

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

Decided and Entered: September 22, 2022

PM-165-22

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

ATTORNEY GRIEVANCE COMMITTEE
FOR THE THIRD JUDICIAL
DEPARTMENT,

MEMORANDUM AND ORDER
ON MOTION

Petitioner;

MATTHEW MICHAEL GILBERT,
Respondent.

(Attorney Registration No. 3948270)

Calendar Date: July 11, 2022

Before: Clark, J.P., Aarons, Reynolds Fitzgerald, Ceresia and
Fisher JJ.

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

Law Offices of Richard E. Grayson, White Plains (Richard
E. Grayson of counsel), for respondent.

Per Curiam.

Respondent was admitted to practice by this Court in 2001
and was also admitted in 1998 in New Jersey, where he resides
and serves as in-house counsel to a corporation. Respondent was

suspended from practice by May 2019 order of this Court for conduct prejudicial to the administration of justice as a result of his failure to comply with his attorney registration obligations beginning in 2011 (*Matter of Attorneys in Violation of Judiciary Law § 468-a*, 172 AD3d 1706, 1724 [3d Dept 2019]; *see* Judiciary Law § 468-a [5]; Rules of Professional Conduct [22 NYCRR 1200.0] rule 8.4 [d]). He cured his registration delinquency in January 2021 and now applies for reinstatement. The Attorney Grievance Committee for the Third Judicial Department (hereinafter AGC), although noting certain deficiencies in the application, does not object to respondent's reinstatement.

Initially, each "[a]ttorney[] 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" (*Matter of Attorneys in Violation of Judiciary Law § 468-a [Nenninger]*, 180 AD3d 1317, 1317-1318 [3d Dept 2020]; *see Matter of Attorneys in Violation of Judiciary Law § 468-a [Demenge]*, 206 AD3d 1217, 1219 [3d Dept 2022]). As a threshold matter, an applicant for reinstatement must also provide 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).

At the outset, we find that respondent has satisfied the procedural requirements for an attorney seeking reinstatement to the practice of law from a suspension of more than six months by his submission of, among other things, a sworn affidavit in the proper form set forth in appendix C to Rules for Attorney Disciplinary Matters (22 NYCRR) part 1240, as well as proof of his successful completion of the Multistate Professional Responsibility Examination, as required (*see* Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [b]; *Matter of Attorneys in Violation of Judiciary Law § 468-a [Lawrence]*, 193 AD3d 1318, 1318-1319 [3d Dept 2021]). As to respondent's admitted failure to timely file an affidavit of compliance, we

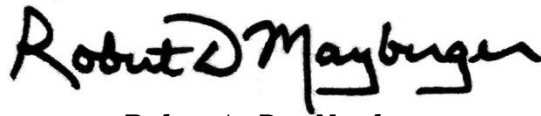
find that his statements made in support of his appendix C affidavit have cured this defect (*see* Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.15; Rules for Attorney Disciplinary Matters [22 NYCRR] part 1240, appendix C, ¶21; *Matter of Attorneys in Violation of Judiciary Law § 468-a [Taylor]*, 194 AD3d 1242, 1243 [3d Dept 2021]). In consideration of respondent's statements and submissions as a whole, we further find that he has established by clear and convincing evidence his compliance with the order of suspension and the Rules of this Court, that he possesses 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 [Taylor]*, 194 AD3d at 1243; *Matter of Attorneys in Violation of Judiciary Law § 468-a [Lawrence]*, 193 AD3d at 1320; *Matter of Attorneys in Violation of Judiciary Law § 468-a [Nenninger]*, 180 AD3d at 1318). Accordingly, we grant respondent's application and reinstate him to the practice of law.

Clark, J.P., Aarons, Reynolds Fitzgerald, Ceresia and Fisher, JJ., concur.

ORDERED that respondent's motion for reinstatement 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, reading "Robert D. Mayberger". The signature is written in a cursive, flowing style with a large initial "R" and a distinct "D" for the middle name.

Robert D. Mayberger
Clerk of the Court