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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. 17-Q-03659
)	
DAVID ANDREW LUNA,)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 61953.)	
_____)	

On June 23, 2017, respondent David Andrew Luna filed a resignation with charges pending. On July 28, 2017, and September 13, 2017, the Office of Chief Trial Counsel of the State Bar (OCTC) filed its report and supplemental report on the resignation, respectively. OCTC recommends that the resignation be accepted. 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 accept the resignation.

I. BACKGROUND

Luna was admitted to practice law in California on December 20, 1974. He is not eligible to practice law and has not been eligible to practice law in California since October 31, 2015. He has two prior records of discipline.

First, on June 24, 2013, (effective July 24, 2013), the Supreme Court ordered Luna suspended for one year, execution stayed, and placed on probation for two years, which included the condition that Luna pay \$7,500 in restitution to his client by October 22, 2013. (*In re David Andrew Luna* (S210013), State Bar Court case no. 12-O-12607.) He stipulated to misconduct in

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



one client matter in that he failed to: (1) respond promptly to his client's reasonable status inquiries (Bus. & Prof. Code, § 6068, subd. (m)); (2) perform legal services with competence (Rules of Prof. Conduct, rule 3-110(A)); (3) render appropriate accounts to his client (Rules of Prof. Conduct, rule 4-100 (B)(3)); (4) promptly refund unearned fees paid in advance (Rules of Prof. Conduct, rule 3-700(D)(2)); and (5) cooperate and participate in the related disciplinary investigation (Bus. & Prof. Code, § 6068, subd. (i)). In mitigation, Luna had no prior record of discipline and entered into a pretrial stipulation with OCTC. In aggravation, Luna committed multiple acts of misconduct, harmed his client, and failed to cooperate with State Bar Court pretrial orders.

Second, on January 14, 2015, (effective February 13, 2015), the Supreme Court revoked Luna's probation for failing to timely submit proof of restitution and one quarterly report and ordered Luna suspended for one year, execution stayed; placed on probation for two years; and actually suspended for the first 30 days of probation. (*In re David Andrew Luna* (S210013), State Bar Court case no. 14-PM-03854.) In mitigation, Luna had significant health problems. In aggravation, Luna had a prior record of discipline and committed multiple acts of misconduct.

Currently, charges are pending against Luna in one matter. (State Bar Court case no. 16-O-16602.) On July 28, 2017, the parties filed a stipulation as to facts and conclusions of law in that Luna failed to comply with all conditions attached to his disciplinary probation in case number 14-PM-03854 (Bus. & Prof. Code, §6068, subd.(k).) In aggravation, Luna has two prior records of discipline and multiple acts of failing to comply with his probation.

OCTC further reports that Luna is 68 years old, prepared to forfeit his license and will be 73 before he is eligible for reinstatement. His current misconduct did not harm any clients, he no longer owes restitution, and no Client Security Fund claims are pending against him.

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

We have considered Luna'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 the perpetuation of the evidence is not necessary in the pending matters.

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

OCTC reports that there is no evidence that Luna has practiced law in California or held himself out as entitled to practice law in California since he tendered his resignation or since he transferred his status to inactive on October 31, 2015.

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

OCTC reports that, consistent with rule 9.20(a)-(b), respondent has attested he has no clients, no client papers or other property to return, no unearned fees, and no pending client matters. Accordingly, it appears that there were no acts that respondent was required to perform.

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

Luna file a rule 9.20(c) compliance declaration on June 26, 2017.

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 Luna previously resigned or has been disbarred and reinstated to the practice of law.

Luna has not previously resigned or been disbarred in California.

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

Luna and OCTC entered into a stipulation as to facts and conclusions of law, which was filed on July 28, 2017.

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

We recommend accepting Luna's resignation for the reasons OCTC presented in its filings in this matter. Luna: (1) submitted a rule 9.20 compliance declaration; (2) submitted a stipulation to facts and conclusions of law; (3) has not practiced in California since October 31, 2015; (4) cooperated with OCTC by entering into a stipulation as to facts and conclusions of law regarding the probation violation matters; (5) has fully paid restitution; and (6) has no Client Security Fund claims, or other, claims pending against him. Further, Luna is 68, is willing to forfeit his law license, and will not be eligible for reinstatement until he is 73. Under these circumstances, we do not believe that public confidence in the discipline system will be undermined by accepting the resignation, and we believe 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 David Andrew Luna, State Bar number 61953. 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 September 21, 2017, I deposited a true copy of the following document(s):

ORDER FILED September 21, 2017

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:

DANIEL MARQUEZ
LAW OFC DANIEL MARQUEZ
18080 CRENSHAW BLVD UNIT 7711
TORRANCE, CA 90504

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

Patrice Vallier-Glass, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 21, 2017.



Nikiah Hawkins
Case Administrator
State Bar Court