IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In the Matter of	Case No. S196374
STEPHEN RANDALL GLASS,	
Applicant for Admission.	

REPLY OF THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA TO APPLICANT'S SUPPLEMENTAL BRIEF

Starr Babcock, State Bar No. 63473
Richard J. Zanassi, State Bar No. 105044
Rachel Grunberg, State Bar No. 197080
OFFICE OF GENERAL COUNSEL
THE STATE BAR OF CALIFORNIA
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2309
Facsimile: (415) 538-2321
Email: ogc@calbar.ca.gov

Attorneys for Petitioner
The Committee of Bar Examiners of
The State Bar of California

OF COUNSEL:
Brandon Tady, State Bar No. 83045

TABLE OF CONTENTS

Pages

TABLE OF AUTHORITIES

Pages

Cases

TABLE OF AUTHORITIES

Pages

Miscellaneous

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In the Matter of	)	Case No. S196374
	)	
STEPHEN RANDALL GLASS,	)	
	)	
Applicant for Admission.	)	
	)	

REPLY OF THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA TO APPLICANT'S SUPPLEMENTAL BRIEF

I. INTRODUCTION

This is not a story about moral failure and subsequent redemption as Applicant would have this Court believe. Applicant's serial lies shocked the conscience of the journalism community and the American public, and Applicant has done little, if anything, to repair the damage he has done. Compared to his prior misconduct, which can only be deemed extraordinary, Applicant's efforts at rehabilitation have been nothing but ordinary. As highlighted in his Supplemental Brief, his primary showing of rehabilitation includes attending school, finding work, creating a stable and fulfilling personal life, and going to therapy. These are commonplace endeavors that are undertaken by many people in society who have done nothing wrong and who are not seeking to establish rehabilitation.

Further, what little outward effort he has made should be viewed as opportunistic and self-serving. The timing of his self-proclaimed acts of contrition all center around circumstances that are aimed at benefiting him rather than his victims, such as promoting his book "The Fabulist" and attempting to gain admission to the New York and

California bars.

When considering the application for admission to practice law of someone with Applicant's remarkable record of fraud and deceit, this Court requires more. Where, as here, Applicant has committed prior egregious misconduct, the high standard mandated by this Court is clear and warrants "a truly compelling demonstration of moral rehabilitation as a condition of his admission to the bar of this state, i.e. 'overwhelming [] proof of reform ... which we could with confidence lay before the world in justification of a judgment ... installing him in the profession ....'" (*In re Menna* (1995) 11 Cal.4th 975, 989 [47 Cal. Rptr.2d 2, 905 P.2d 944].) "Overwhelming proof must include at minimum a lengthy period of not only unblemished, but exemplary conduct." (*Id.* at p. 989.)

Accordingly, Applicant carries a heavy burden and must demonstrate overwhelming and exemplary behavior over a sustained period of time – that is, an unblemished record coupled with outstanding conduct, which goes beyond the norm. This is especially true where Applicant's violation of the core principles of journalism also equates to a violation of the "the fundamental rule of legal ethics – that of common honesty – without which the profession is worse than valueless in the place it holds in the administration of justice." (*In re Menna, supra,* at p. 989.)

In light of his serious past misconduct, Applicant must do more than just live a suitable lifestyle. He must engage in affirmative good deeds to give back to the community he disgraced and the victims he harmed. These are not unreasonable demands – they are valid and objective measures of rehabilitation, which embrace the

mandates required by this Court. On this record, Applicant has fallen fatally short in this regard.

Not only has he failed to demonstrate the necessary showing of rehabilitation, but he has a litany of excuses for why his actions have been incomplete, misunderstood, or ill-timed. In each instance where there is a question as to an act or omission on his part, he argues that he should be given the benefit of all equally reasonable inferences and that his "state of mind" should be controlling. However, beyond the obvious – that the state of mind of a known liar is entirely problematic – the Committee believes that his shortcomings belie his claim of overwhelming reformation. Most significantly, Applicant never voluntarily compiled a full list of all of his fabricated articles. It was not until ***2009***, under the demands and scrutiny of the State Bar of California, that he finally put a list together. Given that it took him over eleven years to undertake this responsibility, his priority was clearly not the victims he harmed, but rather, his own goal of becoming a lawyer. Also notable is the fact that the list was given to the Committee of Bar Examiners, in confidence, in a closed proceeding that was inaccessible to the magazines, the subjects of his libelous stories, and the public.

As duly recognized by the Dissenting Judge in the Review Department Decision, Applicant's presentation of information is often done in a way that benefits him, which is "the same behavior as his earlier misconduct." (Review Department Dissent, p. 18.)

The Committee reaffirms its position that, given the record in this case, Applicant has not met the requisite showing necessary for admission to practice law in California, and herein responds to the issues raised in Applicant's Supplemental Brief.

II. ARGUMENT

A. The Appropriate Standard Of Review Is De Novo.

Unquestionably, de novo is the correct standard of review in this case. However, relying on narrowly applied First Amendment precedent, Applicant claims that this Court must adhere to a more limited standard of independent review, which would require it to be bound by the credibility determinations and related findings of the hearing judge. (Supplemental Brief, pp. 15-17.) This is pure sophistry.

Generally, the terms "independent review" and "de novo review" are used interchangeably, and the appellate body applying this standard reviews the record without deference to the trial court's findings. (See Eisenberg et al., Cal. Practice Guide: Civil Appeal and Writs (The Rutter Group 2011) ¶ 8.35, p. 8-18.) As Applicant has described, there is a "subtle" and "rarely encountered" difference that has been drawn in First Amendment cases, where the appellate court defers to the trial court's credibility determinations, but makes an independent (de novo) review of all other factual and legal determinations relevant to the First Amendment questions presented. (See e.g., *In re George T.* (2004) 33 Cal.4th 620, 634 [16 Cal. Rptr.3d 61, 93 P.3d 1007]; *Smith v. Novato Unified School Dist.* (2007) 150 Cal.App.4th 1439, 1454 [59 Cal. Rptr.3d 508] [the reviewing court "will make an independent examination of the whole record in determining the existence of the constitutionally relevant facts."].) However, this is clearly not the applicable standard here as no First Amendment issue has been raised and Applicant offers no justification or authority for his proposition that this exception is appropriate in this context.

In State Bar matters, this Court can, but is not required to, give deference to the credibility findings of the State Bar Court. (*In re Gossage* (2000) 23 Cal.4th 1080, 1095 [99 Cal. Rptr.2d 130, 5 P.3d 186].) The Supreme Court unequivocally affords "***de novo*** review of questions of fact and law" in these proceedings. (*In re Rose* (2000) 22 Cal.4th 430, 455 [262 Cal. Rptr. 702, 993 P.2d 956] [emphasis added].) Its powers in attorney admission and discipline matters are plenary, its judgments are conclusive, and its original jurisdiction "is not limited in any manner." (*In re Rose, supra,* 22 Cal.4th at p. 455, referencing *Konigsberg v. State Bar of California* (1957) 353 U.S. 252, 253–58 [77 S.Ct. 722, 1 L.Ed.2d 810].) As repeatedly explained by this Court:

> The hearing panel is in the best position to assess demeanor and credibility and its findings are accorded significant weight on review. Similarly, the moral character determinations of the Committee and the State Bar Court play an integral role in the admissions decision, and both bear substantial weight within their respective spheres. However, ***neither determination is binding on this court.*** We independently ***examine and weigh the evidence***, and pass on its sufficiency.

(*In re Gossage, supra,* 23 Cal.4th at p. 1095 [emphasis added]; see also *In re Menna, supra,* 11 Cal.4th at p. 985.)

This unique proceeding in review differs from an ordinary appeal and from review by writ. The Supreme Court does not affirm, reverse, or annul the judgment or order of a lower tribunal, and the findings of fact of the State Bar Court are not controlling; rather, the Court examines the entire record, weighs the evidence, and makes an independent determination. (*In re Shattuck* (1929) 208 Cal. 6, 11 [279 P. 998].) This includes careful consideration and assessment of the transcripts and the testimony of all witnesses. (See e.g., *In re Stafford* (1930) 208 Cal. 738, 739-40 [284 P. 670]; *Pacheco v. State Bar*

(1987) 43 Cal.3d 1941 [239 Cal. Rptr. 897, 741 P.2d 1138].)

Contrary to any assertions made by Applicant regarding the standard of review in this case, this Court is not limited by the application of peculiar First Amendment precedent, the traditional appellate procedures used in criminal and civil matters, nor even standards applicable to review of ordinary administrative agency decisions. The State Bar is *sui generis*, as are these proceedings, and it is this Court that is responsible for making the ultimate findings relative to the judicial determination of whether Applicant has the requisite good moral character to practice law in California. As duly noted in *In re Rose*:

> Although disciplinary proceedings in the State Bar Court include quasi-judicial evidentiary hearings and decisions rendered by official adjudicators, the State Bar Court is not an ordinary administrative agency. '[The State Bar Court] is not an administrative board in the ordinary sense of the phrase. It is *sui generis*.... [ ] ... [I]n matters of discipline and disbarment, the State Bar [Court] is but an arm of this court, and ... this court retains its power to control any such disciplinary proceeding at any step. [Citation.]' (*Brotsky v. State Bar* (1962) 57 Cal.2d 287, 300-301 [19 Cal.Rptr. 153, 368 P.2d 697, 94 A.L.R.2d 13100]; see also *In re Attorney Discipline System* (1998) 19 Cal.4th 582, 599 [State Bar is not in the same class as state administrative agencies placed within the executive branch].) In creating the State Bar and the State Bar Court, the Legislature expressly acknowledged that this court retains all disciplinary authority the court had prior to the passage of the State Bar Act. (Bus. & Prof. Code, §§ 6087, 6100.) The State Bar may make only recommendations to this court, which undertakes an independent determination whether the attorney should be disciplined as recommended. (*In re Attorney Discipline System, supra,* 19 Cal.4th at pp. 600-601; *In re Shattuck* (1929) 208 Cal. 6, 12 [279 P. 998].) This limitation upon the State Bar's authority distinguishes the State Bar Court from other quasi-judicial or administrative agencies rendering initial decisions-rather than recommendations-that subsequently may be reviewed by courts of record.

(*In Re Rose, supra,* 22 Cal.4th at p. 440.)

In any event, even if this Court were to give deference to the hearing judge's

credibility findings, they are not determinative of whether Applicant should be admitted to the of practice law. Witness credibility is merely one component. This Court must independently evaluate the entire record, assess the proper weight to be given to all factual and legal findings, and make the ultimate decision regarding Applicant's qualifications to be a member of the bar.

B. <u>Equally Reasonable Inferences Should Not Be Resolved In Applicant's Favor</u>.

Applicant claims that the Committee takes a single sentence from *In re Gossage* out of context and creates a new standard out of whole cloth regarding how to resolve conflicting inferences. (Supplemental Brief, pp. 18-19.) This is a disingenuous recitation of the Committee's position.

The Committee simply relies on the most recent pronouncements by this Court on the subject – that where serious or criminal misconduct is involved, equally reasonable inferences should not be resolved in an applicant's favor. This standard was clearly articulated by this Court in *In re Menna*:

> The Committee urges that, having been previously disbarred, applicant is not entitled to have 'all reasonable doubts' resolved in his favor. [Citations.] ... [W]e agree that under the circumstances he is not entitled to the benefit of the doubt if 'equally reasonable inferences may be drawn from a proven fact.'

(*In re Menna, supra,* 11 Cal.4th at p. 986.)

This Court reiterated this principle again five years later in *In re Gossage*:

> [The applicant's] heavy burden [of moral rehabilitation] is commensurate with the gravity of his crimes. *** As further suggested by the Committee, similar considerations affect the manner in which the evidence is weighed in determining whether the requisite showing of rehabilitation has been made. (Citations). 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, supra,* 23 Cal.4th at p. 1098.)

Applicant undisputedly engaged in massive fraud over the course of several years. In light of his history as a serial liar, he should not have been given the benefit of positive inferences as the Review Department accorded him in determining his rehabilitative efforts.

Applying the correct standard would have, in all likelihood, affected the State Bar Court's findings in several key areas: (1) Applicant claims that his misconduct was essentially the product of youthful indiscretion, yet Applicant was in law school at the time he authored many of the fabricated articles and should have understood the value of honesty; (2) Applicant claims that he was too distraught in 1998-1999 to make timely apologies and assist the magazines in identifying the fabricated articles, but at the same time he was able to transition into the full-time law school program at Georgetown and excel academically; (3) he alleges that he wrote "The Fabulist" for therapeutic reasons, but he profited handsomely off of the book deal and failed to disgorge any of the proceeds; (4) he states that he appeared on "60 Minutes" to make a public apology at the urging of his therapist, but the interview was set up by his publicist to promote the sale of his book; (5) he claims that he did not intend to mislead the New York Bar in his admissions application, but at a time when he should have been scrupulously honest, he clearly misrepresented the number of fabricated articles he authored and mischaracterized the level of assistance he provided to the magazines; (6) he claims he decided to put

together a comprehensive list of all of his fabricated articles in 2009 to finally come clean, yet the list was requested of him by the Committee of Bar Examiners and provided by Applicant only in connection with his moral character proceedings in order to help him gain admission to practice law; it was not devised for purposes of aiding his victims.

The Committee contends that given Applicant's pervasive and serious prior moral shortcomings, these questionable acts and omissions should not have been resolved in Applicant's favor and according to Applicant's uncorroborated intentions. Moreover, such conduct by Applicant cannot be viewed in isolation; instead, when looked at comprehensively, it suggests a pattern of self-serving behavior casting doubt on his claims of rehabilitation and present good moral character. (See *In re Gossage, supra,* 23 Cal.4th at p. 1098.) Applicant has an excuse for everything and he should not be able to masquerade his deficiencies by claiming that he is entitled to the benefit of the doubt and that his subjective "state of mind" carries the day.

C. Any Relevant Period Of Rehabilitation Is Marred By The Fact That Applicant Did Not Take The Time Or Make The Effort To Compile A List All Of The Fabricated Articles Until 2009.

Applicant claims that the operative rehabilitation period in this case spans from 1998 to the present. (Supplemental Brief, pp. 21-24.) The Committee believes he is not entitled to a continuous stretch of 13-plus years of rehabilitation credit for the reasons set forth in its Petition for Review and Reply to Applicant's Answer. Most significant to the Committee however, is the fact that it was not until 2009 that he "carefully read all his articles and realized that his 1998 identification of fabricated *TNR* articles had been incomplete." (Supplemental Brief, p. 9.)

Applicant alleges that he was too distraught after the scandal broke in 1998 to fully participate in the process of identifying the fabrications. This statement is dubious given his ability to complete other complex tasks at the time. Nonetheless, there is no excuse for his lack of will to do so in the many years to follow – 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, or 2008.

TNR released two correction notices in 1998, yet Applicant did not carefully review them. If he had done so, he could then have identified the eight articles not included in the notices that contained lies. Applicant again had an opportunity in 2002 to identify these articles when he applied for admission to practice law in New York. And in 2004, he apparently gave the New York Bar copies of *TNR*'s published correction notices as part of his moral fitness hearing. (RT, Vol. VII, p. 117/4-9.) However, again, he did not carefully read the notices. (RT, Vol. VII, pp. 118/19-119/3.) Had he done so, he may very well have made the proper identification in 2004. It was not until August 2009, more than eleven years later, and at the insistence of the California bar, that Applicant finally took the time to read through his collection of works, compile a full accounting of all of his fabricated articles, and identify each falsity paragraph by paragraph. (See State Bar Exhibit 2, pp. 3-13.) Applicant never made the effort to perform this crucial task until under scrutiny of the State Bar of California.[1]

Applicant's failure to timely compile a full and complete list of his fabricated articles until 2009 is not exemplary conduct. This cavalier attitude and lack of

---

[1] Curiously, Applicant's numerous years of therapy did not encourage or prompt him to make this effort on his own.

responsible action is not demonstrative of rehabilitation.

The dire effect of his delayed reaction was seen through the eyes of one of the individuals he arguably harmed the most, his former editor at *TNR*, Charles Lane. Lane testified that he first learned that there were eight additional fabricated articles during the 2010 confidential State Bar Court proceedings, stating that he was "shocked" that "after all these years, there were additional admissions to fabrications that had not been acknowledged to us in the past." (RT, Vol. II, pp. 91/16-92/6.)[2] It is also noteworthy that Applicant failed to publicly identify one of his most vicious and blatant fabrications – "Deliverance" – where he falsely accused a customer service representative at Gateway Computers of calling him a "kike" – an anti-Semitic slur. (RT, Vol. II, p. 84/10-16; RT, Vol. V, pp. 141/11-142/1.)[3] Unlike several of his stories, which were about fictitious individuals and entities, this article was about a real company. It's unfathomable to the Committee that he was previously unable to indentify it as false so that a full and timely

---

[2] Strikingly, had Charles Lane not been called by the Committee as witness in these proceedings, presumably he never would have known about the additional eight fabricated articles.

[3] Applicant concocted this story after he ordered a personal computer from Gateway and became frustrated when the computer was not delivered to him. (RT, Vol. V, p. 141/11-15.) Applicant contacted Gateway and Federal Express, but they were not able to solve the problem. (RT, Vol. V, p. 141/11-15.) The experience was so "horribly frustrating" to Applicant, that he wrote a letter to Gateway falsely accusing it of anti-Semitism. (RT, Vol. V, p. 143/2-5.) He then publicly recounted the lie in "Deliverance." The article was written even though Applicant had brought the false accusations to the attention of Ted Waitt, Chairman and CEO of Gateway, who in turn, wrote Applicant a letter of apology. (State Bar Exhibits 10, 11; RT, Vol. V, p 142/14-17.) Applicant acknowledged that "Deliverance" was particularly "cruel" and "a terrible thing to have done" (see RT, Vol. V, pp. 141/11-142/1), yet he failed to disclose this as a fabricated article in his New York Bar application and only did so when compelled to by the California Bar in 2009.

retraction could be published.

D. Credibility Of Character Witnesses Is Not Determinative Of Applicant's Moral Character.

In his Supplemental Brief, Applicant spends the majority of time extolling the qualities and virtues of his many character witnesses and the deference to be accorded to them by this Court. (Supplemental Brief, pp. 12-17, 33-37.) The Committee does not dispute their credibility or their integrity, but reiterates this Court's emphatic and long-standing position that character evidence alone, no matter how positive, how laudatory, or how great in quantity, is not determinative of rehabilitation. (See *Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547-48 [39 Cal. Rptr. 541, 248 P.2d 3]; *In re Hanley* (1975) 13 Cal.3d 448, 454 [119 Cal. Rptr. 5, 530 P.2d 1381]; *In re Petty* (1981) 29 Cal.3d 356, 362 [173 Cal. Rptr. 461, 627 P.2d 191]; *Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933 [264 Cal. Rptr. 361, 782 P.2d 602]; *In re Menna, supra,* 11 Cal.4th 975 [twenty-nine reference letters, and numerous additional witnesses, including several attorneys and two psychologists, not enough overcome prior bad acts]; *In re Gossage, supra,* 23 Cal.4th 1080 [testimony of twenty-five witnesses, including five attorneys, applicant's girlfriend, his college and law school professors, several personal and professional associates, three prominent public officials (State Senator John Burton, San Francisco District Attorney Terrance Hallinan, and San Francisco Supervisor Susan Bierman) and five mental health professionals, insufficient to establish rehabilitation from prior serious misconduct].)

There is sound reason to adhere to this well-established principle, particularly in

this case, given that Applicant is a known liar who previously pulled the wool over the eyes of his closest allies and colleagues. People thought he was credible, honest, and trustworthy in the past. He gained notoriety with several prominent news publications as a hard-working, reliable journalist; yet, at the same time he was building this pristine reputation, he was deceiving everyone around him. Even his close friends at *TNR* were completely fooled by him. (RT, Vol. VII, pp. 9/18-20, 13/2-25, 14/1-15/22, 28/12-23.) Charles Lane, the editor of *TNR* at the time, concluded that Applicant was a "con man" who orchestrated an elaborate hoax on the readers and the people who worked at *TNR*. (RT, Vol. II, p. 95/6-16.)

In light of Applicant's extraordinary history of lies and deceit, the Committee believes he must do something more than just get people to believe that he is reformed. He must actually demonstrate through affirmative deeds that he is in fact rehabilitated. This is simply lacking from the record in this case.

E. <u>The Committee's Demands Are Not Unreasonable</u>.

1. <u>The Committee Is Not Asking that Applicant Wear Sackcloth and Ashes or Take a Vow of Poverty</u>.

The Committee is in no way suggesting that Applicant be relegated to "sackcloth and ashes." (See Supplemental Brief, p. 48.) This is gross exaggeration by Applicant. The Committee is not asking that he take a "vow of poverty," it is only contending that he should not have profited from his wrongdoings. There were several other ways Applicant could have made money at the time besides taking advantage of his notoriety. In the Committee's view, the fact that Applicant profited handsomely from authoring a

fictionalized account of his lies is inconsistent with the notion of moral rehabilitation.

The practice of law is a privilege, not a right. There is no requirement that Applicant become a lawyer. As a law clerk at the law firm of Carpenter, Zuckerman & Rowley, LLP he is earning at least $154,000.[4] The Committee's point is that Applicant has the means to give back to the community he harmed, but has never done so.

2. The Dictates of This Court Require Applicant to Make Amends to the Journalism Community and Those He Harmed.

Applicant claims that he is in a "Catch-22" position – that the Committee is requiring him to re-establish himself in the journalism community, but that his reputation is so tarnished that he is beyond redemption in his former profession. (Supplemental Brief, pp. 50-51.) Applicant takes a circumscribed view of the Committee's position and misinterprets its intentions.

The Committee is not claiming that Applicant needs to become a journalist again. The Committee is simply saying that he must do something to benefit the community he so disgraced.

Applicant's prior misconduct significantly harmed the journalism profession, numerous individuals and organizations he worked for, those that he wrote about, and the readers who believed that his articles were truthful. In light of this backdrop, this Court has stated that "truly exemplary conduct" requires more than just alleged individual recovery, it requires the applicant to "return[] something to the community he betrayed"

---

[4] Applicant testified that in 2007 he was paid approximately $99,000 a year as a law clerk, and by 2008 his annual salary had increased to $154,000. (RT, Vol. IX, p. 162/2-8.)

and to "aid those upon whom he specifically preyed." (*In re Menna, supra,* 11 Cal.4th at p. 990.) "Actions speak louder than words. Sustained exemplary conduct ***must*** include ***proof*** applicant is making amends to the victims and the community he harmed." (*Ibid.* [emphasis added].)

There is nothing in the record to demonstrate that Applicant has given anything to the journalism profession other than a bad name.

F. <u>Applicant's Showing of Rehabilitation Is Not Compelling</u>.

The Committee does not dispute that Applicant has some evidence of rehabilitation. The Committee however, believes that Applicant has not sustained his burden of demonstrating compelling reformation through objective demonstrable evidence.

As detailed in the Committee's Petition and summarized here, Applicant's conduct since 1998 includes simply the following:

- When his lies were first called into question in 1998, Applicant's immediate response was to attempt to cover up the concerns by engaging in further deception in order to preserve his career and reputation. (See e.g., RT, Vol. II, pp. 26/1-5, 29/4-20; RT, Vol. V, p. 176/6-18; State Bar Exhibit 2; State Bar Exhibit 35.)

- Applicant, through his attorneys, placed the burden on *TNR* to come up with a list of documents that *TNR* believed contained fabricated information and then Applicant would only stipulate to whether *TNR's* findings were correct or incorrect. He essentially left *TNR* on its own to discover the errors. (RT, Vol. II, p. 77/2-12.) *TNR* was not able to compile a complete list of fabrications and Applicant never rectified this situation.

- Applicant began therapy in 1998. As of 2005, Applicant was still in the process of understanding and accepting responsibility for, and dealing with, his past misconduct. (Review Department Opinion, p. 9; Review Department Dissenting Opinion, p. 19; RT, Vol. VIII, p. 148/9-22.)

- Applicant continued his studies at Georgetown Law School, which he began in 1997 as a part-time student. He transferred to the full-time program and graduated in 2000. (RT, Vol. IX, pp. 33/21-34/14.)

- Applicant held various law related jobs between 1998 and 2000. (RT, Vol. IX, p. 72/3-20.)

- In 2001, Applicant entered into an agreement with Simon & Schuster to publish a novel based on his fraudulent conduct, ultimately receiving a $175,000 advance and an additional $15,000 in subsidiary rights. (RT, Vol. IX, pp. 85/12-86/3.)

- In 2003, Applicant's novel was published and he appeared on "60 Minutes." (RT, Vol. IX, p. 86/12-21.)

- Applicant applied to the New York Bar in 2002. He misrepresented the number of articles he fabricated and the assistance he gave to the magazines in identifying the fabricated materials. He withdrew his application in 2004 when he became aware that the New York Bar was going to deny him admission based on moral character grounds. (State Bar Exhibit 1, p. 7/26-27.)

- Applicant allegedly wrote over 100 apology letters, with a vast majority of those letters being written in 2002-2004 (see RT, Vol. VIII, p. 24/11-19), four to six years after he had been exposed as a fraud, and during the pendency of his New York Bar application and around the time of the publication of his novel. (State Bar Exhibit 1, p. 7/26-27.)

- In or around 2003, the same time that his novel was published, Applicant made a total of three volunteer speaking appearances: (1) Columbia University's Journalism School; (2) George Washington University; and (3) CORO, an organization that trains high school kids in civic responsibilities. (RT, Vol. IX, pp. 203/9-24.)

- In or around 2003 and 2004, Applicant engaged in limited community service, volunteering in bingo at a senior center in New York one day a week for over a year. (Review Department Opinion, pp. 11-12; State Bar Exhibit 1, p. 544; RT, Vol. IX, pp. 204/13-205/25.)

- In 2004, Applicant moved to California. He began working as a law clerk at Carpenter, Zuckerman & Rowley, LLP. (State Bar Exhibit 1, p. 6.) He

volunteered for a charitable food delivery service, but could not continue due to work demands. (Review Department Opinion, pp. 11-12; RT, Vol. IX, pp. 204/13-205/25.) As part of his paid employment with Carpenter & Zuckerman, Applicant was asked to work with indigent and disabled clients. (RT, Vol. IX, p. 226/9-10.)

- Applicant took and passed the California Bar Examination, and in 2007 he submitted his Moral Character Application. (Review Department Opinion, p. 3.)

- In 2009, in connection with his confidential California moral character proceedings, and at the insistence of the Committee of Bar Examiners, Applicant prepared a list of all of his fabricated articles. (State Bar Exhibit 2, pp. 3-13.) Eight additional fabricated articles Applicant authored for *TNR*, that had not previously been disclosed, were listed. (RT, Vol. II, pp. 91/16-92/6.)

The Court's reasoning in *In re Menna* that "actions speak louder than words" is particularly appropriate in this case. In the Committee's opinion, this record does not show that Applicant has engaged in truly exemplary conduct, nor does it show that he has demonstrated compelling rehabilitation through affirmative good deeds. In fact, what few outward endeavors he has made are suspect given the timing of his efforts.

For example, the majority of Applicant's ***alleged*** apology letters were sent between 2002 and 2004,[5] over four to six years after his acts of deception were

---

[5] Applicant's testimony with regard to the apology letters is vague, as he does not identify the names the 100 individuals and organizations he allegedly sent letters to and he did not keep records or copies of his communications. (RT, Vol. VI, p. 48/10-11; Supplemental Brief, p. 47.) Moreover, the time frame in which the letters were sent also keeps changing. In the declaration Applicant provided to Trial Counsel on August 20, 2009, as part of his California moral character proceedings, he specifically stated that his apology letters were not sent until "2003, after gaining greater understanding of the deeper reasons for my misconduct..." (State Bar Exhibit 2, p. 2/20-24.) Compare and contrast that to his testimony at trial where he stated the vast majority of "the letters were sent between 2002 and 2003" (RT, Vol. VI, p. 38/3-13), and his statements in his Supplemental Brief that the letters were sent between 2001 and 2004. (Supplemental

discovered. This untimely effort coincided with his pending New York Bar application as well as the publication of his book. It is questionable, under such circumstances, whether the effort reflected sincere remorse and recognition rather than self-serving motives. Richard Bradley, a former editor at *George*, had the same uneasy sense about Applicant's actions. In 2003, Bradley agreed to meet with Applicant because Applicant wanted an opportunity to apologize. Although an apology was made, Bradley found the apology "...unconvincing and the conversation frustrating...." (RT, Vol. VIII, pp. 23/25-24/1.) He believed the apology was superficial and motivated by self-interest:

> Second, the timing of the apology struck me as self-interested. It came just a short time, days or a week or so, before the publication of Stephen's novel, The Fabulist, and I was concerned that this apology, coming when it did, could be considered a kind of pre-emptive strike on Stephen's part, that he was trying to soften or negate potential criticism from some of the editors with whom he had most closely worked, and who had been most affected by his earlier fabrications...

(RT, Vol. VIII, p. 24/11-8.)

His other alleged acts of contrition – his appearance on "60 Minutes", which was arranged by his publisher on the eve of the release of his book; his paid work with the disabled clients of Carpenter, Zuckerman & Rowley, LLP, a plaintiff's personal injury law firm (work that even the State Bar Court had difficulty identifying as pro bono (RT, Vol. IX, p. 227/8-10)); and his three limited speaking engagements – are similarly characterized by Applicant as deserving of substantial weight in rehabilitation. (See Supplemental Brief, pp. 28-29, 46.) The Committee disagrees. These showings are

---

Brief, p. 46.) What is clear is that whatever letters he did send, he sent during the pendency of his application for admission to the New York Bar.

hardly compelling, and must be assessed in light of Applicant's pattern of self-serving behavior.

In reviewing the record as a whole, Applicant has modest rehabilitation efforts at best. Given the egregious nature of Applicant's wrongdoings, this is simply insufficient to meet the high standards of moral fitness required by this Court.

III. CONCLUSION

For the reasons set forth in the Committee's Petition, its Reply to Applicant's Answer, and this Reply to Applicant's Supplemental Brief, the Committee herein urges this Court to decline certification of Stephen Randall Glass as an attorney eligible to practice law in California.

Dated: January 13, 2011

Respectfully submitted,

STARR BABCOCK
RICHARD J. ZANASSI
RACHEL S. GRUNBERG

By: _____
Rachel S. Grunberg

Attorneys for Petitioner
The Committee of Bar Examiners of
The State Bar of California

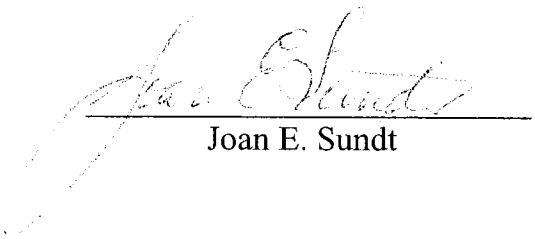
WORD COUNT CERTIFICATE PURSUANT TO CALIFORNIA RULE OF COURT 8.504(d)(1)

I, Joan E. Sundt, state as follows:

I. I am the secretary to counsel for real party of interest The State Bar of California in the above-entitled action.

II. I certify that the word count of the computer software program used to prepare this document is 5,679 words.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 13, 2012, at San Francisco, California.



Joan E. Sundt

PROOF OF SERVICE BY MAIL

I, Joan Sundt, hereby declare: that I am over the age of eighteen years and am not a party to the within above-entitled action, that I am employed in the City and County of San Francisco, that my business address is The State Bar of California, 180 Howard Street, San Francisco, California 94105.

On January 13, 2012, following ordinary business practice, I placed for collection for mailing at the offices of the State Bar of California, 180 Howard Street, San Francisco, California 94105, three copies of **REPLY OF THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA TO APPLICANT'S SUPPLEMENTAL BRIEF** in an envelope addressed as follows:

Susan L. Margolis, Esq.
Arthur l. Margolis, Esq.
Margolis & Margolis LLP
2000 Riverside Drive
Los Angeles, CA 90039

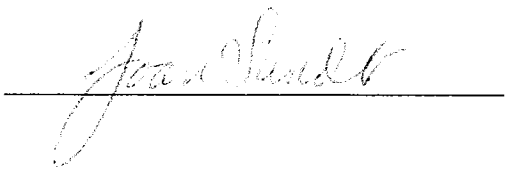
Colin P. Wong, Esq.
Administrative Officer for the State Bar Court
The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Jon B. Eisenberg, Esq.
Eisenberg and Hancock, LLP
1970 Broadway, Suite 1200
Oakland, CA 94612

Kent L. Richland, Esq.
Greines, Martin, Stein & Richland LLP
5900 Wilshire Blvd., 12th Floor
Los Angeles, CA 90036

I am readily familiar with the State Bar of California's practice for collection and processing correspondence for mailing with the U.S. Postal Service and, in the ordinary course of business, the correspondence would be deposited with the U.S. Postal Service on the day on which it is collected at the business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California this 13th day of January, 2012.



IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In the Matter of	)	Case No. S196374
	)	
STEPHEN RANDALL GLASS,	)	
	)	
Applicant for Admission.	)	
	)	

AMENDED PROOF OF SERVICE BY MAIL TO REPLY OF THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA TO APPLICANT'S SUPPLEMENTAL BRIEF

I, Joan Sundt, hereby declare: that I am over the age of eighteen years and am not a party to the within above-entitled action, that I am employed in the City and County of San Francisco, that my business address is The State Bar of California, 180 Howard Street, San Francisco, California 94105.

On January 13, 2012, following ordinary business practice, I placed for collection for mailing at the offices of the State Bar of California, 180 Howard Street, San Francisco, California 94105, three copies of **REPLY OF THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA TO APPLICANT'S SUPPLEMENTAL BRIEF** in an envelope addressed as follows:

Michael A. Willemsen, Esq.
Law Offices of Michael A. Willemsen
991 Elsinore Drive
Palo Alto, CA 94303

On this same date, I previously served the above document to the parties listed on the attached **PROOF OF SERVICE BY MAIL.**

I am readily familiar with the State Bar of California's practice for collection and processing correspondence for mailing with the U.S. Postal Service and, in the ordinary course of business, the correspondence would be deposited with the U.S. Postal Service on the day on which it is collected at the business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California this 13th day of January, 2012.

Joan E. Sundt

PROOF OF SERVICE BY MAIL

I, Joan Sundt, hereby declare: that I am over the age of eighteen years and am not a party to the within above-entitled action, that I am employed in the City and County of San Francisco, that my business address is The State Bar of California, 180 Howard Street, San Francisco, California 94105.

On January 13, 2012, following ordinary business practice, I placed for collection for mailing at the offices of the State Bar of California, 180 Howard Street, San Francisco, California 94105, three copies of **REPLY OF THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA TO APPLICANT'S SUPPLEMENTAL BRIEF** in an envelope addressed as follows:

Susan L. Margolis, Esq.
Arthur l. Margolis, Esq.
Margolis & Margolis LLP
2000 Riverside Drive
Los Angeles, CA 90039

Colin P. Wong, Esq.
Administrative Officer for the State Bar Court
The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Jon B. Eisenberg, Esq.
Eisenberg and Hancock, LLP
1970 Broadway, Suite 1200
Oakland, CA 94612

Kent L. Richland, Esq.
Greines, Martin, Stein & Richland LLP
5900 Wilshire Blvd., 12th Floor
Los Angeles, CA 90036

I am readily familiar with the State Bar of California's practice for collection and processing correspondence for mailing with the U.S. Postal Service and, in the ordinary course of business, the correspondence would be deposited with the U.S. Postal Service on the day on which it is collected at the business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California this 13th day of January, 2012.

Joan Sundt

PROOF OF SERVICE BY MAIL

I, Joan Sundt, hereby declare: that I am over the age of eighteen years and am not a party to the within above-entitled action, that I am employed in the City and County of San Francisco, that my business address is The State Bar of California, 180 Howard Street, San Francisco, California 94105.

On January 13, 2012, following ordinary business practice, I placed for collection for mailing at the offices of the State Bar of California, 180 Howard Street, San Francisco, California 94105, one copy of **AMENDED PROOF OF SERVICE BY MAIL TO REPLY OF THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA TO APPLICANT'S SUPPLEMENTAL BRIEF** in an envelope addressed as follows:

Susan L. Margolis, Esq.
Arthur I. Margolis, Esq.
Margolis & Margolis LLP
2000 Riverside Drive
Los Angeles, CA 90039

Colin P. Wong, Esq.
Administrative Officer for the State Bar Court
The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Jon B. Eisenberg, Esq.
Eisenberg and Hancock, LLP
1970 Broadway, Suite 1200
Oakland, CA 94612

Kent L. Richland, Esq.
Greines, Martin, Stein & Richland LLP
5900 Wilshire Blvd., 12th Floor
Los Angeles, CA 90036

Michael A. Willemsen, Esq.
Law Offices of Michael A. Willemsen
991 Elsinore Drive
Palo Alto, CA 94303

I am readily familiar with the State Bar of California's practice for collection and processing correspondence for mailing with the U.S. Postal Service and, in the ordinary course of business, the correspondence would be deposited with the U.S. Postal Service on the day on which it is collected at the business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California this 13th day of January, 2012.

Joan E. Sundt