

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

Decided and Entered: February 27, 2020

PM-35-20

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;

KYLE EDWARD NENNINGER,
Respondent.

(Attorney Registration No. 3036415)

Calendar Date: January 27, 2020

Before: Garry, P.J., Lynch, Mulvey, Pritzker and Reynolds
Fitzgerald, JJ.

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

Kyle Edward Nenner, Wheaton, Illinois, respondent
pro se.

Per Curiam.

Respondent was admitted to practice by this Court in 2000.
He was previously admitted in Illinois, where he is in good

standing and presently lists a business address with the Office of Court Administration. By January 2014 order, this Court suspended respondent from the practice of law in New York for conduct prejudicial to the administration of justice arising from his noncompliance with the attorney registration requirements of Judiciary Law § 468-a and Rules of the Chief Administrator of the Courts (22 NYCRR) § 118.1 (Matter of Attorneys in Violation of Judiciary Law § 468, 113 AD3d 1020, 1044 [2014]; see Judiciary Law § 468-a [5]; Rules of Professional Conduct [22 NYCRR 1200.0] rule 8.4 [d]). At the time that petitioner's application to suspend respondent, among others, was filed in October 2013, respondent had not fulfilled his attorney registration requirements since the 2004-2005 biennial period. Respondent now moves, by motion returnable on January 27, 2020, for his reinstatement. Noting certain deficiencies therein, petitioner advises that it opposes respondent's application.¹

All attorneys seeking reinstatement from suspension must establish, by clear and convincing evidence, that (1) he or she has complied with the order of suspension and the Rules of this Court, (2) he or she has the requisite character and fitness for the practice of law, and (3) it would be in the public's interest to reinstate the attorney to practice in New York (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Katz], 166 AD3d 1469, 1470 [2018]; Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [a]). An applicant for reinstatement must also provide, as a threshold matter, certain required documentation in support of his or her application (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [b]; part 1240, appendix C).

Initially, given the length of his suspension, respondent properly submits a sworn affidavit in the form set forth in appendix C to the Rules for Attorney Disciplinary Matters (22 NYCRR) part 1240 (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [b]). Notably, Office of Court

¹ Finding no open claims against respondent, the Lawyers' Fund for Client Protection advises that it does not oppose his reinstatement to the practice of law.

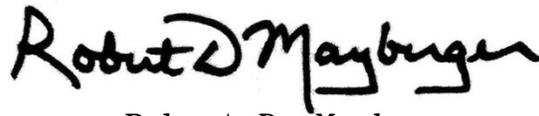
Administration records demonstrate that respondent is now current with his biennial registration requirements (see Judiciary Law § 468-a; Rules of the Chief Admin of Cts [22 NYCRR] § 118.1). Respondent has also submitted sufficient threshold documentation in support of his application, including proof that he successfully completed the Multistate Professional Responsibility Examination, as is required for all attorneys seeking reinstatement following suspensions of six months or more (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [b]; compare Matter of Attorneys in Violation of Judiciary Law § 468-a [Castle], 161 AD3d 1443, 1444 [2018]). Moreover, having reviewed the notice of motion, respondent's affidavit and the submitted materials confirming respondent's compliance with the order of suspension and the Rules of this Court, we find that respondent has the requisite character and fitness for the practice of law and that it would be in the public's interest to reinstate him to the practice of law in New York (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Mahoney], ___ AD3d ___, 114 NYS3d 263 [2020]; Matter of Attorneys in Violation of Judiciary Law § 468-a [Sauer], 178 AD3d 1191 [2019]; Matter of Attorneys in Violation of Judiciary Law § 468-a [Koschwitz], 176 AD3d 1300, 1301 [2019]). We therefore grant respondent's motion and reinstate him to the practice of law in New York, effective immediately.

Garry, P.J., Lynch, Mulvey, Pritzker and Reynolds
Fitzgerald, JJ., concur.

ORDERED that respondent's motion is granted; and it is further

ORDERED that respondent is reinstated as an attorney and counselor-at-law in the State of New York, effective immediately.

ENTER:

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

Robert D. Mayberger
Clerk of the Court