

IN RE: MICHAEL P. ASCHER

NO. BD-2006-020

S.J.C. Judgment Denying Reinstatement entered by Justice Spina on May 28, 2015.¹

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¹ The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

**COMMONWEALTH OF MASSACHUSETTS
BOARD OF BAR OVERSEERS
OF THE SUPREME JUDICIAL COURT**

In the Matter of Michael P. Ascher)))))
)))))
Petition for Reinstatement)))))

SJC No. BD 2006-0020

CORRECTED HEARING PANEL REPORT

I. Introduction

On May 20, 2014, the petitioner filed a renewed petition for reinstatement from an order of indefinite suspension entered April 20, 2006, effective May 20, 2006. Following a contempt hearing, the suspension was extended for three years commencing on May 20, 2011.

A public hearing on the petition was held on August 11, 2014. The petitioner appeared *pro se*; Assistant Bar Counsel Christine Deshler appeared for the Office of Bar Counsel.

Thirteen exhibits were admitted into evidence including, as Ex. 1, the petitioner’s renewed petition for reinstatement; affidavit; reinstatement questionnaire Part I; and attachments. The petitioner testified on his own behalf and called one additional witness, Joseph H. Reinhardt, Esq. Bar counsel called no witnesses. For the reasons discussed below, we recommend that the petition for reinstatement be denied.

II. Standard

A petitioner for reinstatement to the bar bears the burden of proving that he has satisfied the requirements for reinstatement set forth in S.J.C. Rule 4:01, § 18(5), namely that he possesses “the moral qualifications, competency, and learning in the law required for admission to practice

law in this Commonwealth, and that his . . . resumption of the practice of law [would] not be detrimental to the integrity and standing of the bar, the administration of justice, or to the public interest.” Matter of Daniels, 442 Mass. 1037, 1038, 20 Mass. Att’y Disc. R. 120, 122 (2004), quoting S.J.C. Rule 4:01, § 18(5). See Matter of Dawkins, 432 Mass. 1009, 1010, 16 Mass. Att’y Disc. R. 94, 95 (2000); Matter of Pool, 401 Mass. 460, 463, 5 Mass. Att’y Disc. R. 290, 293 (1988).

In determining whether the petitioner has satisfied these requirements, a panel considering a petition for reinstatement looks to “(1) the nature of the original offense for which the petitioner was [suspended or disbarred], (2) the petitioner’s character, maturity, and experience at the time of his [suspension or disbarment], (3) the petitioner’s occupations and conduct in the time since his [suspension], (4) the time elapsed since the [suspension], and (5) the petitioner’s present competence in legal skills.” Matter of Prager, 422 Mass. 86, 92 (1996); see Matter of Hiss, 368 Mass. 447, 460, 1 Mass. Att’y Disc. R. 122, 133 (1975).

The conduct giving rise to the petitioner’s suspension is affirmative proof that he lacks the moral qualifications to practice law. See Matter of Centracchio, 345 Mass. 342, 346 (1963). To gain reinstatement, the petitioner has the burden of proving that he has led ““a sufficiently exemplary life to inspire public confidence once again, in spite of his previous actions.”” Matter of Prager, 422 Mass. at 92, quoting Matter of Hiss, 368 Mass. at 452, 1 Mass. Att’y Disc. at 126.

III. Disciplinary Background

The petitioner was admitted to the bar in December 1982. Ex. 1 (BC-0015). As indicated above, he was indefinitely suspended April 20, 2006, effective May 20, 2006, for numerous instances of intentional misuse with deprivation – specifically, the use of client funds not for the client but for the petitioner’s own business or personal purposes; dishonest conduct; and IOLTA violations. The allegations in the petition for discipline describe six client matters

featuring, among other misconduct, a failure promptly to turn over funds to clients and third parties and the intentional misuse of those funds; the use of one client's funds to pay another client; the commingling of personal and client funds; and the failure at the conclusion of the representation to render a written accounting of the funds. Ex. 2. All told, the petitioner misused nearly \$43,000 between 2002 and 2004. There were no allegations of permanent deprivation, and all of the clients were eventually made whole – some as the result of the petitioner's use of other clients' funds. Ex. 2 (BC-0083-0084).

On August 19, 2013, the petitioner filed, *pro se*, his first petition for reinstatement along with a motion to work as a paralegal pending reinstatement. Ex. 1 (BC-0001-0002). Bar counsel opposed both the petition and the motion and requested a contempt finding, claiming that the petitioner had already worked as a paralegal without the court's approval, and that he had engaged in the practice of law in violation of the suspension order. See Ex. 1 (BC-0002). Justice Francis X. Spina, acting as single justice, rejected the contempt and unauthorized practice arguments, but found a significant though unintentional violation of SJC Rule 4:01, § 17(7). Ex. 5 (BC-121-123). He imposed an additional three-year suspension running from May 20, 2011. Ex. 5 (BC-123). Justice Spina denied the petitioner's request to work as a paralegal but wrote that this, too, could be re-filed on or after May 20, 2014. *Id.* Per that directive, the petitioner filed this renewed petition, *pro se*, along with a second motion to work as a paralegal pending reinstatement.¹

¹ That motion was allowed June 2, 2014, specifying that the petitioner is authorized to work as a paralegal only for Attorney Joseph H. Reinhardt of Boston. Ex. 6.

The misconduct took place after the petitioner had been in practice for twenty-plus years. See Ex. 2. The petitioner received his indefinite suspension under a stipulation admitting the truth of the allegations of the petition for discipline.

There was evidence that the petition for discipline to which the petitioner stipulated (Ex. 2) differed from the original petition filed by bar counsel, and was the product of negotiations between the parties. For instance, Exhibit 13, admitted at the petitioner's request, is a letter from Stephen J. Duggan, Esq., the attorney who represented the petitioner during the disciplinary proceedings, and who urged him to mark up an earlier iteration of the petition for discipline with "exactly what you will and will not agree to. This will make it far easier for me to respond to [assistant bar counsel] in terms of what you are willing to admit." Ex. 13, p. 1.

As discussed in more detail below, the petitioner claims that there were some factual inaccuracies in the stipulation he signed. In support of his petition, he argues, among other things, that he has met the standards for reinstatement; that he has complied with the terms and conditions of his suspension; that he owes no restitution; and that he has taken and passed the MPRE. Ex. 1 (BC-0003-0005).

IV. Findings

A. Moral Qualifications

We find, and explain below, that the petitioner has not affirmatively established that he has reformed or has been rehabilitated. See Matter of Waitz, 416 Mass. 298, 305, 9 Mass. Att'y Disc. R. 336, 343 (1993) ("[r]eform is 'a state of mind' that must be manifested by some external evidence").

First, we do not find credible the petitioner's claims of remorse. See Matter of Ellis, 457 Mass. 413, 416, 26 Mass. Att'y Disc. R. 162, 166 (2010) (identifying remorse as one of factors in support of successful showing of good moral character). The petitioner filed an answer and

stipulation, agreeing with bar counsel that the initial disciplinary matter could be “resolved without hearing” and that the appropriate sanction was an indefinite suspension. Ex. 3 (BC-0095). With one exception not relevant here, the petitioner admitted “the truth of the allegations of the petition for discipline,” and stipulated “to findings that those allegations are established as facts.” Ex. 3, ¶ 2 (BC-0095). He waived his rights “to an evidentiary hearing on the facts and disciplinary rule violation [sic] alleged in the petition for discipline and on matters in aggravation or mitigation.” Ex. 3, ¶ 4 (BC-0096). He recognized and stipulated that an indefinite suspension was the appropriate discipline for his misconduct, and that but for the restitution, he could have been subject to disbarment. Ex. 3, ¶ 6 (BC-0096). He stipulated that he had “forgone . . . defenses and submission of evidence on the merits and disposition which might have been advanced had the case been litigated.” Ex. 3, ¶ 7 (BC-0097).

Having reviewed the stipulation, we are struck by the petitioner’s reluctance to acknowledge unequivocally the facts and implications of the serious misconduct to which he stipulated. In this context we note that to gain reinstatement, we do not require a petitioner to “proclaim his repentance and affirm his adjudicated guilt.” Matter of Hiss, 368 Mass. at 455, 1 Mass. Att’y Disc. R. at 129. However, having stipulated to the truth of the allegations and having admitted disciplinary violations, a petitioner cannot later come before us and try to distance himself from his earlier admissions. Without the petitioner’s unequivocal acceptance of responsibility, we cannot find reform.

Perhaps even worse than his attempt to relitigate settled matters, the petitioner blames Attorney Duggan and the client (Mesheau) and attorney who reported him (Brodeur-McGan) to bar counsel. Ex. 1 (BC-0019-0021; 0022-0027). He claims as well that bar counsel refused to modify the petition, and that bar counsel would have sought disbarment had the petitioner not signed the stipulation. Ex. 1 (BC-0026). When asked in the restatement questionnaire to

describe the misconduct, he describes it as “alleged,” and devotes the better part of two pages to a screed against Duggan. Ex. 1 (BC-0043-0044). At the hearing, he continued to assert that Duggan had mishandled the disciplinary matter; that despite his stipulation, he took “exception” to certain allegations in the petition for discipline; that certain clients identified as having been wronged would have signed affidavits attesting to different facts; and that the petition included factual discrepancies. Tr. 25-32 (Petitioner). The petitioner claimed to have signed the stipulation under duress.² Tr. 36 (Petitioner).

Putting aside the fact that the petitioner concedes that the petition for discipline was amended in response to his counsel’s efforts (Tr. 97-98 (Petitioner)), his agreement to a stipulation precludes these arguments. The forcefulness with which he continues to resist the conclusion that he committed harmful and serious misconduct, and his attempts to blame others, together suggest not only a failure to reform but confusion about both the legal process and the meaning and effect of a stipulation.³

Finally, despite direct questioning, the petitioner could not explain what had gone wrong, citing his emotional state, economic issues and bad decisions. Tr. 164-165 (Petitioner). This diffuse and vague response leads us to fear that the petitioner lacks insight and introspection, and impels us to question whether he understands what motivated him to violate the disciplinary

² Having heard the evidence, we find that the petitioner has failed to make out a claim for duress.

³ By signing the stipulation, the petitioner made the strategic decision to give up the right to offer facts in mitigation. Ex. 3, ¶ 4 (BC-0096). We recognize that the petitioner has suffered terrible personal loss. His son died of a brain tumor in 1993 at the age of four. See Ex. 1 (BC-0016-0017). He also described to us the cancer diagnosis in 1985 and eventual death of his wife, Cassandra. Ex. 1 (BC-0016); Tr. 14 (Petitioner). However, he neglected to disclose, until prodded by bar counsel, that she was his first wife, that she had remarried, and that at the time of her death twenty-four years later in 2009, his third marriage was imminent. Tr. 101, 103, 104-105 (Petitioner). His father’s death, also cited in mitigation, occurred in 1990 or 1991. Tr. 107-108 (Petitioner). While we in no way wish to appear unsympathetic to what were admittedly tragic events, their relevance was waived by the stipulation. Further, we question their applicability at this juncture, particularly without any attempt to tie them temporally or causally to the 2002-2004 misconduct at issue. For instance we note that in 1997, the petitioner apparently went on to have his greatest success as an attorney, enjoying a highly favorable and well-publicized outcome in a personal injury case. Ex. 1 (BC-0071).

rules in the first place. Absent such understanding, the same confluence of factors could well yield another unfortunate result.

We next examine how the petitioner has spent his time during his suspension. He testified about his struggle to find work. He relocated to Florida in August 2005. Tr. 109 (Petitioner). We note that in the period since his suspension in 2006, the petitioner has not worked gainfully or regularly. See Ex. 1 (BC-0045-0050). His only solid stretch of employment, from July 2007 through June 2008, was spent as a paralegal for a Florida law firm, a position later found to have been in violation of the petitioner's obligations under SJC Rule 4:01, § 17(7). Ex. 5 (BC-0122-0123). We were not favorably impressed by the petitioner's admission that he failed to tell anyone at the firm that he had been suspended from the practice of law in Massachusetts, explaining that it "didn't come up." Tr. 117-118 (Petitioner).

We do not fault the petitioner for his failure to find remunerative work, but we are entitled to examine how he has spent his days. In this context, we note the sheer number of times he has filed suit on his own behalf. He described to us the counterclaim he has prosecuted against his former client, and his eventual handling of the entire case (Ex. 9, pp. 1-3); his suit against his former employer, NCS (Ex. 9, p. 5); his suit against his former attorney (Ex. 9, p. 7); and his research of legal issues concerning the loss of his personal property in a storage facility (Ex. 9, p. 8). Without passing judgment on the merits of these suits, we note simply that their prosecution came at the expense of other activities that perhaps could have enhanced the petitioner's moral standing.

"A petitioner's moral character can be illustrated by charitable activities, volunteer activities, commitment to family, or community work." Matter of Sullivan, 25 Mass. Att'y Disc. R. 578, 583 (2009). We cannot conclude that the petitioner has made up for the absence of proof of reform or gainful occupation by his good works. As to actual charitable work, we find the

evidence thin. The petitioner described himself as “heavily involved” with his alma mater, Western New England University School of Law, but it was not made clear what he actually does. Ex. 1 (BC-0052). We note as well that while the petitioner discussed having been involved in various cancer charities and organizations in the past, he offered nothing current or specific. See Ex. 1 (BC-0051; Tr. 136-137 (Petitioner)). He did indicate that he has helped his daughter, who has breast cancer, and has cared for his granddaughter, but he was short on specifics, noting that “from 2011 and [sic] 2012, I traveled out to her home as often as I could . . . to spend time with both of them and help care for her.” Tr. 77 (Petitioner).⁴

The petitioner's suspension is “conclusive evidence that he was, at the time, morally unfit to practice law, and it continued to be evidence of his lack of moral character . . . when he petitioned for reinstatement. . . . It [is] incumbent on [the petitioner], therefore, to establish affirmatively that, during his suspension period, he ha[s] redeemed himself and become `a person proper to be held out by the court to the public as trustworthy.’” Matter of Dawkins, 432 Mass. at 1010-1011, 16 Mass. Att’y Disc. R. at 95 (citations omitted). “P]assage of time alone is insufficient to warrant reinstatement.” Matter of Waitz, 416 Mass. at 306, 9 Mass. Att’y Disc. R. at 344 (citation omitted). Considering all the evidence with which we have been presented, we cannot conclude that the petitioner has shown moral fitness to resume the practice of law.

⁴ The petitioner tried to argue that his work substitute teaching at the temple is charitable. Tr. 74 (Petitioner). Even assuming that the temple is a nonprofit organization, we do not agree that this paid work constitutes a charitable endeavor. We draw the same conclusion as to the petitioner’s two-week stint for Habitat for Humanity: while this organization no doubt performs vital work, the petitioner was paid and we are not convinced that his motivation was charitable. Ex. 1 (BC-0049); Tr. 137-139 (Petitioner).

B. Competence and Learning in the Law

The evidence reflects that the petitioner took and passed the MPRE over four years ago, in March 2010. Ex. 1 (BC-0056). He read the materials and watched the lectures before taking the course. Id.; Tr. 62 (Petitioner). His petition described “access” to Lois Law online and the fact that he has “regularly accessed this website to research numerous legal issues and to generally maintain my learning in the law.” Ex. 1 (BC-0056). He admits he is a Florida resident and does not have direct access to a law library with Massachusetts law. Ex. 1 (BC-0056). The petitioner testified that in February 2012 he had a free seven-day trial of MCLE materials, and that he read online materials on civil litigation skills, personal injury and general practice skills. Ex. 9, p. 7; Tr. 57-58, 139-140 (Petitioner).

Since 2012, around the time he began preparing his first reinstatement petition, the petitioner began to get Mass. Lawyers Weekly daily e-mail alerts. Tr. 59, 142 (Petitioner). He also subscribes to research papers (Ex. 10; Tr. 59 (Petitioner)), alumni periodicals (Tr. 144-145 (Petitioner)), and an in-house periodical. Tr. 142-143 (Petitioner). He does not subscribe to any online newspapers, but uses the free webpage to read the Boston Globe, Boston Herald and Springfield newspapers. Tr. 144 (Petitioner). In response to a question as to whether he had learned about the commingling and IOLTA rules, he told the panel that his MPRE review included issues relating to the use of IOLTA accounts, and that in any event his problem was not related to accounting.⁵ Tr. 61-63 (Petitioner).

⁵ We note that the MPRE is a national exam and does not address the specific Massachusetts IOLTA rules at issue here.

The petitioner has been authorized to work as a paralegal for Massachusetts attorney Joseph H. Reinhardt since June 2, 2014. Ex 6 (BC-0126-0127).⁶ In his paralegal capacity, the petitioner has worked for Reinhardt on three projects. Ex. 9, p. 7; Tr. 183-184 (Reinhardt). He works remotely, from Florida. Tr. 134 (Petitioner). Reinhardt had praise for him, stating that it's as if he "never missed a step." Tr. 176 (Reinhardt). He described the work as "outstanding," and the petitioner as "as smart as when I knew him in law school." Tr. 185 (Reinhardt). Reinhardt indicated that the petitioner was not an employee but was an independent contractor. Tr. 191-192 (Reinhardt).

Having reviewed the evidence, we conclude that the petitioner does not currently possess the necessary competence and learning in the law sufficient for reinstatement. We recognize the weight of the petitioner's twenty-year pre-suspension practice. But we are not convinced that he has remained sufficiently current. We have heard no evidence that the petitioner has studied trust accounting, or the IOLTA rules, or that he has reviewed the rules of professional conduct since 2010. This paralegal work for the Florida firm ceased in 2008, over six years ago. We do not agree that knowledge of Florida law, assuming without deciding that such has been proven, is equivalent to knowledge of Massachusetts law. While the petitioner has claimed that there is much overlap, noting that "[i]t's not like we're talking about Chinese law here" (Tr. 114 (Petitioner)), we respectfully disagree. And even if we agreed that a solid grasp of Florida law was sufficient for the learning in the law criterion, we cannot make such a finding on the evidence we have received.

⁶ Reinhardt is currently representing the petitioner in his malpractice suit against Duggan. Tr. 192 (Reinhardt). They are seeking damages resulting from Duggan's alleged negligent representation of the petitioner in the disciplinary matter, including alleged misrepresentations intended to induce him to agree to the stipulation. See Ex. 1 (BC-0043). We recognize that Reinhardt has a vested interest in the outcome of this proceeding, and is not a neutral witness.

Much of the petitioner's recent legal work appears to be representing himself in disputes with various individuals and employers. See Ex. 9. We are not persuaded that in this limited context, the petitioner has been exposed to the breadth or depth of learning that we would like to see. As far as his recent paralegal work goes, we note that he has worked for Reinhardt for barely two months, on three projects. Cf. Matter of Thalheimer, SJC No. BD-2008-016 (January 24, 2014) (reinstatement denied, single justice noting that petitioner has leave to re-file in September 2014, "at which point she will have completed one full year of paralegal work") Not only are the three projects a tiny data set; the petitioner agreed that there is no expectation that Reinhardt will supervise him. Tr. 147 (Petitioner).

We cannot conclude that the petitioner's learning is adequate to support his proposed practice areas. His ad-hoc research, his scattershot and unfocussed review of current materials and his very brief time with Reinhardt are, in our view, insufficient to satisfy this criterion.⁷

C. The Public Interest

"Consideration of the public welfare, not [a petitioner's] private interest, dominates in considering the reinstatement of a disbarred applicant." Matter of Ellis, 457 Mass. at 414, 26 Mass. Att'y Disc. R. at 164 . Further, the public's perception of the legal profession as a result of the reinstatement and the effect on the bar must be considered. "In this inquiry we are concerned not only with the actuality of the petitioner's morality and competence, but also [with] the reaction to his reinstatement by the bar and public." Matter of Gordon, 385 Mass. 48, 52, 3 Mass. Att'y Disc. R. 69, 73 (1982). "The impact of a reinstatement on public confidence in the bar and in the administration of justice is a substantial concern." Matter of Waitz, 416 Mass. at

⁷ We note as well that the petitioner's *pro se* petition for reinstatement did not reflect proficient legal research and, in fact, amounted to a diatribe against a former client and attorney.

307, 9 Mass. Att’y Disc. R. at 345.

Given our findings with regard to the petitioner’s failure to establish that he has the competence, learning in the law and the moral qualifications for readmission, it follows that we cannot say with confidence that his reinstatement would be not be detrimental to the integrity and standing of the bar and the public interest. See also Matter of Sullivan, 25 Mass. Att’y Disc. R. at 585 (citing the fact that after seven years of suspension, petitioner “provided no letters of recommendation from non-lawyers that could have addressed the public’s perception of the petitioner’s reinstatement”).

At the hearing, the petitioner attempted to compare his situation to that of other attorneys who have successfully gained readmission. In particular, he cited Matter of Ellis, *supra*, Matter of Pool, *supra*, and Matter of Galat, 27 Mass. Att’y Disc. R. 357 (2011) as analogous to or supportive of his position. We do not agree that any of these cases provides a helpful precedent. Ellis, new to practice at the time, and under the thumb of his father and brother in a family firm, forwarded information he knew to be false to insurers in order to favor his clients. Ellis, 457 Mass. at 415-416, 26 Mass. Att’y Disc. R. at 164-165. He pled guilty to a misdemeanor for two counts of insurance fraud, and was briefly incarcerated. Id., 457 Mass. at 413-414, 26 Mass. Att’y Disc. R. at 162-163. His post-disbarment activities included parenting his children at home; passing the Department of Education test to become a teacher and receiving a teaching certificate; coaching four youth teams, and “many charitable activities through his church and other organizations.” Id., 457 Mass. at 416, 26 Mass. Att’y Disc. R. at 165. Perhaps most compelling, he demonstrated an understanding of what he had done wrong as well as the fact that he could not again practice with his family or remain within their “sphere of influence.” Id., 457 Mass. at 416, 26 Mass. Att’y Disc. R. at 166.

Not only has the petitioner done nothing remotely approaching the activities Ellis undertook after his disbarment, but he did not express to us any insight as to what had caused his problems. Unlike Ellis, the petitioner was experienced at the time of his misconduct.

Attorney Pool was disbarred in what was described as an isolated incident concerning a complex and unusual criminal matter, at a time when he was young and inexperienced and had been in sole practice for less than a year. Pool, 401 Mass. at 464, 467, 5 Mass. Att’y Disc. R. at 294, 297. Subsequent to his single bad act, he had a good record of practice for eleven years, until he was disbarred. Id. He made gainful use of his post-disbarment time, writing a children’s book, and editing an album on the West Virginia county where he relocated. Pool, 401 Mass. at 464-465, 5 Mass. Att’y Disc. R. at 294-295. His reinstatement petition was supported by public officials, some of whom explicitly noted their awareness of his disbarment. Pool, 401 Mass. at 468, 5 Mass. Att’y Disc. R. at 299. There are simply no parallels between the petitioner’s situation and Pool’s.

Matter of Galat, *supra*, is similar to Ellis in that it involved a new lawyer under the sway of a more experienced practitioner. Galat was indefinitely suspended for misuse of funds and other rule violations substantially after the misconduct occurred, having enjoyed almost ten years of incident-free practice. Galat, 27 Mass. Att’y Disc. R. at 358-359. She operated an inn in New Hampshire during her period of disbarment. Id. at 359. She showed her competence and learning in the law by voluntarily pursuing continuing legal education and undertaking independent reading in family law, evidence and handling client funds. Id. at 365. The single justice concluded that “Galat’s prior instances of misconduct took place when she was a junior

justice concluded that “Galat’s prior instances of misconduct took place when she was a junior attorney, and . . . the misconduct ended nearly twenty years ago.” Id. We are hard-pressed to see how the Galat decision furthers the petitioner’s argument.⁸

V. Conclusions and Recommendation

We conclude that the petitioner has not met his burden. He has not demonstrated that he has led “a sufficiently exemplary life to inspire public confidence once again, in spite of his previous actions.” Matter of Prager, 422 Mass. at 92 (1996), quoting Matter of Hiss, 368 Mass. at 452, 1 Mass. Att’y Disc. R. at 126. Accordingly, we recommend that the petition for reinstatement filed by Michael P. Ascher be denied.

Dated: 9/24/14

Respectfully submitted,
By the Hearing Panel,

Donna Jalbert Patalano /w
Donna Jalbert Patalano, Esq., Chair

Francis P. Keough /w
Francis P. Keough, Member

Vincent J. Pisegna /w
Vincent J. Pisegna, Esq., Member

⁸ Nor do Matter of Allen, 400 Mass. 417, 5 Mass. Att’y Disc. R. 14 (1987) or Matter of Daniels, 442 Mass. 1037, 20 Mass. Att’y Disc. R. 120 (2004) aid the petitioner. While Allen was convicted of conspiracy to commit arson and insurance fraud, which did not implicate the practice of law, bar counsel conceded his competence and moral fitness; the only question was the public interest. In support of its conclusion allowing reinstatement, the Court observed that the attorney general who had prosecuted Allen did not oppose reinstatement. Allen supports the proposition that even a convicted felon may eventually be readmitted. Its applicability to the petitioner’s situation is not obvious. Daniels involved an attorney whose suspension was extended due to unauthorized practice of law allegations; at the hearing before the SJC, bar counsel cited an outstanding restitution order, with which the Court found he had complied. 442 Mass. at 1039, 20 Mass. Att’y Disc. R. 124. That decision does not seem remotely applicable to the petitioner’s situation.