PUBLIC MATTER

FILED
MAR 17 2004
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

THE STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of **ARTHUR T. HINDIN,** Petitioner for Reinstatement.	**Case No. 03-R-01096-JMR** **DECISION**

I. INTRODUCTION

In this proceeding for reinstatement to the practice of law, **ARTHUR T. HINDIN** (Hindin) is represented by Arthur L. Margolis, and the Office of the Chief Trial Counsel of the State Bar (State Bar) is represented by Deputy Trial Counsel Michael J. Glass.

Hindin has demonstrated, by clear and convincing evidence, that he is rehabilitated from the conduct that led to his disbarment in 1998, that he possesses the present moral qualifications for reinstatement to the practice of law and that he has present learning and ability in the general law. Therefore, this court recommends that Hindin be reinstated to the practice of law in the State of California.

II. FINDINGS OF FACT

The following findings of fact are based on the decision of the Review Department of the State Bar Court in *In the Matter of Hindin* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657, the Hearing Department's October 3, 1997 decision in State Bar Court Case No. 97-TE-15323, the Stipulation as to Facts and Disposition and the order dismissing the proceedings in State Bar

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Court case no. 91-O-05764, et al.,[1] the parties' Stipulation as to Facts and Admission of Documents in this proceeding filed on December 16, 2003, and all other testimony and documentary evidence admitted.

A. State Bar Membership

Hindin was admitted to the practice of law in California on December 21, 1967, and was a member of the State Bar until his disbarment by the California Supreme Court effective February 13, 1998. (Supreme Court case no. S063114, State Bar Court case no. 88-O-12721.)

B. Hindin's Misconduct Leading to Disbarment

1. Habitual Disregard for the Interests of Clients (1983-1993)

Hindin's extensive misconduct is set forth in detail in the Review Department's published decision in *In the Matter of Hindin, supra,* 3 Cal. State Bar Ct. Rptr. 657. For the purpose of brevity, the Review Department's decision is hereby incorporated by reference, as if set forth fully herein, and summarized below.

The nature and extent of Hindin's prior practice was summarized by the Review Department as follows:[2]

> "Respondent was admitted to practice in California in December 1967 and ... maintained his own professional corporation since 1980. Respondent's practice include[d] major personal injury cases, business litigation, and bad faith insurance litigation. He maintained a professional office as well as an office in his home where he would work on cases. During the period in question, respondent handled all trials personally and his case load varied from between 50-100 active cases at any one time. Respondent was the only principal of this law practice. There were no others who were partners or co- principals.
>
> Respondent was in trial from three to nine months in a given year. Pretrial

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[1]The parties stipulated that they are bound by these two decisions and the order under the doctrine of collateral estoppel.

[2]Hindin is referred to as respondent throughout the decision.

matters were often handled by one to three associates employed by respondent, as well as by several non-attorney employees responsible for office matters. Respondent considered himself personally responsible for returning most client telephone calls, advising clients of significant developments in their cases, and reviewing all files before they were returned to clients for any reason. All associates were instructed to take direction and seek help from respondent, usually on an 'as needed' basis. Respondent held weekly Saturday office meetings to assign all calendared matters, but had no regular practice of reviewing all client files or requesting periodic status reports from his associates. Although there was usually another experienced attorney in the office, besides respondent, there were periods of time significant to the events covered in this proceeding, where respondent was the only attorney practicing in the law office." *(In the Matter of Hindin, supra,* 3 Cal. State Bar Ct. Rptr. at p. 661.)

As a result of Hindin's heavy caseload, the demands of his trial schedule, administrative problems in his office and his failure to adequately supervise staff and communicate with clients, Hindin was found culpable of misconduct in 18 client matters spanning a ten-year period. In the 18 client matters there were 12 instances of failure to perform legal services competently, 5 cases of failure to return the client file promptly, 14 client matters in which Hindin failed to communicate with his clients, a failure to report sanctions in one case, a failure to obey a court order in another case, the abandonment of two clients, and his failure to cooperate with the State Bar's investigation in 14 cases. (*In the Matter of Hindin, supra,* 3 Cal. State Bar Ct. Rptr. at p. 685.)

Although Hindin was not found culpable of any dishonesty or false statement, in aggravation the Review Department concluded that Hindin committed acts of moral turpitude based on the facts of the 18 client matters in which Hindin habitually disregarded his client's interests and failed to communicate with them. (*In the Matter of Hindin, supra,* 3 Cal. State Bar Ct. Rptr. at p. 686.) In addressing this serious aggravating factor that led to the disbarment

recommendation, the Review Department stated:

> "The most troublesome aspect of this case is that respondent appeared oblivious for at least 10 years to the central causes of his problems: his immersion into a very demanding trial practice while maintaining a significant client base in which frequent deadlines occurred; his serving as sole principal of his law practice; and his failure to institute any regularized supervisory procedures adequate to deal with his caseload. These problems were manifest throughout the 10-year total span in which the misconduct in this record occurred. Respondent allowed himself to be overwhelmed by his own failure to understand that, for a long time, he had become the sole trial attorney at the same time that he was the sole principal responsible for managing all aspects of all cases in his office. Clients' cases were seriously delayed or lost because of respondent's sheer inability to discharge the duties he had undertaken. As sympathetic as we can be to respondent's plight, we can neither condone it nor allow it to continue, given the number of matters, the total breadth of violations, and the length of time involved." (*Ibid.*)

As additional aggravating circumstances, Hindin's misconduct caused client harm based on the dismissal of eight client cases as a result of Hindin's reckless or incompetent legal services. (*In the Matter of Hindin, supra,* 3 Cal. State Bar Ct. Rptr. at p. 686.) Furthermore, Hindin's failure to return client files in two matters, even up to the trial dates in the cases, demonstrated an indifference toward rectification of his misconduct. (*Ibid.*)

Hindin was given significant mitigating credit for his many years of practice without a prior record of discipline. (*In the Matter of Hindin, supra,* 3 Cal. State Bar Ct. Rptr. at p. 686.) However, Hindin was not given mitigating credit for dramatically reducing the size of his practice or for paying malpractice judgments as either "objective steps promptly taken spontaneously demonstrating remorse," or "spontaneous candor and cooperation." Hindin's pro bono work was considered so remote in time as to be worth only minimal weight. In sum, the

evidence in aggravation far outweighed the evidence in mitigation. (*Ibid.*)

In discussing the degree of discipline, the Review Department acknowledged that no other case it reviewed was "exactly like this one with no prior record of discipline over a lengthy practice but with such a panoply of protracted failure to communicate with clients, incompetent practice, and failure to supervise subordinate staff affecting so many different clients over so long a period of time, yet not involving dishonesty or the mishandling of client funds." (*In the Matter of Hindin, supra,* 3 Cal. State Bar Ct. Rptr. at p. 687.) Despite Hindin's many successes over the years for his clients, the Review Department stated it could not ignore that over a lengthy period of time "many clients' cases were clearly delayed, endangered, lost or at great risk of loss, or prejudiced while in respondent's charge." (*Ibid.*) Thus, in order to protect the public, the courts and the legal profession, the court concluded that "it is appropriate to require him to undergo the evaluation process of a reinstatement proceedings before we allow him to practice law again." (*Ibid.*, citing *Billings v. State Bar* (1990) 50 Cal.3d 358, 365-366.) The disbarment recommendation was accepted by the Supreme Court effective February 13, 1998. (Supreme Court case no. S063114, State Bar Court case no. 88-O-12721).

2. Additional Misconduct (1986-1992)

After the time the above-described case was tried before the Hearing Department, but while the case was pending before the Review Department, Hindin and the State Bar entered into a Stipulation as to Facts and Disposition in State Bar Court case no. 91-O-05764, et al., which was filed on August 9, 1996. The stipulation pertained to additional misconduct that occurred between approximately 1986-1992 and involved seven more client matters. Hindin's misconduct was similar in nature to that set forth above, including his failure to respond to his clients' reasonable status inquires and communications, his failure to perform with competence based on not bringing a matter to trial within five years, and his failure to cooperate and participate in a State Bar disciplinary investigation.

In aggravation, the parties stipulated that Hindin's misconduct evidenced multiple acts of wrongdoing. However, they also stipulated that the misconduct in State Bar Court case no. 88-

O-12721, which was still pending on review, should not be considered a prior record of discipline since the misconduct in the instant proceeding was both substantially similar to, and occurred at or near the same time period as the prior. As for the degree of discipline, the parties stipulated to one year suspension, stayed, with three years of probation, including 75 days actual suspension. The parties also stipulated that the discipline should run concurrent with any discipline to be ordered in State Bar Court case no. 88-O-12721.

On February 19, 1998, after initially approving the stipulation, the Hearing Department dismissed the proceeding without prejudice based on the Supreme Court's order disbarring Hindin.

C. Evidence of Rehabilitation

1. Hindin begins the process of rehabilitation (1994-1997)

On August 19, 1997, the State Bar filed an application seeking Hindin's involuntary inactive enrollment pursuant to Business and Professions Code section 6007(b)(4) based on the Review Department's disbarment recommendation.[3] Following a three day trial, the hearing judge denied the application, finding that Hindin did not pose a substantial threat of harm to the interests of his clients or the public. (Decision and Order Denying Involuntary Inactive Enrollment Pursuant to Business and Professions Code Section 6007(c), State Bar Court case no. 97-TE-15323, filed October 3, 1997 (hereinafter "October 3, 1997 Decision").) In particular, the hearing judge found that there was no reasonable likelihood that the harm caused by Hindin in the past would reoccur or continue, and that Hindin's clients and/or the public were not likely to suffer greater injury if the involuntary inactive enrollment was denied than Hindin was likely to suffer if it was granted. (October 3, 1997 Decision, at p. 12.)

In making his determination, the hearing judge considered the period of time from the conclusion of the Hearing Department proceedings underlying the disbarment recommendation

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[3]The Review Department did not include an order of inactive enrollment because the hearing judge had not recommended disbarment and the statutory change regarding such inactive enrollment orders postdated the briefing and oral argument in the case. (*In the Matter of Hindin, supra,* 3 Cal. State Bar Ct. Rptr. at p. 687, fn. 10.)

in 1994 until the conclusion of the involuntary inactive enrollment hearing on September 24, 1997. Of particular significance was the hearing judge's determination that based on his review of the relevant time period, "the problems found by the Review Department in its May 28, 1997, opinion *no longer exist*." (October 3, 1997 Decision, at p. 13, emphasis added.)

In 1994, among other things, Hindin hired his daughter Susan Hindin Marcil (Marcil), who has a master's degree in business administration, as his office manager. She handled a variety of duties, including receiving and tracking phone calls for Hindin. Hindin returned the calls from clients and other attorneys or gave Marcil instructions with respect to these telephone calls. At the time of the hearing in 1997, there had been no additional complaints from clients that Hindin was not returning calls. The hearing judge found that "Respondent has learned his lesson regarding his need to communicate with clients. Respondent has learned he cannot ignore client telephone calls or delegate his responsibility." (October 3, 1997 Decision, at p. 5.)

Hindin also began reducing his workload as early as 1991. By 1994-1995, Hindin was involved in less than six cases. In 1995-1996, Hindin accepted no new cases. Hindin had no active cases in 1996. In 1997, Hindin accepted only two cases. Realizing that Hindin likes to personally do everything on a case, the hearing judge found that "Respondent has a different philosophy today with respect to the number of cases he will accept and has learned to refuse to accept cases." (October 3, 1997 Decision, at p. 5.)

After reviewing the period from 1994-1997, the hearing judge concluded:

> "Respondent has substantially reduced his caseload from between 50-100 active files to only two active files and limited consulting work. He is therefore no longer overextended in terms of his active caseload. As a result, he can properly supervise his existing staff and any associate or co-counsel with whom he may work on a case. In addition, he now understands his duty to communicate with clients and the State Bar, and there is no evidence of problems continuing in this area." (October 3, 1997 Decision, at p. 13.)

However, at that point Hindin's efforts at reform were too late. Although he was able to

avert the involuntary inactive enrollment, the Supreme Court accepted the Review Department's recommendation and ordered him disbarred effective February 13, 1998.

2. Consulting and Working on State Farm Case (1997 to present)

Since his disbarment, Hindin has consulted on several cases, which have resulted in large, favorable settlements. In addition, Hindin has spent considerable time prosecuting a lawsuit against State Farm Mutual Automobile Insurance Company ("State Farm"), in which Hindin is acting in pro per. The case is a malicious prosecution lawsuit deriving from a lawsuit State Farm filed in 1996, wherein State Farm sought to set aside a $30 million settlement Hindin and others obtained for their clients in a bad faith action. The State Farm lawsuit sought to set aside the settlement on the grounds that it was procured by fraud. The allegations of fraud related to Hindin's clients and not Hindin or any of the other attorneys involved with the case. Based on Hindin's motion, the State Farm lawsuit was dismissed and Hindin's malicious prosecution lawsuit followed.

For the past five years, Hindin has been prosecuting the matter. He prepared the complaint, took in excess of 40 depositions and defended an equal number, conducted extensive written discovery, and has engaged in substantial law and motion practice. He has done extensive research and prepared drafts of appellate briefs, which resulted in a decision by the appellate court in his favor. The case is still pending.

3. Keeping Professional Corporation Active with Secretary of State

On May 23, 1977, Petitioner filed Articles of Incorporation with the Secretary of State for A. Tod Hindin, A Professional Corporation (hereinafter Hindin Corporation). The Articles of Incorporation provided that the "purpose of the corporation is to engage in the practice of law as a law corporation and any other lawful activities (other than the banking business and the trust company business) not prohibited to a corporation engaging in such profession by applicable laws and regulations." (Exhibit 4, at p. 2.)

On January 16, 1998, Hindin Corporation was suspended by the Franchise Tax Board of California.

Following his disbarment, Hindin conducted research to determine what, if anything, he needed to do regarding the status of Hindin Corporation. Hindin understood that he was not permitted to practice law and that the corporation was no longer a professional corporation for purposes of providing legal services. However, he believed the corporation needed to remain in existence because of outstanding accounts receivable and pending litigation against the corporation.

After reviewing various sections of the Business and Professions Code and the Corporations Code, Hindin thought the proper course of action was to revoke the registration of Hindin Corporation as a professional legal corporation with the State Bar of California to clarify that the corporation would not be practicing law, but to allow the corporation to continue to exist primarily for purposes of winding down the corporate business. Accordingly, on March 28, 1998, Hindin sent a letter to the Law Corporation Department of the State Bar of California, stating in pertinent part:

> "I am the sole shareholder, sole officer and sole director of A. TOD HINDIN, A Professional Corporation which is a registered Law Corporation. I have been disbarred and therefore request that the registration of A. TOD HINDIN, A Professional Corporation be revoked forthwith. [¶] The corporation has other business interests and will continue to do business in areas that do not require licensing or registration. [¶] Please confirm your receipt of this and the revocation of the registration." (Exhibit D.)

On April 6, 1998, the Office of Certification of the State Bar of California sent Hindin a response, enclosing the Certificate of Revocation for Hindin Corporation. The letter did not comment on or address Hindin's statement that Hindin Corporation would continue to do business in other areas that did not require a license or registration. Hindin did not hear anything else from the State Bar regarding the status of Hindin Corporation until this proceeding.

On December 17, 1998, Hindin Corporation filed a Statement by Domestic Stock Corporation with the California Secretary of State.

On January 28, 1999, a Certificate of Revivor for Hindin Corporation was filed with the Franchise Tax Board, and the corporation was relieved of suspension and was in good standing with the Franchise Tax Board.

On April 13, 1999, Hindin filed on behalf of Hindin Corporation a Statement by Domestic Stock Corporation with the California Secretary of State, which indicated that Hindin was Chief Executive Officer and a Director of the corporation and that the corporation's type of business was "consulting/legal services." (Exhibit 6, at p. 2.)

On April 13, 2001, Hindin filed on behalf of Hindin Corporation another Statement by Domestic Stock Corporation with the California Secretary of State, which indicated that Hindin was Chief Executive Officer and a Director of the corporation and that the corporation's type of business was "legal services." (Exhibit 6, at p. 3.)

As for Hindin's statements to the Secretary of State regarding the type of business, he thought he was being honest. He was doing consulting work at the time and the corporation previously performed "legal services," generating ongoing litigation and accounts receivable. Hindin believed it would be amiss to dissolve the corporation when it was named as a defendant in a lawsuit. Hindin considered adding a licensed attorney as a shareholder to Hindin Corporation for purposes of winding down the business, but thought it was impractical and unnecessary as long as the corporation stopped the practice of law.

Following his disbarment, Hindin did not practice law other than in pro per, and Hindin Corporation did not engage in the practice of law.

D. Character Witnesses

Hindin presented nine character witnesses, including seven attorneys, a former business associate and his wife. All are extremely supportive of Hindin. They attested to Hindin's good moral character, rehabilitation and present learning and ability in the general law. The State Bar did not rebut any of the evidence submitted.

The witnesses have known Hindin between 5 and 42 years, and all are aware of the nature and extent of Hindin's past misconduct and his disbarment. The witnesses highly praised

Hindin's legal knowledge and dedication to his work. Many of the witnesses talked about how Hindin is the insurance industry's "worst nightmare," and how his work has helped protect the public by exposing the insurance industry when it is engaged in bad faith and fraudulent activities. The court finds that all the witnesses were candid and credible.

1. Hillel Chodos

Hillel Chodos (Chodos) is an attorney admitted to practice in California since January 9, 1962. He graduated from UCLA Law School in 1961 and has been a sole practitioner since 1962. He specializes in complex civil litigation. He previously was a member on the Commission on Judicial Performance and has lectured on a number of topics for the State Bar's continuing legal education programs.

Chodos met Hindin approximately four to five years ago. Chodos represents two other attorneys (Shah and Greenberg), and Hindin at times, in the State Farm action. Chodos interacts with Hindin regularly about the case. Chodos also has seen Hindin socially about six times over the years. Chodos is fully aware of Hindin's underlying misconduct and disbarment.

Chodos thinks Hindin is a talented and effective advocate. As part of the State Farm action, Hindin has worked with Chodos on various pleadings and discovery. Chodos has observed Hindin's interaction with opposing counsel on at least 20 occasions and has never seen any problem with Hindin not promptly communicating with opposing counsel.

As for present moral character, based on the approximate 1000 lawyers he estimates he has seen during his practice, Chodos would give Hindin the highest grade in ethics. The State Farm action is high stakes litigation and Hindin has always kept his word. Chodos has never seen Hindin do anything unethical or even close. Chodos has not observed any behavior that would lead Hindin to the same problems as in the past.

Chodos believes that Hindin should be reinstated because: 1) from a public standpoint, Hindin is a skilled lawyer who is committed to helping others fight against injustice; and 2) from a personal standpoint, Hindin is a friend who has paid a heavy price for his mistakes and he deserves to be reinstated. Hindin has conducted himself in an exemplary way since Chodos has

known him.

2. Joginder Shah

Joginder Shah (Shah) is an attorney admitted to practice in California since December 21, 1977. His received his undergraduate degree in India and graduated from University of West Los Angeles, School of Law, in 1977. Ninety percent of Shah's practice is immigration law and a small percent is personal injury.

Shah met Hindin in 1989, as part of the underlying bad faith case that led to the State Farm malicious prosecution action. Shah represented the four individuals in the underlying personal injury case against State Farm. After the matter was resolved in arbitration, Shah contacted David Greenberg about filing a bad faith action against State Farm because the company had refused to pay anything, including medical expenses, for over 1 ½ years. Greenberg filed the bad faith action and then suggested they bring Hindin in to help. After months of trial, the case settled for $30 million. Shah thought Hindin was excellent in settlement. Shah continues to work with Hindin as the State Farm malicious prosecution action continues. As for Hindin's learning and ability in law, Shah believes that Hindin has maintained his skills. Hindin has an incredible memory for cases.

As to present moral character, Shah believes Hindin to be very honest, ethical and extremely hard working. Hindin has never even suggested anything close to unethical. If Hindin were reinstated, Shah would feel comfortable referring clients to him and would hire him as his own attorney.

3. Jerry Ramsey

Jerry Ramsey (Ramsey) is an attorney admitted to practice in California since June 7, 1965. Over the years, he has worked for various firms where he was a named partner, and since about 1993, he has been working at Engstrom Lipscomb & Lack. Ramsey has provided extensive testimony in court as an expert in the area of legal malpractice on behalf of lawyers and bad faith insurance work. He is an ad junc professor at University of Montana School of Law in the areas of insurance law and product liability.

Ramsey met Hindin in 1984 through David Greenberg. Over the years, Ramsey and Hindin have worked on about 10-12 cases together. Ramsey also was involved in the State Farm action based on his representation of Greenberg at one point in time. Hindin and Ramsey talk about once a week. They are friends and Ramsey also calls to ask Hindin's opinion.

As for Hindin's legal knowledge, Ramsey believes that Hindin was the best in the area of bad faith. Ramsey has talked with Hindin about the changes that should occur if he is reinstated, and Ramsey does not think that the misconduct will reoccur because Hindin now knows his own limitations. Ramsey sees Hindin as a changed man that wants to practice law. Ramsey trusts Hindin completely and thinks Hindin is one of the most honorable men he has met. Ramsey fully supports Hindin's reinstatement.

4. Brian J. Panish

Brian J. Panish (Panish) is an attorney admitted since December 3, 1984. Since 1987 he has been a partner in a firm where he primarily represents plaintiffs. He has won numerous awards based on his successful trials and high jury awards, including Los Angeles Consumer Attorney of the Year and designation as one of the 100 most influential lawyers in California.

Panish met Hindin in 1982. When Panish became an attorney, he would consult with Hindin. They had a professional relationship where Panish would call Hindin for advice, and Hindin referred Panish a case that ended a couple of years ago. Prior to Hindin's disbarment, Panish believed that Hindin had the highest understanding of tort law of anyone in the area. Hindin had an encyclopedia knowledge of the law. Panish also sees Hindin socially through their families.

Panish has talked with Hindin at length and believes that if reinstated, the misconduct would not reoccur. Hindin has learned from going through the embarrassment of disbarment, and more importantly, he has realized what he did wrong and does not want it to happen again. Panish thinks Hindin is of the highest moral character and supports his reinstatement.

5. Stephen D. Prater

Stephen D. Prater (Prater) is an attorney admitted to practice in California since May 29,

1981. He is part of the faculty at Santa Clara University, School of Law, and also is a consultant on insurance law for government entities, attorneys and insurance companies.

Prater met Hindin about 20 years ago, when Hindin asked him to consult on a case. Since then, they have maintained a relationship that was primarily business and has developed to personal. He has worked on about 10-15 cases of bad faith with Hindin. He still calls Hindin to bounce ideas off because of Hindin's expertise in the area.

Prater does not think that there is any chance of reoccurrence of the misconduct if Hindin is reinstated. The disbarment was a severe blow to Hindin and his license is too important to him to get in trouble again. As for his moral character, Prater's experience has taught him that Hindin has always been honest.

6. Ronald E. Mallen

Ronald E. Mallen (Mallen) is an attorney admitted to practice in California since December 21, 1967. His undergraduate degree is from Stanford and he graduated from UC Hastings, College of Law, in 1967. Previously he was a partner with Long and Levit, working in the areas of insurance converge, construction defect and malpractice litigation. He started with Hinshaw & Culbertson in 1998. He is a partner in the San Francisco office and he heads the 'lawyers as professionals' practice group. His speciality is lawyers professional liability and his focus is on risk management. The firm handles all professional responsibility and management issues, including forming corporations or other firm structures. He lectures on issues of legal malpractice at least once a month to various bar associations. He authored a book on legal malpractice, which is now in its fifth edition. He also prepares the "Lawyers Guide to Legal Malpractice Insurance."

Hindin contacted Mallen approximately four or five years ago regarding lawsuits for legal malpractice and fee issues. Mallen represented Hindin's corporation in the lawsuits. Mallen found Hindin to be purely professional. Hindin respected the system and his goals were legitimate. Hindin took immediate steps to pay injured clients, and the only remaining issues related to inappropriate cases with unreasonable or illegitimate claims. Mallen has no questions

about Hindin's integrity or honesty. He has a very high opinion of Hindin's moral character. In addition, Mallen believes that Hindin is one of the most informed lawyers on the state of the law.

Mallen also was offered as an expert witness for issues relating to Hindin Corporation and Hindin's action as to the corporation following his disbarment. Mallen testified that nothing Hindin did was improper under the law. In fact, Mallen believes that Hindin went a step beyond what was required by notifying the State Bar to revoke the registration of the corporation as a professional corporation. Mallen contends that nothing in the law precludes the continuation of the corporation for purposes of winding down the business as long as it is not in the business of practicing law. In other words, even though the corporation was no longer a professional corporation entitled to practice law, it was a functioning corporation.

As for the statements Hindin filed with the Secretary of State, Mallen states that Hindin was required to file statements and that the representations were accurate. The purpose of the corporation was "legal services" and its ongoing business was to wind down the corporation. Mallen does not consider Hindin's statements to be misrepresentations. Mallen does not believe that Hindin was holding himself out as entitled to practice law based on his filings with the Secretary of State. Mallen contends that the Secretary of State does not care if a corporation is practicing law, rather that is an issue for the State Bar.

7. Richard J. Miles

Richard J. Miles (Miles) worked in the insurance industry for 46 years, starting as a claims manager and working to become executive vice president of his company. He is now retired.

Miles met Hindin around 1989 at a social function. After the Oakland fires in 1991, Miles realized that his company had problems with handling claims. Then, after the 1994 earthquake, he decided his company needed to be better informed to avoid bad faith claims. Miles was told that Hindin was an insurance company's "worst nightmare" on bad faith claims. Miles hired Hindin to provide advice on any earthquake claims in general and also hired him on several cases. As for Hindin's learning and ability in the law, Miles found Hindin to be very

knowledgeable and helpful to the company. During the time Miles employed Hindin, 1994-1996, Miles never had any problems with Hindin. Hindin always returned his calls and answered all questions. Miles supports Hindin's reinstatement.

8. Marion Hindin

Marion Hindin (Marion) is Hindin's wife. They have been married since 1962 and have three children. Starting in 1985, Marion started helping Hindin with his cases. When he was in jury trials, Marion would be in the courtroom to act as his "eyes and ears" to determine if a lay person, and therefore the jury, was understanding the case. She also helped with witnesses and other trial preparation.

Marion was aware of the problems with Hindin's practice. At one point, they hired a law management firm, and later an experienced attorney, to help manage the practice, but nothing seemed to help. After the disciplinary process began, it was clear that Hindin needed to completely restructure his practice. He dramatically reduced his practice and learned from his mistakes. If he were reinstated, Marion does not think that the problems would reoccur. Hindin has shown significant insight regarding the problems, has acknowledged his shortcomings and has learned from his mistakes. He was extremely embarrassed by his misconduct.

9. David Greenberg[4]

David Greenberg (Greenberg) was an attorney admitted to practice in California on January 1965. He was a partner is his own firm where he did civil trial work, mostly personal injury. Greenberg met Hindin about 15 years prior to his testimony, when Hindin took Greenberg's deposition in a bad faith case. Greenberg was one of the lawyers that handled the underlying case that gave rise to the bad faith case. Greenberg was so impressed with Hindin's work that he started to refer cases to Hindin. Greenberg referred and worked with Hindin on 10-15 cases over the years. Although Greenberg was aware of the misconduct, he personally never experienced or witnessed any misconduct by Hindin. Greenberg thought that Hindin did a lot of

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[4]David Greenberg died on November 14, 2002, and his former testimony from the hearing on September 23, 1997, in State Bar Court case no. 97-TE-15323 was admitted.

good for the public based on the reforms he brought to the insurance industry as a result of his legal work.

E. Present Learning and Ability in the General Law

Prior to his disbarment, Hindin was actively engaged in trial work for 30 years. He tried more than 40 jury cases. He became an expert in the field of insurance bad faith and in the trial of civil lawsuits. He was very successful, collecting over $100,000,000 for his clients over his 30 years of practice.

Since his disbarment, Hindin has continued to keep up to date on the law as it relates to the areas of his speciality (torts, contracts, civil procedure, appellate practice, constitutional law, evidence and corporate law), as well as those subjects relevant to the pending malicious prosecution lawsuit against State Farm. He has continuously subscribed to the Los Angeles Daily Journal and reads the Daily Appellate Reports on a daily basis. He also subscribes online to Westlaw, Lexis and Law.com. He also subscribes to Jury Verdict Reports.

F. Professional Responsibility Examination

On November 2, 2002, Hindin took and passed the Multistate Professional Responsibility Examination as required by rule 951(f) of the California Rules of Court.

III. CONCLUSIONS OF LAW

A. A Petitioner's Burden of Proof

To be reinstated to the practice of law, a petitioner who was disbarred must establish by clear and convincing evidence that he has passed a professional responsibility examination, has rehabilitated, has present moral qualifications for reinstatement and has present ability and learning in the general law. (Cal. Rules of Court, rule 951(f); Rules Proc. of State Bar, rule 665.) Hindin bears the heavy burden of proving by clear and convincing evidence that he meets all of the requirements for readmission to the practice of law. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1091-1092; *Calaway v. State Bar* (1986) 41 Cal.3d 743, 745; *Tardiff v. State Bar* (1980) 27 Cal.3d 395, 403.) Although the petitioner need not demonstrate perfection, "overwhelming proof of reform" is necessary. (*Feinstein v. State Bar* (1952) 39 Cal.2d 541, 546; *In the Matter*

of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 315.)

In determining whether Hindin has met his burden of proving rehabilitation and good moral character by clear and convincing evidence, the evidence of present character must be considered in light of the moral shortcomings which resulted in the imposition of discipline or resignation with disciplinary charges pending. (*Hippard v. State Bar, supra,* 49 Cal.3d at p. 1092.) However, "the law looks with favor upon the regeneration of erring attorneys and should not place unnecessary burdens upon them." (*Resner v. State Bar* (1967) 67 Cal.2d 799, 811, citing *In re Gaffney* (1946) 28 Cal.2d 761, 764.)

B. Hindin's Rehabilitation and Good Moral Character

Hindin's rehabilitation and good moral character have been established in several areas. Hindin was a candid and credible witness at the hearing. His demeanor and testimony demonstrated a firm realization of what he had done and the harm he had caused, full acceptance of responsibility for his misconduct and successful efforts at addressing his problems. Such testimony is a significant factor in favor of his reinstatement. "Reformation is a 'state of mind' [citation] and 'the applicant must show a proper attitude of mind regarding his offense before he can hope for reinstatement [citation].'" (*Feinstein v. State Bar, supra,* 39 Cal.2d at p. 547.)

Another critical area of rehabilitation is the concrete showing of acts designed to rectify past wrongdoing. (*In re Menna* (1995) 11 Cal.4th 975, 987-988.) At the time of the misconduct starting in 1983, Hindin had an unblemished record in his 16 years of practice in California. The gravamen of the underlying misconduct involved Hindin's failure to understand that he could not abandon the needs of his significant client base merely because he had immersed himself in a very demanding trial practice. However, as set forth above, from the time of the underlying disciplinary proceedings in 1994 to Hindin's disbarment recommendation in 1997, he already started to take concrete steps to remedy these serious problems. During his testimony, Petitioner acknowledged unequivocally the seriousness of his wrongdoing, expressed remorse, and described changes in his attitude that he believes would prevent future misconduct if he were reinstated. Hindin's statements were corroborated by the attorneys that testified on his behalf.

The fact that Hindin understands his professional responsibilities and has a proper attitude towards his prior misconduct is evidence of his rehabilitation. (*In the Matter of Brown, supra,* 2 Cal. State Bar Ct. Rptr. at p. 317.)

Hindin's character witnesses also help demonstrate his rehabilitation and good moral character. Seven attorneys provided testimony on Hindin's behalf. Favorable character testimony from employers and attorneys is entitled to considerable weight. (*Feinstein v. State Bar, supra,* 39 Cal.2d at p. 547.) The witnesses spoke favorably of Hindin's honesty and integrity. Many discussed how Hindin talked openly about his sincere remorse for his prior misconduct. All knew of Hindin's disbarment and the underlying misconduct. The witnesses have known Hindin from 5 to 42 years. There was no evidence that over these extended periods of time Hindin sought to conceal his misconduct or mislead the witnesses. (*In the Matter of Rudman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 546, 554.) The court finds the impressive, favorable character evidence to be of sufficient value to support Hindin's present moral character.

Another consideration is the passage of an appreciable period of time since Hindin's misconduct. (*Hippard v. State Bar, supra,* 49 Cal.3d at p. 1095.) "Where the evidence is uncontradicted . . . and shows exemplary conduct extending over a period of from eight to ten years without even the suggestion of wrongdoing, it would seem that rehabilitation has been established." (*Werner v. State Bar* (1954) 42 Cal.2d 187, 198 (conc. opn. of Carter, J.).) Hindin's last act of misconduct was in 1993. Between 1994-1997, Hindin continued to practice law without incident. As stated by the hearing judge in 1997, the problems leading to Hindin's disbarment "no longer exist." (October 3, 1997 Decision, at p. 13.) Since his disbarment, Hindin has represented himself in a complex matter for several years and has consulted on other matters. Here, more than 10 years have now passed since the misconduct, without any evidence of further instances of similar acts, and Hindin has performed his work with integrity and responsibility.

The State Bar contends that Hindin has failed to demonstrate rehabilitation and good

moral character because he violated Business and Professions Code section 6165 by allowing Hindin Corporation to remain in existence without a licensed attorney and by holding himself out as entitled to practice law based on filing statements with the Secretary of State indicating that the corporation's business type was "legal services."

Hindin explained that after conducting research, he concluded that he needed to revoke his registration of the corporation as a law corporation with the State Bar because he could not practice law. However, he did not see any reason that the corporation could not remain in existence for purposes of winding down. Hindin promptly notified the State Bar of his intentions and asked it to revoke the registration of the corporation as a professional corporation in order to clarify that it would not be engaged in the practice of law. He believed in good faith that he had taken all necessary steps. Hindin's position is fully supported by the expert testimony of Mallen.

Arguably, even if it was inappropriate to allow the corporation to remain viable to wind down its business without a licensed attorney, the court is satisfied that Hindin acted reasonably and in good faith. Furthermore, the court does not find the circumstances surrounding Hindin's filings with the Secretary of State to be evidence that he held himself out as entitled to practice law. Other than representing himself in pro per, neither Hindin nor Hindin Corporation were engaged in the practice of law. The court is persuaded that there is no basis for a conclusion of dishonesty or lack of good moral character.

After careful consideration of the facts presented in the instant proceeding, the court finds that Hindin has proven by clear and convincing evidence his overall rehabilitation and good moral character. Hindin has provided a compelling demonstration of moral rehabilitation, such as "overwhelming, proof of reform . . . which we could with confidence lay before the world in justification of a judgment again installing him in the profession." (*In re Menna, supra,* 11 Cal.4th at p. 989.)

C. Hindin's Present Learning and Ability in the General Law

Hindin has stayed current in the law by reading cases, performing research and prosecuting the State Farm action in pro per. Many of the character witnesses testified to

Hindin's extensive legal knowledge and abilities. The unrebutted evidence supports a finding that Hindin has shown, by clear and convincing evidence, that he has the present ability and learning in the general law required for reinstatement. (Rules Proc. of State Bar, rule 665(c) and (d).)

D. Multistate Professional Responsibility Examination

Additionally, Hindin has successfully completed the Multistate Professional Responsibility Examination.

On the record in this proceeding, Hindin's reinstatement to the practice of law at this time is fully warranted.

IV. RECOMMENDATION

For the foregoing reasons, the court concludes that Hindin has sustained his burden by clear and convincing evidence by establishing: (1) that he is rehabilitated and does possess the present moral qualifications for reinstatement to the State Bar of California; (2) that he possesses present ability and learning in the general law; and (3) that he has passed the Multistate Professional Responsibility Examination. Therefore, it is recommended that **ARTHUR T. HINDIN** be reinstated to the practice of law in the State of California upon payment of all applicable fees and costs.

Dated: March 17, 2004

JOANN REMKE
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on March 17, 2004, I deposited a true copy of the following document(s):

Decision, filed March 17, 2004

in a sealed envelope for collection and mailing on that date as follows:

[X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ARTHUR LEWIS MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES CA 90039 3758

[X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

MICHAEL GLASS , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **March 17, 2004**.

Johnnie Lee Smith
Case Administrator
State Bar Court