

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

ADM 2005-0722.2

The Appellate Division of the Supreme Court of the State of New York for the Second Judicial Department, pursuant to the authority vested in it,

DOES HEREBY, effective immediately,

I. Adopt, pursuant to section 691.11(b) of Part 691 of Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York, the annexed "Instructions, Application for Reinstatement to the Bar After Disbarment or Suspension of More than One Year."

II. Adopt, pursuant to section 691.11(b) of Part 691 of Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York, the annexed "Instructions, Application for Reinstatement to the Bar After Suspension of One Year or Less."

III. Adopt, pursuant to section 691.11-a(a) of Part 691 of Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York, the annexed "Instructions, Application for Reinstatement to the Bar After Voluntary Resignation."

Dated: Brooklyn, New York
July 22, 2005



For the Court:

A handwritten signature in black ink, appearing to read "A. Gail Rudenti".

A. Gail Rudenti
Presiding Justice

Attest:

A handwritten signature in black ink, appearing to read "James Edward Pelzer".
James Edward Pelzer

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 e-mail address at which I can be contacted is _____.
7. I was admitted to the New York State Bar on (date) in the _____
Judicial Department.
8. By opinion and order of this court dated (date), I was (suspended for ____
years/disbarred) from the practice of law. My use of the term “discipline”
hereinafter refers to the sanction imposed by this court in the foregoing opinion
and order.

A copy of the opinion and order imposing discipline is attached as exhibit A hereto.

9. Other than the location specified in paragraph 4 hereof, I have resided at the following addresses since the effective date of discipline (in reverse chronological order state the approximate dates of residence, street, town or city, state, and zip code):
10. 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 22 NYCRR Part 7200, 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.

11. I have also been admitted to practice in the following jurisdictions:

Certificates of Good Standing, issued within the 30 days preceding the execution of this affidavit (or affirmation) by all such jurisdictions, except those in which I have not been reinstated as set forth in paragraph 12 hereof, are attached as exhibit ____ hereto.

12. Since the imposition of discipline, I have also been the subject of professional discipline in the following other jurisdictions (state the jurisdiction, the date, the nature of the discipline imposed, and whether or not you have been reinstated to practice and are now in good standing in such 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.

13. On the effective date of discipline, the following matters, which were not the basis of this court's opinion and order, were pending against me before any 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):

14. From the date of my admission to the New York State Bar until the present, the following other disciplinary sanctions have been imposed upon me due to my misconduct as an attorney, in this or any other jurisdiction (state the jurisdiction, the nature of the misconduct, the date, and the nature of the discipline imposed):

15. Since the imposition of discipline, I have engaged in the practice of law in the following other jurisdictions and in the following manner:

16. Since the imposition of discipline, I have engaged in the following employment or have been engaged in the following businesses (in ascending chronological order, state the dates so engaged, and the name and address of the employer 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:

17. At the time discipline was imposed, I took the following affirmative steps to comply with the order imposing discipline and with 22 NYCRR 691.10:

18. Pursuant to 22 NYCRR 691.10(f), 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 22 NYCRR 691.10(f) for the following reason(s):

19. Since the imposition 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 movant is or was involved):

20. 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):
21. Since the imposition 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).
22. Other than the judgments set forth in paragraph 20 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):
23. 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.

24. Since the imposition 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.

25. Since the imposition 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):
26. 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):
27. Since the imposition 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):

28. 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):
29. Since the imposition of discipline, I have suffered from or have been treated for a mental or emotional disorder, alcoholism and/or substance abuse or dependency (state the date or dates of each instance, the name of any health professional or institution consulted or affording treatment, and the circumstances):
30. Since the imposition of discipline, I have complied with the requirements of 22 NYCRR 691.11(c)(2) by attaining a passing score on the Multistate Professional Responsibility Examination (MPRE) and, within the two years preceding this application for reinstatement, successfully completing one credit hour of continuing legal education (CLE) accredited in accordance with 22 NYCRR Part 1500 for each month of suspension or disbarment up to a maximum of 24 credits.

Proof of passage of the MPRE and certificates attesting to my completion of the required CLE are attached as exhibit ___ hereto.

- or -

Since the imposition of discipline, I have complied with the requirements of 22 NYCRR 691.11(c)(2) to the extent of attaining a passing score on the Multistate Professional Responsibility Examination (MPRE). However I have not complied with the requirement that, within the two years preceding this application for reinstatement, I successfully complete 24 credit hours of continuing legal education (CLE) accredited in accordance with 22 NYCRR Part 1500. For the following reasons, I hereby request that the court conditionally approve this application subject to the completion of the CLE requirement before reinstatement to the bar:

Proof of passage of the MPRE is attached as exhibit ___ hereto.

31. Within the 30 days preceding the execution of this affidavit (affirmation), I have read the disciplinary rules set forth in 22 NYCRR Part 1200 of the joint rules of the Appellate Divisions and I have read 22 NYCRR Part 691 of the rules of this court. I am familiar with the provisions of the Code of Professional Responsibility. If reinstated to the practice of law, I will conform my conduct to those rules and the ethical considerations set forth in the Code.
32. 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:
33. 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:

34. I understand that the court may take such investigative steps as it deems 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 all of the courts of the State of New York.

Dated: (city or town, state)
_____, 200__

Subscribed to and sworn to before me
this ____ day of _____, 200__

Notary Public

§ 7. In completing the supporting affidavit or affirmation, the movant should not omit inapplicable passages. If an entire paragraph is inapplicable, the appropriate answer is "Not Applicable." If portions of the paragraph are inapplicable, the movant may so indicate by the use of strikethrough characters as in the following example:

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 movant's name).~~ I have also been known by the following names:

§ 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 or order to show cause;
- b. The applicant's form affidavit or affirmation;
- c. The exhibits supporting that form affidavit or affirmation;
- d. Any additional supporting affidavits or affirmations and exhibits thereto; and
- e. An affidavit of service of the moving papers upon the appropriate Departmental Grievance Committee and the Lawyer's Fund for Client Protection.

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 e-mail address at which I can be contacted is _____.
7. I was admitted to the New York State Bar on (date) in the _____
Judicial Department.
8. By opinion and order of this court dated (date), I was suspended from the practice of law for a period of (____ months/one year). My use of the term “discipline” hereinafter refers to the sanction imposed by this court in the foregoing opinion and order.

A copy of the opinion and order imposing discipline is attached as exhibit A hereto.

9. Other than the location specified in paragraph 4 hereof, I have resided at the following addresses since the effective date of discipline (in reverse chronological order state the approximate dates of residence, street, town or city, state, and zip code):
10. I have also been admitted to practice in the following jurisdictions:

Certificates of Good Standing, issued within the 30 days preceding the execution of this affidavit (or affirmation) by all such jurisdictions, except those in which I have not been reinstated as set forth in paragraph 11 hereof, are attached as exhibit ____ hereto.

11. Since the imposition of discipline, I have also been the subject of professional discipline in the following other jurisdictions (state the jurisdiction, the date, the nature of the discipline imposed, and whether or not you have been reinstated to practice and are now in good standing in such 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.

12. On the effective date of discipline, the following matters, which were not the basis of this court’s opinion and order, were pending against me before any 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):

13. From the date of my admission to the New York State Bar until the present, the following other disciplinary sanctions have been imposed upon me due to my misconduct as an attorney, in this or any other jurisdiction (state the jurisdiction, the nature of the misconduct, the date, and the nature of the discipline imposed):
14. Since the imposition of discipline, I have engaged in the practice of law in the following other jurisdictions and in the following manner:
15. Since the imposition of discipline, I have engaged in the following employment or have been engaged in the following businesses (in ascending chronological order, state the dates so engaged, and the name and address of the employer or business):
16. At the time discipline was imposed, I took the following affirmative steps to comply with the order imposing discipline and with 22 NYCRR 691.10:
17. Pursuant to 22 NYCRR 691.10(f), 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 22 NYCRR 691.10(f) for the following reason(s):

18. There are no unsatisfied judgments against me and/or any corporation or entity of which I am or was a principal, nor have I defaulted in the performance or discharge of an obligation or duty imposed upon me by a court, governmental, or administrative agency, except as follows:
19. Other than the judgments set forth in paragraph 18 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):
20. Since the imposition 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.

21. Since the imposition of discipline, 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):

22. Since the imposition 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):
23. Since the imposition of discipline, I have suffered from or have been treated for a mental or emotional disorder, alcoholism and/or substance abuse or dependency (state the date or dates of each instance, the name of any health professional or institution consulted or affording treatment, and the circumstances):
24. I was suspended from the practice of law for less than one year, and since the imposition of discipline I have complied with the requirements of 22 NYCRR 691.11(c)(4) by successfully completing one credit hour of continuing legal education (CLE) accredited in accordance with 22 NYCRR Part 1500 for each month of suspension.

Certificates attesting to my completion of the required CLE are attached as exhibit ___ hereto.

25. I was suspended from the practice of law for one year, and since the imposition of discipline I have complied with the requirements of 22 NYCRR 691.11(c)(3) by:

successfully completing 18 credit hours of continuing legal education (CLE) accredited in accordance with 22 NYCRR Part 1500, at least 6 of which were in the field of attorney ethics.

Certificates attesting to my completion of the required CLE are attached as exhibit ___ hereto.

- or -

successfully completing 12 credit hours of continuing legal education (CLE) accredited in accordance with 22 NYCRR Part 1500 and by attaining a passing grade on the Multistate Professional Responsibility Examination.

Certificates attesting to my completion of the required CLE and proof of passage of the MPRE are attached as exhibit ___ hereto.

26. Within the 30 days preceding the execution of this affidavit (affirmation), I have read the disciplinary rules set forth in 22 NYCRR Part 1200 of the joint rules of the Appellate Divisions and I have read 22 NYCRR Part 691 of the rules of this court. I am familiar with the provisions of the Code of Professional Responsibility. If reinstated to the practice of law, I will conform my conduct to those rules and the ethical considerations set forth in the Code.

27. 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:
28. 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:
29. I understand that the court may take such investigative steps as it deems 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 all of the courts of the State of New York.

Dated: (city or town, state)
 _____, 200__

Subscribed to and sworn to before me
 this _____ day of _____, 200__

 Notary Public

§ 7. In completing the supporting affidavit or affirmation, the movant should not omit inapplicable passages. If an entire paragraph is inapplicable, the appropriate answer is "Not Applicable." If portions of the paragraph are inapplicable, the movant may so indicate by the use of strikethrough characters as in the following example:

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 movant's name).~~ I have also been known by the following names:

§ 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 or order to show cause;
- b. The applicant's form affidavit or affirmation;

- c. The exhibits supporting that form affidavit or affirmation;
- d. Any additional supporting affidavits or affirmations and exhibits thereto; and
- e. An affidavit of service of the moving papers upon the appropriate Departmental Grievance Committee and the Lawyer's Fund for Client Protection.

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

INSTRUCTIONS
Application for Reinstatement to the Bar
After Voluntary Resignation

An application pursuant to Judiciary Law § 90 and § 691.11-a of the rules of this court for reinstatement to the bar after a voluntary resignation 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 Appellate Division docket number of the order accepting the movant's voluntary resignation.
- § 3. The motion shall be made on notice to the Departmental Grievance Committee in the judicial district in which the applicant last maintained an office for the practice of law, or if none, to the Departmental Grievance Committee in the judicial district in which the applicant resided when admitted to practice.
- § 4. The motion shall be made, noticed, and filed in accordance with § 670.5 of the rules of procedure of this court. Payment of the \$45 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. Checks shall be made payable to "Clerk of the Court."
- § 5. The motion shall be supported by the affidavit or affirmation of the movant, subscribed and sworn to or affirmed before a notary public or other person authorized to administer an oath or affirmation.
- § 6. The supporting affidavit or affirmation shall be worded and numbered as follows:

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

_____, being duly sworn, deposes and says (or affirms under the penalty of perjury) that:

1. I hereby apply, pursuant to Judiciary Law § 90 and 22 NYCRR 691.11, for reinstatement as an attorney and counselor-at-law licensed to practice in all of the courts of 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 movant's name). I have also been known by the following names:

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 e-mail address at which I can be contacted is _____.
7. I was admitted to the New York State Bar on (date) in the _____
Judicial Department.
8. By decision and order of this court dated (date), my voluntary resignation from the Bar of this State was accepted by the court.

A copy of the decision and order accepting my voluntary resignation is attached as exhibit A hereto.

9. I have also been admitted to practice in the following jurisdictions:

Certificates of Good Standing, issued within the 30 days preceding the execution of this affidavit (or affirmation) by all jurisdictions in which I am admitted are attached as exhibit ___ hereto.
10. Since the effective date of my resignation, I have been the subject of complaints of professional misconduct or of professional discipline in the following other jurisdictions (state the jurisdiction, the date, the nature of the complaint or the discipline imposed, and whether or not you are now in good standing in such jurisdiction):
11. Since the effective date of my resignation, 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):
12. Since the effective date of my resignation, I have suffered from or have been treated for a mental or emotional disorder, alcoholism and/or substance abuse or dependency (state the date or dates of each instance, the name of any health professional or institution consulted or affording treatment, and the circumstances):

13. Since the effective date of my resignation, I have complied with the requirements of 22 NYCRR 691.11-a(c)(4) by successfully completing one credit hour of continuing legal education (CLE) accredited in accordance with 22 NYCRR Part 1500 for each month since the date of the order of this court accepting the resignation and removing my name from the roll of attorneys, up to a maximum of twenty-four credits.

Certificates attesting to my completion of the required CLE are attached as exhibit ___ hereto.

14. Within the 30 days preceding the execution of this affidavit (affirmation), I have read the disciplinary rules set forth in 22 NYCRR Part 1200 of the joint rules of the Appellate Divisions and I have read 22 NYCRR Part 691 of the rules of this court. I am familiar with the provisions of the Code of Professional Responsibility. If reinstated to the practice of law, I will conform my conduct to those rules and the ethical considerations set forth in the Code.

15. I understand that the court may take such investigative steps as it deems 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 all of the courts of the State of New York.

Dated: (city or town, state)
_____, 200__

Subscribed to and sworn to before me
this ____ day of _____, 200__

Notary Public

§ 7. In completing the supporting affidavit or affirmation, the movant should not omit inapplicable passages. If an entire paragraph is inapplicable, the appropriate answer is "Not Applicable." If portions of the paragraph are inapplicable, the movant may so indicate by the use of strikethrough characters as in the following example:

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 movant's name).~~ I have also been known by the following names:

§ 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 or order to show cause;
- b. The applicant's form affidavit or affirmation;
- c. The exhibits supporting that form affidavit or affirmation;
- d. Any additional supporting affidavits or affirmations and exhibits thereto; and
- e. An affidavit of service of the moving papers upon the appropriate Departmental Grievance Committee.