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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of	)	Case No. 17-V-04342-LMA
	)	
KAMRAN N. KHAN,	)	DECISION AND ORDER GRANTING
	)	PETITION FOR RELIEF FROM
A Member of the State Bar, No. 256979.	)	ACTUAL SUSPENSION
_____	)	

**Introduction**<sup>1</sup>

The issue in this case is whether petitioner Kamran N. Khan (Petitioner) has demonstrated, to the satisfaction of this court, his rehabilitation, present fitness to practice, and present learning and ability in the general law so that he may be relieved from his actual suspension from the practice of law. (Std. 1.4(c)(ii).)<sup>2</sup>

For the reasons set forth in this decision, the court finds that Petitioner has shown, by a preponderance of the evidence, that he has satisfied the requirements of standard 1.4(c)(ii). Therefore, the petition is **GRANTED**.

**Significant Procedural History**

On July 26, 2017, Petitioner filed a verified petition for relief from actual suspension in State Bar Court case No. 17-V-04342. On August 28, 2017, the court held a status conference and set a date for hearing for October 30, 2017. On September 12, 2017, the Office of Chief

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<sup>1</sup> 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.

<sup>2</sup> Effective January 1, 2014, standard 1.4(c)(ii) was renumbered as standard 1.2(c)(1), without substantive modification. Because Petitioner was ordered to comply with standard 1.4(c)(ii), we apply the former Rules of Procedure to this proceeding.

Trial Counsel of the State Bar of California (State Bar) filed an opposition to the petition. On September 25, 2017, Petitioner waived his right to an expedited proceeding and asked for the hearing date to be continued to November 15, 2017.

The State Bar was represented by Senior Trial Counsel Danielle Adoracion Lee. Steven A. Lewis represented Petitioner. A hearing was held on November 15, 2017, and this matter was taken under submission for decision on the same date.

### **Findings of Fact**

Petitioner was admitted to the practice of law in California on June 3, 2008, and has been a member of the State Bar at all times since that time.

### **Petitioner's Underlying Disciplinary Background**

On June 28, 2012, the California Supreme Court issued an order in Petitioner's underlying matter, case No. S200805 (State Bar Court case No. 10-O-10874). In its order, the Supreme Court directed that Petitioner be suspended from the practice of law for three years, with execution of the period of suspension stayed, and he was placed on probation for three years subject to certain conditions, including that he be actually suspended from the practice of law for a minimum of the first 18 months of probation, and until (among other things) he (1) made restitution to 85 designated payees who had paid fees to KNK Legal, or reimbursed the Client Security Fund, and (2) provided proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law.

In this underlying discipline, Petitioner agreed to having violated the following statutes and rules of professional conduct: (1) Civil Code section 2944.7 and Business and Professions Code section 6106.3 (regarding mortgage loan modifications); (2) Business and Professions Code section 6105 (permitting misuse of name); (3) Rule of Professional Conduct (RPC) 1-300(A) (aiding the unauthorized practice of law); (4) RPC 1-300(B) (practicing law in a

jurisdiction in violation of regulations of the profession in that jurisdiction); (5) RPC 1-310 (forming a partnership with a non-lawyer); (6) RPC 1-320(A) (sharing legal fees with a non-lawyer); (7) RPC 3-110(A) (failing to perform legal services with competence); (8) RPC 3-700(D)(2) (failing to promptly refund an unearned fee); (9) RPC 4-100(A) (commingling funds in a client trust account); and (10) RPC 4-200(A) (entering into an agreement for, charging, and collecting an illegal or unconscionable fee).

In aggravation, Petitioner's misconduct: (1) significantly harmed his clients when he failed to perform legal services in their matters and abandoned his law practice; (2) significantly harmed the administration of justice when he lent his name to be used by non-attorneys to solicit and procure clients and by allowing non-attorneys to perform loan modification work and give legal advice with little or no supervision; and (3) demonstrated multiple acts of wrongdoing and a pattern of misconduct.

In mitigation, Petitioner: (1) cooperated (through counsel) with the State Bar during the resolution of the matter; (2) suffered from severe financial stress when he was laid off from his job due to the economic downturn; (3) had emotional and financial issues due to his father's serious health challenges; and (4) had a wide range of 31 references in the legal and general communities who attested to his good character.

### **Rehabilitation and Present Fitness to Practice Law**

After thorough consideration of the evidence, the court makes the following findings regarding Petitioner's rehabilitation and present fitness to practice law.

### ***Petitioner's Acceptance of Responsibility and Understanding***

Petitioner has demonstrated an understanding and insight into the nature of his misconduct. The Supreme Court entered its discipline order in 2012, but Petitioner did not fully accept responsibility until 2015. After this discipline, Petitioner was driven by anger at his situation, shifted blame in his mind for the harm that was caused, and became depressed. When he actually confronted the reality of the situation, he realized that he was fully responsible and began to make restitution payments to the 85 victims.

The State Bar asserts that Petitioner has not accepted responsibility for his misconduct because he is either lying when he says that he thought Khomail Mooman was an attorney or he did not participate fully in the prior investigation by omitting this belief. Petitioner asserts that at the time of the prior misconduct, he believed that Mooman was an attorney. However, the State Bar says he never told this to investigators. It is unnecessary to delve into Petitioner's thoughts during the prior investigation and it is irrelevant to the instant matter. Petitioner stipulated to aiding the unauthorized practice of law and both parties are held to that stipulation. Therefore, the court rejects the State Bar's arguments regarding Petitioner's candor as it relates to Mooman during the prior investigation.

Petitioner did not immediately pay restitution after his discipline was entered. Instead, he sued Mooman. However, he did so intending to get money from Mooman to pay the victims. He blamed Mooman for the misconduct at that time, but in 2015, he began to realize that it was his own misconduct that caused the damage to the 85 victims. Petitioner also sued his counsel that represented him in his prior disciplinary matter. At this time, Petitioner had not taken responsibility for his actions. However, the suit was resolved in early 2015. By 2016, Petitioner fully accepted his responsibility for the matter and dismissed the action against Mooman.

### ***Petitioner's Probation and Restitution***

Petitioner is currently in compliance with all of the probation conditions attached to the underlying discipline. He has completed Ethics School and taken and passed the Multistate Professional Responsibility Examination (MPRE). Even though Petitioner was disciplined in 2012, he did not begin to make restitution payments until 2015. However, between 2015 and 2017, he fulfilled his restitution obligation by paying more than \$266,000 to the victims, of which over \$90,000 was interest. He also repaid the Client Security Fund in full for the money it paid out. Petitioner spent more than 1,000 hours of his own time and paid an attorney and an investigator in order to successfully satisfy his restitution obligation. Petitioner also paid the costs associated with his disciplinary proceeding.

### ***Petitioner's Character References***

In support of his petition, Petitioner submitted 10 declarations from favorable character witnesses, four of whom were California attorneys. These witnesses demonstrated an understanding of Petitioner's underlying misconduct, and the steps he has taken to achieve rehabilitation. They believe that Petitioner's misconduct was a significant deviation from his normal behavior and unlikely to occur again. They praised his work to repay his clients and acknowledge that he regrets his actions and has grown and matured during this process. They lauded Petitioner's honesty, trustworthiness, diligent work ethic, and high moral character. His character witnesses believe that Petitioner's diligent work toward rehabilitation now warrants relief from actual suspension.

### **Present Learning and Ability in the General Law**

Petitioner has completed the State Bar's Ethics School. He also took and passed the MPRE – receiving a high passing score of 109. In addition, Petitioner has obtained 100 hours of continuing legal education credits, 50 of which were in legal ethics.

Although Petitioner has not practiced law in over five years, he obtained employment doing non-legal work using his business background. Since April 2013, Petitioner has worked at a start-up technology company where he is currently the Director of Operations. His duties include managing partner relationships, evaluating new business development initiatives, and analyzing financials.

Further, Petitioner and the State Bar stipulated in their joint pretrial statement that Petitioner has demonstrated his present learning and ability in the general law.

### **Discussion**

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 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. Second, the court must examine Petitioner's actions since the imposition of his 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 p. 581.)

Petitioner must also show strict compliance with the terms of probation in the underlying disciplinary matter; exemplary conduct from the time of 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.” (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

In this case, Petitioner’s prior misconduct was extremely serious. In fact, the misconduct was so severe that it would have been difficult for Petitioner to sufficiently demonstrate rehabilitation if only two years had elapsed since the effective date of the underlying discipline. Although Petitioner did not immediately begin to make restitution payments, he began making them in 2015 when he had fully accepted responsibility for his actions. Over the past two years, Petitioner has successfully complied with the terms of his probation. He has developed the understanding necessary to avoid similar misconduct in the future.

Petitioner has also acknowledged and taken full responsibility for his misconduct. He has demonstrated remorse, noting that his disengagement led to 85 clients being hurt. Petitioner has learned from this experience and understands that any personal problems are not an excuse to prevent him from fulfilling his duties as an attorney. He also now appreciates the responsibilities that come with the privilege of practicing law, which will guide him in his decisions in the future.

Based on the record as a whole, the court finds that Petitioner has demonstrated by a preponderance of the evidence that he is rehabilitated and presently fit to practice law.

With respect to Petitioner’s present learning and ability in the general law, the court finds that Petitioner has proven by a preponderance of the evidence that he currently possesses present learning and ability in the general law.

Therefore, based on the above, the court finds that Petitioner has demonstrated, by a preponderance of evidence, that he is rehabilitated, has present fitness to practice law, and has present learning and ability in the general law.

**Conclusion**

The court finds that petitioner Kamran N. Khan has satisfied the requirements of standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct by demonstrating, by a preponderance of the evidence and to the satisfaction of the court, that he is rehabilitated, presently fit to practice law, and has present learning and ability in the general law.

Accordingly, the petition for relief from actual suspension from the practice of law is hereby **GRANTED**.

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 the time for seeking reconsideration and review (Rules Proc. of State Bar, rules 5.115, 5.150, 5.409 and 5.410);
2. Petitioner has paid all applicable State Bar fees and previously assessed costs (Bus. & Prof. Code, §§ 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: November 29, 2017

  
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LUCY ARMENDARIZ  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

**[Rules Proc. of State Bar, rule 5.400(B); 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 San Francisco, on November 29, 2017, I served a true copy of the following document(s):

**DECISION AND ORDER GRANTING PETITION FOR RELIEF FROM ACTUAL SUSPENSION**

as follows:

- 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:

STEVEN ALLAN LEWIS  
980 FULTON AVE  
SACRAMENTO, CA 95825

- By PERSONAL MAIL 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:

DANIELLE A. LEE  
OFFICE OF THE CHIEF TRIAL COUNSEL  
180 HOWARD STREET  
SAN FRANCISCO, CA 94105-1639

I hereby certify that the foregoing is true and correct. Executed at San Francisco, California, on November 29, 2017.



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Bernadette Molina  
Case Administrator  
State Bar Court