Comments

The Effect of Financial Irresponsibility on Admission to the Bar

Purposes of the Good Moral Character Requirement

It is a fair characterization of the lawyer's responsibility in our society that he stands "as a shield," to quote Devlin, J., in defense of right and to ward off wrong. From a profession charged with such responsibilities there must be exacted those qualities of truth-speaking, of a high sense of honor, or granite discretion, of the strictest observation of fiduciary responsibility, that have, throughout the centuries, been compendiously described as "moral character."

As Justice Frankfurter's statement so aptly points out, being an able attorney entails far more than proficiency in procedural and substantive law. To justify admission to and practice of his profession, a lawyer must possess those qualities of character that will enable him to shoulder the heavy burden of responsibility placed upon him by his clients and by society in general. In order to assure itself and the public that each prospective lawyer is capable of living up to his duties, "[e]very state in the United States, as a prerequisite for admission to the practice of law, requires that applicants possess 'good moral character.'" Although each state has its own system for making an investigation into the character of its bar applicants, each follows "a general pattern, the end result being a thorough check-out on the applicant's personal history as reflected in the eyes of the public."

Three purposes for this good moral character requirement have been identified, the first and foremost of which is to protect

the public from unscrupulous attorneys.\textsuperscript{4}

Proceedings to gain admission to the bar are for the purpose of protecting the public and the courts from the ministrations of persons unfit to practice the profession. Attorneys are officers of the court appointed to assist the court in the administration of justice. Into their hands are committed the property, the liberty and sometimes the lives of their clients. This commitment demands a high degree of intelligence, knowledge of the law, respect for its function in society, sound and faithful judgment and, above all else, integrity of character in private and professional conduct.\textsuperscript{5}

Indeed, guarding the public against unprincipled lawyers is of such importance that it is mentioned in the Model Code of Professional Responsibility.\textsuperscript{6}

The second purpose behind examining an applicant's moral character is to ensure the administration of justice.\textsuperscript{7} "No attribute in a lawyer is more important than good moral character; indeed it is absolutely essential to the preservation of our legal system and the integrity of the courts.\textsuperscript{8}" Our judicial system would degenerate into a farce if individuals so corrupt as to bribe jurors or persuade witnesses to perjure themselves were admitted to the bar. The good moral character requirement thus serves as a means of preventing the damage that such an ethically unsound individual could do.

The final reason suggested for the good moral character requirement is to assure a credible bar,\textsuperscript{9} for "[t]he legal profession must command respect, trust, and utmost confidence from the


\textsuperscript{5}In re Monaghan, 126 Vt. 53, __, 222 A.2d 665, 676 (1966) (Holden, C.J., dissenting).

\textsuperscript{6}"The public should be protected from those who are not qualified to be lawyers by reason of a deficiency in education or moral standards or of other relevant factors but who nevertheless seek to practice law." MODEL CODE OF PROFESSIONAL RESPONSIBILITY EC 1-2 (1979).

\textsuperscript{7}Alderman, Screening for Character and Fitness, 51 B. EXAM. 23, 24 (1982). See Note, Default on Student Loan Warrants Denial of Admission to Minnesota Bar, 6 WM. MITCHELL L. REV. 443, 454 (1980).

\textsuperscript{8}In re Alan S., 282 Md. 683, 689, 387 A.2d 271, 275 (1978).

\textsuperscript{9}Alderman, supra note 7, at 24.
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public if it is to perform effectively."\textsuperscript{10} Even the Model Code of Professional Responsibility recognizes the need for "maintaining the integrity . . . of the bar,"\textsuperscript{11} but there is a danger of this worthwhile objective deteriorating to the point where the good moral character standard is used by the bar as a means of keeping out those individuals who do not quite conform to society's mores but who would nonetheless make competent attorneys.\textsuperscript{12} This would involve "the elevation of popular prejudices into legal standards,"\textsuperscript{13} surely a reprehensible pursuit.

\textbf{What is Good Moral Character?}

Despite the long history behind screening bar applicants for good moral character,\textsuperscript{14} a standard, clear-cut definition of the phrase has not been formulated.\textsuperscript{15} "Although the good moral character requirement typically has been defined in terms of honesty, veracity, and the absence of conduct manifesting moral turpitude,"\textsuperscript{16} each state is free to frame its own interpretation of the phrase.\textsuperscript{17} Any definition of good moral character, however, must be

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  \item \textsuperscript{10} Note, supra note 7, at 452.
  \item \textsuperscript{11} MODEL CODE OF PROFESSIONAL RESPONSIBILITY EC 1-1 (1979).
  \item \textsuperscript{12} "It is said that not only those who pose a threat to clients or courts but also those for whom the public has a low regard must be excluded from the profession in order to maintain public respect for the bar and the judicial system." Neisser, Conscientious Draft Refusal, Marijuana Possession, and the Bar Admission Requirement, 40 B. EXAM. 6, 7 (1971).
  \item \textsuperscript{13} Id. at 7.
  \item \textsuperscript{14} Lawyers have been expected to possess high moral standards throughout the history of law. The Theodosian Code, a compilation of laws issued by Roman emperors prior to 438 A.D., required that advocates be of "suitable character" with past lives that were praiseworthy. In nineteenth century England at the Inns of Court a lawyer's integrity was said to be the essential element of the judicial process that assured that the truth would never be concealed. Comment, Good Moral Character and Admission to the Bar: A Constitutionally Invalid Standard?, 48 CIN. L. REV. 876, 876 (1979) (footnotes omitted).
  \item \textsuperscript{15} Florida Bd. of Bar Examiners re G.W.L., 365 So. 2d 454 (Fla. 1978).
  \item \textsuperscript{16} Note, supra note 7, at 445-46.
  \item \textsuperscript{17} California has codified its interpretation of good moral character as follows: "The term 'good moral character' includes qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, of the laws of the state and the nation and respect for the rights of others and for the judicial process." CAL. BUS. & PROF. CODE § 6060-070, Rules Regulating Admission to Practice Law in California, Rule X, § 101(a), at 343 (West 1974). The courts of Cali-
inexact, for this is a standard that of necessity must flow with the
times to preclude an “unjust application of inflexible standards.”18

On the other hand, the “unusually ambiguous”19 nature of the
good moral character requirement could lead to abuse in its
application.

[Good moral character] can be defined in an almost unlimited
number of ways for any definition will necessarily reflect the
attitudes, experiences, and the prejudices of the definer. Such a
vague qualification, which is easily adapted to fit personal
views and predilections, can be a dangerous instrument for ar-
bitrary and discriminatory denial of the right to practice
law.20

This potential for abuse has been limited to a certain extent, how-
ever, by the Supreme Court’s ruling that “[a] State cannot exclude
a person from the practice of law or from any other occupation in a
manner or for reasons that contravene the Due Process or Equal
Protection Clause of the Fourteenth Amendment.”21 While the
Court sanctioned the use of a good moral character standard, it
cautionsed that “any qualification must have a rational connection
with the applicant’s fitness or capacity to practice
law.”22

California, however, “appear to define ‘a good moral character’ in terms of an absence
of proven conduct or acts which have been historically considered as manifesta-
(1957). Moral turpitude is deemed to be “an act of baseness, vileness or depravity
in the private and social duties which a man owes to his fellowmen, or to society
in general, contrary to the accepted and customary rules of right and duty be-
tween man and man.” In re Craig, 12 Cal. 2d 93, 97, 82 P.2d 442, 444 (1938).

According to the Florida Supreme Court, however, finding a lack of
‘good moral character’ should not be restricted to those acts that reflect
moral turpitude. A more appropriate definition of the phrase re-
quires an inclusion of acts and conduct which would cause a reasona-
ble man to have substantial doubts about an individual’s honesty,
fairness, and respect for the rights of others and for the laws of the
state and nation.

G.W.L., 365 So. 2d at 458.
18. Comment, supra note 4, at 587 n.3.
20. Id.
22. Id. at 239.
behavior adversely affecting clients or the judicial system. Only then will the requirements of the Fourteenth Amendment be met.

Given the lack of specificity of the good moral character standard, it is remarkable that no court has yet held that it constitutes a denial of Due Process. This is undoubtedly due to the fact that bar examiners and judges tread softly in this delicate area and apply the standard on a case by case basis that its ambiguous nature demands. This investigative process necessarily must delve into the personal history of a would-be attorney, for “[t]he past conduct of a bar applicant is the primary, if not the only, barometer of moral character.” Courts and bar examiners will not, however, take this past conduct at its face value. Instead, they are very careful to evaluate an applicant’s actions in light of surrounding circumstances and other relevant factors before deciding whether the conduct manifests a lack of the requisite good moral character.

Although no exact guidelines can be drawn as to how the good moral character standard will be applied in any case, the California Committee of Bar Examiners set forth some relevant considerations in a letter sent to law schools and curious applicants. These considerations include:

1. The number of offenses, i.e. whether single, sporadic or repeated;
2. The seriousness of the offenses and the degree of moral turpitude involved;
3. The time of commission, e.g. whether recent or remotely past;
4. The age of the applicant at the time of committing the

23. Neisser, supra note 12, at 8. “Character traits that are relevant to a determination of good moral character must have a rational connection with the applicant’s present fitness or capacity to practice law, and accordingly must relate to the State’s legitimate interest in protecting the prospective clients and the system of justice.” In re Gahan, 279 N.W.2d 826, 829 (Minn. 1979)(quoting Rule II of the Rules for Admission to the Bar of the State of Minnesota).
24. Note, supra note 4, at 450.
25. “No doubt satisfaction of the requirement of moral character involves an exercise of delicate judgment on the part of those who reach a conclusion, having heard and seen the applicant for admission.” Schware, 353 U.S. at 248 (Frankfurter, J., concurring).
27. See G.W.L., 365 So. 2d at 455; Gahan, 279 N.W.2d at 832.
This list may provide a starting point from which to inquire into an applicant’s prior conduct; but as the facts of each case must differ, so must the relevant queries.

Financial Irresponsibility and Admission to the Bar

The above-mentioned letter from the California Committee of Bar Examiners also stated that “[t]he concept of ‘good moral character’ necessarily reflects the mores of the community as well as an estimate of the individual.” This comment indicates that the good moral character requirement is a flexible one that must mirror a particular society’s determination of what constitutes morality; but social mores of right and wrong are also in a constant state of flux in response to the ever-changing economic, political, and social realities of the day. Consequently, “[i]nterpretation of the good moral character requirement must keep pace with such changes to prevent the state bar from becoming a closed, stagnant society.”

Just as the bar associations and the courts have had to determine how to apply the good moral character standard to such relatively recent issues as civil disobedience, marijuana use, and...
mososexuality, they now are faced with a new sign of the times — financial irresponsibility. In these years of economic hardship, an increasing number of individuals are succumbing to financial pressures by declaring bankruptcy and writing checks with insufficient funds to cover them. The question has arisen, therefore, as to whether such conduct demonstrates a lack of good moral character.

In the last five years, three cases involving the effect of declaring bankruptcy on an application for admission to the bar have come before the courts, and in every case the discharge in bankruptcy entailed a default on student loans. The Florida Supreme Court addressed this issue twice in 1979. In Florida Board of Bar Examiners re G.W.L., the court denied admission to the applicant, but in doing so it emphasized “that it is not the act of filing for bankruptcy but the circumstances surrounding this particular bankruptcy application that demonstrate a lack of good moral character and justify the Board’s decision [not to admit G.W.L.].” This particular applicant had been unsuccessful in his attempt to find employment for some time prior to receiving his Juris Doctor degree. Three days before graduation in May of 1976, he executed a voluntary petition in bankruptcy. His debts, which were primarily student loans, amounted to $9,893; and with the exception of an $8.01 obligation, none of these debts were due at the time of filing. G.W.L.’s petition in bankruptcy was granted on December 20, 1976, the same day on which he found a job as a law clerk. Having passed the July, 1976 bar examination, G.W.L. was in the process of seeking admission to the Florida Bar. The Board of Bar Examiners, desiring to know more about this bankruptcy proceeding, held an informal hearing in July with G.W.L. in attendance. Immediately after this hearing, G.W.L. arranged for the

33. The Florida Supreme Court has disciplined attorneys for public acts of homosexuality, Florida Bar v. Kimball, 96 So. 2d 825 (Fla. 1957), Florida Bar v. Kay, 232 So. 2d 378 (Fla.), cert. denied, 400 U.S. 956 (1970); but it has ruled that mere homosexual orientation is not enough to warrant denial of admission to the bar, In re Board of Florida Bar Examiners, 358 So. 2d 7 (Fla. 1978).
34. Florida Bd. of Bar Examiners re G.W.L., 364 So. 2d 454 (Fla. 1978); Florida Bd. of Bar Examiners re Groot, 365 So. 2d 164 (Fla. 1978); In re Gahan, 279 N.W.2d 826 (Minn. 1979).
35. 364 So. 2d 454 (Fla. 1978).
36. Id. at 455.
37. In fact, initial payments were not to commence until nine months after graduation, and the majority of the payments were not due for three years. Id. at 456.
repayment of his debts that had previously been discharged in bankruptcy. Despite this voluntary action, the Board recommended that he not be allowed to practice law; consequently, G.W.L. filed a petition for admission with the Florida Supreme Court. With this evidence before it, the court then applied the following two part test:

First, are the facts in this case such that a reasonable man would have substantial doubts about the petitioner's honesty, fairness, and respect for the rights of others and for the laws of the state and nation? Second, is the conduct involved in this case rationally connected to the petitioner's fitness to practice law? 38

The answer given by the court to each question was in the affirmative. The facts stressed by the court were the absence of any severe or unusual financial misfortunes, petitioner's motive of defeating creditors, and his failure to exhaust the job market or negotiate for a better repayment schedule before filing the petition in bankruptcy, especially in light of the fact that the loans were not due until nine months after graduation. The court held that “his filing of the bankruptcy petition showed a disregard not only for the rights of his creditors but also for future student loan applicants,” and that this was “done in such a morally reprehensible fashion that it directly affects his fitness to practice law.” 39

The Florida Supreme Court reached a different result in *Florida Board of Bar Examiners re Groot*, 40 which was decided just one month after G.W.L. Although the facts of the two cases were similar, several distinguishing factors allowed the court to find Groot to be a worthy candidate for admission to the bar. Groot did not file his petition for bankruptcy until after his student loans had become due. He also had validly incurred hospital debts for the birth of his child and gasoline credit charges from several interstate moves “during a period of his life when his personal affairs were at a low ebb.” 41 Taking into account that Groot was burdened with the support of his two children and his recently-divorced wife when he filed for bankruptcy, the court said, “Thus, unlike G.W.L., Groot had suffered unusual misfortune at the time he

38. *Id.* at 457.
39. *Id.* at 459.
40. 365 So. 2d 164 (Fla. 1978).
41. *Id.* at 167.
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finally secured employment, and he had a valid present need to devote his entire employment income to his current, not past financial responsibilities.⁴² Even though Groot finally secured employment in the same month in which he filed his petition in bankruptcy, just as did G.W.L., the court felt that the circumstances surrounding his action negated any indication of unworthiness for admission to the bar.

With these two decisions before it, the Minnesota Supreme Court decided In re Gahan⁴³ in May of 1979. The court’s holding affirmed the decision of the Board of Bar Examiners denying admission to the applicant. Gahan had amassed a large student loan debt, but he had made at least some initial payments when he filed his voluntary petition for bankruptcy during a brief period of unemployment. Immediately before taking this action, he mortgaged his Jaguar to a friend for $2,500, which he deposited in two creditor-exempt accounts. Thus, while his bankruptcy petition showed total liabilities of $19,717.40, it indicated only $4,007 as assets, of which $4,000 ($2,500 in accounts, $1,000 of equity in the car, and $500 in household goods and wearing apparel) was exempt. Before his discharge in bankruptcy, Gahan paid off a $1,600 obligation to a bank in anticipation of requiring another loan sometime in the future. As a result, the only debts from which he was absolved by the bankruptcy proceeding were his federally insured student loans. With these factors before it, the Board of Bar Examiners reached its decision:

Procuring discharge of this indebtedness (and no other) with so little effort to repay or extend the same and with only temporary loss of employment, no exceptional financial or health problems and no major misfortunes, while neither illegal nor constituting action evincing moral turpitude, nonetheless is conduct which would cause a reasonable man to have substantial doubt concerning applicant’s honesty, fairness, and respect for the rights of others and for the laws of this state and nation amounting thereby to a lack of good moral character having a rational connection with applicant’s fitness or capacity to practice law.⁴⁴

The Minnesota Supreme Court agreed with this evaluation.

⁴². Groot, 365 So. 2d at 168.
⁴³. 279 N.W.2d 826 (Minn. 1979).
⁴⁴. Id. at 828.
Both the Florida and Minnesota courts agreed that bankruptcy per se would not be grounds for denial of admission,45 for to hold otherwise would constitute a violation of the Supremacy Clause,46 which mandates that a state law which frustrates the purpose of a federal law will be declared invalid.47 In fact, section 525 of the Bankruptcy Reform Act of 1978 expressly forbids a governmental entity from denying employment opportunities to an individual merely because he has exercised his right to declare bankruptcy.48

To judge a person as morally unfit to be a practicing attorney simply because he chose to discharge his debts in bankruptcy would frustrate the policy of section 525 in two ways:

First, certain individuals might forego bankruptcy as a means

45. G.W.L., 364 So. 2d at 455; Groot, 365 So. 2d at 167; Gahan, 279 N.W.2d at 828.

46. "[T]he Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. CONST. art. VI, cl. 2.

47. See Perez v. Campbell, 402 U.S. 637, 652 (1971)(holding violative of the Supremacy Clause a state statute which in effect forced an individual who had discharged in bankruptcy an unsatisfied judgment against him arising out of an auto accident to reaffirm this debt before being allowed to drive; such a law contravened the purpose of the Bankruptcy Act to give debtors a "fresh start").

48. Except as provided in Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a-499s), the Packers and Stockyards Act, 1921 (7 U.S.C. 181-229), and section 1 of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes," approved July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), a governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under this title, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

of alleviating severe financial stress in order to avoid jeopardizing a future legal career. Second, such a presumption would operate to coerce those debtors seeking admission to the bar to reaffirm previously discharged debts. In either situation the congressional policy of offering the overburdened debtor a “fresh start” would be frustrated.49

Section 525 does not, however, preclude a state from investigating the circumstances of a bankruptcy proceeding. “In those cases where the causes of a bankruptcy are intimately connected with the license, grant, or employment in question, an examination into the circumstances surrounding the bankruptcy will permit [states] to pursue appropriate regulatory policies and take appropriate action without running afoul of bankruptcy policy.”50 Thus, the dictate of the Supremacy Clause is another reason why the good moral character requirement eludes a precise definition and must be applied on a case by case basis.

Although the Florida Supreme Court failed to expressly consider the Supremacy Clause in either G.W.L. or Groot, the justices appear to have kept this constitutional issue in mind. In G.W.L. the court set forth the objective of the Bankruptcy Act, which purports to “relieve the honest debtor from the weight of indebtedness which has become oppressive, and to permit him to have a fresh start in business or commercial life, freed from the obligation and responsibilities which may have resulted from business misfortunes.”51 The court went on to say that although a discharge in bankruptcy relieves the debtor of the legal compulsion to repay the debt, the moral obligation remains.52 The justices then proceeded to analyze the circumstances surrounding the failure to meet this moral duty, and they came to the conclusion that “it was done in such a morally reprehensible fashion that it directly affects his fitness to practice law.”53

Unlike the Florida Supreme Court, the highest court of Minnesota directly examined the Supremacy Clause issue in Gahan.

50. Weiss, supra note 48, at 709.
51. G.W.L., 364 So. 2d at 459 (quoting Wetmore v. Markoe, 196 U.S. 68, 77 (1904)).
52. Id.
53. Id.
The court declared that although “[f]ederal law has established the right to declare bankruptcy and state law may not chill the exercise of that right,” the court is not precluded from delving into financial matters to determine whether an applicant has acted in a responsible and ethical manner. In Gahan’s case the court found that

[a] flagrant disregard of the repayment responsibility by the loan recipient indicates to us a lack of moral commitment to the rights of other students and particularly the rights of creditors. Such flagrant financial irresponsibility reflects adversely on an applicant’s ability to manage financial matters and reflects adversely on his commitment to the rights of others, thereby reflecting adversely on his fitness for the practice of law.

With this reasoning behind its ruling, the court met the requirements of the Due Process and Supremacy Clauses while at the same time fulfilling the important state objective of protecting the public by assuring a morally fit bar.

As the Minnesota Supreme Court noted in Gahan, “[t]he conduct of a bar applicant in satisfying his financial obligations has been widely recognized as a relevant factor in assessing good moral character.” Bankruptcy, however, is not the only context in which an applicant’s manner of dealing with his financial responsibilities has been subjected to analysis. In In re Alpert, the applicant was denied admission to the bar for, among other improprieties, “gambling in the [stock market] with someone else’s money.” In addition, failure to pay child support obligations was found to be “a proper ground for refusing to issue a certificate as to possession of the requisite character and moral fitness” in In re Beasley.

Admission to the bar has also been denied as a result of issuing worthless checks. As early as 1906, a petition for admission to the Connecticut Bar was rejected in part on evidence that the applicant had written checks without funds to support them. The

54. Gahan, 279 N.W.2d at 829.
55. Id. at 831.
56. Id. at 830.
57. 269 Or. 508, 525 P.2d 1042 (1974).
58. Id. at 831, 525 P.2d at 1045.
60. In re O’Brien, 79 Conn. 46, 63 A. 777 (1906) (overruled on other grounds in Application of Dinan, 157 Conn. 67, 244 A.2d 608 (1968)). The other evidence
court reached this decision despite the fact that petitioner “gave them in good faith, believing that he would be able to take care of them when presented; had since paid as many of his debts as he could and intended, if possible, to pay the rest.” 61 This applicant was found not to be “entitled to the confidence of the community,” 62 even though many years had passed since he committed his transgressions.

In 1975 the Oregon Supreme Court reached the opposite result in In re Gimbel 63 under somewhat different circumstances. Years before applying for admission to the bar, Mr. Gimbel was an alcoholic, and he was arrested several times for alcohol related offenses. During the same period of infirmity, he was also arrested for writing checks with insufficient funds. When he applied for admission to the bar approximately five years after abandoning his predilection for drinking, he revealed his prior record, with the exception of the bad check incident. The court accepted Mr. Gimbel’s explanation that he had simply forgotten this matter and that he was not willfully attempting to conceal this arrest. Relying heavily on evidence of the applicant’s reformation since he quit drinking, the court found him eligible for admission to the bar. This ruling is consistent with dicta found in the 1967 Oregon Supreme Court case of In re Cheek, 64 which involved an applicant who not only had written checks with insufficient funds but also failed to pay certain debts. Although other factors convinced the court that Cheek was morally unfit to practice law, the evidence involving the checks and debts, “although reflecting some discredit on petitioner, would probably not of itself warrant denying him admission to the bar of the state.” 65

Although these Oregon cases might cause an applicant with a tight budget and a perpetually unbalanced checkbook to heave a sigh of relief, he might be better off holding his breath in light of a
tending to show a lack of good moral character on applicant’s part involved an incident 15 years before he attempted to gain entry to the bar. Having been arrested on a charge the court failed to specify, petitioner escaped from the sheriff’s custody and later telephoned the officer to tell him that he would return if his bond were set at a low amount.

61. Id. at 780.
62. Id. at 781.
63. 271 Or. 671, 533 P.2d 810 (1975) (per curiam).
64. 246 Or. 433, 425 P.2d 763 (1967).
65. Id. at __, 425 P.2d at 765.
recent Florida case involving disciplinary proceedings against an attorney who had written checks against insufficient funds. In *Florida Bar v. Davis*, the supreme court of that state specifically held that “the issuance of a worthless check by an attorney constitutes unethical conduct and subjects the attorney to professional discipline by the Florida Bar.” In this case, Davis’ 12-month suspension from practice was warranted by not only the worthless checks (although according to the court, that would be enough), but also failure to satisfy a judgment on a promissory note, use of a trust account for personal expenditures, and failure to repay a loan from a client. Other examples of financially related grounds for attorney discipline are found in *In re Connor*: failure to honor commitments to creditors, violation of the Bankruptcy Act by preferring one debtor over another, misuse of fiduciary position as bank employee in order to secure loans, and nonfulfillment of promises to Disciplinary Commission to cure alcoholic and financial problems. In addition, courts have also been quite willing to impose disciplinary measures on attorneys who file false and fraudulent income tax returns.

**Conclusion**

A bar applicant’s financial history will always be relevant to a determination of his moral character for the public must be protected from those prospective attorneys whose financial dealings indicate an inability to resist temptation and an insufficient regard for the rights of others. This portion of the good moral character

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66. Although “the inquiry into moral fitness in the admission process may be broader in scope than that in a disbarment proceeding,” Hallinan v. Committee of Bar Examiners, 65 Cal. 2d 447, 421 P.2d 76, 80, 55 Cal. Rptr. 228, 232 (1966), “the test for admission and for discipline is and should be the same. . . . [I]n considering the kind 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 and suspend individuals previously admitted to practice.” Id. at 81, 55 Cal. Rptr. at 233.

67. 361 So. 2d 159 (Fla. 1978) (per curiam).

68. Id. at 162.

69. 265 Ind. 610, 358 N.E.2d 120 (Ind. 1976) (per curiam).

70. “[B]etween 1946 and 1973 there were, in the United States, twenty-three disciplinary proceedings reported at the appellate court level which followed the conviction of an attorney for filing a false and fraudulent income tax return; . . . of this group fifteen resulted in suspension and eight in disbarment.” Maryland State Bar Ass'n v. Agnew, 271 Md. App. 543, 318 A.2d 811, 816 (1974).
test is especially crucial in light of the proliferation of disbarment proceedings involving mishandling of a client’s funds.71 In these times of economic hardship, cases involving bar applicants who have been financially indiscreet in some manner probably will come before the courts in ever increasing numbers.72 Yet, as more and more individuals find themselves in dire financial straits, the stigma attached to one who defaults on his financial obligations should become less odious. Courts and bar examiners must recognize these trends and reflect them in their interpretations of what constitutes good moral character.

If the authorities charged with admitting individuals to the bar are indeed responsive to the signs of the times, they will probably rule that such minor improprieties as writing a check with insufficient funds does not evince unfitness to practice law. As of yet, however, there is no certainty as to whether a future attorney’s financially irresponsible actions will be deemed to be so iniquitous as to deter his admission to the bar. Although “a system can and should be developed whereby a prospective law student with a pre-existing conduct problem may have the effect of that problem upon his bar admission prospects evaluated before he enters law school,”73 any outcries to pin an exact definition on the phrase good moral character must be silenced. To fulfill its functions of protecting the public and the legal system while at the same time responding to society’s never ending evolution, the concept of good moral character must remain ever subject to metamorphosis.

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71. See, e.g., In re Hanson, 258 Minn. 231, ——, 103 N.W.2d 863, 863 (1960) (per curiam) (“It is a ground for disbarment that an attorney manifest professional irresponsibility by the mishandling of a client’s financial affairs, . . . or that he show a lack of absolute integrity in the handling of client’s funds.”) (footnotes omitted).

72. Admission proceedings dealing with a default on student loans as an element of a bankruptcy petition will in all probability decrease, however, due to an amendment to the bankruptcy law that forbids the discharge of this type of loan within the first five years of the repayment period, absent extreme misfortune. “See Bankruptcy Reform Act of 1978, Pub. L. No. 95-598, tit. I, § 101, 92 Stat. 2549, 2591 (to be codified in 11 U.S.C. § 523(a) (8)), reprinted in 1978 U.S. CODE CONG. & AD. NEWS.” Note, supra note 7, at 453.