



**IN RE: ROBERT FRANCIS CREASIA**

**NO. BD-2010-025**

**S.J.C. Judgment of Reinstatement entered by Justice Duffly on July 6, 2015.<sup>1</sup>**

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<sup>1</sup> 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

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In the Matter of )  
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ROBERT F. CREASIA, )

S.J.C. No. BD-2010-025

Petition for Reinstatement )  
\_\_\_\_\_)

HEARING PANEL REPORT

I. Introduction

On July 25, 2014, the petitioner, Robert F. Creasia, represented by counsel, filed a petition for reinstatement with the Supreme Judicial Court from an order of suspension entered by the Court on March 26, 2010. After a pre-hearing conference on November 10, 2014, we received evidence under the petition at an evidentiary hearing on March 9, 2015. The petition was not opposed by Bar Counsel. The petitioner testified on his own behalf and called two witnesses: his wife and his treating psychologist. Bar counsel called no witnesses. Fourteen exhibits were admitted into evidence, including five (numbers ten through fourteen) submitted by leave of the panel and by agreement of the parties after the hearing had otherwise concluded.

After considering the evidence and testimony, this panel concludes that the petitioner has demonstrated reform and good current moral character along with the requisite learning and competency in the law. Finding that this petitioner's reinstatement would not be detrimental to the integrity and standing of the bar, the administration of justice, or to the public welfare, we recommend that the petition for reinstatement be allowed on conditions.

## II. Standard

A petitioner for reinstatement to the bar bears the burden of proving that he or she possesses “the moral qualifications, competency, and learning in the law required for admission to practice law in this Commonwealth, and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar, the administration of justice, or to the public interest.” S.J.C. Rule 4:01, § 18(5); Matter of Daniels, 442 Mass. 1037, 1038, 20 Mass. Att’y Disc. R. 120, 122-123 (2004) (rescript). See Matter of Dawkins, 432 Mass. 1009, 1010, 16 Mass. Att’y Disc. R. 94, 95 (2000) (rescript); Matter of Pool, 401 Mass. 460, 463, 5 Mass. Att’y Disc. R. 290, 293 (1988). Section 18(5) establishes two distinct requirements, focusing, respectively, on (i) the personal characteristics of the petitioner; and (ii) the effect of reinstatement on the bar and the public. Matter of Gordon, 385 Mass. 48, 52, 3 Mass. Att’y Disc. R. 69, 73 (1982).

In making these determinations, a panel considering a petition for reinstatement “looks to ‘(1) the nature of the original offense for which the petitioner was [suspended], (2) the petitioner’s character, maturity, and experience at the time of his [suspension], (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.’” Daniels, 442 Mass. at 1038, 20 Mass. Att’y Disc. R. at 122-123, quoting Matter of Prager, 422 Mass. 86, 92 (1996), and Matter of Hiss, 368 Mass. 447, 460, 1 Mass. Att’y Disc. R. 122, 133 (1975).

## III. Disciplinary Background

The petitioner received a two-year suspension in March 2010 under a stipulation for discipline establishing for the purposes of discipline the following matters, which occurred primarily around 2008 (26 Mass. Att’y Disc. R. 118 (2010)):

The petitioner filed a bankruptcy petition for a debtor at the request of the debtor’s parents but without consulting the debtor. The filing was accompanied by a false certification

that the petitioner had explained to the debtor the various forms of bankruptcy relief. In addition, the petitioner assisted with the transfer of real estate from the debtor's mother to the debtor for consideration recited to be \$1.00, and without notice to or permission from the bankruptcy court. At the time, the mother was herself proceeding under a bankruptcy petition, filed by the petitioner, which effectively prohibited the transfer. The petitioner then failed to comply with a sanctions order of the bankruptcy court that resulted from this misconduct. We credit that the sanction order is now satisfied. Tr. 17 (Creasia); Ex. 1 at RCF0005 (Reinstatement Questionnaire, Part One, answer 3E).

In a second matter, the petitioner failed to comply with an order of payment, issued in a small claims matter and obtained by a court reporter, and he failed to cooperate with bar counsel's investigation of the matter. We credit that the court reporter is now paid. Tr. 17 (Creasia); Ex. 1 at RCF0005 (answer 3E).

In the third matter, the petitioner held back less money from the proceeds of a real estate transaction than was indicated on the HUD-1 settlement statement submitted to the lender. Two of three of the borrowers' creditors were paid; post-closing, the third contacted the borrowers and demanded payment, triggering the borrowers' inquiries to the petitioner. He did not respond until after the borrowers complained to bar counsel, and even then he failed to cooperate with bar counsel's investigation. Eventually, he proved that he had withheld all the lender had instructed him to withhold, and that the borrowers had received the net funds to which they were entitled.

At the time of this discipline, the petitioner had already received an admonition for an improper business transaction with a client, i.e., an improper loan from the client. AD-03-20, 19 Mass. Att'y Disc. R. 556 (2003). He had also received a public reprimand for charging an illegal or excessive fee, Matter of Creasia, 23 Mass. Att'y Disc. R. 88 (2007). In mitigation, at the time of his failure to cooperate with bar counsel, the petitioner suffered from a chronic condition and a prescription medication imbalance.

#### IV. Findings

##### A. Moral Qualifications

The petitioner has met his burden under S.J.C. Rule 4:01, § 18(5) of proving that he now has the moral qualifications required for admission to the Massachusetts bar.

The petitioner fully acknowledged the misconduct that resulted in his suspension, and he expressed credible remorse for it; he also acknowledged the harm it caused. Tr. 10, 35-37 (Creasia); Tr. 54 (J.Creasia); Ex. 11; Ex. 12. We credit that the petitioner was suffering from bipolar disorder, Tr. 57, 64 (McGlinchey); Ex. 6, at RFC0091; Ex. 7, at RFC0138, and that from about 2005 to 2008 his condition became severe. Tr. 11 (Creasia). The record before us indicates the depths of his problems at the time,<sup>1</sup> Ex. 8, and we credit the petitioner's testimony that he was on multiple medications and not himself at the time of his misconduct in the bankruptcy matter that formed part of the basis for his suspension. Tr. 36-37 (Creasia). His misconduct was not consistent with what people knew of him before his escalating problems eroded his moral judgment. Ex. 11; Ex. 13.

Following the petitioner's suspension in 2010, his condition continued to worsen, and for some time in 2010 and 2011 he lived in a homeless shelter. Tr. 11 (Creasia). Even then he sought employment, walking to and from work at a fast-food franchise. Tr. 11-12 (Creasia). He continued working at fast-food franchises until he was able to establish a plan to pay his substantial debt to the Department of Revenue and recover his driver's license. Tr. 13 (Creasia); Tr. 49 (J.Creasia). At that point, he took a job as a security guard and used his increased income

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<sup>1</sup> The petitioner also acknowledged, accepted responsibility for, and expressed sincere remorse for the misconduct for which he received his earlier admonition and public reprimand. Tr. 8 (Creasia). We credit that in the 2005 to 2007 time frame, around the time of this earlier discipline and leading up to the current suspension, he was suffering from osteoarthritis resulting in the replacement of his shoulder, and that he self-medicated with alcohol for his physical ailment as well as the trauma of a bad marriage. Tr. 8-9 (Creasia); see also Tr. 51 (J.Creasia). The petitioner's wife reports not being surprised when she learned of the petitioner's suspension because she knew "there was a lot of dysfunction in his life." Tr. 52-53 (J.Creasia). We credit that he was able to end his abuse of alcohol with the support of his parents, Tr. 9 (Creasia); see also Tr. 65 (McGlinchey), and he maintains his sobriety with the help of his wife. Tr. 51 (J.Creasia).

to make a greater contribution to the household where he lived with his current wife, her two children from an earlier marriage, and his wife's parents. Tr. 6, 12, 13 (Creasia). Eventually he accepted temporary employment with an insurer, and recently became a full-time customer service representative. Tr. 6, 13 (Creasia). On weekends he continues to serve as a security guard. He works six or seven days a week, as he says, to "do what I have to do to pay the bills...." Tr. 23 (Creasia); and see Tr. 50 (J.Creasia).

The turn-around in the petitioner's life began when in 2011 he re-connected through on-line social media with a former work acquaintance, whom he then married in October 2012. Tr. 12, 37 (Creasia); Tr. 46-47 (J.Creasia); Ex. 11. His new family and his parents motivate him to "be the best person [he] can possibly be." Tr. 14 (Creasia); see also Tr. 16-17 (Creasia) (his family and professional support allow him to return to the practice of law); and Tr. 47-51 (J.Creasia) (the petitioner has enjoyed steady progress since his current wife first re-connected with him in 2011). He "has taken responsibility for where his life went and decided to change it and did." Tr. 51 (J.Creasia).

His marriage also made available the health insurance under which he obtained effective treatment and medication for his bi-polar disorder. Tr. 14-15 (Creasia); Tr. 49-50 (J.Creasia); Tr. 64 (McGlinchey). He now accepts that he suffers from a treatable mental illness and is committed to long-term treatment because he enjoys the person he has become. Tr. 15 (Creasia). He undergoes psychotherapy, and his successful medication regimen is regulated by a nurse practitioner.<sup>2</sup> Tr. 14-16 (Creasia). His nurse-practitioner describes him as a changed man, and fully supports his efforts at reinstatement. Tr. 59-60 (McGlinchey). His self-assessment inventories reflect his improved condition and state of mind. Tr. 62-63 (McGlinchey); and cf. Ex. 6, at RFC0087, -89, with Ex. 10. His treating psychologist reports that the petitioner's steady

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<sup>2</sup> It appears that the petitioner has gained control over his perceived anger management issues. Tr. 32-34 (Creasia); Tr. 51-52 (J.Creasia); Tr. 58-59 (McGlinchey).

improvement has brought him to the point where he “would be functional to work.” Tr. 57-58 (McGlinchey).

While the respondent was eligible to seek reinstatement by 2012, he “took the extra time because [he] needed [it].” Tr. 16 (Creasia). Having disgraced himself, he waited until his return to practice could be accompanied by his certainty that he would not repeat his misconduct. Tr. 16 (Creasia).

The petitioner’s payment of the sanctions and the small claims judgment that underlay his suspension also demonstrates good character. On a petition for reinstatement, “making restitution ... is an outward sign of the recognition of one’s wrongdoing and the awareness of a moral duty to make amends to the best of one’s ability.” Matter of McCarthy, 23 Mass. Att’y Disc. R. 469, 470 (2007). We also commend the petitioner for taking steps to resolve his tax debt and his student loans, and we note his testimony that he will continue to make payments on those debts. Tr. 17-18, 27-29 (Creasia).

As noted, during much of his suspension the petitioner has worked six or seven days per week. Tr. 23 (Creasia). Still, he volunteered his time to serve the elderly. Tr. 29, 30 (Creasia); Ex. 1, at RFC0006. In addition, much of the free time he had was devoted to assisting his mother-in-law and father-in-law and, more recently, caring for his step-children. Tr. 29-31 (Creasia); Tr. 49, 50-51 (J.Creasia); Ex. 11.

By recommending the petitioner’s reinstatement, we make “what amounts to a certification to the public that the attorney is a person worthy of trust.” Daniels, 442 Mass. at 1039, 20 Mass. Att’y Disc. R. at 123; Matter of Centracchio, 345 Mass. 342, 348 (1963). A “fundamental precept of our system is that a person can be rehabilitated.” Matter of Ellis, 457 Mass. 413, 414, 26 Mass. Att’y Disc. R. 158, 163 (2010). To be sure, the conduct giving rise to the petitioner’s suspension is “conclusive evidence that he was, at the time, morally unfit to practice law....” Dawkins, 432 Mass. at 1010-1011, 16 Mass. Att’y Disc. R. at 95 (citations omitted). That misconduct “continued to be evidence of his lack of moral character ... when he

petitioned for reinstatement.” Dawkins, 432 Mass. at 1010-1011, 16 Mass. Att’y Disc. R. at 95, and to the same effect, see Centracchio, supra, at 346, Matter of Waitz, 416 Mass. 298, 304, 9 Mass. Att’y Disc. R. 336, 342 (1993). Nonetheless, this petitioner has demonstrated the “[r]eform ... [that is] a ‘state of mind’ ... manifested by some external evidence” (Waitz, 416 Mass. at 305, 9 Mass. Att’y Disc. R. at 343; see also Daniels, 442 Mass. at 1038, 20 Mass. Att’y Disc. R. at 123), and that “establish[ed] affirmatively that, during his suspension period, he [has] redeemed himself and become ‘a person proper to be held out by the court to the public as trustworthy.’” Dawkins, 432 Mass. at 1010-1011, 16 Mass. Att’y Disc. R. at 95 (citations omitted); see also Matter of Ellis, 457 Mass. at 414, 26 Mass. Att’y Disc. R. at 163-164. 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. R. at 126.

#### **B. Learning and Competency in the Law**

The petitioner has met his burden under S.J.C. Rule 4:01, § 18 to demonstrate that he has the “competency and learning in the law required for admission to practice law in this Commonwealth.”

We credit that the respondent was not financially able to attend continuing legal education until recently. Tr. 18 (Creasia). Within the past year or so, the petitioner has attended two seminars in person: bankruptcy basics plus and a full-day ethics course. Tr. 18 (Creasia); Ex. 1, at RFC0007. In addition, he has subscribed to Massachusetts Continuing Legal Education, through which he can obtain and has taken several on-line courses: a basic practice survey; representing OUI defendants; confessions, admissions, and statements in criminal cases; liability policies; temporary orders in family law cases; trying cases in traffic court; plea bargains; criminal responsibility and competency; and criminal motions.<sup>3</sup> Tr. 18-19 (Creasia); Ex. 1, at

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<sup>3</sup> The petitioner attended some of these courses after completing his reinstatement questionnaire. Tr. 42-43 (Creasia).

RFC0007; Ex. 14. We credit that he intends to continue to attend continuing legal education courses, including courses that will enable him to return to practice in care and protection proceedings, where he intends to help fill the reported need for representation. Tr. 19 (Creasia). Further, the petitioner attended courses to prepare for the multistate professional responsibility examination. He also subscribed to Massachusetts Lawyers Weekly and the Journal of the American Bar Association. Tr. 19 (Creasia); Ex. 1, at RFC0007.

We note that the courses the respondent selected are related to the fields in which he intends to practice: bankruptcy; domestic relations; criminal defense; and juvenile matters. Tr. 22 (Creasia). We are also impressed with the petitioner's cautious strategy for gradually resuming and building his practice while maintaining other employment. Tr. 22-24, 35 (Creasia).

**C. Effect of Reinstatement on the Bar, the Administration of Justice and the Public Interest**

The public's perception of the legal profession as a result of the reinstatement and the effect on the bar must be considered. The panel must be "concerned not only with the actuality of the petitioner's morality and competence, but also on the reaction to his reinstatement by the bar and public." Matter of Gordon, 385 Mass. at 53, 3 Mass. Att'y Disc. at 73. "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 307, 9 Mass. Att'y Disc. R. at 345.

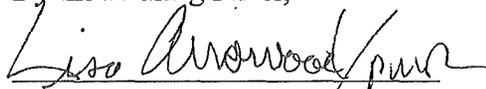
Where we find that the respondent has succeeded in turning his life around, that this turn-around provides all the assurance we could reasonably hope to have that he will not again resort to unethical practice, and where we conclude that the bar and the public would acknowledge the sufficiency of the petitioner's reform and current qualifications, we find that he has satisfied this part of the test for reinstatement.

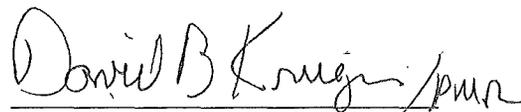
V. Conclusions and Recommendation

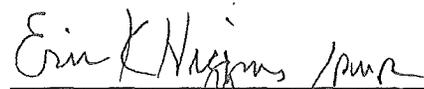
We recommend that the petition for reinstatement filed by Robert Francis Creasia be allowed on the following conditions, to which he has agreed in substance. Tr. 20-21, 22, 24-26, 34-35 (Creasia):

1. Before resuming practice, he shall enter into a mentoring agreement, reasonably agreeable to bar counsel, with an attorney admitted to the Massachusetts bar and in good standing, practicing in Massachusetts, and reasonably satisfactory to bar counsel. The agreement shall require the mentor to provide quarterly reports to bar counsel.
2. Before resuming practice, he make his best efforts to obtain malpractice coverage in an amount reasonably satisfactory to bar counsel.
3. For the two years following reinstatement, the petitioner's treating therapist who supervises and recommends his medication shall report quarterly to bar counsel concerning the petitioner's treatment, the state of his recovery, and his compliance with the therapist's instructions for his care, including but not limited to adhering to his therapist's recommendations for medication.
4. During his first year of resumed practice, he attend the equivalent of 12 credits worth of CLE in fields in which he intends to practice.

Respectfully submitted,  
By the Hearing Panel,

  
Lisa Arrowood, Esq., Chair

  
David B. Krieger, M.D., Member

  
Erin K. Higgins, Esq., Member

Filed: May 1, 2015