

FILED
AUG 19 2011

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK¹

In the Matter of)	Case No. 11-Q-13660
)	
ALEXANDER FU-PING SUN,)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 149437.)	
_____)	

On June 7, 2011, Alexander Fu-Ping Sun filed a Resignation with Charges Pending. We recommend that Sun's resignation be declined under California Rules of Court, rule 9.21(d)² because (1) Sun has been convicted of felony insurance fraud, serious misconduct that meets the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c); (2) he has not entered a written stipulation with the Office of the Chief Trial Counsel (State Bar) setting forth the facts and disciplinary conclusions of law regarding his misconduct; and (3) if his resignation is accepted, the absence of a public disciplinary record setting forth the full extent of Sun's professional misconduct will be inconsistent with the need to protect the public, the courts, and the legal profession.

I. BACKGROUND

Sun was admitted to practice law in California on December 4, 1990. He has a prior disciplinary record. In 2004, he received a six-month actual suspension conditioned on three

¹ Remke, P. J., did not participate.

² Unless otherwise noted, all further references to "rule(s)" are to this source.

years' probation for failing to maintain client funds in a trust account and misappropriating over \$20,000 in client funds between December 1999 and January 2000. A public disciplinary matter is pending against Sun in the State Bar Court. That matter involves Sun's felony conviction for insurance fraud and the unauthorized practice of law. Sun's conviction qualifies for summary disbarment, which we have recommended.³

In June 2011, the State Bar filed its Report and Recommendation regarding Sun's resignation and recommended that his resignation be rejected. (Rules Proc. of State Bar, rule 5.427(C).) The State Bar stated that two investigation matters are pending against Sun. Sun did not file a response to the State Bar's report and recommendation.

II. CONSIDERATION OF THE GROUNDS SET FORTH IN RULE 9.21(d)

We have considered Sun's resignation in light of the grounds set forth in rule 9.21(d).

Below is a summary of the relevant information as to each ground:

1. Whether the preservation of testimony is complete

The State Bar reports that preservation of testimony is unnecessary since transcripts of all known, relevant testimony as well as trial exhibits admitted in Sun's conviction may be obtained should Sun seek reinstatement to the practice of law.

2. Whether Sun committed the unauthorized practice of law after he submitted his resignation

The State Bar reports that one of the pending investigation matters involves allegations that Sun held himself out as eligible to practice law after being placed on inactive status prior to submitting his resignation. However, the State Bar provided no information suggesting that Sun

³ We take judicial notice of the State Bar Court records regarding prior discipline and pending disciplinary matter. We direct the Clerk to include copies of those records in this resignation proceeding. We further direct the Clerk to transmit our Recommendation of Summary Disbarment concurrently with this Recommendation on Resignation.

continued to practice law or hold himself out as entitled to practice law after he filed his resignation.

3. Whether Sun performed the acts specified by rule 9.20(a)-(b)

The State Bar reports that the allegations that Sun inappropriately held himself out as eligible to practice law raises some question on this issue. However, the State Bar acknowledges that as of the date of filing its report, the allegations have not been fully investigated.

4. Whether Sun provided proof of compliance with rule 9.20(c)

Sun has filed his affidavit of compliance with rule 9.20.

5. Whether the Supreme Court has filed a disbarment order

The Supreme Court has not filed a disbarment order.

6. Whether the State Bar Court has filed a decision recommending disbarment

We have recommended that Sun be summarily disbarred.

7. Whether Sun previously resigned or has been disbarred and reinstated to the practice of law

Sun has not previously resigned or been disbarred.

8. Whether Sun and the State Bar have entered into a stipulation as to facts and conclusions of law regarding the pending disciplinary matter

Sun has not stipulated to the facts and conclusions of law regarding the disciplinary matters pending against him.

9. Whether the acceptance of Sun's resignation will reasonably be inconsistent with the need to protect the public, the courts, or the legal profession

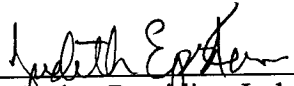
Sun has not entered into a stipulation with the State Bar that sets forth the facts and circumstances of his misconduct. Consequently, if the Supreme Court accepts his resignation, no public record of the misconduct alleged in the pending investigation matters would be associated with Sun's license to practice law. The absence of a public discipline record setting forth the

nature and extent of his misconduct would be misleading to the public and potentially harmful to any future employer, licensing agency or other jurisdiction.

Furthermore, Sun has been convicted of felonies that require him to be summarily disbarred. To allow Sun to resign under these circumstances would undermine public confidence in the disciplinary system and the legal profession. Thus, we find that acceptance of Sun's resignation would be inconsistent with the need to protect the public, the courts, and the legal profession.

III. RECOMMENDATION

We recommend that the Supreme Court decline to accept the resignation of Alexander Fu-Ping Sun, State Bar number 149437.



Acting Presiding Judge

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 19, 2011, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED AUGUST 19, 2011

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ALEXANDER F. SUN
106 W LEROY AVE
ARCADIA, CA 91007

MICHAEL E. WINE
301 N LAKE AVE STE 800
PASADENA, CA 91101 - 5113
(courtesy copy)

- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- ☐ by overnight mail at , California, addressed as follows:

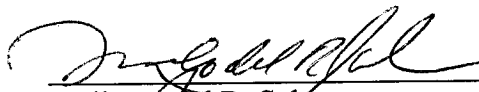
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.

- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Murray B. Greenberg, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 19, 2011.


Milagro del R. Salmeron
Case Administrator
State Bar Court