

FILED

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**STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 11-Q-18101
)	
THEODORE A. PINNOCK,)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 153434.)	
_____)	

On November 4, 2011, Theodore A. Pinnock filed a Resignation with Charges Pending. We recommend Pinnock's resignation be declined under California Rules of Court, rule 9.21(d)¹ because: (1) he has not entered a written stipulation with the Office of the Chief Trial Counsel (State Bar) setting forth the facts and conclusions of law regarding his misconduct; (2) he has failed to participate in these resignation proceedings; (3) it is alleged that he owes at least \$27,300 in restitution in a pending disciplinary matter; and (4) accepting the resignation will be inconsistent with the need to protect the public, the courts, and the legal profession.

I. BACKGROUND

A. Pinnock's Prior Disciplinary Record²

Pinnock was admitted to practice law in California on June 10, 1991. He has a prior record of discipline. In December 2011, the Supreme Court placed him on two years' probation with 90 days' actual suspension due to misconduct in 2006. (Supreme Court case no. S197210;

¹ Unless otherwise noted, all further references to "rule(s)" are to this source.

² We take judicial notice of Pinnock's prior record, and direct the Clerk to include copies of the record in this resignation proceeding. (Evid. Code, § 452, subd. (d).)



State Bar Court case no. 10-O-05378.) In a stipulated disposition, Pinnock admitted that he misappropriated \$4,000 from a client as a result of gross negligence in violation of Business and Professions Code section 6106. Pinnock also admitted that he violated Business and Professions Code section 6068, subdivision (d), when he sought to mislead the San Diego Superior Court by filing a false report that stated the client's funds were lost due to a bank employee's error rather than Pinnock's misappropriation. In aggravation, Pinnock significantly harmed the client who was a minor. In mitigation, he had no prior discipline after practicing approximately 14 years, suffered extreme physical disabilities, and cooperated with the State Bar.

B. Pending Charges in Case Number 09-O-19377³

The State Bar alleges that in 2008, with respect to a single client, Pinnock did not provide a complete accounting, failed to deposit client funds in a client trust account (CTA), commingled funds, misappropriated \$27,300, and repeatedly filed cases on the client's behalf without authority. In his answer to the disciplinary charges, Pinnock admits he failed to deposit client funds in a CTA and commingled funds. He further admits to "grossly negligent misappropriation by the omission of failing to deposit funds into the CTA." However, Pinnock denies any "actual misappropriation" and claims the client received all settlement funds. The matter is scheduled for trial in April 2012.

C. State Bar's Recommendation on Resignation

In January 2012, the State Bar filed its Report Regarding Resignation and recommended that Pinnock's resignation be rejected. (Rules Proc. of State Bar, rule 5.427(C).) Pinnock did not file a response to the State Bar report.

³ We take judicial notice of the formal charges and Pinnock's response filed with the State Bar Court in his pending disciplinary matter, and direct the Clerk to include copies of the pleadings in this resignation proceeding. (Evid. Code, §452, subd. (d).)

II. CONSIDERATION OF THE GROUNDS SET FORTH IN RULE 9.21(d)⁴

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

Below, we summarize the relevant information for each ground:

1. Whether the preservation of testimony is complete

The State Bar reports that preservation of necessary testimony is not complete.

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

The State Bar reports that since his transfer to inactive status, it is unaware of any incidents where Pinnock practiced law or held himself out as entitled to practice law.

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

Pinnock declared in his Rule 9.20 Compliance Declaration that he had no clients, earned all fees paid to him, and had no files or other property to which clients were entitled.

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

Pinnock filed a Rule 9.20 Compliance Declaration on November 4, 2011.

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

The State Bar Court has not filed a decision or opinion recommending Pinnock's disbarment.

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

Pinnock has not previously resigned or been disbarred.

⁴ The State Bar analyzed the grounds set forth in rule 9.21(d), but failed to provide any information that addresses Pinnock's prior disciplinary history and pending charges. In future reports regarding resignations, the State Bar should address these issues and include the applicable documents attached to appropriate supporting declarations.

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

Pinnock and the State Bar have not stipulated to the facts and conclusions of law regarding the disciplinary matter pending against him.

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

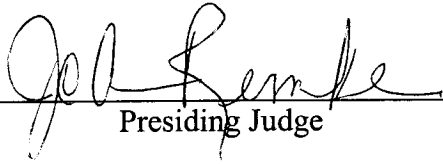
Pinnock has not participated in this resignation proceeding. In particular, he has not entered into a stipulation with the State Bar regarding the facts and legal conclusions of his pending disciplinary case. Although Pinnock admits in that proceeding that he failed to deposit client funds in his CTA and commingled funds, he disputes the more serious charges regarding misappropriation of funds and filing lawsuits without authority. But there is no stipulation as to culpability and the disciplinary proceeding is not final. Consequently, if the Supreme Court accepts Pinnock's resignation there would be no public record of any misconduct – even the less severe trust account violations he admitted. 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.

In addition, the State Bar reports that Pinnock has refused to account for client funds and likely misappropriated at least \$27,300, which would be owed in restitution. This allegation also calls into question the truthfulness of his Rule 9.20 Compliance Declaration filed November 4, 2011, wherein he declares that he has returned all files and property to which clients are entitled.

To allow Pinnock to resign under these circumstances would undermine public confidence in the disciplinary system and the legal profession. Thus, we find that acceptance of Pinnock'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 Theodore A. Pinnock, State Bar number 153434.



Presiding Judge

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 March 6, 2012, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED MARCH 6, 2012

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

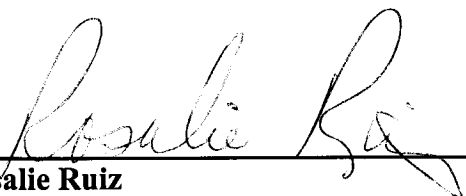
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**THEODORE A. PINNOCK
BLK 4 LOT 10 PHASE 4
CARMONA ESTATES
CARMONA, 4116 CAVITE PHILIPPINES**

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

ROBERT A. HENDERSON, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 6, 2012.



Rosalie Ruiz
Case Administrator
State Bar Court