

**JOINT ORDER OF THE DEPARTMENTS OF THE NEW YORK STATE  
SUPREME COURT, APPELLATE DIVISION**

The Judicial Departments of the Appellate Division of the New York State Supreme Court, pursuant to the authority vested in them, do hereby amend, effective immediately, sections 1240.8, 1240.12, and 1240.16 of Part 1240 of Title 22 of the Official Compilation of Codes Rules, and Regulations of the State of New York (Rules for Attorney Disciplinary Matters), as follows:

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**Part 1240. Rules For Attorney Disciplinary Matters**

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**§ 1240.8. Proceedings in the Appellate Division**

**(a) Procedure for formal disciplinary proceedings in the Appellate Division.**

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*(5) Discipline by Consent*

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(ii) When the proceeding includes allegations that the respondent has willfully misappropriated or misapplied money or property in the practice of law, and the respondent has conditionally admitted facts establishing that restitution is owed, the parties, in the joint motion, shall:

(A) identify the person or persons whose money or property was willfully misappropriated or misapplied;

(B) specify the value of such money or property; and

(C) state that the respondent has consented to the entry of an order requiring the respondent to make monetary restitution pursuant to Judiciary Law §90(6-a).

(iii) The joint motion shall be accompanied by an affidavit of the respondent acknowledging that the respondent:

(A) conditionally admits the facts set forth in the stipulation of facts;

(B) consents to the agreed upon discipline;

(C) gives the consent freely and voluntarily without coercion or duress; and

(D) is fully aware of the consequences of consenting to such discipline.

(iii) Notice of the joint motion, without its supporting papers, shall be served upon the referee, if one has been appointed, and all proceedings shall be stayed pending the Court's determination of the motion. If the motion is granted, the Court shall issue a decision imposing discipline upon the respondent based on the stipulated facts and as agreed upon in the joint motion. If the motion is denied, the conditional admissions shall be deemed withdrawn and shall not be used against the respondent or the Committee in the pending proceeding.

*(6) Discipline on Default.*

In the event a respondent fails to file an answer within the time period specified in these rules, the Committee may move the Court, on notice to the respondent, for an order finding the respondent in default, deeming the material allegations of the petition admitted by the respondent, and granting any other relief provided by law and warranted under the circumstances.

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**§ 1240.12. Attorneys Convicted of a Crime**

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(c) Upon application by the Committee, and after the respondent has been afforded an opportunity to be heard on the application, including any appearances that the Court may direct, the Court shall proceed as follows:

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(3) Upon the Court's determination that the respondent has committed a crime not constituting a felony or serious crime, it may (i) remit the matter to the Committee to take any action it deems appropriate pursuant to section 1240.7 of these Rules, or (ii) direct the commencement of a formal proceeding pursuant to section 1240.8 of these Rules, or (iii) take other action it deems appropriate consistent with Judiciary Law section 90.

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§ 1240.16. Reinstatement of Disbarred or Suspended Attorneys

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(c) Time of application.

(1) A respondent disbarred by order of the Court for misconduct pursuant to Judiciary Law § 90(4) based on a felony conviction may apply for reinstatement to practice after the expiration of seven years from the entry of the order of disbarment effective date of the disbarment (see also, Judiciary Law § 90[5][b]).

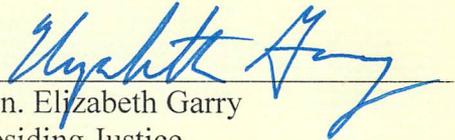
(2) A respondent disbarred by order of the Court for misconduct may apply for reinstatement to practice after the expiration of seven years from the entry of the order of disbarment, unless otherwise directed by the Court.

(3) A suspended respondent may apply for reinstatement after the expiration of the period of suspension or as otherwise directed by the Court

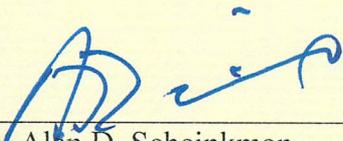
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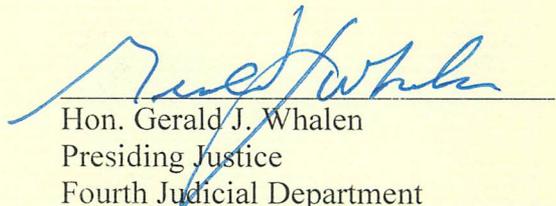
Hon. Rolando T. Acosta  
Presiding Justice  
First Judicial Department



Hon. Elizabeth Garry  
Presiding Justice  
Third Judicial Department



Hon. Alan D. Scheinkman  
Presiding Justice  
Second Judicial Department



Hon. Gerald J. Whalen  
Presiding Justice  
Fourth Judicial Department

Dated: May 22, 2018