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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. 13-Q-17429
)	
JOAN CORINA KUBOTA,)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 142784.)	
_____)	

On December 2, 2013, Joan Corina Kubota, filed her resignation with disciplinary charges pending. In light of the grounds set forth in California Rules of Court, rule 9.21(d),¹ we recommend Kubota's resignation be accepted because (1) she has no prior record of discipline in 24 years of practice and her misconduct was limited to a single matter that did not involve clients or the practice of law; (2) she owes no restitution; (3) she cooperated in this proceeding by stipulating to her misconduct and complying with rule 9.20;² and (4) she is 65 years old and willing to forfeit her license. We see no harm to the public under the circumstances presented here. We conclude that the acceptance of Kubota's resignation would be consistent with the need to protect the public, the courts, and the legal profession.

¹ All further rule references are to this source unless otherwise noted.

² Kubota's rule 9.20 compliance declaration identifies the case number for the pending disciplinary matter, State Bar case number 13-O-10746. However as the Office of Probation noted, the declaration appears to have been filed for this resignation matter.



I. BACKGROUND

Kubota was admitted to practice law in California on December 11, 1989, and has no prior record of discipline. In November 2013, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed a disciplinary case against Kubota charging a single count of misconduct. There are no other filed matters or pending investigations or inquiries against Kubota.

A. Pending Discipline Case

As part of this resignation proceeding the parties stipulated to the following facts and conclusions of law regarding the pending discipline case: In order to remain as an active member of the State Bar, Kubota was required to complete 25 hours of minimum continuing legal education (MCLE) during the compliance period of February 1, 2009, through January 31, 2012. On January 31, 2012, Kubota reported to the State Bar that she was in compliance with the MCLE requirements and had completed all of her MCLE during the compliance period. However, Kubota had not in fact completed any MCLE courses during the compliance period. When she reported that she was in compliance with the MCLE requirements, Kubota knew that she had not actually completed the required MCLE. After being contacted about an audit of her MCLE compliance, Kubota completed the required hours by August 2012.

By reporting to the State Bar that she was in compliance with the MCLE requirements when she knew that she was not in compliance, Kubota intentionally committed an act involving moral turpitude, dishonesty and corruption in willful violation of Business and Professions Code section 6106.

B. OCTC's Recommendation

On February 3, 2014, OCTC filed a report asserting that the resignation should not be accepted because the charges against Kubota involve moral turpitude.

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

We have considered Kubota's resignation under the grounds set forth in rule 9.21(d). We summarize below the relevant information for each ground:

1. Whether the preservation of testimony is complete.

OCTC reports that preservation of necessary testimony is complete.

2. Whether after transfer to inactive status, Kubota has practiced law or has advertised or held herself out as entitled to practice law.

OCTC reports that to its knowledge, since Kubota's transfer to inactive status, she has not practiced law or held herself out as entitled to practice law.

3. Whether Kubota performed the acts specified in rule 9.20(a)-(b).

Kubota filed a rule 9.20 declaration stating that she had no clients, no client papers or other property to return, no unearned fees, and no pending client matters. Based on the filing of the rule 9.20 declaration, OCTC states that "[t]his element is not present."

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

Kubota's rule 9.20 compliance declaration was filed on January 3, 2014.

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 recommending Kubota's disbarment.

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

Kubota has not previously resigned or been disbarred in California.

8. Whether Kubota entered a stipulation with OCTC as to facts and conclusions of law regarding pending disciplinary matters.

In February 2014, the parties stipulated to the facts and conclusions of law in Kubota's pending disciplinary matter.

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

We recommend accepting Kubota's resignation. Kubota cooperated with OCTC by entering into a stipulation regarding the facts and conclusions of law as to the pending disciplinary matter and by submitting a rule 9.20 compliance declaration. The stipulation provides a complete account of her misconduct and is available to the public and any licensing agency or other jurisdiction.

We recognize that Kubota's offense is serious. She stipulated to committing an act of moral turpitude by misrepresented her compliance with MCLE requirements. (Rules Proc. of State Bar, tit. IV, Stds. For Atty. Sanctions for Prof. Misconduct, std. 2.7 [suspension to disbarment for acts of moral turpitude, dishonesty and fraud].) However, Kubota had 24 years of discipline-free practice and her misconduct did not involve clients or the practice of law.

Other than restating Kubota's misconduct, OCTC fails to articulate a reason why the resignation must be rejected in order to protect the public, the courts, and the legal profession.³ Kubota is 65 years old and has relinquished her license as a consequence of her misconduct. She would be at least 70 years old before she is eligible to seek reinstatement. (Rules Proc. State Bar, rule 5.442(B) [earliest reinstatement petition after resignation with charges pending is five years after filing date of resignation].) No other unresolved discipline matters or investigations are pending against her and there are no outstanding issues concerning clients, restitution or

³ See *In re Jeffrey John Parish on Resignation* (Oct. 16, 2013, S210251) [attorney charged with act of moral turpitude by reporting compliance with the MCLE requirements after knowing that he had not completed the requisite hours, and even though attorney did not enter into stipulation with OCTC as to pending discipline case, Supreme Court accepted resignation].

unearned fees. Under these circumstances, we do not believe that public confidence in the discipline system will be undermined by accepting Kubota's resignation. Permitting her to resign would be consistent with the need to protect the public, the courts and the legal profession

III. RECOMMENDATION

We recommend that the Supreme Court accept the resignation of Joan Corina Kubota, State Bar number 142784. We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6068.10, and that such costs be enforceable both as provided in section 6140.7 and as a money judgment.



Presiding Judge