COMMONWEALTH OF MASSACHUSETTS
BOARD OF BAR OVERSEERS
OF THE SUPREME JUDICIAL COURT

In the Matter of	)	
KRIS C. FOSTER,	)	**SJC No. BD-2022-060**
Petition for Reinstatement	)	
	)	

HEARING PANEL REPORT

I. Introduction

On January 22, 2025, the petitioner, Kris C. Foster, filed a petition for reinstatement with the Supreme Judicial Court after a one-year-and-one-day suspension. The order of suspension was entered on November 1, 2023. See Ex. 1,[1] at Ex. A (Matter of Foster et al., 492 Mass. 724, 39 Mass. Att'y Disc. R. __ (2023), Ex. B (Judgment After Rescript, dated November 1, 2023), Ex. C (Order of Term Suspension in Accordance with Judgment After Rescript, dated November 7, 2023), and Ex. D (Order, dated November 17, 2023). The petitioner, a former Assistant Attorney General, was suspended based on her role related to the withholding of exculpatory evidence during the prosecution of a state drug laboratory chemist for evidence tampering. The petitioner's misconduct was a factor in thousands of both pending drug charges being dismissed and drug convictions being vacated.

An in-person hearing was held on July 21, 2025. The petitioner, represented by counsel, testified on her own behalf and called one witness, Ralph Sacramone. Bar counsel called no

[1] The transcript is referred to as "Tr.__." and the hearing exhibits is referred to as "Ex.__." We have considered all of the evidence, but we have not attempted to identify all evidence supporting our findings where the evidence is cumulative. We credit the testimony cited in support of our findings to the extent of the findings, and we do not credit contradictory testimony.

witnesses. Eight exhibits were admitted into evidence. Exs. 1-8.[2] At the end of the hearing, the petition was opposed by bar counsel.

After considering the evidence and testimony, we find that the petitioner has met her burden in these proceedings and we recommend that the petition of Kris C. Foster for reinstatement be allowed.

II. Standard

A petitioner for reinstatement to the bar bears the burden of proving that she has satisfied the requirements for reinstatement set forth in S.J.C. Rule 4:01, § 18(5); namely that she possesses "the moral qualifications, competency and learning in law required for admission to practice law in this Commonwealth, and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar, the administration of justice, or to the public interest." Matter of Weiss, 474 Mass. 1001, 1002, 32 Mass. Att'y Disc. R. 263, 264-265 (2016). The S.J.C.'s rule establishes two distinct requirements, focusing on (1) the personal characteristics of the petitioner and (2) the effect of reinstatement on the bar and the public. Matter of Gordon, 385 Mass. 48, 52, 3 Mass. Att'y Disc. R. 69, 73 (1982).

In making these determinations, a panel considering a petition for reinstatement "looks to '(1) the nature of the original offense for which the petitioner was [suspended], (2) the petitioner's character, maturity, and experience at the time of [her suspension], (3) the petitioner's occupations and conduct in the time since [her suspension], (4) the time elapsed since the [suspension], and (5) the petitioner's present competence in legal skills.'" Matter of Alfred C.W. Daniels, 442 Mass. 1037, 1038, 20 Mass. Att'y Disc. R. 120, 122-123 (2004),

[2] Exhibit 2 is impounded.

quoting Matter of Prager, 422 Mass. 86, 92 (1996), and Matter of Hiss, 368 Mass. 447, 460, 1 Mass. Att'y Disc. R. 122, 133 (1975).

III. Disciplinary History

The petitioner was admitted to the Massachusetts bar in December 2008. Ex. 1, at BBO0002. She began her legal career at the appellate division of the Suffolk County District Attorney's Office. Tr. 82 (petitioner). During her time there, she argued more than sixty cases before the Appeals Court and nine before the Supreme Judicial Court ("SJC"). Tr. 83 (petitioner). In July 2013, she joined the appeals division of the Attorney General's Office's ("AGO") Criminal Bureau. See Tr. 83 (petitioner). Among other things, in this position she handled responding to criminal appeals, federal habeas corpus petitions, and subpoenas to public agencies. Tr. 84-85 (petitioner).

A. The Farak Drug Lab Scandal

In January 2013, months before the petitioner joined the AGO, the Massachusetts State Police began investigating a state drug lab chemist, Sonja Farak, for potential tampering with drug samples that had been submitted to the state lab in Amherst for testing. Matter of Foster et al., supra at 727. State Police Sergeant Joseph Ballou was part of a team of investigators who executed a search warrant on Farak's car, which resulted in obtaining evidence including various paperwork. Following the search, the State Police secured the evidence at the State Police barracks in Springfield. Id. Shortly thereafter, Farak was arrested and charged with evidence tampering and possession of cocaine and heroin.[3] Id.

[3] According to the petitioner, her understanding of the allegations against Farak was that "when [Farak] would test drugs, if [the drugs] tested positive, she would steal them and replace them with a counterfeit [substance] and use [the drugs] herself." Tr. 89 (petitioner).

At the time of Farak's arrest, John Verner was the chief of the AGO's Criminal Bureau. He assigned Anne Kaczmarek, an Assistant Attorney General in the Enterprise, Major, and Cyber Crimes Division of the Criminal Bureau, as the lead prosecutor in the Farak case. Id. The SJC found that both Verner and Kaczmarek "understood early" that criminal defendants with pending drug cases, as well as individuals who had already been convicted based on Farak's drug analyses, would be entitled to receive potentially exculpatory information[4] obtained during the State Police and AGO investigation / prosecution. Id. at 728. Because the drug cases against the criminal defendants were largely prosecuted by the district attorneys' offices, the AGO would provide the information from the Farak investigation / prosecution to the district attorneys' offices who would then provide it to the defendants. Id. However, Kaczmarek failed to turn over documents including mental health worksheets recovered from Farak's car which "detailed Farak's struggles with drug addiction, as well as her failed efforts to resist using drugs at work. Handwritten notes on these papers suggested that Farak's misconduct may have had a longer history than the AGO had realized." Id. at 729-30. Kaczmarek was aware of the mental health worksheets because Ballou had discussed them with her by phone and emailed them to her and Verner in February 2013. Id. at 729-30.

Six months later, in August of 2013, approximately six weeks after joining the AGO (Tr. 91-92 (petitioner)), the petitioner was assigned to respond to subpoenas and discovery motions filed by defendants in the drug cases who were seeking information related to Farak's conduct. Id. at 733-34. The petitioner had never responded to a subpoena before. Tr. 92 (petitioner). Although a superior told the petitioner to speak to Kaczmarek and Ballou to determine what had

[4] Exculpatory information is any evidence that tends to "negate the guilt, or to reinforce the innocence, of the accused." Graham v. District Attorney for Hampden District, 493 Mass. 348, 364 (2024), citing Commonwealth v. Diaz, 100 Mass. App. Ct. 588, 594 (2022).

yet to be turned over to defense counsel, she did not do so. Id. at 734-35. She also did not review Ballou's file herself. Id. at 735. Instead, the petitioner drafted and filed a motion to quash a subpoena which, among other things, asserted that some of the documents requested were protected by privilege. Id.

On September 9, 2013, the petitioner appeared in Superior Court, representing the AGO, for a hearing before Judge C. Jeffrey Kinder. Id. at 736. The purpose of the hearing was to determine "the timing and scope of…Farak's alleged criminal conduct." Id. at 734. Ballou testified at the hearing that "everything in my case file has been turned over." Id. at 736. As the SJC found, this may have been true, but Ballou's file was just one component of the total material that the State Police and AGO had in their possession. In fact, the mental health worksheets found in Farak's car were physically located at the Springfield barracks.[5] Id. At the end of the hearing, Judge Kinder ordered the petitioner to send him all responsive documents for which the AGO was asserting a claim of privilege so that he could review them *in camera*. Id. at 737.

Following the hearing, there was an email exchange between Verner and Kaczmarek, which included the petitioner and others, in which Kaczmarek appeared to confirm that the mental health worksheets were in Ballou's file. Later that day, during a meeting, Kaczmarek informed the attendees, including the petitioner, that she believed (consistent with Ballou's testimony at the hearing) that everything in Ballou's file had been turned over. Id. at 738. At a meeting days later, the petitioner's supervisor told her that everything had been turned over and she should draft a letter to Judge Kinder saying so. The petitioner drafted the letter and gave it to

[5] Hard copies of the mental health worksheets were in Kaczmarek's trial box (Ex. 4, at ¶ 71) and electronic copies existed elsewhere, including on Kaczmarek's and Verner's computers. Matter of Foster et al., supra at 731.

her supervisor to review and approve. He did so. The letter stated, in relevant part, "After reviewing Sergeant Ballou's file, every document in his possession has already been disclosed." Id. at 739 (emphasis added). However, as the SJC later found, no one at the AGO, including the petitioner, had reviewed Ballou's file or determined whether every document in his possession had been disclosed. Id. The following month, October 2013, the parties returned to court where the petitioner again represented to Judge Kinder that Ballou's entire file had been produced. Id. at 740. She told the judge, "I have talked to [Kaczmarek and Ballou] and both of them said there's nothing – there's no smoking gun…" Id. The petitioner's conduct, in part, caused Judge Kinder to deny discovery requests from the criminal defendants, reasoning that they had failed to show that Farak had been using drugs or tampering with evidence in 2011 or earlier when the defendants were arrested. Id. at 741.

In January 2014, Farak pleaded guilty. Months later, in October 2014, counsel for defendants in related drug cases were granted access to evidence stored at the Springfield barracks. See id. At that time, the mental health worksheets were discovered. Id. at 741-42. In December 2016, Superior Court Judge Richard Carey held a six-day evidentiary hearing on renewed motions to dismiss and motions for new trials or to withdraw guilty pleas filed by defendants "who claimed a right to relief based on Farak's tampering and the AGO's misconduct." Id. at 742. The petitioner, Kaczmarek, and Verner, testified at the hearing. Id. The judge granted relief to some of the defendants and the Committee for Public Counsel Services sought relief at the SJC pursuant to G.L. c. 211, § 3. Id. Ultimately, in October 2018, the SJC ordered relief for defendants affected by Farak's misconduct and dismissed thousands of cases where drugs had been tested at the Amherst lab because "the government misconduct by Farak

and the assistant attorneys general was 'so intentional and so egregious." Id. at 743, quoting Committee for Pub. Counsel Servs. v. Attorney Gen., 480 Mass. 700, 725 (2018).

B. The Disciplinary Proceeding

In June 2019, bar counsel filed a three-count petition for discipline collectively against the petitioner, Kaczmarek, and Verner. Only the third count involved the petitioner and alleged violations resulting from her responses to the subpoena and discovery motions. Id. at 743. A special hearing officer ("SHO") was appointed and an evidentiary hearing was held over twenty-three days. Id. The petitioner testified over three days: October 27, 28, and 29, 2020. The SHO concluded that the petitioner had violated Mass. R. Prof. C. 1.1 (provide competent representation), 1.2(a) (seek lawful objectives of client through reasonably available means permitted by law and rules of professional conduct), and 1.3 (act with diligence in representing client), by "failing to adequately prepare to respond to subpoenas and appear at hearings regarding the production of evidence and by failing to ensure that the AGO reviewed Ballou's file." Id. at 745; Ex. 4 (Hearing Report). The SHO also determined that by "drafting a letter with reckless disregard for the truth that misled the judge to believe that the entirety of the file had been reviewed and all documents had been produced," the petitioner violated Mass. R. Prof. C. 8.4(d) (do not engage in conduct prejudicial to administration of justice), and 8.4(h) (do not engage in any other conduct that adversely reflects on fitness to practice law). Matter of Foster et al., supra at 745. The SHO found that "although a 'close call,' [the petitioner's] use of intentionally vague language [in the letter to Judge Kinder] did not rise to the level of conduct

sanctioned by rule 8.4(c);[6] while grossly incompetent and reckless, [the petitioner's] statements were not knowingly false statements of material fact." Id. at 757.

The SHO filed a supplemental report which detailed aggravating and mitigating factors for each respondent as well as his recommended sanctions. Ex. 5 (Supplemental Report). With respect to the petitioner, the SHO found multiple aggravating factors including lack of candor and the extent of the harm to vulnerable third parties caused by the petitioner's recklessness. Matter of Foster et al., supra at 764. He specifically found her testimony at the disciplinary hearing to be "dissembling, disingenuous[ ], and evasive[ ]." Id. at 763. The SHO recommended a term suspension of one-year-and-one-day for the petitioner. Id. at 745.

Following appeals by both bar counsel and the petitioner, in June 2022, the Board of Bar Overseers ("board") adopted the factual findings of the SHO and recommended that the petitioner be suspended for one-year-and-one-day for her violations that, "for the most part, amounted to 'gross incompetence' and 'reckless lawyering.'" Id. at 725, quoting Board Memorandum (Ex. 8). The board filed an Information with the single justice who, in November 2022, reserved and reported the case to the full bench. Matter of Foster et al., supra at 746.

Before the full bench of the SJC, bar counsel appealed from the board's determination that the petitioner did not violate Rule 8.4(c) and the petitioner appealed from the sanction recommended by the board. Id. at 757. The SJC agreed with the board that the petitioner had not violated Rule 8.4(c) "[b]ecause there is insufficient evidence that [the petitioner] knew the AGO had exculpatory evidence that had yet to be turned over, and was not willfully blind to this fact…" Id. at 759. The SJC found two mitigating factors: (1) the petitioner's lack of experience

[6] Mass. R. Prof. C. 8.4(c) provides: "It is professional misconduct for a lawyer to…engage in conduct involving dishonesty, fraud, deceit or misrepresentation…"

in responding to subpoenas (to which it assigned "minimal weight"); and (2) her reasonable and good faith reliance on (a) her supervisor with respect to her letter to Judge Kinder (where the supervisor told her that everything had been turned over and approved her letter before filing) and (b) her colleague, Kaczmarek's, misrepresentations about what had been turned over to defense counsel. Id. at 761-62. However, the SJC noted that it did not assign greater weight to the petitioner's reliance (a special mitigating factor) for two reasons: (1) the petitioner "was making affirmative representations in court filings, on which she signed her name. It should have been abundantly clear to [the petitioner] that it was her responsibility to verify the truth of her own representations[ ]"; and (2) the petitioner added her own "gloss" to the information given to her for the letter to Judge Kinder which was reckless and misleading.[7] Id. at 762.

The SJC accepted the board's recommendation as to the petitioner's sanction "[b]ecause [the petitioner] was reckless in her representations about what the AGO had disclosed, and otherwise exhibited incompetence in her response to the subpoena and discovery motions…" Id. at 726. The court specifically noted that the petitioner's lack of candor, lack of awareness of her wrongdoing, and lack of remorse before the SHO "all weigh heavily in aggravation." Id. at 763. The SJC adopted the recommendation of the board and entered a term suspension of one-year-and-one-day. [8] Ex. 1, at BBO0038. In November 2023, the petitioner was ordered suspended effective retroactively to September 28, 2023. Ex. 1, at BBO0044 (Order on Assented to Motion for Effective Date of Suspension to Run from Rescript Date).

[7] The SJC found that the first statement, "After reviewing Sergeant Ballou's file," was not based on anything told to her by Kaczmarek or her supervisor because neither had indicated to her that the file had been reviewed. Matter of Foster et al., supra at 762.

[8] Verner received a public reprimand. Kaczmarek was disbarred. Id. at 770-71.

IV. Findings and Conclusions

Our findings and conclusions are set forth in three sections: moral qualifications, competency and learning in the law, and the public interest.

A. Moral Qualifications

The conduct giving rise to the petitioner's suspension is affirmative proof that she lacked the moral qualifications to practice law. See Matter of Hiss, 368 Mass. at 460, 1 Mass. Att'y Disc. R. at 134. That the misconduct "continues to be evidence against . . . [the petitioner] with respect to lack of moral character at later times [is] in accordance with the principle that 'a state of things once proved to exist may generally be found to continue.'" Id. (citation omitted). "The act of reinstating an attorney involves what amounts to a certification to the public that the attorney is a person worthy of trust." Matter of Alfred C. W. Daniels, 442 Mass. at 1038, 20 Mass. Att'y Disc. R. at 123, Matter of Prager, 422 Mass. at 92; see Matter of Centracchio, 345 Mass. 342, 348 (1963). In fact, "considerations of public welfare are dominant. The question is not whether the petitioner has been punished enough." Matter of Cappiello, 416 Mass. 340, 343, 9 Mass. Att'y Disc. R. 44, 47 (1993), quoting Matter of Keenan, 314 Mass. 544, 547 (1943). Cf. Matter of Nickerson, 422 Mass. 333, 337, 12 Mass. Att'y Disc. R. 367, 375 (1996) (finding in a disciplinary proceeding that "'[t]he question is not whether the respondent has been 'punished' enough. To make that the test would be to give undue weight to his private interests, whereas the true test must always be the public welfare.'") (citation omitted).

To gain reinstatement, the petitioner has the burden of proving that she has led "'a sufficiently exemplary life to inspire public confidence once again, in spite of h[er] previous actions.'" Matter of Prager, 422 Mass. at 92, quoting Matter of Hiss, 368 Mass. at 452, 1 Mass. Att'y Disc. R. at 126. She can do this by proving she has reformed, since a "fundamental precept

of our system is that persons can be rehabilitated." Matter of Ellis, 457 Mass. 413, 414, 26 Mass. Att'y Disc. R. 162, 163 (2010). "Reform is a 'state of mind' that must be manifested by some external evidence…[and] the passage of time alone is insufficient to warrant reinstatement." Matter of Waitz, 416 Mass. at 305, 9 Mass. Att'y Disc. R. at 343.

We divide our discussion of the petitioner's moral qualifications into the following subsections: (1) Insight into Misconduct; (2) Work and Volunteer Activities; (3) Witness Testimony and Letters; and (4) Conclusions as to Moral Qualifications.

1. Insight into Misconduct

Before us, the petitioner explained that she believed that everything in the file of Massachusetts State Police Detective Sergeant Joseph Ballou had been produced. Tr. 92-94 (petitioner). She believed this to be true because her superiors and her colleague, Kaczmarek, had told her so. Id. However, she admitted that she did nothing to independently verify that her representations to the court were accurate and that everything had, in fact, been produced. Tr. 93 (petitioner). In addition, she acknowledged that she wrote a letter to Judge Kinder stating that the file had been reviewed, which was misleading, but denied that she intended to mislead. Tr. 124-25 (petitioner). She explained that she intentionally wrote the letter in the passive voice because she did not want to give the judge the false impression that she had reviewed the file. Tr. 94-95, 125-26 (petitioner). Her supervisor reviewed and approved the letter before it was sent to the judge. Tr. 95-96 (petitioner). Nevertheless, the letter was misleading because it begged the inference that she had reviewed the file and that all of the documents had been produced. Neither had occurred; as noted, the petitioner had done nothing to verify the accuracy of the representations she made in the letter to the judge. Tr. 95-96 (petitioner). We note here the importance of the fact that the petitioner was not found to have violated Rule 8.4(c) at any stage

of the disciplinary process: her failures were lacking competence and diligence, compounded by reckless misrepresentations, and not by intentional misconduct.

During her testimony, the petitioner was candid about her wrongdoing and how her understanding of it has evolved over time during and after the disciplinary proceedings. Initially, she was angry at her supervisors and co-workers because she had felt that she could rely on what they had told her about what was turned over. See Tr. 99, 102 (petitioner). She admits that she remains angry at them (Tr. 99 (petitioner)) but, through the underlying disciplinary process, she gained a different perspective of her conduct. She testified:

> A lot has changed since then. Going [to work at the Alcoholic Beverage and Control Commission (discussed infra)], there was no one to pass the buck to. I was general counsel. I couldn't blame anyone else if I got something wrong or if I missed something. And also, once all these decisions started coming out, I got an appreciation for what outside parties viewed as the actual facts. You know, [the special hearing officer's] decision, he got every bit of information he could. And then the SJC writing it, and confirming it. It really makes you see it from a different perspective.

Tr. 99-100 (petitioner). As the SJC noted, more was expected of the petitioner as a fifth-year attorney. Matter of Foster et al., supra at 760. At the same time, we appreciate that the petitioner was in a difficult position for a young attorney—she was six weeks into a new position and given an assignment she had never handled before. The petitioner admitted before us that she acted "recklessly" and acknowledged that she should have verified that the representations she was making to the court were accurate. See Tr. 98-99 (petitioner). She openly admitted that it took her a while to understand this. Tr. 99-102 (petitioner). We credit her testimony and find it pivotal to our recommendation.

Based on our observations of the petitioner during her testimony, we are persuaded that she genuinely accepts responsibility for her role in the collective misconduct that led to people

being incarcerated for a period of time or for a longer period of time. She stated, "…that's one of the reasons I think I denied liability for so long because it's very humbling to be put in this position where you're responsible for the very egregious miscarriage of justice. You know, it's hard to process having a role." Tr. 101-02 (petitioner). She acknowledged the magnitude of the harm that she caused to vulnerable criminal defendants. Tr. 170 (petitioner) ("Q: You also agree that you caused great harm to vulnerable criminal defendants? A: I think that's an understatement, but yes."). She admitted that she lacked remorse and an awareness of her wrongdoing at the time of the disciplinary hearing. Tr. 169-70 (petitioner). However, she asserted that she started to feel remorse once she read the special hearing officer's reports and then the Board's memorandum. See Tr. 169-171 (petitioner). By the time of the SJC decision, she testified that "it started sinking in, that, you know, I had responsibility." Id. We credit this testimony and find her to be remorseful.

As noted supra, the SHO found multiple factors in aggravation including the petitioner's lack of candor during her testimony at the disciplinary hearing. The SJC noted two examples of the petitioner's lack of candor (1) her testimony that she was not trying to be intentionally vague in the letter to Judge Kinder; and (2) her testimony about her prior work experience. Matter of Foster et al., supra at 763. According to the SJC, the petitioner indicated on the resume that she submitted to the AGO that she had

> substantial Superior Court experience, including "second-seating" homicide cases and drafting and arguing postconviction motions. Before the SHO, however, she claimed that she had no Superior Court experience. When questioned about the discrepancy, [the petitioner] refused to agree that she had embellished her prior experience and, instead, claimed disingenuously that she had a different understanding of the terms "drafting" and "arguing" when she compiled her resume.

Id. Initially, the petitioner testified before us that she disagreed with the SHO's finding that she lacked candor during the disciplinary hearing. See Tr. 100, 126-27 (petitioner). Yet, later in her testimony, during questioning by the hearing panel, she stated that she does not disagree with that finding by the SHO. Tr. 186-87 (petitioner). She explained that, at the time of her testimony at the disciplinary hearing, she was denying, even to herself, that she had done anything wrong. See id. She testified, "In retrospect, now that – I do accept responsibility of that finding." Tr. 187-88 (petitioner). When asked what part of her disciplinary hearing testimony was not "fully candid," she discussed that during her testimony at the disciplinary hearing, part of what she testified to was that "…I was told everything had been turned over. What more could I do? And I said there was nothing more I could do. And I've had a lot of time to think about it, and there were several options that I could have – several paths I could have taken." Tr. 188 (petitioner). She could not think of any other specific examples of testimony that was not candid. Tr. 188-89 (petitioner).

We have no quarrel with the petitioner disagreeing with part or all of the SHO's finding that she lacked candor at the disciplinary hearing. We do not require a petitioner to sign on and subscribe to every finding in the hearing report. Cf. Matter of Sablone, 40 Mass. Att'y Disc. R. __ (2024) (reinstatement allowed despite petitioner's failure to understand, or fully explain, why he took money from his firm). Instead, our task requires us to determine if the petitioner has "adduce[d] substantial proof that [she] has 'such an appreciation of the distinctions between right and wrong in the conduct of [people] toward each other as will make [her] a fit and safe person to engage in the practice of law.'" Matter of Hiss, supra at 457 (citation omitted). While we were troubled that this finding was made by the SHO about testimony given in 2020 (five years ago) and, frankly, it gave us pause, we heard the petitioner's testimony before us and find her

credible. In his closing, bar counsel suggested that the petitioner's testimony before us was evasive and that it "was difficult to get straight answers." Tr. 193-194 (Assistant Bar Counsel). While the petitioner did choose her words carefully, particularly on cross-examination (see, e.g. Tr. 126-130, 147-151 (petitioner)), we did not find her testimony to be evasive. By contrast, we find her testimony to be sincere.

The petitioner proved to us that she understands the nature of her misconduct and has confronted the role she played in the wrongdoing that resulted in thousands of criminal cases being dismissed and convictions being vacated. We are persuaded that she has shown true remorse for her conduct and has learned from this experience. We believe she recognizes that it is a privilege to practice law and she will work hard to repair her professional reputation as a lawyer if reinstated. Tr. 115-116 (petitioner).

2. Work and Volunteer Activities

In February 2015, a few months after the mental health worksheets were discovered by defense counsel (see supra at p. 6), the petitioner left the AGO to become the general counsel of the Massachusetts Alcoholic Beverages Control Commission ("ABCC"). Tr. 86, 103 (petitioner). In that position, she advised the Commission as well as the executive director, Ralph Sacramone (who testified before us as discussed infra). She also wrote many of the Commission's violation decisions and helped draft legislation related to the Commonwealth's liquor laws. Tr. 86-87 (petitioner).

In August 2016, as mentioned above, the petitioner was subpoenaed to testify at a hearing in Superior Court before Judge Carey. Tr. 103-04 (petitioner). This was her first indication that there was an investigation into her conduct. Id. She notified Mr. Sacramone, her boss, that she would be testifying as a witness and gave him a copy of the judge's decision when it issued. Tr.

104-05 (petitioner). When the Office of Bar Counsel began its investigation into her conduct, she similarly notified Mr. Sacramone and kept him informed throughout the process, including giving him copies of documents such as the petition for discipline and the various reports and decisions (discussed in more detail infra). See Tr. 105-08 (petitioner). She remained the general counsel until her suspension in the fall of 2023.[9] Tr. 87 (petitioner).

Typically, hearing panels considering reinstatement focus on the petitioner's work during the period of suspension and not pre-suspension. However, here, there was a lengthy period between the discovery and investigation of the misconduct and the petitioner's suspension. We find it particularly significant that after the misconduct at issue in the fall of 2013, the petitioner practiced law successfully for approximately ten years (over eight of those years at the ABCC) without new disciplinary charges or, presumably, complaints. See Tr. 117-118 (petitioner) (no complaints since these charges in 2013). The only additional misconduct was the SHO's finding that the petitioner lacked candor during her testimony at the disciplinary proceeding. See Matter of Veara, 36 Mass. Att'y Disc. R. 433 (2020) (the lawyer practiced law without new disciplinary charges (although he was also found to have testified falsely during his disciplinary hearing) during the eleven years before he was suspended for one-year-and-one-day; in recommending reinstatement, the hearing panel found that this record "reflects that the misconduct that led to his suspension was a deviation from an otherwise clean record of the ordinary course of the petitioner's practice" and it "[gave] great weight to the long period of ethical practice between the period of [his] chief misconduct and his suspension."). While the SHO's finding was

[9] The petitioner testified that her last day at the ABCC was October 6, 2023. However, her suspension was effective September 28, 2023. The petitioner explained that the discrepancy in the dates is because the suspension order entered in November 2023 but was effective retroactively. Tr. 87-88 (petitioner); see Ex. 1, at BBO0044.

concerning, as we explained supra, we find the petitioner's lengthy post-misconduct, but pre-suspension, practice to be an indicator of post-misconduct moral rehabilitation.

Evidence of moral reform can be found in good works that demonstrate a sense of responsibility to others. See Matter of Wong, 442 Mass. 1016, 1017-1018, 20 Mass. Att'y Disc. R. 540, 544 (2004) (Court notes approvingly physical labor, active role in church community, participation in sons' activities and community work); Matter of Sullivan, 25 Mass. Att'y Disc. R. 578, 583 (2009) ("[a] petitioner's moral character can be illustrated by charitable activities, volunteer activities, commitment to family, or community work.").

Following her suspension, the petitioner testified about her caregiving responsibilities and volunteerism. She "took some time to focus on being a wife and a mother" and concentrated on volunteering at her young child's school doing library and cafeteria duty. Tr. 88 (petitioner); Ex. 1, at BBO0003 (unemployed until January 2025, list of volunteer positions). She eventually became the enrichment co-coordinator, helping to plan field trips and in-school events. Id. She continued her school volunteer work as of the date of the hearing before us. Id. This dedicated commitment to her family also reflects positively on the petitioner's moral fitness.

In January of 2025, the petitioner began a nonlegal position as Executive Officer of the City of Cambridge License Commission. Tr. 80 (petitioner); Ex. 1, at BBO0003 and 0005. She is the administrative head of the office and spends most of her time preparing for public hearings, writing meeting minutes, and scheduling hearings. Tr. 80 (petitioner). If reinstated, she plans to stay in her current nonlegal position though she believes that a law license could be helpful in that role. Tr. 113-14 (petitioner); Ex. 1, at BBO0005-06. If she were to seek another legal role, it would be something in public service / a government agency; she has never worked

in private practice and does not intend to in the future. Tr. 114-115 (petitioner); Ex. 1, at BBO0005-06.

The petitioner indicated that, if reinstated, she plans to "work tirelessly for the rest of [her] life to restore [her] reputation, and most importantly, people's confidence in the legal system." Tr. 178 (petitioner). She testified that, if reinstated, she has considered writing an article about her experience to serve as a cautionary tale for young attorneys, particularly prosecutors. Tr. 179 (petitioner). We strongly support this idea and hope that, whether or not the petitioner is reinstated, she carries out this plan. See Matter of Gilpatric, 39 Mass. Att'y Disc. R. __ (2023) (hearing panel commended the petitioner, a former prosecutor, for speaking to law students about the challenges he faced as an Assistant District Attorney and his misconduct that resulted in an indefinite suspension; reinstatement allowed).

3. Witness Testimony and Letters

One witness testified on the petitioner's behalf at the hearing, her former boss, Ralph Sacramone. Mr. Sacramone is the Executor Director of the ABCC, a position he has held since 2007. Tr. 30, 76 (Sacramone). He is not an attorney. Mr. Sacramone first met the petitioner in 2015, after the events at issue, when she interviewed with him, and was hired, for the position of general counsel of the ABCC. Tr. 32 (Sacramone). Mr. Sacramone never had any issues with the petitioner's work, found her work quality to be "excellent," and never questioned her character. Tr. 36-37, 48 (Sacramone). In his opinion, she had a high moral character. Tr. 47 (Sacramone).

Mr. Sacramone testified that the petitioner told him about the disciplinary process as it was happening.[10] Tr. 38-43, 46 (Sacramone). Not only did she discuss what was happening with

[10] Mr. Sacramone testified that during the petitioner's interview for the position at the ABCC, she volunteered that there was an ongoing investigation related to a matter from her previous position. Tr. 32, 37, 52

him but she provided him with the written decisions from Judge Carey as well as the decisions from the SHO and the SJC. See Tr. 39-43 (Sacramone). His understanding of the petitioner's misconduct was that she "had withheld evidence that was requested upon[sic] by a judge and that led to her suffering these consequences." Tr. 38-39 (petitioner). He admitted that the petitioner did not specifically inform him that she was being disciplined for lack of candor (although we note that this is clearly stated in the written decisions that the petitioner provided to him). Tr. 73 (Sacramone). The petitioner was forced to leave the ABCC when her suspension went into effect, because a law license is required for the position of general counsel of the ABCC. Tr. 33 (Sacramone). He expressed that, if the circumstances presented themselves, he would rehire her. See Tr. 49 (Sacramone).

While we found Mr. Sacramone's testimony to be straightforward, truthful, and helpful, we do note its largest limitation: at the time the petitioner was keeping Mr. Sacramone informed about the investigation and disciplinary process, she did not believe she had done anything wrong. We assume this must have colored how she presented, and how he viewed, the allegations and the process as they transpired. We also acknowledge that his testimony was overall lacking in evidence or information that distinguishes the petitioner's conduct before and after her underlying discipline, evidence that could shed light on her rehabilitation. See Matter of Dawkins, 432 Mass. 1009, 1011, n.5, 16 Mass. Att'y Disc. R. 94, 96, n.5 (2000); Matter of Corben, 31 Mass. Att'y Disc. R. 91, 101 (2015); Matter of Lee, 28 Mass. Att'y Disc. R. 540, 549-551 (2012). Simply put, he did not know the petitioner at the time of the misconduct that led to

(Sacramone). Despite this, Mr. Sacramone hired the petitioner and was one of her direct supervisors. Tr. 32, 37 (Sacramone). The petitioner later testified that she believes Mr. Sacramone is a "little confused about the timeline." Her first indication that there was an investigation into her conduct did not occur until approximately August 2016 when she had been working at the ABCC for about six months. See Tr. 103-104 (petitioner). However, she testified that she did tell Mr. Sacramone about it at that time. Tr. 104 (petitioner). We credit this testimony.

her suspension. See Tr. 51 (Sacramone). In addition, he did not communicate with the petitioner often after she left the ABCC in the fall of 2023 and, therefore, cannot comment on her post-suspension insight or growth. Tr. 54 (Sacramone). However, following the misconduct, and pre-suspension, Mr. Sacramone worked closely with the petitioner for over eight years, without a question or concern about her conduct or her work. See Tr. 66, 69, 77-78 (Sacramone). He found her professional ethics to be "top notch" and her legal work to be "excellent." Tr. 47-48 (petitioner). We strongly credit this testimony.

In addition, the petitioner submitted several supportive letters from friends and former colleagues. Tr. 110 (petitioner); Ex. 3 (Letters). None of these people testified before us. The petitioner's former colleagues, all from the ABCC, only met the petitioner after the misconduct at issue. See Tr. 171-72 (petitioner); Ex. 3 (Letters from Frederick Mahony, Jean Lorizio, Esq., Ryan Melville). However, they wrote that they thought highly of her professionalism and legal acumen during this post-misconduct, pre-suspension, time frame. See Ex. 3, at BBO0102-103 and BBO0107. The petitioner testified that, while working at the ABCC, she discussed the details of her misconduct with all three of them throughout the disciplinary process but we have no external evidence of such communications. See Tr. 172-75 (petitioner). Based on our observations of the petitioner, we credit this testimony but note that it would have been more helpful for us to hear from these witnesses directly about their observations of the petitioner and what and when she told them about her misconduct. We do give these letters some weight, however, because they address the petitioner's competence and diligence as a lawyer at the ABCC.

With respect to her personal friends (Kendra Cohen, Esq., Rachel Donnelly, and Teresa Anderson, Esq.), they each spoke about her positive qualities as a person and as a friend as well

as their support for her reinstatement. Yet, none of them addressed her misconduct or how she has changed since the underlying events that led to her suspension. See Ex. 3, at BBO0104 (Kendra Cohen states that she is "not privy to each and every facet of the case that led to your review of [the petitioner's] reinstatement"), BBO0105 and 108. The petitioner claimed that she is "sure" she has shared all of the details of her misconduct with her personal friends but, again, we have no external evidence of such communications. See Tr. 175-178 (petitioner); Ex. 3. We gave limited weight to these letters.

4. Conclusions as to Moral Fitness

We credit the petitioner's evidence and testimony, as well as the testimony of her sole witness, that the petitioner has the moral qualifications to practice law. We particularly credit her testimony that her perspective on her misconduct evolved over time, from her initial anger focused on her supervisors and colleagues at the AGO, to her realizations about her role in the wrongdoing upon reading the various decisions during the disciplinary process. We found her quite candid when she explained that it took her time appreciate her own failures. We can understand that, during the disciplinary process, while mounting an aggressive defense, it can be easy to be swept away by the righteousness of your case; however, when the dust settled and she took a hard look, she came to grips with the reality of what had happened and the impact it had on the criminal defendants and the criminal justice system. She has now acknowledged her role in the collective misconduct and what she could and should have done differently. We credit that she has reflected on her misconduct and accepted responsibility for it.

Given the above, we conclude that the petitioner has demonstrated that she has the moral character required for readmission to the bar.

B. Competency and Learning in Law

Under S.J.C. Rule 4:01, § 18, a petitioner must demonstrate that she has the "competency and learning in law required for admission to practice law in this Commonwealth." The petitioner practiced law from 2008 until her suspension in 2023—almost fifteen years (the misconduct occurred in the fall of 2013). Our caselaw has recognized that "the length of the suspension is directly proportional to the amount and type of learning required for reinstatement." Matter of Veara, supra and cases cited; see e.g., Matter of Boudreau, 30 Mass. Att'y Disc. R. 30, 37 (2014); Matter of Perry, 30 Mass. Att'y Disc. R. 304, 313 (2014) (reinstatement allowed; hearing panel cites petitioner's fifteen years of pre-suspension practice and course of continuing legal education as satisfying learning in law requirement); Matter of Hrones 28 Mass. Att'y Disc. R. 463, 477 (2012) (reinstatement allowed after one-year-and-one-day suspension despite the fact that petitioner took only one legal education course while suspended; hearing panel cites thirty-five years of pre-suspension practice). Generally, with a shorter suspension following long years of practice, the petitioner can more easily satisfy the burden of proving competency and learning in the law.

Approximately two years have passed since the petitioner was suspended; a relatively short-term suspension. She provided evidence that she passed the Multistate Professional Responsibility Exam ("MPRE") in March 2024. Ex. 1, at BBO0004 and 0048. She testified that she reads the Slip Opinions published by the Reporter of Decisions every day and also reads Massachusetts Lawyers Weekly on a weekly basis though we heard no evidence of anything of note that she learned from this reading and review. See Tr. 113 (petitioner); Ex. 1, at BBO0004. Finally, she testified that she has taken three continuing legal education courses including courses in administrative law, alcohol licensing, and Practicing with Professionalism. Tr. 113,

165-166 (petitioner); Ex. 1, at BBO0004 (Reinstatement Questionnaire, Part I, lists two courses: MCLE Practicing with Professionalism and MCLE Municipal Law Conference) and BBO0050 (MCLE documentation showing attendance at Practicing with Professionalism Program on May 6, 2024). We credit her testimony that she attended three MCLE classes although she provided documentation of only one.

Given her fifteen years of practice pre-suspension, and the short length of her suspension, we are persuaded, even on this light evidence, that the petitioner is sufficiently competent and learned in the current law of the Commonwealth of Massachusetts to be reinstated.

C. Effect of Reinstatement on the Bar, the Administration of Justice and the Public Interest

"Consideration of the public welfare, not [a petitioner' s] private interest, dominates in considering the reinstatement of a disbarred applicant." Matter of Ellis, supra, 457 Mass. at 414, 26 Mass. Att'y Disc. R. at 164. The public's perception of the legal profession as a result of the reinstatement, and the effect on the bar, must be considered. "In this inquiry we are concerned not only with the actuality of the petitioner's morality and competence, but also [with] the reaction to his reinstatement by the bar and public." Matter of Gordon, supra, 385 Mass. at 52, 3 Mass. Att'y Disc. R. at 73. "The impact of a reinstatement on public confidence in the bar and in the administration of justice is a substantial concern." Matter of Waitz, 416 Mass. 298, 307, 9 Mass. Att'y Disc. R. 336, 345 (1993).

We acknowledge that the petitioner's underlying disciplinary matter was a significant and precedent-setting case in the Commonwealth. The conduct of the three lawyers, including the petitioner, resulted in thousands of criminal cases being dismissed and criminal convictions being vacated. The SJC decision, and the various underlying decisions, received wide publicity.

We recognize the gravity of the petitioner's actions and the consequences that resulted. However, we find it important that the petitioner was mainly found to have performed her role in an incompetent and reckless manner; at no stage in the process was she found to have acted intentionally. This factor was significant to us. In addition, while the petitioner's actions contributed to the massive harm, she did not "bear[] the greatest responsibility, as well as the greatest culpability." Matter of Foster et al., supra at 769. The SJC found that it was Kaczmarek, the lead prosecutor, who "'knowingly failed' to produce exculpatory evidence and made 'materially false and intentionally misleading' statements to the [district attorneys' offices] and to her colleagues that all relevant discovery had been turned over." Id.

We have balanced the likely effect of the petitioner's reinstatement on the bar and the public with the petitioner's proven rehabilitation. In doing so, we find a positive message in the possibility of redemption. See Matter of Prager, supra at 110 (O'Connor, J., dissenting) ("This case presents an appropriate opportunity for the court to deliver to the bar and the public the encouraging and humane message that the court will recognize and support a wrongdoer's rehabilitation when it has been fairly proved as it was here."). While we are mindful of bar counsel's opposition, given all of the above factors, we feel assured that the petitioner's misconduct will not recur and the petitioner is worthy of being held out to the public as trustworthy.

V. Conclusion and Recommendation

Based upon the petitioner's written submissions, her own testimony, and that of her witness, the Hearing Panel recommends that the petition for reinstatement of Kris C. Foster be allowed.

Respectfully submitted,
By the Hearing Panel,

Richard C. Van Nostrand
Richard C. Van Nostrand, Esq., Hearing Panel Chair

Frank Hill, III
Frank Hill, III, Hearing Panel Member

Dated: October 23, 2025

Phyllis E. Federico
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