

S. 196374

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

**In the Matter of
STEPHEN RANDALL GLASS,**

Applicant for Admission.

**SUPREME COURT
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AFTER A DECISION BY THE REVIEW DEPARTMENT OF THE STATE BAR COURT OF CALIFORNIA
CASE NO. 09-M-11736

ANSWER TO PETITION FOR REVIEW

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Business & Professions Code § 6060.2 And California Rules of Court, R. 9.15(d)

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STEPHEN RANDALL GLASS

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ANSWER TO PETITION FOR REVIEW

I. INTRODUCTION

The issue in an admissions proceeding is current moral character: Is the applicant a fit and proper person to be permitted to practice law at this time? (See, e.g., *Resner v. State Bar* (1967) 67 Cal.2d 799, 811 (requiring “showing of rehabilitation and of present moral fitness”).)

As to current moral character – which is the controlling question – the Review Department found there to be “overwhelming evidence of [Applicant Stephen] Glass’s reform and rehabilitation.” (Review Dept., p. 16; emphasis supplied.) Both the Hearing and Review Departments found Mr. Glass to be rehabilitated, and recommended his admission.

After a 10-day trial with 27 witnesses and reams of documents, the Hearing Department found Mr. Glass’s 22 witnesses “outstanding” – a finding as to which the

Review Department said, “We agree.” Among those witnesses was Martin Peretz, Editor-in-Chief of *The New Republic* (“*TNR*”), the magazine that printed the lion’s share of Mr. Glass’s fabrications. Mr. Peretz, who had reconnected with Mr. Glass, was so struck by his rehabilitation, he flew from Massachusetts to testify in favor of his admission. Two psychiatrists, each of whom had treated Mr. Glass regularly over the course of the last five years, testified to their confidence that Mr. Glass would never repeat his misconduct.

The Committee offered no psychiatric testimony, and called five lay witnesses. A former *TNR* editor, Charles Lane, was found to have “limited” credibility as to the central issue – Mr. Glass’s present moral character – as he had not seen or spoken to Mr. Glass in 13 years. The credibility of a former *George* editor, Richard Bradley, was deemed by the court to be “marginal at best” – his only contact with Mr. Glass in 13 years was a one-hour coffee meeting that Mr. Glass sought in order to apologize. A third witness’s credibility on present moral character was also deemed to be “marginal at best,” as his only connection to Mr. Glass was that he represented parties adverse to the applicant in a 1999 lawsuit. Further, he offered no opinion on Mr. Glass’s current moral character. The Committee’s fourth witness had not spoken to Mr. Glass in 13 years. And, while the Committee’s fifth and final witness had been an editor at a magazine where Mr. Glass had fabricated, he did not know Mr. Glass or work with him.

Mr. Glass's misconduct concluded in 1998, when he was 25 years old. He is now 39. The "overwhelming" evidence testifies to his maturation, reformation, and rehabilitation over the past 13 years.

The Committee presented no testimony at all refuting the 22 judges, attorneys, law professors, colleagues, friends, and life partner of over 10 years who testified to the profound change in Mr. Glass. On this record, the Hearing and Review Departments were right to recommend his admission. Indeed, they found it not a close call, but rather a decision "overwhelmingly" supported by the evidence of "outstanding" witnesses.

Finally, with the weight of the evidence plainly against it, the Committee reaches to find supposedly unsettled law requiring review. However, as discussed below, there is no unsettled law in this matter, and the Committee's contention even if it were true, would be irrelevant to this matter.

Review should be denied.

II. FACTUAL AND LEGAL DISCUSSION

A. **This Inquiry Is Focused On Mr. Glass's *Present Moral Character, About Which The Committee Presented Almost No Evidence***

The essential issue in an admissions proceeding is: Is the applicant a fit and proper person to be permitted to practice law at this time? (See, e.g., *Resner v. State Bar* (1967) 67 Cal.2d 799, 811 (requiring “showing of rehabilitation and of present moral fitness”).)

Yet the Committee's petition largely ignores evidence of Mr. Glass's present moral character. Instead, it recounts in great detail Mr. Glass's misconduct as a journalist, which occurred more than 13 years ago, when Mr. Glass was 23 to 25 years old. Mr. Glass is currently 39 years old.

In *Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1056, this Court was “troubled” by the Committee's focus on decade-old misconduct, rather than current rehabilitation. Similarly, in this matter, the Hearing Judge stated at the lunch break on the ninth, last day of testimony:

“This is an opportunity to examine Mr. Glass'[s] rehabilitation. That's really what we're here for. We have a stipulation as to the facts underlying his misconduct. We have a pretty much complete agreement as to what he did wrong. What I have not heard is discussions about his rehabilitation, except from the Applicant's side.” (IX Tr. 132:23-133:4)

The Review Department agreed:

“[T]he Committee ‘appears to have allowed itself to be carried away by the distant tide of [Glass's] earlier misconduct.’” (Review Dept. Opinion, p. 15, quoting *Pacheco, supra*, 43 Cal.3d at 1056.)

The Committee's petition once again ignores what the Review Department found to be "overwhelming evidence of Glass's reform and rehabilitation," instead choosing to focus on his admitted past misconduct of 13 years ago. (Review Dept., p. 16.)

B. The Supreme Court Accords "Significant Weight" To The Hearing Department's Credibility Determinations, Which Found Mr. Glass's 22 Witnesses To Be "Outstanding" And Highly "Credible" And Found The Committee's Witnesses' Credibility To Be "Limited" And "Marginal, At Best"

This Court affords "significant weight" to the Hearing Department's findings, especially credibility assessments: "[T]he hearing panel is in the best position to assess demeanor and credibility." (*In re Gossage* (2000) 23 Cal.4th 1080, 1096.) The Review Department noted:

"The hearing judge's credibility determinations are particularly important in this case because '[r]eformation is a state of mind which 'may be difficult to establish affirmatively' and 'may not be disclosed by any certain or unmistakable outward sign.'" (Review Dept. Opinion, p. 9, quoting *Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 315.)

Both the Hearing and Review Departments deemed Mr. Glass's 22 witnesses "outstanding," finding them highly credible regarding his current moral character. (Review Dept. Opinion, p. 13.)

In contrast, the Committee seeks to support its petition almost exclusively with the testimony of Messrs. Lane and Bradley – testimony that both the Hearing and Review Departments held should be afforded little or no weight regarding the applicant's current moral character.

The Hearing Department found: (1) “Mr. Lane’s evaluation of the applicant’s current moral character was limited in value, since he had not spoken with [Mr. Glass] for approximately twelve years” (Hearing Dept. Decision, p. 13, fn. 12); and (2) Mr. Bradley’s testimony regarding the applicant’s current moral character was “marginal, at best” (*Id.* at 11.) Mr. Bradley had not seen Mr. Glass since 1998, other than at a one-hour meeting for coffee in 2003, where Mr. Glass apologized to Mr. Bradley for his fabrications. Prior to that, Mr. Bradley testified he had only ever seen Mr. Glass three times. (VIII Tr. 33:4-14, 17.)

The Review Department agreed with the Hearing Department’s determination:

“The Committee’s witnesses did not controvert or diminish Glass’s character evidence, as they had no contact with him in the last ten years, except Richard Bradley, who met with him only once in 2003 when Glass arranged an in-person apology. We thus give little weight to the Committee’s witnesses in assessing Glass’s present moral character.” (Review Dept. Opinion, p. 13.)

C. There Are No “Important Questions Of Law” That Need To Be “Settle[d]”

The Committee claims that review should be granted to “settle important questions of law.” (Petition, p. 5; *see Rules of Court*, R. 9.16(a)(1).)

Specifically, the Committee claims an alleged conflict between the well-established rule that reasonable doubts are to be resolved in favor of the applicant, and language in a prior case:

“***Where serious or criminal misconduct is involved, positive inferences about the applicant’s moral character are more difficult to draw, and negative character inferences are stronger and more reasonable.***” (*In re Gossage* (2000) 23 Cal.4th 1080, 1098; see also *In re Menna* (1995) 11 Cal.4th 975, 987.)

There is no inconsistency. Commentary about the ease or difficulty of drawing inferences, and about what context makes an inference reasonable, does not nullify the reasonable doubt standard, which has been applied in numerous admission and disbarment cases for nearly a century. In *Hallinan v. Committee of Bar Examiners* (1966) 65 Cal.2d 447, 451, the Court, citing cases dating back to 1921, held:

“In disciplinary proceedings this court examines and weighs the evidence and passes upon its sufficiency. [Citations.] Any reasonable doubts encountered in the making of such an examination should be resolved in favor of the accused. [Citations.] These rules are equally applicable to admissions proceedings.”

Subsequent to *Hallinan*, the reasonable doubt standard was endorsed by this Court in, among other cases: *Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1068; *Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 937; *Siegel v. Committee of Bar Examiners* (1973) 10 Cal.3d 156, 173; and *Hall v. Committee of Bar Examiners* (1979) 25 Cal.3d 730, 746 (conc. opn. of Richardson, J.) The Court has endorsed the reasonable doubt rule because it is this state’s policy to favor admission of applicants who have achieved reformation. (*Pacheco, supra*, 43 Cal.3d at 1058.)

Indeed, in *Gossage* itself – the very case the Committee claims raises a conflict – this Court cites to the reasonable doubt standard. (*See Gossage, supra*, 23 Cal.4th at 1098.)

The language petitioner quotes from *Gossage* and *Menna* does not repudiate the reasonable doubt standard. This Court may give fact-finders more than one principle to guide how they weigh the evidence. In *Gossage*, the Court used the reasonable doubt standard, but also articulated the common sense principle that what makes doubt “reasonable” in any particular case depends on context, including the nature of the misconduct at issue.

Furthermore, *Gossage* does not limit the reasonable doubt standard to cases devoid of serious or criminal misconduct, as petitioner implies. Any such limitation would effectively nullify the reasonable doubt rule, because virtually all reported Bar cases that have come before this Court in the 38 years since *Siegel*, involved serious or criminal misconduct. The Court does not consider admissions cases based on lesser misconduct.

Additionally, this is not an appropriate case in which to grant review, as the supposed conflict was not determinative. There is every reason to believe that the State Bar Court applied the principles of *Gossage* and *Menna* to this matter as the Hearing Department cited to *Menna* and the Review Department cited to both cases. (Review Dept. Opinion, p. 2, 4, 14, 15; Hearing Dept. Decision, p. 2, 3.)

Finally, separate from the reasonable doubt standard, the State Bar Court found Mr. Glass’s 22 witnesses to be impressive and credible in their own right, and found that there was “overwhelming evidence of Glass’s reform and rehabilitation.” (Review Dept. Opinion, p. 16.) Moreover, the State Bar Court found the Committee’s witnesses had “limited” or “marginal credibility, at best” with respect to Mr. Glass’s present moral

character. (Hearing Dept. Decision, p. 11, 13.)

In a case, such as this, where the Review Department found the evidence to be “overwhelming” in favor of the applicant, there is no need to ascertain the reasonableness of doubts which did not exist. Thus, any conflict in the law is not relevant here.

D. Review Should Be Denied As The Decision Was “Supported By The Weight Of The Evidence”; The Review Department Found The Evidence In Favor Of Mr. Glass To Be “Overwhelming”

The Committee next seeks review on the grounds that the “decision is not supported by the weight of the evidence.” (*Rules of Court*, R. 9.16(a)(4).) But the Committee does not address the weight of all the evidence, as is proper, but only that which it believes supports its position.

Twenty-seven witnesses submitted testimony at trial – twenty-two on behalf of the applicant: four law professors; two judges; 10 attorneys, including a longtime friend and his life partner of more than a decade; three additional friends of more than 10 years; two psychiatrists; and the editor-in-chief of *TNR*.

Of these 27 witnesses, the Committee’s petition mentions only six. Four are mentioned only in passing, two in only one sentence. Then, the petition focuses almost exclusively on Messrs. Lane and Bradley, both of whom were found not credible with respect to the applicant’s current moral character by both the Hearing and Review Departments because they had no significant contact with or knowledge of Mr. Glass’s

conduct for more than a decade.¹

The Committee also improperly quotes from excluded evidence: A news article by Mr. Bradley, and an exhibit at the “Newseum.” (Petition, pp. 18, 23, p. 19-20, quoting Exhibits 5 and 8.) Both were excluded as hearsay. (X Tr. 66:13, 87:15-16.) The Committee did not challenge that ruling below, nor does it here.

The Review Department found that the record showed “overwhelming evidence of Glass’s reform and rehabilitation.” (Review Dept., p. 16; emphasis supplied.)

1. The Applicant’s Youth Mitigates In Favor Of His Rehabilitation

This Court has held misconduct “at an early age to be youthful indiscretions, which should not bar admittance to our bar after several years of law-abiding conduct.” (*Martin B. v. Committee of Bar Examiners* (1983) 33 Cal.3d 717, 726.)

Mr. Glass’s fabrications, while clearly far more than mere indiscretions, occurred when he was between the ages of 23 and 25. This fact – especially coupled with psychiatrist Richard Friedman’s diagnosis that Mr. Glass suffered from arrested development until he underwent therapy, *infra* at 14, mitigates in favor of rehabilitation.

¹ The Committee’s other three witnesses also lacked credibility with respect to Mr. Glass’s current moral character. Mr. Landau testified, with the exception of receiving an apology letter from Mr. Glass in 2004, he had no contact with him in 12 years. (VII Tr. 23:21-23, 25:3-10) Mr. Miller offered no opinion of Mr. Glass’s current character. His only connection to Mr. Glass was that he represented parties adverse to Mr. Glass in a lawsuit settled in 2000. (VI Tr. 81:18-20, 88:7-13) Mr. Harrison had been an editor at *Harper’s*, but he did not know Mr. Glass or work with him. (IX Tr. 241, 242:16)

2. The Causes Of Mr. Glass's Fabrications Are Not In Dispute

Mr. Glass and several witnesses, including two psychiatrists, testified at length about Mr. Glass's family background and the reasons he fabricated.

As the Committee presented no contrary evidence, and did not dispute this aspect of the case in its petition, the applicant does not restate that testimony here. It is summarized in the Hearing Department's Decision, pp. 3-7, 19-21; and Applicant's Responsive Brief on Review, pp. 4-18.

One aspect of the Committee's petition must be corrected, however: The Committee suggests Mr. Glass somehow enjoyed fabricating articles. (Petition, p. 10.) The evidence at trial was that the fabrications caused Mr. Glass's emotional life to enter a "horrible period," during which he felt "very emotionally alone" and experienced "a great deal of sadness and pain." (V Tr. 122:22-23, 126:17-18.) While Mr. Glass initially enjoyed the electricity of presenting his stories at editorial meetings, he then felt deep self-hatred, knowing they were based on lies. (V Tr. 120:23-122:6.) With each lie, Mr. Glass felt more inadequate and withdrew further from society. (V Tr. 123:13-20; 125:24-127:18.)

**3. Both Psychiatrists Who Testified At Trial
Opined Mr. Glass Was Rehabilitated,
And The Committee Presented
No Psychiatric Evidence To Refute Them**

Voluntary participation in counseling is evidence of rehabilitation. In *Seide, supra*, 49 Cal.3d at 941, this Court considered the moral character of an individual previously

convicted for cocaine-trafficking:

“Under such circumstances, voluntarily enrolling in some form of *continuing* counseling or substance abuse program may serve as an indicium of rehabilitation in addition to providing [the applicant] support in times of future hardship.” (Italics in original.)

Mr. Glass participated in psychotherapy for virtually all of the past 12 years, early on as frequently as four sessions weekly. (VI Tr. 78:8-80:3, 74:21-25, 47:19-20.) Prior to his firing, Mr. Glass had not participated in therapy in any meaningful way as an adult.

The Review Department found that, with the help of therapy, Mr. Glass:

“***gained insight into the motivations for his misconduct and has developed the tools to deal with his self-destructive behavior. He is committed to living an honest life.” (Review Dept. Opinion, p. 11)

The two psychiatrists who treated Mr. Glass² in Los Angeles – Richard Friedman and Richard Rosenthal – testified at trial, both opining he was rehabilitated and would not repeat his misconduct.

“Significant weight” should be given to the testimony of a therapist who has examined the applicant at length and concluded recidivism is unlikely because of the individual’s level of remorse, shift in basic values, and ability to accept responsibility for past misconduct. (See *In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319.)

The Committee presented no psychiatric evidence, in refutation or otherwise.

² Mr. Glass’s two psychiatrists focused on different aspects of his life and were aware of each other’s work.

a. **Richard Friedman, M.D.**

In 2005, after Mr. Glass moved to Los Angeles, he began weekly therapy with psychiatrist Richard Friedman. (IV Tr. 47:19-20.) Since 1969, Dr. Friedman has been a member of the clinical faculty at UCLA's Neuropsychiatric Institute. (IV Tr. 40:12-18; Exhibit "K.") He has worked in private practice for more than 40 years. (IV Tr. 44:15-23.)

Dr. Friedman testified that, over five years of weekly treatment, he observed Mr. Glass "through lots of challenging experiences, and I think I've really gotten to know [Mr. Glass] in a deep way, and I have a feeling for who he is, what he's made of...***" (IV Tr. 51:1-7.) Dr. Friedman testified he "ha[s] a high level of confidence in the opinion that I've formed of him," and is certain Mr. Glass has no sociopathic personality traits. (IV Tr. 74:6-8; 81:20-82:3, 56:16-17.)

Dr. Friedman stated he had read both parties' Pre-Trial Statements and Mr. Glass's moral character application, but "none of it surprised me," noting that Mr. Glass had not been "soft-soaping, soft-pedaling any of" his misconduct. (IV Tr. 53:8-11; 64:22-25.) Dr. Friedman testified he has "never seen" the applicant present himself in an unwarranted favorable light, "if anything, the contrary." (IV Tr. 53:14-22.) Dr. Friedman testified Mr. Glass is now a "scrupulously honest person," who has "grown up" since his misconduct, and is honest and responsible. (IV Tr. 57:6, 50:20-21.) He explained:

“[Mr. Glass’s] development was arrested. He grew up. He was very, very immature, and grew up in the intervening period, with a lot of help and therapy, and from circumstances and people and his own reflectiveness, and the trauma itself, which really broke some stuff loose....” (IV Tr. 64:1-8.)

Dr. Friedman testified to his opinion of Mr. Glass’s present moral character:

“I think he is honest. He is responsible. He has very good judgment. He has the capacity to handle very, very difficult, frustrating experiences with poise and reflectiveness, and I think that, you know, some people grow out of trauma, and I think he’s one of those people.” (IV Tr. 51:13-17.)

He further testified Mr. Glass is not at risk for repeating his misconduct:

“... I would be astonished to discover that happen, both from the standpoint of real growth in his character and his moral sense....” (IV Tr. 56:25-57:6.)

b. Richard Rosenthal, M.D.

Also beginning in 2005, Richard Rosenthal, M.D., a psychiatrist who is on the UCLA faculty, treated Mr. Glass, on average, once or twice per month. (VIII Tr. 81:4-10, 92:2-3.) He has been active on the Ethics Committee of the Southern California Psychiatric Society, and is a distinguished life fellow of the American Psychiatric Association. (VIII Tr. 84:23-25, 85:2-3.)

Dr. Rosenthal has published 40 times and was “very involved” in developing the DSM-IV, including serving “on the committee responsible for impulse control disorders.” (VIII Tr. 82:20; 84:16-21; Exhibit “S”.) Dr. Rosenthal further served as a lieutenant commander in the U.S. Navy where “primarily what I did was evaluations of people who

were manipulating, people who were faking various things to get out of the service.”

(VIII Tr. 78:17-24; 120:11-13.)

Dr. Rosenthal testified that, before he met Mr. Glass, he was “prejudiced” against him, and his feelings were “strong”:

“It’s because [of] what I had heard, and because I have a strong bias, I guess, about people who plagiarize or fabricate, journalists or historians, nonfiction authors who plagiarize or fabricate.” (VIII Tr. 146:23-147:5.)

However, Dr. Rosenthal testified that, after evaluating Mr. Glass, it is his opinion Mr. Glass is rehabilitated.

“[H]e is extremely honest, and conscientiously so, that he really makes a point of disclosing things, and avoiding the appearance of impropriety, and that he has learned a lot from his experience. He’s had some very good therapy. He’s worked really hard at it, and he’s a much stronger and better person than he was before.” (VIII Tr. 102:2-8.)

Dr. Rosenthal testified that Mr. Glass has never had any sociopathic personality features, and it is his opinion Mr. Glass would not revert to his previous state of dishonesty. (VIII Tr. 105:2-4, 107:4-6.)

“I think [Mr. Glass has] evolved as a human being, and he’s done a tremendous amount of work in understanding things about himself that he was not aware of then.***

“***

“[I]f he were under tremendous stress, or if there were a problem that he felt he was having difficulty with, he would know to discuss it with somebody and not let something get out of hand to the point that it was before.” (VIII Tr. 105:6-25)

Asked whether Mr. Glass would pose “any danger to the public” if admitted,

Dr. Rosenthal testified, “I not only don’t think he would pose any danger, I think he would be an outstanding attorney.” (VIII Tr. 147:20-148:2.)

**c. Contrary To The Committee’s Claims,
No Psychiatrist Testified That Mr. Glass
Was Still In The Process Of Rehabilitation In 2005**

The Committee, and the Review Department’s dissenting opinion, claim that Dr. Rosenthal testified Mr. Glass was still in the “process” of recovering from fabricating in 2005, when Dr. Rosenthal first evaluated him. This is flat-out incorrect: Dr. Rosenthal did not so testify. Dr. Rosenthal testified that when Mr. Glass first saw him in 2005, the applicant’s “honesty was clear.” (VIII Tr. 148:17.)

In fact, Dr. Rosenthal testified that, at that period, Mr. Glass was still in the “process” of dealing – not with his honesty – but with his self-esteem, “the tremendous shame he was feeling” about his misconduct, and family issues. (VIII Tr. 148:17-22.)

“So you asked me what the elements or aspects were that came into therapy, and his overcoming the shame that he was still feeling in 2005, and when I began working with him, it was very much in evidence... in terms of what my work with him consisted of, I think the two things that were most important in his continued therapy was dealing with the shame and learning to forgive himself...

“Then the other area was the continuing family issues, and his learning to have realistic expectations, set boundaries with his family, and also in his current job, but primarily with his family and the ongoing issues there.” (VIII Tr. 94:19-95:9.)

Dr. Friedman testified similarly:

Q. And was he seeing you [beginning in 2005] because he felt he needed treatment for his propensity for lying?

A. No. As he presented himself from the beginning, he felt that he had, you know, overcome that. That wasn't an issue.*** (IV Tr. 49:1-6.)

4. The Applicant Has Demonstrated Remorse And A Change of Values

One's own testimony about "his misconduct, remorse, and change of values... is a significant factor...." in determining rehabilitation. (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 317.)

The Hearing Department found that Mr. Glass has "credibly shown remorse and shame for his acts," (Hearing Dept. Decision, p. 26), finding:

"At every opportunity during the testimony on this matter, [Mr. Glass] expressed his remorse for his terrible errors in judgment." (*Id.*, p. 26.)

"Applicant repeatedly and sincerely expressed his regret for the fabrications that have become so identified with his journalism career." (*Id.*, p. 12, fn. 10.)

This Court should afford "significant weight" to that finding. (*Gossage, supra*, 23 Cal.4th at 1096.)

Further evidence of Mr. Glass's remorse is that he sent approximately 100 mostly-handwritten apology letters to those his misconduct affected. (VI Tr. 38:4, 45:2.) In virtually all the letters, Mr. Glass provided contact information so those he harmed "could get in touch with me if they wanted to, to talk about it further." (VI Tr. 45:14-17.)

Mr. Glass testified that writing the letters was a “difficult process,” explaining that the “act of writing a letter” has an “effect on the writer as well.” (VI Tr. 45:6, 48:1.) Melanie Thornstrom, a longtime friend of the applicant’s, observed the process as “painful and exhausting” for him. (III Tr. 21:20.) Another longtime friend, Lawrence Berger, observed the “seriousness” with which Mr. Glass wrote the apologies. (IV Tr. 19:24.)

The Committee attempts to denigrate Mr. Glass’s apologies because they were made when Mr. Glass was preparing for his New York Bar application and before his novel was published. But had Mr. Glass apologized soon after his misconduct, the Committee would say his letters were too early to be sincere.

Furthermore, had Mr. Glass written the apology letters for the purpose of using them as evidence before the New York Bar, as the Committee suggests, Mr. Glass would surely have saved copies of the letters. He did not. (VI Tr. 48:11.)

5. Mr. Glass Has Performed Hundreds Of Hours Of Pro Bono And Charitable Work Over the Past Six Years

In granting reinstatement, this Court has frequently given weight to community service. (See *e.g. Allen v. State Bar* (1962) 58 Cal.2d 912, 914; *Werner v. State Bar* (1954) 42 Cal.2d 187, 190; *In re Andreani* (1939) 14 Cal.2d 736, 748.) Mr. Glass has performed hundreds of hours of *pro bono* and charitable work.

In New York, Mr. Glass volunteered at a senior center. (VII Tr. 52:3.) In Los Angeles, he volunteered at a charitable food-delivery service. (VII Tr. 52:4-5; IX Tr. 205:8-11.) When his work hours conflicted with the service's schedule, Mr. Glass changed the nature of his volunteering: He donated *pro bono* legal research, working continuously on such projects for more than six years. He has performed hundreds of hours of research for attorneys on behalf of underprivileged youth, victims of race-based violence, and victims of drunk drivers. (Exhibit "B," at ¶ 30; IX Tr. 225:21-226:15, 228:1-21; IX Tr. 225:3-5; VII Tr. 52:4-11.)

Mr. Glass has also volunteered to speak with students about his misconduct, at Columbia University's journalism school, to an ethics class at George Washington University, and to students in CORO, an organization training young people to be civic leaders. (IX Tr. 203:7-204:2.)

Mr. Glass also donates substantial time to assist the firm's homeless and special-education clients with some of the basic challenges of their daily lives. (IX Tr. 225:14-227:25, 228:22-229:22.)

6. Substantial Time Has Lapsed Since Mr. Glass's Misconduct

The Court has "recognized that the passage of time lessens the significance of an applicant's misconduct, particularly when that misconduct occurred long before his or her application to the bar." (*Pacheco, supra*, 43 Cal.3d at 1057.) Here, "applicant's misconduct commenced in late 1995 and continued to 1998. From 1998 to the present,

applicant has engaged in a regular course of conduct that shows a concerted effort to rehabilitate from those serious errors in judgment.” (Hearing Dept. Decision, pp. 18-19.)

The 13-year period in this case from the last act of misconduct to the California Supreme Court proceeding compares favorably with the periods that elapsed in other cases. (See *Pacheco, supra*, (ten-year period without misconduct justified admission); *Kwasnik, supra*, at 1070 (“[t]he evidentiary significance of an applicant’s misconduct is greatly diminished by the passage of time [10 years] and by the absence of similar, more recent misconduct”); *Martin B., supra*, 33 Cal.3d at 726 (“passage of nine years with an unblemished, exemplary record, in itself should be sufficient to show rehabilitation”); see also *Hall, supra*, 25 Cal.3d at 742 and *Hallinan, supra*, 65 Cal.3d at 464 (both holding passage of six years since last incident of misconduct sufficient for admission).)

The Committee seeks to reduce the duration of Mr. Glass’s rehabilitation by arguing that Mr. Glass made a misrepresentation on his 2002 application to the New York Bar when he stated he “worked with” the magazines to identify his fabricated articles.

The evidence at trial, *infra* at p. 46, was that Mr. Glass, with the assistance of counsel, “worked with” three magazines and, through counsel, offered cooperation to two more. The Hearing Department determined there was no misconduct relating to the New York Bar. (Hearing Dept. Decision, p. 15.) This credibility determination should be afforded significant weight.

7. **The Highest-Ranking Editors At Four Of The Five Magazines Where Mr. Glass Fabricated Articles Have Each Forgiven Him, And The Fifth Is Deceased**

a. **Martin Peretz**

Martin Peretz purchased *TNR* in 1974 and was its “sole loss payor” for approximately 33 years – including the period Mr. Glass worked there. (I Tr. 139:20-22.) As Editor-in-Chief, Mr. Peretz is “fully involved in the journalistic business of the magazine.” (I Tr. 147:12-13.)

Mr. Peretz testified he was “extremely distressed” after Mr. Glass’s lies were discovered. (II Tr. 156:22.) However, unlike any of the Committee’s witnesses, Mr. Peretz reconnected with Mr. Glass. (II Tr. 136:21-25.)

Mr. Peretz, who lives in Massachusetts, flew to California to testify in person that he believes Mr. Glass should be admitted. (II Tr. 157:9-11.) He believes Mr. Glass to now be “a man of probity, a man who has learned, painfully, from his mistakes...” (II Tr. 158:2-4.)

“I think [Mr. Glass] has a great deal of responsibility [for his misconduct], and he has acknowledged it, and he’s suffered for it.” (II Tr. 148:22-23.)

Mr. Peretz believes that Mr. Glass “did not do this out of evil intentions or wickedness,” but was “caught in a psychological morass.” (II Tr. 152:5-6, 157:23.):

“***I don’t think what Steve committed, and his journey after, should condemn him to be exiled from respectable, ethical society.” (II Tr. 137:11-15.)

Contrary to the Committee's claim, Mr. Peretz testified he would permit Mr. Glass to write articles for *TNR* once again. (II Tr. 137:10-15.)

b. Jann Wenner

Jann Wenner, the publisher of *Rolling Stone*, has also forgiven Mr. Glass. His forgiveness is particularly significant because he was personally sued, in addition to *Rolling Stone*, for Mr. Glass's fabrications. (VIII Tr. 84:23-24; IX Tr. 41:10-15, 201:10-15, 220:5-13; Exhibit 1, pp. 771-804.)

c. Policy Review and Harper's

Policy Review's editor, Adam Meyerson, and Lewis Lapham, the top editor at *Harper's*, both accepted Mr. Glass's apology. (IX Tr. 46:2-6, 242:8-10, 245:1-2; Exhibit "V".) The *New York Daily News* quoted Mr. Lapham: "'It was a nice letter,' said Lapham, who said he forgives Mr. Glass." (Exhibit "V".)

8. More Than 20 Witnesses With Recent And Extensive Contact With The Applicant Testified To His Good Moral Character

"[T]he favorable testimony" of character witnesses "should weight heavily in the scale of justice" in "reaching a fair conclusion on the question of reformation...."

(*Andreani, supra*, 14 Cal.2d at 749-750.³)

Testimonials by attorneys and judges are afforded “significant weight.” (*See Kwasnik, supra*, 50 Cal.3d at 1068.) The Court is “empowered to accept” their recommendation, alone, for admission. (*See Pacheco, supra*, 43 Cal.3d at 1053.)

In all, Mr. Glass introduced the testimony of 22 witnesses: four law professors; two judges; 10 attorneys, including a longtime friend and his life partner of more than a decade; three additional friends of more than 10 years; two psychiatrists; and the editor-in-chief of *TNR*.

“These witnesses were all aware of the applicant’s history concerning the fabricated articles, yet uniformly praised applicant’s current high standards for honesty and integrity.” (Hearing Dept. Decision, p. 22.)

The Review Department similarly “afford[ed] great weight to Glass’s character witnesses, who were community leaders, employers, judges, and attorneys, and all of whom spoke with the utmost confidence in Glass’s good moral character and rehabilitation.” (Review Dept. Opinion, p. 12.)

The Committee cites decisions stating that character witnesses alone do not establish the required degree of good character. (Petition, pp. 39-40.) But here, the

³ The applicant, at times, cites to matters concerning reinstatement of a disbarred attorney because they involve an analogous proceeding. However, the applicant’s burden for admission is lighter than the burden on a disbarred attorney. *See In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 316.

witnesses not only testified to their opinions of Mr. Glass's outstanding character, but were also percipient witnesses – many, for more than a decade – to his conduct, which demonstrated his sustained high level of honesty and rehabilitation.

a. The Law Professors

i. Susan Low Bloch

Susan Low Bloch, an attorney, is a professor at Georgetown's law school, which Mr. Glass attended. She clerked for the Hon. Thurgood Marshall of the U.S. Supreme Court, and served on the D.C. Bar's Ethics Committee, Judicial Evaluation Committee, and Judicial Nominations Committee, which reports directly to the President. (I Tr. 67:15-17; 72:22-73:21.)

Professor Bloch met Mr. Glass in 1997, when he was her student. (I Tr. 76:1-2.) In 1998, after Mr. Glass's fabrications were discovered, she observed him to be "devastated" by his own conduct. (I Tr. 78:15, 83:18-19.)

Professor Bloch hired Mr. Glass as her research assistant, a position in which he served for approximately two years; they have stayed in touch through the present. (I Tr. 79:20-24.) She testified he is transformed and "totally honest." (I Tr. 86:14-15.)

Professor Bloch recommended Mr. Glass's admission, and testified she would not have flown from Washington to Los Angeles to appear if she were not "personally 100 percent sure that I had confidence in [him]." (I Tr. 127:20, 89:10-11.)

The Committee's petition suggests Professor Bloch would have provided different

testimony had she known more information about Mr. Glass's fabrications. But Professor Bloch testified she had discussions with Mr. Glass regarding his fabrications, read news accounts about the subject, and read both parties' Pre-Trial Statements, detailing all of the Committee's contentions, "several times" and "[n]othing in there makes me question my confidence in him." (I Tr. 87:11-21; 86:14-20; 94:2-10.)

ii. Stephen Cohen

Stephen Cohen, an attorney and Georgetown law professor, previously served as U.S. Deputy Assistant Secretary of State for Human Rights and has published journalism in *The New York Times*, *The Washington Post*, *The New Yorker*, and *TNR*. (II Tr. 173:8-10, 176:7-8; 169:9-10; 171:9-10.)

Professor Cohen met Mr. Glass in 1998, when the applicant was his student. (II Tr. 175:22-25.) While Mr. Glass was in law school, they had dinner roughly once every six weeks or two months. (II Tr. 178:2-3.) They continued to see each other regularly through 2005, while Professor Cohen's daughter attended a California college. (II Tr. 184:14-22.)

Professor Cohen testified Mr. Glass has been open and forthright about his misconduct. (II Tr. 177:12-24.) Indeed, he asked Mr. Glass to meet with his young children to "teach them a very important lesson about facing up to it when you do something terribly wrong, and not attempting to minimize it or downplay it....***" (II Tr. 178:8-10.)

Professor Cohen believes Mr. Glass is “fully rehabilitated.” (II Tr. 181:10-12, 182:17.) Were Mr. Glass admitted, Professor Cohen testified he would trust the applicant with his own legal affairs. (II Tr. 182:23-25.)

iii. Jeffrey Bauman and Robert Drinan

Jeffrey Bauman and Robert Drinan, both attorneys and law professors, provided affidavits for Mr. Glass. (Exhibit “L” at ¶ 3; Exhibit J.) Father Drinan, a Jesuit priest who taught Professional Responsibility, stated he “ha[d] talked on numerous occasions” with Mr. Glass about the fabrications and cover-up and is “confident that [Mr. Glass] understands the gravity of his mistakes,” “is genuinely remorseful,” “has learned,” “and will not repeat [his misconduct].” (Exhibit J at ¶ 6.)

Professor Bauman, who hired Mr. Glass as his research assistant, testified he “ha[s] the utmost faith in Steve and believe[s] he is a person of the highest moral caliber....” (Exhibit L.)

b. The Judges

i. Judge Ricardo M. Urbina

Judge Ricardo M. Urbina, a sitting judge since 1981, serves on the U.S. District Court for the District of Columbia. (Exhibit “H” at ¶ 2.) In Summer 1999, Mr. Glass interned for Judge Urbina, who had personal “daily contact” with him, “personal[ly]

supervised” his work, and described Mr. Glass as “diligent, honest, and professional.”

(*Id.* at ¶ 3.):

“[Mr. Glass] will perform very well as a member of the bar. I am aware of his background and believe that he has matured and ripened into a very responsible and honest individual who is fit to join the legal profession.”

(*Id.* at ¶ 5.)

..

ii. **Judge A. Franklin Burgess, Jr.**

Judge A. Franklin Burgess, Jr. serves on the Superior Court of the District of Columbia. (Exhibit “G” at ¶ 2.) Mr. Glass clerked for Judge Burgess the year after he graduated, during which Judge Burgess had personal contact with him “[d]aily and throughout the day” and “personally supervised” his work. (*Id.* at ¶ 3.) Judge Burgess stated Mr. Glass was “ethical” and “honest... in all respects.” (*Id.* at ¶ 4.)

c. **The Attorneys**

Mr. Glass presented so many credible attorney witnesses that, at trial, the Hearing Judge stated, “I’m at the point where I think I’ve seen plenty” and noted “all of them were very good witnesses.” (III Tr. 160:14-20.) Accordingly, Mr. Glass did not call all the attorney witnesses he had scheduled to testify. (III Tr. 160:23.)

i. **Paul Zuckerman**

Paul Zuckerman, licensed since 1991, is the managing partner of Carpenter, Zuckerman & Rowley, the 11-attorney law firm where Mr. Glass has worked as a law

clerk for over six years. (III Tr. 49:14, 52:6-7; 46:12)

Mr. Glass applied to the firm in response to an advertisement. (III Tr. 52:20-25.) His cover letter disclosed his history of fabrication. Mr. Zuckerman testified that after he read the letter, he “laughed to myself, and promptly deleted” the resume. (III Tr. 59:9-13.) But then, Mr. Zuckerman testified, he recalled his own prior struggle with alcoholism, and had a change of heart: “***I’ve been given a very big second chance, and I thought that I was being incredibly judgmental....***” (III Tr. 53:14-54:2.)

After an interview, Mr. Zuckerman was “firmly convinced” Mr. Glass “had gone through a change.” However, the firm initially “kept a very close eye” on Mr. Glass, “gave him very limited assignments,” and “exhibited a lot of oversight over what he was doing.” (III Tr. 60:8-9, 15-17.)

Mr. Zuckerman testified he has worked with Mr. Glass five or six days a week, 10 to 12 hours per day, for the past six years, and Mr. Glass is “my best, absolute best, employee in the firm,” and “brings an amazing amount of honesty and probity to the job.” (III Tr. 59:19, 21-24, 70:5-7.) Asked “[W]hat is your opinion of [Mr. Glass’s] present moral character for honesty?” Mr. Zuckerman testified: “Exemplary.” (III Tr. 66:4-6.)

“Everything that we’ve done over the past six years. There’s never been anything that he’s done that’s lacked honesty or probity. In fact, I think that, you know, I love having him at the office, because he’s like my touchstone, my benchmark, for honest and proper conduct....” (III Tr. 66:16-21; emphasis supplied.)

Mr. Zuckerman testified that Mr. Glass is now assigned the firm’s “most complex cases” with the “most difficult clients....***” (III Tr. 61:7-8.)

“[W]hen I first hired [Mr. Glass], there was no way I was giving him my Social Security number and my mother’s maiden name. He can have that today.” (III Tr. 60:19-22.)

Mr. Zuckerman testified to two examples of Mr. Glass’s outreach to the firm’s homeless clients. One was “a homeless, crack-addicted, mentally-handicapped guy who lived in the streets, under a tarp” and was HIV-positive. (III Tr. 62:17-18.) The client “would show up in the office filthy, with fingernails six inches long, covered in fleas and lice and his own waste and his own filth.” (III Tr. 63:9-11.) Mr. Glass “spent a lot of time” with the client, introducing him to a volunteer program, a homeless-services center, and an HIV organization. (III Tr. 63:11-25.)

Moreover, Mr. Glass took the lead role in getting another mentally-ill client – who was at times delusional and covered in feces – cleaned up, placed in a sober-living environment, and treated by an ostomy nurse. (III Tr. 64:21-65:11.)

ii. The Other Attorneys

Attorneys Jeffrey McIntyre and Adam Silverstein worked alongside Mr. Glass virtually every day for three and four years, respectively. (III Tr. 99:20-24; 103:22; 105:22.) Mr. McIntyre, licensed since 1974, testified Mr. Glass “went out of his way at all times” to “do[] the right thing.” (III Tr. 105:18-106:1) Mr. Silverstein, licensed since 1998, found Mr. Glass “truthful,” “honest,” “open,” and “candid.” (III Tr. 141:25, 144:7, 148:19-20)

Bruce Fishelman and Alejandro Blanco, attorneys who have worked on cases with

Mr. Glass, strongly recommended his admission. Mr. Fishelman, licensed since 1975 and a former prosecutor, testified Mr. Glass “has grown immensely and emerged as a different man, with profound respect for ethical behavior as a result of his ordeal.” (Exhibit A at ¶¶ 4-10, 12, 22-24, 38.) He observed Mr. Glass appropriately resolve an incident with an expert witness which raised “ethical considerations.” (*Id.* at ¶¶ 39, 40.) Mr. Blanco, licensed since 1988, believes Mr. Glass to be of such “upright character” he would trust him “with my life.” (III Tr. 121:13-15, 128:4-5, 133:23-134:2.)

“***It’s clearly at the forefront of his mind, the damage that he caused, and in my view, it grips his heart.” (III Tr. 130:10-12.)

Kenneth Goldman and Jonathan Ritter worked alongside Mr. Glass as co-law clerks, and later supervised him as attorneys. (Exhibit “B” at ¶ 4; Exhibit “D” at ¶ 5.) Mr. Ritter testified Mr. Glass’s “work is exceptional and ethically rigorous.” (Exhibit “D” at ¶ 22.) Mr. Goldman described an incident when Mr. Glass “talk[ed] with the client about his own past wrongdoing” to help her appreciate the need to testify truthfully. (Exhibit “B” at ¶ 26.)

John Foran – an attorney since 1972, who managed a Maryland law firm that employed Mr. Glass as a summer clerk – “highly recommended” Mr. Glass for admission:

“***He was very forthcoming about [his misconduct]. We decided to take a chance and never regretted it. He always maintain[ed] himself in an exemplary manner in every way in our office. I think he learned some valuable lessons with his problems and I am confident that they are ancient history....” (Exhibit F.)

iii. Julie Hilden, Mr. Glass's Life Partner

Julie Hilden, an attorney and applicant's life partner of more than 10 years⁴, testified to Mr. Glass's honesty and moral character. The Hearing Department found Ms. Hilden highly credible, writing: "Perhaps the most persuasive witness presented on behalf of the applicant was Ms. Hilden, who spoke sincerely and eloquently regarding his current moral character." (Hearing Dept. Decision, p. 10.) The Review Department agreed. (Review Dept. Opinion, p. 13.)

Ms. Hilden graduated from Harvard College *magna cum laude* and from Yale Law School. (IV Tr. 86:8; 87:13; 87:18-88:5.) She clerked for the Hon. Stephen Breyer, then Chief Judge of the U.S. Court of Appeals for the First Circuit, and the Hon. Kimba Wood of the U.S. District Court for the Southern District of New York; and was a Lecturer in Legal Writing at Cornell Law. (IV Tr. 91:6-7; 90:18; 88:14-17.)

Ms. Hilden worked for Williams & Connolly in Washington, D.C. for three years. (IV Tr. 91:23-25.) Under the supervision of David Kendall, she assisted in the defense of then-President Bill Clinton and then-First Lady Hillary Clinton in certain civil actions. (IV Tr. 92:1-15.) Although admitted to practice law in New York and D.C., she currently works as a writer and editor. (IV Tr. 86:2-5, 92:16-24, 93:2-13, 95:12-19.)

Ms. Hilden testified that when she was introduced to Mr. Glass, in 2000, she was

⁴ Counsel for the Committee of Bar Examiners cross-examined Ms. Hilden on why she and Mr. Glass were not married. She explained: "I'm not going to marry anyone until gay people can marry who they choose, for one thing, and I think Steve feels the same way...." (IV Tr. 123:17-19)

“skeptical,” having been a *TNR* subscriber, who read some of his fabricated articles. (IV Tr. 98:19, 117:2-6.) She decided to put Mr. Glass on “probation.” (IV Tr. 98:19-99:8.) Within five or six months, they saw each other “every weekend,” and were “really dating and in a relationship.” (IV Tr. 102:10-12.)

In 2001, Ms. Hilden suffered a “serious medical problem,” and went to an E.R. in New York, where she lived. (IV Tr. 102:16.) Mr. Glass immediately traveled from D.C. to her bedside. (IV Tr. 102:24-103:4.) Ms. Hilden underwent “a 10-month siege of illness,” during which Mr. Glass devotedly cared for her. (IV Tr. 103:13-22.)

Mr. Glass moved to New York later in 2001, and moved in with Ms. Hilden in 2003. (IV Tr. 103:23-25, 104:19-25.) They have lived together ever since. (IV Tr. 105:1-3.)

Ms. Hilden has observed changes in Mr. Glass since they started dating. Initially, he showed signs of trauma, including nightmares that continue, but with less frequency, to the present. (IV Tr. 106:15-107:5.) However, Ms. Hilden observed “he’s become much more of a confident person.” (IV Tr. 105:8-15.)

She believes Mr. Glass matured after his misconduct, becoming more empathetic. He “connects with people emotionally and I think he draws upon his own experience in doing that.” (IV Tr. 108:3-18; 109:2-6.)

She testified honesty was very important to her: “Yes, absolutely. I mean, I don’t know how you could have a relationship without that, or I think, when relationships lose that, then they fall apart.” (IV Tr. 101:15-17.)

Ms. Hilden testified Mr. Glass has “never” been dishonest with her, or she would have likely left the relationship. (IV Tr. 113:19-114:15.) She testified honesty is “a hugely important value to” him. (IV Tr. 115:19-25.)

d. Four Longtime Friends

i. Lawrence Berger

Lawrence Berger is a friend of Mr. Glass’s, who has known him for more than 10 years. (IV Tr. 25:8-10.) He testified that, based on “a lot of close personal observation, in fairness, probably more than one would subject an ordinary friend to, because of Stephen’s past...,” it is his opinion that the applicant is “remarkably ethical.” (IV Tr. 18:4-19:2.)

Mr. Berger graduated from Yale University *summa cum laude*, and was a Rhodes Scholar and White House Fellow. (IV Tr. 2:9-17, 3:7, 5:8.) He is the C.E.O. of Wireless Generation, an educational-technology company employing 400 people. (IV Tr. 9:1-2, 23.)

Mr. Berger testified he has “never heard an effort [by Mr. Glass] to minimize [his misconduct], and, if anything I would say it plays a significant part in his emotional life even to this day....***” (IV Tr. 20:11-13.)

ii. **Melanie Thernstrom**

Melanie Thernstrom, a journalist and friend of Mr. Glass, testified she has known the applicant “very closely” for more than 10 years and is “in close touch” with him. (III Tr. 9:15-16.) For instance, when Ms. Thernstrom broke up with her ex-fiancé, she stayed with Ms. Hilden and Mr. Glass, who “helped me get back on my feet....***” (III Tr. 11:12-12:3.)

Ms. Thernstrom graduated from Harvard with highest honors; earned an M.F.A. in Creative Writing from Cornell; published three books; had her journalism published in *The New Yorker* and *Vanity Fair*; and is a contributing writer for *The New York Times Magazine*. (III Tr. 6:2-10, 4:1-19, 8:11-12, 2:7-16.) She testified:

“When Julie first told me she was dating [Mr. Glass], I was completely horrified, and as a journalist, you know, I had a very strong negative feelings about what he did, as you know, the members of my community all did, and certainly tried to talk her out of it.

“Then, getting to know him, you know, I went from horrified to skeptical, and then grudging, like, ‘Well, he seems nice, but he probably isn’t, you know, deep down. I’m sure you know, maybe it’s all an act,’ and then, in getting to know him closely over the years, the dawning realization that this is really an extraordinary person, that he is a really wonderful person, an incredibly good partner, just very kind, generous, loyal, responsible, empathetic, someone who really cares about other people....***

“***[T]his journey I took from horror to affirmation is one I saw every one of Julie’s friends go through over the years, and there is not a single friend of hers now who doesn’t feel the same way I do....***” (III Tr. 10:3-11:3.)

Ms. Thernstrom testified that the best evidence of her confidence in Mr. Glass’s positive moral character is that in 2009, she and her husband named Mr. Glass and Ms.

Hilden as the godparents and legal guardians of their children, were she and her husband to pass away:

“***I can think of no greater statement that speaks to how I feel about [Mr. Glass] than I would want him to raise my children.” (III Tr. 12:8-17.)

iii. Joanne Mariner

Joanne Mariner, an attorney and friend of Mr. Glass’s for more than a decade, was, at the time of her testimony, the director of Human Rights Watch’s Terrorism and Counter-Terrorism Program. (Exhibit “C”.) She is a 1992 Yale Law graduate and clerked for the Hon. Stephen Reinhardt of the U.S. Court of Appeals for the Ninth Circuit. (*Id.* at ¶ 2, 5.)

Ms. Mariner testified that from 2000 to 2004, she saw Mr. Glass “often several days per week” and has had “hundreds of conversations with Mr. Glass” over the past decade. Since Mr. Glass’s move to Los Angeles, they have remained “in touch.” She believes him to be “of excellent moral character” and to have “matured significantly, overcome his past transgressions, and changed for the better.” (*Id.* at ¶¶ 22, 24, 25.) She “would trust Mr. Glass with her own legal affairs” and “would feel completely comfortable working alongside him on a legal matter.” (*Id.* at ¶ 25.)

iv. Crispin Rigby

Crispin Rigby – a friend of Mr. Glass’s since 1997, prior to Mr. Glass’s being terminated from journalism – has seen Mr. Glass mature into a person “committed to an

honest and trustworthy life.” (Exhibit “E” at ¶ 20.)

Since graduating from law school in 2001, Mr. Rigby has worked for the U.S. Department of Labor on projects concerning labor abuse in the developing world, and HIV/AIDS education. (*Id.* at ¶ 2(f), (g).) He testified to Mr. Glass’s rehabilitation. (*Id.* at ¶¶ 14, 18.)

**e. Mr. Glass’s Character Witnesses
Had Ample Knowledge Of His Misconduct**

Without citing to the record, the Committee asserts that Mr. Glass’s character witnesses lacked sufficient knowledge of his misconduct. (Petition, p. 41.) In fact, each of them was fully aware of the nature and magnitude of his deceptions, not only from what Mr. Glass had told them in great detail, but also from the media. Moreover, virtually all of Mr. Glass’s character witnesses testified to having read both parties’ Pre-Trial Statements, in which Mr. Glass’s misconduct and efforts at rehabilitation, as well as the Committee’s allegations, were set forth. The Review Department has stated, in the discipline context, that a character witness’s knowledge of an attorney’s misconduct may be established by showing the witness reviewed the Pre-Trial Statements. *See In The Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50, fn. 20.

Drs. Friedman and Rosenthal also read Mr. Glass’s voluminous Moral Character Application. (IV Tr. 64:9-11; VIII Tr. 95:15-22)

E. Responses To Certain Of The Committee's Contentions

**1. Contrary To The Committee's Contentions,
Mr. Glass Has Identified All Of His Fabrications**

The Committee argues that *Mr. Glass* is not rehabilitated for two principal reasons:

First, the Committee states that, in 1998, Mr. Glass “failed to formally disclose to the editors of *TNR* at least eight fabricated articles.” (Petition, p. 23.) However, there is no dispute that at the time, Mr. Glass was distraught and contemplating suicide; that he has since informed *TNR*'s editor-in-chief of every fabricated article; and that he came forward to disclose the eight articles at issue to *TNR* as soon as he realized they had been omitted – and at the very time when he knew doing so could most hurt his chances with the California Bar.

Second, the Committee claims “those fabricated articles remain in the public domain.” (Petition, p. 23.) As the articles are copyrighted and thus not in the public domain, the applicant believes the Committee is referring to clarification of the public record. But that record is already unequivocal: Mr. Glass has repeatedly, publicly made clear his journalism is not to be trusted.

**a. Mr. Glass's Initial Failure, in 1998, To Disclose
The Eight Fabricated Articles To *TNR*
Was Due to Severe Emotional Distress**

In 1998, just three weeks after Mr. Glass was very publicly fired from journalism, *TNR* sent Mr. Glass's counsel, Gerson Zweifach, a list of articles *TNR* suspected were

fabricated. *TNR* and Mr. Glass had entered into a joint defense agreement, at *TNR*'s suggestion. (VIII Tr.121.) Pursuant to that agreement, Mr. Glass was to review the list, and confirm to Mr. Zweifach which articles he remembered as containing fabrications. Mr. Zweifach would then communicate the results to *TNR*'s counsel. (VII Tr. 121:6-9, 102:10-13; II Tr. 77:2-12, 79:23-80:3; V Tr. 202:7-16.) *TNR* required a response by the close of business the next day. (VI Tr. 16:4-11, 18:7-14.)

Mr. Glass confirmed that 23 of the articles on the list – the vast majority of the suspected articles – contained fabrications. He believed he had identified every single such article on the list. However, at the time, the 25-year-old Mr. Glass was under severe emotional distress and contemplating suicide, and due to his emotional state, he inadvertently failed to identify four of the articles on the list as having been fabricated.

Mr. Glass described his life at the time as like having “fallen off of a cliff” and then being hit by a “tsunami.” (V Tr. 191:18-24.) He felt “like the entire world knew who [he] was” and he was ashamed. (V Tr. 194:6.) He was “sleep-deprived” and “constantly scared.” (V Tr. 195:23-24.) He received “endless phone calls, wanting interviews, mocking me, leaving nasty messages,” and had to turn off the car radio when “people were calling in to argue about me.” (V Tr. 194:8-10, 22-23.) He received notes in his Georgetown mailbox that said things like “liar.” (V Tr. 195:4.) He did his grocery shopping at night, to avoid seeing people. (V Tr. 197:2-7.) Strangers who read about Mr. Glass approached him; “overwhelmingly” the interactions “were hostile” and “threatening-feeling.” (V Tr. 198:9-10.)

Mr. Glass considered suicide, telling his parents “how the world would be better without me....” (V Tr. 184:20-22.)

“At that point, I was never sleeping, or very little, and that night was particularly bad. I was experiencing night terrors. I was trying to drink caffeinated beverages [so as] not to fall asleep, because, when I would fall asleep, I would re-experience the entire firing....***

“I would relive the whole firing, like, in my mind; and I would wake up – I was sleepwalking again, which I had done as a child, which I only knew because I would wake up in places other than where I’d fallen asleep. I would have cold sweats.

“So I hated both being awake and being asleep, but I was never really sleeping, and so [the night before meeting Mr. Zweifach] was a particularly bad night. I didn’t go to sleep. I was upset. I was crying....” (VI Tr. 16:23-17:13.)

Three other witnesses testified to Mr. Glass’s distress during that period. Mr. Peretz, *TNR*’s editor-in-chief, testified Mr. Glass was “desolated.” (II Tr. 136:15.)

Mr. Glass’s friend Crispin Rigby testified,

“Mr. Glass looked like he had trouble articulating his words, he physically shook, he cried, and he had great difficulty focusing. I was exceedingly concerned for Mr. Glass’s mental health.” (Exhibit “E” at ¶ 8.)

Ms. Hilden – prior to actually meeting Mr. Glass – happened to see Mr. Glass at this time. She testified:

“[W]hen I was working at Williams and Connolly, in D.C., I worked for a partner named Gerson Zweifach pretty frequently, and although I did not represent [Mr. Glass] at all, Gerson represented Steve.

“So one day I was going in to get Gerson to sign something in his office, and I noticed Steve was sitting in his office, and I did not know Steve, but I recognized him because of all the media coverage, and I looked at him, and I just went, ‘My God. This person is like the most depressed person that I’ve ever seen.’

“The Court: Depressed?

“[Ms. Hilden:] Depressed, yes, just depressed and devastated, and I remember commenting on it to Gerson later, and just saying, ‘My God. That guy is just destroyed by, you know, what’s going on.’” (IV Tr. 96:12-97:2.)

The following morning, Mr. Glass appeared at Mr. Zweifach’s office to review the list of fabrications, but was overwhelmed. (VI Tr. 17:25.) What was supposed to be a “very quick” meeting took “most of the day” because of Mr. Glass’s fragile emotional state. (VI Tr. 17:23, 18:18.):

“At first we met in [Mr. Zweifach’s] office, because I think he thought I’d just kind of sit across the desk from him and we’d go through this list of stories, I’d identify what was fabricated, and this would be very quick, but it was not possible. I was clearly – I was incapable, basically of doing it when I arrived.... I was not able to focus. My eyes were blurry from crying.

“***

“I couldn’t even really open the list. I couldn’t, like, look through it. I couldn’t handle it. I was shaking. And so he sent me to a conference room for a while. Then he would periodically check in on me, and I was not focusing.... And he told me, ‘Can you kind of pretend that this is somebody else, so as we can get through this?’ And that helped a little bit, but not much.... I was a mess, and I could barely – I was a wreck.” (VI Tr. 18:15-19:18.)

“***But for the fact that attorneys were involved, there would ultimately have never – well, not never, but, at the time, there would not have been any kind of working or cooperation. I was not able to focus.***” (VI Tr. 18:20-24.)

Over the course of the meeting with Mr. Zweifach, Mr. Glass confirmed that 23 articles on the list contained fabrications; they were subsequently identified in a correction published in *TNR*. Between this correction and a prior correction, *TNR* had now, with Mr. Glass’s cooperation, publicly identified 27 of his articles as containing fabrications. (II Tr. 89:11-17.)

Mr. Glass testified that, when he left the meeting with Mr. Zweifach:

“I believed I fully cooperated. It was a punishing and difficult experience. I was very upset, and I believed that I had answered the questions truthfully that were put to me.” (VI Tr. 24:25-25:2.)

Mr. Glass’s belief he had cooperated is confirmed by the fact that, later that same day, he wrote a letter to Mr. Lane and Mr. Peretz apologizing for the fabrications, stating he was seeing a psychiatrist, and offering ongoing cooperation. (II Tr. 75:25-76:4; VII Tr. 107:18-110:9.) Mr. Glass wrote that he had “just returned from my lawyer’s office” and “asked [Mr. Zweifach] to cooperate with *TNR* in its upcoming analysis of my stories.” (Exhibit 18) Mr. Glass was so distressed at the time that his mother had to assist him in writing the letter. (VII Tr. 113:13-16.)

Mr. Peretz is not critical of Mr. Glass for failing to identify the additional fabrications, because he observed Mr. Glass’s mental state:

“***I knew that Steve was desolated, and his contrition was so obvious to me that I see no point in saying, ‘He left out this article’ or ‘He left out this mistake or deliberate error....’” (II Tr. 136:14-17.)

b. In 2009, Mr. Glass Came Forward To Identify Eight Additional *TNR* Articles Containing Fabrications To The Bar And To *TNR*’s Editor-in-Chief

Years later, while working on his application to the California Bar, Mr. Glass prepared a list “of all the fabrications...” (VI Tr. 28:8-9.) In so doing, Mr. Glass:

“...did an exhaustive reading of all of my pieces, and determined that, and came to realize that the listing of *TNR* was not complete.***” (VI Tr. 28:10-13.)⁵

Specifically, Mr. Glass realized that eight articles that had not appeared in *TNR*’s corrections contained fabrications. Four of the eight had been on *TNR*’s June 1998 list of suspected fabrications, but were not included in the magazine’s published corrections. (VII Tr. 105:24-106:10.) The other four were apparently not suspected by *TNR* to have been fabricated, and thus also were not on the list of articles Mr. Glass reviewed in Mr. Zweifach’s office. (VII Tr. 104:5-7.)

⁵ After Mr. Glass was fired, he testified, he “barely read” *TNR*, as it was too “painful.” (VI Tr. 27:12, 19) While he was aware that the corrections identifying his fabrications had been published, he did not read them. (VI Tr. 27:16-20)

With respect to the first four articles – which were on *TNR*'s suspected-fabrication list, but were not confirmed by Mr. Glass as fabricated:

“I don't remember exactly what happened.... I must not have affirmed those as having been fabricated. They're the three last stories on the list [of suspected fabrications]. I do know that I was trying to get out, and hating it, and crying and stuff, and so, piecing it together, that probably had a role in what was going on....” (VI Tr. 21:21-22:2.)

“I don't remember what I did, but I take ownership for having failed to, because clearly, I must not have. I just remember being a mess, and I don't remember exactly – I know three are the last three [on the June 1998 list], but in no way do – I simply don't have a clear memory of why that happened, but, obviously, that's my responsibility and my fault. (VI Tr. 24:6-21; 106:24-107:8.)

The Hearing Judge reviewed the text of these four articles and found that “none... contained major fabrications, but rather involved isolated fabricated facts.” (Hearing Dept. Decision, p. 16, fn. 14.) This may explain why a distraught Mr. Glass did not identify these articles as fabricated.

With respect to the other four articles, Mr. Glass testified that in June 1998, when he was in a distraught state of mind and reviewing *TNR*'s list of suspected fabrications, he “did not realize that there were [an additional] four articles that contained fabrications that were not on the list.”⁶ (VII Tr. 104:5-7) The Committee suggests the omission of these articles was intentional, but as Professor Cohen, who has published in *TNR*, pointed

⁶ During his review, Mr. Glass did not have access to a computer, nor did he have a master list of all his articles. (VI Tr. 21:2-3) He only had *TNR*'s list of suspected articles.

out, “***It is highly implausible that [Mr. Glass] would disclose all the fabrications that he engaged in, and then conceal just a few of them.” (II Tr. 197:2-7.)

c. **When Mr. Glass Realized *TNR*’s Corrections Were Incomplete, He Informed Both the Bar and *TNR*’s Top Editor**

When Mr. Glass realized that *TNR*’s corrections did not identify all of the articles he had fabricated, he promptly informed the California Bar of the existence of the additional eight fabricated articles, despite knowing this admission could hurt his application. Mr. Glass also informed Mr. Peretz, the magazine’s top editor, of the additional fabricated articles.

Given the large number of fabrications to which Mr. Glass admitted in 1998, Mr. Peretz testified that he found the presence of the additional fabrications “not material” and “irrelevant” and believed no additional correction was warranted. (IX. Tr. 200:14-17.) Mr. Peretz testified that, in his opinion, “The question whether Steve fabricated 36 articles or 41 or 29 is not material.” (II Tr. 166:12-16.) Mr. Peretz added:

“...[A]s the owner of the magazine, I knew that Steve was desolated, and his contrition was so obvious to me that I see no point in saying, ‘He left out this article’ or ‘He left out this mistake or deliberate error’....” (II Tr. 136:14-17.)

The Court has reasoned similarly in two previous cases. In *Lubetzky v. State Bar* (1991) 54 Cal.3d 308, 318, the applicant failed to identify two lawsuits in which he had been involved. The Court found the omissions “not morally significant,” *Id.* at 319, as

the applicant had disclosed enough to demonstrate his litigiousness. Likewise, in *Hallinan, supra*, 65 Cal.2d 447, the Court was unconcerned that the applicant had failed to mention one arrest and that he was a nominal party in a will contest. “In view of all the admitted arrests,” the Court said, “petitioner’s nondisclosure of these two relatively unimportant matters could not reasonably have been motivated by the belief that disclosure would harm his cause.” *Id.* at 473.

**d. Mr. Glass Has Publicly Made It Clear
That His Journalism Cannot Be Relied Upon**

Mr. Glass has continuously and publicly emphasized that his journalism is replete with fabrications and is not to be relied upon. On *60 Minutes*, Mr. Glass apologized for the entirety of his career in journalism. (Exhibit 1, pp. 398-401; Exhibit 35.)

Accordingly, when the Committee asked Mr. Peretz whether he felt *TNR* was “duty-bound” to inform readers that those additional eight articles were false, he testified “No.” (II Tr. 166:19-167:8.)

Melanie Thernstrom – a friend of Mr. Glass’s and a contributing writer for *The New York Times Magazine* – testified she, too, believes no additional public correction is necessary. When asked whether knowing that Mr. Glass did not identify every one of his fabricated articles had affected her opinion of his character, she replied:

“No, because I feel like it’s very sophistic.... [H]e said that he was a liar, that the articles he wrote were a fraud at the time, and he’s apologized for all – for his entire journalistic career in those years, and so I don’t feel like – and he’s acknowledged many, many fabrications, articles that were wholly fabricated, articles that were partly fabricated.

“So I think the idea of picking on – you know, was it 37 he fabricated or was it 42? Like, I don’t see that that bears on his character or anything relevant to the present. I don’t think that any of these are genuine live issues with any import.

“***

“None of these articles that he wrote, even the ones that are true, have any credibility whatsoever. I mean that’s the problem with once you start making things up. So I feel like, for all intents and purposes, all of those articles are thoroughly discredited now.***” (III Tr. 37:15-38:18.)

After reviewing the trial testimony, the Review Department agreed:

“***Glass has not asked us to excuse his failure to fully identify the fabrications [in 1998], and we observe that after 1998, it became increasingly less necessary to ferret out and retract every one of the published lies because Glass’s entire body of work has been so thoroughly and publicly discredited.” (Review Dept. Opinion, p. 6.)

The Committee similarly criticizes Mr. Glass for not publicly identifying his fabrications in *George*, which no longer exists, and in his one article for *Harper’s*. (IX Tr. 41:16-18.) The evidence at trial, *infra* at p. 47, was that in 1998 Mr. Glass directed his attorney, Mr. Zweifach, to “cooperate” and “communicate” with *George* and *Harper’s* to identify his fabrications, and “offer the same joint defense agreement” he had entered into with *TNR* and *Rolling Stone*. (VI Tr. 31:15-16; VII Tr. 94:20, 95:2-3.)

2. **The Committee Mischaracterizes The Record Concerning Mr. Glass's New York Bar Application**

The Committee's petition and the dissenting opinion in the Review Department emphasized two statements Mr. Glass made to the New York Bar, one in 2002 and one in 2003. The Committee's petition mischaracterizes the record.

a. **The Hearing Judge Found The "Credible Testimony" To Be That Mr. Glass "Worked Together" With His Counsel, To Identify The Fabrications And Contact The Magazines**

First, the Committee argues that one sentence in Mr. Glass's multi-volume application to the New York bar, which was written in 2002, was "less than forthright."

(Petition, p. 29) Mr. Glass wrote:

"I also worked with all three magazines [*TNR*, *Rolling Stone*, and *George*] and other publications [*Harper's* and *Policy Review*] where I had written freelance articles to identify which facts were true and which were false in all of my stories, so that they could publish clarifications for their readers." (Exhibit 1)

The Hearing Department, after considering the evidence, found as follows:

*****The credible testimony at trial was that the applicant and his attorney worked together identifying the articles that contained fabrications.** He also asked his attorney to contact the other magazines involved to sort out the fabrications.***" (Hearing Dept. Decision, p. 15; emphasis supplied)

The Hearing Department's finding of credibility is to be "accorded significant weight on review." (*Gossage, supra*, 23 Cal.4th at 1096.)

In June 1998, within one month of Mr. Glass's firing, *TNR* provided Mr. Glass

with the list of articles suspected to contain fabrications, and Mr. Glass confirmed that 23 articles on the list contained fabrications. (VI Tr. 16:19-22; II Tr. 89:14-15) The correction *TNR* published after that meeting evidences that Mr. Glass “worked with” the magazine:

“*TNR* has completed its investigation of the articles written by Stephen Glass, the former associate editor whom we dismissed for fabricating three recent stories and parts of a fourth. We thoroughly rechecked 37 remaining pieces. As a final step, we sought comment from Glass, who made further admissions.” (Exhibit 1, p. 294, emphasis supplied.)

Mr. Glass also “worked with” *Rolling Stone* to identify his fabrications. They entered into a joint defense agreement, and Mr. Glass and Mr. Zweifach talked with the magazine about the fabrications. (VI Tr. 31:12-13, 31:25-32:1.) In the August 6, 1998 issue, *Rolling Stone* published a correction stating Mr. Glass had “acknowledge[d]” his fabrications. (Exhibit 1 at p. 392, IX Tr. 221:12-17, 222:9-223:8.)

Mr. Glass also worked with *Policy Review* to identify his fabrications, in a phone conference with then-editor Adam Meyerson. (IX Tr. 45:11-46:9; VI Tr. 32:7-11.)

Policy Review subsequently published a correction. (Exhibit 1 at pp. 389-390.)

Finally, Mr. Glass testified that he directed his attorney, Mr. Zweifach, to “cooperate” and “communicate” with *George and Harper’s* to identify his fabrications,

and to “offer [them] the same joint defense agreement.” (VI Tr. 31:15-16; VII Tr. 94:20, 95:2-3.)⁷

Mr. Glass believed his counsel had followed up on his direction to offer cooperation to *George* and *Harper’s* in identifying the fabrications. (IX Tr. 207:12-17, 212:12-17 (refreshing recollection with Mr. Zweifach’s bills for a phone call to both a *Harper’s* and a *George* editor).)

Furthermore, with respect to *Harper’s*, Mr. Glass testified that he understood that Mr. Zweifach responded to a letter from *Harper’s* by confirming Mr. Glass’s fabrications. (IX Tr. 242:3-6.) Moreover, Mr. Glass testified that he believed he had appropriately communicated with *Harper’s* because the magazine’s top editor, Mr. Lapham, subsequently forgave him. (Exhibit “V”).

Mr. Glass testified:

“***I would not have believed that there was still an outstanding issue [with *Harper’s*] if Mr. Lapham accepted [the apology].” (IX Tr. 243:7-11.)

The Hearing Department found Mr. Glass was “not dishonest in any way” when he testified he believed that *Harper’s* accepted his apology. (Hearing Dept. Decision, p. 17.)

⁷ Corroborating Mr. Glass’s testimony, was deposition testimony Mr. Glass provided in 1999, stating he had previously instructed Mr. Zweifach to offer his cooperation with all of the publications. (Exhibit 1, Vol. II, p. 867.) Mr. Zweifach was present at the 1999 deposition; had he somehow not previously understood Mr. Glass’s direction, it would have been clarified. (*Id.*)

The Review Department found:

“Glass’s statement about the level of his assistance in identifying fabricated articles was not completely accurate. As he clarified at the trial below, Glass and his attorney worked together to identify the articles that contained fabrications, and then Glass left it to his attorney to contact the various affected publishers because Glass was far too emotionally distraught to do so himself. The State Bar did not prove whether Glass’s attorney failed to ‘work with’ some of the publishers and neither did Glass establish that his attorney had completed the task as requested.

“Nevertheless, in view of the overwhelming evidence of Glass’s reform and rehabilitation, we are unwilling to deny Glass’s application based on this single statement, which was made nine years ago when Glass was still coming to terms with his personal and professional failures. Perfection is not required in these proceedings.***” (Review Dept. Opinion, p. 16.)

The Hearing Department likewise found, “[T]his court concludes that this perhaps overly-broad statement was made through inadvertence on applicant’s part.” (Hearing Dept. Decision, p. 16.)

**b. Mr. Glass Appropriately Complied
With The New York Bar’s Request**

Second, the Committee argues that Mr. Glass was “less than forthright” in 2003 when he responded to a request from the New York Bar for a list of his articles containing potentially negative, false statements about actual persons or entities. (Petition, p. 30.) Mr. Glass provided the New York Bar with a seven-page, single-spaced list identifying and discussing 20 such articles. (Exhibit 1, p. 238-244) The Committee argues that one additional article should have been included, for a total of 21.

Mr. Glass testified he did not include that article because it was a false statement

about an imaginary person, as opposed to a real person, and thus did not come within the New York Bar's request, with which Mr. Glass carefully complied. (VIII Tr. 37:12-38:2; 135:24-25.)

Yet Mr. Glass still acknowledged the wrongness of the article, sending a letter of apology to the company for which he had said the fictional person worked. (VII Tr. 137:5-6; VI 38:2-10.)

The Committee, in passing, claims two other articles should have been included, for a total of 23. (Petition, p. 35.) But the Hearing Department found those two articles did not come within the subset requested by the New York Bar, as they did not cast the subjects in a negative light. (Hearing Dept. Decision, p. 17.)

Furthermore, Mr. Glass included a cover letter and a header to his subset list of fabrications for the New York Bar, both of which confirmed the New York's Bar's specific request and noted that while the applicant "tried to be thorough and comprehensive in this submission," there may be "an inadvertent omission...." (Exhibit 1, pp. 236, 238.)

Finally, the Committee criticizes the applicant for not providing a complete listing of every fabricated article to the New York Bar. (Petition, p. 35.) But, the undisputed evidence at trial – including a contemporaneous letter between Mr. Glass and the New York Bar – confirms the New York Bar requested only a subset of Mr. Glass's fabrications. (Exhibit 1, p. 236.) The list itself re-confirms this limitation, in a paragraph Mr. Glass wrote at the top of the first page. (Exhibit 1, p. 238.)

Additionally, the Review Department noted: “Glass unhesitatingly testified at the New York hearing that he had fabricated between 30 and 40 articles...” and that the list was only a response to the New York Bar’s request for a subset. (Review Dept. Opinion, p. 16.)

Mr. Glass provided a complete list of all fabrications to the California Bar, as requested.

3. *TNR Declined Mr. Glass’s Offer To Repay His Salary As Unnecessary And The Review Department Found Monetary Restitution Inapplicable*

The Committee’s focus on monetary restitution is an attempt to distract attention from the real issues – whether Mr. Glass presently has good character and has been rehabilitated, and whether he has made amends that are truly meaningful. As the Review Department explained:

“We consider [the applicant’s] present character in light of his previous moral shortcomings. (*In re Menna, supra*, 11 Cal.4th at p. 988), and we are at a loss to understand how monetary restitution would mitigate the reputational harm that Glass had caused. While monetary restitution can be a ‘legitimate and substantial factor’ in an overall showing of rehabilitation, it is most relevant where the misconduct has caused *economic* harm to a victim. (*Id.* at p. 989-990)” (Review Dept. Opinion, p. 14.)

Notably, Mr. Peretz – the self-described “sole loss payor” of *TNR* for approximately 33 years – dismissed any notion that the magazine suffered meaningful economic harm because of Mr. Glass’s misconduct, testifying the costs were “not anything that shapes the universe....” (II Tr. 135:7-8; I Tr. 139:20-22.)

“***I actually think that the scandal reawakened people to the existence of *The New Republic*, and the movie⁸ probably helped our circulation. I mean, I’m not proud of that, but there it is.” (II Tr. 134:20-23.)

Indeed, when Mr. Glass offered to repay his *TNR* salary, Mr. Peretz called the idea “outlandish.” (II Tr. 135:11; IX Tr. 41:4-6.) Mr. Peretz also dismissed any need for Mr. Glass to pay *TNR*’s legal bills. (II Tr. 135:22-25.)

Among numerous other witnesses, Dr. Rosenthal, one of Mr. Glass’s psychiatrists, explained that the applicant made meaningful amends:

“I think he has tried to make restitution, and my understanding of restitution is that it’s not just a financial concept. It means to fix what’s been broken, and he has gone to significant lengths to either rebuild trust or to repair relationships.” (VIII Tr. 129:7-11.)

The Review Department made a similar finding:

“Glass has made considerable effort to redress the reputational harm suffered by his victims by repeatedly admitting publicly that his articles were riddled with lies, such that his entire body of work and his reputation as a journalist have been thoroughly discredited. In addition to these public admissions, Glass has sought to make amends privately to those he harmed by sending about 100 personalized apology letters.... We find that Glass’s efforts to mitigate the effects of his lies are more appropriately tailored to the reputational harm he caused than monetary restitution.***” (Review Dept. Opinion, p. 14.)

Finally, the Committee mischaracterizes the record in this regard, too, stating:

“Applicant never made a formal offer to *TNR* and never offered to make amends to the other magazines, their editors, or employees.” (Petition, p. 34.) This is simply incorrect.

⁸ Mr. Glass was not involved in any way with the film *Shattered Glass*, nor did he receive any compensation from the movie, nor was the movie an adaptation of his novel. (Hearing Dept. Decision, p. 24, fn. 24.)

Mr. Glass ultimately offered to repay his salary to Mr. Peretz, who was then the editor-in-chief of *TNR*. (Petition, p. 34; I Tr. 139:20-22.)

Furthermore, Mr. Glass offered *Rolling Stone* publisher Jann Wenner “to do anything he thought to make this correct....” (IX Tr. 41:11-12.) After accepting Mr. Glass’s apology, *Rolling Stone* rehired him to write for the magazine, apparently so that Mr. Glass could prove that he was capable of honest journalism. This evidences that *Rolling Stone* did not believe Mr. Glass owed restitution. (IX Tr. 41:11-16.)

Mr. Glass had a similar conversation with *Policy Review*, in which the editor conveyed that his apology was sufficient. (IX Tr. 45:14-15.) Moreover, Mr. Glass interpreted Mr. Lapham’s public forgiveness as an indication that his amends to *Harper’s* were sufficient. (IX Tr. 215:1-4.)

In sum, the Hearing Judge, the Review Department, and numerous witnesses found that Mr. Glass’s misconduct had to do with dishonesty and was not a financial matter as to which monetary restitution was required.

4. Mr. Glass’s Novel Is A “Cautionary Tale” That Was Written As Part Of His Therapy And Has Been Used In A University To Teach Ethics

The Committee criticizes Mr. Glass for authoring a novel. Approximately 80 of the book’s pages, although fiction, are inspired by the applicant’s journalistic misconduct. The remaining 259 pages bear “no relationship” to the author’s misconduct and recount purely fictional events. (IX Tr. 191:9-22.)

Mr. Glass testified he wrote the novel as a “cautionary tale” which imparts a positive moral lesson. (IX Tr. 129:11.) At least one university, George Washington, has used it “to help educate young students in ethics.” (IX Tr. 147:20-23, 97:1-6.)

The idea of the novel was initially suggested to Mr. Glass by his D.C. psychiatrist, Dr. Raphling. (Hearing Dept. Decision, p. 19, fn. 18; IX Tr. 94:2-8.) At trial, the Committee’s conceded it was “established” that the novel was “a therapeutic, cathartic experience” for Mr. Glass. (IX Tr. 105:19-20.)

The book’s gross earnings were approximately \$190,000. Mr. Glass paid approximately 25% of that sum in agent’s fees, leaving \$142,500 before taxes. Those earnings were the “principal way” Mr. Glass supported himself and constituted “virtually all” his income from August 2001 through October 2004. Mr. Glass testified that he used this money not only to support himself, but also to pay for his ongoing therapy, and for part of his legal expenses, which exceeded \$50,000. (IX Tr. 85:19-25-87:15, 212:22.)

**5. Mr. Glass Appeared On “60 Minutes”
To Publicly Account For His Wrongdoing
And To Apologize For His Entire Journalism Career**

The Committee asserts that Mr. Glass’s 2003 appearance on *60 Minutes* was self-serving. However, the record shows Mr. Glass appeared on the program to publicly account for his wrongdoing.

On the program, Mr. Glass did not minimize his misconduct, but apologized for his entire journalism career. (IX Tr. 86:18-21; Exhibit 1, p. 398; Exhibit 35.) He stated

that, at the time of his fabrications, “My life was one very long process of lying and lying again, to figure out how to cover those other lies.” (Exhibit 1, p. 398.)

The Review Department found that Mr. Glass did not make excuses:

“***In the *60 Minutes* interview, [Mr. Glass] recounted his history as a journalist and detailed his very public outing as a fraud. Glass admitted his conduct was wrong and acknowledged he had hurt co-workers, editors, family, friends, and readers.***” (Review Dept. Opinion, p. 7.)

Mr. Glass testified that he wanted to:

“***talk publicly about what I had done, and I wanted to make that clear that I had lied, and make it known in a very public way, since what I had done was very public....***” (VI Tr. 83:1-6.)

Had Mr. Glass’s appearance been self-serving, he would have appeared on a program with a reputation for asking easy questions, not *60 Minutes*. Mr. Glass testified it was “really important” to him that the “interview be with somebody who would ask me hard questions.” (VI Tr. 83:11-13.)

6. Mr. Glass Is Not Required To Re-Establish His Standing In The Journalism Community

The Committee argues that Mr. Glass is required to re-establish his standing in the journalistic community, but fails to explain why. Moreover, the Committee itself has presented at least one witness, Mr. Bradley, who stated that the journalistic community would never accept Mr. Glass back (VIII Tr. 32:8-11.), and the Committee itself acknowledges it is “unlikely [Mr. Glass] would ever be hired again as a journalist.” (Review Dept. Opinion, p. 14.) The issue is not how certain communities might react to

Mr. Glass based upon his past misconduct, but whether the record proves his rehabilitation.

7. **The Allegation Of Racism Is Meritless**

Finally, the Committee strains to raise the issue of “racism,” apparently hoping for a reflexive reaction by this Court. It is absurd to believe that the liberal *TNR* or *Harper’s* would publish what the Committee purports to be racist material.

Further, *TNR’s* editor-in-chief, Mr. Peretz, referencing his civil-rights credentials, testified the idea for the article “Taxis and the Meaning of Work,” which the Committee cites, was his own. He testified that the article itself was not “written in a racially-biased way. I mean, I think people who charge that are really groveling.” (II Tr. 138:7-9; II Tr. 138:22-139:1.) As Mr. Glass testified, his articles mocked groups across the political and racial spectrum, including white conservatives and Christians. (IX Tr. 187:8-188:1.) Furthermore, as discussed, *supra*, Mr. Glass’s hundreds of hours of *pro bono* service has included work for victims of race-based violence.


Neither the Hearing Judge nor the Review Department accorded the allegation of racism any significance.

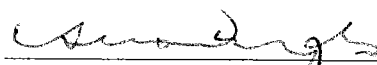
III. CONCLUSION

For the foregoing reasons, the Committee's petition for review should be denied.

DATED: September 25, 2011


Margolis & Margolis, LLP

By: 
Arthur L. Margolis

By: 
Susan L. Margolis

DATED: September 27, 2011

Law Office of
Michael A. Willemsen

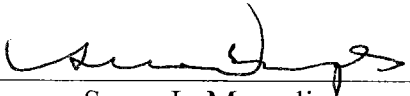
By: 
Michael A. Willemsen
Attorneys for Applicant,
Stephen Randall Glass

WORD COUNT CERTIFICATE
(Rules of Court, R. 8.504(d)(1))

I, Susan Margolis, state as follows:

1. I am co-counsel for Applicant Stephen Randall Glass, respondent in this action.
2. I certify that the word count of the computer software program used to prepare this document is 13,866 words, excluding the table of contents, table of authorities, the cover, the signature blocks, and this word count certificate.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 26, 2011, at Los Angeles, California.



Susan L. Margolis

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of SAN FRANCISCO, State of California. My business address is

1688 Sacramento St. #502, SAN FRANCISCO, CA 94109

On September 27, 2011, I placed a true copy of the following document:

ANSWER TO PETITION FOR REVIEW

in a sealed envelope, addressed as stated below.

I hand-served that envelope to the following addresses:

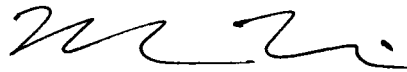
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San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on September 27, 2011, at SAN FRANCISCO, California.

MARKUS NOROVIC

Print Name



Signature