

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of ) Case No.: **12-R-15499-PEM**  
)  
**THOMAS WALTER JACKSON,** ) **DECISION GRANTING PETITION**  
) **FOR REINSTATEMENT**  
)  
A Petitioner for Reinstatement. )  
\_\_\_\_\_ )

**I. Introduction**<sup>1</sup>

This matter comes before the court on the petition for reinstatement to the practice of law filed by petitioner Thomas Walter Jackson (petitioner) on August 3, 2012. Petitioner is represented by Attorney William M. Balin. The Office of Chief Trial Counsel of the State Bar (State Bar) is represented by Senior Trial Counsel Erica L. M. Dennings.

For the reasons set forth *post*, the court finds that petitioner has clearly and convincingly satisfied the requirements for reinstatement to the practice of law and will, therefore, recommend that petitioner be reinstated. (Cal. Rules of Court, rule 9.10(f); § 6078; Rules Proc. of State Bar, rule 5.445(A).)

**II. Significant Procedural History**

Petitioner was admitted to the practice of law in California on February 4, 1983, and was a member of the State Bar of California until his resignation with charges pending was accepted by the Supreme Court effective December 25, 1992. As noted *ante*, petitioner filed the present

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<sup>1</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code unless otherwise indicated.

petition for reinstatement, which is his first petition for reinstatement, on August 3, 2012. On December 19, 2012, the State Bar filed a six-page opposition to the petition.<sup>2</sup>

A two-day trial was held on the petition on February 26 and 27, 2013. On February 27, 2013, the parties filed a partial stipulation as to undisputed facts and conclusions of law (Stipulation).

At the end of trial on February 27, 2013, over the objection of the State Bar, the court kept the record open until March 29, 2013, to give petitioner an opportunity to submit documentation of his efforts to make restitution to his former clients Norma Duguay, James Jarrard, Marisa de Leon, and Jerry Muro for the unearned fees that he was financially unable to refund to when he resigned with disciplinary charges pending. Unlike petitioner's other former clients, these four former clients did not submit, to the Client Security Fund (CSF), applications for reimbursement from the fund for the unearned advanced fees that respondent could not refund to them when he resigned.

On March 29, and April 2, 2013, petitioner filed a total of four declarations that establish the significant efforts he (and Attorney Balin and Attorney Balin's paralegal) undertook to locate and pay restitution to these four former clients. Also, on April 2, 2013, the State Bar filed an

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<sup>2</sup> In its December 19, 2012 opposition to the petition, the State Bar clearly identified only one ground for its opposition to the petition. That one ground is petitioner's failure to comply with former rule 955 of the California Rules of Court (now rule 9.20 of the California Rules of Court) when he resigned with disciplinary charges pending more than 20 years ago. Under Rules of Procedure of the State Bar, rule 5.443(B), if the State Bar opposes a petition for reinstatement, the State Bar is to disclose, in a written response to the petition, the grounds for its opposition. The State Bar's statement, in its written opposition, that it "intends to rebut petitioner's case by presenting ... evidence regarding petitioner's lack of rehabilitation, lack of present moral qualifications, and lack of present ability and learning in the law" does not comply with rule 5.443(B) because the State Bar did not specify/identify the evidence of lack of rehabilitation, moral qualifications, and ability and learning in the law that allegedly rebuts petitioner's case. Equally noncompliant is the State Bar's statement that "The grounds upon which the State Bar will oppose petitioner's reinstatement will depend ... on the evidence which petitioner offers."

objection to petitioner filing posttrial declarations regarding restitution. Petitioner's four declarations and the State Bar's objection are ADMITTED into evidence.

As the State Bar aptly notes in its objection, “[t]wo of the former clients are deceased—Marisa de Leon died in 2008 and Norma Duguay died in 2011.” (State Bar's Apr. 2, 2103 objection, at pp. 1-2.)<sup>3</sup> Petitioner's declarations establish that petitioner has made full restitution with interest to Jarrard and to Duguay's widower, but that petitioner has not made restitution to Muro or de Leon because, despite petitioner's efforts, petitioner could not locate Muro or determine if de Leon has any living heirs.

The court initially took the case under submission for decision on April 2, 2013.

On June 24, 2013, the court filed an order advising petitioner that one appropriate method of effectively making restitution to Muro and de Leon was to make *cy prè*s restitution to the CSF in the amounts of the unearned fees plus interest that he owed to Muro and de Leon.<sup>4</sup> (Cf. *In re Morse* (1995) 11 Cal.4th 184, 210-212 [ordering that attorney who mass-mailed false and misleading advertisements about homesteading pay \$170,000 in *cy prè*s restitution to the Consumer Protection Prosecution Trust Fund].) In that same order, the court vacated the April 2, 2013 submission date and reopened the record until July 8, 2013, to allow petitioner to submit additional proof regarding his restitution efforts.

On June 28, 2013, petitioner filed a declaration establishing that he had effectively made full restitution to Muro and de Leon by paying *cy prè*s restitution to the CSF in the amounts of the unearned fees plus interest that he owed to Muro and de Leon. That declaration is also

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<sup>3</sup> In its April 2, 2013 objection, the State Bar failed to explain why it listed petitioner's deceased former clients de Leon and Duguay as State Bar witnesses in its pretrial statement and how such deceased individual will each “testify about petitioner's representation of her.”

<sup>4</sup> In his declarations, petitioner sought guidance regarding how to appropriately make restitution to Muro and de Leon in light of these facts.

ADMITTED into evidence. Thereafter, on July 8, 2013, the court again took the case under submission for decision.

### **III. Requirements for Reinstatement**

To be reinstated, petitioner must establish (1) his passage of a professional responsibility examination; (2) his present ability and learning in the general law by providing proof that he has taken and passed the Attorneys' Examination administered by the Committee of Bar Examiners within three years of the date on which he filed his petition for reinstatement; and (3) his rehabilitation and present moral qualifications for readmission. (Cal. Rules of Court, rule 9.10(f); Rules Proc. of State Bar, rules 5.441(B)(3), 5.445(A).)

#### **A. Professional Responsibility Examination**

The parties stipulated that petitioner passed the Multistate Professional Responsibility Examination that was given in August 2011.

#### **B. Attorneys' Examination**

The parties stipulated that petitioner passed the Attorneys' Examination administered by the Committee of Bar Examiners in February 2012, which was within three years of the date he filed his petition for reinstatement.

#### **C. Rehabilitation & Moral Qualifications**

“Although petitioner resigned with disciplinary charges pending instead of being disbarred, he must meet the same requirements for readmission. [Citations.] The legal principles governing reinstatement proceedings are well established. Petitioner bears a heavy burden of proving his rehabilitation. [Citation.] He ‘must show by the most clear and convincing evidence that efforts made towards rehabilitation have been successful.’ [Citation.] Petitioner must present stronger proof of his present honesty and integrity than one seeking admission for the first time whose character has never been in question. [Citation.] ‘In

determining whether that burden has been met, the evidence of present character must be considered in light of the moral shortcomings which resulted in [petitioner's resignation with disciplinary charges pending].’ [Citation.]” (*In the Matter of Rudman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 546, 552-553.) And that is because “ ‘The amount of evidence of rehabilitation required to justify [reinstatement] varies according to the seriousness of the misconduct [underlying petitioner's disbarment or resignation with charges pending].’ ” (*In re Menna* (1995) 11 Cal.4th 975, 987 quoting *Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1086 (dis. opn. of Lucas, C. J.)) Thus, the more egregious the misconduct underlying petitioner's resignation, the more evidence of rehabilitation and present good moral character is needed to justify reinstatement.

### **1. Misconduct Underlying Petitioner's Resignation**

At the time petitioner resigned, one disciplinary proceeding was pending against him in the State Bar Court. In addition, there were thirteen disciplinary investigations and two disciplinary inquires pending against him. Later, in two separate client matters that had not been the subjects of a disciplinary proceeding, investigation, or inquiry (i.e., the Stoehr and LeGrande client matters), CSF reimbursed the former clients for the unearned advanced fees that respondent could not and did not refund when he resigned.

In the Stipulation, the parties set forth, in some detail, most of misconduct underlying petitioner's resignation with disciplinary charges pending. The court finds that the Stipulation and the other evidence in this case establish that the misconduct underlying petitioner's resignation involved 18 separate client matters and consists of a total of 40 violations of the provisions in the Business and Professions Code and the State Bar Rules of Professional Conduct. Almost all of the misconduct occurred during a period of about two years from early 1991 to late 1992. The misconduct, which is summarized *post*, was serious, but not overly

egregious or venal. The misconduct did not involve any fraud or the theft of client or other trust funds. Nor did any of petitioner's clients suffer any really great harm. Petitioner's misconduct did, however, include one instance involving moral turpitude (§ 6106) -- petitioner deliberately misrepresented, to a client, the status of the client's case.

***a. State Bar Court Case Number 91-O-02769 -- de Leon Client Matter***

On March 27, 1992, the State Bar filed a notice to show cause (notice) charging petitioner with the multiple acts of misconduct during his representation of Marisa de Leon in a malpractice lawsuit that de Leon filed against her former attorney. Petitioner failed to respond to the notice, and his default was entered on July 15, 1992. The factual allegations in the notice were deemed admitted by the entry of petitioner's default. (§ 6088; *In the Matter of Morone* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 207, 211 [even under former Transitional Rules of Procedure in effect in 1992, legal effect of entry of default was to admit the factual allegations in the notice; the legal conclusions and charges were not admitted].)

The “admitted” factual allegations in the notice establish that petitioner was culpable of the following five ethical violations in the de Leon client matter: (1) failed to perform legal services competently by failing to appeal the dismissal of the de Leon's lawsuit (rule 3-110(A); former rule 6-101(A(2))); (2) failed to respond to de Leon's inquiries (§ 6068, subd. (m); rule 3-500); (3) effectively withdrew from employment improperly by failing to perform, failing to communicate, moving his law office without informing de Leon (rule 3-700(A)(2); former rule 2-111(A)(2)); (4) deliberately misrepresented, to de Leon, the status of her appeal (§ 6106); and (5) failed to cooperate in the State Bar's investigation of de Leon's complaints (§ 6068, subd. (i)).

Even though the parties did not stipulate to the violation, the record in this proceeding establishes that petitioner failed to refund \$1,000 in unearned advanced fees to de Leon, which is encompassed within the charged and found rule 3-700(A)(2) violation. (See *In the Matter of*

*Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 280-281 [when attorney improperly withdraws from employment in violation of rule 3-700(A)(2), any failure to refund an unearned advanced fee is encompassed within the found rule 3-700(A)(2) violation, and it is improper to find a separate violation of rule 3-700(D)(2) based on the failure to refund the unearned fee].)

***b. Investigation Case Number 92-O-11267 -- Duguay Client Matter***

In about March 1990, Norma Duguay hired petitioner to represent her as the plaintiff in an age discrimination case against her employer. Duguay paid petitioner \$3,000 in advanced legal fees and provided him with documents relevant to her case. Thereafter, petitioner took no action on Duguay's case and eventually her causes of action were lost.

On April 30, 1991, Duguay wrote to petitioner to determine the status of her case. In her letter, she told petitioner that, if he did not file an action by May 1991, she wanted a refund. But, as just noted *ante*, petitioner took no action on Duguay's case. Nor did petitioner refund any portion of the \$3,000 in unearned advanced fees to her.

In August 1991, Duguay filed a complaint against petitioner with the State Bar. On May 15 and 29, 1992, a State Bar investigator sent petitioner letters regarding Duguay's complaint and requesting petitioner to provide a written response to the complaint. Petitioner received those letters shortly after they were sent, but failed to provide written responses to them.

By not taking any action on Duguay's discrimination case, petitioner recklessly failed to perform legal services competently in willful violation of rule 3-110(A). And, by not refunding any portion of the \$3,000 in advance fees to Duguay, petitioner failed to return unearned fees in willful violation of rule 3-700(D)(2). By not providing written responses to either of the investigator's two letters, petitioner failed to cooperate and participate in a disciplinary investigation pending against petitioner in willful violation of section 6068, subdivision (i).

***c. CSF Case Number 93 F 10026 -- Gragg Client Matter***

In February 1994, CSF issued a tentative decision to pay respondent's former client Eugene Gragg \$8,900. In March 1994, petitioner filed an objection to that tentative decision. And, in April 1994, Gragg filed a response to petitioner's objection. Then, on November 3, 1994, CSF issued its final decision denying Gragg's claim. Neither the Stipulation nor anything else in the record establishes that petitioner engaged in professional misconduct with respect to CSF case.

***d. Investigation Case Number 92-O-12157 -- Hutson-Clay Client Matter***

In February 1991, Margie Hutson-Clay hired petitioner to represent her in a forfeiture action regarding her home. Thereafter, petitioner failed to take any meaningful action to defend Hutson-Clay in the forfeiture action. On April 29, 1992, an order of forfeiture was issued forfeiting Hutson-Clay's home to the State of California.

Between February 1991 and March 1992, Hutson-Clay called petitioner on several occasions to determine the status of her case, leaving messages for him to return her calls. Petitioner failed to return her calls. Eventually, Hutson-Clay was not able to leave messages because petitioner's voice mail box was full. Hutson-Clay also sent letters to petitioner at his membership records address, but those letters were returned with the postal notation "Moved, No Forwarding Address."

In March 1, 1992, Hutson-Clay filed a complaint against petitioner with the State Bar. On April 29 and May 15, 1992, a State Bar investigator sent petitioners letters regarding Hutson-Clay's complaint and requesting petitioner to provide a written response to the complaint. Petitioner received the May 15 letter shortly after it was sent, but failed to provide a written response to it.

By not taking steps to defend Hutson-Clay in the forfeiture action and by not returning her phone calls, petitioner recklessly failed to perform legal services competently in willful violation of rule 3-110(A). And, by not providing a written response to the investigator's May 15, 1992 letter, petitioner failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of section 6068, subdivision (i).

***e. Investigation Case Number 92-O-11261 – Johnson Client Matter***

In May 1989, Hershey Johnson hired petitioner to represent him as the plaintiff in an employment discrimination matter. Petitioner obtained the defendant's default, but in February 1991, the superior court granted the defendant's motion to set aside the default. Thereafter, petitioner took no further action to pursue Johnson's claims.

From May 1990 through November 1991, Johnson wrote five letters to petitioner to determine the status of his case. Petitioner received the letters shortly after they were sent. Johnson also called petitioner on several occasions to determine the status of his case, leaving messages for petitioner to return his calls. Petitioner failed to respond to either the letters or phone calls.

On January 6, 1992, Johnson filed a complaint against petitioner with the State Bar. On May 15 and 29, 1992, a State Bar investigator sent petitioner letters regarding Johnson's complaint and requesting petitioner to provide a written response to the complaint. Petitioner received those letters shortly after they were sent, but failed to respond to them.

By not taking any steps to pursue Johnson's case after the default was set aside, petitioner recklessly failed to perform services competently in willful violation of rule 3-110(A). And, by not responding to Johnson's letters requesting the status of his case, petitioner failed to respond promptly to reasonable status inquiries of a client in a matter in which petitioner had agreed to provide legal services in willful violation of section 6068, subdivision (m). By not

responding to the investigator's letters, petitioner failed to cooperate and participate in a disciplinary investigation pending against petitioner in willful violation of section 6068, subdivision (i).

***f. Investigation Case Number 92-O-11736 – Muro Client Matter***

In 1988, Jerry Muro hired petitioner to represent him as the plaintiff in a discrimination case against West San Bernardino County Water District. Muro paid petitioner \$1,000 in advanced fees. After the defendant water district deposed Muro, petitioner failed to pursue Muro's case.

Muro called petitioner on numerous occasions to determine the status of his case, leaving messages for petitioner to return his calls. Petitioner received the messages, but did not return Muro's calls.

On February 27, 1992, Muro filed a complaint against petitioner with the State Bar. On May 15 and 29, 1992, a State Bar investigator sent petitioner letters regarding Muro's complaint and requesting petitioner to provide a written response to the complaint. Petitioner received those letters shortly after they were sent, but failed to respond to them.

By not taking any steps to pursue Muro's case after Muro's deposition, petitioner recklessly failed to perform services competently in willful violation of rule 3-110(A). And, by not returning Muro's phone calls requesting the status of his case, petitioner failed to respond promptly to reasonable status inquiries of a client in a matter in which petitioner had agreed to provide legal services in willful violation of section 6068, subdivision (m). Moreover, even though the parties did not stipulate to the violation, the court finds that the stipulated facts clearly establish that respondent willfully violated section 6068, subdivision (i) by failing to respond to the investigator's May 27 and 29, 1992 letters. Even though the parties did not stipulate to the violation, the court finds, based on petitioner's admissions in this proceeding, that respondent

willfully violated rule 3-700(D)(2) by failing to refund the unearned portion of the \$1,000 in advanced fees to Muro when petitioner resigned from the practice of law 20 years ago.<sup>5</sup>

***g. Investigation Case Number 92-O-19009 – Thomas Client Matter  
CSF Case Number 93 F 10060 -- Thomas Client Matter***

In April 1991, Francina Thomas hired petitioner to represent her in an employment case against the San Bernardino Unified School District. Thomas paid petitioner \$1,750 in advanced fees. Thereafter, petitioner took no action to pursue Thomas's case.

In August 1992, Thomas spoke to petitioner and told him to return her file and fees. At that time, petitioner told Thomas he was no longer practicing law and that he was ill. Petitioner did not return Thomas's file or refund any portion of the unearned fees.

By not taking any steps to pursue Thomas's case, petitioner recklessly failed to perform services competently in willful violation of rule 3-110(A). And, by not returning Thomas's file pursuant to her request, petitioner failed to return client materials upon request in willful violation of rule 3-700(D)(1). Furthermore, by not refunding any of the \$1,750 to Thomas, petitioner failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2).

On January 4, 1995, CSF paid Thomas \$1,750 pursuant to her application for reimbursement.

***h. Investigation Case Number 92-O-11885 -- Cregan Client Matter***

By notice dated August 12, 1991, petitioner notified the Court of Appeal for the Sixth Appellate District that he was associating in as co-counsel along with the Sixth District Appellate Program (SDAP) representing criminal defendant Janice Cregan in her appeal in *People v. Cregan*, Santa Clara Superior Court case number 141515. On November 12, 1991,

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<sup>5</sup> The court notes that, even though respondent clearly earned some portion of the \$1,000 when the defendant water district took Muro's deposition, respondent made *cy prè*s restitution to CSF for the full \$1,000 in advanced fees plus 10 percent interest per year since 1992.

SDAP terminated petitioner's association due to his failure to file an opening brief or request an extension of time.

On November 20, 1991, the Sixth District Court of Appeal entered an order requiring petitioner to send the record to Attorney Diane Baker, who is associated with the Sixth District Court of Appeal. Thereafter, petitioner failed to send the record to Attorney Baker. And, on December 17, 1991, the Court of Appeal issued an Order to Show Cause (OSC) regarding petitioner's failure to comply with its November 20, 1991 order.

On January 22, 1992, the OSC was granted, and petitioner was ordered to appear on February 25, 1992, to show cause why he should not be sanctioned. Thereafter, petitioner failed to appear.

On about March 13, 1992, the Clerk of the Court of Appeal for the Sixth Appellate District filed a complaint against petitioner with the State Bar. On April 29 and May 15, 1992, a State Bar investigator sent petitioner letters regarding the clerk's complaint and requesting petitioner to provide a written response to that complaint. Petitioner received the May 15, 1992, letter shortly after it was sent, but failed to respond to it.

By not sending the record to Attorney Baker in accordance with the Court of Appeal's November 20, 1991 order, petitioner disobeyed or violated a court order requiring him to do an act in the course of his profession which he ought in good faith do in willful violation of section 6103. The stipulated facts do not establish that petitioner violated section 6103 when he failed to appear in court on February 25, 1992.

Moreover, even though the parties failed to stipulate to it, the court finds that the stipulated facts clearly establish that respondent willfully violated section 6068, subdivision (i) by failing to respond to the State Bar investigator's May 15, 1992 letter.

*i. Investigation Case Number 92-O-11186 -- Fifth District Court of Appeal Matters*

Petitioner was the retained counsel in the following five appeals before the Court of Appeal for the Fifth Appellate District:

1. Case Number F015558 -- *People v. Margie Hutson-Clay*
2. Case Number F015611 -- *People v. Tracy Ann Hawkins*
3. Case Number F015911 -- *People v. Gabryel Montalbo*
4. Case Number F016839 -- *People v. Black and Taylor*
5. Case Number F016739 -- *People v. Eugene Leroy Gragg*

On May 16, 1991, petitioner was notified by court order that the *Hutson-Clay* appeal would be dismissed pursuant to California Rules of Court, rule 17(c) (Rule of Court 17(c)) if the opening brief was not filed within 30 days. And, on June 19, 1991, the *Hutson-Clay* appeal was dismissed for failure to file an opening brief. A remittitur was issued on August 19, 1991.

On May 8, 1991, petitioner was notified that the *Hawkins* appeal would be dismissed pursuant to Rule of Court 17(c). And, on June 12, 1991, the *Hawkins* appeal was dismissed for failure to file an opening brief. A remittitur was issued on August 12, 1991.

On July 17, 1991, petitioner was notified, pursuant to Rule of Court 17(c), of the due date of the opening brief in the *Montalbo* appeal. On about August 19, 1991, the *Montalbo* appeal was dismissed. A remittitur was issued on October 21, 1991.

On December 24, 1991, the two appellants in the *Black and Taylor* appeal were notified that their appeal was going to be dismissed pursuant to Rule of Court 17(c). On January 17, 1992, appellant Black filed a motion requesting an extension of time to retain new counsel for bail pending appeal. And, in February 1992, the court granted Black's request. The stipulated facts in this paragraph do not establish a violation of the Business and Professions Code or the State Bar Rules of Professional Conduct.

On October 9, 1991, a notice of appeal was filed in the *Gragg* appeal. And, on December 6, 1991, a record of appeal was filed. On January 21, 1992, a letter was sent to petitioner stating the court believed he was attorney of record and that the opening brief was due within 40 days of the date of the letter. On January 23, 1992, the court received a copy of a letter from the Central California Appellate Program to petitioner asking what his status was and asking him to contact the court as soon as possible. Petitioner did not respond. The stipulated facts in this paragraph do not establish a violation of the Business and Professions Code or the State Bar Rules of Professional Conduct.

On February 19, 1992, a State Bar investigation was opened against petitioner regarding his conduct in the foregoing five appeals (i.e., the *Hutson-Clay*, *Hawkins*, *Black and Taylor*, *Montalbo*, and *Gragg* appeals). On April 29 and May 15, 1992, a State Bar investigator sent petitioner letters regarding his conduct in these five appeals and requesting petitioner to provide a written response to each letter. Petitioner received the May 15, 1992 letter shortly after it was sent, but failed to respond to it.

By not filing opening briefs resulting in the dismissal of three of the five foregoing appeals (i.e., the *Hutson-Clay*, *Hawkins*, and *Montalbo* appeals), petitioner recklessly failed to perform legal services competently in three client matters in willful violation of rule 3-110(A).<sup>6</sup> By not providing a written response regarding his conduct in each of the five client matters/appeals as requested in the investigator's May 15, 1992 letter, petitioner failed to

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<sup>6</sup> The court rejects the stipulated violations of section 6103. The section 6103 violations are duplicative of the stipulated rule 3-110(A) violations because the section 6103 violations are based on the same acts of misconduct as the stipulated rule 3-110(A) violations (i.e., petitioner's failures to file the opening brief in each of the three dismissed appeal). (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 992; *In the Matter of Doran* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871, 879; see also *In the Matter of Blum* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403, 409-410 [even when attorney stipulates to culpability, the State Bar Court has an affirmative duty to determine if culpability is supported by the factual record].)

cooperate and participate in the disciplinary investigations pending against him in five separate client matters in willful violation of section 6068, subdivision (i).

***j. Investigation Case Number 92-O-12073 – Nevarez Client Matter***

Prior to March 17, 1992, petitioner represented Carmen Nevarez in San Bernardino County Superior Court case number SCV205957, styled *Carmen Nevarez v. San Bernardino Unified School District*. Petitioner repeatedly and recklessly failed to perform competently in Nevarez's case, resulting in sanctions being imposed against her. Thereafter, petitioner failed to respond to Nevarez's numerous phone calls and moved his office without informing Nevarez of his new address.

On March 19, 1992, a complaint was filed against petitioner with the State Bar. On April 29 and May 15, 1992, a State Bar investigator sent petitioner letters regarding the complaint in the Nevarez matter and requesting petitioner to provide a written response to the complaint. Petitioner received the May 15, 1992 letter shortly after it was sent, but failed to provide a written response.

By not pursuing Nevarez's matter, resulting in evidence sanctions against her, petitioner recklessly failed to perform services competently in willful violation of rule 3-110(A). And, by not returning Nevarez's phone calls requesting the status of her case, petitioner failed to respond promptly to reasonable status inquiries of a client in a matter in which petitioner had agreed to provide legal services in willful violation of section 6068, subdivision (m). Also, by not providing a written response to the investigator's May 15 letter, petitioner failed to cooperate and participate in a disciplinary investigation pending against petitioner in willful violation of section 6068, subdivision (i).

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***k. Investigation Case Number 92-O-11361 -- Eviction Matter***

Prior to January 27, 1992, petitioner was evicted from his law office at 345 Franklin Street, Suite 202, San Francisco, California. On about January 27, 1992, petitioner was served with an eviction restoration notice when it was posted on his office door. After the eviction restoration notice was issued, petitioner entered the building without permission and removed personal items as well as client files.

***l. Inquiry Number 95-40529 -- Jarrard Client Matter***

In about 1991, James Jarrard employed petitioner to represent him in a criminal matter. Jarrard paid petitioner's fee with a Honda motorcycle, which was worth about \$3,000. Petitioner failed to take steps to represent Jarrard. In addition, petitioner failed to return the motorcycle to Jarrard.

By not taking steps to represent Jarrard in the criminal matter, petitioner recklessly failed to perform legal services competently in willful violation of rule 3-110(A). Moreover, even though the parties failed to stipulate to the violation, the court finds that the record establishes that petitioner willfully violated rule 3-700(D)(2) when he failed to promptly refund the unearned advanced fee of the motorcycle or its value of \$3,000 to Jarrard when petitioner resigned.

***m. Inquiry Case Number 93-35246 – Bond Client Matter  
CSF Case Number 93 F 10975 -- Bond Client Matter***

In about August 1991, Randy Bond hired petitioner to represent him in a DMV violation matter. Bond paid \$1,600 for petitioner's representation. Thereafter, petitioner failed to take any steps to pursue Bond's matter. Petitioner failed to refund any unearned fees to Bond. By not taking any steps to represent Bond in the DMV matter, petitioner recklessly failed to perform legal services competently in willful violation of rule 3-110(A). And, by not refunding any part

of the \$1,600 to Bond, petitioner failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2).

On February 17, 1993, Bond filed an application for reimbursement with CSF. And, on August 13, 1995, CSF notified Bond that it would pay him \$1,600.

***n. CSF Case Number 93 F 17315 – Stoehr Client Matter***

On about September 13, 1993, Conchita Stoehr filed an application for reimbursement with CSF. On November 3, 1994, CSF issued a tentative decision awarding Stoehr \$2,000 in reimbursement for \$2,000 in unearned advanced fees that petitioner was unable to refund to Stoehr when he resigned. And, on December 15, 1994, CSF issued a final decision awarding Stoehr \$2,000. On January 4, 1995, CSF issued a \$2,000 check to Stoehr.

Moreover, even though the parties did not stipulate to the violation, the court finds that the record establishes that respondent willfully violated rule 3-700(D)(2) when he failed to refund the \$2,000 in unearned advanced fees to Stoehr when he resigned.

***o. CSF Case Number 96 F 06358 – LeGrande Client Matter<sup>7</sup>***

On about September 30, 1996, Arlene LeGrande filed an application for reimbursement with CSF. And, on about April 21, 1998, CSF issued a notice of intent to pay on the LeGrande application for of Anita and Arlene LeGrande. On July 15, 1998, CSF issued a \$6,000 check to Arlene and Anita LeGrande for the unearned advanced fees that respondent was unable to refund to the LeGrandes when he resigned.

Moreover, even though the parties did not stipulate to the violation, the court finds that the record establishes that petitioner willfully violated rule 3-700(D)(2) when he failed to refund the \$6,000 in unearned advanced fees to the LeGrandes when he resigned.

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<sup>7</sup> In the Stipulation, the parties erroneously stipulated that there were only \$600 in unearned advanced fees in the LeGrande client matter when there were actually \$6,000.

*p. Summary of the Misconduct Underlying Petitioner's Resignation*

As set forth *ante*, the misconduct underlying petitioner's resignation involved a total of 39 violations of the Business and Professions Code and the State Bar Rules of Professional Conduct in 18 separate client matters as follows: Petitioner failed to competently perform legal services in willful violation of rule 3-110(A) in twelve client matters; failed to cooperate in the State Bar's disciplinary investigations in willful violation of section 6068, subdivision (i) in eleven client matters; failed to refund a total of \$18,350 in unearned advanced fees in willful violation of rule 3-700(D)(2) in seven client matters;<sup>8</sup> improperly withdrew from employment without refunding \$1,000 in unearned advanced fees in willful violation of rule 3-700(A)(2) in one client matter (i.e., the de Leon client matter); failed to adequately communicate in willful violation of section 6068, subdivision (m) in five client matters; failed to return the client's file in willful violation of rule 3-700(D)(1) in one client matter; failed to obey a court order in willful violation of section 6103 in one client matter; and engaged in an act involving moral turpitude by deliberately misrepresenting the status of a client's case to the client in willful violation of section 6106 in one client matter.

**2. Facts and Circumstances Surrounding Petitioner's Prior Misconduct**

At the time petitioner engaged in most of the misconduct underlying his resignation, petitioner was under great financial stress and suffering from physical and emotional difficulties. By about 1992, petitioner had become so overwhelmed and distraught by the stress and these

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<sup>8</sup> This \$18,350 is the total of the following amounts of unearned advanced fees that petitioner did not refund in violation of rule 3-700(D)(2) in seven client matters: (1) \$3,000 in the Duguay client matter; (2) \$1,000 in the Muro client matter; (3) \$1,750 in the Thomas client matter; (4) \$3,000 in the Jarrard client matter; (5) \$1,600 in the Bond client matter; (6) \$2,000 in the Stoehr client matter; and (7) \$6,000 in the LeGrande client matter. As noted *post*, petitioner also failed to refund an addition \$1,000 in unearned advanced fees in the de Leon client matter that petitioner. Thus, when petitioner resigned he failed to refund a combined total of \$19,350 in unearned advanced fees in eight client matters.

difficulties that he became dysfunctional and was simply incapable of performing the duties of an attorney. Petitioner explains his aberrant behavior as follows:

After petitioner was admitted to practice in 1983, petitioner practiced law “in association” with Attorney Robert Bryan, who was handling death-penalty appeals. Respondent worked out of Bryan’s law office and branched out into criminal trials and employment discrimination and civil rights litigation. In about 1989, petitioner’s “association” with Attorney Bryan ended rather abruptly when Bryan moved his law office. At that point, petitioner had to find his own office, at a much greater cost to himself.

Not long after he was admitted to practice, petitioner renewed what had begun as a high-school love affair in France and married his wife, Dominique, a French national. Dominique and her young son, Guillaume, moved from France to the United States to be with petitioner. When petitioner married Dominique, he adopted Guillaume, who was then five years old.

When petitioner and Dominique got married, Dominique could not find employment because she did not speak much English. Accordingly, she stayed home and cared for Guillaume. Until petitioner resigned from the practice of law, petitioner supported his family with his earnings from practicing law. When petitioner married Dominique and adopted Guillaume, petitioner's living costs (e.g., costs of food, clothing, medical and dental care, etc.) effectively tripled overnight.

At about the same time that petitioner moved into his own law office, Dominique began irrationally spending substantially more money than respondent earned. She also ran up credit card debt. In addition, she ran up their telephone bills by repeatedly calling long distance to France. One month’s phone bill was more than \$2,000. On at least on occasion, she even bought a new car without telling petitioner beforehand. The “tripling” of petitioner's living

costs, the added expense of petitioner having to rent his own law office, and Dominique's excessive spending placed great pressure on petitioner to work harder and find new clients.

In 1991, petitioner was hired to represent a defendant in a special circumstances murder case. Members of the defendant's church led petitioner to believe that they would pay petitioner's fee. Of course, that helped induce petitioner to accept the case. Midway through the case, however, the church members told petitioner that they would not pay him. Nonetheless, petitioner felt bound to represent the defendant through trial, which he did. The jury found the defendant guilty of voluntary manslaughter, which was a good result for the defendant. The trial lasted three weeks and took up almost all of petitioner's time, energy, and resources. Consequently, when petitioner did not get paid for representing the defendant, his bad financial situation became dire.

Petitioner then took on civil cases in Southern California and criminal and civil cases in Modesto, where he set up an office for a while. In some of the cases, petitioner asked for and was paid modest advanced fees. However, in those cases, the clients never made the agreed-upon additional advanced payments.

By 1992, petitioner's financial difficulties became so great that he could not pay the rent on either his home or his law office. And, in early 1992, he was evicted from both. His car (the one Dominique had purchased) was repossessed, and petitioner's parents had to give the couple one of their cars.

On one occasion during this stressful period, petitioner did not come home from work, and Dominique could not reach him by phone. As it turned out, petitioner passed out in his office and, when he recovered, the left side of his upper body was numb or paralyzed like he had had a stroke. He could not move his left arm, nor could he speak above a whisper. Petitioner was

hospitalized for several days, but the doctors were unable to find a cause or make a definitive diagnosis.

Because petitioner had no health insurance and no money, he was unable to obtain further medical care. Moreover, petitioner was unable to drive for about three months after his stroke-type incident. During those three months, Dominique drove petitioner to and from work and to and from court. One day, Dominique went into the courtroom in which petitioner was making an appearance in a case for a client. At that time Dominique heard the judge advise petitioner to take a vacation because petitioner's voice was so weak that petitioner was unable to speak loud enough for the judge to hear him. Petitioner's condition shocked Dominique into changing her spending habits.

By mid-1992, State Bar investigators were sending petitioner multiple letters regarding complaints from his clients. Petitioner did not respond to those investigation letters because he knew that the allegations were true. In his dysfunctional state, petitioner believed that the State Bar would accept and treat his failures to respond to the letters as admissions to the alleged misconduct.

Petitioner, having lost his car and having no money, could not keep up with his Southern California cases. Additionally, he simply was physically and mentally unable to attend to all of his cases in Modesto. Petitioner believes that he suffered from severe depression throughout this time period. He recalls that during that despair and dysfunctional state he actually contemplated committing suicide. Unfortunately, as with his physical medical conditions, petitioner could not obtain medical care for his depression and dysfunctional state because he did not have health insurance or the money to pay for it. Eventually, petitioner suffered physical and mental breakdowns, which forced him to admit to himself that he was then incapable of performing the

duties of an attorney and that he had to resigned from the State Bar with disciplinary charges pending.

Understandably, given petitioner's depression and dysfunctional state in 1992, petitioner cannot independently recall all of the misconduct underlying his resignation. Nonetheless, petitioner readily accepted responsibility for it, and petitioner and the State Bar entered into the Stipulation in which petitioner stipulates to almost all of the misconduct underlying his resignation. In addition, petitioner executed every waiver the State Bar requested so that the State Bar had access to every private record it wanted to inspect. Petitioner's complete cooperation with the State Bar in this reinstatement proceeding is in stark contrast to petitioner's prior failure to cooperate.

Petitioner has a deep sense of shame and remorse for his misconduct and the harm and distress it caused his former clients. Such remorse is an essential step toward rehabilitation as is petitioner's sincere conviction not to again engage in any misconduct. This is strong evidence that respondent will conform his conduct to the strictures of the profession.

Petitioner has matured in the 20 years since his resignation and understands that much of his misconduct was caused not only by petitioner's inexperience and lack of administrative skills with which to run a law office on his own and by his failure to live within his means (or to insist that Dominique live within his means as the case might be), but also by his accepting and undertaking significantly more work in 1991 and 1992 (and possibly in 1990) than he could have performed under the circumstances and by accepting and setting fees that were significantly insufficient in relation to amount of work to be performed and to running a profitable law practice.

### **3. Petitioner's Conduct after Resignation**

#### ***a. Failure to Comply with Former Rule 955, California Rules of Court***

In accepting petitioner's resignation from the State Bar, petitioner agreed and the Supreme Court ordered petitioner to comply with former rule 955 of the California Rules of Court (now rule 9.20, California Rules of Court) (former rule 955), which required that he inform his clients, opposing counsel, and the courts of his resignation and ineligibility to practice law, and to file an affidavit with the State Bar Court attesting to his compliance with the subject rule. In the instant case, petitioner did not notify any of his clients of his resignation in writing, but he did locate and speak to some of his clients and inform them that he could no longer represent them because his resignation; nor did petitioner did not file a former rule 955(c) compliance declaration.

The record does not clearly establish that petitioner's noncompliance with former rule 955 was willful because his noncompliance occurred when he was depressed, dysfunctional, and incapable of performing the duties of an attorney. In any event, in light of the other strong evidence of petitioner's rehabilitation and present moral qualifications for reinstatement in the record, the court finds that petitioner's noncompliance with former rule 955 is neither determinative of his rehabilitation nor a bar to his reinstatement, particularly since more than 20 years have passed since his noncompliance. (*In the Matter of Salyer* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 816, 827; cf. *In the Matter of Rudman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 546 [petitioner's drunk driving conviction after his resignation with disciplinary charges pending did not bar the petitioner's reinstatement]; *In the Matter of Miller* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 423 [the fact that the petitioner evasively informed his clients that he was retiring from the practice of law instead of truthfully informing them that he had resigned with disciplinary charges pending did not bar the petitioner's reinstatement].)

***b. Petitioner's Employment***

A few months after his resignation, petitioner obtained employment with a temporary employment agency and was first assigned to work as a temporary word processor at the law firm of Orrick, Herrington & Sutcliffe (Orrick) in San Francisco. Petitioner was paid \$15 an hour.

Orrick thereafter hired petitioner as a night-shift word processor. In that position, petitioner worked weekdays from 6:00 p.m. until the early morning hours. Later, Orrick promoted petitioner to a day-shift word processor, then to a work flow coordinator, then to manager of the help desk, and finally to computer applications manager. Each promotion gave petitioner greater responsibilities and helped to rebuild his self-confidence.

At Orrick, petitioner worked hard and became quite knowledgeable about computers and technology. When petitioner began working for Orrick in 1993, petitioner's salary was about \$30,000 a year. When petitioner left Orrick in 2000, petitioner's salary had almost doubled to about \$60,000 a year.

When petitioner left Orrick in 2000, he went to work as the director of technology at the San Francisco law firm then known as Furth, Fahrner & Mason (now the Furth Firm, LLP) (Furth). Just as he did at Orrick, petitioner worked hard at Furth. And, in 2004, petitioner was promoted to general manager (i.e., office manager) of Furth. In that position, petitioner not only continued to oversee the firm's technology programs, but petitioner also managed the firm's support staff, was in charge of budgeting and handling the firm's finances and business accounts (petitioner did not handle client trust funds), and kept the firm going in a business sense.

In addition to his full-time employment at Furth, petitioner began handling technology at Attorney Frederick P. Furth's winery -- Chalk Hill Estate Vineyards and Winery (Chalk Hill Winery). And, in 2009, petitioner was given even more responsibilities at Chalk Hill Winery when Attorney Furth made him the winery's chief administrative officer (CAO). In addition to

petitioner's general-manager duties at Furth, which duties had temporarily slowed down, petitioner's CAO duties at the winery included supervising the winery's 120 employees, budgeting, strategic planning, and finance. In addition, as the CAO of the winery, petitioner oversaw the sale of the winery in 2010. Petitioner continues to work at Furth full time.

***c. Charitable Activities***

Petitioner has a meaningful history of participating in charitable activities. One year, when he worked at Orrick, petitioner participated in the firm's "Make a Wish" program by helping to refurbish houses.

In 2004, 2005, 2006, 2007, and 2013, petitioner served, without compensation, as the conference administrator of the International Judicial Conference, a non-profit conference sponsored by the Furth Family Foundation and others. The International Judicial Conference gathers jurists from a number of countries and promotes the understanding and sharing of the precepts of law and justice. Petitioner served as the administrator for conferences held in Romania, Kiev, Prague, and Ann Arbor, Michigan. Undoubtedly, serving as the conference administrator is a very large undertaking. Petitioner has volunteered well over 1,000 hours serving as the administrator of five International Judicial Conferences.

Petitioner has also donated a significant amount of time to the Imagine Auction, an charity auction held at Chalk Hill Winery to raise money for needy children. Petitioner organized the auction for at least two years.

In sum, petitioner's extensive charitable and community activities are strong evidence of his rehabilitation and present good moral character. (Cf. *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785, quoting *Schneider v. State Bar* (1987) 43 Cal.3d 784, 799.)

***d. Restitution***

“Restitution is fundamental to the goal of rehabilitation.” (*Hippard v. State Bar, supra*, 49 Cal.3d at p. 1094.) As the Supreme Court has noted multiple times, restitution is an extremely effective method of protecting the public and rehabilitating errant attorneys because it forces an attorney to confront the harm caused by his misconduct in real, concrete terms. (*Hippard v. State Bar, supra*, 49 Cal.3d at p. 1093; *Brookman v. State Bar* (1988) 46 Cal.3d 1004, 1009; see also *Kelly v. Robinson* (1986) 479 U.S. 36, 49, fn. 10.)

Petitioner paid all of his debts, including his back taxes with penalties and interest. He reimbursed CSF for the \$11,350 that it paid out to his former clients Thomas, Bond, Stoehr, and LeGrande and paid CSF interest and costs. And, as noted *ante*, petitioner made complete restitution with interest to his former client Jarrard and to the widower of his former client Duguay and effectively made complete restitution with interest to his former clients de Leon and Muro by making *cy prè*s restitution with interest to CSF.

In sum, petitioner has effectively made complete restitution with interest for all of the known, direct harm caused by his prior misconduct that would have been proper subjects of a restitution order in an attorney disciplinary proceeding. In short, by making restitution with interest and by paying CSF costs, petitioner has confronted, in real, concrete terms, the harm his misconduct caused. This is strong evidence of petitioner's rehabilitation.

#### **4. Good Character Witnesses**

Petitioner presented live good character testimony from two successful attorneys of high repute and for whom and with whom petitioner has worked for many years: Attorneys Henry A. Cirillo and Frederick P. Furth. Both of those attorneys were extremely credible witnesses. Notably, their opinions of respondent's character are based on their personal observations of respondent's *daily* conduct and mode of living and working over many years. These two

attorneys are aware of respondent's prior misconduct and resignation with disciplinary charges pending.

Attorney Cirillo was admitted to practice in California in 1987. He was formerly a partner in the Furth Firm, which is where he met petitioner in 2000. Currently, Attorney Cirillo is a partner in the law firm of Smith Dollar, PC in Santa Rosa. Not long after petitioner started working at Furth, Attorney Cirillo became the managing partner of Furth. In Attorney Cirillo's capacity as managing partner, Attorney Cirillo interacted with petitioner and observed petitioner's conduct and mode of working on an almost daily basis from about June 2002 through 2008. Attorney Cirillo credibly testified as to petitioner's competence and exception performance as Furth's technology director and general manager and credibly attested to petitioner's high work ethic and moral character, specifically noting petitioner's honesty and trustworthiness. Attorney Cirillo highly recommends petitioner for reinstatement.

Attorney Furth, an attorney of very high repute, was admitted to practice in California in 1966 and is the founding and head partner of the Furth Firm. He started and built the very successful Chalk Hill Winery. Attorney Furth originally hired petitioner to run the firm's information technology department in 2000. He thereafter promoted petitioner to general manager. He later made petitioner the general manager of Chalk Hill Winery and entrusted petitioner with handling the sale of the winery.

Attorney Furth not only credibly testified to petitioner's competence and exception performance as Furth's technology director and general manager and as Chalk Hill Winery's general manager, but also credibly attested to petitioner's extensive charitable and civic activities. Moreover, Attorney Furth credibly attested to petitioner's outstanding reputation with everyone at Furth and Chalk Hill Winery for honesty, trustworthiness, truthfulness, reliability, and even observance of fiduciary duties. Finally, Attorney Furth, who has personally observed petitioner's

mode of daily living and working for the last 12 years, believes that petitioner is completely rehabilitated and possesses the highest moral character. He strongly recommends that petitioner be reinstated as a member of the State Bar of California.

In addition, petitioner presented the extremely credible declaration testimony from each of the following three attorneys of very high repute: Attorney Thomas P. Dove, who is admitted in both California and New York, worked for the California Attorney General's Office for almost 29 years, where among other things, he headed the Antitrust Division of the Attorney General's San Francisco Office. After he left the Attorney General's Office, Attorney Dove was of counsel to the Furth Firm for eight years, which is where he met petitioner.

Attorney John T. King was admitted to practice in California in 1999, and worked for the Furth Firm from 2000 until 2008, which is where he met petitioner. Attorney Michael Lehmann was a partner in the Furth Firm from 1978 until 2007, which is where he also met petitioner. When he left in 2007, Attorney Lehmann was the managing partner of Furth. Lehmann is currently a partner in the law firm of Housefeld LLP. Each of these attorneys is fully aware of petitioner's prior misconduct and resignation with charges pending. They each worked with petitioner on an almost daily basis for many years. And they each uniformly praised petitioner's competency, work ethic, and character and recommend his reinstatement.

Without question, the extremely favorable testimony of these five attorney character witnesses is strong evidence of petitioner's rehabilitation and moral qualification for reinstatement. Testimonials from acquaintances, friends and employers regarding their observation of the daily conduct of an attorney who has been disbarred are entitled to great weight, with particular credence given to such statements by attorneys because they “ ‘possess a [keen] sense of responsibility for the integrity of the legal profession.’ [Citations.]” (*In re Menna* (1995) 11 Cal.4th 975, 988.)

Petitioner also present live good character testimony from his wife, Dominique, and declaration testimony from each of the following four individuals: Clark He, a photographer; Charlene Yamato, a support staff member at the Furth Firm; Brenda Bailey, the office manager of the Chalk Hill Winery; and Viorel Michescu, the Executive Director of Centras, which is leading Romanian non-profit working for the development of democracy in Romania. Each of these witnesses was aware of respondent's prior misconduct and resignation. And all of them but Mr. Michescu observed petitioner on a daily or almost daily basis for years. They each again gave unqualified high praise for petitioner's honesty, integrity, hard work, and *exceptional* good character.

#### **5. Discussion of Petitioner's Rehabilitation & Moral Qualification**

Since petitioner's breakdowns and resulting resignation, petitioner has rebuilt his life in an exemplary fashion. He obtained employment in clerical position and supported his family and paid his debts and taxes. He worked hard and furthered his abilities in computer hardware and software. During the last 20 plus years, petitioner has been an exceptional employee and risen through the ranks at two well-respected law firms. Without question, these facts alone are *strong, if not compelling*, evidence of petitioner's rehabilitation. (Cf. *Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1065, 1069 [diligent and competent performance of legal services is evidence of good moral character].)

Petitioner was a very candid and credible witness at the hearing on his petition for reinstatement. Petitioner accepts full responsibility for the misconduct that led to his resignation. He is well aware of the harm his misconduct caused his former clients and the legal profession. For 20 years, he has worked hard, been productive, and given of himself through charitable and civic volunteer activities to atone for the wrongs he committed as a lawyer.

Petitioner seeks readmission to the Bar because he wants to serve people, redeem himself, at least in his own eyes, and to honor Mr. Furth, to whom he feels a deep sense of gratitude, and who encouraged him to reapply. He hopes to assist Mr. Furth in the waning days of Mr. Furth's law practice.

Petitioner's present moral character is attested to by many character witnesses. The court finds that petitioner's sustained period of exemplary conduct, his recognition of the seriousness of his misconduct, his dedication to his family, and his genuine expression of remorse, are all strong indicators of petitioner's rehabilitation and present honesty and integrity. Reviewing the record as a whole, the court is convinced that petitioner has demonstrated his rehabilitation and moral reformation from the acts which led to his resignation and that he possesses the moral qualifications for reinstatement.

#### **IV. Conclusion and Recommendation**

In conclusion, the court finds that petitioner **THOMAS WALTER JACKSON** has passed a professional responsibility examination, established his rehabilitation and present moral qualifications for readmission, and by taking and passing the Attorneys' Examination administered by the Committee of Bar Examiners within three years before he filed the petition for reinstatement, established his present ability and learning in the general law. (Cal. Rules of Court, rule 9.10(f).) Accordingly, **THOMAS WALTER JACKSON'S** August 3, 2012 petition for reinstatement after resignation with disciplinary charges pending is **GRANTED**, and this court **RECOMMENDS** that the Supreme Court order **THOMAS WALTER JACKSON'S** reinstatement as a member of the State Bar of California upon his payment of the required fees

and his taking the oath required by law. (Cal. Rules of Court, rule 9.10(f); Bus. & Prof. Code, § 6078; Rules Proc. of State Bar, rule 5.445(A).)

Dated: July \_\_\_\_, 2013.

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**Pat McElroy**  
Judge of the State Bar Court