

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: July 13, 2017

D-142-17

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In the Matter of ATTORNEYS  
IN VIOLATION OF JUDICIARY  
LAW § 468-a.

COMMITTEE ON PROFESSIONAL  
STANDARDS, Now Known as  
ATTORNEY GRIEVANCE COMMITTEE  
FOR THE THIRD JUDICIAL  
DEPARTMENT,

MEMORANDUM AND ORDER  
ON MOTION

Petitioner;

BRENNAN PETER SMITH,  
Respondent.

(Attorney Registration No. 4465621)

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Calendar Date: May 30, 2017

Before: Peters, P.J., Garry, Clark, Mulvey and Aarons, JJ.

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Monica A. Duffy, Attorney Grievance Committee for the Third  
Judicial Department, Albany, for petitioner.

Brennan Peter Smith, Hoboken, New Jersey, respondent  
pro se.

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Per Curiam.

Respondent was admitted to practice by this Court in 2007  
and lists a business address in Hoboken, New Jersey with the  
Office of Court Administration. By 2014 order, this Court  
suspended respondent from the practice of law in New York due to  
conduct prejudicial to the administration of justice arising from

his failure to comply with the attorney registration requirements of Judiciary Law § 468-a and Rules of the Chief Administrator of the Courts (22 NYCRR) § 118.1 (113 AD3d 1020, 1055 [2014]; see Judiciary Law § 468-a [5]; Rules of Professional Conduct [22 NYCRR 1200.0] rule 8.4 [d]). Respondent has moved for his reinstatement (see Uniform Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [a]; Rules of App Div, 3d Dept [22 NYCRR] § 806.16 [a]) and, by correspondence from its Chief Attorney, petitioner opposes the motion.

Any attorney seeking reinstatement from suspension must establish, by clear and convincing evidence, (1) that he or she has complied with the order of suspension and this Court's rules, (2) that he or she has the requisite character and fitness for the practice of law, and (3) that it would be in the public's interest to reinstate the attorney to practice in New York (see Matter of Sommer, 150 AD3d 1530 [2017]; Uniform Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [a]). In addition, an applicant for reinstatement must support his or her application with certain required documentation (see Uniform Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [b]). Here, respondent failed to submit a sworn affidavit as is required under both the Uniform Rules for Attorney Disciplinary Matters and this Court's prior practice (see Matter of Enriquez, \_\_\_ AD3d \_\_\_ [decided herewith]).<sup>1</sup> Moreover, respondent is again subject to potential discipline since he has failed to timely register for the biennial period commencing in 2017 (see Matter of Turgeon, 148 AD3d 1458, 1459 [2017]; Matter of Cluff, 148 AD3d 1346, 1346 [2017]). Accordingly, respondent has not satisfied his burden on this motion, and the application must therefore be denied (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Ostroskey], \_\_\_ AD3d \_\_\_, 2017 NY Slip Op 04955 [2017]).

Peters, P.J., Garry, Clark, Mulvey and Aarons, JJ.,  
concur.

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<sup>1</sup> Correspondence from petitioner notifying respondent of the deficiencies in his application have not been responded to by respondent.

ORDERED that respondent's motion for reinstatement is denied.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, stylized "R" and "M".

Robert D. Mayberger  
Clerk of the Court