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**THE STATE BAR COURT**  
**HEARING DEPARTMENT - LOS ANGELES**

In the Matter of	)	<b>Case No. 07-R-12003-DFM</b>
<b>BENJAMIN I. SCHIFF,</b>	)	<b>DECISION</b>
Petitioner for Reinstatement.	)	
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**I. INTRODUCTION**

This matter comes before the court on a petition for reinstatement to the practice of law filed on May 17, 2007, by Petitioner **BENJAMIN I. SCHIFF**. Petitioner was represented at trial by Susan L. Margolis. The State Bar was represented by Supervising Trial Counsel Kevin Taylor of the Office of the Chief Trial Counsel. Trial was held on November 14, 2007. Although the State Bar did not stipulate to Petitioner’s reinstatement, it offered neither evidence nor argument in opposition. The matter was submitted for decision at the end of the hearing.

Petitioner has demonstrated, by clear and convincing evidence, that he has satisfied the requirements for reinstatement to the practice of law. Therefore, the court recommends that Petitioner be reinstated to the practice of law in California.

**II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**A. Petitioner’s Background**

Petitioner was *admitted* to the practice of law in the State of California on **February 19, 1986**, and was a member of the State Bar until he *resigned without charges pending* effective **August 2, 1996**. He has never been the subject of any disciplinary proceedings. Petitioner has never been charged with or convicted of any criminal offenses and has no substance abuse

1 problems. He has never had any lawsuits filed against him regarding his practice of law.

2 Petitioner received his undergraduate degree from Stanford University, where he  
3 graduated with honors in Humanities. He thereafter attended law school at the University of San  
4 Diego, where he graduated magna cum laude. After law school he worked as a Deputy Public  
5 Defender for the County of Los Angeles.

6 In August 1996, Petitioner resigned his membership in the State Bar to move to New  
7 York to pursue a career in acting. He was successful in landing roles in numerous stage and  
8 screen productions, but at the beginning of this year made a decision to return to California to  
9 resume his career in law. He has already been offered a Deputy Public Defender position with  
10 the Public Defender for the County of Riverside, and he now relocated to that area to be in a  
11 position to begin work as soon as he is reinstated. He testified in his own behalf during the trial  
12 of this matter, and he impressed this court as being an exceptionally intelligent, articulate, and  
13 focused individual.

14 **B. California Rules of Court, Rule 9.10(f); Rules of Procedure of State Bar, Rule 665(c)**

15 To be reinstated to the practice of law, a petitioner who resigned without charges pending  
16 must establish by clear and convincing evidence that he has passed a professional responsibility  
17 examination, has present moral qualifications for reinstatement, and has present ability and  
18 learning in the general law. (Cal. Rules of Court, rule 9.10(f); Rules of Proc. of State Bar, rule  
19 665(c).) Because Petitioner resigned without charges pending, he need not establish  
20 rehabilitation from any wrongdoing. (Rules of Proc. of State Bar, rule 665(c); see also *In the*  
21 *Matter of Sheppard* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91, 96.)

22 **C. Professional Responsibility Examination**

23 Petitioner has complied with California Rules of Court, rule 9.10(f), by taking and  
24 passing the Multistate Professional Responsibility Examination on March 7, 2007.

25 **D. Character Witnesses**

26 Petitioner's request for reinstatement was supported by the sworn declarations of the  
27 following six individuals: Larry Belinsky, a prominent businessman in San Diego, who has know  
28 Petitioner for more than forty years; Tracey Gilliam, a Vice President and Assistant General

1 Counsel in the Legal Department for JPMorgan Chase Bank, N.A., in New York, who worked  
2 with Petitioner in New York; Gregory Mykiety, a sales associate with Harvey Home  
3 Entertainment in New York, who has been a friend and associate of Petitioner for the last six  
4 years; Bethann Ortiz, a former co-worker with Petitioner at the “court ordered processing  
5 department” at Sovereign Bank in New York; Grant R. Specht, an active member of the  
6 California State Bar and the current Deputy Director of Litigation at Bet Tzedek Legal Services  
7 in Los Angeles, who has know Petitioner since they worked together as deputy public defenders  
8 in 1986; and Bryant A. Villagran, an active member of the California State Bar and an Assistant  
9 Public Defender of Riverside County, who recently participated in the screening and interview  
10 process resulting in Petitioner being offered a Deputy Public Defender position there, contingent  
11 on this petition for reinstatement being affirmed. Although each of these individuals had a  
12 different perspective to offer regarding Petitioner’s character, background, and activities, they  
13 were unanimous in their praise of his character, intellect, and judgment; complimentary of his  
14 many community and charitable activities; and unqualifiedly supportive of his request to be  
15 reinstated.

16 **E. Moral Qualifications**

17 As to moral qualifications, the question before the court is "whether Petitioner is a fit and  
18 proper person to practice law at this time." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1051.)  
19 Petitioner has proven by clear and convincing evidence the requisite good moral character for  
20 reinstatement to the practice of law. "Letters of recommendation and the favorable testimony,  
21 especially that of employers and attorneys, are entitled to considerable weight. [Citations.]"  
22 (*Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547.) Here, Petitioner presented six credible and  
23 diverse character witnesses who attested to his high moral character. Their opinions and  
24 knowledge of petitioner are consistent in attesting that he is of good moral character. While the  
25 State Bar did not stipulate to Petitioner’s moral qualifications, it did stipulate to the admission  
26 into evidence of the declarations of these character witnesses, and it offered no evidence or  
27 argument in opposition to or rebuttal of that evidence.

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1 **F. Present Learning and Ability in the General Law**

2 The court finds by clear and convincing evidence that Petitioner possesses the present  
3 learning and ability in the general law required for reinstatement. Although Petitioner has not  
4 worked as an attorney since 1996, when he was pursuing his acting career in New York, like  
5 most aspiring actors he needed to have a “normal” job while pursuing opportunities on the stage  
6 and screen. For Petitioner, many of these jobs over the last decade were law-related, including  
7 working in various law firms and in the law departments of Sovereign Bank and JPMorgan  
8 Chase Bank, N.A. Then, when Petitioner made a decision at the beginning of 2007 to return to  
9 California to seek reinstatement as an attorney, he began a fairly intensive and quite thoughtful  
10 program of re-educating himself in a broad range of legal topics, with particular emphasis of  
11 criminal law. Since the beginning of February 2007, he has devoted more than 100 hours to self-  
12 study in the areas of civil procedure, constitutional law, property, torts, trusts and estates,  
13 evidence, immigration law, criminal law and procedures, and state and federal rules of  
14 procedures. In addition, since July 2007, he has completed more than 30 hours of MCLE-  
15 approved classes, including programs on ethics and substance abuse. Many of these MCLE  
16 classes have clearly been selected by Petitioner to prepare him for his future job as a public  
17 defender, including classes on jury selection, defending DUI cases, trial techniques, use of the  
18 new criminal jury instructions, and ethical considerations for attorneys handling criminal cases.

19 **III. RECOMMENDATION**

20 For all of the foregoing reasons, the court concludes that Petitioner has sustained his  
21 burden, by clear and convincing evidence, of establishing: (1) that he passed the Multistate  
22 Professional Responsibility Examination; (2) that he possesses present moral qualifications; and  
23 (3) that he has present learning and ability in the general law for reinstatement to the practice of  
24 law in California. Accordingly, the court recommends that his petition for reinstatement be

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1 **GRANTED** and that Petitioner, **BENJAMIN I. SCHIFF**, be reinstated as a member of the State  
2 Bar of California.

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Dated: November 14, 2007

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DONALD F. MILES  
Judge of the State Bar Court