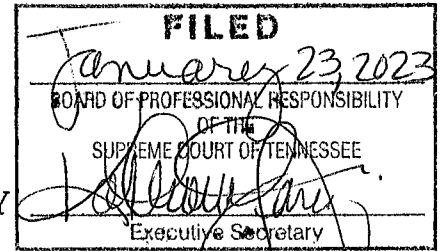


**IN DISCIPLINARY DISTRICT I  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE**



**IN RE: DOUGLAS RALPH BEIER  
Respondent, BPR #005777  
An Attorney Licensed to  
Practice Law in Tennessee  
(Hamblen County)**

**DOCKET NO. 2022-3280-1-AW-30.4(d)**

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**HEARING PANEL FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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**INTRODUCTION**

This matter came on for hearing before a duly appointed Hearing Panel upon a Petition for Reinstatement filed on September 20, 2022, by the Petitioner, Douglas Ralph Beier, and upon a Response of the Board of Professional Responsibility to Petition for Reinstatement filed by the Board of Professional Responsibility (“Board”) on October 27, 2022.

The hearing on this matter commenced on December 12, 2022, before the Panel consisting of William B. Marsh, Panel Chair, Jeremy D. Ball, Panel Member and William B. Harper, Panel Member. Present throughout the hearing were the panel members identified above, petitioner Douglas Ralph Beier, petitioner’s counsel Cameron Beier, and Disciplinary Counsel A. Russell Willis. Upon testimony of Petitioner, the testimony of his witnesses, the evidence presented, and upon the entire record in this cause, the following findings of fact and conclusions of law are submitted by the Board.

**STANDARDS FOR REINSTATEMENT**

Tenn. Sup. Ct. R. 9, § 30.4(d)(1) provides, in part,

The hearing committee shall schedule a hearing at which the petitioning attorney shall have the burden of demonstrating by clear and convincing evidence that the petitioning attorney has the moral qualifications, competency, and learning in law required for admission to practice law in this state, that the resumption of the practice of law within the state will not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive to the public interest.

The clear and convincing standard is higher than a preponderance of the evidence and lower than beyond a reasonable doubt. Clear and convincing evidence eliminates any serious or substantial doubt concerning the correctness of the conclusions to be drawn from the evidence. It should produce in the fact-finder's mind a firm belief or conviction with regard to the truth of the allegations sought to be established. *Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631, at 642 (Tenn. 2008), citing *O'Daniel v. Messier*, 905 S.W.2d 182 (Tenn. Ct. App. 1995).

Tenn. Sup. Ct. R. 9, § 1 states in part, "The license to practice law in this State is a continuing proclamation by the Court that the holder is fit to be entrusted with professional and judicial matters, and to aid in the administration of justice as an attorney and as an officer of the Court." The license to practice law in this state is not a right, but a privilege. See Tenn. Sup. Ct. R. 9, § 1.

The moral qualifications required for admission to practice law in this State, as set forth in Article VI, Section 6.01(a) of Rule 7 of the Rules of the Supreme Court of Tennessee, state:

An applicant shall not be admitted if, in the judgment of the Board there is reasonable doubt as to that applicant's honesty, respect for the rights of others, and adherence to and obedience to the Constitution and laws of the State and Nation as to justify the conclusion that such applicant is not likely to adhere to the duties and standards of conduct imposed on attorneys in this State. Any conduct which would constitute grounds for discipline if engaged in by an attorney in this State shall be considered by the Board in making its evaluation of the character of an applicant.

### Moral Qualifications

Mr. Beier bears the burden of presenting clear and convincing evidence demonstrating he possesses the moral qualifications to be reinstated to the practice of law. The Tennessee Supreme Court has established guiding factors to determine whether a petitioner possesses the necessary moral qualifications to resume the practice of law in the state. *Milligan v. Board of Prof. Responsibility*, 301 S.W.3d 619, 631 (Tenn. 2009) (Courts look at various indicators of moral change, including honesty, remorse, and activity during suspension). Remorse and awareness of prior wrongdoing, among other factors, are regularly cited as marks of good moral character, and various jurisdictions have recognized these as appropriate factors to consider in gauging moral character. *Milligan v. Bd. of Prof'l Responsibility of the Supreme Court of Tenn.*, 301 S.W.3d 619, 631 (Tenn. 2009). Honesty is considered the centerpiece of good moral character, *Id.* at 633, and repayment of restitution and legal fees are also indicative of good moral character. *Hughes v. Board of Prof. Responsibility*, 259 S.W.3d 631, 644 (Tenn. 2008). The moral character requirement requires a showing that the lawyer has undergone a 'moral change' so that the weaknesses that produced the prior conduct have been corrected. *Milligan v. Board of Prof. Responsibility*, 301 S.W.3d 619, 631 (Tenn. 2009) (admitting to the cause of one's failure and correcting that weakness is required).

In determining whether an attorney has adequately demonstrated good moral character, it is appropriate to consider the nature of the activity the attorney engaged in during the period of suspension. *Milligan v. Bd. of Prof'l Responsibility of the Supreme Court of Tenn.*, 301 S.W.3d at 632. Conclusory statements from witnesses that the attorney has been rehabilitated and is remorseful are insufficient to meet the burden of proving the attorney possesses the moral character to resume the practice of law. *Murphy v. Bd. of Prof'l Responsibility*, 924 S.W.2d 643,

647 (Tenn. 1996) (conclusory statements of witnesses that the petitioning attorney had paid the price, was remorseful, and had rehabilitated himself were not sufficient proof of the attorney's moral character). It is incumbent upon the attorney seeking reinstatement to the practice of law to present specific facts and circumstances arising since the attorney's conviction that demonstrate rehabilitation or remorse. *Murphy v. Bd. of Prof'l Responsibility*, 924 S.W.2d at 647.

#### Competency and Learning in the Law

Mr. Beier bears the burden of presenting clear and convincing evidence demonstrating he possesses the current competency and learning in the law required for admission to practice law in Tennessee. It is insufficient to simply offer conclusory testimony that the attorney has done a very good job of staying current in the law or that the attorney was a competent attorney before the disciplinary sanction was imposed. *Culp v. Bd. of Prof'l Responsibility for the Supreme Court of Tenn.*, 407 S.W.3d 201, 210 (Tenn. 2013). Further, clear and convincing evidence of learning in the law and competency requires more than simply completing the requisite hours of CLE required. *Culp v. Bd. of Prof'l Responsibility for the Supreme Court of Tenn.*, 407 S.W.3d 201, 210 (Tenn. 2013).

#### Integrity and Standing of the Bar / Public Interest

Mr. Beier bears the burden of presenting clear and convincing evidence demonstrating his reinstatement and resumption of the practice of law in Tennessee would not be detrimental to the integrity and standing of the bar or the administration of justice or subversive to the public interest. See Tenn. Sup. Ct. R. 9, § 30.4(d)(1). Unlike the many factors set out regarding moral qualification, this assessment is more subjective in nature and, on occasion, may be less dependent upon the proof in the record than the sense of professional responsibility and respect the Court, as the final regulatory authority, holds for the society the legal system serves. *Hughes*

*v. Board of Prof. Responsibility*, 259 S.W.3d 631, 646 (Tenn. 2008).

Accordingly, the Hearing Panel must determine what impact Mr. Beier's reinstatement will have on the integrity and standing of the bar and the public's trust in our system of jurisprudence. The license to practice law is a privilege, not a right. *Murphy v. Bd. of Prof'l Responsibility*, 924 S.W.2d 643, 647 (Tenn. 1996). The practice of law is a distinct privilege—the more serious the abuse of that privilege, the more onerous the burden of atonement. *Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631, 651 (Tenn. 2008).

### **FINDINGS OF FACT**

In addition to himself, Petitioner presented the testimony of seven (7) witnesses in support of his request for reinstatement. Testifying on behalf of Petitioner were Lisa R. Charles, court reporter; Dr. James Walker, Pastor and brother-in-law; Michael Hill, CEO of OnTrac, Inc.; Eric Foust, attorney; Byron Foust, business; Dr. Larry Mangum, Veterinarian; and Heather Beier, wife. In addition to live testimony, petitioner introduced a number of documents as evidence in support of his request for reinstatement. The Board presented no witnesses but offered evidence during cross-examination of the Petitioner and his witnesses.

Mr. Beier testified he received his license to practice law in 1977 and practiced in a number of Tennessee counties surrounding Morriston, Tennessee. Mr. Beier testified extensively regarding his lengthy and distinguished professional career, his professional skill and reputation, and his local community ties and philanthropic service. Mr. Brier also testified extensively regarding the consequences of his professional misconduct. Mr. Beier acknowledged to the Panel that he engaged in professional misconduct that warranted his suspension from the practice of law. Specifically, Mr. Beier acknowledged that he charged his client an unreasonable fee, he improperly signed his client's name to an affidavit, and he failed to inform the court of such.

Mr. Beier further testified that he had never engaged in such conduct prior to this time, and his decision to do so was a grave mistake of judgment by him. Mr. Beier informed the Panel that following his suspension, he apologized to one of his clients for his misconduct and tried, unsuccessfully, to apologize to his other client. Mr. Beier testified he had been humbled by his suspension, was embarrassed by his lack of judgment and had learned a lesson for which he would never forget. Mr. Beier assured the Panel that, if reinstated to the practice of law, he would adhere to the Rules of Professional Conduct without fail. Mr. Beier informed the Panel that he intended to practice with his daughter and would be able to consult with her and other colleagues if he had any ethical questions or concerns during his practice.

Mr. Beier further testified regarding his legal knowledge and expertise and his efforts to maintain his legal proficiency during his suspension. Mr. Beier continued to read court decisions as they were published and has met or exceeded the yearly continuing legal education credits set by the CLE Commission. In addition, Mr. Beier has kept up to date with any of the statutory changes implemented during the past two years in the area of practice he intends to engage in if reinstated.

In support of his reinstatement, Mr. Beier presented the testimony of friends, family and clients. Each of the witnesses called uniformly testified to his outstanding character, his honesty and trustworthiness, his legal skills and acumen, and his activism in and service to the community. However, with the exception of Dr. James Walker, who attended the underlying disciplinary hearing; Mike Hill, who employed Mr. Beier for a portion of the suspension, and Heather Beier, his wife, the witnesses had limited or no contact with Mr. Beier during his two (2) year suspension, were generally not familiar with the details surrounding Mr. Beier's suspension and avoided any substantive discussions with Mr. Beier regarding his misconduct.

Regarding the three witnesses who had substantive contact with Mr. Beier during his suspension, each uniformly testified Mr. Beier had been changed by his suspension, had expressed remorse and was truly remorseful for his lapse in judgment, and had been humbled and humiliated by his suspension. Each witness testified that Mr. Beier possessed the moral qualifications required for admission to practice law in this state, and his resumption of the practice of law in Tennessee would not be detrimental to the integrity and standing of the bar or the administration of justice or subversive to the public interest provided testimony.

### CONCLUSIONS OF LAW

A license to practice law is a privilege, not a right. Hughes v. Bd. Of Prof'l Responsibility, 259 S.W. 3d 631, 641 (Tenn. 2008). "A person suspended from the practice of law is not entitled to have that privilege restored simply because that person has served the sentence imposed for a violation of the criminal laws." Id., *citations omitted*. In order to be granted reinstatement to the practice of law in this state, the Petitioner has the burden of demonstrating by clear and convincing evidence that,

the petitioning attorney has the moral qualifications, competency and learning in law required for admission to practice law in this state, that the resumption of the practice of law within the state will not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive to the public interest, and that the petitioning attorney has satisfied all conditions set forth in the order imposing discipline, including the payment of costs incurred by the Board in the prosecution of the preceding disciplinary proceeding and any court costs assessed against the attorney in any appeal from such proceeding.

Tenn. Sup. Ct. R. 9, § 30.4(d)(1). The clear and convincing standard is higher than a preponderance of the evidence and lower than beyond a reasonable doubt. Clear and convincing evidence eliminates any serious or substantial doubt concerning the correctness of the conclusions to be drawn from the evidence. It should produce in the fact-finder's mind a firm

belief or conviction with regard to the truth of the allegations sought to be established. Hughes, 259 S.W. 3d at 642.

Each ground for reinstatement is separate and must be supported by adequate proof. An applicant for reinstatement may have significant proof on one prong, but little or no proof on another which means he does not carry his burden. Hughes, 259 S.W. 3d at 651 (Tenn. 2008); Milligan v. Bd. of Prof'l Responsibility, 301 S.W.3d 619, 630 (Tenn. 2009)

### **Moral Qualifications**

With respect to the requirement that a petitioner for reinstatement demonstrate that he has the "moral qualifications" required to practice law in Tennessee, the Tennessee Supreme Court has noted that, "the evidence necessary to demonstrate that one is morally qualified to practice law in this state requires more than conclusory statements; it should also include 'specific facts and circumstances which have arisen since [one's conviction] that demonstrate either rehabilitation or remorse.'" Hughes, 259 S.W. 3d at 643 citing Murphy v. Bd. of Prof'l Responsibility, 924 S.W. 2d 643, 647 (Tenn. 1996).

Although some witnesses offered by Petitioner possessed little knowledge of the specific circumstances of his misconduct and/or had little contact with him during his suspension, Petitioner did provide the Panel with significant and relevant testimony from a number of witnesses who were familiar with the facts surrounding his misconduct and interacted with Mr. Beier during his suspension. In addition, the Panel observed the Petitioner and the witnesses as each testified and found Petitioner and each witness to be credible. Considering the evidence presented as a whole, the Panel finds by clear and convincing evidence that the testimony presented demonstrated Mr. Beier's remorse for his past misconduct and that Mr. Beier possesses the moral qualifications to be admitted to the practice of law in Tennessee.



### **Competency and Learning in the Law**

In order to gain reinstatement, Petitioner must prove by clear and convincing evidence that he possesses the legal competency to be admitted to the practice of law. R. 9 § 30 *supra*. Since the entry of the Order of Enforcement suspending his license, Petitioner testified and presented evidence that he has attended and completed sufficient continuing legal education classes to meet the general and ethical requirements set by the Continuing Legal Education Commission, and he had reviewed and studied published opinions by various courts. In addition, the testimony of the witnesses support Petitioner's testimony that he is learned in the law. The Panel finds, by clear and convincing evidence, that Mr. Beier has the legal competency and learning in the law to be admitted to the practice of law in this state.

### **Impact of Reinstatement on the Integrity and Standing of the Bar, Administration of Justice, and the Public Interest**

Determining that reinstatement will not be detrimental to the integrity and standing of the bar, administration of justice, and the public interest, requires consideration not only of the nature of the conduct that led to Petitioner's suspension but the impact, if any, that his reinstatement, in the context of his wrongs, will have on the integrity of and public trust in our system of jurisprudence. Hughes, 259 S.W.3d at 646.

Petitioner and his witnesses expressed their firm opinion that Mr. Beier was an experienced and well-respected member of the bar prior to his suspension. Petitioner and his witnesses expressed their firm opinion that Mr. Beier, having acknowledged his misconduct and expressed remorse, was a changed person and unlikely to engage in professional misconduct if he were reinstated to the active practice of law. Considering the testimony as a whole and Petitioner's demeanor before the Hearing Panel, Petitioner's reinstatement to the practice of law

is unlikely to be detrimental to the integrity and standing of the bar, administration of justice and the public interest. Accordingly, the Hearing Panel finds by clear and convincing evidence that Petitioner's resumption of the practice of law within the state would not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive to the public interest.

### JUDGMENT

Based on these findings of fact and conclusions of law, the Hearing Panel finds by clear and convincing evidence that Petitioner has met all of the requirements of Rule 9 of the Supreme Court for reinstatement to the practice of law in the State of Tennessee. Accordingly, the Panel recommends Mr. Beier be reinstated to the active practice of law, with the following conditions. Mr. Beier shall retain a practice monitor for a period of six (6) months and Mr. Beier shall complete yearly a minimum of fifteen (15) hours of Continuing Legal Education, including at least three (3) hours of legal ethics, as long as he remains licensed.

In accordance with Tenn. Sup. Ct. R. 9, § 31.3, the Board shall prepare and file an application for costs within fifteen (15) days of the entry of this judgment.

SO ORDERED, this 20<sup>th</sup> day of January 2023.

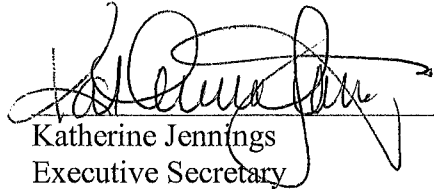
William B. Marsh  
William B. Marsh, Panel Chair

Jeremy D. Ball with permission  
Jeremy D. Ball

William B. Harper  
William B. Harper with permission

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been sent to Douglas Ralph Beier, c/o Cameron Beier, Counsel, 818 West 1<sup>st</sup> North Street, Morristown, TN 37814, by U.S. First Class Mail, and hand-delivered to Russell Willis, Disciplinary Counsel, on this the 23<sup>rd</sup> day of January 2023.



Katherine Jennings  
Executive Secretary

**NOTICE**

**This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.**