

- b. Petitioner was interimly suspended or enrolled inactive immediately preceding disbarment or resignation, effective date: May 29, 2005
- c. Petitioner filed prior petition(s) for reinstatement, as listed below.

Date Prior Petition Filed

Case Number

Check here if no prior petition has been filed.

- d. Petitioner has attached to this petition any decision or order of the Supreme Court or the State Bar Court that petitioner relies upon in submitting this petition for reinstatement earlier than permitted by rule 5.442 of the Rules of Procedure.

2. PROOF OF PASSAGE OF ATTORNEYS' EXAMINATION

- a. Petitioner resigned with charges pending or was disbarred and has attached to this petition proof that petitioner has taken and passed the Attorneys' Examination administered by the Committee of Bar Examiners within three years prior to the filing of this petition.
- b. Petitioner resigned without charges pending more than five years before filing this petition for reinstatement and has attached to this petition proof that petitioner has taken and passed the Attorneys' Examination administered by the Committee of Bar Examiners within five years prior to the filing of this petition.
- c. Petitioner resigned without charges pending within five years prior to filing this petition for reinstatement and is not required to provide proof that petitioner has taken and passed the Attorneys' Examination. Petitioner understands that he or she must establish present ability and learning in the general law.

3. PROOF OF PAYMENT OF DISCIPLINE COSTS

- a. Petitioner has attached to this petition proof of payment of all discipline costs imposed pursuant to Business and Professions Code section 6086.10, subdivision (a). To obtain proof, contact the Membership Billing Services at (415) 538-2365. This proof is required even if no discipline costs were imposed.
- b. Proof of payment of all discipline costs is not attached. Explain:

4. PROOF OF PAYMENT TO CLIENT SECURITY FUND

- a. Petitioner has attached to this petition proof of payment of all reimbursement for payments made by the Client Security Fund as a result of Petitioner's conduct, plus applicable interest and costs pursuant to Business and Professions Code section 6140.5, subdivision (c). To obtain proof, contact the Client Security Fund at (213) 765-1150. This proof is required even if no reimbursement was required.
- b. Proof of payment to the Client Security Fund is not attached. Explain:

5. PROOF OF PASSAGE OF PROFESSIONAL RESPONSIBILITY EXAMINATION

- a. Petitioner has attached to this Petition proof of passage of a professional responsibility examination after the effective date of petitioner's disbarment or resignation but not more than one year before the filing of this Petition.
- b. Proof of passage of a professional responsibility examination is not attached. Explain:

6. OTHER REQUIREMENTS (all boxes must be checked)

- a. **Filing Fee.** Petitioner has included a filing fee of \$1,600, payable to the State Bar of California. The court will not waive a filing fee.
- b. **Disclosure Statement.** Petitioner has completed and verified a Disclosure Statement on the form approved by the court and in compliance with the instructions. Along with a copy of this Petition, Petitioner has served the original Disclosure Statement on the Office of the Chief Trial Counsel pursuant to rule 5.25 of the Rules of Procedure of the State Bar. The Petition will not be filed without a proof of service showing service of the Petition and Disclosure Statement on the Office of the Chief Trial Counsel.
- c. **Fingerprints Submitted.** Under Business and Professions Code section 6054, Petitioner has (1) submitted fingerprints to the California Department of Justice via Live Scan technology, or (2) if the Petitioner resides outside the state, submitted two sets of original fingerprints on record cards furnished by the State Bar to the Office of the Chief Trial Counsel.

B. PREVIOUS DISBARMENT OR RESIGNATION INFORMATION

1. DISBARMENT

- a) List the cases number(s) of the case in which disbarment was ordered:
- b) List the case number(s) of the matters pending in State Bar Court on the date the disbarment order was filed:
- c) List the case number(s) of any matters not yet filed with State Bar Court of which petitioner is aware were pending on the date that the disbarment order was filed:

2. RESIGNATION

- a) List the case number(s) of the matters pending in State Bar Court on the date the resignation was tendered: 04-C-10390
- b) List the case number(s) of any matters not yet filed with State Bar Court of which petitioner is aware were pending on the date that the resignation was tendered:

C. ESTABLISHING REHABILITATION, MORAL CHARACTER QUALIFICATIONS AND DEMONSTRATING PRESENT ABILITY AND LEARNING IN THE GENERAL LAW

Attach a statement summarizing the evidence that Petitioner contends establishes his or her:
(1) rehabilitation and present moral qualifications for reinstatement, and (2) present ability and learning in the general law.

VERIFICATION

I, N. Allen Sawyer , Petitioner, declare under penalty of perjury that the foregoing, including all attachments and/or addenda, is true and correct and that this declaration is executed at Walnut Creek, CA (enter city, state), on June 13, 2014 (enter date).

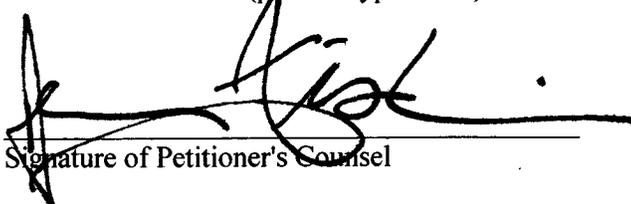
NEAT ALLEN SAWYER

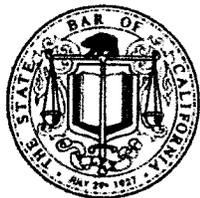
Petitioner (print or type name)


Signature of Petitioner

JEROME FISHKIN

Petitioner's Counsel (print or type name)


Signature of Petitioner's Counsel



THE STATE BAR OF CALIFORNIA

OFFICE OF ADMISSIONS

180 HOWARD STREET • SAN FRANCISCO, CALIFORNIA 94105-1617 • (415) 538-2300
1149 SOUTH HILL STREET • LOS ANGELES, CALIFORNIA 90015-2299 • (213) 765-1500

May 17, 2013

NEAT ALLEN SAWYER
6728 BROOK FALLS CIRCLE
STOCKTON, CA 95219

Code #: 646
File #: 344747
App #: 4611

Congratulations! You passed the February 2013 administration of the California Bar Examination. Please refer to the State Bar Court's page on the State Bar of California's website at www.statebarcourt.ca.gov for information relative to applying for reinstatement to practice law in California.



THE STATE BAR
OF CALIFORNIA

OFFICE OF FINANCE / MBS

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1617

TELEPHONE: 1-888-800-3400 / FAX: (415) 538-2361

E-MAIL: billing@calbar.ca.gov

May 21, 2014

#173565
Neat A. Sawyer
Villapudua & Sawyer
2431 W March Ln #220
Stockton, CA 95207-8211

Dear Mr. Sawyer:

This is to confirm receipt of your credit card payment on 5/21/14 in the amount of \$1,848.53. Credit card payment for the amount of \$1,848.53 paid in full your discipline costs for State Bar Case No. 06-Q-15884.

If you have any questions, please call Membership Billing Services at (415) 538-2360. You will also need to contact the Client Security Fund at (213) 765-1150 to determine the amount if any due for CSF obligations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tina Surles".

Tina Surles, Senior Administrative Supervisor
Membership Billing Services

TS/li



THE STATE BAR
OF CALIFORNIA

CLIENT SECURITY FUND

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299

TELEPHONE (213) 765-1140 | FAX (213) 765-1158

May 19, 2014

VIA ELECTRONIC MAIL

Neat Sawyer
6728 Brook Falls Circle
Stockton CA 95219

Re: **The Amount Owed to CSF**
State Bar No.: 173565

Dear Mr. Sawyer:

This letter is in response to your yesterday's telephone inquiry regarding your application for reinstatement.

Our records reflect that as of this date you do not currently owe the Fund any money. Also, there are no Client Security Fund applications pending against you.

Please contact **Mina Ruiz** in State Bar Court regarding your petition for reinstatement instructions. She can be reached at (213) 765-1419.

Very truly yours,

A handwritten signature in cursive script that reads "Betty Yung".

Betty Yung
Senior Administrative Supervisor

BY/yb



NCBE Account

Name: NEAT SAWYER
NCBE Number: N10029488
Date of Birth: 08/30/1968

Your score on the Multistate Professional Responsibility Examination (MPRE) administered on 08/17/2013 is as follows:

Scaled Score: 100

The score shown above has been reported to CALIFORNIA as you requested when you registered for the MPRE.

Your MPRE score will be available on your NCBE account only until the next MPRE test date. If you want to obtain your score after that, you will need to request a score release, and pay the required fee. Therefore, we recommend that you save this page and/or print it for your records.

Each jurisdiction determines its own passing score on the MPRE. Any questions about admission requirements pertaining to MPRE scores should be directed to the bar admission agency in the jurisdiction to which you are applying. Contact information for jurisdictions can be found in the [Bar Admission Offices Directory](#).

The MPRE scaled score is a standard score. Standard scaled scores range from 50 (low) to 150 (high). For more information on the scoring process, see the [MPRE Information Booklet](#).

MPRE Score Services: All MPRE score services listed below must be requested under the Score Services tab of your NCBE account.

- **MPRE Score Report:** If you would like to have your MPRE score sent to another jurisdiction, you must submit a request to NCBE for a score report. Score reports are sent to jurisdictions by mail.
- **MPRE Score Verification:** If you would like to have the scoring of your MPRE answer sheet rechecked by hand, you must request a score verification. **Score verification requests must be submitted to NCBE within two months of the original test date.** Score verifications will be available in the File Cabinet of your NCBE account, and are not sent by mail.
- **MPRE Score Release:** If you would like a replacement copy of your MPRE score after it is no longer available on this page, you must submit a request to NCBE for a score release. Score releases cannot be requested until scores are no longer available on NCBE accounts. Score releases do not contain any additional information and are duplicative of score information provided following the exam. Score releases will be available in the File Cabinet of your NCBE account, and are not sent by mail.

[Contact Us](#)

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Attach a statement summarizing the evidence that Petitioner contends establishes his or her: (1) rehabilitation and present moral qualifications for reinstatement, and (2) present ability and learning in the general law.

ACTIONS LEADING UP TO MY RESIGNATION WITH CHARGES PENDING

I received my Bachelors of Arts from the University of the Pacific in 1991. I then graduated from Hastings College of the Law in 1994 and passed the California Bar Exam the same year. I went to work as a Deputy District Attorney in San Joaquin County.

I became very active in supporting community development in San Joaquin County. I supported various charities, including being a Board Member of the local chapter of the American Lung Association. I was involved in various political campaigns, including Lt. Gov. Gray Davis's bid for Governor.

On March 6, 1999, Governor Gray Davis appointed me Chief Deputy Director of the California Office of Criminal Justice Planning (OCJP). This position served at the pleasure of the governor and oversaw OCJP, which was an administrative office within the Office of the Governor of the State of California. I was then appointed Interim Executive Director on February 2, 2002.

After being appointed, I stayed active in local political activities in San Joaquin County. I supported Democrat candidates. During a hotly contested race for County Supervisor, the U.S. Attorney launched a series of investigations that centered on a Democrat lobbyist Monte McFall and a Democrat candidate for San Joaquin County Supervisor, Lynn Bedford. I was part of a group that was actively campaigning and supporting Lynn Bedford and was eventually targeted for prosecution. I resigned from OCJP shortly before the original indictment was filed in the case of *USA v. McFall*, CR #S-02-468 MCE.

The Fourth Superseding Indictment accused me of bribery and extortion, both of which I denied then and deny now. I was also accused of falsely testifying to the Grand Jury, a charge that I denied then and deny now. Those charges were eventually dropped.

The federal government also prosecuted me under the theory that my private conduct within San Joaquin County constituted a violation of my duty as a state official to provide honest services to the government under 18 USC

1346, since I had not listed my business activities on my annual state financial disclosure form. Since I mailed the form to the state agency, the U.S. Government alleged that I committed mail fraud under 18 USC 1341. At the time of my plea, the definition of "honest services" was unsettled. After spending over \$125,000.00 for pretrial legal work, I pled guilty to that one unified charge. While I believed that the facts did not constitute criminal behavior, I realized that it might take a full trial and appeals to the United States Supreme Court to vindicate myself. I decided to accept the plea bargain rather than put myself and my family through such an ordeal.

As part of the plea bargain process, I signed the "Factual Basis for Plea Agreement" on January 5, 2005. A copy is attached to this statement.

I was sentenced to federal prison for six months. I was in prison from July 7, 2005 to January 6, 2006. I was released from federal supervised release, on January 6, 2009.

MY CONVICTION IS SET ASIDE BY ORDER CORAM NOBIS

The United States Supreme Court subsequently repudiated the same legal theory that had been used against me, in *Skilling v United States* (2010) 130 S.Ct. 2896. However, this legal development came after my case had been closed and I was no longer eligible to file a direct appeal, or habeas action. There was only one legal procedure available to challenge my conviction, was a writ of coram nobis.

After *Skilling* was decided, I filed a petition for writ of Coram Nobis. The U.S. Attorney, who himself had been part of my prosecution team back in 2006, signed the non-opposition to my petition. The same judge, who had originally accepted my criminal plea and convicted me, granted the writ vacating my conviction in its entirety.

On February 2, 2011, the United States District Court, Eastern District of California, granted my writ of Coram Nobis and set aside and vacated in its entirety my conviction for honest services mail fraud. A copy of the February 2, 2011 Order is attached hereto.

THE FACTS IN MY STIPULATION

Monte McFall, Baxter Dunn, and I formed business ventures, consisting of two entities, MSD Ventures, Inc. (which stood for McFall, Sawyer and Dunn), and SMTM Partners (which stood for Show Me the Money), which engaged in activities on behalf of Sunlaw Energy Corporation, for the purpose of the our joint personal financial gain. I disagree that those activities constituted any conflict of interest. However, in preparing this statement, I am painfully aware of what poor judgment I used in using that name, especially given my public service employment.

I did not disclose my interest in MSD or SMTM on my 2001 Statement of Economic Interests (Form 700). I do not believe I was required to do so; the U.S. Attorney disagreed. Once *Skilling* was decided, there was no factual basis for a conviction under 18 USC 1346, and thus no improper mailing under 18 USC 1343. The *Skilling* decision vindicated my belief.

I did not perform work for MSD or SMTM on state time. However, sometimes I did do things that could have left such an appearance. Further, on one occasion, I did give somebody my state business card when asked for contact data; that was improper, even though I explained that I was not acting on behalf of the state.

My office OCJP did participate in making grants to various Sheriffs, including one or more to Baxter Dunn. Neither Dunn nor I benefitted from the grants, so there was no actual conflict of interest. But once again, it lends itself to an appearance of impropriety, which is not a crime but demonstrated poor judgment on my part.

Monte McFall was one of my codefendants. He went to trial after I plea-bargained. One point of prejudice to McFall was the successful efforts of the U.S. Attorney to prevent McFall from introducing the transcript of my grand jury testimony, in which I denied the allegation of a lobbyist that I made some sort of extortionate threats against the company Digital Angels on behalf of McFall. The Ninth Circuit noted that I reaffirmed my denial after my own plea bargain. Furthermore, the Ninth Circuit also held in *McFall* that the Government's theory of extortion involving Sunlaw was invalid as a matter of law. Therefore, even the counts that had been dismissed as part of my plea

agreement were later held invalid in the Ninth Circuit decision of *McFall*.
United States v McFall (2009) 558 F.3d 951.

With an order Coram Nobis, I no longer had a conviction. On August 22, 2011, I filed a direct petition in the California Supreme Court, asking that my resignation be set aside and that I be restored to active status. The Clerk's officer refused to file my petition. Copies of all of the original documents were previously served on the State Bar.

MY ACTIVITIES SINCE I WAS RELEASED FROM FEDERAL CUSTODY

a. employment and making a living

Upon exiting prison, I had to reinvent myself. I was no longer able to pursue my chosen profession of politics or law. I left prison with the reality that I was a convicted felon. This conviction had serious implications on my ability to reintegrate back into society.

Upon leaving prison, my financial circumstances further deteriorated. I had lost my license to practice law and I had the stigma of being a convicted felon. I had no means of meeting my financial obligations; consequently I had cars and real estate repossessed. Complicating the situation, the broader economy began to fail. Understanding my difficult predicament, my solution was to start a series of businesses and partnerships that eventually allowed me to provide for my family and to find a fulfilling work life.

I found exciting business opportunities in construction, wine, transportation, manufacturing, and retail. I have fantastic partners that I depend upon and whom depend upon me. As the economy has improved, I eventually started to climb out of the financial cellar and turn my life around. In one of my businesses I have had the opportunity to do a lot of travel. I have been to China around twenty times. I designed a retail product line that eventually was placed in Target. I have pursued various new business models. I was forced to find new pursuits, and I found them rewarding intellectually as well as financially.

b. community and political activities

Since being exonerated, I have reentered public life. In particular, I have been an active paid political consultant. My first client was a long-shot candidate for Mayor who was running in my hometown of Stockton against an entrenched incumbent. He won.

Currently, I am consulting in four active races for Sheriff, County Board of Supervisor, City Council, and School Board.

I have returned to volunteering and participating in community improvement projects within San Joaquin County. I volunteer at the Boys and Girls Club of Stockton as a member of their Board of Directors.

I started a highly active grass roots organization called Stockton Safe Streets, which advocates for public safety issues in the City of Stockton.

Stockton Safe Streets brought attention to the chronic staff shortages at the Stockton Police Department. At the time of the founding of the organization, Stockton was worst staffed police department in the Nation for a large city. At the time, Stockton had a record-breaking year for homicides and violent crime. I organized a community effort to address crime in Stockton. This effort was hugely successful in bringing attention to this issue. Eventually, Stockton Safe Streets help garner public support for a sales tax that will put more police on the street.

I continue run Stockton Safe Streets as a grass roots organization. It is now focused on addressing the problems related to our county jail. Currently, San Joaquin County also now has the dubious distinction of having the highest recidivism rates in the State of California. Seventy-five percent of criminals in San Joaquin County will reoffend. Likewise, a recent Civil Grand Jury Report from San Joaquin County has detailed in their findings the serious consequences to our criminal justice system in San Joaquin County that is directly correlated to the overcrowding at our County Jail. Last year, we released 2000 inmates early. Stockton Safe Streets is supporting efforts to find low cost ways to expand capacity at our jail. Stockton Safe Streets is also supporting programs that support rehabilitation and curb the high recidivism rates in San Joaquin County.

In addition to supporting change at our county jail through Stockton Safe Streets, I am also acted as the political consultant for candidate Pat Withrow, who recently ran for Sheriff against a three-term incumbent. Every law enforcement association in San Joaquin County endorsed Pat. Pat put forward a plan to use modular housing to expand the jail. Pat also put forward an aggressive approach to rehabilitation of inmates, which includes job training, drug treatment, and education. As the Political Consultant, I advised on the formation of these plans, and messaged these plans to the community.

WHAT I HAVE LEARNED FROM THIS EXPERIENCE

In retrospect, I do regret some of my actions that led up to the investigation and subsequent faulty conviction. I was naive and did not appreciate the sort of criticism and political retaliation that can occur in our society. My actions were not criminal; rather I consider my conduct reckless and naïve. I showed poor judgment, and did so publicly. I never considered how my conduct could have been perceived by the general public. I used my political connections in my community to get support for Sunlaw's project, and that harmed the public's perception of government officials, even though it was technically legal and done regularly. I wish I had made better decisions.

Some of my conduct showed poor judgment. I handed out my state business card while acting on private business. This can be perceived as trying to use the prestige of my position to garner support for my private business activities. I appreciate now that my position was that of a public official and I had a duty to behave in a manner that reflected respect and responsibility in my capacity. I now understand that I could have a private dealings but I should have behaved in a manner that clearly separated my private business from my public duties.

I am so grateful for the opportunity to have a "do over," or a second chance. Since my exoneration, I have reengaged in politics as a consultant. I have donated countless hours to the Boys and Girls Club of Stockton. I started a highly active organization called Stockton Safe Streets, which advocates for public safety issues in the City of Stockton. I have had a unique journey in law. I was a prosecutor, a government official in criminal justice, a criminal defense attorney, a defendant, an inmate, and an exonerated person. I believe this

unique experience and perspective will allow me to better serve my clients and community.

I will never again make decisions that will cast doubt on my integrity or ethics.

PRESENT ABILITY AND LEARNING IN THE GENERAL LAW

I passed the California Attorney Bar Examination administered in February 2013.

I passed the MPRE administered on August 17, 2013.

EXHIBIT "A"

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	CR. No. S-02-468 MCE
Plaintiff,)	
)	
v.)	
)	FACTUAL BASIS FOR
N. ALLEN SAWYER,)	PLEA AGREEMENT
)	
Defendant.)	

Defendant N. ALLEN SAWYER and the government stipulate and agree that the following is an accurate description of the factual basis for the defendant's plea of guilty to Count 15 in the Fourth Superseding Indictment in this case, charging him with honest services mail fraud, in violation of Title 18, United States Code, Sections 1341 and 1346, and for purposes of sentencing thereon:

1. At all times relevant to Count 15 of the Fourth Superseding Indictment, defendant N. Allen Sawyer was an official of the State of California, specifically, Chief Deputy Director of the California Office of Criminal Justice Planning (OCJP). In that capacity, he owed a duty to the citizens of California to perform his job impartially and free from deceit, fraud, dishonesty, and self-enrichment. He also had certain duties that were required by federal and state law, including the following:

(A) Defendant Sawyer had a duty under Section 19990 of the California Government Code to refrain from engaging in any employment, activity or enterprise which was clearly inconsistent,

1 incompatible, in conflict with or inimical to his duties as a state
2 officer or employee. In particular, it was a violation of Section
3 19990 to use the prestige or influence of the state or state agency
4 for the officer or employee's private gain or advantage or the
5 private gain of another.

6 (B) In addition, defendant Sawyer had responsibility for
7 dispensing U.S. Department of Justice grant funds to various
8 California law enforcement agencies, including the San Joaquin
9 Sheriff's Office. Under Title 28, Code of Federal Regulations,
10 Sections 66.36(b) and 70.42, he was prohibited from participating in
11 the selection, award or administration of a contract supported by
12 federal funds if an apparent conflict of interest would be involved.

13 (C) Finally, under the OCJP conflict of interest code,
14 which incorporated Title 2, California Code of Regulations, Section
15 18730(b), defendant Sawyer was required to file periodic disclosure
16 forms, called Statements of Economic Interest, on FPPC Form 700, in
17 which he was required to disclose all business positions in business
18 entities.

19 2. Beginning in February 2001, and continuing into November
20 2001, the defendant knowingly participated in a scheme and artifice
21 to defraud the citizens of California of his duty of honest services
22 as an OCJP official. Pursuant to that scheme and artifice to
23 defraud, the defendant, together with defendants Monte McFall and
24 San Joaquin County Sheriff T. Baxter Dunn, formed business ventures,
25 consisting of two entities, MSD Ventures, Inc. (which stood for
26 McFall, Sawyer and Dunn), and SMTM Partners (which stood for Show Me
27 The Money), which engaged in activities on behalf of Sunlaw Energy
28 Corporation, for the purpose of the defendants' joint personal

1 financial gain. During the period from February through November,
2 2001, those activities included lobbying officials with the City of
3 Stockton, the Port of Stockton, and San Joaquin County, on behalf of
4 Sunlaw and against Sunlaw's industry rivals in connection with
5 Sunlaw's efforts to build a power plant in San Joaquin County.

6 3. In the course of his activities on behalf of Sunlaw,
7 defendant Sawyer misused his official position in state government
8 in attempting to influence San Joaquin county officials and agencies
9 to take official actions that would benefit Sunlaw. Specifically,
10 he attended meetings with officials in San Joaquin County during the
11 workday, distributed his official state business card, stated or
12 knowingly implied that he was representing the interests of the
13 State, and deliberately failed to disclose that he was acting on
14 behalf of Sunlaw because he had a personal financial arrangement
15 with Sunlaw that would have earned him substantial fees if it had
16 been successful in building a plant in San Joaquin County.

17 4. Defendant Sawyer also participated in official OCJP actions
18 relating to the award of federal funds to the San Joaquin Sheriff's
19 Office without disclosing that he had entered into a personal
20 business venture with the San Joaquin County Sheriff.

21 5. Contrary to the state regulations referenced above,
22 defendant Sawyer also failed to disclose in his 2001 Statement of
23 Economic Interests on Form 700, and also failed to inform his
24 superiors at OCJP, that he had become a principal in a profit-
25 seeking business venture which included defendants McFall and Dunn.

26 6. By virtue of the conduct described in paragraphs 2 through
27 and 5 above, defendant Sawyer engaged in a scheme to deprive the
28 citizens of California of his duties of honest services as an

1 official at OCJP, as described in paragraph 1 above. In furtherance
2 of this scheme, between on or about April 15, 2001 and May 4, 2001,
3 defendant Sawyer caused co-defendant Monte McFall to send by U.S.
4 mail a Statement by Domestic Stock Corporation, relating to MSD
5 Ventures, Inc. from a location in San Joaquin County to the
6 California Department of Corporations, located in Sacramento County.

7 7. If the case were to proceed to trial, the government would
8 prove the foregoing through the testimony of investigating FBI
9 agents and a San Joaquin County D.A. investigator, the testimony of
10 numerous witnesses including former employees of Sunlaw Energy
11 Corporation, employees and representatives of the Calpine
12 Corporation, officers and employees of OCJP, other offices of the
13 State of California, the City of Stockton, the Port of Stockton, and
14 the San Joaquin County Board of Supervisors, residents of San
15 Joaquin County who attended various meetings involving the events
16 referenced above, and documents including bank records, checks,
17 contracts, E-mails between Sunlaw and the defendants, telephone toll
18 records, documents located on the defendant's computer, official
19 documents created by the San Joaquin County Board of Supervisors,
20 and other evidence.

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28

DECLARATION OF SERVICE BY CERTIFIED MAIL

I am employed in the City of Walnut Creek, I am over the age of 18 years, and I am not a party to the within action. My business address is 1111 Civic Drive, Walnut Creek, CA 94596. On this date, I served the

PETITION FOR REINSTATEMENT OF NEAT ALLEN SAWYER

by placing a true copy in a sealed envelope with postage fully prepaid, and placing the envelope for collection and mailing on this day, as certified mail, return-receipt requested, following ordinary business practices, in the County of Contra Costa, California, and addressed to:

**State Bar of California
Office of the Chief Trial Counsel
180 Howard Street
San Francisco, CA 94105**

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: June 16, 2014

Samuel C. Bellicini

DECLARATION OF SERVICE BY CERTIFIED MAIL

I am employed in the City of Walnut Creek, I am over the age of 18 years, and I am not a party to the within action. My business address is 1111 Civic Drive, Walnut Creek, CA 94596. On this date, I served the

DISCLOSURE STATEMENT SUPPORTING PETITION FOR REINSTATEMENT OF NEAT ALLEN SAWYER

by placing a true copy in a sealed envelope with postage fully prepaid, and placing the envelope for collection and mailing on this day, as certified mail, return-receipt requested, following ordinary business practices, in the County of Contra Costa, California, and addressed to:

**State Bar of California
Office of the Chief Trial Counsel
180 Howard Street
San Francisco, CA 94105**

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: June 16, 2014

Samuel C. Bellicini

1 **FISHKIN & SLATTER, LLP**
2 JEROME FISHKIN (SBN 47798)
3 SAMUEL C. BELLICINI (SBN 152191)
4 Attorneys at Law
5 1575 Treat Blvd., Suite 215
6 Walnut Creek CA 94598
7 Phone: (925) 944-5600

8 Attorneys for NEAT ALLEN SAWYER
9 Petitioner for Reinstatement

PUBLIC MATTER

FILED

JUN 16 2014

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO

11 In the Matter of
12 **NEAT ALLEN SAWYER**
13 SBN #173565
14
15 Petitioner for Reinstatement

Case No. 14-R-03409-PEM

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PETITION FOR REINSTATEMENT OF
NEAT ALLEN SAWYER**

16 **INTRODUCTION**

17 Neat Allen Sawyer resigned with charges pending after his conviction was determined to be
18 subject to summary disbarment. Years afterwards, his conviction was set aside on an Order Coram
19 Nobis, which erased the very crime itself. He now seeks reinstatement to the practice of law. His
20 reinstatement petition should be treated as if he had resigned without charges pending, rather than
21 an artificial "rehabilitation" case to show rehabilitation from a crime that does not exist. It is fair,
22 however, that he be required to explain the stipulated facts that were part of the plea bargain
23 leading to his conviction.

24
25 **CORAM NOBIS**

26 Mr. Sawyer was prosecuted in federal court. Under federal law, Coram Nobis renders the
27 proceeding against the defendant invalid. *U S v Mayer* (1914) 235 US 55, 59. Relief can only be
granted after the defendant has served his sentence and the case is otherwise closed. One of the few

1 grounds for granting the writ is when the Supreme Court has interpreted the relevant criminal
2 statute so as to decriminalize the sort of actions for which the defendant was convicted. *United States*
3 *v. McClelland*, 941 F.2d 999, 1001 (9th Cir. 1991).

4 The U. S. Attorney, who himself had been part of Sawyer's prosecution team back in 2006,
5 signed the non-opposition to Sawyer's coram nobis petition. The U. S. Attorney conceded that the
6 *Skilling* Decision specifically rejected the Government's argument that the facts Sawyer had pled to
7 constituted a crime under 18 U.S.C. § 1346. The Government also conceded that the *Skilling*
8 decision was retroactive and must be applied to Sawyer's conviction. The same judge, who had
9 originally accepted Sawyer's plea, granted the writ setting aside the conviction in its entirety.

10 **THE UNDERLYING CONVICTION**

11 Mr. Sawyer was convicted of the so-called "honest services mail fraud" under 18 USC 1343
12 & 1346. The stipulated facts were that Sawyer, who was employed in the Governor's office,
13 omitted to disclose two business investments on his California state disclosure form 700, which form
14 Sawyer mailed in. In *Skilling v United States* (2010) 130 S Ct 2896 177 L Ed 2nd 619, the United
15 States Supreme Court ruled that 18 USC 1346 could only apply to bribery and kickbacks. Thus,
16 the application of that code section to a state political filing was not criminal. Furthermore, state
17 law did not require Sawyer to disclose those investments. Thus, there was no civil or criminal act
18 from the beginning.

19 **THE BURDEN OF PROOF IN THIS PROCEEDING**

20 In accord with CRC Rule 9.10(f), Mr., Sawyer has taken and passed the Attorney's Bar
21 Examination as well as passed the professional responsibility exam.

22 CRC Rule 9.10(f)(2) requires all applicants to "Establish their rehabilitation and present
23 moral qualifications for readmission." Rule of Procedure 5.445(A)(2) requires proof of
24 rehabilitation in cases of resignations with charges pending; Rule 5.445(B) omits that requirement
25 when there is no resignation with charges pending.
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1 The level of rehabilitation depends upon the seriousness of misconduct that brought about
2 the resignation. Here, the Coram Nobis order has eradicated the crime. In that way, it is more like
3 a reversal on appeal as contrasted to habeas corpus or expungement or pardon. Thus, the
4 California Supreme Court restored an attorney to active practice two years after disbarment, when
5 it vacated the conviction, *In Re Rothrock* (1940) 16 Cal.2d 449, 453. It vacated an interim suspension
6 after reversal on appeal because there is no record on which to support a conviction proceeding. *In*
7 *Re Strick* (1983) 34 Cal.3d 891, 900. By way of contrast, rehabilitation had to be proven after a
8 pardon, because the pardon erased the penalties, not the acts that constituted a crime *In Re Lavine*
9 (1935) 2 Cal.2d 55, 61.

10 It is certainly appropriate that Mr. Sawyer explain statements of fact made in his stipulation
11 to plea bargain. But there is no crime to prove rehabilitation from.

12 **THE EFFECT OF THE CRIMINAL COURT FILE**

13 This Court may take judicial notice of the documents in the criminal file. That of course
14 does not permit this court to then conclude that any fact in those papers are automatically true.
15 *Matter of Carr* (1992) 2 Cal State Bar Ct Rptr 244, 255.

16 The agreement for a plea bargain contains a mixture of facts and law. Parties cannot bind
17 courts to conclusions of law. *Leonard v. City of Los Angeles* (1973) 31 Cal.App.3d 473, 476; *Glade v.*
18 *Superior Court* (1978) 76 Cal.App.3d 738, 744.

19 Mr. Sawyer should be permitted to supplement and explain any stipulated facts. See *In Re*
20 *Wank* (9th Cir BAP) 505 B.R. 878, 889-891, where the legal basis for a stipulation was reversed,
21 and the hearing court was told to weigh the circumstances of the stipulation along with other
22 evidence.

23 **ALLEN SAWYER SHOULD BE REINSTATED**

24 The federal government took an extreme position on legal principles that were ultimately
25 shot down by the Ninth Circuit and the United States Supreme Court. Allen Sawyer has been
26 prosecuted, convicted, and exonerated—roles few lawyers can understand let alone experience.
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Mr. Sawyer has resumed life as a good citizen. He is active in his community, working hard to be self supporting and get out of debt, and once again participating in the political life of his community. He has learned from his mistakes. He will once again be a credit to the profession.

Date: 15 June 2014

FISHKIN & SLATTER LLP



By:
SAMUEL C. BELLICINI
Attorneys for Petitioner for Reinstatement
NEAT ALLEN SAWYER

DECLARATION OF SERVICE BY CERTIFIED MAIL

I am employed in the City of Walnut Creek, I am over the age of 18 years, and I am not a party to the within action. My business address is 1111 Civic Drive, Walnut Creek, CA 94596. On this date, I served the

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR
REINSTATEMENT OF NEAT ALLEN SAWYER**

by placing a true copy in a sealed envelope with postage fully prepaid, and placing the envelope for collection and mailing on this day, as certified mail, return-receipt requested, following ordinary business practices, in the County of Contra Costa, California, and addressed to:

**State Bar of California
Office of the Chief Trial Counsel
180 Howard Street
San Francisco, CA 94105**

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: June 16, 2014

Samuel C. Bellicini