

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 14-V-05807-YDR
)	
FARI BARI NEJADPOUR)	DECISION GRANTING PETITION FOR
)	RELIEF FROM ACTUAL SUSPENSION
Member No. 216925)	
)	
A Member of the State Bar)	
_____)	

Introduction¹

The issue presented in this matter is whether Fari Bari Nejadpour (Petitioner) has established, by a preponderance of the evidence, his rehabilitation, present fitness to practice law, and present learning and ability in the general law so that he may be relieved from the actual suspension imposed on him by the Supreme Court. (Standard 1.4(c)(ii);² *In the Matter of Terrones* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289, 293-294.) Petitioner appeared *pro per* and Deputy Trial Counsel R. Kevin Bucher represented the Office of the Chief Trial Counsel of the State Bar of California (State Bar). As Petitioner and the State Bar stipulated to

¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct, and all statutory references are to the Business and Professions Code. Furthermore, all references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

² Effective, January 1, 2014, the former Rules of Procedure of the State Bar of California (Rules of Procedure) were revised and standard 1.4(c)(ii) was renumbered as standard 1.2(c)(1). Because Petitioner was ordered to comply with standard 1.4(c)(ii), the former Rules of Procedure are applicable to this proceeding.

waive hearing, this matter has been decided on Petitioner's verified petition for relief from actual suspension, Petitioner's supplemental verified petition for relief from actual suspension, and the State Bar's response, as well as all exhibits attached thereto.

For the reasons set forth below, the court finds Petitioner has shown by a preponderance of evidence that he has satisfied the requirements of Standard 1.4(c)(ii). Therefore, Petitioner's request for relief from actual suspension is **GRANTED**.

Significant Procedural History

On November 12, 2014, Petitioner filed and served his verified petition for relief from actual suspension. Petitioner filed a supplemental verified petition for relief from actual suspension on December 19, 2014, and the State Bar filed its response opposing Petitioner's verified petition for relief from actual suspension on December 23, 2014.

By stipulation filed December 19, 2014, the parties agreed that the present matter could be decided by consideration of the verified petition for relief from actual suspension, and the State Bar's response thereto. To ensure that the State Bar had an adequate opportunity to address Petitioner's supplemental verified petition for relief from actual suspension, this court, on December 30, 2014, ordered that the State Bar file a supplemental pleading by January 12, 2015, to further respond to Petitioner's verified petition for relief from actual suspension or to file a notice advising of the State Bar's intention not to further respond. The State Bar's supplemental response, filed January 5, 2015, stated that "no further response or documentation will be filed in Response to Petitioner's Supplemental Verified Petition for Relief [f]rom Actual Suspension, and the matter can be decided upon consideration of all pleadings and documents filed to date." This matter was deemed submitted for decision on January 5, 2015.

Findings of Fact

Petitioner was admitted to the practice of law in California on December 4, 2001, and has been a member of the State Bar at all times since that time. He was placed on inactive status on December 19, 2012.

Background of Misconduct and Disciplinary Matters

First Disciplinary Matter (Case No. 04-O-15235)

On September 3, 2009, Petitioner entered into a Stipulation Re Facts, Conclusions of Law and Disposition in State Bar Case No. 04-O-15235.³ This stipulation was approved and filed by the State Bar Court on September 15, 2009. In sum, Petitioner stipulated that he was culpable of committing acts involving moral turpitude in willful violation of section 6106 and of rule 3-300. Specifically, in three marital dissolution matters, *Mascal v. Mascal*, *Gayton v. Olivia*, and *Covington v. Covington*, Petitioner represented a spouse in connection with the sale of a community family residence. In each matter, the residence was listed with Lawyer's Title and Mortgage Group (Lawyer's Title), Petitioner's business which he operated at his membership address. In violation of section 6106, Petitioner failed to advise his clients, opposing parties, or the respective courts in which each matter was venued that Lawyer's Title was his business, that he was the broker for Lawyer's Title, or that his wife was the realtor for Lawyer's Title.⁴ Petitioner also failed to obtain the written consent of his marital dissolution clients to the terms of the respective sale transactions and failed to advise that they could seek the advice of an independent lawyer of their choice.

With respect to the *Gayton* matter, Petitioner also sent a letter to the escrow company involved in the sale of the community residence which inaccurately stated that a July 23, 2005

³ The following cases were included in the Stipulation filed September 15, 2009: 04-O-15235; 06-O-10599; 06-O-10606; 06-O-11221; 06-O-11928; 06-O-12394; 06-O-14512; 06-O-15053; and 08-O-12003.

⁴ Petitioner's wife was identified on Petitioner's law office letterhead as an administrator.

Los Angeles Superior Court order required that the residence sale funds be deposited into Petitioner's firm's trust account until further order of the court or until the time of final dissolution. Petitioner's September 23, 2005 letter to the escrow company mischaracterized the July 23, 2005 court order. In addition, Petitioner did not inform his client in writing that he was acquiring a pecuniary interest in the residence which was adverse to her interest.

In mitigation, Petitioner had no prior record of discipline since being admitted to practice law on December 4, 2001. Petitioner also contended that he donated half of his Gayton residence commission to the United Way charity. In aggravation, Petitioner's misconduct involved concealment or other violations of the State Bar Act or Rules of Professional Conduct.

In this matter, Petitioner was suspended for two years, stayed, and placed on probation for two years with an actual suspension of six months, effective February 21, 2010. He satisfactorily completed his disciplinary probation on February 21, 2012.

Second Disciplinary Matter (Case Nos. 10-O-08276 & 12-O-11546)

On July 24, 2012, Petitioner entered into a Stipulation Re Facts, Conclusions of Law and Disposition in State Bar Case Nos. 10-O-08276 and 12-O-11546. This stipulation was approved and filed by the State Bar Court on August 3, 2012. Petitioner stipulated that prior to obtaining court approval, he charged and received fees in the Estate of Michael Thomas probate matter, in violation of rule 4-200(A). Petitioner also stipulated that he failed to perform substantive legal services with competence or of any value in the Thomas probate matter, in willful violation of rule 3-110(A); failed to promptly refund unearned advanced probate fees, in willful violation of rule 3-700(D)(2); and committed an act of moral turpitude by falsely testifying in court,⁵ in willful violation of section 6106.

⁵ In the matter of *F. Bari Nejadpour v. Paul William Samarin*, Los Angeles Superior Court Case No. BC 378581, the trial judge found that Petitioner's testimony was inconsistent with his 2009 State Bar Court stipulation.

In this matter, Petitioner was suspended for three years, stayed, and placed on four years of probation with actual suspension of two years, commencing December 19, 2012, and until Petitioner could provide proof of his rehabilitation, fitness to practice law, and learning and ability in the general law. He was also ordered to comply with California Rules of Court, rule 9.20, and to take, pass, and provide proof of passage of the Multistate Professional Responsibility Examination (MPRE) during his suspension.

Petitioner's Rehabilitation

Petitioner has shown an understanding of and remorse for the misconduct that led to his actual suspension. He contends he has been rehabilitated, is fit to practice law, has the requisite learning and ability to practice law, and has met the terms of his probation. The State Bar disagrees, arguing that Petitioner has not shown a sustained period of exemplary conduct and has a disregard for deadlines that cast a shadow on his fitness to practice law.

Petitioner's Character References

Petitioner submitted six favorable character witness declarations in support of his petition which attest to his integrity, good character, and remorse for his misconduct. Petitioner's character witnesses include four attorneys (Farbood Majd, Joseph Ramin Kerendian, Robert K. Steinberg, and Emily C. Marx), psychologist Dr. Jefferson Sa, and Sina Bayat, an entertainer and president of a nonprofit. Each of Petitioner's character witnesses praised his legal skills, dedication to clients and his passion for helping needy individuals. These witnesses also demonstrated a general understanding of Petitioner's misconduct and the measures he has taken to achieve rehabilitation.

Attorney Farbood Majd (Majd) met Petitioner when he was opposing counsel in a family law matter. Majd considers Petitioner to be a respectful, honest, and forthcoming problem solver who professionally negotiated the settlement of their family law matter. After the matter

concluded, they became friends. Majd confirmed Petitioner's comments regarding his attendance in various continuing legal education seminars.

A second attorney, R. Joseph Kerendian (Kerendian), briefly commented that he has known Petitioner since 1995, when he was a law student. He found Petitioner to be a caring and responsible individual who "always strived to go out of his way to assist and support his clients." While Kerendian's character letter was favorable, he neither commented on Petitioner's misconduct nor on any post-misconduct rehabilitation.

Robert Steinberg (Steinberg), a senior lawyer licensed to practice since 1963 in California and the District of Columbia, met Petitioner in the 2011-2012 time frame. Petitioner assisted Steinberg with "linguistic difficulty" he had with one of Petitioner's former clients who spoke the same language as Petitioner. Petitioner was of great assistance to Steinberg, even attending court hearings with him and the client. When Steinberg introduced Petitioner to the Deputy Attorney General (AG) handling the matter as his assistant, Petitioner clarified that he was suspended from the practice of law and his sole purpose in attending the proceeding was to assist Mr. Steinberg linguistically. Steinberg also commented that Petitioner was remorseful regarding his suspension and he believes Petitioner is now rehabilitated professionally and personally.

Psychologist and Chief Executive Officer of Sunrise Counseling Center for twenty-two years, Dr. Jefferson Sa is one of Petitioner's former clients. He is impressed with Petitioner's legal skills and compassion for the less fortunate, for whom he volunteers his time. Dr. Sa trusts Petitioner, who he has known for about five years. Upon Dr. Sa's request, Petitioner accepted a position on the Sunrise Counseling Center's board and acts as a signatory on payroll accounts. According to Dr. Sa, Petitioner is remorseful, rehabilitated, eager, and capable of returning to the practice of law.

Petitioner's employer, attorney Emily Marx, declared that over the past two years she has observed Petitioner's personal and professional development, including his increased understanding and knowledge of the Rules of Professional Conduct. She has also observed Petitioner attempting to stay abreast of new and/or changing case law by reviewing legal periodicals, tentative rulings, and current case law.

Sina Bayat (Bayat), President of Persian Helping Hand, a non-profit organization that assists those in need, praised Petitioner's legal skills and willingness to provide various pro bono legal services while he was allowed to practice, including assisting with the organization's 501(c)(3) compliance issues. He has known Petitioner for ten years and during that time, Petitioner has been an involved donor who has frequently assisted the organization and its clients on various projects. Bayat is aware of Petitioner's suspension, remorse, and intention to correct the misconduct that resulted in his suspension.

Discussion

Rehabilitation

Petitioner has accepted responsibility for his misconduct and argues that he has been rehabilitated and possesses the requisite present fitness to practice law. The State Bar disagrees, contending that Petitioner has not shown rehabilitation and present fitness to practice due to his failure to comply with the terms of his probation and other misconduct. Specifically, the State Bar claims Petitioner: (1) failed to file a timely California Rules of Court, rule 9.20(d) compliance declaration; (2) failed to timely submit his January 10 and October 10, 2014 quarterly reports; and (3) maintained a LinkedIn page on the internet during his suspension, which identified him as an experienced real estate attorney and the owner of the Law Offices of Nejadapour and Associates.

In this proceeding, Petitioner has the burden of proving by a preponderance of the evidence that he has satisfied the conditions of standard 1.4(c)(ii). The court first looks to the nature of the underlying misconduct as well as the aggravating and mitigating circumstances surrounding it to determine the point from which to measure Petitioner's rehabilitation, present learning and ability in the general law and, present fitness to practice before being relieved from his actual suspension. (*In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr 571, 578.)

To establish rehabilitation, the court must first consider Petitioner's prior misconduct. The amount of evidence of rehabilitation varies according to the seriousness of the misconduct at issue. Next, the court must examine Petitioner's actions since imposition of Petitioner's discipline to determine whether his actions, in light of the prior misconduct, sufficiently demonstrate rehabilitation by a preponderance of the evidence. (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at 581.) Petitioner must also show strict compliance with the terms of probation in the underlying disciplinary matter, exemplary conduct from the imposition of the prior discipline, and "that the conduct evidencing rehabilitation is such that the court may make a determination that the conduct leading to the discipline . . . is not likely to be repeated." (*Id.*)

The conduct that resulted in Petitioner's discipline – as discussed above – was serious, especially when one considers Petitioner's prior discipline. However, at the heart of each disciplinary matter was Petitioner's failure to adequately research various areas of law with which he was unfamiliar and his failure to make full and complete disclosures to his clients and others.

Holding Himself Out as Entitled to Practice Law During Actual Suspension

The State Bar contends that Petitioner "maintained a LinkedIn page on the internet, at least as late as December 17, 2014, identifying himself as the owner of the Law Offices of

Nejadpour and Associates, ‘Law Practice.’” (State Bar Response, p. 7). The State Bar further stated that Petitioner’s revised profile, ambiguously identifies him as a non-attorney mediator yet, states “attorney Nejadpour is a highly experienced Real Estate Attorney.” (State Bar Response, p. 7).

Petitioner contends that the LinkedIn page is a duplicate account for one set-up in or about August 2008, when he was not suspended and when Petitioner’s firm was named the Law Offices of Nejadpour & Associates. Subsequently, Petitioner changed the name of his firm to the Law Offices of the L.A. Law Group, Inc., and practiced under that name through December 18, 2012, at which time he changed his LinkedIn profile. Petitioner declared that he first learned of the duplicate LinkedIn page during his December 17, 2014 deposition. He submitted evidence that after his deposition, Petitioner contacted LinkedIn, informed them of his suspension from the practice of law and that the profile information on that page was misleading and inaccurate. He requested that LinkedIn urgently “erase or remove this listing and any reference to [Petitioner] being an attorney in California or anywhere else.” (Petitioner’s supplemental petition, Exh. D).

While Petitioner’s current profile, under his full name, makes multiple references to his *prior* status as a litigator in various practice areas, all references, except one, *currently* identify Petitioner as a non-attorney mediator.⁶ (Petitioner’s supplemental petition, Exh. D). The single reference to Petitioner as an attorney is found in a description of services he provided to Lawyers Title Realty and appears to be an inadvertent reference to his prior rather than current status. The court finds Petitioner did not knowingly or intentionally use the duplicate LinkedIn page or the single reference on the current LinkedIn profile to hold himself out as entitled to practice during his actual suspension. Petitioner’s declarations and supporting evidence regarding this subject

⁶ His current LinkedIn page states Petitioner does not give legal advice.

are bolstered by the fact that there is no indication that Petitioner practiced law during his period of actual suspension.

Petitioner's Quarterly Reports

Petitioner's State Bar probation required him to submit quarterly reports beginning January 10, 2013, and continuing for the entire period of probation. The State Bar points to two reports which Petitioner submitted late: January 10, 2014 (submitted March 19, 2014) and October 10, 2014 (submitted October 20, 2014). (State Bar response, p. 6). The State Bar does not contend that any of Petitioner's other quarterly reports were tardy.

Petitioner attested that he mailed the January 2013 report to the State Bar Hill Street address on January 3, 2014. It was his understanding that the State Bar did not move to its Figueroa Street address until January 5, 2014, and he assumes the report was lost in the transition. Petitioner declared that upon learning of the missing report from his Probation Deputy, Petitioner immediately executed a new quarterly report, dated March 19, 2014, and submitted it to the Probation Department along with the original quarterly report, dated January 3, 2014. Petitioner provided evidence of both reports. His Probation Deputy's declaration neither acknowledged that the January report was ever received, nor that he brought to Petitioner's attention the fact that the January 2013 quarterly report was overdue.

With regard to the October 10, 2014 quarterly report, Petitioner attests he mailed it on October 1, 2014, and it was attached in Exhibit F to his verified petition for relief from actual suspension, filed and served November 12, 2014. He didn't realize that the Probation Department had not received a copy of the report until he spoke with his Probation Deputy regarding his petition on November 20, 2014. At the Probation Deputy's request, Petitioner submitted another report, dated November 20, 2014.

Petitioner's Fitness to Practice

The State Bar contends Petitioner is not fit to practice because he has not demonstrated “he is able and willing to follow the rules governing the practice of law over a sustained period of time, most notably by his failure to comply with his probation requirements, most egregiously, his failure to comply with rule 9.20.” (State Bar’s response to petitioner’s petition for relief from actual suspension, pp. 7-8.) Petitioner’s 9.20 declaration submission was due January 28, 2013. It is undisputed that Petitioner submitted rule 9.20 declarations on March 4, 2013, and March 8, 2013. Both were prepared by Petitioner’s counsel and both appear initially to have been unilaterally rejected by the Office of Probation. The Office of Probation finally accepted Petitioner’s 9.20 declaration on March 12, 2013.

As set forth in his supplemental petition and documented by his treating physician, Dr. Tavari, several weeks before and after the reports and 9.20 declaration were due, Petitioner was not ambulatory due to a debilitating back problem involving a bulging, herniated disc.

Petitioner contacted his probation deputy on or about January 9th and 16th, 2013, and advised her about his medical condition. He saw his internist on January 10, 2013, and the internist prescribed heavy pain management medication to address Petitioner’s discomfort. On February 1, 2013, the date of the treating internist’s letter, Petitioner was still in pain. Finally, Petitioner hired counsel to file the 9.20 declaration on his behalf.

Based on the record as a whole, it appears that Petitioner made a good faith effort to timely comply with the terms of his probation. While the court acknowledges the importance of timely compliance with rule 9.20, the circumstances involving Petitioner’s back injury and the heavy pain management medication he was taking at the time do not demonstrate an unwillingness to follow the rules governing the practice of law. This point is bolstered by Petitioner’s subsequent efforts, albeit non-timely, to comply with rule 9.20. Therefore, the court

finds that Petitioner has demonstrated by a preponderance of the evidence that he is willing to follow the rules governing the practice of law and possesses the requisite fitness to do so.

Showing of Present Learning and Ability in the Law

The State Bar contends that Petitioner's present learning and ability in the law is deficient. However, during the last two years, Petitioner has participated in 47 hours of continuing legal education programs regarding discovery, motion practice, pretrial and trial litigation skills, bankruptcy law, mass tort litigation, legal ethics, and family law. Since his suspension, Petitioner has reviewed Daily Journal articles and has also been diligent in keeping abreast of trending legal issues.

In addition, as conditions of his probation, Petitioner was ordered to complete the State Bar Ethics School and to pass the MPRE. He completed the State Bar Ethics School on March 21, 2013, and he provided proof that he passed the MPRE administered March 20, 2014.

On this record, the court finds that Petitioner has demonstrated by a preponderance of the evidence that he possesses present learning and ability in the general law.

Conclusion

The court finds that petitioner Fari Bari Nejadpour has demonstrated, by a preponderance of evidence, his rehabilitation, present fitness to practice, and present learning and ability in the general law. Accordingly, Petitioner is **GRANTED** relief from actual suspension from the practice of law pursuant to Standard 1.4(c)(ii). Petitioner will be entitled to resume the practice of law in this state when all of the following conditions have been satisfied:

1. This Order has become final, which includes the expiration of time for seeking reconsideration and review pursuant to Rules of Procedure of State Bar, rules 5.115, 5.150, 5.409, and 5.410;
2. Petitioner has paid all applicable State Bar fees and costs pursuant to Business & Professions Code sections 6086.10 and 6140.7; and

3. Petitioner has fully complied with any other requirements for his return to active membership status and is otherwise entitled to practice law.

Dated: January 20, 2015

YVETTE D. ROLAND
Judge of the State Bar Court