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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-14300
)
DEAN HERBERT STARKS,) RECOMMENDATION ON
) RESIGNATION
)
A Member of the State Bar, No. 87091.)
_____)

Respondent Dean Herbert Starks filed his resignation with charges pending on August 25, 2015. On October 15, 2015, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed its report on the resignation, recommending that it be declined. Starks did not file a response to OCTC's report. Based on OCTC's recommendation and in light of the grounds set forth in California Rules of Court, rule 9.21(d),¹ as detailed below, we recommend that the Supreme Court reject the resignation.

I. BACKGROUND

Starks was admitted to practice law in California on May 31, 1979. He has two prior records of discipline.

On July 7, 1994 (effective August 6, 1994), the Supreme Court ordered Starks suspended for six months, execution stayed, and placed on probation for two years subject to the conditions of probation. (*In re Dean Herbert Starks on Discipline* (S039526), State Bar Court Case Nos. 91-O-05585; 93-O-14982 (Cons.)) In that case, Starks stipulated to violations of: (1) Business

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

and Professions Code section 6068,² subdivision (m) for failure to promptly respond to reasonable status inquiries of his clients and failure to keep his clients reasonably informed of significant developments; (2) former Rule of Professional Conduct 6-101(A)(2) and Rule of Professional Conduct 3-110(A) for failure to perform legal services competently; (3) Rule of Professional Conduct 3-700(A)(2) for withdrawing from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client; (4) section 6068, subdivision (i) for failure to adequately cooperate and participate in the State Bar's investigation; and (5) Rule of Professional Conduct 3-700(D)(2) for failure to promptly refund attorney's fees advanced to him which he did not earn.

On April 13, 1995 (effective May 13, 1995), the Supreme Court ordered Starks suspended for six months, execution stayed, and placed on probation for one year subject to the conditions of probation. (*In re Dean H. Starks on Discipline* (S044805), State Bar Court Case No. 93-O-18856.) Starks stipulated to similar misconduct in a different client matter, including failure to perform competently, failure to promptly refund unearned attorney's fees, failure to respond promptly to reasonable status inquiries of his client, and failure to comply with a court order (section 6103).

An underlying conviction matter is pending against Starks. In State Bar Court case number 15-C-10149, OCTC transmitted the record of Starks's conviction for three felony counts of failure to file income tax returns in violation of Revenue and Taxation Code section 19706. He was placed on interim suspension, effective August 3, 2015, pending final disposition of that proceeding.

² All further references to sections are to this source unless noted.

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

We have considered Starks'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 complete.

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

OCTC reports that it has no evidence that Starks has practiced law or held himself out as entitled to practice law since he tendered his resignation on August 25, 2015.

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

Starks 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.

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

Starks's rule 9.20 compliance declaration in this case was filed with the Court on October 2, 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 Starks's disbarment.

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

Starks has not previously resigned or been disbarred.

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

Starks and OCTC have not reached an agreement on a written stipulation as to the facts and conclusions of law regarding Starks's pending disciplinary proceeding.

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

Acceptance of Starks's resignation would be inconsistent with the need to protect the public, the courts, and the legal profession. There is probable cause to believe that Starks's underlying convictions for failure to file tax returns involve moral turpitude. Further, Starks has two prior records of discipline and OCTC recommends against acceptance of Starks's resignation. Under these circumstances, Starks should not be allowed the benefit of resigning because it would undermine public confidence in the disciplinary system and the legal profession.

III. RECOMMENDATION

We recommend that the Supreme Court decline to accept the resignation of Dean Herbert Starks, State Bar number 87091.

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 December 15, 2015, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED DECEMBER 15, 2015

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

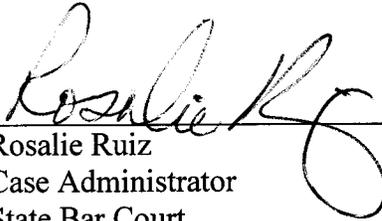
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DEAN H. STARKS
163 PLEASANT AVE # 5
AUBURN, CA 95603

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

Heather E. Abelson, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 15, 2015.



Rosalie Ruiz
Case Administrator
State Bar Court