

## SUPREME COURT DECISIONS

### MORAL CHARACTER CASES

#### In re Glass (2014) 58 Cal. 4<sup>th</sup> 500

Glass had a long history of fabricating material for articles published in several prestigious magazines including the New Republic, George, Harper's Magazine, and others. His articles were often mean-spirited and falsely ridiculed and maligned living individuals. Not only did Glass fabricate many articles but he went to great lengths to avoid detection and after he was exposed, he failed to fully cooperate with magazines to identify his fabrications. In 2002, Glass applied to become a member of the New York Bar, but withdrew his application after he was informally notified in 2004 that his moral character application would be rejected. Glass presented evidence that as a child he was exposed to cruel pressure from his parents to succeed. After he was fired by the New Republic he was suicidal and sought therapy. He also presented testimony from law school faculty who recommended him for admission. Glass also wrote a book about his experiences (The Fabulist) for which he was paid a substantial advance. He also wrote numerous letters of apology to journalists affected by his fabrications.

Glass took and passed the California Bar examination in 2006 and in 2007 he filed an application for determination of moral character. Glass was denied admission on moral character grounds by the Committee. Glass appealed to the State Bar Court.

The Hearing Department of the State Bar Court found that Glass had established good moral character. The Committee appealed the decision to the Review Department. While characterizing Glass's misconduct as "egregious," the Review Department nonetheless held that he had met his burden of establishing good moral character and demonstrated sufficient rehabilitation and reform. The Committee appealed the decision to the Supreme Court.

The Supreme Court disagreed with the State Bar Court and denied Glass admission finding that he had committed numerous acts of dishonesty and professional misconduct and failed to establish a compelling showing of rehabilitation and truly exemplary conduct over an extended period of time. The Court highlighted that Glass's deceit was motivated by professional ambition and reflected a complete lack of compassion. In addition, a portion of his misconduct took place while he was pursuing a law degree, "when the importance of honesty should have gained new meaning and significance for him." (P. 523.) The Court also observed that "instead of directing his efforts at serving others in the community, much of Glass's energy since the end of his journalistic career seems to have been directed at advancing his own career and financial and emotional well-being." (P. 524.) Indeed, "the more serious the misconduct and the bad character evidence, the stronger the applicant's showing of rehabilitation must be." (P. 520.)

#### In re Garcia (2014) 58 Cal.4<sup>th</sup> 440

The Committee of Bar Examiners certified Garcia to the California Supreme Court as qualified for admission to the practice of law. The Committee, however, brought to the Court's attention the fact that Garcia's current immigration status was that of an undocumented immigrant. The

question of whether an undocumented immigrant may be admitted to the State Bar was one of first impression in California. The Court decided to admit Garcia finding no federal statutory obstacle to his admission. In addition, the Court found that there is no state law or state public policy that would justify denying qualified undocumented immigrants, as a class, the opportunity to obtain admission to the State Bar. Therefore, the Court found that Garcia met all the necessary qualifications for admission to the State Bar including that he possessed the requisite good moral character.

### [In re Eben Gossage on Admission \(2000\) 23 Cal.4<sup>th</sup> 1080](#)

#### Background

In 1975, while addicted to drugs and alcohol, Eben Gossage (Gossage) killed his sister and was convicted of voluntary manslaughter. Between 1973 and 1981, he committed other crimes involving dishonesty and moral turpitude, and was convicted of several forgeries. After committing his last felony offense, and after serving a final prison term which ended in 1983, Gossage took steps to change his life, overcame substance abuse, and graduated college and law school.

However, during a six-year period beginning six months before he entered law school, and ending almost six months after he took the bar examination, Gossage repeatedly violated state traffic laws and sustained several misdemeanor convictions for mishandling these matters in court. Gossage ranged from age 33 to age 39 during this time. It was not until June 1993 that all outstanding traffic matters were resolved.

Six months later, in January 1994, Gossage applied for a moral character determination. The Committee of Bar Examiners denied his application.

#### Rehabilitation Standard

If Gossage's moral character was to be certified, he would have to demonstrate that he had been rehabilitated. In discussing the standard it would use to determine whether Gossage had proven rehabilitation, the California Supreme Court stated that Gossage could be found morally fit to practice law only if the evidence showed that he was no longer the same person who behaved so poorly in the past, and only if he had since behaved in exemplary fashion over a meaningful period of time. "The heavy burden is commensurate with the gravity of crimes."

In discussing the timeframe to be reviewed in assessing whether a person has behaved in an exemplary fashion, the court stated that since a person under the direct supervision of correctional authorities is required to behave in exemplary fashion, little weight is generally placed on the fact that a bar applicant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole.

Similarly, good conduct generally is expected from someone who has applied for admission with, and whose character is under scrutiny by, the State Bar. Thus, the relevant timeframe for

assessing rehabilitation fell between July 1984, when Gossage last completed parole, and January 1994, when he sought a moral character determination.

### Supreme Court Decision

The Supreme Court found Gossage's more recent offenses were reminiscent of his behavior in prior judicial proceedings, when he failed to make court-ordered appearances and violated court-ordered conditions of probation and parole. At worst, Gossage's more recent offenses suggested a hopeless refusal or inability to conform to societal rules when considered in light of the moral turpitude and lawlessness he displayed over the preceding 10-year period. At best, any rehabilitative trend was not complete and the risk was still too high that he would disregard legal and ethical obligations if allowed to practice law.

Moreover, he did not act with the high degree of frankness and truthfulness and the high standard of integrity required by the moral character determination process. Of the 17 criminal convictions received throughout his adult life, Gossage mentioned only four on his moral character application.

By committing the Vehicle Code offenses between July 1987 and June 1993 and submitting the misleading application filed in 1994, Gossage disregarded his legal obligations and the responsibilities he would undertake as a member of the State Bar. In order to safeguard the public and protect the integrity of the profession, the court could not conclude Gossage had established his present good moral character. They, therefore, declined to admit Gossage to the practice of law.

### Lubetzky v. State Bar (1991) 54 Cal. 3d 308

The Supreme Court, declining to give any weight to the findings of the former version of the Review Department, found that Lubetzky had presented a strong prima facie case of good moral character which the State Bar failed to rebut, and directed the Committee of the Bar Examiners to certify him admission to the Bar. Of primary concern to the State Bar were two matters: (1) an alleged misuse of the Judicial process by filing civil suit against former friends for the purpose of harassing them, and (2) the accusation that Petitioner was responsible for obscene postcards and letters mailed to two individuals, including his chief accuser at the hearing in this matter.

Concerning the alleged misuse of the judicial process, the Court noted that there are "important policies favoring unfettered access to the courts" thus dictating that any finding of moral turpitude in this regard be based on a "carefully articulated assessment Of the evidence, leading to precisely formulated findings" (at p. 11 of typed opinion), which did not exist here. The Court concluded that in light of the maxim that all reasonable doubts be resolved in favor of the Applicant, the record did not disclose any basis upon which it could conclude that the lawsuits were improper.

Concerning the obscene mail, the Court found that there was insufficient evidence to persuade them that Petitioner was responsible for it. This conclusion was reached despite the

introduction of expert evidence on the point. [Note: Applicant's fingerprint was found under a piece of tape on one of the obscene postcards.]

The Court also addressed other obviously less serious allegations, specifically, that Applicant's Bar admission application was incomplete and that he had made unauthorized tape recordings of telephone calls. These matters were dismissed as insignificant under the circumstances. [Note: One of Lubetzky's character letters was from a State Senator.]

### **Kwasnik v. State Bar (1990) 50 Cal.3d 1061**

Kwasnik was refused admission on the grounds that he lacked good moral character. Kwasnik, while a member of the New York Bar, was involved in a traffic accident in 1970 and had pleaded guilty to "driving while impaired." The same accident resulted in a wrongful death judgement against him, which was discharged in bankruptcy in 1981. Subsequently, he was admitted to the Florida Bar and passed the California Bar Exam. The former version of the Review Department found that Applicant was lacking in good moral character in that: (1) the payments of the wrongful death judgement were only made pursuant to garnishment proceedings despite the fact that he had a substantial salary; (2) that he had misled plaintiff's attorney in the wrongful death action by expressing an intention to take a one-year leave of absence from the practice of law when, in fact, he had accepted a new attorney position in Florida; and (3) that he had taken no steps to fulfill his moral obligation to the plaintiff since moving to Florida.

The Supreme Court ordered the Committee of Bar Examiners to certify Applicant for admission. The majority afforded great weight to 15 letters attesting to his good moral character which were found to be from individuals aware of the circumstances that prompted the inquiry into Kwasnik's moral character. The Supreme Court also gave weight to his proven track record as an attorney in New York without a disciplinary record. These factors constituted a prima facie case of good moral character.

The State Bar apparently attempted to rebut the prima facie showing of good moral character by inquiring into the facts and circumstances surrounding the wrongful death action and the bankruptcy. The majority held that if the State Bar can advance no evidence sufficient to rebut a prima facie case of good moral character other than an Kwasnik's continued failure to satisfy a discharged obligation, as was found to be the case here, denial of an application to the Bar violates 11 U.S.C. Sec. 525 (a). [Note: The majority does not appear to prohibit the use of failure to satisfy a discharged obligation as one factor if other evidence of bad moral character exists.]

In her concurring opinion, Justice Kennard agreed that the majority properly focused on Applicant's most recent conduct, which she found demonstrated that he was now suitable for admission. However, Justice Kennard was deeply troubled by the facts and circumstances surrounding the wrongful death judgement, the bankruptcy discharge, and Applicant's failure to satisfy the discharged obligation. "[T]he debtor's failure to make good faith efforts to pay the debt over a period of years, accompanied by a pattern of conduct apparently designed to mislead the creditor and make enforcement more difficult, would support a conclusion that the debtor lacks good moral character." (At p. 1078.) In this case, because this troublesome conduct was in the distant past, Justice Kennard would "reward" Kwasnik for his "moral

reformation” and certify him for admission. Justice Kennard’s opinion also contains an excellent quote defining good moral character. “The term ‘good moral character’ embraces much more than the absence of demonstrated wrongful acts...” (At p. 1076.) Justice Arabian joined in Justice Kennard’s concurrence, but separately took the majority to task for insisting that the State Bar had “solely” based its decision to deny certification on the bankruptcy discharge. Justice Arabian noted other evidence of misconduct but found that it wasn’t sufficient to rebut the showing of good moral character advanced by Applicant.

The Chief Justice dissented and argued that 11 U.S.C. Sec 525 (a) was not implicated in the decision of this case. He further argued that as in other cases, the failure to pay a discharged obligation was a useful indicator of a lack of rehabilitation of “prior defects in moral judgment.” The Chief Justice would deny certification.

### **Goldstein v. State Bar (1989) 47 Cal. 3d 937**

Goldstein, after passing his California Bar Examination, was denied certification on the ground that he did not possess the requisite moral character. He was found to have (1) deliberately abused the judicial process; (2) knowingly made false statements under oath; (3) engaged in the unauthorized practice of law; and (4) committed acts of fraud against various entities. Based on such findings, the hearing panel ruled that Goldstein could file another application for admission three years from the date of denial of his application.

Only two years after the ruling, Goldstein, a licensed attorney in Kansas, subsequently took and passed the California Bar Exam. In his application, he failed to mention his earlier denial of admission on moral character grounds or that he had previously been denied certification to practice law. The State Bar, failing to recognize that there had been a previous negative determination of his moral character, routinely recommended that he be certified for admission. Upon discovery of its oversight, the State Bar commenced a proceeding to revoke Goldstein’s license.

Goldstein contended that taking the bar is not the same thing as applying for admission to the bar. He claimed that he was entitled to retake the examination so that he could reapply as soon as possible after the expiration of the three-year period. The Supreme Court disagreed. There is only one application filed, so applying to take the exam is the same as applying for admission. The Court allowed the admission of the prior moral character proceeding since it was relevant to a matter on which the State Bar had the burden (the fact that Goldstein had been barred from applying for admission for three years). The Court held that any inadequacy on the part of the Bar in failing to discover the hearings into Goldstein’s character does not absolve him of his own failings in the matter.

The Court found that even though there was no evidence that Goldstein had committed any acts of misconduct since becoming a member of the bar, the most appropriate resolution of the matter was to deny him what he wrongfully obtained. His license to practice was thereby cancelled.

### Seide v. Committee of Bar Examiner (1989) 49 Cal. 3d 933

Seide was denied admission to the Bar based on evidence that from 1975 through 1982, he had been arrested five times for drug-related offenses, and had later been convicted of knowingly and intentionally distributing, and aiding and abetting the distribution of cocaine for which he served time in a federal work camp. Applicant was a former police officer. All but the first of his arrests occurred after he had entered law school and while he was studying for the Bar Exam.

“[Applicant’s] cocaine trafficking clearly involved acts of moral turpitude and demonstrated bad moral character... Unlike disbarment proceedings, in which the State Bar must prove an attorney unfit to practice, an Applicant for certification must show he is morally fit. [Citation] Hence, this court may properly refuse to admit an Applicant to practice law upon proof that would not justify an order of disbarment.” (P. 938)

The Court found that since Seide’s misconduct occurred after his career as a law enforcement officer and while he was studying for the bar exam, it showed his “blatant disregard of the laws he was sworn to enforce, has studied, and now seeks to apply.” (P.938)

The Court found that Applicant did not meet his burden of proof by simply showing that he kept out of trouble while he was on probation; he must affirmatively show over a prolonged period of time his sincere regret and rehabilitation. Seide failed to show a recognition of the seriousness of his crimes and his involvement in drug dealing.

Character evidence, however, laudatory, does not alone establish the requisite good character. (P. 939) The Court gave little weight to Seide’s character letters since few of them indicated that their authors had full knowledge of Applicant’s criminal background.

### Pacheco v. State Bar (1987) 43 Cal 3d 1041

Pacheco passed the Bar Exam in 1980 but was refused admission on moral character grounds. He unsuccessfully petitioned the Supreme Court for admission. This case arises from his reapplication. After a hearing, the Committee refused to certify Pacheco’s admission on moral character grounds.

Pacheco presented a prima facie case of good moral character by presenting over 20 letters from judges and lawyers who attested to his good character. He also testified that he had practiced as a licensed private investigator for 10 years in California without a single charge of misconduct. The State Bar argued that the character letters should be entitled to little weight since Petitioner did not fully disclose the circumstances of his prior denial of admission. The Court discussed the value of such letters and concluded that the letters should be given great weight since the authors affirmed their high opinions of Respondent when confronted on cross examination with the facts previously unknown to them.

The State Bar’s evidence showed that between 1969 and 1977, Pacheco counseled a murder witness on how to avoid a subpoena, while employed as a CHP officer was involved in the improper collection and storage of evidence, and was involved in suspect loan practices. The

hearing panel also found that Pacheco's testimony about these matters was not candid or truthful.

The only evidence relating to moral character which occurred after the 1980 admission hearing was Pacheco's involvement in a child custody case which the court characterized as technically legal, but ethically suspect.

Pacheco attempted to keep the hearing panel from considering the factors which gave rise to his denial of admission in 1980. The court found that the issue for the second hearing was to determine whether Pacheco was rehabilitated, and in order to make that determination, it was necessary to understand the conduct from which the Petitioner was alleged to have been rehabilitated.

The Court ordered Pacheco admitted.

### **Martin B v. Committee of Bar Examiners (1983) 33 Cal. 3d 717**

Approximately 10 years before seeking admission to the Bar, Martin B, while serving the Marine Corps, was charged with 2 rapes. At the criminal trial, Martin B was acquitted on one charge and the trial judge dismissed the other when the jury deadlocked 11-1 for acquittal. Later, while still in the military, Applicant became despondent and developed a drinking problem. Shortly thereafter, he was charged with filing a false claim against the United States Government and pled guilty to the charge. He continued to serve in the military after that, receiving three medals and an honorable discharge. Since that time, Applicant had an unblemished record.

At his moral character hearing, no trial transcript of the criminal proceedings was available, so the State Bar Court conducted a "retrial" of the criminal charges and found Martin B guilty of the charges. They also concluded that Martin B. had lied in his testimony to the State Bar by denying his guilt.

The Supreme Court found that "the Committee may initiate an investigation into criminal charges against an Applicant to the bar, even if those charges resulted in a favorable termination to the Applicant. The doctrine of the res judicata does not apply to Committee proceedings, because the purpose of the proceedings is to determine moral fitness, rather than punish a guilty party. Furthermore, the parties to the proceedings, as well as the quantum of proof, are different from those of a criminal trial. [Citations]... [However,] an Applicant must be afforded a fair and reasonable opportunity to defend himself against the charges being investigated." (P.721)

The Supreme Court found that Martin B. had not been given a reasonable opportunity to defend himself since the trial transcripts below had been destroyed, so his ability to impeach inconsistent statements, if any was lost. Also, the evidence introduced at the criminal trial had been destroyed and some of Martin B.'s witnesses had become unavailable. The Court found that serious consideration should have been given to the favorable termination of the criminal proceedings.



As to the false claim charges, the Court found that the act had occurred when Martin B. was young (21) and experiencing a difficult emotional period in his life. They noted his unblemished record in the nine years since and concluded that his false claim was a “youthful discretion.”

The Supreme Court found that the rape charges and the false claim charge were insufficient to justify non-admission.

### **Hightower v. State Bar (1983) 34 Cal. 3d 150**

Hightower was refused certification for admission due to a lack of good moral character. The State Bar contended that Hightower engaged in the unauthorized practice of law on three occasions during the time when he graduated from law school and the time he passed the Bar Exam, after seven attempts. In two of the three incidents, Hightower used the name of attorneys without their consent and forged their signatures to pleadings. In the third incident, he misrepresented to the Court that he was a licensed attorney. Two years later, Hightower applied for readmission. At his second hearing, he acknowledged the seriousness of his prior conduct but explained that he had been authorized to perform the acts which previously concerned the panel. There was no evidence of any misconduct during the previous two-year period.

“The fundamental question remains whether Petitioner is a fit and proper person to be permitted to practice, and that question usually turns upon whether he has committed or is likely to continue to commit acts of moral turpitude [citation]. On the basis of the conclusiveness of the first rejection, we must conclude that Petitioner’s activities of practicing law without a license involved moral turpitude, but that is not determinative if the Petitioner demonstrates his rehabilitation and moral qualification to become a member of the bar.” (p. 157)

The Court concluded that the Committee must either certify Hightower for admission or to hold further hearings on his reapplication of the Committee in its discretion believed further hearings were warranted. The Court did not look unfavorably on his refusal to retract his claims of innocence, saying “he should not be denied the opportunity to practice law because he is unwilling to perform an artificial act of contrition.” (P. 157.) Finally, the Court determined that although evidence of rehabilitation was not overwhelming, it was substantial, and the State Bar had no reason to reject it.

### **Bib’le v. Committee of Bar Examiners (1980) 26 Cal. 3d 548**

Bib’le sought to be exempted from the requirement of taking and passing the First Year Law Student Examination (FYLSX) as a precondition to taking the general Bar Exam. Bib’le claimed that the CBE was estopped from requiring him to take the FYLSX because of a letter written by a CBE employee. The Court found that strong public policy reasons prevented estoppel against a governmental agency. The Court also found that Bib’le had reason to know that he was required to take the FYLSX and simply failed to do so. They also found that Bib’le had not completed his law school education before applying to take the exam.



Bib'le claimed that the FYLSX is an impermissible discrimination against persons required to study law in unaccredited schools. The Court found that the right to apply for a professional license is not a fundamental right and that the FYLSX requirement for attendees of non-accredited schools had a rational relationship to an important state interest, thus it was valid requirement of Applicants so situated.

#### **Hall v. Committee of Bar Examiners (1979) 25 Cal. 3d 730**

The Committee of Bar Examiners refused to certify Hall for admission on the ground that he lacked good moral character. The decision of the Committee was based upon their conclusion that Hall failed to demonstrate adequate remorse for conduct in which he had engaged while managing an employment agency in prior years which allegedly involved collection practices. Hall had been disciplined for this conduct through a 20-day suspension of his employment agency license by the California Bureau of Employment Agencies.

Hall contended that he was innocent of the charges for which he was disciplined by the Bureau of Employment Agencies. He argued that he should not have to claim remorse for something he didn't do in order to be admitted. The Court agreed stating "[a]n individual's courageous adherence to his beliefs, in the face of a judicial or quasi-judicial decision attacking their soundness, may prove his fitness to practice law rather than the contrary" (P. 744)

Applicant was admitted.

#### **Siegel v. Committee of Bar Examiners (1973) 10 Cal. 3d 156**

The Committee refused to certify Siegel for admission on the basis of its conclusion that he lied in testimony before the Committee. Siegel was active in student politics and political protests while a law student at UC Berkeley. The Committee contended that in three speeches given to UC Berkeley students, Siegel advocated violence and that by denying such to the Committee, he had lied during his testimony.

The Court examined the First Amendment implications and determined that the speeches were subject to differing interpretations. One could conclude that the speeches did not incite violence. The conclusion was supported by the fact that Applicant was acquitted of incitement to riot charges.

The Court ordered Siegel admitted.

#### **Raffaelli v. Committee of Bar Examiners (1972) 7 Cal. 3d 288**

Raffaelli, a citizen of Italy, was denied admission to practice law on the sole ground that he was not a citizen of the United States. The statute under which he was excluded was found to be in violation of the Equal Protection clause of the United States Constitution and thus, invalid.

### **Greene v. Committee of Bar Examiners (1971) 4 Cal.3d 189**

Greene made statements on his application for admission in California that were inconsistent with statements he had made on previous applications for admission in Nevada and Illinois. He also failed to make full disclosure of certain items.

The Court found that some of the nondisclosure items appeared inadvertent and noted “unintentional nondisclosure of relatively unimportant matters does not justify exclusion from the bar.” (P.194) However, the Court found that some of Greene’s nondisclosures were serious in nature and there were also serious misrepresentations. He was not admitted.

### **Berstein v. Committee of Bar Examiners (1968) 69 Cal.2d 90**

The Committee denied Bernstein’s admission to the practice of law on moral character grounds based on his admitted forgery of his former wife’s name to a check with the intent to defraud her. In addition, he made statements with the intent to mislead her. Bernstein’s evidence of psychological problems did not excuse or mitigate his conduct. The Court also found that he had been less than forthright in a verified answer at a probate hearing concerning his representations of statements made by a judge in a prior proceeding. Bernstein was also found to have made other false and misleading statements. The Court ruled that the record demonstrated a lack of truthfulness and candor on the part of Bernstein and that he has not shown to be of good moral character.

### **Johnson v. State Bar (1968) 268 Cal. App. 2d 90**

Johnson took the First Year Law Student’s Exam (FYLSE) in 1949, 1950, 1951, 1953 and 1963 and failed it on each occasion. After the 1963 exam, he filed suit against the Bar claiming that he had passed the exam and the Bar was wrongfully failing to certify [h]is passing grade. The applicable rules required that in order to pass the exam, the Applicant had to achieve a score of at least 70% of the highest possible grade. The State Bar contended that the highest possible score was 100%. Johnson claimed that it was not possible to score a 100% and that 80% was the highest possible score. He further claimed that his score on the exam was 77% of the possible 80%, thus he achieved a passing grade. The Court held that while a grade of 100% may not be probable, it was possible, so there was no intent or reason to lower the exam standards.

### **March v. Committee of Bar Examiners (1967) 67 Cal.2d 718**

The California Supreme Court determined that March should be admitted to the practice of law notwithstanding the fact that he had been a member of the Communist Party and had denied this on at least two occasions. He convincingly demonstrated his rehabilitation and freely admitted that his past conduct was unjustifiable, answered the Committee’s questions about his past and present attitudes on various political and social issues without equivocation, and had presented many recommendations from a number of attorneys.

### Hallinan v. Committee of Bar Examiners (1966) 65 Cal.2d 447

The Committee contended that Hallinan had a “dominant propensity for lawlessness whenever violation of the law suits his purpose.” This conclusion was based on Applicant’s civil rights work which resulted in acts of “civil disobedience” and arrests. The Committee also contended that Hallinan had a habit of resorting to fist fights to settle personal differences.

“... In considering the kinds of acts which would justify excluding a candidate for admission we may look to acts which have been relied upon to sustain decisions to disbar or suspend individuals previously admitted to practice.” (p. 453) The proof necessary to make such a determination need not be of the type necessary to establish a cause for attorney discipline.

“... we note that every intentional violation of the law is not, ipso facto, grounds for excluding an individual from membership in the legal profession. [citation]... [B]ecause the law does not always coincide exactly with principles of morality there are cases that are crimes that would not necessarily involve moral turpitude.” (p. 459)

“The purpose of investigation by the bar into an Applicant’s moral character should be limited to assurance that, if admitted, he will not obstruct the administration of justice or otherwise act unscrupulously in his capacity as an officer of the court.” (p. 462)

The Court did not find Hallinan’s propensity to engage in fist fights to involve moral turpitude. The Court ordered Hallinan admitted.

### Konigsberg v. State Bar (1957) 353 U.S. 252, 1 L.ed2d 810, 77 S.Ct. 722

The Committee declined to certify Konigsberg because of his lack of good moral character. A hearing was conducted where Konigsberg was questioned at great length about his political affiliations and beliefs. Almost all of the questions were directed at finding out whether he was or ever had been a member of the Communist Party. Konigsberg declined to answer the questions on insisting that such questions were intrusive of areas protected by the Federal Constitution.

The Committee declined to certify on the ground that the evidence in the record raised substantial doubts about Konigsberg’s character which he failed to dispel. They found that he failed to demonstrate that he was of good moral character and he failed to show that he did not advocate the overthrow of the government by force, violence or other unconstitutional means.

“[T]he inferences of bad moral character which the Committee attempted to draw from Konigsberg’s refusal to answer questions about his political affiliations and opinions are unwarranted.” (p. 732)

The case was remanded for further proceedings. Konigsberg was later admitted.

### **State Bar v. Langert (1954) 43 Cal.2d 636**

The State Bar sought to have Langert's license revoked because he knowingly falsified answers on his application.

Langert stated on his application that he had never been licensed to practice law when in fact he had been previously licensed to practice in Illinois where he had been charged with disciplinary offenses. He also lied as to his past residence addresses on his application. Respondent explained that his lies were made because of family and financial problems.

The Court held that deliberate concealment of charges of misconduct in another state was grounds for revocation of a license in California.

Langert claimed that his license should be revoked only if he was found not to be of good moral character at the present time. The Court dismissed the argument stating that "candor and frankness should be the primary concern of a lawyer, particularly in dealing with the validity of his license." (p.642)

The Court ordered Langert's license revoked.

### **State Bar v. Tumer (1948) 31 Cal.2d 842**

The State Bar sought to revoke an order admitting Turner on the grounds that he concealed material facts from the CBE. Turner, between 1931 and 1934, under different aliases, was convicted of larceny, unlawfully obtaining food and lodging from a hotel and writing NSC checks. He further admitted that he used the name and academic credentials of a deceased person to seek admission to the bar. He argued that at the applicable times he was suffering from a mental illness which prevented him from formulating a willful and fraudulent intent.

The Court found that had the CBE been aware of the truth about Turner's background, they would have been justified in denying him admission. His mental state and intent to conceal was therefore found to be irrelevant. Turner's license was revoked.

### **Staley v. State Bar (1941) 17 Cal.2d 119**

Staley filed a petition for writ of mandamus asserting that he should have been given a passing score on the Bar exam. In support of his application he submitted a declaration from a law professor who independently graded his answers and gave him a passing score. The Court determined that Staley's allegations amounted to nothing more than a general statement that his answers entitled him to a passing grade. In the absence of a charge of fraud, imposition, or coercion, or the denial of a fair opportunity to take the exam, the score would not be changed. The petition for writ of mandate was denied.

### **In re Stepsay (1940) 15 Cal.2d 71**

Stepsay had been an attorney in Michigan for 13 years before seeking admission in California as an attorney applicant. His certification was denied by the CBE for a lack of good moral character due to a disciplinary proceeding in Michigan when Respondent withheld from his client \$25.00 due to the client.

The Court noted that the inquiry in an admission case is broader than in a disciplinary proceeding and that an applicant may properly be denied admission upon proof which would not justify disbarment in a disciplinary proceeding.

Stepsay was open and frank in his testimony and answered all of the question on his application fully. The Court found that because of Stepsay's honesty in his application and testimony as well as his impressive letters of recommendation, he had met his burden of proof. The Court ordered Stepsay be allowed to take the next exam.

### **In re Charles Joe Jung (1939) 13 Cal.2d 199**

The State Bar sought to have Jung's license revoked due to his misrepresentations and concealment on his application. The State Bar contended that Jung did not fully disclose the facts surrounding his "dismissal with prejudice" from the immigration department following an investigation of a complaint about Jung concerning his alleged misconduct as an interpreter. The Court found that Jung did not mislead the State Bar on his application by not disclosing the reasons surrounding his dismissal since he was never told what those reasons were.

### **Rhodes v. State Bar (1936) 7 Cal.2d 660**

Applicant was denied admission as an attorney applicant since he could not show that he had practiced in the sister state for the applicable period of time.

### **Salot v. State Bar (1935) 3 Cal.2d 615**

Salot, who failed seven successive bar exams, claims that as to two of the exams, there was unfairness, arbitrariness, fraud and dishonesty in the marking and grading of his answers. Salot contended that his grade on the two exams in question were not properly graded and that an experimental part have allowed him to pass. The Court found that he was treated the same as all the other applicants similarly situated and thus his grades should not be changed.

### **In re Admission to Practice Law (1934) 1 Cal.2d 61**

A number of bar examinees who failed the exam sued the State Bar requesting copies of the examinations of all bar applicants who took the August 1933 exam and other related records to support their allegation that the State Bar arbitrarily determined in advance the number of applicants who should be permitted to pass the exam. In that particular exam, only 31.6 percent of applicants passed. The Court emphasized that the right to practice law is not

absolute and is indeed a privilege. And, the Court did not find anything to discredit the results of the exam or the manner in which the Committee conducted the exam.

#### **In re Garland (1934) 219 Cal. 661**

Garland was denied certification by CBE due to lack of good moral character. He stated on his application that he was admitted in Illinois in 1907 and in the Federal Courts, but he failed to mention that he was admitted in Oregon in 1913 and subsequently disbarred in that State. He also failed to disclose that he had been convicted of forgery in 1923. Garland also engaged in the unauthorized practice of law in California for an extended period of time.

The Court found the fact that Garland was placed on probation rather than incarcerated on his conviction did not relieve him of his obligation to disclose the conviction.

The Court refused to admit Garland.

#### **Henderson v. State Bar (1934) 219 Cal. 696**

Henderson was not admitted to practice law in any other jurisdiction but sought admission as an attorney applicant based on his experience in military courts for the Navy, as a legal advisor to the governor of Guam and as an associate judge in the Consular Court of Constantinople. The Court found that the Henderson's background and experience did not qualify him to apply as an attorney applicant.

#### **Large v. State Bar (1933) 218 Cal. 334**

Large, a practicing solicitor in England, desired to seek admission to the State Bar of California. He was told that he would not be admitted since he was not then a citizen of the United States. Large challenged the constitutionality of the rule requiring him to be a citizen.

The Court upheld the rule finding it an appropriate exercise of the State's police power.

#### **Warbasse v. State Bar (1933) 219 Cal. 556**

Warbasse sought admission to the California Bar on the basis of his standing as a member of the New York State Bar. The record showed that Warbasse was a member of the New York State Bar since 1902, and was a member in good standing except for a two-year period in 1930 when he was suspended by New York because his office manager was operating an ambulance chasing ring in the office. The evidence from New York showed that Warbasse was unaware of his manager's activities.

The Court noted that in spite of the fact that Warbasse's suspension was expunged from his record in New York, and despite the fact that he had already been punished by New York, the Court was not required to admit Warbasse noting that it may "go behind" the New York record to determine whether Petitioner was eligible to be admitted.

Warbasse was admitted.

**Cockerill v. State Bar (1931) 212 Cal. 439**

Cockerill was admitted to practice as an attorney applicant even though he did not meet the strict requirement of having practiced in the sister state jurisdiction for three of the last seven years.

**State Bar v. Rollinson (1931) 213 Cal. 36**

The State Bar sought the revocation of Rollinson's license due to his failure to disclose on his application for admission that while he was an attorney in Indiana, proceedings for his disbarment were commenced there, which had been later dismissed. Rollinson affirmatively stated in his application for admission that he had never been charged with misconduct. Rollinson practiced in California for five years before his misrepresentation was discovered. Rollinson presented evidence to establish that he believed that the dismissal of the Indiana charges amounted to a withdrawal of the charges and that before seeking admission in California, he sought the advice of an Indiana Judge who told him that he need not disclose the complaint.

The Court held that Rollinson's failure to disclose facts on his application was not an act of intentional concealment, and that because his career in Indiana was otherwise distinguished and he had practiced law in California without incident, he should not have his license revoked.

**Bailey v. State Bar (1930) 209 Cal. 476**

Bailey made application to practice law in California in September 1916 under a certificate to practice law issued to him by the State of Alabama. However, he failed to disclose that he had been fined for contempt in Montana for unauthorized practice of law. He also failed to disclose that disbarment proceedings were then pending against him in Nevada.

The Court also considered that Bailey had been disbarred in Arizona in 1927 and had abandoned a client's case in California.

The Court ordered Bailey disbarred.

**Harrington v. State Bar (1930) 210 Cal. 514**

Harrington was an attorney in Nebraska who sought admission to California as an attorney applicant. After a long and unexplained delay, his application was denied without any apparent reason. The Court, after a review of Applicant's application and letters of recommendation, ordered him admitted.



### [In re McCue \(1930\) 211 Cal. 57](#)

In 1927, McCue submitted his application to practice law in California based upon his admission to practice law in Montana. The Committee denied his admissions on primary ground that lacked the necessary moral character because he was disbarred from practice law in Montana, which order was later set aside, and practicing law without a license while in California and before admission. McCue argued that the California Supreme Court was unable to go behind the judgment of the Montana Supreme Court and review the issues raised by his disbarment proceeding. The California Supreme Court disagreed. Nevertheless, based on the evidence available to the Committee, the California Supreme Court found that it could not assume a contrary position from that of the Montana Supreme Court. Regarding McCue's practice law in California, the Court determined that his practicing in the federal court's was not a violation of state law nor did any of his other actions show flagrant violations of the rules or of such a serious nature as to deny him admission.

### [Spears v. State Bar \(1930\) 211 Cal. 183](#)

Spears falsely stated in two separate declarations that he had never been charged with a crime amounting to either a felony or misdemeanor involving moral turpitude. In fact, he had been so charged on four separate occasions. The charges in all matters had been dismissed or reversed on appeal.

The Court stated: "... irrespective of the outcome of any charges preferred against an Applicant for admission to practice law in this state, whether he be convicted, acquitted or the charges dismissed, a duty rests upon said Applicant to make a full disclosure of such charges to the committee..." (P. 187)

The Court noted that the inquiry in a moral character case is broader than in a discipline case, stating: "The inquiry may extend to his general character as well as to particular acts.... The Court may receive any evidence which tends to show his character for honesty, integrity and general morality, and may no doubt refuse admission upon proofs that might not establish his guilt of any of the acts declared to be causes for disbarment." (P.188)

Spears was not admitted.

### [In re Hong Yen Chang \(1890\) 84 Cal. 163](#)

### [In re Chang \(2015\) 60 Cal.4th 1169](#)

Chang, a native of China, sought admission to practice law in California. He was a naturalized citizen by 1887 Order and a lawyer in New York since 1888. A Federal statute of 1882, known as the Chinese Exclusion Act, prohibited naturalization of any native of China. The Court found that Chang's certificate of naturalization was therefore invalid and he was not a citizen. The Court concluded that Chang was not eligible to apply for admission to the bar.

In 2011, Chang's descendants and the U.C. Davis Asian Pacific American Law Students Association petitioned the Court to grant Chang posthumous admission to practice. In its

decision, the Court discussed the history of discrimination against Chinese immigrants to the United States. The Court noted that Congress had repealed and expressed regret for the Chinese Exclusion Act in 1943. On March 16, 2015, the Court granted the petition and posthumously admitted Change to practice law in California.