

Supreme Court

In re Amendments to Article II, Rule 3 of the Supreme Court Rules	: : :

ORDER

Article II, Rule 3, of the Supreme Court rules, entitled "Admission to the bar: committee on character and fitness," is hereby modified by amending Sections (a), (b), (h), and (i) thereof; by adding thereto new Sections (j), (k), (l) and (o); and by redesignating former Sections (j) and (k), respectively, as Sections (m) and (n) and amending such redesignated sections to read as follows:

"Rule 3. Admission to the bar: committee on character and fitness. -- (a) All persons who desire to be admitted to practice law shall be required to establish by clear and convincing evidence their moral character and fitness to the satisfaction of the Committee on Character and Fitness of the Supreme Court of Rhode Island in advance of such admission.

(b) The Committee on Character and Fitness shall be appointed by the Supreme Court. Its members shall be seven (7) in number and shall include: (1) one (1) member of the Board of Bar Examiners, or a designee of the Chair of the Board of Bar Examiners, said designee being a member of the Rhode Island Bar; (2) the Attorney General or his/her designee, said designee being a member of the Rhode Island Bar; (3) the Clerk of the Supreme Court or his/her designee; and (4) four (4) members of the Rhode Island Bar. The Court shall designate the Chair and Vice-Chair of the Committee.

(c)

(h) The petition/questionnaire provided by an applicant shall be maintained by the Committee. Sections A and D of the

petition/questionnaire shall be available to the public. Any documentary material submitted in connection with the petition/questionnaire, and Sections B and C of the petition/questionnaire shall be maintained by the Committee and shall not be available to the public except by order of the Court, inasmuch as the documentary materials and the information in Sections B and C may contain information related to medical and/or psychological matters, educational performance, personal finance and/or employment performance matters of the individual applicant. The entire petition/questionnaire of each applicant shall be maintained for a period of no less than ten (10) years from the date of filing the petition/questionnaire, and thereafter destroyed in accordance with Supreme Court retention policies. All hearings and matters referred to the Committee for investigation shall be confidential. No member of the Committee at any time, either while a member of the Committee or thereafter, shall disclose any matter in any file, except at the request of the Committee, or the Supreme Court or unless legally required to do so. All minutes or records circulated to members of the Committee shall be kept confidential. All petitions/questionnaires and any documentary material in connection therewith which have been submitted to or are maintained by the Committee or the Clerk of the Supreme Court prior to the enactment of this rule, which do not contain separate sections B and C as described above, shall continue to be confidential and shall not be available to the public. All records relating to matters referred to the Committee shall be retained in the Committee's permanent files.

(i) Upon receiving the petition/questionnaire ~~petition and questionnaire~~, the Committee on Character and Fitness shall promptly (1) ~~(a)~~ verify such facts stated in the questionnaire, communicate with such references given therein, and make such further investigation as it deems desirable or necessary; (2) ~~(b) if it deems necessary~~ arrange for a personal interview with the applicant; (3) ~~(c)~~ consider the character and fitness of the applicant to be admitted to the practice of law; and (4) ~~(d)~~ transmit to the Supreme Court a report of its investigation and its recommendation in regard to the character and fitness of the applicant for admission to the practice of law.

(j) The Committee on Character and Fitness may obtain information from the applicant and other persons and to this end is authorized to issue subpoenas for the attendance of witnesses and for the production of books, papers, and documents. Upon the giving of testimony, the Committee is authorized to administer oaths and affirmations.

(k) Following its investigation, the Committee on Character and Fitness shall recommend to the Supreme Court that an applicant be (1) granted admission to the practice of law, (2) granted conditional admission to the practice of law subject to probationary terms specified by the Committee, or (3) denied admission to the practice of law.

(l) The Committee on Character and Fitness may recommend that an applicant be granted conditional admission to the practice of law when it is determined that the protection of the public may require the temporary monitoring of the applicant. In recommending that the Supreme Court issue a conditional license to practice law, the Committee shall recommend specific conditions of the license, to be fulfilled at the applicant's expense, which may include but are not limited to the following:

- (1) requiring assessment and/or treatment for alcohol, drugs or other chemical dependency, and/or gambling by a professional approved by the Committee;
- (2) requiring medical, psychological or psychiatric care;
- (3) requiring the individual to practice law under the supervision of a member of the Rhode Island Bar, approved by the Committee, and prescribing the terms and conditions of such supervision;
- (4) requiring professional office practice or management counseling;
- (5) requiring submission to periodic, random drug testing to be administered by a professional approved by the Committee;
- (6) requiring the individual and/or a mutually agreed upon supervisor to report periodically to the Committee or its designee;
- (7) requiring the individual to take specific actions designed to cure or end any deficiencies in his or her moral character and fitness; and/or
- (8) requiring the applicant, upon request at any time during the period of conditional admission, to provide business or personal financial records.

(m) (j) If the recommendation of the Committee on Character and Fitness is for conditional admission pursuant to subsections (k)(2) and (l) or against admission pursuant to (k)(3), the report of the Committee shall set forth the facts upon which such recommendation is based and its reasons for rendering such recommendation. The Committee shall promptly notify the applicant about such conditional or the adverse recommendation and shall give the applicant an opportunity to appear before it and to be fully informed of the matters reported to the Court by the Committee, and to answer

~~or explain such matters.~~ The applicant shall have thirty (30) days from the date of notice of the recommendation to withdraw the application. If the applicant elects not to withdraw the application, the Committee shall forward its recommendation to the Supreme Court for action thereon.

~~(n) (k) If, following such appearance, the Committee is still of the opinion that an adverse report should be made on the application, it shall first give the applicant the privilege of withdrawing the application. If the applicant elects not to withdraw the application, and the second report and recommendation of the Committee to the Court is against approval of the application the The Court, upon receipt of the report with the adverse recommendation by the Committee, may (1) accept, reject, or modify the recommendations of the Committee; (2) grant the application with conditions for a specified period of time, or without conditions; 3) or shall require the applicant to show cause why his/her application should not be denied.~~

(o) The Court shall give notice to the Clerk of the Supreme Court and the Chief Disciplinary Counsel of any conditional admission and the terms thereof. Notwithstanding any other confidentiality provisions under this Rule or Article II, Rule 21 of the Supreme Court Rules of Disciplinary Procedure, the Committee, Clerk of the Supreme Court and Disciplinary Counsel may share relevant information among each other regarding any breach of the conditions imposed by this Court. A conditional license shall expire on the date specified by the Supreme Court unless temporarily extended by the Supreme Court at the request of the Committee on Character and Fitness or at the request of the individual. A conditional licensee may apply for a renewal of the conditional license or for an unrestricted license to practice law in the State of Rhode Island, by filing a written request with the Committee on Character and Fitness at least sixty (60) days prior to the expiration of the conditional license. Notwithstanding any other provision of this Rule, a conditional license may be immediately terminated upon notice to the conditional licensee in the following circumstances and by the following procedures:

(1) If the Committee has reason to believe that a conditional licensee is in breach of a condition of the license, it may petition the Supreme Court for an order to show cause why the conditional license should not be immediately terminated.

(2) The Supreme Court shall examine the petition and determine whether a *prima facie* showing of a breach of the conditional license has been demonstrated. If the Court determines that such a showing

has been made, it may immediately suspend the conditional licensee and may issue an order to the conditional licensee to show cause why the license should not be permanently revoked.

(3) In addition to the provisions set forth in (o)(1) and (o)(2), the Disciplinary Board may exercise jurisdiction over a lawyer who has been conditionally admitted, and may proceed with disciplinary action for misconduct committed while a conditional license was in effect."

Entered as an Order of this Court this 18th day of April, 2007.

/s/

WILLIAMS, C. J.

/s/

GOLDBERG, J.

/s/

FLAHERTY, J.

/s/

SUTTELL, J.

/s/

ROBINSON, J.