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Superior Court of California
County of Los Angeles

DEC - 9 2014

Sherril R. Garrow, Executive Officer/Clerk
By: Maria G. Concepcion, Deputy

BY FAX

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES
CENTRAL CIVIL WEST COURTHOUSE

16 THE PEOPLE OF THE STATE OF
CALIFORNIA,
17
18 Plaintiff,
v.
19 THE LAW OFFICES OF KRAMER AND
KASLOW, et al.,
20
21 Defendants.

Case No. LC094571
Related Cases: LS021816 [Kramer];
LS021817 [Stein]; LS021818 [Van Son]

**NOTICE OF OMNIBUS MOTION
AND OMNIBUS MOTION FOR
ORDER APPROVING
PROCEDURES FOR
RECEIVERSHIP RESTITUTION
PROGRAM; DECLARATION OF
DAVID A. JONES IN SUPPORT OF
OMNIBUS MOTION;
DECLARATION OF ELI D.
MORGENSTERN IN SUPPORT OF
OMNIBUS MOTION**

Action filed: August 15, 2011

Judge: Hon. Jane L. Johnson
Dept.: 308
Date: March 12, 2015
Time: 10:00 a.m.

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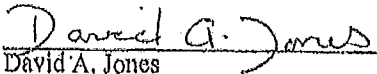
TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on March 12, 2015 at 10:00 a.m., or as soon thereafter as this matter may be heard in the above-entitled Court, located at 600 South Commonwealth Avenue, Los Angeles, California, Plaintiff, the People of the State of California ("Plaintiff"), and Thomas W. McNamara, as court-appointed Receiver (the "Receiver"), will and hereby do respectfully move this Court for an Order approving procedures for the Receivership Restitution Program.


This motion is based on this application and memorandum of points and authorities, the attached declarations of David A. Jones and Ell. D. Morgenstern in support of the omnibus motion, the pleadings and files in this matter, and any documentary or other evidence submitted at any hearing on the application.

Dated: December 8, 2014

Kamala D. Harris
Attorney General of California
Daniel A. Ollvas
Supervising Deputy Attorney General
David A. Jones
Deputy Attorney General


David A. Jones
Attorneys for Plaintiff People of the State of California

Dated: December 6, 2014

BALLARD SPAHR LLP

Daniel M. Benjamin
Attorneys for Thomas W. McNamara,
Court-Appointed Receiver

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 The purpose of this motion is to obtain approval of a restitution plan developed by
3 Plaintiff, the State Bar, and the Receiver. This motion is being made by the Plaintiff, the People
4 of the State of California ("Plaintiff" or the "People"), and the court-appointed receiver, Thomas
5 W. McNamara (the "Receiver"). Although not a party to this case, the State Bar will file
6 motions to implement the proposed plan in related State Bar actions. This motion is supported
7 by the State Bar, which has approved the proposed order on this motion. (Declaration of Eli D.
8 Morgenstern in support of Omnibus Motion, ¶ 6 ["Morgenstern Declaration"].)

9 This action was brought by the People to enjoin ongoing unlawful conduct by the
10 Defendants with regard to so-called "mass joinder" lawsuits. Plaintiff obtained, among other
11 things, appointment of the Receiver to marshal certain assets of the Defendants. (See Order
12 Appointing Receiver, filed herein on September 8, 2011.) In this action, the Court has now
13 entered Final Judgments against all defendants except Mitchell J. Stein. (Declaration of David
14 A. Jones in support of Omnibus Motion, ¶¶ 3-7 ["Jones Declaration"].)

15 Because the Defendants included both attorneys and non-attorneys, this action was
16 brought in conjunction with a number of State Bar enforcement actions against attorneys. (Jones
17 Decl., ¶ 2.) Three of the State Bar actions were before this Court. (*In the Matter of the*
18 *Assumption of Jurisdiction Over the Law Practice of Philip A. Kramer, dba Law Offices of*
19 *Kramer and Kaslow*, Case No. LS021816; *In the Matter of the Assumption of Jurisdiction Over*
20 *the Law Practice of Christopher J. Van Son, dba Consolidated Litigation Group and Van Son*
21 *Law Group*, Case No. LS021818; and *In the Matter of the Assumption of Jurisdiction over the*
22 *Law Practice of Mitchell J. Stein*, Case No. LS021817.) This Court has entered Permanent
23 Orders Assuming Jurisdiction in those actions, finally resolving them except as to final
24 distribution of any remaining funds. (Morgenstern Decl., ¶ 3.)

25 The State Bar has also secured Permanent Orders Assuming Jurisdiction in two additional
26 State Bar Actions in Orange County Superior Court. (*In the Matter of the Assumption of*
27 *Jurisdiction Over the Law Practice of Paul W. Petersen dba Mesa Law Group Corp. and*
28 *Petersen Legal Services*, Orange County Superior Court, Case No. 30-2011-00499800; *In the*

1 *Matter of the Assumption of Jurisdiction Over the Law Practice of Anthony J. Kassas, dba Law*
2 *Offices of Anthony Kassas and Kassas Law Group*, Orange County Superior Court, Case No. 30-
3 2011- 00505386.) The courts in those actions have entered Permanent Orders Assuming
4 Jurisdiction, finally resolving them except as to final distribution of any remaining funds.
5 (Morgenstern Decl., ¶ 4.)

6 Notably, the Permanent Orders in the State Bar actions permit the use of a receiver to
7 take possession and control of bank accounts related to the respective attorneys. (Morgenstern
8 Decl., ¶ 5.) This motion thus seeks to create an omnibus methodology for carrying out
9 restitution as to both those actions and this action. That is why the proposed restitution plan here
10 is contingent on approval by both this Court and the courts overseeing the relevant State Bar
11 actions. (Jones Decl., ¶ 8.)

12 Specifically, with all actions resolved (except as to Mr. Stein, whose trial in this matter
13 has been delayed due to his criminal conviction in Florida), the People and the Receiver
14 (supported by the State Bar) believe it is necessary and appropriate to adopt procedures to govern
15 a restitution program to be administered by the Receiver. (*See* [Proposed] Order lodged
16 concurrently with this motion.) With the consent of the Plaintiff Attorney General and the State
17 Bar, the restitution program will be funded by:

- 18 • All funds which remain frozen, and still subject to the possession of the
19 State Bar, in the accounts of Attorney Defendants Philip A. Kramer and
20 the Law Offices of Kramer and Kaslow and related entities, specifically
21 including, but not limited to, the following accounts which total in the
22 aggregate approximately \$609,862: (i) Citibank, N.A. accounts ending
23 4317, 4325, 3578, 4387, and 4412; (ii) PNC Bank, N.A. accounts ending
24 5538, 5546 and 5554; (iii) US Bank accounts ending 0639, 5758, and
25 9349; and (iv) Wells Fargo Bank, N.A. accounts ending 0895, 2958,
26 3642, 5146, 6429, and 9256.
- 27 • All funds which remain frozen, and still subject to the possession of the
28 State Bar, in the IOLTA account of Anthony Kassas at JP Morgan Chase

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Bank, account ending 3585, in the approximate amount of \$14,500.

- \$50,000 to be transferred from funds currently in the receivership account.

With the consent of Plaintiff and the State Bar, all other funds frozen in this action or the State Bar actions (with the sole exception of Mitchell J. Stein, whose funds shall remain frozen until his case is resolved) have been remitted to the receivership as credits against the penalties and fees portions of the judgments secured by the People in this action. Any net funds in the receivership upon termination will be disbursed to the People and applied to those penalties and fees.

The proposed procedures for the administration of the restitution fund are set out in the proposed order being submitted herewith. However, the essence of it is as follows:

1. **Notice to Potential Claimants.** The Receiver shall initially take reasonable steps to provide notice of the Restitution Program through a notice posted on his website and through mailing sent to: (i) the State Bar’s database of consumers whose names have appeared in the files and records of the Attorney Defendants¹; (ii) any additional consumers not included in that database who have, to date, filed a claim with the State Bar’s Client Security Fund regarding mass joinder; and (iii) any additional consumers reasonably known to the Receiver to have paid a fee to secure the services of an Attorney Defendant in connection with mass joinder litigation.

2. **Submitting a Claim Form to the Receiver.** Claimants shall then submit the Claim Form and supporting documentation to the Receiver on or before the date which is within forty-five (45) days of the Effective Date² of the order, either by mail or via the website.

3. **Bar Date.** The Court would set a Bar Date for the submission of all Claim Forms to be the date forty-five (45) days after the entry of the order. All claims must be submitted by

¹ The term “Attorney Defendants” is defined in the Court’s Preliminary Injunction in this matter.

² “Effective Date” shall be the date on which the Court enters the requested order authorizing the restitution program set out herein and orders also have been entered in the relevant State Bar Actions: *In the Matter of the Assumption of Jurisdiction Over the Law Practice of Philip A. Kramer, d.b.a. Law Offices of Kramer and Kaslow*, Los Angeles Superior Court, Case No. LS021816, and *In the Matter of the Assumption of Jurisdiction Over the Law Practice of Anthony J. Kassas, d.b.a. Law Offices of Anthony Kassas and Kassas Law Group*, Orange County Superior Court, Case No. 30-2011-00505386.

1 this Bar Date. Claims submitted after the Bar Date will be rejected, except the Bar Date shall be
2 extended an additional thirty (30) days for any claimant whose mailed notice from the Receiver
3 was returned to the Receiver as undeliverable. As to any such returned notices, the Receiver
4 shall make a reasonable effort to obtain an accurate address and resend the notice, if feasible.

5 4. **Review of Claim Forms.** The Receiver and/or his designated counsel or staff
6 shall review and evaluate all Claim Forms submitted by the Bar Date. The Receiver, in his
7 discretion, shall approve a claim only if it complies with the procedures set forth in the order.
8 The Receiver shall notify all Claimants of the Receiver's decision regarding approved claims by
9 posting a Preliminary Schedule of Approved Claims on the Receiver's website on or before the
10 date which is within ninety (90) days of the entry of this Order and shall send notice by email, if
11 available, or by U.S. mail, if email is not available, to all Claimants that the Preliminary
12 Schedule has been posted. For any claim that is denied by the Receiver and not included in the
13 Preliminary Schedule of Approved Claims, the denied Claimant may appeal that decision by
14 submitting a written objection by U.S. Mail or email to the Receiver within fourteen (14) days
15 after the Preliminary Schedule is posted.

16 5. **Objections.** The Receiver shall review any submitted objections and file a Final
17 Schedule of Approved Claims within twenty-eight (28) days after the date on which the
18 Preliminary Schedule is posted. All decisions of the Receiver set forth in the Final Schedule of
19 Approved Claims shall be final. A Claimant who desires to object to the Final Schedule of
20 Approved Claims, and who has previously submitted a written objection to the Receiver, may do
21 so by submitting a written objection to the Court within fourteen (14) days after the Receiver has
22 posted the Final Schedule of Approved Claims.

23 6. **Distributions.** Within twenty-one (21) days after the Receiver has posted the
24 Final Schedule of Approved Claims, the Receiver shall apply to the Court for approval to
25 disburse the Net Restitution Fund to all approved Claimants on a per capita basis calculated as
26 the Net Restitution Fund divided by the number of approved claims, except that such payments
27 shall not exceed that amount of fees actually paid by the Claimant. Within five (5) days after the

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1 Court's approval, the Receiver shall send by U.S. Mail distribution payments to all Claimants
2 with approved claims.

3 7. Expenses. The Receiver and professionals and staff that he may retain at his
4 discretion shall be entitled to reasonable compensation and reimbursement of expenses for
5 administration of the Restitution Program. Subject to Court approval, such compensation and
6 reimbursement of expenses shall be paid from the Restitution Fund before the distribution to
7 approved Claimants is made. The Receiver is authorized, without further order of the Court, to
8 expend funds from the Restitution Fund account up to a maximum of \$20,000, for direct costs
9 for mailings and for compensation and payroll-related costs to temporary personnel retained by
10 the Receiver, at the Receiver's discretion, for administrative staffing necessary for the review
11 and processing of claims. If the Receiver determines that such direct costs will exceed that
12 amount, he shall apply to the Court for authorization to expend additional funds from the
13 Restitution Fund for that purpose. Within five (5) days after the Receiver has posted the Final
14 Schedule of Approved Claims, the Receiver shall submit an application to this Court for
15 approval to pay any fees and expenses of the Receiver and professionals retained by the Receiver
16 in connection with the Restitution Program, and any additional direct costs related to the
17 Restitution Program, including costs to prepare and mail distributions approved pursuant to
18 paragraph 6 below.

19 8. Undistributed Funds: The Receiver shall deliver to the California Attorney
20 General's office any undistributed funds remaining ninety (90) days after the distribution is
21 completed. These undistributed funds shall include any distribution to approved Claimants that
22 are not negotiated by the Claimants within ninety (90) days or whom the Receiver has been
23 unable to locate during this period despite his best efforts.

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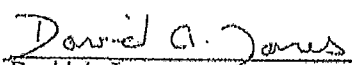
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CONCLUSION

For the reasons set forth above, the People and the Receiver seek entry of the Proposed Order regarding Procedures for the Receivership Restitution Program.

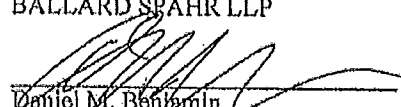
Dated: December 8, 2014

Kamala D. Harris
Attorney General of California
Daniel A. Ollvas
Supervising Deputy Attorney General
David A. Jones
Deputy Attorney General



David A. Jones
Attorneys for Plaintiff People of the State of California

Dated: December 8, 2014

BALLARD SPAHR LLP


Daniel M. Benjamin
*Attorneys for Thomas W. McNamara,
Court-Appointed Receiver*

1 actions brought by the State Bar and the final judgments in the action brought by the Office of
2 the California Attorney General.

3 Executed on December 8, 2014 in Los Angeles, California.

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5 David A. Jones
6 David A. Jones

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1 **DECLARATION OF ELI D. MORGENSTERN**

2 I, Eli D. Morgenstern, declare under penalty of perjury under the laws of the State of
3 California as follows:

4 1. I am a Senior Trial Counsel in the Office of the Chief Trial Counsel of The State
5 Bar of California, and am a duly licensed member of the California State Bar. I have firsthand
6 knowledge of the matters set forth below and could testify competently to them if called as a
7 witness.

8 2. The Office of the Chief Trial Counsel of The State Bar of California initiated
9 separate enforcement actions against the defendants in this action who were licensed as
10 attorneys.

11 3. This Court entered Permanent Orders Assuming Jurisdiction in *In the Matter of*
12 *the Assumption of Jurisdiction Over the Law Practice of Philip A. Kramer, dba Law Offices of*
13 *Kramer and Kaslow*, Case No. LS021816; *In the Matter of the Assumption of Jurisdiction Over*
14 *the Law Practice of Christopher J. Van Son, dba Consolidated Litigation Group and Van Son*
15 *Law Group*, Case No. LS021818; and *In the Matter of the Assumption of Jurisdiction over the*
16 *Law Practice of Mitchell J. Stein*, Case No. LS021817.

17 4. The Orange County Superior Court has also entered Permanent Orders Assuming
18 Jurisdiction in *In the Matter of the Assumption of Jurisdiction Over the Law Practice of Paul W.*
19 *Petersen dba Mesa Law Group Corp. and Petersen Legal Services*, Orange County Superior
20 Court, Case No. 30-2011-00499800; *In the Matter of the Assumption of Jurisdiction Over the*
21 *Law Practice of Anthony J. Kassas, dba Law Offices of Anthony Kassas and Kassas Law Group*,
22 Orange County Superior Court, Case No. 30-2011- 00505386.

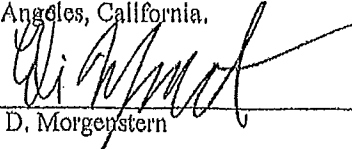
23 5. The Permanent Orders Assuming Jurisdiction in the above-referenced actions
24 permit the use of a take possession and control of the law firm and attorney bank accounts.

25 6. The [Proposed] Order re Procedures for Receivership Restitution Program sought
26 by the concurrently-filed omnibus motion is necessary for the court-appointed receiver in this
27 action to carry out a single restitution program using funds from the Permanent Orders in the
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actions brought by the State Bar and the final judgments in the action brought by the Office of the California Attorney General. The State Bar supports the omnibus motion and approves of the [Proposed] Order re Procedures for Receivership Restitution Program. .

Executed on December 8, 2014 in Los Angeles, California.



Eli D. Morgenstern