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Peter Principle and the story of Stephen Glass

By Julie L. Kessler

PERSPECTIVE

In 90 days, the state Supreme Court will hand down its decision whether to grant Stephen R. Glass a license to practice law. While in his 20s, Glass was a journalist who breached the most basic possible journalistic ethical credo: He simply made stuff up to sell his stories to Rolling Stone, The New Republic, Harpers and other magazines. Stories that harmed countless people and companies and damaged innumerable reputations. Not one or two sloppy facts or a lone unresearched, careless story, but at least 27 out of over 40 articles with zero respect for the veracity of content, the damage he caused innocent people and companies, or the damning collateral damage left behind. And to cover up those outrageous transgressions, he then engaged in an incredibly detailed cover-up, creating a fictitious website, false notes, voicemails and business cards. But he went even further: He created a fake computer hacker community newsletter and utilized a family member as a would-be source to buttress his false claims to his editor. When all of this came to light, Glass was immediately fired from The New Republic.

Then Glass went to Georgetown law school and passed the bar. He attempted to get a license to practice law in New York but withdrew his papers when he learned his application would be rejected on moral fitness grounds. So he moved to California, passed the bar, and got a job as a paralegal. He then applied for a California license but was turned down. He appealed, his case wound its way through the system, and the matter is now being decided by the California high court, which has the final say on lawyers' licenses in the state.

Glass' journalism career was dramatized in a 2003 film "Shattered Glass." Then in a "60 Minutes" interview scheduled to coincide with the release of Glass' 2003 fictionalized novel titled "The Fabulist," The New

Republic's literary editor said, "Even when it comes to reckoning his own sins, he is still incapable of non-fiction. The careerism of his repentance is repulsively consistent with the careerism of his crimes."

Glass' attorney stated that Glass, now 41, has for the past 11 years had an unblemished record, has worked on pro bono matters, and now possesses "impeccable honesty." Assuming for the sake of argument that this is all true (even beyond the irrelevant criminal burden of beyond a shadow of a doubt), is it enough to persuade the court to grant Glass a law license, and all of the rights and privileges that go with it? And should it be?

Honestly, this is a moment (one of several in fact) that I am quite pleased not to be donning a black robe.

We all want to believe in rehabilitation: that people who make enormously egregious errors, have undeniable, severe lapses of intellect, ethics and judgment, who damage real people and somehow, through time, effort and really hard work, can ultimately be able to self-correct and rise like a phoenix above the ashes and damage to be a law-abiding, moral and honest person. This is one of the very foundations of a just society, whether secular or religious. We want to hope for rehabilitation because it fits with our humane instincts and we want to forgive the damning transgressions and move onward.

However, forgiving is one thing, and indeed a very good thing, but forgetting when it is akin to complete amnesia is something else entirely. And seeking a license to practice law with the attached

obligations is an altogether different matter. Would a Madoff-type individual who served his time and rehabilitated himself be later permitted a license to become a certified financial planner? I don't think so. Should one with a history of microwaving kittens as a troubled youth who subsequently spent years in therapy be permitted to obtain a license to practice veterinary medicine? I doubt it.

Glass testified that he lied (and lied and lied and lied) because he wanted his editor "to love me, like I wanted my father to love me." Wow. That is quite a revelation. Glass apparently spent several years in psychoanalysis following his firing from The New Republic for his actions.

As lawyers we are constantly in situations where being liked is at a premium: clients, colleagues, judges, office and court staff, all

with their own needs. Sometimes those needs are conflicting and sometimes they collide completely; I won't even mention family members with real and differing needs of their own that can often bring to bear additional pressures on the average practitioner. But our professional mandate is to be honest, to serve our clients' needs first and foremost, and above all, to do no harm. And sometimes this can be really hard to do. Regardless of how talented you are, how competent you are and yes, how nice you are. It can often be a juggling act of epic, Cirque du Soleil-like proportions. It is precisely the moral compass we possess as

practitioners that allows us to forge ahead day in and day out and often in the face of those often seemingly overwhelming conflicts and collision courses and do a good job for our clients in keeping with

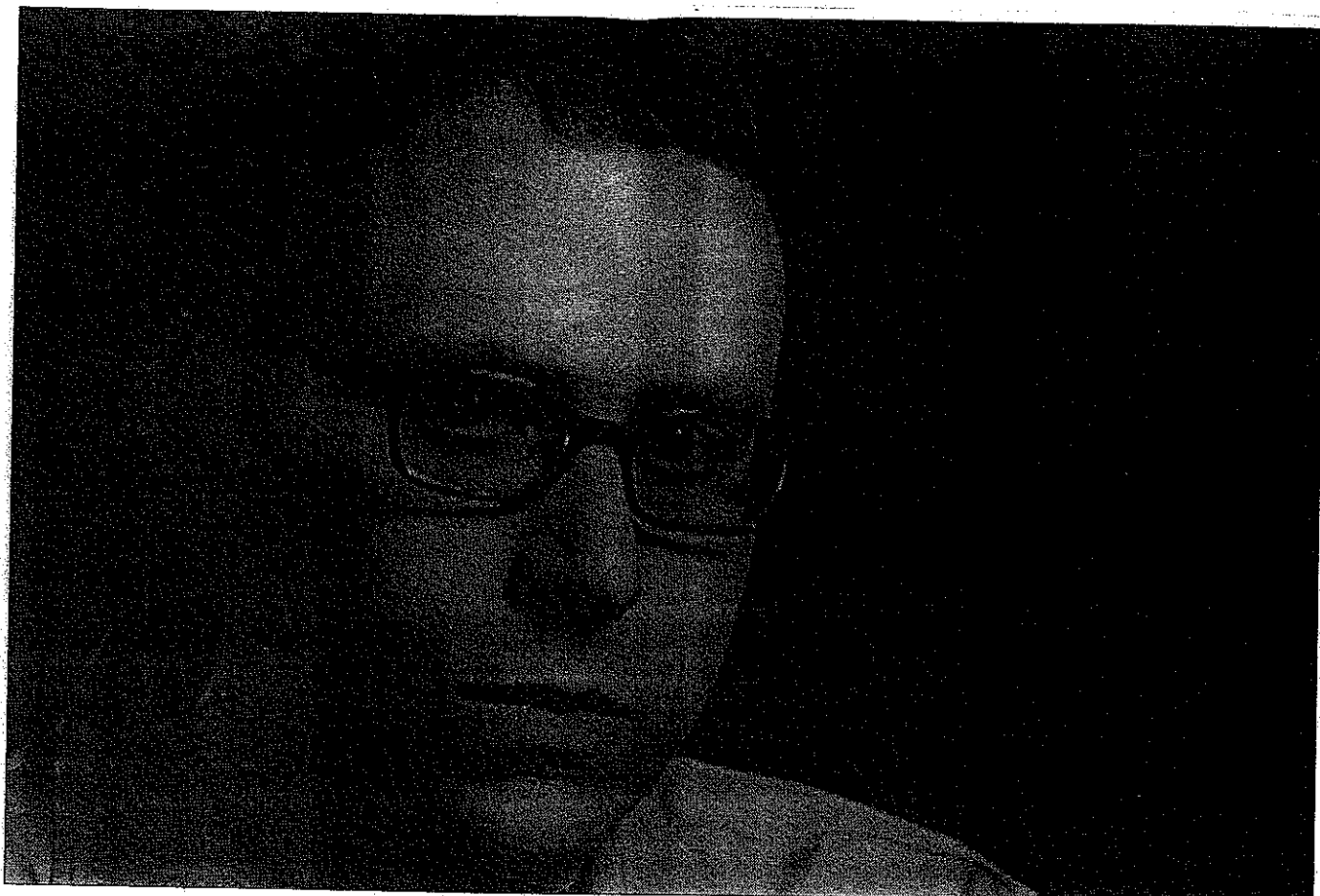
our professional responsibilities and our ethical considerations. To entertain the idea that someone, even a highly intelligent someone, would be licensed to practice law who is compromised in this highly important regard not only doesn't sit well, it is really risky business.

Glass has worked for several years as a paralegal in a Beverly Hills law firm, and is apparently doing a pretty good job at it. Though in general, while I am not a huge fan of the Peter Principle from an intellectual standpoint (and clearly Glass is very, very smart), from an ethical standpoint, the Peter Principle seems to apply here. As a profession based on honesty, trust and ethics, where our clients' livelihoods

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Associated Press

This May 7, 2003, file video frame grab released by CBS's "60 Minutes" shows Stephen Glass, former writer for The New Republic in New York.

and lives are often held in the balance, we simply must take heed. As a paralegal, Glass' attorney supervisor is ultimately on the line for any action Glass takes while working in the practice and would be called to the mat if Glass were to lapse going forward. That is our protection, both as attorneys and as members of the public.

In this case, as the state Supreme Court seemed to be indicating in their comments at the hearing, Glass will in all likelihood remain a paralegal. Stay tuned.