

PUBLIC MATTER

FILED

APR 04 2011

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of )  
LINDA NELL LOWNEY )  
Member No. 83670 )  
A Member of the State Bar. )

Case No.: 07-O-11504-PEM  
**ORDER REGARDING MOTION FOR  
RECONSIDERATION; VACATING  
DECISION IN PART; AND REOPENING  
RECORD FOR LIMITED PURPOSE**

On March 21, 2011, respondent Linda Nell Lowney, by her counsel, Jonathan I. Arons, filed a motion for reconsideration of certain matters contained in the court's decision and discipline recommendation filed on March 4, 2011. On March 29, 2011, the Office of the Chief Trial Counsel (State Bar), by Maria J. Oropeza, filed opposition thereto.

Having considered the parties' contentions, the motion for reconsideration is **DENIED** in part. There is an insufficient showing of new or different facts,<sup>1</sup> circumstances or law or errors of law or fact as to all matters, including the disbarment recommendation, except as to the facts and the discipline recommendation regarding restitution. (Rules Proc. of State Bar, Rule 115.)

<sup>1</sup> Based on Tollefson's niece's testimony, the court found that, in 2005, he was undergoing radiation treatment for cancer, had glaucoma severe enough to require a magnification machine for reading and was unable to walk without the aid of a walker. Respondent has offered no new facts pertaining to this finding but instead disputes it. Moreover, the court did not make a determination as to Tollefson's mental competency. However, considering Tollefson's grade-school education, the court determined that he had no understanding of the legal consequences of either a confidential marriage or a joint tenancy.



The motion for reconsideration is **GRANTED** in part only as to the facts and the recommendation regarding restitution because the court needs additional information to assess the parties' claims regarding restitution, such as whether the settlement between respondent and the Bergsakers took into account the Franklin Funds. Accordingly, the court **ORDERS** that the record be reopened for the limited purpose of reconsidering the issue of restitution. As to the restitution issue only, the court's decision is vacated and, after further proceedings, the court will issue an order addressing these matters only.

Accordingly, the court will hold a telephonic status conference on April 18, 2011, at 9:30 a.m. to discuss the reopening of the record and to schedule further proceedings.

No later than five calendar days prior to the status conference, each party is **ORDERED** to prepare a list of all of the sections of the March 4, 2011 decision, citing page and line numbers, that may be affected by the court's reconsideration of the facts and recommendation regarding restitution.

**IT IS SO ORDERED.**

Dated: April 4, 2011

  
PAT McELROY  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. 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 San Francisco, on April 4, 2011, I deposited a true copy of the following document(s):

ORDER REGARDING MOTION FOR RECONSIDERATION; VACATING DECISION IN PART; AND REOPENING RECORD FOR LIMITED PURPOSE

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

by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JONATHAN IRWIN ARONS  
LAW OFC JONATHAN I ARONS  
221 MAIN ST STE 740  
SAN FRANCISCO, CA 94105

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

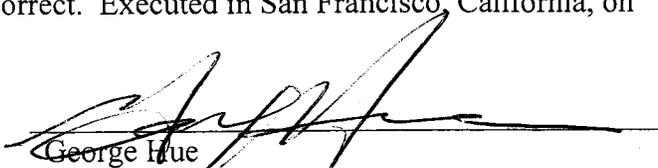
by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Maria J. Oropeza, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 4, 2011.

  
George Hue  
Case Administrator  
State Bar Court