

**§ 1240.16 Reinstatement of Disbarred or Suspended Attorneys**

- (a) Upon motion by a respondent who has been disbarred or suspended, with notice to the Committee and the Lawyers' Fund for Client Protection, and following such other notice and proceedings as the Court may direct, the Court may issue an order reinstating such respondent upon a showing, by clear and convincing evidence, that: the respondent has complied with the order of disbarment, suspension or the order removing the respondent from the roll of attorneys; the respondent has complied with the rules of the court; the respondent has the requisite character and fitness to practice law; and it would be in the public interest to reinstate the respondent to the practice of law. Within thirty days of the date on which the application was served upon the Committee, or within such longer time as the Court may allow, the Committee may file an affidavit in relation thereto.
- (b) Necessary papers. Papers on an application for reinstatement of a respondent who has been disbarred or suspended for more than six months shall include a copy of the order of disbarment or suspension, and any related decision; an affidavit in the form in Appendix C to these Rules; and proof that the respondent has, no more than one year prior to the date the application is filed, successfully completed the Multistate Professional Responsibility Examination described in section 520.9 of this Title. After the application has been filed, the Court may deny the application with leave to renew upon the submission of proof that the respondent has successfully completed the New York State Bar Examination described in section 520.8 of this Title, or a specified requirement of continuing legal education, or both. A respondent who has been suspended for a period of six months or less shall not be required to submit proof that the respondent has successfully completed the Multistate Professional Responsibility Examination, unless otherwise directed by the Court.
- (c) Time of application
- (1) 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.
- (2) A suspended respondent may apply for reinstatement after the expiration of the period of suspension or as otherwise directed by the Court.
- (d) Respondents suspended for a fixed term of six months or less. A respondent who has been suspended for six months or less pursuant to disciplinary proceedings may file an application for reinstatement with the Court no more than thirty days prior to the expiration of the term of suspension, in the form prescribed at Appendix D to these Rules, together with proof of service of a copy of same upon the appropriate Committee and the Lawyers' Fund for Client Protection. Within twenty days of the date on which the application was served upon the Committee and Lawyers' Fund, or within such longer time as the Court may allow, the Committee and Lawyers' Fund may file a response thereto. After the Committee and Lawyers' Fund have had an opportunity to be heard, the Court may issue an order reinstating the respondent upon a showing, by

clear and convincing evidence, that the respondent has otherwise satisfied the requirements of section 1240.16 (a) of these Rules.

- (e) The Court may establish an alternative expedited procedure for reinstatement of attorneys suspended for violation of the registration requirements set forth in Judiciary Law §468-a.

## 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.



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

## Appendix D

### Application for Reinstatement to the Bar After Suspension for Six Months or Less

#### INSTRUCTIONS

An application pursuant to section 1240.16 (d) of these Rules for reinstatement to the bar after suspension from practice for six months or less 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 suspension.
- (3) The motion shall be made on notice to the Committee that was the petitioner in the proceeding leading to the respondent's 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 inapplicable 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.



- 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 \_\_\_\_ months from the practice of law. A copy of the order imposing the suspension is attached as exhibit \_\_\_\_ hereto.

10. Since the entry of the order of suspension, I have also been the subject of professional discipline in the following other courts or jurisdictions: [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, since the entry of the order of suspension, I have not been the subject of professional discipline in this or any other court or jurisdiction.

11. Since the entry of the order of suspension, 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].

12. I have fully complied with the requirements of the order of suspension, including paying any required fees and costs, and I am in compliance with section 1240.15 of the Uniform Rules for Attorney Disciplinary Matters.

13. 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):]

14. Since the entry of the order of suspension, 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 suspension, 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.

15. 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:

16. 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

**806.16 Applications for Reinstatement of Suspended and Disbarred Attorneys Pursuant to Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.16**

**(a) Disbarred Attorneys and Attorneys Suspended for More than Six Months.**

- (1) Any motion for reinstatement by a respondent who has been disbarred or who has been suspended for more than six months shall be made returnable on Monday (or if Monday falls on a holiday, on the next business day), whether or not Court is actually in session, upon no less than 90 days notice to the Committee and the Lawyers' Fund for Client Protection.
- (2) Such notice of motion shall be accompanied by an affidavit of the respondent in the form of Appendix C to Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) Part 1240, and such additional exhibits as are necessary.
- (3) The Committee shall be heard in response to the motion by filing an affirmation or affidavit, and such additional exhibits as are necessary, with the Court on or before 11:00 a.m. on the Friday before the return date. The respondent may not be heard in reply absent prior authorization by the Court.
- (4) Any motion pursuant to this subdivision, any papers filed in response thereto and the reply, if any, shall be filed with the Court as an original and a single copy thereof, along with proof of service of a single copy thereof upon the adversary. The copy of any such papers may be delivered to the Court in Portable Document Format ("PDF").
- (5) At the discretion of the Court, any application pursuant to this subdivision may be referred to the appropriate Committee on Character & Fitness or to a referee for hearing and report.

**(b) Attorneys Suspended for Six Months or Less.**

- (1) Any motion for reinstatement by a respondent who has been suspended for six months or less shall be made returnable on Monday (or if Monday falls on a holiday, on the next business day), whether or not Court is actually in session, upon no less than 30 days notice to the Committee and the Lawyers' Fund for Client Protection.
- (2) Such notice of motion shall be accompanied by an affidavit of the respondent in the form of Appendix D to Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) Part 1240, and such additional exhibits as are necessary.

- (3) Unless the Court otherwise directs, the Committee shall be heard in response to the motion by filing an affidavit, and such additional exhibits as are necessary, with the Court within 20 days of the date such motion was served upon the Committee. The respondent may not be heard in reply absent prior authorization by the Court.
- (4) Any motion pursuant to this subdivision, any papers filed in response thereto and the reply, if any, shall be filed with the Court as an original and a single copy thereof, along with proof of service of a single copy thereof upon the adversary. The copy of any such papers may be delivered to the Court in Portable Document Format ("PDF").