

NOTICE TO THE BAR

APPLICATIONS FOR REINSTATEMENT OF ADMINISTRATIVELY REVOKED ATTORNEY LICENSES – SUPREME COURT ADMINISTRATIVE DETERMINATION

On July 28, 2004, the Supreme Court amended Rule 1:28-2 to add paragraph (c), which provides that "any attorney who, at the time of the publication of the [Lawyers Fund for Client Protection] Ineligible Attorneys List for 2005 and thereafter, has been declared ineligible for seven or more consecutive years shall have his or her license to practice in this State administratively revoked by Order of the Supreme Court." The amendment took effect September 1, 2004.

A number of attorneys whose licenses were administratively revoked sought reinstatement or other relief. The Court acted on a number of applications in 2006 and 2007. After further consideration of the question of reinstatement of administratively revoked licenses, the Court developed the attached Administrative Determination. It is being applied to pending petitions and motions as well as future filings.

Stephen W. Townsend, Esq.
Clerk of the Supreme Court

Dated: May 30, 2008

SUPREME COURT OF NEW JERSEY

ADMINISTRATIVE DETERMINATION

RE: APPLICATIONS FOR REINSTATEMENT OF ADMINISTRATIVELY REVOKED ATTORNEY LICENSES

1. Application Format; Filing Requirements; Service. An applicant seeking reinstatement shall file an original plus eight copies of a *verified* petition with the Secretary, Board of Bar Examiners, Hughes Justice Complex, POB 973, Trenton, NJ 08625-0973. The petition shall be captioned in the Supreme Court and shall be titled "In the Matter of the Application of [Name]." The facts, procedural history, and arguments shall be set forth in numbered paragraph form. Supporting documentation, including any affidavits or certifications from third parties, shall be appended to the petition. A copy of the petition shall be served on the Lawyers Fund for Client Protection.

2. Fees and Financial Sanctions. The verified petition shall be accompanied by the following, each of which shall be submitted through a separate certified check or money order:

- a. A filing fee of \$30.00, payable to the Treasurer, State of New Jersey;
- b. A full reimbursement of all funds due and payable to the Lawyers Fund for Client Protection. The amount of the reimbursement will include all owed annual fees plus late fees. Information on the amount owed can be obtained from the Fund (609-292-8079); and
- c. Administrative costs in the amount of \$750.00, payable to the Board of Bar Examiners, as follows: \$375.00 to accompany the petition and a second payment of \$375.00 if the petition is granted.

Should the application for reinstatement be denied, the reimbursement check, payable to the Client Protection Fund, shall be returned to the petitioner.

3. Standards for Relief. The Supreme Court shall apply the following standards in considering applications for reinstatement:

a. Notice. Applications must include an express statement of whether the attorney received actual notice of the registration and billing forms for any year since 2004. If petitioner received actual notice of the annual registration and billing forms but did not respond, the application will be denied on the ground the petitioner deliberately evaded his or her obligations as a member of the Bar of this State.

b. Presumption of Intent. There is a presumption that attorneys who fail to meet their obligations in respect of the annual registration and billing do so intentionally. The Court will not grant relief from the Order of revocation unless that presumption has been overcome by persuasive evidence.

c. Absence of Intent. In overcoming the presumption of intent, petitioners must affirmatively establish by persuasive evidence that their failure to register and pay the annual assessments was the product of excusable neglect that prevented petitioner from meeting his or her obligations in respect of the annual registration and billing process. The circumstances surrounding contentions of excusable neglect must be presented in detail.¹

4. Grant of Relief; Conditions. A grant of relief by the Supreme Court shall be retroactive to the date of the license revocation and shall include the payment of the balance of the administrative costs provided by paragraph 2(c) of this Administrative Determination. The Court also may impose conditions on the reinstatement, which may include a referral to the Committee on Character or the imposition of restrictions on the petitioner's right to practice. Examples of conditions include requiring the use of a

¹ Excusable Neglect. "A failure...to take some proper step at the proper time...not because of the party's own carelessness, inattention, or willful disregard of the court's process, but because of some unexpected or unavoidable hindrance or accident or because of reliance on the care and vigilance of the party's counsel or on a promise made by the adverse party." Black's Law Dictionary 1061 (Bryan A. Garner, Ed. in Chief, Thomson West, 10th ed. 2004). "Carelessness may be excusable when attributable to an honest mistake that is compatible with due diligence or reasonable prudence." Baumann v. Marinaro, 95 N.J. 380, 394 (1984).

proctor or a prohibition on solo practice. (Such conditions are usually imposed for one or two years and until the further Order of the Court.)

5. Deadlines for Filing Reinstatement/Reconsideration Applications.

a. Petitioning for Reinstatement After Order of Revocation. A timely petition for reinstatement of an administratively-revoked license shall be filed and served within sixty days of the publication of the Supreme Court's Order of revocation. (Such Orders are normally entered in September and contemporaneously published in the legal newspapers and posted on the Judiciary's website.) Petitions that are submitted out of time must be accompanied by a motion seeking leave of the Court to file as within time. On a showing of exceptional circumstances, the Supreme Court may relax the sixty-day deadline to permit the filing and consideration of the petition for reinstatement.

b. Pending Petitions for Reinstatement/Reconsideration. The Court has applied this Administrative Determination to all pending petitions for reinstatement and motions for reconsideration. Petitioners whose applications have been held by the Court will be notified that they have fourteen days within which to move to supplement their applications in light of the standards articulated in this Administrative Determination.

c. Previously Denied Applications. Petitioners who have had a previous application for reinstatement denied may seek reconsideration of that decision by filing an original plus eight copies of a motion with the Supreme Court Clerk's Office within thirty days of the publication of this Administrative Determination. The filing fee for a such a motion is \$30.00, payable to the Treasurer, State of New Jersey.

For the Court:

/s/ Stephen W. Townsend

Stephen W. Townsend, Esq.
Clerk of the Supreme Court

Dated: May 30, 2008