

Appendix C

Application for Reinstatement to the Bar After Disbarment or Suspension for More Than Six Months

INSTRUCTIONS

An application pursuant to section 1240.16 (a) and (b) of these Rules for reinstatement to the bar after disbarment or suspension from practice for more than six months shall comply with the following requirements:

- (1) The application shall be made in the form of a motion.
- (2) The moving papers shall bear the caption and the docket number, if any, of the proceeding resulting in the respondent's disbarment or suspension.
- (3) The motion shall be made on notice to the Committee that was the petitioner in the proceeding leading to the respondent's disbarment or suspension and to the Lawyers' Fund for Client Protection.
- (4) The motion shall be made, noticed, and filed in accordance with the rules of practice of the Court. Payment of the fee required by CPLR 8022 (b) shall accompany the filing of the motion papers, unless the movant is exempt from payment thereof pursuant to CPLR 1102.
- (5) The motion shall be supported by the affidavit of the respondent, subscribed and sworn to before a notary public or other person authorized to administer an oath.
- (6) The supporting affidavit shall be worded and numbered as set forth below.
- (7) In completing the supporting affidavit, the respondent should not omit any passages.
- (8) The application may be supplemented by the affidavits or affirmations of counsel and character witnesses, and with additional appropriate exhibits.
- (9) Place the moving papers in the following order:
 - a. The notice of motion;
 - b. The respondent's form affidavit;
 - c. The exhibits supporting that form affidavit;
 - d. Any additional supporting affidavits or affirmations and exhibits thereto; and
 - e. Affidavits reflecting service of the moving papers upon the Chief Attorney of the appropriate Committee and the Lawyers' Fund for Client Protection.

FORM OF AFFIDAVIT

Supreme Court of the State of New York
Appellate Division: _____ Judicial Department

**AFFIDAVIT IN SUPPORT OF
APPLICATION FOR
REINSTATEMENT TO THE
BAR AFTER DISBARMENT OR
SUSPENSION FOR MORE THAN
SIX MONTHS**

State of _____)
)ss.:
County of _____)

_____, being duly sworn, deposes and says that:

1. I hereby apply, pursuant to section 1240.16 (a) and (b) of the Uniform Rules for Attorney Disciplinary Matters, for reinstatement as an attorney and counselor-at-law licensed to practice in the State of New York.

2. My full name is _____. The name under which I was admitted to the practice of law is _____. My name was changed on the Roll of Attorneys and Counselors-at-Law to _____ by reason of (marriage, divorce or annulment, or a court order legally changing the respondent's name). I have also been known by the following names: _____.
[Copies of all court orders changing my name are attached as exhibit ___ hereto.]

3. I was born on [date] in [city, state, country].

4. I currently reside at [street, town or city, state, and zip code].

5. The telephone numbers at which I can be contacted are:
Home _____
Work _____
Mobile _____.

6. The email address at which I can be contacted is _____.

7. All communications may be addressed to me at the office of my attorney, [name], at [address], and I hereby authorize my attorney to accept and acknowledge receipt of any and all legal documents or other notices on my behalf.

- OR -

All communications may be addressed to me personally at the following address: _____.

8. I was admitted to the New York State Bar on [date] by the _____ Judicial Department, and my attorney registration number is _____.

9. By order of this Court entered [date], I was [suspended for ___ years -or- months -or- disbarred] from the practice of law. My use of the term "discipline" hereinafter refers to the sanction imposed by this Court in the foregoing order. A copy of the order imposing discipline is attached as exhibit _____ hereto.

10. Other than the location specified in paragraph 4 hereof, I have resided at the following addresses since the entry of the order of discipline: [in chronological order state the approximate dates of residence, street, town or city, state, and zip code].

- OR -

I attest that I have resided continually at the location specified in paragraph 4 hereof since the entry of the order of discipline.

11. The discipline imposed upon me was predicated upon, or arose out of, my misappropriation or misuse of the real or personal property of others, or the failure to return legal fees received but unearned by me. I have made full restitution to the owners of the property or the clients in question, and if any part of a loss occasioned by my conduct was the subject of an award by the Lawyers' Fund for Client Protection pursuant to Part 7200 of this Title, I have made full restitution to the Fund, except as follows:

[A statement listing each property, its dollar value, the name of the true owner, and the extent to which I have made or have yet to make restitution is attached as exhibit _____ hereto.]

- OR -

I attest that the discipline imposed upon me was not predicated upon, and did not arise out of, charges that I willfully misappropriated or misapplied money or property in the practice of law.

12. On the date the order of discipline was entered, the following matters, which were not the basis of this Court's order, were pending against me before any attorney grievance committee in the State of New York: [state the nature of the complaint, the disciplinary authority before which it was pending, and the disposition thereof].

- OR -

I attest that, on the date the order of discipline was entered, no additional matters were pending against me before any attorney grievance committee in the State of New York

13. I have also been admitted to practice in the following courts or jurisdictions: _____.

[Certificates of Good Standing, issued within the 30 days preceding the execution of this affidavit by all such courts or jurisdictions in which I am currently admitted to practice, except

those in which I have not been reinstated as set forth in paragraph 14 hereof, are attached as exhibit _____ hereto.]

- OR -

I attest that I have not been admitted to practice in any other courts or jurisdictions.

14. From the date of my admission to the New York State Bar until the present, I have also been the subject of professional discipline in this or any other court or jurisdiction: [state the court or jurisdiction, the date, the nature of the discipline imposed, whether such discipline was public or private, and whether or not you have been reinstated to practice and are now in good standing in such court or jurisdiction].

[A copy of each order or judgment imposing such discipline is attached as exhibit ____ hereto.

A copy of each order or judgment reinstating me to practice is attached as exhibit ____ hereto.]

- OR -

I attest that, with the exception of the discipline imposed by this Court from which I now seek reinstatement, from the date of my admission to the New York State Bar until the present I have not been the subject of professional discipline in this or any other court or jurisdiction.

15. Since the entry of the order of discipline, I have complied with the terms of the order in all respects and have not (1) engaged in the practice of law in any form in the State of New York, either as principal or agent, or a clerk or employee of another, (2) accepted any new retainer or otherwise agreed to represent any legal client in New York, or (3) solicited or procured, either directly or indirectly, legal business for any attorney in New York.

- OR -

Since the entry of the order of discipline, I have engaged in the practice of law in the State of New York in the following manner: [in chronological order, state the nature, date and duration of any legal work performed in New York since the effective date of discipline, including any appearances before any court or tribunal as an attorney for another, and the preparation of any legal instrument or document.]

16. Since the entry of the order of discipline, I have engaged in the practice of law in the following other courts or jurisdictions and in the following manner:

- OR -

I attest that, since the entry of the order of discipline, I have not engaged in the practice of law in any other courts or jurisdictions.

17. Since the entry of the order of discipline, I have engaged in the following employment or have been engaged in the following businesses: [in chronological order, state the dates so engaged, the name and address of the employer or business and the nature of each employment or business]. [A letter from each such employer, attesting to my employment history, is attached as exhibit ____ hereto, except _____, the absence of which is explained as follows:]

18. Since the entry of the order of discipline, I have taken the following affirmative steps to comply with the order imposing discipline and with section 1240.15 of the Uniform Rules for Attorney Disciplinary Matters:

19. Within 30 days of entry of the order imposing discipline, I delivered all money and property

in my possession to all clients or third-parties who were entitled thereto in compliance with section 1240.15 (c) of the Uniform Rules for Attorney Disciplinary Matters.

[Copies of all accountings provided to the recipients of money or property delivered from me are attached as exhibit ___ hereto. Copies of correspondence or statements from [name and address of bank] reflecting the closure of my attorney escrow and/or IOLA accounts on [date] are attached as exhibit _____ hereto.]

- OR -

I failed to fully comply with section 1240.15 (c) of the Uniform Rules for Attorney Disciplinary Matters in the following respect and for the following reasons:

20. I was compensated on a quantum meruit basis for services rendered prior to the effective date of the discipline pursuant to section 1240.15 (g) of the Uniform Rules for Attorney Disciplinary Matters in the amount of [dollar amount] on [date].

[A copy of the court order or judgment determining the amount and manner of the aforementioned compensation is attached as exhibit _____ hereto.]

- OR -

I have not been compensated on a quantum meruit basis for services rendered prior to the effective date of the discipline pursuant to section 1240.15 (g) of the Uniform Rules for Attorney Disciplinary Matters

21. Pursuant to section 1240.15 (f) of the Uniform Rules for Attorney Disciplinary Matters, I filed an affidavit of compliance on [date].

[A copy of that affidavit of compliance is attached as exhibit ___ hereto.]

- OR -

I failed to file an affidavit of compliance as required by section 1240.15 (f) of the Uniform Rules for Attorney Disciplinary Matters for the following reason(s):

22. Since the entry of the order of discipline, I or a corporation or an entity of which I am or was a principal, have or has been involved in the following lawsuits, either as a party, witness, or counsel to a party, to the extent indicated: [state the title of the suit, the court in which it is or was pending, the index number, the nature of the suit, and the capacity (plaintiff, defendant, counsel, etc.) in which the respondent is or was involved].

- OR -

I attest that, since the entry of the order of discipline, neither I nor a corporation or an entity of which I am or was a principal, have or has been involved in any lawsuits as a party, witness or counsel to a party.

23. There presently exist(s) the following unsatisfied judgment(s) against me and/or any corporation or entity of which I am or was a principal: [state the name and address of the judgment creditor, the court which rendered the judgment, the date and amount of the judgment, the nature of the claim on which it was based, and the amount thereof remaining unpaid].

- OR -

I attest that there are no unsatisfied judgments presently existing against me and/or any corporation or entity of which I am or was a principal.

24. Other than the judgments set forth in paragraph 23 hereof, I have incurred the following

debts with a balance over \$500 that are presently overdue by at least 60 days: [state the name and address of each creditor, the nature of the debt, the original amount of the indebtedness and date incurred, the due date, and the balance due].

- OR -

I attest to having no debts with a balance over \$500 that are presently overdue by at least 60 days.

25. Since the entry of the order of discipline, I have defaulted in the performance or discharge of an obligation or duty imposed upon me by the following courts, and/or governmental or administrative agencies: [state the nature of the obligation or duty, the court or agency by which it was imposed, the date performance was due, and the reason for the default].

- OR -

I attest that, since the entry of the order of discipline, I have not defaulted in the performance or discharge of an obligation or duty imposed upon me by any court, and/or governmental or administrative agency.

26. I or any firm, corporation, or business entity in which I have or had an ownership interest filed a petition in bankruptcy on [date] to [court].
[Copies of any bankruptcy petitions, schedules, and or discharge orders are attached as exhibit ___ hereto.]

- OR -

I attest that neither I nor any firm, corporation, or business entity in which I have or had an ownership interest has filed a petition in bankruptcy in any court.

27. Since the entry of the order of discipline, I have filed all required federal, state, and local income tax returns when due or have received an extension to file the same, except as follows: [Copies of all such returns are attached as exhibit ___ hereto, and such returns have been redacted in a manner consistent with Uniform Rules for Supreme Court and County Court (22 NYCRR) § 202.5 (e) (1) (i).]

28. Since the entry of the order of discipline, I have applied for the following licenses that required proof of good character: [state the nature of the license, the name of the licensing authority, the date of the application, and the result thereof].

- OR -

I attest that, since the entry of the order of discipline, I have not applied for any licenses that required proof of good character.

29. Since my admission to the New York State Bar, I have had the following licenses suspended or revoked: [state the nature of the license, the name of the licensing authority, the date and reason for the action, and whether the license was revoked or suspended].

- OR -

I attest that, since my admission to the New York State Bar, I have not had any licenses suspended or revoked.

30. Since the entry of the order of discipline, I have been arrested, charged with, indicted, convicted, tried, and/or entered a plea of guilty to the following felonies, misdemeanors, violations, and/or traffic infractions: [state the court, the offense charged, and date and nature of disposition].

[Certificates of conviction pertaining to the above are attached as exhibit ___ hereto.]

- OR -

I attest that, since the entry of the order of discipline, I have not been arrested, charged with, indicted, convicted, tried, and/or entered a plea of guilty to any felonies, misdemeanors, violations, and/or traffic infractions.

31. Since my admission to the Bar, I have been the subject of the following governmental investigation(s): [state the name of the investigating agency and the nature and date of the investigation].

- OR -

I attest that, since my admission to the Bar, I have not been the subject of any governmental investigations.

32. Since the entry of the order of discipline, I have suffered from or have been treated for the following condition or impairment which in any way impairs or limits my ability to practice law: [state the date or dates of each instance, including, but not limited to any mental, emotional, psychiatric, nervous or behavioral disorder or condition, or any alcohol, drug or other substance abuse condition or impairment or gambling addiction, and the date(s) of treatment, if any].

- OR -

I attest that, since the entry of the order of discipline, I have not suffered from or been treated for any condition or impairment which in any way impairs or limits my ability to practice law.

33. Within the 30 days preceding the execution of this affidavit, I have read the Rules of Professional Conduct (22 NYCRR Part 1200.0). If reinstated to the practice of law, I will conform my conduct to those rules.

34. Since the entry of the order of discipline, I have complied with the requirements of section 1240.16 (b) of the Uniform Rules for Attorney Disciplinary Matters by attaining a passing score on the Multistate Professional Responsibility Examination (MPRE).
[Proof of passage of the MPRE is attached as exhibit ___ hereto.]

35. Since the entry of the order of discipline, I have completed ___ credit hours of continuing legal education in the following programs and other educational classes, in order to remain current with developments in the law:
[Certificates attesting to my completion of the aforementioned programs or classes are attached as exhibit ___ hereto.]

- OR -

Since the entry of the order of discipline, I have not completed any credit hours of continuing legal education.

36. Other than the passage of time and the absence of additional acts of misconduct, the following facts establish that I possess the requisite character and general fitness to be reinstated as an attorney and counselor-at-law:

37. The following facts, not heretofore disclosed to this Court, are relevant to this application and might tend to influence the Court to look less favorably upon reinstating me to the practice of

law:

38. I understand that the Court and the Committee may take such investigative steps as are deemed appropriate to evaluate my character and fitness for reinstatement to the Bar. I will fully cooperate with any request for additional information and make myself available to answer questions under oath or affirmation, as required.

WHEREFORE, I request that the Court grant this application for my reinstatement as an attorney and counselor-at-law licensed to practice in the State of New York.

Dated: [city or town, state]

_____, _____, 20__

Subscribed to and sworn to before me

This _____ day of _____, 20__

Notary Public