

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

Decided and Entered: September 29, 2022

PM-166-22

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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

Appellant;

ZACHARY MICHAEL BASTIAN,  
Respondent.

(Attorney Registration No. 5096102)

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Calendar Date: July 18, 2022

Before: Garry, P.J., Egan Jr., Reynolds Fitzgerald, Ceresia and  
Fisher, JJ.

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

Zachary Michael Bastian, Washington, DC, respondent  
pro se.

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Per Curiam.

Respondent was admitted to practice by this Court in 2013  
and lists a Washington, DC business address with the Office of  
Court Administration. Respondent was suspended from the practice

of law in New York by May 2019 order of this Court for conduct prejudicial to the administration of justice arising from his noncompliance with the statutory attorney registration requirements from 2015 onward (*Matter of Attorneys in Violation of Judiciary Law § 468*, 172 AD3d 1706, 1711 [3d Dept 2019]; *see* Judiciary Law § 468-a [5]; Rules of Professional Conduct [22 NYCRR 1200.0] rule 8.4 [d]; Rules of Chief Admin of Cts (22 NYCRR) § 118.1). Upon curing his registration delinquency in March 2021, respondent has now moved, by application marked returnable on July 18, 2022, for his reinstatement. The Attorney Grievance Committee for the Third Judicial Department (hereinafter AGC) has been heard in response to the application.<sup>1</sup>

Along with certain procedural requirements, respondent must satisfy the substantive test applicable to all attorneys seeking reinstatement from suspension by establishing, "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]). Given the duration of his suspension, respondent has appropriately submitted a duly-sworn form affidavit as is provided 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]). He has also provided proof of his timely passage of the Multistate Professional Responsibility Exam (*see* Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [b]). Although respondent concededly failed to file the required affidavit of compliance following the order of suspension (*see* Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.15 [f]; part 1240, appendix C, ¶ 21), we find that the attestations included in his appendix C affidavit have sufficiently cured this defect (*see Matter of Attorneys in Violation of Judiciary Law § 468-a [Lawrence]*, 193 AD3d 1318, 1319 [3d Dept 2021]).

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<sup>1</sup> Finding no open claims, the Lawyers' Fund for Client Protection advises that it does not oppose respondent's reinstatement application.

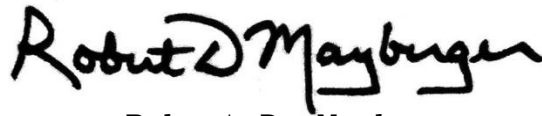
As for the balance of respondent's application, we conclude that his submission is sufficient to establish by clear and convincing evidence that he has satisfied the above-referenced three-part test. Respondent has adequately demonstrated his compliance with the order of suspension. As to his character and fitness, respondent's application materials raise no cause for concern, inasmuch as, among other things, he reports no criminal record and further attests that he has not been the subject of any adverse disciplinary action or governmental investigation since his suspension (*see* Rules for Attorney Disciplinary Matters [22 NYCRR] part 1240, appendix C, ¶¶ 14, 30, 31). We additionally conclude that respondent's reinstatement would be in the public interest. In that regard, giving due consideration to the fact that the nature of respondent's professional misconduct does not raise any concerns regarding harm to a client, as well as his otherwise spotless disciplinary history, we also note that no detriment would inure to the public from respondent's reinstatement (*see Matter of Attorneys in Violation of Judiciary Law § 468-a [Giordano]*, 186 AD3d 1827, 1829 [3d Dept 2020]; *Matter of Attorneys in Violation of Judiciary Law §468-a [Serbinowski]*, 164 AD3d 1049, 1051 [3d Dept 2018]). We accordingly grant respondent's motion and reinstate him to the practice of law in New York, effective immediately.

Garry, P.J., Egan Jr., Reynolds Fitzgerald, Ceresia and Fisher, 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