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SPECIAL REPORT: **DISBARRED LAWYERS PLEASE SEE TWO SIDEBARS;
DISBARRED MASS. LAWYERS SKIRT DISCIPLINE SYSTEM DESPITE
SANCTIONS, MANY ARE REINSTATED; SOME OFFEND AGAIN****BYLINE:** By **David Armstrong**, Globe Staff**SECTION:** METRO/REGION; Pg. A1**LENGTH:** 3617 words

Dozens of Massachusetts **lawyers** whose licenses were taken away for serious misconduct - including drug dealing, stealing from clients, obstructing an investigation into the Mafia, and participation in an arson ring - have quietly been reinstated and allowed to practice law again, according to a review of discipline records and state Supreme Judicial Court rulings.

The reinstatement of attorneys who were **disbarred**, forced to resign, or suspended indefinitely often occurs with little public awareness or comment from those victimized by the **lawyers**. And the leniency has proved to be a lamentable decision in several instances, according to court records.

The case of James C. Corcoran Jr., a former state legislator from West Springfield, is just one example. Corcoran was **disbarred** in 1965 after he was convicted of stealing \$7,000 from a client. In 1990, he was reinstated and allowed to practice law again. But new allegations against him, including one that mirrors the charge that led to him losing his license three decades ago, resulted in Corcoran being **disbarred** again this summer.

Margaret and Neil Harkins of Revere, who hired Corcoran to help with the sale of a relative's home only to see the **lawyer** allegedly pocket the entire \$55,234 profit from the transaction, were stunned to learn their attorney had previously been **disbarred**. "We were incredulous," said Margaret Harkins. "We feel betrayed. We couldn't believe this could happen."

Nearly every victim contacted by the Globe was under the mistaken impression that a **disbarred lawyer** is banished forever. In fact, it is impossible to permanently ban a **lawyer** from practicing law in Massachusetts. Even a **lawyer** who is **disbarred** or forced to resign has the right to ask for reinstatement because the state's highest court has ruled there is "always the potentiality for reform."

While only a minority of **disbarred lawyers** seek reinstatement, nearly all of those who ask for a second chance are given it. Since 1990, 25 **lawyers** who were **disbarred**, forced to resign, or indefinitely suspended were reinstated. Only six were rejected, according to court records.

Most states allow **disbarred lawyers** to apply for reinstatement, but an increasing number have moved in recent years to make disbarment permanent.

"It's a fraud perpetrated on the public," said David E. Johnson Jr., the director of the Office of Attorney Ethics for the Supreme Court of New Jersey, of allowing **disbarred lawyers** to return to the profession. "If you ask the average Joe if a **lawyer that is disbarred** can ever practice law again, they will say, 'Of course not.'" A second chance

Among the **lawyers** allowed to reenter the profession in Massachusetts are William J. Cintolo, the former attorney for mob boss Gennaro J. Angiulo, who was convicted of obstructing the work of a grand jury; Dennis F. Liakos, a **lawyer** who participated in one of the most notorious arson rings in Boston history; Thomas J. Moriarty, who stole

money from clients who were elderly residents of a Veterans Administration medical center; and Jerril Krown and Robert D. Kaplan, two former special attorneys general convicted of federal mail fraud.

It is the cases of repeat offenders like Corcoran that recently prompted a committee appointed by the Supreme Court in Louisiana to recommend **lawyers be disbarred** permanently. A review of cases there found that 44 percent of the **disbarred lawyers** given a second chance committed new offenses after returning to practice.

"I think you will see more folks going toward" permanent disbarment, said Charles B. Plattsmier, the chief disciplinary counsel for the Louisiana Bar Association.

In Massachusetts, however, the opposite is true, and an increasing number of disciplined **lawyers** are returning to the profession.

The first **lawyer** granted reinstatement in Massachusetts was Alger Hiss, who was accused of being a communist spy and convicted of perjury in 1950. In the years immediately following the 1975 Hiss decision, other **lawyers** sought reinstatement, but the requests were rare.

In the past decade, however, the rate of **lawyers** who were allowed to return to the profession after they either were **disbarred** or resigned in lieu of discipline has quadrupled, according to a review of discipline records.

Bar Counsel Daniel C. Crane, whose office is responsible for prosecuting corrupt **lawyers**, says Massachusetts has a rigorous standard for **lawyers** seeking reinstatement to the bar and recently increased the waiting period for readmission from five to eight years following disbarment. Of the 266 **lawyers** given the most severe sanctions in the past decade, 9.4 percent were allowed to return to the profession.

The **lawyer** seeking reinstatement must fill out a detailed questionnaire explaining past offenses and prove he has the "moral qualifications" to rejoin the bar. In addition, the **lawyer** must demonstrate that his knowledge of the law is up-to-date and make the case that his reinstatement will "not be detrimental to the integrity and standing of the bar, the administration of justice or the public interest."

An assistant bar counsel conducts an investigation of the **lawyer** before a three-person panel from the state Board of Bar Overseers conducts a reinstatement hearing. Following the hearing, the panel makes a recommendation on reinstatement that must be approved by the full board and a Supreme Judicial Court justice.

Reinstated **lawyers** are also required to pass a professional ethics test and some, especially those who have stolen client funds, are subject to special monitoring.

"I think we maintain, as office of bar counsel, very high standards in putting any former attorney to the test before they can be reinstated," said Crane. "I think we are quite demanding in what we require and in positions we take in hearings. . . . The circumstances have to be extraordinary to warrant someone being reinstated after disbarment."

But in many of the dozens of cases reviewed by the Globe, the reinstatement process was tilted in favor of the disciplined attorney. Although open to the public, the hearings were rarely attended by anyone other than the **lawyer** and witnesses sympathetic to his request. In some instances, victims who should have been notified of the reinstatement hearing were never contacted. The only required public notice is a listing in **Lawyers Weekly**, a legal trade journal, and in the local newspaper where the attorney practiced.

In addition, **lawyers** from Crane's office often failed to challenge the testimony of **lawyers** seeking reinstatement, even when the testimony appeared to be contradicted by other records. Story unchallenged

During the 1997 reinstatement hearing of Jose A. Espinosa, for example, there was no serious challenge to the **lawyer's** version of events regarding allegations he engaged in serious misconduct while representing a murder defendant.

Espinosa resigned in 1990 after admitting he mishandled client funds and made misrepresentations to his clients and opposing **lawyers**, according to court records.

The allegations were so troubling that former Superior Court Judge Andrew Gill Meyer sent a letter to the SJC urging the justices to reject Espinosa's bid for reinstatement. "I believe Mr. Espinosa's pattern of dishonesty and unethical practice was so egregious that he should be permanently **disbarred**," Meyer wrote. "I make this recommendation

with considerable sadness since I personally like Espinosa very much."

Meyer was upset by Espinosa's defense of Rene Raffo Jr., a Jamaica Plain man accused of murder. Yet there was no mention of Raffo's case on the lengthy application Espinosa filled out as part of the reinstatement process. The application did list the names of five other people who complained about Espinosa.

Many of those cases fit nicely with a psychological profile offered on behalf of Espinosa indicating the **lawyer** was "driven by a profound desire to be valued, admired and thought better than others." Indeed, in some of the cases he referenced in his reinstatement application, Espinosa used his own money to cover for clients who were short on funds. But the Raffo case was different.

Espinosa in 1987 was appointed to defend Raffo against a charge he murdered 22-year-old Jose Luis Rojas Ascencio.

Soon after, Espinosa and Raffo agreed to a deal where Raffo would recruit clients for Espinosa in jail in exchange for a 20 percent cut of resulting legal fees, according to court records.

Those records indicate Raffo signed up several inmates for Espinosa. The resulting fees totaled at least \$200,000.

Raffo's first trial resulted in a hung jury. As the second trial approached, Espinosa owed his client more than \$20,000 as part of their fee-splitting arrangement, Raffo charged.

"Raffo was worried that Espinosa intended to lose his trial 'so that [Espinosa] would not be confronted by [Raffo] in society for him to pay. . .the money he owed,'" according to court records.

When confronted by Raffo, Espinosa wrote him two checks totaling \$24,500; both bounced. Far more serious is the allegation that the debt Espinosa owed to Raffo motivated the **lawyer** to keep his client in jail. After the first trial resulted in a hung jury, the district attorney offered a manslaughter plea to Raffo, but Espinosa never told his client of the offer, according to court records. Raffo was convicted of first-degree murder by a second jury and received a mandatory life sentence.

Even after Raffo revealed the fee-splitting arrangement with Espinosa, the **lawyer** sent his former client money in jail using false names, hoping it would convince Raffo to withdraw his complaint, court records allege.

Judge Meyer granted Raffo a new trial and accepted a manslaughter plea. Instead of a life term, Raffo served three years.

Espinosa denied the fee-splitting arrangement when asked about it at his reinstatement hearing and said he informed Raffo of the manslaughter plea. He said Raffo invented the allegations. He wrote the bad checks to his client, he claimed, because he was short of funds and didn't want Raffo to turn on him with charges that could end his career.

In an interview last week, Espinosa said he was never given a chance in court to address the allegations Raffo made at the time.

There was no testimony from Raffo, Meyer, or Wendy Sibbison, an attorney who worked for Raffo and wrote a report detailing misconduct by Espinosa. That publicly available report was not introduced as evidence at the reinstatement hearing.

Despite the plea of former Judge Meyer, Espinosa was reinstated in 1997. In its report recommending reinstatement, the panel from the Board of Bar Overseers - Crane, Amy Yanni, and Naomi Gordon - made no mention of the Raffo case. Twice burned

The fires on Symphony Road in the Fenway during the mid-1970s were so frequent and so terrifying that 7-year-old Amy Mercure slept with her shoes on and kept her most important possessions, including a doll named Mandy, in bed with her.

At least 30 buildings burned on Symphony Road, most the work of arsonists who were part of a conspiracy that involved **lawyers**, property owners, and insurance agents.

One of those **lawyers** convicted and sent off to jail was Dennis F. Liakos of Concord. He was convicted of

conspiracy to commit arson in connection with three of the fires.

In 1982, he was **disbarred**, the harshest sanction allowed, and his license to practice law was revoked.

When Liakos asked the Supreme Judicial Court in 1989 to allow him to resume practicing law, his request became one of the few to garner public attention.

Fenway neighborhood activists urged the Board of Bar Overseers and the court to reject Liakos's request, recounting the horrors associated with living in an area targeted by arsonists.

Others supported Liakos, saying he had been punished enough. Paul Mahoney, an aide to then-Senate President William M. Bulger, said the **lawyer** "would be a credit to the bar again" if reinstated.

Liakos was reinstated, but four years after resuming his law practice, he found himself the subject of at least two new complaints. In one, Karen Quinn of Medford hired Liakos to file suit against a hotel for an injury she suffered on the property. After he was hired, Liakos allegedly stopped returning his client's calls and never took any action on her behalf.

After Quinn complained to the Board of Bar Overseers in 1994, Liakos's license was suspended. It remains suspended today.

Quinn died three years ago. Liakos did not return several telephone calls.

He is one of at least five **lawyers** in the past decade who were disciplined after being reinstated.

Corcoran, the former state representative who has been **disbarred** a second time, declined an interview request, saying: "I don't have any comment to you."

According to former clients, Corcoran projected a successful image, working from a downtown Boston office and driving a black Jaguar. Based on the recommendation of a friend, Neil and Margaret Harkins hired Corcoran in 1994 to help them manage the financial affairs of Neil's sister, Mary O'Dowd. Corcoran oversaw the sale of O'Dowd's home, which netted a profit of \$55,234, according to a complaint filed with the Board of Bar Overseers. Over a four-year period, Corcoran spent all of the profit and has made no effort to reimburse O'Dowd's family. O'Dowd died in 1995.

The Harkinses said Corcoran admitted to them last year that he stole the money and offered an excuse that only angered his clients further. "Attorney Corcoran's attempt to justify his actions by asserting he has been forced to steal to maintain his lifestyle is distasteful, inappropriate and inexcusable," said Margaret Harkins in an interview.

In addition to the Harkinses' complaint, the 73-year-old Corcoran has also been accused of failing to properly represent a client whose case was dismissed after the **lawyer** failed to file required paperwork. He never told the client the lawsuit was dismissed, according to court records.

Another reinstated **lawyer** who was disciplined after reinstatement was John H. Quirk of Framingham, whose license was suspended for four years following his conviction for dealing cocaine in 1987. Quirk's license was reinstated in 1993, but he was **disbarred** in 1998 following a complaint that he swindled his 78-year-old cousin out of \$48,732.

When it comes to giving corrupt **lawyers** a second chance, Mary Mercure says the state needs to be tougher.

It was her 7-year-old daughter who slept in bed with her shoes on when they lived on Symphony Road. When Liakos asked to be reinstated, Mercure testified against him.

"If anything, they should be held to a higher standard," she said recently of **lawyers** who violate the law. "The [fires] were a reign of terror. Why did he deserve another chance? He made a conscious choice of evil. No one should be surprised he is in trouble again." Conduct unbecoming

The conviction in the mid-1980s of three Massachusetts **lawyers**, including two former assistant attorneys general, for their roles in an insurance scam generated more bad headlines for the legal profession.

At the sentencing of one of the **lawyers**, Assistant US Attorney Peter A. Mullin said the conduct of the three men was one of the causes for "the low self-esteem in which a large part of the population hold **lawyers**."

The Board of Bar Overseers took harsh action in response to the criminal activity, ordering two of the men **disbarred** and a third suspended indefinitely.

"It is difficult to imagine conduct that would do more to undermine public confidence in the integrity of the legal profession," the board wrote in punishing Marvin H. Cohen.

Cohen pleaded guilty to 20 counts of mail fraud in 1985 and served 11 months in prison for his role in a five-year scheme to inflate and backdate medical bills paid by insurance companies. Many of the claims were personal-injury cases against the Massachusetts Bay Transportation Authority.

Despite the harsh condemnation of his peers and the issuance of the severest discipline, Cohen is again practicing law. He was reinstated last year - more than a decade after his banishment - and has set up shop in an office in Taunton.

A review of his reinstatement file highlights the advantage many **lawyers** have when they seek to return to the profession.

Both Cohen and his attorney, George Bernstein of Lynnfield, portrayed his crime in the most favorable light possible before the panel considering his request. Their mostly unchallenged portrayal of the offenses stands in stark contrast to the court records and the Board of Bar Overseers report that recommended disbarment.

Cohen's decision to seek reinstatement followed an epiphany, his **lawyer** said. While successfully battling a potentially fatal brain tumor, Cohen realized his "true calling" in life was practicing law.

When it came time to discuss the crime he committed, Cohen and Bernstein portrayed it innocuously, describing Cohen as someone who merely should have paid more attention to the medical bills crossing his desk. In addition, Bernstein said there was never any allegation or proof that Cohen shared in medical fees.

At one point during the 1998 hearing, Cohen said he wasn't "aware" of the scheme unfolding around him. But the board's own record of why it **disbarred** Cohen contains a starkly different account of the **lawyer's** behavior. In that account, Cohen was an active participant in the scheme who had a secret kickback arrangement with medical professionals.

Cohen's busy Boston law practice, according to the board, was "grounded basically on the filing of false or fictitious claims, with the specific intent to inflate those claims, to defraud the insurers and recover inflated amounts."

Two other **lawyers**, both former special attorneys general, were also convicted of mail fraud for scheming with the same chiropractor and doctor as Cohen. They too were disciplined and then reinstated.

Jerril J. Krowen was **disbarred** in 1987 and reinstated in 1994. He practices in Saugus.

Robert D. Kaplan, who was well known at the time for his late-night television advertisements recruiting clients, was suspended indefinitely and reinstated in 1992. He practices in Boston. Drugs smuggled into jail

Hooked on heroin, attorney Myer J. Cohen agreed to abuse his access to the Essex County Jail in Salem and smuggle drugs to an inmate who was both his client and the boyfriend of his dealer.

Suspicious of his frequent trips to the prison - sometimes twice a day - Massachusetts State Police began to monitor Cohen's visits and eventually caught him smuggling \$1,000 worth of heroin stuffed into a pack of cigarettes.

Cohen was sent to prison and the SJC in 1986 indefinitely suspended his license to practice law.

In 1992, he was reinstated. Instead of returning to the practice of law, Cohen joined the staff of Florida **Lawyers Assistance Inc.**, a Ft. Lauderdale-based program that offers help to troubled **lawyers**.

Based on his own experience, and those of the **lawyers** who now turn to him for assistance, Cohen believes most

cases of attorney misconduct stem from an addiction or mental health problem. "One of the things I have learned is that there aren't all that many dishonest **lawyers** that steal from client trust accounts," he said.

Lawyers who get help for drug or alcohol addictions or mental health problems are usually able to resume practicing law without any problems, he said.

"There really is such a thing as rehabilitation," he said.

It is that possibility that has motivated the Massachusetts SJC to shun permanent disbarment.

In the Hiss decision, the court rejected permanent disbarment, saying "such a harsh, unforgiving position is foreign to our system of reasonable, merciful justice. It denies any potentiality for reform of character. . . . The chastening effect of a severe sanction such as disbarment may redirect the energies and reform the values of even the mature miscreant. There is always the potentiality for reform."

But if there is the potential of reform, there is also the possibility some **lawyers** will take advantage of a second chance to again steal from clients or commit fraud.

Former SJC Chief Justice Herbert P. Wilkins, who voted to approve the reinstatement of Hiss, said such a risk is inherent in the court's rulings.

"That is why a conservative judiciary might say we will protect ourselves better by not letting any of these people back in," said Wilkins, who is now a professor at the Boston College School of Law. "If you are going to do a job like that you have to be willing to recognize not every move you make will be correct."

Johnson, who oversees the office policing **lawyers** in New Jersey, argues that the risk associated with giving **disbarred lawyers** a second chance is unacceptable.

"We have to take a strong stand," he said. "No one has a right to prey on the public."

The public is fooled, he said, when it reads that a **lawyer is disbarred**. The assumption is the **lawyer** can never regain his license, Johnson argued. Even more damage is done when a **disbarred lawyer** returns to the legal field and commits a new offense.

"You don't take an unacceptable risk of putting these people back in the position where they can reoffend," he said. "When that happens, it's very damaging to the profession." Resuming practice While only a minority of **disbarred lawyers** seek reinstatement, nearly all who ask for a second chance get it. Since 1990, 25 **lawyers** who were **disbarred**, forced to resign, or indefinitely suspended were reinstated. A look at five of those cases: PLEASE REFER TO MICROFILM FOR CHART DATA. GLOBE STAFF CHART

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