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PUBLIC MATTER

FILED

SEP 26 2005

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of)
)
BEHZAD DAVID HERAVI,)
)
Member No. 185496,)
)
A Member of the State Bar.

Case No. 05-V-03035-RAH
DECISION



INTRODUCTION

The issue herein is whether petitioner Behzad David Heravi has demonstrated, to the satisfaction of this court, his rehabilitation, present fitness to practice law, and present learning and ability in the general law, so that he may be relieved from his actual suspension to practice law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.)¹

This decision focuses on petitioner's conduct following the Hearing Department's February 18, 2005, decision denying termination of his actual suspension.² It is based on the petition and the State Bar's response thereto, as well as the parties' stipulation filed September 9, 2005, and the evidence introduced. For purposes of brevity, the court's February 18, 2005, finding of facts and law are incorporated by reference, as if set forth fully herein. A copy of *In the Matter of Behzed David Heravi*, case no. 04-V-15084, filed February 18, 2005, is affixed hereto as Attachment A.

¹All further references to standards are to this source.

²All further references to prior decision are to this source.

1 For the reasons set forth below, the court finds that petitioner has shown, by a
2 preponderance of the evidence, that he has satisfied the requirements of standard 1.4(c)(ii). The
3 court therefore grants the petition to be relieved from his actual suspension from the
4 practice of law.

5 **SIGNIFICANT PROCEDURAL HISTORY**

6 On June 22, 2005, petitioner filed a verified petition seeking relief from actual
7 suspension. He was represented by counsel, Jeanne Collachia. The Office of the Chief Trial
8 Counsel ("OCTC"), by Michael J. Glass and Fumiko Kimura, filed its response to the petition on
9 August 1, 2005, indicating its opposition to the petition.

10 The parties' stipulation, filed September 9, 2005, is hereby approved.

11 The matter was submitted for decision without hearing pursuant to the parties' agreement
12 on September 9, 2005.

13 **JURISDICTION**

14 Petitioner was licensed to practice law in the State of California on December 8, 1996,
15 and at all times mentioned herein has been a member of the State Bar of California.

16 **FINDINGS OF FACT**

17 **1. Underlying Disciplinary Proceedings**

18 On April 5, 2002, the Supreme Court issued an order in Supreme Court matter S103614
19 (State Bar Court Case no. 99-C-10241) suspending petitioner from the practice of law for four
20 years, staying execution of said suspension, and placing petitioner on probation for five years on
21 conditions, including actual suspension from the practice of law for 30 months and until he
22 complied with standard 1.4(c)(ii). Credit toward the period of actual suspension was allowed for
23 the period of interim suspension which commenced on December 6, 2000. Petitioner was also
24 ordered to comply with the other conditions of probation as recommended by the Hearing
25 Department of the State Bar Court, among other things.

26 This discipline was imposed due to petitioner's October 4, 1999, misdemeanor conviction
27 for violating 18 U.S.C. section 641 (theft of government property). The circumstances
28 surrounding the conviction are more fully discussed in the prior decision.

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2. Petitioner's Rehabilitation and Present Fitness to Practice Law

This decision focuses on petitioner's conduct following the prior decision denying termination of his actual suspension. The first petition was denied because petitioner did not strictly comply with probation conditions. He violated Business and Professions Code section 6068(a) by incurring a conviction for attempted possession of a controlled substance (crack cocaine) in violation of Health and Safety Code section 11350(a). Despite this conviction, he affirmed in quarterly reports that he had complied with the provisions of the State Bar Act. (Prior decision, 9:13-26.)

Petitioner successfully completed a diversion program after this conviction. He served as a mentor to other participants in the program. Pursuant to his probation requirements, he has attended at least two Alcoholics Anonymous (AA) meetings since December 2004 and promises to continue to do so and to continue meeting all other requirements of probation.

Petitioner feels that he has benefitted from attendance at AA meetings and the Client Trust Accounting School as well as the support of others in his effort to terminate the actual suspension. He has reflected on and is remorseful about his misconduct. Petitioner acknowledges his misfeasance, his prior blind trust in his brothers and his capitulation to greed, all of which resulted in the theft conviction. He has severed ties with his brothers, who were more directly responsible for the conduct that led to the theft conviction. Petitioner has resolved never to use chemicals to deal with pain, humiliation and shame such as that which arose from his theft conviction. He is determined to devote himself to doing good and to bringing honor back into his life.

The court in the prior decision shortened the time to file a subsequent petition from six months to three months, noting that more than two years had elapsed since the use of an illegal substance. It found that the three-month period plus the time for processing a subsequent petition would "provide an adequate opportunity to determine whether [he] has been able to maintain his strict compliance with the conditions of probation in the underlying disciplinary matters." (Prior decision, 10:6-8.) This language indicates to this court that, if petitioner waited the additional

1 three months plus the time to process the current petition without further negative incident,
2 petitioner's actual suspension would be terminated. In light of this language, this court is
3 constrained to examine only petitioner's conduct since the issuance of the prior decision and to
4 render a decision based on that evidence, regardless of this court's opinion of the evidence
5 presented in the prior proceeding and in this one taken as a whole.³ This court is not inclined to
6 "go behind" the findings in the prior decision, reweigh the evidence and come to its own,
7 independent conclusion as to whether the actual suspension herein should be terminated.

8 No evidence has been introduced that petitioner has not complied with the conditions of
9 his disciplinary probation or of other misconduct that occurred since the prior decision was filed.
10 This includes any further incident regarding the possession or use of a controlled substance.
11 (Prior decision, 7:4-14.)

12 The parties stipulated, however, that, on February 22, 2001, petitioner's real estate
13 broker's license was revoked due to his October 4, 1999, misdemeanor conviction for violating
14 18 U.S.C. section 641 (theft of government property). He did not report this license revocation
15 in writing to the State Bar until June 30, 2005, instead of within 30 days as required by Business
16 and Professions Code section 6068(o)(6).

17 The court notes that this nearly six-year-old misdemeanor conviction was the basis of the
18 discipline that led to the instant proceeding. Accordingly, the purpose of the reporting
19 requirement embodied in section 6068(o) has been met: the State Bar had the opportunity of
20 investigating the misconduct and discipline was imposed as a result. (*Cf., In the Matter of*
21 *Respondent Y* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862, 866-867 [purpose of section
22 6068(o)(3) is to inform the State Bar promptly of events which could warrant disciplinary
23 investigation so it may investigate on its own initiative any conduct which might be a violation of
24 the State Bar Act].) The court, therefore, does not find the failure to report the conviction timely
25 to be significant for purposes of this proceeding. In any event, this issue was addressed in the

27 ³Again, the parties agreed to submit this case to the court without hearing. They submitted a
28 stipulation as to certain facts, which, as discussed later, had already been considered in the prior
decision. Neither party submitted written arguments or a brief.

1 prior decision. (Prior decision, 7:15-19.)

2 **3. Character Witnesses**

3 Petitioner's character witnesses, who were familiar with the nature and extent of his
4 misconduct, consistently attested to his honesty, trustworthiness and remorse for past misdeeds.
5 They also indicated that they would hire and/or refer clients to petitioner if his actual suspension
6 were terminated. These witnesses were Rabbi Reuben Milikan, Kamran Behnam, Fred Pachon,
7 Mehrdad Alborz and David Thorpe. Behnam and Alborz are California attorneys. The witnesses
8 offered similar testimony or declarations in the prior proceeding and it need not be discussed in
9 detail again now.

10 On the basis of the evidence presented here and the facts found in the prior decision,
11 petitioner has demonstrated, by a preponderance of the evidence, his rehabilitation and present
12 fitness to practice law.

13 **4. Petitioner's Present Learning and Ability in the General Law**

14 Besides the continuing education activity set forth in the prior decision, petitioner
15 completed the State Bar's Client Trust Accounting School in March 2005. He continues to keep
16 current on the law by reading cases in the *Daily Journal* and online at FindLaw. Petitioner has
17 established by a preponderance of the evidence that he possesses present learning and ability in
18 the general law. This was found implicitly in the prior decision. (Prior decision, 10:11 - 13.⁴)

19 **DISCUSSION**

20 Standard 1.4(c)(ii) provides, in relevant part, that normally actual suspension imposed for
21 two years or more shall require proof satisfactory to the State Bar Court of the attorney's
22 rehabilitation, present fitness to practice and present learning and ability in the general law before
23 he or she will be relieved of the actual suspension.

24 In this proceeding, petitioner has the burden of proving by a preponderance of the
25 evidence that he has satisfied the conditions of standard 1.4(c)(ii). The court looks to the nature
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⁴The prior petition to terminate actual suspension was denied only on the grounds of
rehabilitation and fitness to practice.

1 of the underlying misconduct as well as the aggravating and mitigating circumstances
2 surrounding it to determine the point from which to measure petitioner's rehabilitation, present
3 learning and ability in the general law, and present fitness to practice before being relieved from
4 his actual suspension. (*In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr.
5 571, 578.)

6 To establish rehabilitation, the Hearing Department must first consider the prior
7 misconduct from which petitioner seeks to show rehabilitation. The amount of evidence of
8 rehabilitation varies according to the seriousness of the misconduct at issue. Second, the court
9 must examine petitioner's actions since the imposition of his discipline to determine whether his
10 actions, in light of the prior misconduct, sufficiently demonstrate rehabilitation by a
11 preponderance of the evidence. (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at
12 p. 581.)

13 Petitioner must show strict compliance with the terms of probation in the underlying
14 disciplinary matter; exemplary conduct from the time of the imposition of the prior discipline;
15 and must demonstrate "that the conduct evidencing rehabilitation is such that the court may make
16 a determination that the conduct leading to the discipline ... is not likely to be repeated." (*In the*
17 *Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

18 Petitioner was found culpable of serious misconduct as was set forth above and in the
19 prior decision. He has acknowledged the wrongfulness of his misconduct and has expressed
20 remorse as well as his resolve to avoid a reoccurrence. He has severed the family ties that led to
21 the theft conviction. He has successfully completed the diversion program that addressed the
22 controlled substance conviction. No evidence has been introduced to contradict petitioner's
23 evidence that he has been rehabilitated and is fit to practice law and presently possesses learning
24 and ability in the general law. No evidence was offered regarding any noncompliance with the
25 conditions of his criminal and disciplinary probations. Character witnesses were uniformly
26 supportive. The credible testimony of two long-time attorney friends is persuasive in supporting
27 the conclusion that petitioner has been rehabilitated and presently possesses good moral
28 character. Favorable character testimony from attorneys is entitled to considerable weight. (*Cf.*

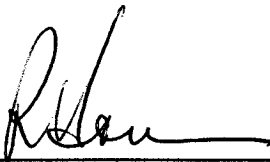
1 *Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547.) Therefore, the court finds that petitioner has
2 demonstrated, by a preponderance of the evidence, that he is rehabilitated and has present fitness
3 to practice law.

4 **CONCLUSION**

5 Based on the foregoing, the court finds that petitioner BEHZAD DAVID HERAVI has
6 established by a preponderance of the evidence his rehabilitation, present fitness to practice and
7 present learning and ability in the general law.

8 Accordingly, the petition for relief from actual suspension from the practice of law
9 pursuant to standard 1.4(c)(ii) is GRANTED. It is further ordered that petitioner's actual
10 suspension from the practice of law in the State of California is hereby terminated and he shall
11 hereafter be entitled to resume the practice of law in this state upon the payment of all applicable
12 State Bar fees and previously assessed costs.

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17 Dated: September 26, 2005

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20 RICHARD A. HONN
21 Judge of the State Bar Court
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PUBLIC MATTER

FILED

FEB 18 2005

STATE BAR COURT
CLERKS OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of

BEHZAD DAVID HERAVI,
No. 185496,

A Member of the State Bar.

Case No. 04-V-15084 RMT

DECISION

INTRODUCTION

In this proceeding pursuant to rules 630 through 641 of the Rules of Procedure of the State Bar of California (“Rules of Procedure”), the issue to be determined is whether Petitioner Behzad David Heravi has demonstrated, to the satisfaction of this Court, his rehabilitation, present fitness to practice law and present learning and ability in the general law, so that he may be relieved from his actual suspension from the practice of law in this State. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, standard 1.4(c)(ii).)

For the reasons set forth in this Decision, this Court finds that Petitioner has not shown, by a preponderance of the evidence, that he has satisfied the requirements of standard 1.4(c)(ii) and that, therefore, his actual suspension from the practice of law should not be terminated. Accordingly, this Court DENIES Petitioner’s petition to be relieved from actual suspension from the practice of law. However, the Court finds good cause to shorten the time within which Petitioner may file a new petition for relief from actual suspension from six months to three months following the date upon which this proceeding becomes final. (See rule 632, Rules Proc. of State Bar.)

1 in a second company (Classic Ortho, Inc.). Between March 1, 1996, and May 21, 1998, two of the
2 companies (Classic Ortho, Inc. and Classic Comfort, Inc.) falsely billed Medi-Cal for orthotic
3 devices that were not provided to Medi-Cal recipients. These false billings yielded payments of at
4 least \$9.2 million. Petitioner personally received \$530,000 in funds that were paid to Intershoe LA,
5 Inc. Petitioner learned of the Medi-Cal fraud scheme in June 1997, but from June 1997 to May
6 1998, knowingly allowed Intershoe LA, Inc. to be used to further the scheme by accepting checks
7 from Classic Ortho, Inc. and Classic Comfort, Inc. that were intended to make it appear that orthotics
8 were being purchased from Intershoe LA, Inc. when, in fact, no such transactions occurred. When
9 Petitioner allowed Intershoe LA, Inc. to receive these payments, he was aware that the payments
10 were being made in furtherance of the Medi-Cal fraud scheme and that Classic Ortho, Inc. and
11 Classic Comfort, Inc. had submitted and were submitting false billings to Medi-Cal. Petitioner
12 admitted that, as a result of the false billings to Medi-Cal, he personally received \$841,568.21 in
13 stolen Medi-Cal funds. Petitioner forfeited these funds, which were seized by the United States
14 government from his bank accounts, as payment of restitution.

15 As a result of Petitioner's conviction, he was sentenced to twelve months probation and
16 ordered to pay restitution in the amount of \$841,568.21, the amount seized by the government from
17 his bank accounts. Petitioner satisfactorily completed his sentence.¹

18 **B. Petitioner's Rehabilitation, Fitness to Practice Law & Present Learning and Ability**

19 Following Petitioner's criminal conviction and his suspension from the practice of law, he
20 supported his wife and two children through employment as a limousine driver, earning \$600 to \$700
21 per week but was terminated from his first job as a limousine driver as a result of an automobile
22 accident. Petitioner is currently acting as a teaching assistant in constitutional law.

23
24 ¹ In its sentencing recommendation to the U.S. District Court, the U.S. Attorney stated that the
25 government's criminal case against the defendants would have been extremely difficult to prove without
26 Petitioner's cooperation. The U.S. Attorney further stated that Petitioner was by far the least culpable of
27 the defendants and that he was the last to join the scheme and then only joined tangentially. The U.S.
28 Attorney further noted that Petitioner spent very little time on any aspect of the businesses involved in
the scheme.

1 Although Petitioner told Thorpe that his brothers and nephew were the perpetrators of the fraudulent
2 scheme, he did not attempt to "whitewash" his own responsibility and expressed shame, remorse and
3 contrition for his involvement. Despite his knowledge of Petitioner's misconduct, Thorpe believes
4 that he is a completely trustworthy, compassionate and kind person. If Petitioner was relieved of his
5 actual suspension, Thorpe would not hesitate to hire him to represent Thorpe and his family and
6 would highly recommend Petitioner to his friends and other family members. Thorpe is of the
7 opinion that Petitioner is a person of honesty, generosity and high moral character and recommends
8 that he be reinstated to the practice of law.

9 Fred Pachon is Vice-President of Risk Management for Select Personnel Company and was
10 a neighbor of Petitioner (and David Thorpe) until he moved away about two years ago. Pachon has
11 remained in close contact with Petitioner and remains friends with both Petitioner and Thorpe. In
12 his declaration, Pachon stated that he was divorced from his wife in 2001, and went through a very
13 difficult period because he did not want the divorce and was concerned about the welfare of his son.
14 Pachon stated that Petitioner helped him through this difficult period, being generous with his time
15 and willing to listen to Pachon's problems. Petitioner told Pachon about the criminal charges against
16 him and about the Medi-Cal fraud scheme in which he had become involved. Pachon is also aware
17 that Petitioner was suspended from the practice of law as a result of his criminal conviction. Pachon
18 states that Petitioner is deeply remorseful and takes full responsibility for his own shortcomings that
19 led him to become involved in the Medi-Cal fraud. Despite his knowledge of Petitioner's prior
20 misconduct, Pachon would hire Petitioner to represent him and would place total faith in Petitioner
21 to do his absolute best to help him with any legal problem he might have. Pachon would also highly
22 recommend Petitioner to any friend or family member who is in need of the services of an attorney.

23 Mehrdad Alborz is an attorney admitted to the practice of law in California. Alborz primarily
24 practices in the area of personal injury law. Alborz and Petitioner were law school classmates at the
25 University of West Los Angeles. In his declaration, Alborz states that, throughout law school, he
26 found Petitioner to be very hardworking and determined to achieve his dream of becoming an
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1 attorney. Alborz was aware that Petitioner had dreamed for more than twenty years of becoming an
2 attorney and admired the fact that Petitioner never lost sight of that dream. He is also aware of
3 Petitioner's suspension from the practice of law and of Petitioner's criminal conviction arising out
4 of his participation in the Medi-Cal fraud scheme. Alborz states that Petitioner has accepted full
5 responsibility for his participation in that scheme. In Alborz's opinion, Petitioner is totally honest
6 and trustworthy and will be a fine attorney once he is allowed to return to the practice of law. Alborz
7 states that Petitioner has learned from his mistakes and has become a better person. He has no
8 hesitation in recommending Petitioner to clients.

9 Finally, Kamran Behnam is an attorney admitted to the practice of law in California,
10 practicing primarily in the area of personal injury, immigration and contracts. According to his
11 declaration and testimony at the hearing in this proceeding, Behnam has known Petitioner since they
12 were children in Iran. Their families fled Iran at approximately the same time in the 1975 but, after
13 arriving in the United States, lost contact with one another until 1993. Behnam entered law school
14 at the University of La Verne in the San Fernando Valley in 1994, at about the same time that
15 Petitioner entered law school at the University of West Los Angeles. Petitioner and Behnam studied
16 law together and gave moral support to one another. Petitioner graduated from law school one
17 semester prior to Behnam, both passed the bar examination on their first attempts and started
18 practicing law at about the same time. According to Behnam, Petitioner was not actively involved
19 in the Heravi family's shoe business because law school was essentially a seven day per week job
20 for both Petitioner and Behnam. Nevertheless, Behnam states that Petitioner has never tried to avoid
21 responsibility for his involvement in the Medi-Cal scheme and is deeply remorseful for his actions.
22 Behnam states that Petitioner's decision to sever further contact with his brothers and nephew was
23 very difficult because, in their Iranian culture, there is an expectation that all family members
24 participate in a family business. According to Behnam, it was very courageous and painful for
25 Petitioner to sever these family ties. In Behnam's opinion, Petitioner is a totally straightforward and
26 honest person who would practice law with integrity and scrupulous honesty if given the opportunity

1 to return to active status. Behnam believes that Petitioner would be an outstanding attorney and
2 would have no hesitation about recommending him to Behnam's clients.

3 **C. Petitioner's Subsequent Acts Reflecting Upon His Rehabilitation**

4 On February 5, 2003, Petitioner was arrested for the attempted possession of a controlled
5 substance (i.e., crack cocaine). He was subsequently charged with a felony violation of Health and
6 Safety Code section 11350, subdivision (a).² On February 27, 2003, Petitioner pled guilty to a felony
7 violation of section 11350, subdivision (a) but entry of judgment was deferred and Petitioner was
8 allowed to enroll in a diversion program.³ Petitioner successfully completed the diversion program
9 and, on April 2, 2004, his guilty plea was set aside and the criminal charges against him were
10 dismissed pursuant to Penal Code section 1000.3.

11 Petitioner admitted in his testimony in this proceeding that his arrest on February 5, 2003,
12 was not the first occasion on which he had used or sought to possess crack cocaine. Petitioner
13 admitted that he had used crack cocaine on multiple occasions (i.e., at least once or twice in 2002
14 and approximately twice per month in 2003 prior to his arrest).

15 Petitioner also testified that he held a real estate broker's license but that the license was
16 revoked by the Department of Real Estate after a hearing on February 22, 2001, as a result of his
17 criminal conviction relating to the Medi-Cal fraud scheme. Petitioner admitted that he did not report
18 the revocation of his real estate broker's license to the State Bar within 30 days of the revocation as
19 required by Business and Professions Code section 6068, subdivision (o)(6).

20 On December 6, 2004, Petitioner executed a Stipulation Re Facts, Conclusions of Law and
21 Disposition in State Bar Court Case No. 04-PM-15677, in which he admitted that he had violated
22 the conditions of his probation in Case No. S103614 (State Bar Court Case No. 99-C-10241) by (a)

23
24 ² By letter dated February 7, 2003, Petitioner's attorney immediately notified the State Bar of the
25 criminal charges filed against him, as required by Business and Professions Code section 6068,
subdivision (o)(4).

26 ³ By letter dated March 11, 2003, Petitioner's attorney notified the State Bar of the entry of
27 Petitioner's guilty plea and to his enrollment in a diversion program. (Bus. & Prof. Code, § 6068, subd.
28 (o)(5).)

1 failing to comply with the State Bar Act as a result of his arrest and conviction in February 2003 for
2 attempted possession of a controlled substance; and (b) falsely stating in his written quarterly reports
3 that he had complied with the State Bar Act and the Rules of Professional Conduct. By order filed
4 December 29, 2004, this Court approved the recommended disposition, which included the
5 revocation of Petitioner's probation and reinstatement of the probation on the same conditions, with
6 the addition of requirements that Petitioner abstain from the use of any alcoholic beverages and from
7 the use or possession of any narcotics, dangerous or restricted drugs or controlled substances without
8 a valid prescription and that he attend two meetings per month of either Alcoholics Anonymous or
9 Narcotics Anonymous. The Office of Probation specifically indicated in the Stipulation that it was
10 not seeking any additional period of actual suspension because Petitioner was required to comply
11 with standard 1.4(c)(ii) before returning to the practice of law.

12 DISCUSSION

13 Standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct
14 provides, in relevant part, that when an actual suspension of two or more years is imposed, the
15 attorney will not normally be relieved of his or her actual suspension until the attorney provides the
16 State Bar Court with satisfactory proof of his or her rehabilitation, present fitness to practice law and
17 present learning and ability in the general law.

18 In this proceeding, Petitioner has the burden of proving, by a preponderance of the evidence,
19 that he has satisfied the requirements of standard 1.4(c)(ii). (*In the Matter of Terrones* (Review
20 Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289, 293-294.) The Court looks at the nature of the underlying
21 misconduct, as well as the aggravating and mitigating circumstances surrounding it, to determine the
22 point from which to measure Petitioner's rehabilitation, present fitness to practice law and present
23 learning and ability in the general law. (*In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State
24 Bar Ct. Rptr. 571, 578.)

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1 In order to establish rehabilitation, the Court must first consider the prior misconduct from
2 which Petitioner seeks to show rehabilitation. The amount of evidence of rehabilitation varies
3 according to the seriousness of the misconduct at issue. Second, the Court must examine Petitioner's
4 actions since the imposition of his discipline to determine whether his actions, in light of the prior
5 misconduct, sufficiently demonstrates rehabilitation by a preponderance of the evidence. (*In the*
6 *Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

7 The Review Department has held that, at a minimum, Petitioner must (1) show strict
8 compliance with the terms of probation in the underlying disciplinary matter; (2) demonstrate
9 exemplary conduct from the time of the imposition of the prior discipline; and (3) show, by a
10 preponderance of the evidence, that "the conduct evidencing rehabilitation is such that the court may
11 make a determination that the conduct leading to the discipline . . . is not likely to be repeated." (*In*
12 *the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

13 Petitioner has not made the minimum showing of rehabilitation required by the Review
14 Department. Petitioner did not strictly comply with the terms of his probation. Rather, he violated
15 the probation condition requiring him to comply with the State Bar Act and the Rules of Professional
16 Conduct. Among other things, Business and Professions Code section 6068, subdivision (a) requires
17 a member of the State Bar to support the Constitution and laws of the United States and of the State
18 of California. Petitioner's conviction of a violation of Health and Safety Code section 11350,
19 subdivision (a) [attempted possession of a controlled substance (i.e., crack cocaine)] constitutes a
20 violation of section 6068, subdivision (a). In addition, Petitioner was required by the conditions of
21 his probation to provide written quarterly reports to the Office of Probation indicating whether he
22 had complied with the State Bar Act, the Rules of Professional Conduct and the conditions of his
23 probation during the preceding quarterly reporting period. Despite his arrest and subsequent
24 conviction of a violation of Health and Safety Code section 11350, subdivision (a), Petitioner falsely
25 stated in his quarterly reports that he had complied with the State Bar Act, the Rules of Professional
26 Conduct and the conditions of his probation.

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 February 18, 2005, I deposited a true copy of the following document(s):

DECISION, filed February 18, 2005

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

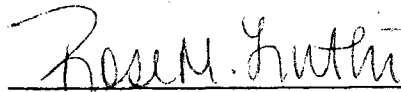
[X] by overnight mail at Los Angeles, California, addressed as follows:

JEANNE M. COLLACHIA, ESQ.
20236 LEADWELL ST
WINNETKA CA 91306

[X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

MICHAEL GLASS & FUMIKO KIMURA, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 18, 2005.**



Rose M. Luthi
Case Administrator
State Bar Court

CERTIFICATE OF SERVICE

[Rule 630(b), Rules Proc. of State Bar; Code Civ. Proc., §§ 1011, 1013]

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. Following standard court practices, in the City and County of Los Angeles, I served a true copy of the following document(s):

DECISION

as follows:

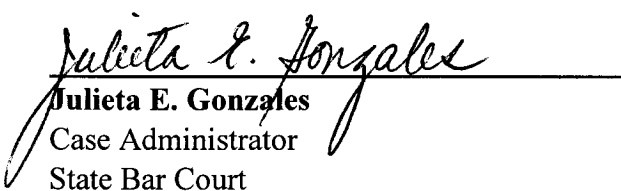
- [X] By OVERNIGHT MAIL by enclosing the documents in a sealed envelope or package designated by an overnight delivery carrier and placing the envelope or package for collection and delivery with delivery fees paid or provided for, addressed as follows:

**JEANNE M COLLACHIA ATTORNEY AT LAW
20236 LEADWELL ST
WINNETKA CA 91306**

- [X] By PERSONAL SERVICE by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

**MICHAEL J GLASS
STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
1149 S. HILL STREET
LOS ANGELES, CA 90015**

I hereby certify that the foregoing is true and correct. Executed at Los Angeles, California, on **September 26, 2005**.



Julieta E. Gonzales
Case Administrator
State Bar Court