

**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO**

In the Matter of	)	Case No. 06-V-14745-PEM
	)	
<b>GREGORY JOHN ANTONE,</b>	)	<b>DECISION</b>
	)	
<b>Member No. 60451,</b>	)	
	)	
<u>A Member of the State Bar.</u>	)	

**I. INTRODUCTION**

The issue in this case is whether petitioner Gregory John Antone has established his rehabilitation, present fitness to practice, and present learning and ability in the general law so that he may be relieved from his actual suspension from the practice of law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)<sup>1</sup>

The court finds that petitioner has shown by a preponderance of the evidence that he has satisfied the requirements of standard 1.4(c)(ii) and therefore, finds that his actual suspension should be terminated. Accordingly, the court **GRANTS** petitioner's petition to be relieved from his actual suspension from the practice of law.

**II. SIGNIFICANT PROCEDURAL HISTORY**

This is petitioner's third petition for relief from actual suspension.

On March 19, 2003, petitioner filed a verified petition for relief from actual suspension and withdrew the petition on May 7, 2003.

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<sup>1</sup>All further references to standards are to this source.

On October 3, 2003, petitioner filed his second verified petition for relief from actual suspension. On February 6, 2004, the court denied his petition.

In this proceeding, on October 17, 2006, petitioner, through his counsel, Robert L. Denebeim, filed his third verified petition for relief from actual suspension, seeking the termination of his actual suspension and claiming he has satisfied the requirements of standard 1.4(c)(ii).

On December 1, 2006, the Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed its opposition to petitioner's request on the ground that petitioner has not shown his present rehabilitation and present fitness to practice law.

Trial was held on March 29, 2007. Petitioner was represented by attorney Robert L. Denebeim. Deputy Trial Counsel Tammy M. Albertsen-Murray appeared for the State Bar. The court took the petition under submission on April 2, 2007.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The following findings of fact are based on the evidence and testimony introduced at this proceeding and on the parties' stipulations which were admitted into evidence. The court finds petitioner to be a credible witness.

#### **A. Petitioner's Underlying Disciplinary Background**

The parties stipulated to the disciplinary background detailed in the prior February 6, 2004 decision and it is therefore set forth herein (February 2004 Decision, case No. 03-V-04001, 2:4 – 5:20):

“Petitioner was admitted to the practice of law in California on December 18, 1974. On October 5, 2000, Petitioner and the State Bar entered into a stipulation of facts and culpability that included proposed discipline. Petitioner stipulated to misconduct in four client matters and to violating the conditions of his probation in a prior disciplinary matter.

In the first client matter, Petitioner stipulated that he was the attorney of record for the plaintiffs in *ASPD, Inc., et al., v. Butler-Johnson Corp., et al.* Petitioner also stipulated that between approximately December 1, 1994 and December 14, 1995, he failed to appear at six court ordered case management conferences. As a result of Petitioner's repeated failures to appear, the court set an Order to Show Cause Re: Dismissal hearing, and imposed sanctions of \$500 against Petitioner

for his failure to appear and his failure to prosecute the action in a timely fashion. Petitioner failed to timely appear at the OSC hearing, dismiss the action, or pay the court ordered sanctions. Petitioner did appear an hour late for the OSC hearing, but the court considered it a non-appearance, and ordered the matter dismissed for failure to prosecute in a timely fashion. Petitioner took no action to have the dismissal set aside.

Based on the foregoing misconduct, Petitioner stipulated to: intentionally, recklessly and repeatedly failing to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct<sup>2</sup>; disobeying court orders in violation of section 6103 of the Business and Professions Code<sup>3</sup>; and effectively withdrawing from representation without first obtaining court permission in violation of rule 3-700(A)(1).

In the second client matter, Petitioner further stipulated that in 1995 he filed a medical malpractice complaint in *Souris v. Hansen, M.D., et al.* Petitioner failed to appear at the first case management conference and the court sanctioned Petitioner \$250 for his failure to appear and serve the complaint. Thereafter, between May and August 1996, two separate motions to compel discovery were filed in the action based on Petitioner's failure to provide any discovery responses to numerous requests by two defendants. On the first motion, Petitioner failed to lodge any response to the motion, failed to oppose the tentative ruling issued by the court, and failed to appear for the hearing. The court granted the defendant's motion to compel and sanctioned Petitioner \$374. On the second motion, Petitioner failed to file a response to the motion, failed to oppose tentative ruling, but did appear at the hearing. The court granted the motion to compel and sanctioned Petitioner \$404. Petitioner failed to adequately advise his client about the discovery requests, and failed to advise her about the motions to compel and the legal consequences of not responding to them.

Based on the foregoing misconduct, Petitioner again stipulated to violating rules 3-110(A) and 3-700(A)(1), and section 6103. Petitioner also stipulated that he failed to take steps to avoid

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<sup>2</sup>All further references to "rule" are to the Rules of Professional Conduct unless otherwise noted.

<sup>3</sup>All further references to "section" are to the Business and Professions Code unless otherwise noted.

reasonably foreseeable prejudice to his client prior to effectively withdrawing in wilful violation of rule 3-700(A)(2), and failing to communicate significant developments to his client in violation of section 6068(m).

In the third client matter, Petitioner stipulated that he filed a complaint on behalf of the plaintiffs in *Hawthorne, et al., v. Card, et al.*, on September 5, 1995. Between January 11, 1996, and July 29, 1997, Petitioner failed to appear at seven regularly scheduled case management conferences. The court sanctioned Petitioner a total of five separate times, in an amount totaling \$2,200. Petitioner was sanctioned four times based on his failures to appear, and one time for his failure to comply with local rules. Petitioner did not pay the court ordered sanctions.

Based on the foregoing misconduct, Petitioner stipulated to violating rule 3-110(A) (failure to perform with competence), section 6103 (disobeying court orders), and rule 3-700(A)(1) (effectively withdrawing without permission).

In an attempt to reduce the sanctions in the *Hawthorne* matter, Petitioner filed a declaration with the court that stated he moved his office in August of 1996. However, Petitioner's official membership records address with the State Bar was not changed until January 13, 1997. Accordingly, Petitioner also stipulated to failing to change his official membership records address with the State Bar within 30 days in wilful violation of section 6002.1. Petitioner also stipulated to failing to cooperate in a disciplinary investigation regarding the three cases discussed above in wilful violation of section 6068(i).

In the fourth client matter, Petitioner stipulated to similar misconduct as in the other three matters. Petitioner stipulated that on or about July 19, 1996, he became attorney of record for the plaintiff in *Brewer v. Wolf Security Service, et al.* Petitioner stipulated that between September 27, 1996 and April 17, 1997, he was sanctioned four times, totaling \$1,150, based on his failure to appear at four different case management conferences. During this time, Petitioner also failed to respond to discovery requests, and failed to appear and produce his client at two scheduled depositions. The opposing party was forced to file a motion to compel, to which Petitioner failed to respond and failed to appear at the hearing. The court granted the motion to compel and sanctioned Petitioner \$2,250, payable to the defendant. The court also issued an Order to Show

Cause Re: Dismissal hearing, to which Petitioner failed to appear, but his client did appear. Accordingly, the matter was not dismissed, but Petitioner was sanctioned an additional \$1,000. Petitioner did not pay the sanctions.

Based on the foregoing misconduct, Petitioner stipulated to violating rules 3-110(A) and 3-700(A)(1), and section 6103. Petitioner also stipulated to failing to cooperate in the disciplinary investigation regarding this matter in wilful violation of section 6068(i).

As for Petitioner's probation violations, Petitioner stipulated that he violated the conditions of his probation set forth in State Bar Court Case No. 96-O-00547, wherein the court imposed a public reproof that was effective March 13, 1999. In particular, Petitioner stipulated that he failed to take and pass the State Bar Ethics School and the State Bar Client Trust Accounting School as ordered in wilful violation of section 6068(k), and thereby also disobeyed a court order in violation of section 6103.

It was stipulated that Petitioner's misconduct was surrounded by serious aggravating circumstances, including: (1) Petitioner's four prior records of discipline; (2) harm to his clients' positions in the litigation; (3) lack of cooperation during the disciplinary proceeding based on Petitioner's failure to appear for a noticed deposition, a settlement conference and a court ordered deposition, and his failure to adequately respond to discovery; and (4) multiple acts of misconduct in the four client matters.

In mitigation, the parties stipulated to the following factors: (1) Petitioner's physical difficulties between 1994 and 1998, including a heart attack in November of 1996, and then-recently diagnosed diabetes; (2) family problems between 1994 and 1998, including serious health problems of family members; the death of Petitioner's father in July 1997; and his wife leaving him, rendering him the sole provider and caretaker for his young daughter; and (3) as a result of the foregoing, Petitioner experienced emotional difficulties and depression, which plagued him during the time of his misconduct, but had been resolved as of the time of the stipulation. The parties also stipulated that Petitioner did not pay the court ordered sanctions because of financial difficulties, and that he later discharged those debts in bankruptcy.

As for discipline, it was stipulated that Petitioner should be suspended for three years, that execution of the suspension be stayed, and that he be placed on probation for five years on conditions including that he be actually suspended for one year and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant [to] standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. With minor modifications, the stipulation was approved by the State Bar Court hearing judge. On March 21, 2001, the Supreme Court filed an order in case number S094441 in which it imposed the stipulated discipline on Petitioner. Petitioner's one year actual suspension under that order began on April 20, 2001. Petitioner's five years of probation [remained] in effect until April 20, 2006."

**B. Petitioner's Present Learning and Ability in the General Law**

The parties stipulated that petitioner has present learning and ability in the general law. Moreover, in the previous proceeding (February 2004 Decision), the court found that petitioner's work was excellent and that he had present learning and ability in the general law. The court's determination was based on, among other things, that petitioner: (1) completed 73 hours of mandatory continuing legal education (MCLE) courses; (2) developed a law office management plan that was approved by the Office of Probation; (3) submitted several examples of his legal work; and (4) offered the declarations of his employer and three attorneys in support of his petition.

Since the prior proceeding in 2004, petitioner has continued to take MCLE courses, completing more than 50 hours of courses, and has kept up on current changes in the law through various publications and internet sources and his work for other attorneys. He also submitted additional samples of his legal work in this proceeding.

Therefore, the court finds by a preponderance of evidence that petitioner possesses present learning and ability in the general law, and so meets the requirement of this prong of standard 1.4(c)(ii).

**C. Petitioner's Rehabilitation and Present Fitness to Practice Law**

The State Bar argues that petitioner has not been rehabilitated and does not have present fitness to practice law. The court disagrees.

The court finds by a preponderance of evidence that petitioner has demonstrated the rehabilitation and present fitness to practice law, and so meets the requirements of this portion of standard 1.4(c)(ii).

**1. *Petitioner's Compliance With Probation Conditions***

Pursuant to the Supreme Court order in case No. S094441 (State Bar Court Case Nos. 96-O-08264; 97-O-12839; 00-H-13892), effective April 20, 2001, petitioner was suspended for three years, execution stayed, and placed on probation for five years on conditions including that he be actually suspended for one year and until he satisfies standard 1.4(c)(ii). Thus, the period of petitioner's probation was from April 20, 2001 to April 20, 2006. The other terms and conditions of petitioner's five year probation included quarterly reports; medical conditions; a law office management condition; 12 hours of additional Minimum Continuing Legal Education (MCLE) courses; and State Bar's Ethics School.

The parties stipulated that petitioner is in full compliance with his probation conditions since the prior 2004 proceeding. He timely filed all his quarterly reports, took the State Bar's Ethics School, completed payment of restitution to Client Security Fund and paid all disciplinary costs. He also complied with California Rules of Court, rule 955, pursuant to the Supreme Court order.

**2. *Petitioner's Rehabilitation From Alcohol Addiction***

It is clear that the problems that led to petitioner's suspension from the practice of law were the direct result of his prolonged alcohol addiction. At the time of petitioner's 2004 hearing, petitioner had not formally been accepted into the Lawyer Assistance Program (LAP).<sup>4</sup> Since then he has been accepted and participating in LAP.

On June 14, 2004, petitioner formally entered into the LAP, a five-year commitment. From weekly LAP group counseling sessions, through daily Alcoholics Anonymous (AA) meetings, and to random testing for the presence of alcohol on a weekly basis, petitioner has demonstrated that he

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<sup>4</sup> LAP is a confidential, professional program offering assistance to California attorneys experiencing problems with substance use, depression, stress, or with their legal career. It offers long term structure, peer support, and an individualized recovery plan for substance abuse and mental health concerns.

has been in full compliance with the program. He is currently more than half way through completing its five year duration and has come full circle in his life.

Petitioner stopped drinking since February 20, 2000, and has not had a drink since. He has now been clean and sober for more than six and a half years. He has been a speaker at a number of AA meetings, offers his time and money to the cause of sobriety, and has been a sponsor to two individuals. Thus, petitioner has shown by a preponderance of the evidence that he has overcome his alcohol dependency and that his alcoholism is not likely to be repeated.

### **3. *Petitioner's Acceptance of Responsibility and Remorse***

Since the prior proceeding in 2004, petitioner has reviewed the record of his prior misconduct and taken into heart the court's decision denying his petition in 2004. He now recognizes and accepts responsibility and expresses extreme remorse for his misconduct that led to his discipline and other personal problems. He stated: "I am a person who would never have reached this point without having been in the disciplinary process. I am exceedingly grateful for it. It just may have saved my life."

Petitioner has been candid about his discipline problems with his colleagues and friends. He is very sorry about the harm he caused his clients, opposing parties, other lawyers, the legal profession and the courts. He further admits his errors and misconduct in the 2004 proceeding. He recognizes the interplay between his prior alcohol abuse and negative personality traits, including diagnosed narcissism, and how destructive they were to his character and judgment. He declares that he has had a new awakening and a new approach to life and his own moral character. Now he has a solid support system from his family, friends and co-workers as well as from LAP and AA. He strives "now to a new purpose in life – one that is good and helps others. He declares: "I would very much like the opportunity to atone for my errors of recent times, by a return to the good work I was once proud of. . . . I know I have no entitlements. I cannot claim my position of active practice back as a matter of right. It is a privilege. I ask that, based on my continuing efforts, I be allowed to start again."

### **4. *Petitioner's Character References***

Petitioner submitted four good character declarations, including his current employer (Keet Nerhan), two attorneys (Harry Weistrop and Frederick Lyon) and his physician (Claudio Bet, M.D.).



They attested to petitioner's good moral character, rehabilitation and present learning and ability in the general law. The witnesses have known petitioner for many years, ranging from 6 to 25 years and are aware of the full extent of his past misconduct and suspensions. The State Bar did not rebut any of the evidence submitted.

**a. Three Character Witnesses From Prior Proceeding**

Three of the witnesses who supported petitioner in this proceeding also testified on his behalf in the previous proceeding. The court was impressed with their testimony then and finds it to be credible now as well. Accordingly, the court hereby adopts the findings in the prior decision as set forth below (February 2004 Decision, 9:5-10:13 and 11:17-12:5):

**(1) Keet Nerhan**

"Keet Nerhan has known Petitioner for over [25] years and is his current employer. Mr. Nerhan's business includes KN Properties, a real estate firm. Petitioner started with Mr. Nerhan in April 2000. At first Petitioner acted as general counsel for Mr. Nerhan's many companies. Since his suspension, Petitioner has worked as a business and development consultant, and as a spokesperson for Mr. Nerhan at public meetings and negotiations. When lawyers are needed to be hired for a task, Petitioner also acts as a liaison between Mr. Nerhan and his lawyers. Mr. Nerhan states that Petitioner's work has been excellent and his help invaluable. Mr. Nerhan states that he receives nothing but praises from others for Petitioner's work.

When Mr. Nerhan first met Petitioner, his drinking was heavy but not abusive. However, by the late 1980's and into the 1990's, Mr. Nerhan believes that Petitioner's use of alcohol became abusive. Mr. Nerhan witnessed that as Petitioner's personal and financial problems worsened, his alcohol abuse increased. When Mr. Nerhan hired Petitioner in April 2000, Petitioner insisted that he had stopped drinking completely. Mr. Nerhan was skeptical but decided to give Petitioner a chance on the condition that alcohol during work would not be tolerated. Mr. Nerhan believes that the chance he took with Petitioner has paid off. He has not seen Petitioner drink any alcohol during work or while socializing, and he believes Petitioner has not drank since he was hired.

Petitioner has been prompt, energetic and shown a high capability to perform any task assigned. Mr. Nerhan believes that Petitioner is rehabilitated, fit to practice law, and still

knowledgeable in the general law. He believes Petitioner is truly a new person, fully fit and able to practice law. Mr. Nerhan would like to see Petitioner relieved of his suspension because he would like to have Petitioner work on upcoming legal matters for him.

**(2) Harry Weistrop**

Harry Weistrop is an attorney admitted to practice law in California since 1967. Mr. Weistrop met Petitioner sometime prior to his suspension in April 2001. Petitioner asked Mr. Weistrop to take over some of Petitioner's remaining small cases and some involving Mr. Nerhan. Mr. Weistrop found all the cases transferred from Petitioner to be in excellent work-up, with all notes, research, appearance planning and pleadings in excellent order. Thereafter, Mr. Weistrop worked on matters with Petitioner for Mr. Nerhan. He found Petitioner's thought process and strategy invaluable and insightful. He reached the point where he often asked Petitioner to draft a pleading, letter, factual spreadsheet or do research on a particular law or element. Mr. Weistrop reviewed all work and found everything Petitioner did to be of the highest quality.

Petitioner explained to Mr. Weistrop in detail how he had come to be suspended and the extent of his prior alcohol abuse. Since he has known Petitioner, Mr. Weistrop has never seen him drink. In social situations, Mr. Weistrop states that Petitioner explains his alcohol abuse honestly to most anyone and declines to drink.

Mr. Weistrop believes that Petitioner has the knowledge to practice law, is fit to practice law and is rehabilitated.

**(3) Claudio A. Bet, M.D.**

Claudio A. Bet, M.D., has been Petitioner's treating physician since March of 1999. When Dr. Bet first met Petitioner, his main medical problems related to hypertension and diabetes. Petitioner was prescribed medications and a strict diet with regular follow-up appointments. During this time, it became clear that Petitioner suffered for a serious alcohol abuse problem, which [led] to his hospitalization in February 2000. Petitioner was diagnosed with alcoholic pancreatitis, acute alcohol intoxication and alcoholic hepatitis. Petitioner remained in the hospital for six days and then was released under Dr. Bet's care.

Dr. Bet states that Petitioner has recovered from this very serious and life-altering event. Dr. Bet further contends that Petitioner has not had any alcohol since his hospitalization and [bases] this conclusion on the following: Petitioner has kept regular appointment with Dr. Bet; Petitioner's lab work has shown normal liver test, an indication of no alcohol damage; and Petitioner's diabetes and hypertension have been under good control. Dr. Bet commends Petitioner for his hard work at improving his health and hopes he is given the opportunity to pursue his goals."

**b. Four Character Witnesses in Current Proceeding**

In the previous proceeding, the court found that the weight accorded these declarations was slightly diminished because there was little evidence that the character witnesses had a full understanding of the nature and scope of petitioner's prior misconduct.

However, in this proceeding, the three witnesses (Nerhan, Weistrop and Bet) essentially testified to the same, except they clearly stated that they are fully aware of the scope and extent of petitioner's past misconduct, alcoholism and the prior February 2004 proceeding.

Attorney Frederick Lyon and the other three witnesses attested to not only petitioner's honesty, integrity, sincerity, excellent lawyering skills, and sobriety, but also to the fact that they have always had a full understanding of the nature and scope of petitioner's misconduct. Mr. Nerhan and Mr. Weistrop declared that they mistakenly omitted to mention that awareness in their previous declarations. They further attested to petitioner's acceptance of full responsibility of his misconduct and errors made in the previous proceeding, including non-strict compliance with the probation conditions. They believe that petitioner is contrite and candid about his past misconduct and that he has fully rehabilitated. In fact, Mr. Weistrop declared: "At this time in [petitioner's] life he has seen his redemption from alcohol. He has corrected his flaws and life problems. He exhibits superb quality of work and social and legal ethics." Mr. Nerhan declared that petitioner's conduct has been exemplary for the last six and a half years based on his close working relationship with petitioner. He opines that petitioner's work is excellent and petitioner acts with honesty, integrity and sincerity. Moreover, he observes that petitioner's pride in his work, appearance, demeanor and sobriety is now quite humble and self-effacing.

In summary, the witnesses strongly recommend petitioner's reinstatement to the practice of law. Accordingly, in this proceeding, petitioner has shown that his favorable character testimony and reference letters from employers and attorneys are entitled to considerable weight. (*Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547.) The court finds the favorable character evidence to be of sufficient value to support petitioner's rehabilitation and present fitness.

#### **IV. DISCUSSION**

In order to be relieved of his actual suspension, petitioner has the burden of proving in this proceeding, by a preponderance of the evidence, that he is rehabilitated, has present fitness to practice and present learning ability in the general law. (Rules Proc. of State Bar, rule 634; *In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571, 578.)

To establish rehabilitation, the court must first consider the prior misconduct from which petitioner seeks to show rehabilitation. The amount of rehabilitation evidence varies according to the seriousness of the misconduct at issue. Second, the court must examine petitioner's actions since the imposition of his discipline to determine whether his actions, in light of the prior misconduct, sufficiently demonstrate rehabilitation by a preponderance of the evidence. (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

Petitioner must show: (1) strict compliance with the terms of his probation in the underlying disciplinary matter; (2) exemplary conduct from the time of the imposition of the prior discipline; and (3) "the conduct evidencing rehabilitation is such that the court may make a determination that the conduct leading to the discipline ... is not likely to be repeated." (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

"In weighing such a determination, the court should look to the nature of the underlying offense, or offenses; any aggravation, other misconduct or mitigation that may have been considered; and any evidence adduced that bears on whether the cause or causes of such misconduct have been eliminated." (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

The only issue contested by the State Bar in this proceeding is whether petitioner has demonstrated his rehabilitation and present fitness to practice law by a preponderance of the evidence.

The State Bar argues that petitioner has not presented credible evidence that establishes his rehabilitation from his alcohol addiction and closely associated mental health issues.

Here, petitioner's prior misconduct involved, among other things, failure to perform services competently, improper withdrawal from employment, failure to appear in court, failure to pay court sanctions, failure to comply with discovery requests, failure to oppose motions to compel, and failure to comply with probation conditions. The aggravating circumstances surrounding the misconduct were four prior records of discipline, harm to his clients' positions in litigation, and lack of cooperation during the disciplinary proceeding based on petitioner's failure to appear for a noticed deposition, a settlement conference and a court ordered deposition, and his failure to adequately respond to discovery. As noted in the court's prior decision rejecting petitioner's petition, his prior misconduct was particularly egregious and therefore his evidence must be significant to overcome the serious nature of that misconduct. Notwithstanding, the court is mindful that this is an expedited proceeding where petitioner need only show his rehabilitation and present fitness to practice law by a preponderance of the evidence.

After carefully reviewing and weighing the evidence, the court finds that petitioner has adequately addressed the shortcomings of his prior petition and has shown by a preponderance of the evidence that he is rehabilitated and has the present fitness to practice law.

In particular, unlike in the previous proceeding, petitioner now demonstrates an understanding and insight into the nature and scope of his past misconduct. The behaviors that gave rise to petitioner's suspension are due to his addiction to alcohol. Petitioner has admitted that he has been an active alcoholic at least since the mid-1990's which is the time frame in which the misconduct occurred. While this court previously denied petitioner's petition due to his failure to address his alcohol abuse issues, among other things, petitioner has since diligently sought to permanently rid himself of his addiction. To this end, petitioner has actively participated in a recovery program and abstained from alcohol use for more than six years. He accepts responsibility for all prior acts of misconduct and expresses remorse for his behavior. He has talked openly with friends and colleagues about the mistakes of his past, has established a strong support system from family, friends, colleagues, LAP and AA and has vowed to avoid similar misconduct in the future. Furthermore,

petitioner declares that he has altered his life, perceptions and attitude in addressing his problem of narcissism. He realizes that “the only person [he] fooled, and made a fool of, was [himself].” The fact that petitioner understands his professional responsibilities and has a proper attitude towards his prior misconduct is evidence of rehabilitation. (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 317.)

Petitioner presented strong evidence of good character, specifically his own declaration and the declarations of four character witnesses. In this proceeding, the witnesses are all fully aware of the nature and extent of his prior misconduct and believe that petitioner expresses remorse for the harm he caused and a commitment to avoid any problems in the future.

In conclusion, petitioner has shown that he had complied with the terms of his probation in the underlying disciplinary matter; has exhibited exemplary conduct from the time of the imposition of the prior discipline; and has established that the conduct leading to the discipline is not likely to be repeated.

Accordingly, the court finds that petitioner has demonstrated, by a preponderance of the evidence, that he is rehabilitated and has present fitness to practice law.

#### **V. DISPOSITION**

Based on the foregoing, the court finds that petitioner has established by a preponderance of the evidence his rehabilitation, present fitness to practice and present learning and ability in the general law.

Accordingly, petitioner’s petition for relief from actual suspension from the practice of law pursuant to standard 1.4(c)(ii) is hereby **GRANTED**. It is further ordered that petitioner’s actual suspension from the practice of law in the State of California is hereby terminated and he will hereafter be entitled to resume the practice of law in this state upon the payment of all applicable State Bar fees and any previously assessed costs.

Dated: April \_\_\_, 2007

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**PAT McELROY**  
Judge of the State Bar Court