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December 12, 2023

Via Electronic Mail Only to: Merrick.Grutchfield@vermont.gov
Merrick Grutchfield, Program Administrator
Professional Responsibility Program
c/o Court Administrator's Office
109 State Street
Montpelier, VT 05609-0703

Re: In re William Cobb, Esq.
PRB File No. 2020-099 and 103
Petitioner's Proposed Findings

Dear Merrick Grutchfield:

Being submitted to you herewith via electronic is the Petitioner's Proposed Findings relative to his Petition for Reinstatement. This is a public filing with no redactions.

Very truly yours,
/s/Brice C. Simon, Esq.
Brice C. Simon, Esq.

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In re William Cobb, Esq.)
PRB No. 2020-99 and 2020-103)

PETITIONER'S PROPOSED FINDINGS

NOW COMES William W. Cobb, by and through counsel Brice C. Simon, Esq. of Breton & Simon, PLC, and based upon the evidence adduced at the November 27, 2023 Reinstatement Hearing hereby requests the Hearing Panel to incorporate the following into its Findings of Fact, Conclusions and Order:

1. Petitioner William W. Cobb has been suspended from the practice of law in the State of Vermont since July 10, 2022.
2. During his suspension, Mr. Cobb has followed all requirements of the Hearing Panel's Order suspending Mr. Cobb from the practice of law in the State of Vermont.
3. Mr. Cobb presented clear and convincing evidence of rehabilitation. Specifically, Mr. Cobb has completed over 50 hours of continuing legal education, has reviewed the rules of professional conduct and summarized them for his own understanding, and worked under the supervision of his brother Stephen S. Cobb, Esq. while working as an attorney in Newburgh, New York. Mr. Cobb's practice in New York was limited to criminal and traffic violations, and he received significantly less compensation for that work than he had been earning as an attorney in Vermont, and the travel to New York was a substantial hardship on Mr. Cobb and his family. While working in New York, Mr. Cobb has remained a New York licensed attorney and there is no evidence that he has violated New York's professional conduct rules. Mr. Cobb has submitted verification that he provided notice of his suspension to all courts before which he

was licensed, and he has not been charged with any additional violations of the Rules of Professional Conduct during his period of suspension.

4. Mr. Cobb's testimony, and that of the witnesses who testified in favor of reinstatement, proved by clear and convincing evidence that Mr. Cobb is sincerely remorseful for his conduct that resulted in his suspension. Mr. Cobb wrote letters of apology to the parties who were negatively impacted by his misconduct, including to former Disciplinary Counsel, Sarah Katz. Mr. Cobb agreed to pay MK restitution in the amount of $5,000.00, and has paid $2,250.00 toward that restitution as of the date of the hearing. Mr. Cobb credibly expressed remorse to the Board, and credibly testified that he regrets his actions, takes full responsibility for the wrongfulness of his conduct, is ashamed of his dishonesty, and is committed to correcting his conduct. Mr. Cobb credibly testified that he is learning from his mistakes, is taking specific actions to reform his practices, and that the Decision and suspension have been valuable although difficult learning experiences.
5. During his suspension, Mr. Cobb served as a Guardian Ad Litem in over 10 Family Court cases, and performed additional community service.
6. At the hearing, Petitioner presented four witnesses: Bryce Breton, Esq., wife of Brice Simon; Laurie Levin, Esq., attorney and mediator, who has an office in Norwich, Vermont; Joseph Russo, longtime client of Petitioner who resides in Auburgh, Vermont; and Stephen S. Cobb, Esq., brother of Petitioner and Petitioner's current employer and supervisor, whose law office is in Newburgh, New York. The four witnesses consistently testified that Petitioner is remorseful for his past conduct; that he has been working hard to change his organizational systems; that Petitioner is

more self-critical and self-aware of his weaknesses and committed to addressing them; that Petitioner has taken the suspension seriously; and that Petitioner is a skilled attorney and is worthy of reinstatement.

7. Petitioner additionally credibly testified that based upon Disciplinary Counsel's suggestion during deposition approximately two months prior to the hearing, Mr. Cobb sought counseling. After a failed attempt to form a relationship with a counselor, Mr. Cobb was successful establishing a mental health care relationship and was diagnosed with ADD/ADHD. In addition to the two months of counseling completed, Mr. Cobb intends to continue counseling, and at the time of the hearing Mr. Cobb was scheduled to meet with his primary care physician on Monday December 4, 2023 to determine if he would be prescribed any medication for his condition. Petitioner testified credibly that he intends to follow any treatment recommended by his counselor and/or primary care physician.
8. Petitioner credibly testified that his recent diagnosis has given him greater insight into his past issues with executive organization, prioritization, and completion of tasks and goals. Petitioner expressed optimism that his awareness of his diagnoses, and his treatment, will enable him to work in a more organized manner and ultimately perform better as an attorney and in other areas of his life.
9. At the hearing, the State presented an email between Petitioner, State's Attorneys and a defense attorney who are litigating a Post-Conviction Relief petition filed by one of Petitioner's former clients. The Post-Conviction Relief case is a civil action collaterally attacking the results of a trial in which Petitioner's former client was convicted of serious crimes and sentenced to a period of incarceration. The criminal

defendant in the Post-Conviction Relief case has alleged that Petitioner provided ineffective assistance of counsel in 2019, and is seeking a new trial. The email presented by the State was written by Petitioner in his capacity as a witness to be deposed in that matter. Petitioner advised in the email that he is still suspended from the practice of law in the State of Vermont, and acknowledged that there were weaknesses in Petitioner's strategy for handling the underlying criminal matter. Specifically, Petitioner acknowledged that he anticipated settling the matter and was not in a strong position to go to trial. The email from Petitioner included his own assessment of how the case could potentially be resolved by agreement between the Parties if the State and the Defendant were both willing to compromise. Petitioner testified that he is a "problem solver" and that his motivation in expressing an opinion as to potential settlement was that it appeared to him one of the attorneys involved in the case was inexperienced and that by offering some perspective on how Post-Conviction Relief can be settled Petitioner hoped to aid the parties in reaching a negotiated resolution. Petitioner's email does not constitute the practice of law or violate the Vermont Rules of Professional Conduct as to conflicts of interest as Petitioner was no longer representing a client in the matter and his comments about settlement were general suggestions offered in good faith.

10. Upon questioning by the Panel, Petitioner indicated that if the email he sent regarding the Post-Conviction Relief matter was inappropriate then he was sorry and would take any direction the Panel gave in that regard.

11. The Panel is requested to find that the hearing testimony established by clear and convincing evidence that Mr. Cobb has the moral qualifications, competency and

learning required for admission to practice law in the State of Vermont, that that the resumption of the practice of law by Mr. Cobb will neither be detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest, and that Mr. Cobb has been rehabilitated. Rule 26(D).

12. However, the Board has the authority to impose conditions upon Petitioner's reinstatement to ensure that he continues with his rehabilitation, and that adequate safeguards are in place to provide the Vermont bar and the public with confidence that Petitioner imposes no risk to the public.

13. Accordingly, Petitioner invites the Board to include in its order reinstating Petitioner to the practice of law in the State of Vermont the following conditions:

    a. Petitioner shall complete 10 additional hours of continuing legal education, with at least 4 of those hours in the area of legal ethics and the Rules of Professional Conduct;

    b. Petitioner shall continue to work with his counselor, or another counselor, and follow all treatment recommendations until treatment has been successfully completed;

    c. Petitioner shall work with a mentor during at least 12 months after being reinstated;

    d. Petitioner's reinstatement shall be probationary for the first 6 months after he is reinstated, and Petitioner's mentor shall be required to report to the Panel any instances of violations of the Rules of Professional Conduct by Petitioner during this term of suspension;

e. Petitioner shall pay restitution to M.K. in the total amount of $5,000 within six (6) months after reinstatement;

f. Within six (6) months after his reinstatement, Petitioner shall offer a continuing legal education presentation to Vermont attorneys, for which he shall receive authorization from the Mandatory Continuing Legal Education Board of the Vermont Supreme Court to award attendees at least two (2) ethics credits and one (1) wellness credit.

WHEREFORE, Petitioner respectfully moves the Hearing Board for an Order of Reinstatement consistent with the foregoing.

DATED at Stowe, Vermont on December 11, 2023.

BRETON & SIMON, PLC

By: *__/s/Brice C. Simon, Esq.*_____

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Counsel for Petitioner

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CERTIFICATE OF SERVICE

NOW COMES Brice C. Simon, Esq., counsel for Respondent William W. Cobb, Esq., and hereby certifies service of the Petitioner's Proposed Findings upon disciplinary counsel Jon Alexander, Esq., via electronic mail sent to the following address: Jon.Alexander@vermont.gov

Dated at Stowe, Vermont on December 12, 2023.

BRETON & SIMON, PLC:

By: _____*/s/Brice C. Simon, Esq.*_____
Brice C. Simon, Esq.
Counsel for Respondent
ERN: 4545
Breton & Simon, PLC
PO Box 240
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