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STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

12 In the Matter of:) Case No. 13-R-14162-LMA
13 DAVID RAMIREZ DEQUIT,) STATE BAR'S OPPOSITION TO
14) PETITIONER'S PETITION FOR
15) REINSTATEMENT [Rule 5.443(B) &
Petitioner for Reinstatement) 5.445(A), Rules of Proc. Of State Bar]

16 The State Bar of California, Office of the Chief Trial Counsel ("State Bar") by and
17 through Suzan J. Anderson, Senior Trial Counsel, hereby submits its response to the Petition for
18 Reinstatement of David Ramirez DeQuit ("petition") filed on July 29, 2013, pursuant to Rule
19 5.443(B) and 5.445(A) of the Rules of Procedure of the State Bar of California. The State Bar
20 opposes the reinstatement of David Ramirez DeQuit.

21 In providing this response, the State Bar reserves the right to base its opposition on
22 additional grounds not readily apparent at this time, and which discovery may uncover, and to
23 amend or supplement this response as appropriate.

24 **I. BRIEF PROCEDURAL HISTORY**

25 Petitioner was admitted to the practice of law in California on December 7, 1995.

26 On March 18, 1998, a Notice of Disciplinary Charges was filed in State Bar Court against
27 Petitioner. Petitioner failed to participate in the disciplinary proceedings. On June 22, 1999, the
28 Supreme Court ordered Petitioner suspended for six months, that execution of suspension be

1 stayed, that Petitioner be placed on probation for one year subject to the conditions of probation,
2 including payment of restitution, and that Petitioner take and pass the MPRE.

3 Petitioner was found culpable of willful failure to perform legal services with competence
4 in violation of Rules of Professional Conduct, rule 3-110(A); withdrawing from employment
5 without providing adequate notice and without allowing the client time to obtain other counsel in
6 willful violation of rule
7 3-700(A)(2); and failing to return unearned attorney's fees in willful violation of rule
8 3-700(D)(2).

9 Petitioner failed to comply with probation conditions and take and pass the MPRE. On
10 March 7, 2001, the Supreme Court ordered Petitioner's probation revoked, and that Petitioner be
11 actually suspended from the practice of law for six months. Petitioner was ordered to comply
12 with rule 955 of the California Rules of Court.

13 Petitioner failed to comply with rule 955. On February 22, 2002, the Supreme Court
14 ordered Petitioner disbarred from the practice of law effective March 22, 2002.

15 **II. BASIS FOR OPPOSING PETITIONER'S REINSTATEMENT**

16 A petitioner for reinstatement has the burden of proving by clear and convincing
17 evidence to the Court that he/she: 1) has been rehabilitated from the misconduct which led to the
18 disbarment; 2) presently possesses the moral qualifications for reinstatement; and 3) has present
19 learning and ability in the general law. Ultimately, petitioner must demonstrate a period of
20 sustained exemplary conduct over an extended period of time. *In re Petty* (1981) 29 Cal.3d 356,
21 362.
22

23 The State Bar anticipates that Petitioner will be unable to meet his burden of proof to
24 prove his rehabilitation and moral qualifications, in order to demonstrate a period of sustained
25 exemplary conduct over an extended period of time.

26 The State Bar intends to rebut Petitioner's case by presenting evidence regarding
27 Petitioner's lack of rehabilitation and lack of present moral qualifications. The grounds upon
28

1 which the State Bar will oppose Petitioner's reinstatement will depend in part on the evidence
2 which Petitioner offers. However, the bases for the State Bar opposition include, but are not
3 limited to, the following:

4 A. Petitioner failed to comply with California Rule of Court, rule 955 (re-codified as
5 9.20).

6 Effective November 24, 2000, the Supreme Court, in order number S78147, ordered
7 Petitioner to comply with rule 955, as it existed at that time. Petitioner failed to comply.

8 Effective March 22, 2002, the Supreme Court, in order number S102525, ordered Petitioner
9 disbarred from the practice of law, and to comply with rule 955, as it existed at that time.

10
11 Petitioner again failed to comply.

12 Petitioner submitted a belated rule 955 affidavit on November 24, 2009, several months
13 after he filed his first petition for reinstatement on April 30, 2009 (case no. 09-R-12185). It was
14 defective in several ways. At the time Petitioner's declaration was due, he had neither notified
15 his client Mr. Manaid that he was not entitled to practice, nor did he return unearned fees to Mr.
16 Manaid. Thus, Petitioner's statements on his declaration that he "had no clients," "had no papers
17 or property to which clients were entitled," and "did not represent any clients in pending matters"
18 were all false. In addition, Petitioner failed to indicate on the declaration anything about
19 refunding unearned fees, or that he had earned all fees paid to him. Finally, Petitioner failed to
20 indicate that he had notified opposing counsel, or adverse parties, or the court in the matter in
21 which he represented Mr. Manaid. The fact that the clerk accepted the declaration for filing does
22 not in any way cure the defects. To date, Petitioner has not attempted to cure the defects in the
23 belated rule 955 affidavit Petitioner filed in 2009.

24
25
26 B. Petitioner has the burden of proving his rehabilitation from his misconduct.

27 Petitioner is not entitled to the benefit of the doubt if equally reasonable inferences may
28 be drawn from a proven fact. (*In the Matter of Ainsworth* (Review Dept 1998) 3 Cal. State Bar

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Ct. Rptr. 894, 899; citing *In re Menna* (1995) 11 Cal.4th 975, 986). Accordingly, until Petitioner shows by clear and convincing evidence establishing his rehabilitation and present moral qualifications for reinstatement, Petitioner's petition for reinstatement must be opposed.

The burden of proving his sustained period of exemplary conduct lies with Petitioner. The only evidence of rehabilitation provided by Petitioner is that he has engaged in community service since May of 2013, shortly prior to filing this current petition for reinstatement.

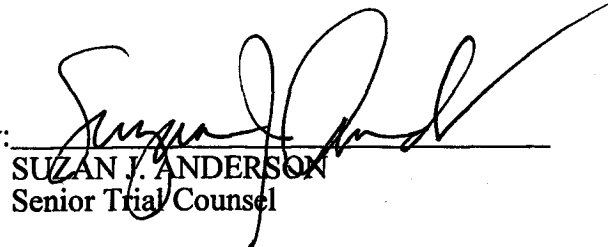
Petitioner has a high burden to show that he has been rehabilitated and based upon what petitioner has presented in his petition for reinstatement, petitioner will not be able to meet that burden.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: December 16, 2013

By: _____


SUZAN J. ANDERSON
Senior Trial Counsel

DECLARATION OF SERVICE

by
U.S. FIRST-CLASS MAIL

CASE NUMBER(s): 13-R-14162-LMA

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

STATE BAR'S OPPOSITION TO PETITIONER'S PETITION FOR REINSTATEMENT [Rule 5.443(B) & 5.445(A), rules of Proc. of State Bar]

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at San Francisco, addressed to: (see below)
(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: at San Francisco, addressed to: (see below)
(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: addressed to: (see below)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, and Courtesy Copy to. Row 1: David R. DeQuit, David R. DeQuit, 135 Edward Ct, Tracy, CA 95376.

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS').

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: December 16, 2013

SIGNED: [Signature]
Meagan McGowan
Declarant