



LAP News to Use

Saving Careers, Saving Lives . . . One Attorney at a Time

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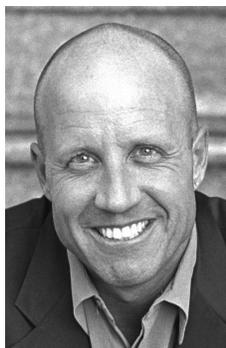
Winter 2006

January 28 Gala to Save Careers, Save Lives

The table is set for the first annual “Saving Careers, Saving Lives” Dinner, an evening of fine dining, camaraderie and entertainment on Saturday, January 28, 2006 at the Loews Santa Monica Beach Hotel, to benefit the Financial Assistance Plan of the Lawyer Assistance Program.

A full house is expected at the event, which will honor James O. Heiting, President of the State Bar of California. Heiting, a staunch supporter of the Lawyer Assistance Program, is an inspiration to attorneys with substance abuse problems.

Critically-acclaimed comedian Mark Lundholm will perform after dinner, in keeping with the evening’s “supper club” theme. Lundholm is the creator of a one-man stage play about chances and choices, “Addicted . . . a comedy of substance.” In addition to his one-man theater show, Lundholm headlines in national A-list comedy clubs. He is also a seasoned motivational speaker, whose insight into the inherent irony of it all



Comedian Mark Lundholm

forms a unique foundation for all of his engagements. The evening’s beneficiary, the Financial Assistance Plan of the Lawyer Assistance Program, is a loan program for lawyers who need treatment but are unable to pay for it. Proceeds from the First Annual “Saving Careers, Saving Lives” Dinner will allow the Lawyer Assistance Program to provide greater assistance to more attorneys in need.

Dinner sponsors include Lawyers Professional Liability Insurance Program, Arch Insurance, Marsh Affinity Group Services, and Lenos Software.

On-line registrations for the first annual “Saving Careers, Saving Lives” Dinner are available at www.calbar.ca.gov/lap through January 21, 2006. ♦

Dinner to Honor Heiting



Jim Heiting

Jim Heiting, the State Bar’s 81st president, will be honored at the first annual “Saving Careers, Saving Lives” Dinner (see story at left). Heiting, a recovering alcoholic, has rebuilt his career and personal life while dedicating himself to the recovery community and the legal profession.

Elected to the State Bar Board of Governors in 2002, Heiting worked with former State Senator John Burton to win legislation that created the Lawyer Assistance Program. A strong supporter of the bar’s drug court, he believes the goal for attorneys whose misbehavior is related to substance abuse should be recovery, not just punishment. “We can help save lives, careers, money and clients,” he said in an article in the September 2005 issue of the *California Bar Journal*. ♦

A Ruined Life Gets Back on Track

Two years ago, Millbrae attorney Jeff Greenwald didn’t even know his license to practice law was suspended. Cases had slipped out of his control, he was evicted from his office and he “felt like a freight train heading into a wall.” He managed to kick his methamphetamine and marijuana addiction cold turkey and find a non-legal job, but when a State Bar prosecutor told him he faced disbarment, he took her up



Jeff Greenwald

on an offer to check out the bar’s Lawyer Assistance Program (LAP).

Greenwald, now 52, said he knew he was in trouble, but tried to hide from his problems and “was like an ostrich with

my head in the sand.” He also knew he was in no shape to be practicing law.

He started attending weekly LAP meetings, where it became apparent, he said, that “I was depressed and isolated and I needed a lot of help.”

Greenwald underwent four months of outpatient rehab, and because he had severe money problems, he was eligible for financial assistance from LAP.

He also was accepted into the State Bar Court’s Alternative Discipline Program

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A Heavy Caseload of Addiction

By Nancy McCarthy

A little more than two years after a State Bar program to help alcoholic or drug-addicted lawyers was launched, 42 percent of the disciplinary court's active caseload now involves attorneys with chemical dependency or mental health issues.

As of mid-June, 135 lawyers facing charges of misconduct before the State Bar Court are at some stage of involvement with the Alternative Discipline Program (ADP), a strict monitoring and intervention program in which discipline is held in abeyance while attorneys undergo treatment. Another dozen or so are under consideration for the program.

"I think we're all really trying to feel our way right now, including the respondents," said Judge JoAnn Remke, who helped create the bar court's program. "You have [chemically dependent] attorneys in a revolving door system, and this is a way of intervening and getting them the help they need. I think it's going well."



JoAnn Remke

The ADP, the only program of its kind in the country, was created in response to legislation sponsored by former Sen. John Burton, D-San Francisco, that requires the bar to collect \$10 a year from every active attorney to assist lawyers with addiction or mental health problems.

Those funds, collected as part of the annual membership fee, underwrite the Lawyer Assistance Program, which helps

sues and another third suffer from both afflictions.

When the LAP was created, bar officials and clinical experts hoped that by helping lawyers before they commit misconduct, the program would provide long-range payoffs by ultimately reducing the number of discipline cases. Although the program is too young to have seen such a result, its proponents say participants show virtually no recidivism. According to the 2004 State Bar discipline report provided annually to the legislature:

"Experience is beginning to show that respondents in the discipline system who participate in a Lawyer Assistance Program (LAP) structured recovery program are honoring their obligations to their clients and to the profession. Restitution is being paid, ethics education is being completed, and most important, there has been virtually no recidivism to date."

Nearly 300 people are enrolled in LAP.

Participation in the bar court's ADP program generally begins when bar prosecutors charge a lawyer with misconduct. The first step is referral to the ADP, which requires an attorney to contact the Lawyer Assistance Program to familiarize himself or herself with its requirements.

The attorney next enters into a stipulation with the bar and admits the misconduct. "We don't do formal discovery," says deputy trial counsel Cydney Batchelor, who prosecutes ADP cases fulltime.

"But you have to step up and admit you've committed misconduct."

The attorney must submit an evaluation from a professional establishing a connection between the

misconduct and the substance abuse or mental health problem. If the court is satisfied there is a nexus, the judge determines two possible levels of discipline—a lesser punishment if the ADP is com-

pleted successfully, or a more severe punishment if the attorney is terminated from the program.

Simultaneous to the court proceedings, the attorney is evaluated by the LAP and, if accepted into the LAP, agrees to follow a plan with conditions established on a case-by-case basis. Weekly LAP meetings are required for most participants, and other conditions may include additional self-help meetings, random drug tests, individual psychotherapy and residential inpatient treatment.

In addition to the LAP participation plan, the attorney reaches an agreement with the bar court that requires no further misconduct, restitution and a waiver of objections to Client Security Fund

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*Saving Careers, Saving Lives . . .
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Call the Lawyer Assistance Program toll-free at (877) LAP-4-HELP (877-527-4435) or visit calbar.ca.gov/lap. Financial assistance is available.

impaired lawyers in the discipline system and those who have not committed misconduct. One-third of the attorneys enrolled in either or both programs are addicts, one-third have mental health is-



payouts. Participants also may have to attend ethics school, take the multi-state professional responsibility exam (MPRE) and may be suspended.

The attorney is monitored for 18 to 36 months and makes monthly court appearances.

Even those who complete the program successfully are likely to be disciplined, particularly those who commit serious misconduct. The discipline, which is held in abeyance for the duration of participation in ADP, is imposed when the program is completed. Three lawyers have graduated so far.

“ADP does not give respondents a free pass; it requires them to step up to their professional responsibilities in a closely monitored, lengthy and intense program of rehabilitation,” says Batchelor. “ADP works. It’s transforming lives and careers.”

Back on Track

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(ADP), and completed requirements that he attend ethics school, take the MPRE and repay about \$2,000 to clients.

Although he was suspended for misconduct that stemmed from abandoning clients, he got his license back last January as he demonstrated progress. He hopes eventually to do pro bono work for an eviction clinic.

Greenwald says his recovery was aimed not so much at being able to practice law again as it was to rebuild his life.

“When you put all the pieces back together,” he said, “you can build something better than you had when you fell apart.”

Greenwald also said he was afraid of the State Bar and what it could do to him, and it was the last place he would have turned for help. To his surprise, its assistance programs changed his life.

“I would not have expected the State Bar to be the knight in shining armor for me, but it was.” ♦

Editor’s Note: This article appeared originally in the July 2005 issue of California Bar Journal. It is reprinted with permission.

A northern California partner in a successful plaintiffs firm agrees. Two attorneys in his firm are enrolled in the LAP and one, charged with serious misconduct, participates in the ADP.

Philip Conor (not his real name), said he had lost touch with a law school friend and when they ran into one another three years ago, the friend’s life was in tatters. He faced serious discipline, owed his clients money, his marriage was ending.

“My reaction was to help him,” Conor said. So Conor hired the man, who enrolled in both LAP and ADP and has pulled his life together. The attorney, in turn, recognized symptoms of alcoholism in a first-year lawyer at Conor’s firm and that individual was accepted in the LAP.

The two worked together on a recent multi-million-dollar case that Conor won, and he attributes much of that success to their efforts. “They are highly skilled, highly functional guys,” Conor said. “They are completely dry and are committed to staying dry.”

In addition to the attorneys’ commit-

ment, Conor says the firm has to make a substantial commitment to them. A partner supervises the attorney with discipline problems, whose working hours are limited as part of his agreement with the court, and he often has to leave work for random drug and alcohol testing. The young lawyer said he wanted to drop out of the LAP because of the financial burden; Conor gave him a raise.

State Bar resources devoted to the two programs also are substantial. The LAP employs 10 people. Four prosecutors work fulltime on ADP cases and two judges, one in northern California and the other in the southland, monitor the participants.

“It’s a lot of work, a lot of hands-on,” Remke said. “That’s what we’re trying to adjust to right now. We can handle the cases right now, but if the numbers grow and the filings increase, will we have to re-evaluate our ability to handle them?” ♦

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LAP Helps Depressed Lawyers

Not opening mail, ignoring voicemail, not returning calls, and missing deadlines are a few of the symptoms common to attorneys experiencing depression.

Without a doubt, practicing law is a high stress occupation. Studies have shown that lawyers have the highest incidence of depression of any profession. Of those attorneys who entered the Lawyer Assistance Program during 2005, 35 percent had a mental health diagnosis (most often a mood disorder such as depression) and 28 percent had both a mental health diagnosis and a substance abuse diagnosis.

The LAP offers the following services for attorneys experiencing depression:

- A LAP group dispels the myth of being the only one experiencing these difficulties.
- Assessment and referral for medication management is available if indicated.
- Staff is able to make referrals for counseling and other community services.
- Financial assistance is available to eligible and approved attorneys with substance-related disorders and mental health disorders.

For more information call the LAP toll-free at (877) 527-4435. ♦

Resources to Help the Impaired Attorney

A Time to Heal

by Timmen Cermak MD

This book has excellent, meaty descriptions, anecdotes, and solutions for those who are struggling with the aftermath of growing up in a family that did not prepare them for adulthood. The author is a board-certified psychiatrist who has a certificate of added qualification in Addiction Psychiatry.

Alcohol and the Addictive Brain

by Kenneth Blum, PhD

Blum and his collaborator, James E. Payne, present compelling laboratory evidence that alcoholism is as much a neurological disorder as Parkinson's or epilepsy.

Bi-Polar Disorder: An Unquiet Mind

by Kay R. Jamison, MD

Dr. Jamison, a psychiatrist and pioneer in the field of mood research, chronicles her professional journey to understand the biological basis for mood disorders while she was fighting—and hiding—her own.

Depression: Feeling Good: The New Mood Therapy

by David D. Burns, MD

Eminent psychiatrist David D. Burns, MD outlines the remarkable, scientifically tested techniques that can lift your spirits and help you develop a positive outlook on life.

Lawyer, Know Thyself

by Professor Susan Swaim Diacoff

This book discusses particular traits of lawyers, why the public dislikes them, and lawyers' low levels of job satisfaction, along with the implications of each. The author offers a solution, which looks as much to psychological needs, emotions, and relations with others as to rights, duties, and obligations.

Why Zebras Don't Get Ulcers (An Updated Guide to Stress, Stress-Related Diseases, and Coping)

by Robert M. Sapolsky

Using stories and humor, this book explains how prolonged, chronic stress affects our bodies and minds. The author discusses how we can use our minds and bodies to reduce the effect of environmental stressors. ♦

Lawyer Assistance Program



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