re Cason*, 249 Ga. 806, 294 S.E.2d 520, 522-23 (1982)).

[7] *See In re Cantrell*, 785 P.3d 312, 313 (Okla. 1989).

Petitioner has demonstrated by clear and convincing evidence that the character deficits giving rise to his disbarment have now been addressed so as to give confidence that similar misconduct will not recur.

The evidence establishes and the People stipulate that Petitioner is in compliance with all past orders of court, including disciplinary actions, he has complied with all relevant rules governing disbarred attorneys, and he has demonstrated professional competence in the practice of law.

In sum, Petitioner's testimony and the other evidence adduced at the hearing establish clearly and convincingly that Petitioner is fit to practice law as an attorney in the state of Colorado and has led a sufficiently exemplary life to inspire public confidence in his rehabilitation. The Hearing Board concludes Petitioner has been rehabilitated, is professionally competent, is fit to practice law, has complied with all past court orders, and should be readmitted to the practice of law, subject to the conditions outlined herein.

V. ORDER

1. The Hearing Board **GRANTS** the Verified Petition for Readmission filed by Petitioner **SCOTT A. MEIKLEJOHN,** who **SHALL** be readmitted to the practice of law effective upon his compliance with the requirements set forth in sections (2), (3), and (4), below.

2. Petitioner **SHALL** contact the Office of Attorney Registration within twenty (20) days of the date of this order and comply with all necessary conditions of readmission required of a newly admitted attorney, which include the payment of registration fees, completion of requisite paperwork, obtaining a new attorney registration number, and appearing before the Presiding Disciplinary Judge to take the oath of admission. The Court will issue an "Order and Notice of Readmission Pursuant to C.R.C.P. 251.29(a)" upon Petitioner's successful compliance with the above conditions.

3. Petitioner **SHALL** pay the costs of these proceedings. The People **SHALL** submit a Statement of Costs within fifteen (15) days of the date of this Order. Petitioner shall have ten (10) days to file a response.

4. Petitioner **SHALL** comply with certain conditions of his readmission. These conditions are:

A.) Petitioner shall abstain from any mood-altering substance (unless such substance was prescribed by a duly licensed Colorado physician at the time it was ingested), specifically including alcohol, as long as he is a licensed Colorado lawyer. Petitioner has the duty to notify the Office of Attorney Regulation Counsel within 48 hours of any use of a mood-altering substance (unless such substance was prescribed by a duly licensed Colorado physician at the time it was ingested), specifically including alcohol. Petitioner recognizes a failure to so notify the Office of Attorney Regulation Counsel will be considered a violation of this Order and may result in significant discipline.

B.) Petitioner shall participate in a fully randomized EtG full screen urine drug and alcohol testing at a frequency of twice a month for so long as the Office of Attorney Regulation Counsel deems such testing necessary, but in any event for no longer than a period of three years from the date of this Order. Petitioner shall be responsible for ensuring that a copy of the laboratory results of each EtG test is provided to the Office of Attorney Regulation Counsel by the laboratory or testing facility directly and within two days of the laboratory results. The testing facility shall also be required to notify the Office of Attorney Regulation Counsel if Petitioner fails to submit in timely fashion to any test scheduled.

C.) Petitioner bears the responsibility for making all arrangements necessary to ensure that all results of such testing will be provided to the Office of Attorney Regulation Counsel promptly and no later than two days after laboratory results. Petitioner shall execute all necessary authorizations for the release of testing results and for the requirement that the testing facility notify the Office of Attorney Regulation Counsel should Petitioner fail to submit in timely fashion to any test scheduled.

D.) The administration of the urinalysis testing shall be by a facility or agency pre-approved by the Office of Attorney Regulation Counsel. Petitioner shall be responsible for all costs associated with the EtG testing.

E.) Should Petitioner travel out of state during the period of time in which the Office of Attorney Regulation Counsel deems EtG testing necessary, Petitioner must make prior arrangements for continued compliance with such random

testing with the laboratory and collection agency and the Office of Attorney Regulation Counsel.

F.) Petitioner shall obtain monthly counseling with a psychiatrist or a psychologist ("doctor") who is pre-approved by the Office of Attorney Regulation Counsel. The counseling is intended to assist Petitioner in his transition to the active practice of law and to account for the significant stressors associated therewith. The monthly counseling with such professional shall continue for one year unless the doctor determines that such counseling is no longer required or can be modified or reduced. Petitioner shall execute an authorization for release, requiring the doctor to notify the Office of Attorney Regulation Counsel if Petitioner fails to participate in this required counseling, or if the doctor reasonably believes that Petitioner has failed to abstain from the use of any mood-altering substance, including alcohol (unless such substance was prescribed by a duly licensed Colorado physician at the time it was ingested).

G.) Petitioner shall attend an AA, or other equivalent recovery program, meeting on at least a weekly basis for three years from the date of Petitioner's readmission. If any mental health professional or evaluator requires that Petitioner attend such a recovery program more frequently, Petitioner shall comply with that recommendation. Further, Petitioner shall continue to work regularly with others in recovery programs, e.g., to continue service as a sponsor to others in AA or another equivalent recovery program for three years from the date of Petitioner's readmission. In addition, Petitioner shall attend peer support meetings, if available and as approved by the Office of Attorney Regulation Counsel, for three years from the date of Petitioner's readmission on a weekly basis unless required more frequently by any mental health professional. Petitioner shall provide written confirmation of compliance with these terms and conditions on a quarterly basis to the Office of Attorney Regulation Counsel. The above-mentioned reports are due commencing on March 1, 2011.

H.) Petitioner shall provide releases to treating counselors, therapists, health care providers, and/or AA or other recovery or peer support program, or sponsors, to allow them to freely communicate with the Office of Attorney Regulation Counsel regarding the nature of the treatment provided to Petitioner and regarding whether Petitioner is complying with

the recommended treatment. Any medical records or documents produced in connection with this agreement shall remain confidential except for the purposes of this particular proceeding.

I.) Petitioner shall consult monthly with a peer mentor selected by the Office of Attorney Regulation Counsel in conjunction with Petitioner. The mentoring is intended to assist Petitioner in his transition to the active practice of law and to account for the significant stressors associated therewith. The monthly mentoring shall continue for one year unless the peer mentor and the Office of Attorney Regulation Counsel jointly determine that such mentoring is no longer required or can be modified or reduced. Petitioner shall execute an authorization for release, requiring the mentor to notify the Office of Attorney Regulation Counsel if Petitioner fails to participate in this required mentoring, or if the mentor reasonably believes that Petitioner has failed to abstain from the use of any mood-altering substance, including alcohol (unless such substance was prescribed by a duly licensed Colorado physician at the time it was ingested).

DATED THIS 20TH DAY OF JANUARY, 2011.

_____
WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

_____
DAVID A HELMER
HEARING BOARD MEMBER

_____
MICHAEL B. LUPTON
HEARING BOARD MEMBER

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