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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-10619
)	
JEROME WILLIAM ATKIN,)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 105356.)	
_____)	

On January 14, 2015, Respondent Jerome William Atkin filed his resignation with disciplinary charges pending.¹ In light of the grounds set forth in the California Rules of Court, rule 9.21(d),² we recommend Atkin'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) he does not owe any restitution; and (3) he is 77 years old, is fully retired, and is willing to forfeit his license. We see no harm to the public under the circumstances presented here, and we conclude that the acceptance of Atkin's resignation would be consistent with the need to protect the public, the courts, and the legal profession.

¹ The only matter pending is Atkin's probation related to his prior discipline. 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 All further references to rules are to this source unless otherwise noted.

I. BACKGROUND

A. Prior Record of Discipline (14-O-01616)

Atkin was admitted to practice law in California on December 3, 1982. He has one prior record of discipline.

On January 22, 2015, the Supreme Court ordered Atkin suspended for one year, execution stayed, and placed on probation for one year subject to conditions, including actual suspension for the first 30 days of probation. (*In re Jerome William Atkin on Discipline* (S222827) State Bar Court Case No. 14-O-01616.) Atkin stipulated that he committed an act involving moral turpitude, dishonesty, or corruption when he willfully violated Business and Professions Code, section 6106. He stipulated to the following facts: (1) He was required to complete 25 hours of minimum continuing legal education (MCLE) during the period commencing on or about February 1, 2010, and ending on or about January 31, 2013; (2) On January 28, 2013, Atkin reported under penalty of perjury to the State Bar that he was in compliance with the MCLE requirements, and, in particular, that he had completed his MCLE during the compliance period; and (3) When Atkin reported to the State Bar that he was in compliance with the MCLE requirements, Atkin knew that he had not completed the MCLE during the compliance period as required.

B. Pending Discipline (15-Q-10619)

In the instant matter, Atkin stipulated to the following facts: (1) Atkin received the Supreme Court's order in the prior disciplinary proceeding; (2) Atkin had agreed to one year of probation with the conditions that he attend Ethics School and pass the Multistate Professional Responsibility Examination (MPRE) no later than February 21, 2016; (3) Atkin's prior discipline was imposed due to his noncompliance with the MCLE requirements of the State Bar and his misrepresentation to the State Bar that he had complied; (4) Atkin was employed teaching at

California State University from 1995 until 2009 when he retired, and when teaching, he had a limited law practice until approximately 2009; (5) Atkin has not practiced law for the last seven years and does not intend to practice law in the future; (6) Atkin has health problems including diabetes, osteoarthritis, and Barrett's esophagus, all of which make it difficult for him to travel even short distances; and (7) Due to his inactive status and his health concerns, Atkin does not want to spend the time and expense of completing the requirements of attending Ethics School and taking the MPRE.

C. Office of the Chief Trial Counsel's (OCTC) Recommendation

On April 9, 2015, OCTC filed its report recommending that Atkin's resignation be accepted. OCTC proposed that this Court recommend to the Supreme Court that Atkin's resignation with charges pending be accepted based on application of the factors listed in rule 9.21(d). In addition, OCTC stated that because of Atkin's age and his retirement status, he has no intention of practicing law at any time in the future. OCTC stated that Atkin has not had clients since approximately 2007. Although OCTC stated Atkin had not filed his Authorization for Public Disclosure, our records show it was filed on April 8, 2015.

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

We have considered Atkin'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 perpetuation of testimony is unnecessary because Atkin has entered into a stipulation to facts and conclusions of law that resolves all disciplinary matters.

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

OCTC reports that it has no information to suggest that Atkin has advertised or held himself out as entitled to practice law after being placed on inactive status on January 14, 2015.

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

On June 15, 2015, Atkin submitted a compliance declaration indicating that he had no clients, had no papers or property to which clients were entitled, and was not in possession of any unearned fees. OCTC reports that it has not received information from clients, courts, or opposing counsel that would give rise to an investigation on this issue.

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

Atkin's rule 9.20 compliance declaration was filed on June 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 Atkin's disbarment.

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

Atkin has not previously resigned or been disbarred in California.

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

On April 9, 2015, the parties filed a Stipulation as to Facts and Conclusions of Law regarding the pending disciplinary matters.

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

We recommend accepting Atkin's resignation. He cooperated with OCTC by entering into a stipulation regarding the facts and conclusions of law 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, Atkin is 77 years old, willing to relinquish his license, and has advised the State Bar that he does not intend to practice law at any time in the future. He would be at least 82 years old before he is eligible to seek reinstatement. (Rules Proc. of 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 there are no outstanding issues concerning clients, restitution or unearned fees. Under these circumstances, we do not believe that public confidence in the discipline system will be undermined by accepting Atkin'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 Jerome William Atkin, State Bar number 105356. 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 July 1, 2015, I deposited a true copy of the following document(s):

ORDER FILED JULY 1, 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:

JEROME WILLIAM ATKIN
3174 N. ASHWOOD
ORANGE, CA 92665

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

Ronald K. Bucher, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 1, 2015.



Rosalie Ruiz
Case Administrator
State Bar Court