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## Four attorneys face second disbarment

By Nancy McCarthy  
*Staff Writer*

While it's not exactly a trend, two California attorneys were disbarred for the second time in the last six months, a second disbarment is under consideration by the Supreme Court for a third lawyer, and yet another attorney faces a possible second disbarment in a case that is working its way through the discipline system.

If all four lose their licenses again, they will join only two other California lawyers (whose decisions were published) who were disbarred the second time in the 1960s.

The facts of each case are dramatically different and the ultimate penalty was, or may be, imposed under disparate legal standards, so it's difficult to find common threads in the disbarments. Nor are the cases a function of the huge number of lawyers who practice in California, said Scott Drexel, the State Bar's chief trial counsel and former head of the State Bar Court.

Since the bar court was created in 1989, about 12 to 15 reinstatement petitions have been filed annually by lawyers who either were disbarred or resigned. About half are granted. At the same time, roughly 200 lawyers resign or are disbarred every year.

Attorneys can apply for reinstatement after five years and must prove they've been rehabilitated.

Drexel said the reinstatement process is not too lenient. "The Supreme Court said in some early reinstatement cases that there are no guarantees that somebody is not going to offend again," he said. "You just make your best judgment based upon the evidence of rehabilitation that they present and deal with it if they offend again."

The Supreme Court took up the case of **RONALD SILVERTON [#28775], 73, of Pacific Palisades** last month after he appealed a State Bar Court review department recommendation that he be suspended for 60 days for misconduct involving unconscionable fees. The court denied his petition but took the unusual step of hearing the case on its own motion to consider whether to increase his discipline.

Silverton was disbarred in 1975 following convictions for conspiracy to obtain money by false pretenses and to present a fraudulent insurance claim and one count of soliciting another to commit or join in the commission of grand theft. He served nine months in prison. Reinstated on his fourth try in 1992, the State Bar Court concluded that he began engaging in new misconduct within 22 months.

At a hearing last month, the justices seemed inclined to deal a harsher punishment to Silverton, who is now semi-retired. "Given (Silverton's) history, why was it that upon reoffending, the State Bar chose to impose the discipline it did rather than something more severe?" asked Chief Justice Ronald George.

"That's somewhat of a mystery," admitted bar attorney Jay Goldman, who explained that the review department took into consideration the fact that Silverton's alleged offenses after he was reinstated were less serious than the convictions that led to his disbarment, and that his earlier misconduct was many years ago.

A bar standard in its Rules of Procedure requires that repeat offenders receive more

severe discipline — unless the prior discipline was both distant in time and somewhat minimal. When the original punishment was disbarment, subsequent misconduct would automatically result in a second disbarment under the standard, but the review department suggested in the Silverton case that such a result could be unjust. David Clare, Silverton's attorney, said the standard is only a guideline and is often ignored, particularly in the face of legal precedent.

"Is that proper, to disregard (them) as a matter of course?" asked George. "Is it still a standard if it's ignored?"

Justice Marvin Baxter said discipline authorities should consider the effect of lawyer misconduct on both the general public and the reputation of the legal profession. "It is beyond me how someone who's been disbarred would play it that close to the line . . . How long do you have to wait before you put an end to victimizing the public? Does it require a new moral turpitude offense?"

Baxter also inquired at one point about permanent disbarment, a concept proposed by the board of governors in the mid-1990s and sent to the Supreme Court for consideration. The idea came back to the bar for further study around the time Gov. Pete Wilson vetoed the organization's fee bill, and most of the bar's operations, including to some extent the discipline operation, were shut down. Since that time, the proposal has languished.

Two other lawyers who were disbarred years ago also recently were disbarred again. **FRED RIVAS [#52736], 66, of Pomona** lost his license last November when the bar court's hearing department found in a default proceeding that he misappropriated more than \$75,000 from a terminally ill client. He was disbarred in 1985 after being convicted of violating the California Election Code by knowingly providing the registrar of voters with incorrect residency information while running for judge on the San Bernardino Municipal Court (see California Bar Journal, April 2005).

In December, **ALVIN GILBERT TENNER [#37046], 69, of Granada Hills** (see p. 19) was disbarred for the second time for multiple acts of misconduct, some involving moral turpitude and including failure to perform legal services competently, communicate with clients, release client files, maintain respect for the courts, report judicial sanctions, return unearned fees or cooperate with the bar's investigation.

Tenner was disbarred in 1986 and reinstated in 1992; the latest round of misconduct began six years later.

On trial before the bar court in San Francisco, **FRANK PRANTIL [#35155], 67, of Sacramento** is charged with multiple counts of failing to perform legal services competently. Prantil was disbarred in 1989, reinstated in 1994 and charged with misconduct in 2002. The trial on the new charges was ongoing at press time and although the bar had not formally asked for his disbarment, it is a possible penalty.

The 1989 disbarment was the result of convictions for forgery and being an accessory to possess cocaine.

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