

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of) Case No.: **13-R-14734-RAH**
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ROBERT LEWIS GORDON,) **DECISION AND ORDER GRANTING**
) **PETITION FOR REINSTATEMENT**
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)
A Petitioner for Reinstatement.)

Introduction¹

Petitioner **Robert Lewis Gordon** seeks to be reinstated to the practice of law after he was disbarred in 2005 for failing to timely file a compliance declaration in accordance with former rule 955(c) of the California Rules of Court (former rule 955(c)).²

As set forth below, the court finds that petitioner has clearly and convincingly satisfied the requirements for reinstatement to the practice of law in this state. Moreover, petitioner has shown through both his own credible testimony and that of others that he meets the requirements of honesty, integrity, and diligence necessary to be an effective and valued member of the State Bar of California. Thus, over the objection of the Office of the Chief Trial Counsel of the State Bar of California (State Bar), the court will grant the petition and recommend that petitioner be reinstated. (Cal. Rules of Court, rule 9.10(f); §§ 6078, 6086.5.)

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

² Former rule 955(c) is now California Rules of Court, rule 9.20(c).

Significant Procedural History

Petitioner filed his petition for reinstatement on August 22, 2013. On January 7, 2014, the State Bar filed a response in opposition to the petition. On May 15, 2014, the parties filed a partial stipulation as to facts and admission of documents. Trial commenced on May 19, 2014, and the court took the petition under submission for decision on May 21, 2014.

Requirements for Reinstatement

To be reinstated, petitioner must establish (1) that he passed a professional responsibility examination within one year before he filed his petition for reinstatement; (2) that he passed the Attorneys' Examination administered by the Committee of Bar Examiners within three years before he filed his petition; and (3) that he is rehabilitated and presently possesses the 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).)

Findings of Fact and Conclusions of Law

Professional Responsibility Examination & Attorneys' Examination

The parties stipulated that petitioner passed the Multistate Professional Responsibility Examination that was given in April 2013, which was within one year before he filed his petition. The parties also stipulated that petitioner passed the Attorneys' Examination administered by the Committee of Bar Examiners in July February 2011, which was within three years of the date he filed his petition for reinstatement. Accordingly, the only issues to be adjudicated are whether petitioner is rehabilitated and whether he presently possesses the moral qualifications for readmission.

Rehabilitation & Present Moral Qualifications

“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 the imposition of discipline.’ [Citation.]” (*In the Matter of Rudman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 546, 552-553.) That is because “ ‘The amount of evidence of rehabilitation required to justify [reinstatement] varies according to the seriousness of the misconduct at issue.’ [Citation.]” (*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 prior discipline, the more evidence of rehabilitation and present good moral character is needed to justify reinstatement.

It is also equally well established that “[t]he law looks with favor upon the regeneration of erring attorneys and should not place unnecessary burdens upon them.” (*Resner v. State Bar* (1967) 67 Cal.2d 799, 811.) “There can, of course, be no absolute guarantee that petitioner will never engage in misconduct again. But if such a guarantee were required for reinstatement none could qualify. All [this court] can require is a showing of rehabilitation and of present moral fitness.” (*Ibid.*) In short, petitioner is not required to show perfection. (*In the Matter of Giddens* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 25, 37.)

Background Facts

When petitioner was first admitted to practice in 1986, he was a sole practitioner. For the first seven years, he had a general practice. Thereafter, he began to limit his practice to bankruptcy law. In 1993, he began to advertise heavily in the San Diego area, and his practice became very successful in part because he marketed his services by not requiring any advanced fees before filing a client’s bankruptcy petition. Over the next couple of years, petitioner’s law

office continued to grow. When his practice out-grew its office space, he moved his practice into larger quarters. At one point, he had a suite with about twelve offices in it and employed between ten and twelve staff members, including a receptionist, bookkeepers, and three to four associate attorneys. During this time, petitioner also focused his efforts on his family and provided a stable home and good schools for his children. He was active in his children's activities in and out of school. Petitioner derived much of his self-worth and personal identity from being a successful attorney. He presented and maintained a successful-lawyer image even to his family.

Eventually, petitioner's marketing strategy of not charging any advanced fees caused his successful financial status to change. Increasingly, he realized the challenges he faced in his practice. Significantly, his family also began to see that his financial condition had changed for the worse.

By 2002, petitioner realized that many clients failed to pay him, destroying his cash flow. In addition, his income dropped precipitously. Recognizing that he could not maintain the firm he formerly had, petitioner began to downsize his firm, cutting staff and moving to smaller offices. Eventually, he was practicing law alone with only one secretary and was working long hours to handle his bankruptcy case load. As a result of the pressures he was facing, he lost some of the discipline that he had imposed on himself over the years. For example, petitioner began to stop strictly complying with his double calendaring system, which had served him well in the past.

As his poor financial condition became increasingly visible to his family, Petitioner became depressed. As his financial condition grew worse, his home, which he and his wife had built in Alpine, California, went into foreclosure, and in about mid-2004, petitioner had to move his family into a rental unit in La Mesa, California. His children had to move to new schools.

Petitioner believed that he had failed his family and himself.

Misconduct Underlying Petitioner's Prior Records of Discipline

Gordon I

In 2002, several clients filed State Bar complaints against petitioner. Petitioner fully cooperated with the State Bar. In April 2002, petitioner and the State Bar entered into a stipulation regarding facts, conclusions of law, and disposition, which was approved by the State Bar Court in case number 02-O-13200.³

Thereafter, on August 4, 2004, the Supreme Court filed an order in *In re Robert Lewis Gordon on Discipline*, case number S124962 (State Bar Court case number 02-O-13200) (*Gordon I*) imposing the stipulated discipline on petitioner. More specifically, in its August 4, 2004, order, the Supreme Court placed petitioner on three years' stayed suspension and three years' probation on conditions, including (1) that petitioner refund to three separate clients a combined total of \$2,950 in unearned fees with interest and (2) that petitioner be (actually) suspended from the practice of law for the first six months of his probation. The Supreme Court further ordered petitioner to comply with former rule 955 of the California Rules of Court (former rule 955) (now Cal. Rules of Court, rule 9.20) and that petitioner pay disciplinary costs of \$5,733.26 to the State Bar.

In *Gordon I*, petitioner stipulated to culpability on fifteen counts of misconduct in six separate client matters (four bankruptcy matters and two personal injury matters) and in one State Bar investigation regarding his failure to timely pay the filing fees in seven bankruptcy cases.

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³ State Bar Court case number 02-O-13200 includes correlated case numbers 02-O-14683, 02-O-15681, 03-O-02879, 03-O-05210, 04-O-10081, and 04-O-10184.

In the four bankruptcy matters, petitioner stipulated to: failing to perform legal services competently (rule 3-110(A)) (two counts); improperly withdrawing from employment (rule 3-700(A)(2)) (one count); failing to communicate (§ 6068, subd. (m)) (two counts); failing to refund unearned fees (rule 3-700(D)(2)) (three counts)⁴; and failing to refund an unearned fee promptly (rule 3-700(D)(2)) (one count).

In the two personal injury matters, petitioner stipulated to failing to perform legal services competently (rule 3-110(A)) in both cases because he did not appear at hearings on orders to show cause why the cases should not be dismissed resulting in both of the cases being dismissed without prejudice. Petitioner also stipulated in both cases to failing to adequately communicate with the clients (§ 6068, subd. (m)) because he did not advise them of the dismissals. And, in one of the cases, petitioner also stipulated to failing to adequately communicate with the client (§ 6068, subd. (m)) because he did not respond to the client's status inquires.

In the State Bar investigation matter, petitioner stipulated to one count of failing to competently perform legal services (rule 3-110(A)) because he failed to timely pay the filing fees in seven different bankruptcy cases resulting in all seven cases being dismissed. Petitioner, however, thereafter filed motions to vacate the dismissal in each case and all seven of the cases proceeded.

In *Gordon I*, the parties stipulated that petitioner was entitled to mitigation because he did not have a prior record of discipline in many years of practice, cooperated with the State Bar's disciplinary investigation, and demonstrated remorse. With respect to aggravation, the parties stipulated that petitioner's "misconduct harmed significantly the public or the administration of justice."

⁴ The unearned fees petitioner failed to refund in these three counts totaled \$2,950.

Gordon II

After petitioner was placed on actual suspension for the first six months of his probation, petitioner's psychological condition worsened. He stayed home most days and no longer had a calendar system to guide his activities every day. He began to feel the weight of all the pressures of losing his home, losing his practice, and the impact all this had on his family. Instead of facing his problems and obligations head-on, petitioner suppressed them. In fact, he did not tell his wife or children about his discipline. He began to wallow in self-pity. This destructive path resulted in petitioner ignoring both the responsibilities that the Supreme Court imposed on him in its August 4, 2004, order in *Gordon I*, including his duty to file a former rule 955(c) compliance declaration within the time specified, as set forth below, and his statutory duty to maintain his current address on the official membership records of the State Bar.

Even though petitioner had no clients to notify of his six-month actual suspension on August 4, 2014, when the Supreme Court filed its order in *Gordon I*, he was still required to file a former rule 955(c) compliance declaration no later than October 13, 2004, but failed to do so. Therefore, in December 2004, the State Bar filed a notice of disciplinary charges (NDC) in State Bar Court case 04-N-14871 charging petitioner with failing to comply with former rule 955 in accordance with the Supreme Court's August 4, 2004, order. In accordance with Rules of Procedure of the State Bar, rule 25(B), the State Bar served the NDC in case number 04-N-14871 on petitioner by certified mail, return receipt requested at the post office box in Alpine, which was his then official membership records address. Petitioner did not file a response to the NDC.

Also, in December 2004, the Client Security Fund (CSF) reimbursed the clients in three of the bankruptcy matters in *Gordon I* for the unearned fees totaling \$2,950 that petitioner had not refunded to them.

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On February 10, 2005, petitioner's default was entered in case number 04-N-14871 because he did not file a response to the NDC. Thereafter, on May 4, 2005, the State Bar Court filed a decision in case number 04-N-14871 recommending that petitioner be disbarred because he failed file a former rule 955(c) compliance declaration within the time prescribed in the Supreme Court's August 4, 2004, order in *Gordon I*. The State Bar Court properly served its order entering petitioner's default on petitioner by certified mail, return receipt requested at the post office box in Alpine, which was still his official membership records address at the time. The State Bar Court also properly served its decision recommending petitioner's disbarment on petitioner by mail at the post office box in Alpine, which was his official membership records address.

While petitioner had properly updated his official membership records address after each of his moves to smaller offices in February 2002, November 2003, and March 2004, as noted above, he failed to do so after he was suspended from practice. In March 2004, petitioner listed as his address on the State Bar's records a post office box near his home in Alpine. As noted above, after he lost his home in Alpine through foreclosure, petitioner had to vacate his former home and then moved to La Mesa in about mid-2004 and stopped using the post office box in Alpine. Petitioner, however, did not update his official membership address on the State Bar's records until July 1, 2005.

Because petitioner stopped using the Alpine post office box by about mid-2004, petitioner did not receive the NDC, the State Bar Court order entering his default, or the State Bar Court decision recommending his disbarment. In fact, petitioner did not learn of any of those three things until June 2005, when he looked at the State Bar's web site. Thus, it is clear that petitioner's failure to participate in case number 04-N-14871 was not deliberate.

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Upon learning the foregoing information, petitioner immediately contacted the State Bar and spoke with Deputy Trial Counsel Diane Myers, who advised him of his continuing obligation to file a former rule 955(c) compliance declaration. Thereafter, petitioner filed his compliance declaration on June 27, 2005, which was more than eight months past the October 13, 2004, due date. In that declaration, petitioner truthfully stated that he had no clients on August 4, 2004, when the Supreme Court filed its order in *Gordon I* directing him to comply with former rule 955.

On July 1, 2005, petitioner updated his official membership records address to reflect his then current address. Petitioner retained Bar defense counsel and, on July 15, 2005, filed a motion for relief from default, which the State Bar Court denied in an order filed on July 25, 2005. On September 15, 2005, the Supreme Court adopted the State Bar Court's discipline recommendation in case number 04-N-14871 and filed an order in its case number S135350 (*Gordon II*) disbaring petitioner, ordering him to pay \$1,641 in costs to the State Bar, and ordering him to again comply with former rule 955. The Supreme Court's September 15, 2005, order and petitioner's disbarment became effective on October 15, 2005.

Petitioner's Activities After Disbarment

Petitioner was exceedingly embarrassed, humiliated, and humbled by his disbarment. He was so ashamed that he could not bring himself to tell his wife and children for quite some time. After petitioner met with his Bar defense attorney and discussed the reinstatement process, he was finally able to tell his family that he had been disbarred. Despite the difficulty of this conversation, when his family learned about his situation, his family responded with complete support. At that point, petitioner decided he would embark on a path toward regaining his license.

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As a family, they all agreed as to the goal of providing a successful college experience for their children. Thereafter, petitioner and his wife devised a clear plan to earn the money they needed to support themselves and their children. Their plan included at least the following four distinct steps: (1) obtain work to sustain the family; (2) provide for their children's education; (3) address the multiple tax obligations they faced; (4) obtain health insurance so that they could address petitioner's wife's medical issues involving degenerative arthritis in her knee.

Shirley's Typing Service

In October 2005, petitioner and his wife created a data entry business in their home in order to earn a living. They arranged with about five law firms to provide outsourced clerical services. Using a common bankruptcy software program called Best Case, they performed "interviews" of the firms' clients, asking the 60 to 65 questions contained in the software and entering the clients' verbatim answers into the program using a template. Petitioner did not provide any legal advice in preparing these templates. The templates were then forwarded on to the law firms that had contracted their services, which would determine the appropriate legal advice or services that firm could provide. After petitioner and his wife transferred the digital template containing the clients' answers to the law firms, they had no further involvement with the clients. They were paid a fixed fee per template.

In 2006, the company that petitioner and his wife formed became a sole proprietorship owned by petitioner's wife alone and was named "Shirley's Typing Service." It was then incorporated by his wife as "Shirley's Data Entry, Inc." In 2011, the corporation was dissolved, but the business continued to operate as a sole proprietorship. Despite these iterations in the form of the company, however, petitioner and his wife performed the same work using the same

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software.⁵ By all accounts, Shirley's Typing Service was a successful operation. Petitioner and his wife, along with various family members, worked hard – long hours each day, often six days a week – to generate the income to complete their plans to educate their children and to return to financial solvency.

From 2005 through and 2009, petitioner and his wife earned from Shirley's Typing Service a minimum combined annual income of \$125,289 (in 2006) and a maximum combined annual income of \$218,076 (in 2009).

All of the lawyers with the law firms that contracted with Shirley's Typing Service in its various forms were advised that petitioner was a disbarred attorney. The State Bar argued at trial that the services provided by Shirley's Typing Service may have constituted the practice of law. The court, however, rejects that argument. There was no evidence suggesting, much less establishing, that the services Shirley's Typing Service provided constituted anything other than outsourced clerical work.

The State Bar also contends that petitioner had a duty to ensure that the lawyers and law firms that hired Shirley's Typing Service complied with rule 1-311, which requires an attorney who employs a disbarred attorney to notify any client of that fact if the disbarred attorney performs more than clerical work on a client's file. Specifically, the State Bar contends: "Petitioner cannot be found to have conducted himself in a 'truly exemplary' manner if his own employment does not conform to the Rules of Professional Conduct. At the very least, exemplary conduct requires that Petitioner know the obligations that his employers have with respect to his employment, and to make sure that the employers comply with their obligations." The court cannot agree.

⁵ These business forms are sometimes collectively referred to in this decision simply as Shirley's Typing Service.

Attorney David G. Weil testified that he had retained Shirley's Typing Service on several occasions. He credibly clarified the exact services Shirley's Typing Service performed and opined that those services did not trigger the client notification requirements in rule 1-311.

In any event, regardless of whether the services Shirley's Typing Service performed triggered the client-notification requirements in rule 1-311, it was not petitioner's obligation or place, as a disbarred attorney, to "advise" the attorneys and law firms who employed Shirley's Typing Service of their ethical duties under rule 1-311 or otherwise. Nor was it petitioner's obligation or place "to make sure that the employers comply with their obligations" under rule 1-311 or otherwise. Rule 1-311 clearly places the duty to comply with its client-notification requirements on the attorney who employs a disbarred attorney and not on the disbarred attorney as the State Bar contends. Had petitioner provided the advice the State Bar claims that he was required to provide to the employing attorneys and law firms, petitioner would have been giving legal advice (i.e., engaging in the unauthorized practice of law).

The record establishes that petitioner has consistently worked very hard at Shirley's Typing Service since he and his wife started the business in about October 2005. That fact alone is *strong* evidence of petitioner's rehabilitation. (Cf. *Kwasnik v. State Bar*, *supra*, 50 Cal.3d at pp. 1065, 1069 [diligent and competent performance of legal services is evidence of good moral character].)

Restitution and Disciplinary Costs

On January 9, 2009, the State Bar obtained a judgment against petitioner in the Los Angeles Superior Court in the amount of \$12,271.89, which is the total of the \$7,374.26 in disciplinary costs that were imposed on petitioner in *Gordon I* and *Gordon II* and the reimbursement debt petitioner owed to CSF for the \$2,950 in unearned fees that CSF reimbursed to three of the clients in *Gordon I* plus interest and processing costs.

Between June 2005 and December 2009, CSF paid a total of \$9,320 on nine additional applications for reimbursement that were filed against petitioner. As of July 2103, petitioner's reimbursement debts to CSF for those payments totaling \$9,320 with accrued interest and processing costs totaled \$17,071.13.

In about June or July 2013, petitioner received a gift of \$26,000 from a friend. Thereafter, petitioner used that gift and about \$3,000 of his own money (i.e., money that he earned working at Shirley's Typing Service) to pay both the State Bar's \$12,271.89 superior court judgment against him and his \$17,071.13 reimbursement debt to CSF. As of August 1, 2013, petitioner had paid all of his reimbursement debts to CSF and all of the disciplinary costs to the State Bar.

According to the State Bar, the fact that petitioner used funds gifted to him by a friend to pay the judgment and reimbursement debt militates against granting the petition for reinstatement. The court cannot agree. Nonetheless, the fact that petitioner paid his reimbursement debts to CSF with gifted funds and not with money he earned, significantly reduces the relevance of his payments of those debts on the issue of petitioner's rehabilitation. As the Supreme Court has repeatedly held, restitution is highly relevant on the issue of an attorney's rehabilitation because restitution forces the attorney to confront the consequences of his or her misconduct in a real, concrete way. (Cf. *Brookman v. State Bar* (1988) 46 Cal.3d 1004, 1009.) Paying restitution with money gifted by someone else simply does not force an attorney to confront the consequences of his or her misconduct in a real, concrete way. Of course, making restitution with someone else's money does not adversely reflect on an attorney's rehabilitation or present moral character.

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Educational Expenses

Petitioner has three children. The oldest son, who is now 25 years old, went to Occidental College, received a degree in both Physics and Mathematics, received a Master's Degree in mechanical engineering from Columbia University, and is now attending the University of San Diego School of Law on a full scholarship. The middle child, now 24, attended UCSD and obtained a degree in Psychology and is now at Southern University getting a Ph.D. in Biology and Nanoscience. The youngest child attended the University of San Diego on a music scholarship, and now is at the Berkley Music School in Boston. Based on the testimony of petitioner, his wife, and his children, the court finds that petitioner's and his wife's commitment to their children's education was a large factor in the academic success each has enjoyed.

Although many of their children's educational expenses were covered by scholarships, petitioner and his wife still paid substantial expenses associated with their educations using their income from Shirley's Typing Service. The State Bar contends that petitioner's favoring of these educational expenses over refunding unearned fees with interest to his former clients and paying the disciplinary costs the Supreme Court imposed on him in *Gordon I* and *Gordon II* is evidence that petitioner is not rehabilitated. To be clear, the court notes that CSF reimbursed petitioner's former clients for the unearned fees that petitioner did not refund to them. Thus, petitioner favored his children's educational expenses over his reimbursement debts to CSF (and not over refunding unearned fees to his clients as the State Bar contends). Without question, petitioner should have placed making amends for his prior wrongful acts against his clients by paying his reimbursement debts to CSF above providing his three grown, adult children with expensive post-secondary educations. Petitioner's failure to do so reflects adversely on his claim of rehabilitation.

Even though the court finds that petitioner's favoring of his children's educational expenses over his reimbursement debts to CSF adversely reflects on petitioner's claim of rehabilitation, it is not determinative of his rehabilitation nor a bar to his reinstatement particularly since petitioner eventually paid all of his reimbursement debts to CSF and all of the disciplinary costs imposed on him in *Gordon I* and *Gordon II*. (Cf. *In the Matter of Salyer* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 816, 827 [failing to comply with former rule 955 not a bar to reinstatement]; *In the Matter of Rudman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 546 [drunk driving conviction after resignation with disciplinary charges pending was not a bar to reinstatement]; *In the Matter of Miller* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 423 [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 was not a bar to reinstatement].)

Petitioner's Bankruptcy

In 2009, and again in 2011, Shirley's Typing Service suffered financial setbacks when, unrelated to the quality of the services provided, some of the law firms terminated their services. In at least one instance, the law firm began performing the services in-house instead of outsourcing the services. As a result of these events, the income of Shirley's Typing Service dropped precipitously, and petitioner and his wife were required to consider bankruptcy.

On June 11, 2010, petitioner and his wife filed a joint voluntary petition for bankruptcy under chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of California. On September 14, 2010, the bankruptcy ordered petitioner's and his wife's dischargeable debts discharged.

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Taxes Owed

Petitioner and his wife still owe approximately \$115,000 in taxes to the IRS, the Franchise Tax Board (FTB), and the California Employment Development Department (EDD). They have always timely filed their returns for each year, except for 2013, for which they received an extension. Petitioner retained an attorney to help negotiate a partial payment installment agreement, calling for \$2,500 monthly payments to the IRS. At the time of trial, they had made every payment for the last year. The amounts owed to the FTB and EDD are currently in non-collectable status.

Lessons Petitioner Has Learned

Petitioner was a very candid and credible witness at the hearing on his petition for reinstatement. Petitioner accepts full responsibility for the misconduct found in *Gordon I* and *Gordon II* and has sincere conviction not to again engage in any misconduct. This strongly suggests that petitioner will conform his conduct to the strictures of the profession if he is reinstated. He has identified strategies to ensure that he does not again engage in misconduct, including maintaining a manageable number of clients, and finding a position that allows him to focus on performing legal services and not ancillary marketing and bookkeeping duties.

In addition, petitioner has learned many lessons. From a business standpoint, petitioner recognizes that managed, gradual growth in a law firm is a better business plan than investing in large marketing campaigns generating business he cannot handle properly. Petitioner recognizes that the primary result of such rapid, uncontrolled growth in his case was that he lost track of the details of his practice. He credibly notes that his failure to watch his calendar not only resulted

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in his suspension, but carried into the period immediately after his suspension by not following up on the filing of his former rule 955(c) compliance declaration.⁶

Petitioner recognizes that his duty to properly conform to obligations arises both internally and externally. He admits that he failed to live up to his own personal ethical standards, but he also recognizes that this lack of focus seriously impacted his clients by allowing his stress levels to influence the quality of services he provided them.

Community Activities and Character Witnesses

Given the fact that petitioner has three children, it is not surprising that many of his community activities revolved around their lives and development into adults. Petitioner's oldest child was active in sports, and petitioner coached his teams all the way through Little League and winter ball. He assisted the other coaches when his son was in high school basketball, working in the snack bar to raise funds for the sports program. For his middle child, petitioner helped support her interest in the California Ballet in San Diego, providing assistance in obtaining costumes for their performances. His youngest child had a musical gift, and petitioner provided support to the East County Youth Symphony, providing transportation for all the children involved in the orchestra, as well as the set up and breakdown of equipment associated with the performances.

Petitioner's community activities are positive 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.)

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⁶ Certainly, petitioner makes no excuses for his failure to timely file his declaration. Petitioner repeatedly expressed true appreciation for Deputy Trial Counsel Monique Miller's assistance. While she noted that she could not give him legal advice, she clearly and repeatedly reminded petitioner to review his rule 955 duties. Despite the diligence of Deputy Trial Counsel Miller, petitioner acknowledges that he still neglected to calendar his obligations.

Several character witnesses gave very favorable testimony for petitioner. All were very supportive of petitioner's reinstatement, and uniformly commented positively upon his honesty, integrity, and ethics. Several were attorneys, who are particularly aware of the high standard of moral character necessary in their profession. In particular, Attorney David Weil and Attorney Richard Schwering have used petitioner's services. Attorney Schwering has had a professional relationship with petitioner for about 30 years. An outstanding witness, Attorney Schwering has worked very closely with petitioner on several cases. He commented favorably on petitioner's work ethic and diligence, as well as his honesty, truthfulness, and integrity.

Attorney Weil retained Shirley's Typing Service and had an excellent relationship with both petitioner and his wife. He noted that petitioner's work product was excellent, and that he never had any problems with petitioner's work. He also commented that petitioner has shown real remorse for his misconduct. He has had discussions with petitioner about working with him if he is reinstated.

Petitioner's oldest son, Clark, and his fiancé, Allison Irwin (also an attorney), both testified as to petitioner's character. Clark and Allison appeared to be extraordinary young adults. Both credibly attested to how hard petitioner and his wife worked at Shirley's Typing Service. In fact, both worked for Shirley's Typing Service on occasion, so they were able to closely observe the operation of the company. Both agreed that petitioner has been a dedicated father to his children. Allison noted that petitioner always was careful to assure that the work was done accurately. Clark corroborated the story of how petitioner finally told his family about his disbarment. Clark also very emotionally recounted the difficult times the family had when the Alpine house was foreclosed, and they had to move to new city.

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Other character witnesses, including Thomas Seitz, Wayne Thompson, and Jonathan Kohl also were very supportive of petitioner's reinstatement. Each commented favorably on petitioner's honesty, integrity, and his work ethic.

All of the character witnesses presented by petitioner were fully aware of the nature of the proceeding and petitioner's prior misconduct. The court finds that every character witness was very credible.

The extremely favorable testimony of petitioner's attorney character witnesses is strong evidence of petitioner's rehabilitation and moral qualification for reinstatement. Testimonials from acquaintances, friends, family members, and employers regarding their observation of the daily conduct of an attorney who has been disbarred are also entitled to great weight. (*In re Menna, supra*, 11 Cal.4th at p. 988.)

Required Proof

In its response to the petition for reinstatement, the State Bar argues that “[i]n light of Petitioner’s serious professional misconduct, which involves *the neglect of several clients* and the failure to comply with a Supreme Court Order, Petitioner’s burden of proving he meets the requirements of readmission to the practice of law must indeed be a heavy one.” (Emphasis added.) The court cannot agree.

As noted above, petitioner became emotionally and psychologically withdrawn because of his suspension, as well as the concomitant failure of his law firm and loss of the home he and his wife built to foreclosure. As a result, he failed to properly calendar his former rule 955 duties. After he lost his home, he moved to a rental house in another city without properly changing his official membership records address. Before he finally realized that he had failed to comply in these matters, he learned that a hearing judge had recommended his disbarment in his default matter. He thereafter acted promptly and filed his former rule 955(c) compliance

declaration and sought to have his default vacated, but was unsuccessful. Shortly thereafter, the Supreme Court issued its disbarment order.

Certainly failing to comply with former rule 955(c) as ordered by the Supreme Court is not insignificant. Indeed, in appropriate cases, such as here, it can result in disbarment. However, the facts surrounding petitioner's failure to timely file his compliance declaration are important in determining whether or not the violation of that requirement was a serious breach of an attorney's ethical obligations. The facts of this case indicate that, on the scale of seriousness, petitioner's misconduct falls on the low end of such violations. As such, petitioner's violation of former rule 955(c) does not support the State Bar's assertion that petitioner's path to reinstatement "must indeed be a heavy one." Nor does the misconduct to which petitioner stipulated in *Gordon I* support the State Bar's assertion. Even though petitioner stipulated to 15 counts of misconduct involving principally six client matters in *Gordon I*, petitioner's misconduct did not involve a pattern of misconduct. Nor petitioner's misconduct span over a period of years. There is no evidence of any significant client harm in *Gordon I*. Even though the parties' stipulation in *Gordon I* concludes that petitioner's misconduct in that proceeding "harmed significantly the public or the administration of justice," there is no evidence or stipulated facts to support that conclusion. Finally, none of the misconduct in *Gordon I* involved moral turpitude, dishonesty, or corruption. As far as reinstatement proceedings go, the seriousness of the misconduct at issue is on the low level.

Rehabilitation is a state of mind. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) The court finds that petitioner has maintained a sufficiently lengthy period of unblemished and exemplary conduct. 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 prior discipline and disbarment and that he possesses the moral qualifications for reinstatement.

Order Granting Petition for Reinstatement & Recommendation

The record clearly establishes that Petitioner **Robert Lewis Gordon** (1) passed a professional responsibility examination within one year before he filed his petition for reinstatement, (2) 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) is rehabilitated and presently possesses the requisite moral qualifications for reinstatement to the practice of law in this state. (Cal. Rules of Court, rule 9.10(f); Rules Proc. of State Bar, rules 5.441(B)(3), 5.445(A).) Accordingly, the court orders that **Robert Lewis Gordon's** August 23, 2013, petition for reinstatement after disbarment is GRANTED. Further, the court RECOMMENDS that **Robert Lewis Gordon** be reinstated 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: August 19, 2014.

RICHARD A. HONN
Judge of the State Bar Court