

# PUBLIC MATTER

FILED

SEP 11 2017

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

In the Matter of	)	Case No.: 16-R-17832-DFM
	)	
CARL ERIC MUNSON,	)	
	)	DECISION ON PETITION FOR
Former Member No. 116881,	)	REINSTATEMENT
	)	
<u>Petitioner for Reinstatement.</u>	)	

## INTRODUCTION

In this proceeding petitioner **Carl Eric Munson** (Petitioner) seeks to be reinstated to the practice of law after being disbarred by the Supreme Court, effective September 8, 2000.

Petitioner's effort is opposed by the State Bar of California.

After carefully considering all of the evidence and arguments of the parties, this court concludes that Petitioner has met not his burden of proof. Accordingly, it is not recommended that he be reinstated to the practice of law.

## **PERTINENT PROCEDURAL HISTORY**

This is Petitioner's second reinstatement petition. On August 5, 2016, Petitioner filed his first Petition for Reinstatement ("first petition") in case number 16-R-15307. On August 26, 2016, Petitioner filed a motion to withdraw his first petition because he had not reimbursed CSF prior to filing the petition as required by rule 5.441(B)(1). That motion was granted on August 29, 2016.

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On December 9, 2016, Petitioner filed the instant petition for reinstatement.

On January 17, 2017, an initial status conference was held in the case. At that time the case was scheduled to commence trial on June 12, 2017, with a five-day trial estimate.

On April 18, 2017, the State Bar of California, Office of the Chief Trial Counsel (State Bar) filed an opposition to the petition for reinstatement.

On May 30, 2017, the State Bar filed a Supplemental Opposition to the Petition.

Trial was commenced on June 12, 2017, and completed on June 16, 2017. Petitioner was represented at trial by attorney Edward Lear of Century Law Group, LLP. The State Bar was represented by Senior Trial Counsel Kristin Ritsema and Acting Supervising Attorney R. Kevin Bucher.

#### **Rehabilitation/Present Moral Qualifications**

While the law looks with favor upon the regeneration of errant attorneys (*In re Andreani* (1939) 14 Cal.2d 736, 749), the burden on a petitioner to prove his or her rehabilitation is a heavy one. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1091.) The California Supreme Court has consistently held that a petitioner for reinstatement must produce “stronger proof of his present honesty and integrity than one seeking admission for the first time whose character has never been in question.” (*Tardiff v. State Bar* (1980) 27 Cal.3d 395, 403.) Proof of such rehabilitation requires “overwhelming” proof of a lengthy period of not only unblemished, but exemplary conduct. (*In the Matter of Ainsworth* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 894, 899; *In re Menna* (1995) 11 Cal.4th 975, 989.)

In determining whether that burden has been met, evidence of present character must be considered in the light of the moral shortcomings which surrounded the prior imposition of discipline or resignation with charges pending. It is appropriate, therefore, to first examine the

extent of the prior misconduct to begin to determine the length of the road to rehabilitation.

(*Tardiff v. State Bar*, *supra*, 27 Cal.3d at p. 403.)

**Petitioner's Background/History of Prior Discipline and Disbarment**

Petitioner is 68-years-old. He is a graduate of the University of Washington and the UCLA School of Law. After being admitted to the practice of law in California on December 3, 1984, Petitioner first worked as a tax attorney at several prestigious Los Angeles law firms: Latham and Watkins and Munger, Tolles and Olson. He then "left big law" to practice family law with a successful female attorney, who was initially a friend and eventually became his wife.

Petitioner now has two prior impositions of discipline. In his first prior, case number 96-O-03496 (S073521), a First Amended Notice of Disciplinary Charges ("Amended NDC") was filed against Petitioner on November 26, 1997. Petitioner was properly served with the Amended NDC on December 18, 1997. However, he failed to file and serve a response to the Amended NDC, and his default was entered on March 3, 1998.

On August 6, 1998, the Hearing Department filed and properly served on Petitioner its decision in case number 96-O-03496, in which it found that Petitioner committed misconduct in three client matters in which his law firm, Boswell & Munson, was retained to provide marital dissolution services. In the *Miyo Iwasaki* matter, the court found that Petitioner recklessly failed to perform legal services competently in willful violation of rule 3-110(A) of the California Rules of Professional Conduct<sup>1</sup> and failed to refund \$5,000 of unearned fees in violation of rule 3-700(D)(2). In the *Masae Sakai* matter, the court found that Petitioner recklessly or intentionally failed to perform legal services competently in violation of rule 3-110(A), failed to respond to reasonable status inquiries from his client in violation of Business and Professions

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<sup>1</sup> All further references to "rule" or "rules" are to the California Rules of Professional Conduct unless otherwise indicated.

Code<sup>2</sup> section 6068, subdivision (m), and failed to cooperate in the disciplinary investigation in the *Sakai* matter in violation of section 6068, subdivision (i). In the *Virginia Lorenzo* matter, the court found that Petitioner recklessly or intentionally failed to perform legal services competently in willful violation of rule 3-110(A), failed to take reasonable steps to avoid foreseeable prejudice to the rights of his client in willful violation of rule 3-700(A)(2), and failed to cooperate in the disciplinary investigation of the *Lorenzo* matter in violation of section 6068, subdivision (i). Finally, the court found that Petitioner vacated the law offices of Boswell & Munson, located at 8457 Melrose Place, Los Angeles, California 90069, no later than January 1997 but failed to inform the State Bar's membership records office within thirty days as required by section 6002.1, in violation of section 6068, subdivision (j).

On November 30, 1998, the California Supreme Court filed and properly served on Petitioner its order number S073521 (State Bar Court case number 96-O-03496), suspending Petitioner for one year, stayed, and placing Petitioner on probation for two years with conditions including that he be actually suspended for six months and until he paid restitution to Miyo Iwasaki, or to the Client Security Fund (CSF) if appropriate, in the amount of \$5,000 plus 10% interest per annum from November 13, 1995. The disciplinary order also required Petitioner to comply with the other conditions of probation recommended by the Hearing Department in its August 6, 1998 decision; comply with former rule 955 (current rule 9.20) of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the disciplinary order; and take and pass the Multistate Professional Responsibility Examination (MPRE) within one year after the effective date of the disciplinary order. The disciplinary order further provided that, if Petitioner's period of actual suspension exceeded two years, he would remain suspended until he had shown proof

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<sup>2</sup> All further references to "section" or "sections" are to the California Business and Professions Code unless otherwise indicated.

satisfactory to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law pursuant to former standard 1.4(c)(ii) [current standard 1.2(c)(1)].

Finally, the disciplinary order awarded costs to the State Bar.

The November 30, 1998 disciplinary order in Petitioner's first imposition of discipline became effective on December 30, 1998. Although Petitioner was properly served with the order, he essentially ignored it. As a result, he failed to comply with the following conditions of probation and other requirements of the Supreme Court's order:

a. Petitioner failed to comply with former rule 955 (now rule 9.20) of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the disciplinary order.

b. One of the conditions of probation required Petitioner to comply with the State Bar Act and the Rules of Professional Conduct during the period of probation. Petitioner failed to comply with the provisions of the State Bar Act during the period of probation by failing to comply with the disciplinary order, in willful violation of Business and Professions Code section 6103, and by failing to comply with the conditions of probation imposed by the disciplinary order, in willful violation of Business and Professions Code section 6068, subdivision (k).

c. He failed to submit written quarterly reports to the former Probation Unit (currently the Office of Probation) no later than January 10, April 10, July 10 and October 10 during the probation period, and in each report to certify under penalty of perjury whether he had complied with the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation during the period covered by the report. Petitioner failed to submit quarterly reports to the former Probation Unit that were due on January 10, 1999; April 10, 1999; July 10, 1999; October 10, 1999; January 10, 2000; April 10, 2000; and July 10, 2000. Petitioner did not submit any of the required reports at any time.

d. He failed to attend State Bar Ethics School and take and pass the test given at the end of the session within one year of the effective date of the disciplinary order, or no later than December 30, 1999. Petitioner did not attend and complete State Bar Ethics School until February 7, 2017, after the filing of the instant petition for reinstatement.

e. Petitioner failed to pay restitution to Ms. Iwasaki or CSF in the amount of \$5,000 plus 10% interest per annum from November 13, 1995, within six months of the effective date of the disciplinary order and, therefore, remained actually suspended by the terms of the disciplinary order until he was disbarred in his second disciplinary matter discussed below; and

f. Petitioner failed to take and pass the MPRE within one year after the effective date of the disciplinary order and was therefore suspended by the Review Department on March 31, 2000, effective April 24, 2000. He remained suspended until he was disbarred in his second disciplinary matter.

Petitioner's failure to comply with former rule 955, as ordered by the Supreme Court in the November 30, 1998 disciplinary order, led to a second disciplinary proceeding, case number 99-N-11976 (S088570). In that matter, the Notice of Disciplinary Charges (NDC) was filed on September 29, 1999. Although Petitioner was properly served with the NDC, he failed to file a response to the NDC, and his default was entered on December 29, 1999.

On March 22, 2000, the Hearing Department filed and properly served on Petitioner its decision in case number 99-N-11976, in which it found that Petitioner willfully failed to comply with the November 30, 1998 Supreme Court order directing his compliance with former rule 955, and that Petitioner's failure to comply with that order constituted a willful violation by him of section 6103. As a result of that misconduct, this court recommended that Petitioner be disbarred.

On August 9, 2000, the California Supreme Court filed and properly served on Petitioner its order number S088570 (State Bar Court case number 99-N-11976), disbaring Petitioner from the practice of law in California and striking his name from the roll of attorneys. The disciplinary order again required Petitioner to comply with former rule 955 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the disciplinary order. The disciplinary order also awarded costs to the State Bar. The order became effective on September 8, 2000.<sup>3</sup>

**Petitioner's Evidence Regarding Basis for Reinstatement**

Rule 5.445 of the Rules of Procedure provides that petitioners for reinstatement, who previously had been disbarred or resigned with charges pending, must:

- (1) pass a professional responsibility examination within one year prior to filing the petition;
- (2) establish their rehabilitation;
- (3) establish present moral qualifications for reinstatement; and
- (4) establish present ability and learning in the general law by providing proof that they have taken and passed the Attorneys' Examination by the Committee of Bar Examiners within three years prior to the filing of the petition.

An additional pre-filing requirement is that the petitioner must submit proof that the petitioner has paid all discipline costs and reimbursed all payments made by the Client Security Fund as a result of the petitioner's prior misconduct. (Rule 5.441, Rules Proc. of State Bar.)

The only disputed issues in this matter are whether Petitioner has sustained his burden of proving that he is rehabilitated and has the present moral qualifications for reinstatement. The

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<sup>3</sup> As a result of Petitioner's failure to comply with the conditions of probation imposed by the November 30, 1998 Supreme Court order in Petitioner's first disciplinary matter, on March 22, 2000, the former Probation Unit referred probation revocation case number 00-PM-10958 to the Enforcement Unit of the Office of Chief Trial Counsel for prosecution. However, the case was abated in light of the disbarment recommendation filed on March 22, 2000, in Petitioner's second disciplinary matter. Once Petitioner's disbarment was final, the probation revocation matter was terminated. Petitioner was never notified of case number 00-PM-10958.

evidence is uncontradicted, and this court finds, that Petitioner passed the November 2015 Multistate Professional Responsibility Examinations (MPRE) within one year prior to the filing of the instant petition for reinstatement;<sup>4</sup> passed the February 2014 California State Bar Attorneys' Examination, a date within three years prior to the filing of this petition; has now paid all discipline costs previously imposed against him; and owes no money to the Client Security Fund.

Petitioner's evidence regarding his rehabilitation and present moral qualities consisted of the information contained in his petition and its disclosure statement, his own testimony during the hearing of this matter, the testimony of numerous character witnesses, and the testimony of his therapist.

Petitioner testified that his prior misconduct was the consequence of a traumatic sexual assault suffered by his female law partner, and then girl-friend, in Rome in October 1994. Prior to the time of the assault, Petitioner's partner had been the major source of work at the firm. When the trauma of the assault left her largely unable to work, the burden fell on Petitioner to maintain the office and service the existing clients. Rather than rise to the challenge, he succumbed to his own depression, resulting in his ignoring the needs of his clients and, eventually, the disciplinary actions of the State Bar, the State Bar Court, and even the California Supreme Court.<sup>5</sup> During the course of that depression, Petitioner's law office was closed in 1997, Petitioner went to work as a contract attorney in the tax department of Arco, Petitioner was then ordered ineligible to practice, and he was eventually disbarred in 2000.

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<sup>4</sup> The petition was actually filed more than a year after the date of the November 2015 examination, but the results appear to have been communicated to Respondent on December 9, 2015, exactly one year prior to the filing the petition. The State Bar makes no contention that the petition was untimely filed. (See State Bar Opposition, p. 7.)

<sup>5</sup> Petitioner recounts that the principal attributes of his depression were "avoidance and denial." While he acknowledges receiving communications from the State Bar regarding the problems with his clients, he opted to ignore the correspondence, often failing even to open it.

Petitioner states that in January 2000, he "woke up" to the fact that he was not performing up to his capabilities. He then sought psychiatric assistance and was prescribed an anti-depressant. Thereafter, he began regular counseling sessions with a therapist. Both he and his therapist reported that he has developed greater self-awareness and better coping mechanisms, helping him to better deal with the stresses of the profession and his personal life.

In 2000, Petitioner went to work as a law clerk with the law firm of Baute Crochetiere & Gilford, and he continued to work there for more than 15 years. During the hearing of this matter a number of Petitioner's current and past colleagues at that firm testified as character witnesses on his behalf. Their favorable comments included Petitioner's work ethic, his talents as a legal writer, and his honesty as an individual.

Other character witnesses included Petitioner's brother, who discussed Petitioner's renewed relationship with his family, and two individuals participating with Petitioner in his volunteer work as a lector in his church.

Finally, Petitioner presented evidence that he provided volunteer services in the past to Recording for the Blind and Dyslexic (now Learning Ally) and the Los Angeles Public Library's adult literacy program. More recently, since 2013, he has assisted in the fund-raising efforts of the Our Community House of Hope Hospice.

#### **State Bar's Evidence in Rebuttal of Petitioner's Showing**

The State Bar contends that Petitioner has failed to demonstrate adequately his rehabilitation due to his failure to have lived an exemplary life since his disbarment. In support of that contention the State Bar points to various acts of misconduct by Petitioner since his disbarment. Each of these issues is set forth separately below.

### **Petitioner's Noncompliance with Rule 955**

At the time Petitioner was suspended on December 29, 1998, he was ordered to comply with rule 955, subdivisions (a) and (c), of the California Rules of Court within 30 and 40 days, respectively, of the effective date of the discipline. As previously noted, Petitioner's failure to comply with that obligation led to his second discipline and eventual disbarment.

Thereafter, when the Supreme Court issued its decision disbaring Petitioner in 2000, the disciplinary order again required Petitioner to comply with rule 955 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the disciplinary order. The order became effective on September 8, 2000. Once again, Petitioner did not comply with this 955 obligation.

Petitioner's disregard of the Supreme Court orders requiring him to comply with rule 955 continued for more than 16 years. When Petitioner filed his first petition for reinstatement in 2016, his compliance statement had still not been filed. Nor had Petitioner filed a rule 955 compliance statement before he filed this second petition for reinstatement in December 2016. In the State Bar's opposition, it not only raised Petitioner's ongoing failure to comply with the Supreme Court's orders but argued that, "This alone should be grounds for denying petitioner's petition for reinstatement." (Opp., p. 7.) It was only on June 7, 2017, six weeks after the State Bar filed its opposition to his reinstatement petition and only five days before the hearing of this matter, that Petitioner filed a compliance declaration with the State Bar Court.

### **Delays in Making Restitution to Victims of Misconduct, Reimbursing CSF, and Paying Disciplinary Costs**

#### **Late and Delayed Restitution/Lack of Demonstrated Remorse to Victim**

As part of the first disciplinary order issued by the Supreme Court, Petitioner was obligated to pay restitution to Ms. Iwasaki or CSF in the amount of \$5,000 plus 10% interest per annum from November 13, 1995, within six months of the effective date of the disciplinary

order, or by June 30, 1999. He did not do so. As a result, on November 19, 1999, CSF paid Ms. Iwasaki the principal amount owed by Petitioner of \$5,000. However, it did not pay to her the interest owed by Petitioner on that amount for the prior four years.

At no time prior to the filing of his second petition did Petitioner pay to Ms. Iwasaki the 10% interest owed by him pursuant to the November 30, 1998 disciplinary order. Ms. Iwasaki has resided at the same address and has had the same home telephone number from the time she hired Petitioner's firm in November 1995 to the present. Nor did Petitioner contact Ms. Iwasaki to apologize for his prior misconduct or for any other reason prior to his filing his second petition for reinstatement.

On May 4, 2017, after the State Bar filed its opposition in this matter, in which it raised Petitioner's ongoing failure to pay interest to his former client or to apologize to her for his misconduct, Petitioner sent a letter to Ms. Iwasaki, which she received. This letter was the first time that Petitioner contacted Ms. Iwasaki since 1995. Thereafter, on June 6, 2017, Petitioner sent via overnight delivery to Ms. Iwasaki a letter, dated June 5, 2017, accompanied by a cashier's check dated June 2, 2017, and made payable to Ms. Iwasaki in the amount of \$2,009.59.

#### Late Reimbursement to CSF

CSF made restitution payments on Petitioner's behalf to several other claimants, in addition to Iwasaki, who had claims against Petitioner pending with the State Bar at the time of Petitioner's disbarment. More specifically, CSF made payments to Petitioner's former clients as follows:

- Masae Inagaki was paid \$3,800 on April 4, 2000 in CSF case number 00-F-10180;
- Kelvin Taylor was paid \$7,000 on June 19, 2000 in CSF case number 00-F-10436; and
- Elaine Yaffe, now Elaine McStravick, was paid \$5,000 on September 5, 2000 in CSF case number 00-F-10646.

At no time prior to August 3, 2016, did Petitioner make any payments to CSF to reimburse CSF for the payments made by CSF to Petitioner's former clients. On July 28, 2016, Petitioner called CSF to request information about the amount he owed to CSF at that time. By letter dated July 28, 2016, Betty Yung, Senior Administrative Supervisor of CSF, wrote to Petitioner, advising him that he owed CSF a total of \$55,194.19 as of July 31, 2016. The amount represented payments made by CSF on four reimbursement applications totaling \$20,800 (principal amount), plus \$588 in processing costs and \$33,806.19 in interest.

Petitioner then sent a letter, dated August 3, 2016, to CSF, accompanied by a check in the amount of \$2,000 towards reimbursement of payments made by CSF to Petitioner's former clients. Two days later, on August 5, 2016, Petitioner filed his first petition for reinstatement. CSF received the letter and check on August 8, 2016. Petitioner had never made any prior payments to CSF; nor did he make any subsequent payments to CSF until December 9, 2016, as described below. It was because of the amounts still owed by him to CSF that he withdrew his first petition for reinstatement on August 26, 2016.

On December 9, 2016, the same day that he filed the instant petition for reinstatement, Petitioner sent a letter to CSF accompanied by four cashier's checks totaling \$53,940.71, representing the remaining amount owed by him to CSF for reimbursement for payments made by CSF to Petitioner's former clients, accrued interest and processing fees.

#### Delayed Payment of Disciplinary Costs

At no time prior to August 3, 2016, did Petitioner make any payments to the State Bar for costs imposed in his prior two disciplinary matters. On August 3, 2016, two days before the filing of his first petition for reinstatement, Petitioner sent a letter and a check, dated August 2, 2016, and made payable to the State Bar in the amount of \$3,446, to the State Bar's Membership

Billing Services as reimbursement for costs of \$2,524 in Petitioner's first disciplinary matter and \$992 in Petitioner's second disciplinary matter.

In arguing that Petitioner's delays in reimbursing others for the costs and consequences of his misconduct shows a lack of rehabilitation, the State Bar points to Petitioner's significant income in the last several years as evidence that Petitioner could have made restitution at a much earlier date, had he chosen to do so. According to tax returns prepared and signed by Petitioner, he earned \$172,500 in 2015; \$168,337 in 2014; \$181,260 in 2013; and \$154,274 in 2012.<sup>6</sup>

#### **Petitioner's Misrepresentation and Concealment of Information in Petitions for Reinstatement**

In order to seek reinstatement to the Bar, Petitioner was required to file a verified petition for reinstatement. (Rules Proc. of State Bar, rule 5.441.) Misrepresentation and omissions in a reinstatement petition can provide the basis for a request for reinstatement being denied. (*In the Matter of Giddens* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 25, 34.)

As noted above, Petitioner sought from CSF information regarding the amount of money owed by him to CSF just a few days before filing his first petition for reinstatement. In response, he was informed that he owed CSF \$55,194.19, including a principal amount of \$20,800. On August 3, 2016, he made a \$2,000 payment to CSF toward that obligation.

Two days later, on August 5, 2016, Petitioner filed his first petition for reinstatement. Despite the information he had just been provided by CSF, in his petition he stated, "I have repaid the principal amount of the client security fund payment of \$5,000.00. I am paying \$500.00 monthly to repay accrued interest." This statement by Petitioner was a complete and knowing misrepresentation. The principal amount owed by Petitioner to CSF was well in excess of \$5,000, and had not been repaid; Petitioner had paid only \$2,000 to CSF toward his obligation

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<sup>6</sup> Further buttressing this contention is the fact that Petitioner's tax returns for these years show that he spent significant money pursuing his hobby of photography, including extensive travel costs.

there, not \$5,000; and he had not made any \$500 monthly installment payment toward the accrued interest and he had made no arrangement to do so.

In both petitions, Petitioner was obligated to provide information regarding any restitution obligations previously ordered or recommended by any court, including the status of that restitution obligation. Although Petitioner had been ordered by the Supreme Court to make restitution to Ms. Iwasaki, Petitioner did not disclose that fact in either of his two petitions.

### **Improper Federal Income Tax Deductions and Delinquent Pay Payments**

Both the Supreme Court and this court have long held that acts of misrepresentation and concealment, perpetrated for the purpose of evading taxes, constitute acts of moral turpitude. (*In re Hallinan* (1957) 48 Cal.2d 52, 56; *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113, 125.)

As part of his petitions for reinstatement to the practice of law, Petitioner was obligated to turn over to the State Bar for inspection his tax returns for 2012, 2013, 2014 and 2015. While those returns showed significant income received by Petitioner as a law clerk, they also indicated that Petitioner, who previously worked as a tax attorney, has been improperly avoiding taxes by deducting tens of thousands of dollars in claimed expenses resulting from a purported "Forensic Photography and Research" sole proprietorship. In addition, he has deducted a significant portion of the expenses of his home as a purported home office.

Petitioner has never had a municipal business license for "Forensic Photography and Research," his claimed sole proprietorship, or for any other business, as required by the City of Alhambra, where Petitioner resides, and specifically as required by Alhambra, California Code of Ordinances, Chapter 5.04. Petitioner has also never had a municipal business license for "Forensic Photography and Research" or for any other business as required by the City of San Marino, where Petitioner maintains a UPS Store mailbox address that he lists as his business

address in his income tax returns, and specifically as required by City of San Marino, California City Code, Chapter 11. In his petitions for reinstatement, he was required to identify all businesses he has had since being disbarred. He made no claim of having operated any forensic photography business.

During the trial of this matter, the State Bar presented persuasive expert testimony regarding the inappropriateness of Petitioner's extensive business and home office deductions. Moreover, Petitioner presented testimony from one of his character witnesses, a CPA, that Petitioner, shortly before the hearing of this matter, sought to amend his tax returns to eliminate or reduce these inappropriate deductions after the State Bar had challenged them in the course of this proceeding. His amended returns were filed by Petitioner shortly before the hearing in this matter commenced.

Also troubling to this court are Petitioner's many years of failing to pay his taxes. At least one of Petitioner's character witnesses from the Baute firm commented on Petitioner's wages being garnished by the IRS at various times because of unpaid tax liabilities. On May 8, 2008, Petitioner filed a Chapter 13 Voluntary Petition in the United States Bankruptcy Court, Central District of California, case number 2:08-bk-16339-WB. Of the \$180,000 he reported owing at that time, \$149,000 was money owed to the state and federal governments as taxes. (Ex. 18, pp. 23, 26-28.)

Petitioner's unwillingness to pay taxes did not end with the 2008 bankruptcy. Although Petitioner's testimony, corroborated by the bankruptcy court records, indicate that Petitioner eventually paid off the tax obligations subject to the 2008 bankruptcy petition, he then failed to pay his taxes in subsequent years, despite his significant income and the fact that he was improperly reducing the amount of the taxes owed. In his two petitions, he indicated now owing the federal government \$75,000 for tax years 2012, 2013, and 2014. Given the adjustments to

his taxable income resulting from the amended tax returns filed by Petitioner just before the hearing of this matter, his indebtedness to the Internal Revenue Service is even greater than that stated amount.

### **Unlawful Detainer Action**

Prior to March 2008, Petitioner and his girlfriend (now wife) lived in a leased home in San Marino, California. In March 2008, Petitioner stopped paying the monthly rent of \$2,600, but continued to live in the house despite the protests of the landlord. Eventually, the landlord was required to hire an attorney, obtain relief from the automatic stay resulting from Petitioner's bankruptcy petition, and then file an unlawful detainer action to have Petitioner evicted from the property. It was not until August 2008 that Petitioner eventually vacated the property. The former landlord testified in this hearing that Petitioner has never apologized for his actions nor repaid the unpaid rent obligation. She paid legal fees of \$3,970 in connection with the unlawful detainer lawsuit and \$955 for her law firm's services in connection with the bankruptcy case.

### **CONCLUSION AND RECOMMENDATION**

Petitioner's showing of rehabilitation and present moral qualifications has fallen short. While the character evidence offered by Petitioner is generally favorable, "it is well-established that character evidence, no matter how laudatory, does not alone establish the requisite rehabilitation." (*In the Matter of Rudnick* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27, 39.) Although Petitioner has made significant steps in the last several years in developing coping methods to deal with the stressors in his life, his many instances of dishonesty and/or conduct inconsistent with one seeking reinstatement as an attorney during the years since his disbarment prevent this court from concluding either that he has demonstrated his rehabilitation through a substantial period of exemplary conduct or that he presently possesses the requisite moral

qualifications for reinstatement. (*In the Matter of Rudnick, supra*, 5 Cal. State Bar Ct. Rptr. at pp. 35-40.)

Accordingly, the petition for reinstatement is **DENIED**.

Dated: September 11, 2017

A handwritten signature in black ink, appearing to read "Donald F. Miles", written over a horizontal line.

DONALD F. MILES  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 11, 2017, I deposited a true copy of the following document(s):

### DECISION ON PETITION FOR REINSTATEMENT

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

EDWARD O. LEAR  
CENTURY LAW GROUP LLP  
5200 W CENTURY BLVD #345  
LOS ANGELES, CA 90045

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

KRISTIN L. RITSEMA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 11, 2017.



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Mazie Yip  
Case Administrator  
State Bar Court