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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. 14-Q-05053
FRANCIS BERNARD MANN, JR.,)
) RECOMMENDATION ON
) RESIGNATION
A Member of the State Bar, No. 93221.)
)

On September 8, 2014, Francis Bernard Mann, Jr., filed his resignation with disciplinary charges pending. In light of the grounds set forth in California Rules of Court, rule 9.21(d),¹ we recommend Mann's resignation be accepted because: (1) he cooperated in this proceeding by complying with rule 9.20 and stipulating as to facts and conclusions of law; (2) there are no pending Client Security Fund (CSF) claims; and (3) he is 63 years old, willing to forfeit his license, and is unlikely to return to the practice of law. We see no harm to the public under the circumstances presented here. We conclude that the acceptance of Mann's resignation would be consistent with the need to protect the public, the courts, and the legal profession.

I. BACKGROUND

A. Prior Record of Discipline (11-J-15977 (S199498))

Mann was admitted to practice law in California on August 21, 1980. He has one prior record of discipline.

On May 22, 2012, the Supreme Court ordered Mann suspended for three years, execution stayed, and placed on probation for two years subject to conditions, including actual suspension

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



for the first year of probation. (*In re Francis Bernard Mann, Jr., on Discipline* (S199498) State Bar Court case no. 11-J-15977.) Mann stipulated that he committed misconduct in New York, which resulted in a two-year suspension in that jurisdiction and warranted imposition of discipline in California. Mann admitted that he deposited or commingled funds belonging to him in a bank account labeled "Trust Account," "Client's Fund Account" or words of similar import; failed to identify his client trust account as such; and misappropriated funds from his client trust account in violation of Rules of Professional Conduct rule 4-100(A) and Business and Professions Code section 6106. However, his misconduct was mitigated by the absence of a prior discipline record, cooperation, remorse, and lack of harm to clients as he paid all amounts improperly taken from the accounts within three months; it was aggravated by multiple acts of misconduct.

B. Pending Discipline (14-O-05562)

Mann has one pending disciplinary matter, case number 14-O-05562. This case was referred by the Office of Probation to the Office of the Chief Trial Counsel (OCTC) and has not been filed with the court. In November 2014, Mann signed a Stipulation as to Facts and Conclusions of Law admitting the following facts: (1) on May 22, 2012, the Supreme Court filed an order in case number S199498 (State Bar Court case number 11-J-15977), which suspended him from the practice of law for three years, stayed, and placed him on probation for two years with conditions, including actual suspension in the first year of probation; (2) that he was properly served with the copy of the disciplinary order and that he received the order; (3) the order became effective on June 21, 2012; (3) on June 21, 2014, a probation deputy in the Office of Probation of the State Bar sent a letter reminding him of the terms of the disciplinary order, and he received the letter; (4) pursuant to the disciplinary order, he was required to submit quarterly reports, submit a final report, and attend a session of the State Bar Ethics School and

State Bar Client Trust Account School and pass the tests given; (5) he failed to timely submit quarterly reports and the final report, and failed to attend and pass the tests for the State Bar Ethics School or the State Bar Client Trust Accounting School; and (6) although the hearing department of the State Bar Court granted him an extension of time, he failed to attend a session and pass the tests given by the State Bar Ethics School and State Bar Client Trust Accounting School within the extended period given by the court. By failing to comply with the conditions attached to his disciplinary probation, Mann stipulated that he willfully violated Business and Professions Code section 6068, subdivision (k).

C. OCTC's Recommendation

On December 12, 2014, OCTC filed a report recommending that the resignation be accepted because Mann cooperated by entering into a stipulation of facts and conclusions of law, he has no other unresolved disciplinary matters or investigations, has no pending CSF claims, is 63 years old and resides in Connecticut, he will be 68 years old before he could seek reinstatement, is unlikely to seek reinstatement, and there is no reason to believe that public confidence in the discipline system would be undermined by permitting Mann to resign.

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

We have considered Mann'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 testimony is not necessary in the pending matter.

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

OCTC reports it has no evidence contrary to Mann's rule 9.20 declaration stating that he had no clients, no papers or property to which clients were entitled, had earned all fees and did not represent clients in any pending matter.

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

Mann filed a rule 9.20 declaration stating that he had no clients, no client papers or other property to return, no unearned fees, and no pending client matters.

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

Mann's rule 9.20 compliance declaration was submitted on September 29, 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 Mann's disbarment.

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

Mann has not previously resigned, been reinstated, or been disbarred in California.

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

On November 26, 2014, Mann signed a Stipulation as to Facts and Conclusions of Law regarding the pending disciplinary matter. OCTC signed the stipulation on December 1, 2014.

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

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

Further, Mann resides in Connecticut, is 63 years old, and prepared to relinquish his license. He would be at least 68 years old before he is eligible to seek reinstatement and unlikely 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 him and he has no outstanding CSF claims. Under these circumstances, we do not believe that public confidence in the discipline system will be undermined by accepting Mann's resignation. Permitting him 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 Francis Bernard Mann, Jr., State Bar number 93221. 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.

PURCELL

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 February 6, 2015, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED FEBRUARY 6, 2015

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:

FRANCIS BERNARD MANN, JR.
3 ANN TER
BETHEL, CT 06801

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

KRISTIN L. RITSEMA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 6, 2015.



Rosalie Ruiz
Case Administrator
State Bar Court