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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-15303
)	
JOSEPH MICHAEL BIASELLA, JR.)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 53160.)	
_____)	

On November 2, 2015, respondent Joseph Michael Biasella, Jr., filed his resignation with disciplinary charges pending. On December 2, 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 Biasella's resignation would be consistent with the need to protect the public, the courts, and the legal profession in light of Biasella's disciplinary history. OCTC filed its supplemental report on January 25, 2016, renewing its recommendation that the resignation be accepted. In light of the grounds set forth in California Rules of Court, rule 9.21(d),* and as set forth in detail below we recommend that Biasella's resignation be accepted.

I. BACKGROUND

Biasella was admitted to practice law in California on December 13, 1972. He has one prior record of discipline.

On February 10, 2015, (effective March 12, 2015), the Supreme Court ordered Biasella suspended for three years, execution stayed, and placed on probation for three years subject to

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

the conditions of probation, including a two-year actual suspension and until he provides proof of his rehabilitation and fitness to practice. (*In re Joseph Michael Biasella on Discipline* (S223029), State Bar Court Case No. 12-O-13114.) Biasella stipulated to violations of Business and Professions Code sections 6068(a) and 6106 and Rules of Professional Conduct, rule 3-300 for: (1) borrowing funds from a conservatorship without the ability to repay the funds; (2) inducing another to release funds from the conservatorship and failing to seek court approval for the release of the funds; and (3) failing to set forth in writing the terms and conditions of the loans, failing to obtain his clients consent in writing to the terms and conditions of the transaction and entering into the loans which had unfair terms. He received mitigation for his lengthy discipline-free career, his cooperation, and his severe financial stress. Respondent has since repaid the borrowed funds.

State Bar Court Case No. 15-N-13659 is pending against Biasella. On November 12, 2015, he entered into a stipulation as to facts and conclusions of law with OCTC and stipulated to a violation of California Rules of Court, rule 9.20 because he failed to file a timely compliance declaration with the State Bar Court by March 23, 2105, as ordered by the Supreme Court in State Bar Court Case No. 12-O-13114. The parties further stipulated in mitigation that Biasella acted in good faith and that he cooperated with OCTC and in aggravation that Biasella has a prior record of discipline.

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

We have considered Biasella'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.

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

OCTC reports that it is not aware that Biasella has practiced law or held himself out as entitled to practice law since he tendered his resignation on November 2, 2015.

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

OCTC reports that Biasella performed the acts specified in rule 9.20(a)-(b).

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

Biasella's rule 9.20 compliance declaration was filed on November 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 disbarment.

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

Biasella has not previously resigned or been disbarred in California.

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

Biasella and OCTC entered into a Stipulation as to Facts and Conclusions of Law, which was filed on November 12, 2015.

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

We recommend accepting Biasella's resignation for the reasons OCTC presented in its filings in this matter. Biasella: (1) submitted a rule 9.20 compliance declaration; (2) submitted a stipulation to facts and conclusions of law; (3) has no pending Client Security Fund claims and

repaid the improper loans to the conservatorship; and (4) is experiencing severe problems, including his own medical health issues, his wife's ill health, and extreme financial distress resulting in homelessness. Further, the Supreme Court order in Biasella's prior discipline contemplates a penalty less than disbarment in the pending disciplinary matter (Supreme Court order states failure to comply with rule 9.20 "may result in disbarment or suspension"), acceptance of the resignation will save State Bar Court time and resources, and respondent's prior discipline is public. Under these circumstances, we do not believe that public confidence in the discipline system will be undermined by accepting the resignation and that acceptance 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 Joseph Michael Biasella, Jr., State Bar number 53160. 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 March 8, 2016, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED MARCH 8, 2016

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

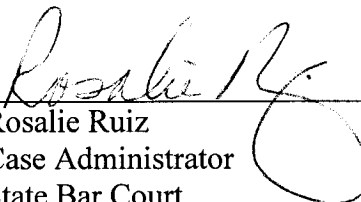
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JOSEPH M. BIASSELLA, JR.
PO BOX 6428
SAN JOSE, CA 95150

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

Sherrie B. McLetchie, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 8, 2016.



Rosalie Ruiz
Case Administrator
State Bar Court