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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. 15-Q-10618
)	
ANDRE KEITH SILVOLA,)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 109154.)	
_____)	

Respondent Andre Keith Silvola filed his resignation with disciplinary charges pending on January 23, 2015. On May 20, 2015, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed its report on the resignation, recommending that the resignation be accepted. We ordered OCTC to file a supplemental report adequately explaining why acceptance of Silvola's resignation would be consistent with the need to protect the public, the courts, and the legal profession in light of Silvola's four prior disciplinary records and his failure to comply with the Supreme Court's order in *In re Andre K. Silvola on Discipline* (S089054) State Bar Court Case No. 01-PM-04178. OCTC filed its supplemental report on July 16, 2015, renewing its recommendation that the resignation be accepted. In light of the grounds set forth in California Rules of Court, rule 9.21(d),¹ and as set forth in detail below we recommend Silvola's resignation be accepted.

I. BACKGROUND

Silvola was admitted to practice law in California on October 4, 1983. He has four prior records of discipline.

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

First, on February 3, 1998, (effective March 5, 1998), the Supreme Court ordered Silvola suspended for two years, execution stayed, and placed on probation for two years subject to the conditions of probation, including a one-year actual suspension. (*In re Andre K. Silvola on Discipline* (S066011), State Bar Court Case Nos. 96-J-02803 and 97-J-14974 (cons.)) Silvola stipulated to violations of Business and Professions Code sections 6068(m) and 6106 and Rules of Professional Conduct, rules 3-700(B)(2), 3-110(A), 3-310(F), and 3-700(A)(2) for his: (1) failure to communicate; (2) assertion of a counterclaim on behalf of someone he never met; (3) failure to withdraw within in a reasonable time; (4) failure to respond to discovery requests thereby allowing the entry of a default; (5) failure to advise opposing counsel and the court that he had never been retained by the client; (6) misrepresentation; (7) taking direction on his representation of a client from another party; and (8) failure to inform his client of the status of the case.

Second, on October 18, 1999, (effective November 17, 1999), the Supreme Court ordered Silvola actually suspended for one year and until he demonstrated his rehabilitation and fitness to practice law and placed on probation for two years subject to conditions. (*In re Andre Keith Silvola on Discipline* (S081297) State Bar Court Case No. 98-N-02218.) Silvola stipulated that he violated subdivisions (a) and (c) of former rule 955, thereby violating Business and Professions Code section 6103.

Third, on August 24, 2000, (effective September 23, 2000), the Supreme Court ordered Silvola suspended for three years, execution stayed, and placed on him on probation for three years subject to conditions, including a one-year actual suspension. (*In re Andre Keith Silvola on Discipline* (S089054) State Bar Court Case No. 99-O-12238.) His discipline arose from his failure to comply with the conditions of his probation from his prior discipline, in violation of Business and Professions Code sections 6068(k) and 6103.

Fourth, on April 29, 2002, (effective May 29, 2002), the Supreme Court order Silvola's probation revoked and suspended him for two years and until he demonstrated his rehabilitation and fitness to practice law. (*In re Andre Keith Silvola on Discipline* (S089054) State Bar Court Case No. 01-PM-04178.) Silvola stipulated that he failed to comply with the terms and conditions of his probation in violation of Business and Professions Code sections 6068(k) and 6103.

In its supplemental report, OCTC explained that Silvola's resignation should be accepted because his fourth discipline occurred over thirteen years ago and resulted from his failure to comply with the probation terms and conditions from his third discipline. The only discipline proceeding currently pending against Silvola is a probation with conditions.² Since May 2002, Silvola has remained suspended and OCTC has not opened a new disciplinary investigation or filed new disciplinary proceedings against him. Further, Silvola has not sought to be reinstated to the practice of law, and he has not practiced law in California since 1988 and has lived out of state since 1989. OCTC states that the stipulation submitted in this resignation matter accurately describes Silvola's prior misconduct and provides the public with adequate notice of his misconduct.

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

We have considered Silvola'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 there is no need for perpetuation of the evidence since Silvola has entered into a stipulation to facts and conclusions of law that resolves all disciplinary matters.

² We consider a pending probation as a "proceeding," as contemplated by rule 5.427(B) of the Rules of Procedure of the State Bar of California.

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

OCTC reports that it is not aware that Silvola has practiced law or held himself out as entitled to practice law since he was suspended in case number 01-PM-04178, effective May 29, 2002.

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

Silvola filed a rule 9.20 compliance declaration stating that he had no clients, no client papers or other property to return, no unearned fees, and no pending client matters. OCTC notes that it has not received information from clients, courts, or opposing counsel that would give rise to an investigation on this issue.

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

Silvola's rule 9.20 compliance declaration in this case was filed with the Court on May 15, 2015.

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 Silvola's disbarment.

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

Silvola has not previously resigned or been disbarred in California.

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

Silvola and OCTC entered into a Stipulation as to Facts and Conclusions of Law which was filed on May 20, 2015.

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

We recommend accepting Silvola's resignation for the reasons OCTC presented in its filings in this matter because Silvola: (1) submitted a rule 9.20 compliance declaration; (2) submitted a stipulation to facts and conclusions of law and tendered an authorization for public disclosure of pending complaints, investigations and proceedings; (3) has no pending Client Security Fund (CSF) claims; (4) is 66 years old and is willing to forfeit his license; and (5) has not practiced law in California since 1988 and does not intend to do so in the future. Further, the only discipline currently pending against Silvola is the above-mentioned probation case. We see no harm to the public under the circumstances presented here. We conclude that the acceptance of Silvola's resignation 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 Andre Keith Silvola, State Bar number 109154. 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 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 4, 2015, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED AUGUST 4, 2015

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

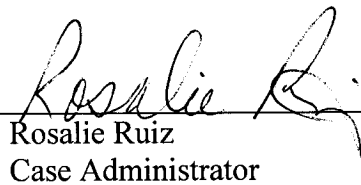
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ANDRE K. SILVOLA
627 LANSING DR
COLORADO SPRINGS, CO 80909

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

SHERELL N. MCFARLANE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 4, 2015.



Rosalie Ruiz
Case Administrator
State Bar Court