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**APR 26 2018**

**STATE BAR COURT  
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**STATE BAR COURT OF CALIFORNIA**

**REVIEW DEPARTMENT**

**IN BANK**

In the Matter of

FLOYD CHARLES FRISCH,

A Member of the State Bar, No. 44220.

) Case No. 18-Q-10154  
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RECOMMENDATION ON  
RESIGNATION

On January 5, 2018, respondent Floyd Charles Frisch filed a resignation with charges pending. On February 23, 2018, the Office of Chief Trial Counsel of the State Bar (OCTC) filed its report on the resignation and the parties' Stipulation as to Facts and Conclusions of Law (Stipulation). 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),<sup>1</sup> as detailed below, we recommend that the Supreme Court accept the resignation.

**I. BACKGROUND**

Frisch was admitted to practice law in California on June 26, 1969, and has not been eligible to practice law in California since November 23, 2015, which was the effective date of when the Supreme Court suspended him for failing to take and pass the Multistate Professional Responsibility Examination (MPRE) as he was required to do as a condition of his prior disciplinary matter.



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<sup>1</sup> All further references to rules are to this source unless otherwise noted.

Frisch has one prior record of discipline. On September 16, 2014, (effective October 16, 2014), the Supreme Court ordered Frisch suspended for one year, execution stayed, and placed on probation for two years subject to conditions, including a 30-day period of actual suspension. (*In re Floyd Charles Frisch* (S219671), State Bar Court Case No. 13-O-11855.) He stipulated (1) that he improperly entered into a business transaction with a client in willful violation of rule 3-300 of the State Bar Rules of Professional Conduct and (2) failed to disclose material facts to his client in willful violation of Business and Professions section 6106. In aggravation, Frisch committed multiple acts of misconduct. In mitigation, Frisch had no prior record of discipline, entered into a prefiling stipulation, and provided documentation of his community service work. Frisch was further ordered to take and pass the MPRE within one year of the effective date of the Supreme Court's order.

One matter is currently pending against Frisch—violations of the disciplinary probation imposed upon him in *In re Floyd Charles Frisch* (S219671), State Bar Court Case No. 13-O-11855. The parties entered into the Stipulation establishing that by failing to timely submit a quarterly report by the due dates of January 10, 2015, July 10, 2015, October 10, 2015, and October 10, 2016, Frisch failed to comply with the conditions attached to his disciplinary probation in willful violation of Business and Professions Code section 6068, subdivision (k). In the Stipulation, Frisch's prior record of discipline was noted in aggravation and there were no mitigating circumstances noted.

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

We have considered Frisch'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 testimony is not necessary in the pending matter.

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

OCTC reports that it has no evidence that Frisch has practiced law in California or held himself out as entitled to practice law in California since he tendered his resignation.

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

Frisch filed a rule 9.20 compliance declaration (signed on January 22, 2018) on January 29, 2018, in which he averred under penalty of perjury that he had no clients, had no papers or property to which clients were entitled, had earned all fees paid to him, and did not represent any clients in pending matters. Accordingly, it appears that there were no acts that Frisch was required to perform pursuant to rule 9.20(a)-(b).

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

Frisch filed a rule 9.20 compliance declaration on January 29, 2018, as noted above.

**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 or opinion recommending disbarment.**

The State Bar Court has not filed a decision or opinion recommending disbarment.

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

Frisch has not previously resigned or been disbarred and reinstated.

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

Frisch and OCTC entered into the Stipulation, which was filed on February 23, 2018.

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

We recommend accepting Frisch's resignation for the reasons OCTC presented in its filings in this matter. Frisch: (1) has not practiced law in California since he submitted his resignation with charges pending on January 5, 2018; (2) filed a rule 9.20 compliance declaration; (3) cooperated with OCTC by entering into the Stipulation regarding the discipline imposed upon him in *In re Floyd Charles Frisch* (S219671), State Bar Court Case No. 13-O-11855, which provides a complete account of his failure to comply with his disciplinary probation requirements and is available to the public and any licensing agency or other jurisdiction; and (4) has no other unresolved disciplinary matters, investigations, or Client Security Fund claims pending against him.

Further, Frisch is 84 years old<sup>2</sup> and does not intend to practice law again. His prior discipline resulted in a 30-day actual suspension. The pending matter against him is for violating the terms of his disciplinary probation by failing to timely submit four quarterly reports. OCTC states that the nature of his misconduct was not serious and does not demonstrate that Frisch is unwilling to comply with the disciplinary order, only that he was unable to comply in a timely manner. OCTC submits that the harm to the public, the courts, or the legal profession was minimal. OCTC also states that during the time period of the misconduct, Frisch was severely depressed and was being medically treated at Kaiser. He was also experiencing memory loss. The depression and memory loss directly affected his ability to timely file his quarterly reports. 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.

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<sup>2</sup> OCTC incorrectly stated in its report that Frisch is 85 years old.

### **III. RECOMMENDATION**

We recommend that the Supreme Court accept the resignation of Floyd Charles Frisch, State Bar number 44220. 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**

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Presiding Judge

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist 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 April 26, 2018, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED APRIL 26, 2018

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

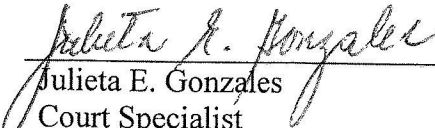
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MARTIN NICHOLAS LETTUNICH  
LAW OFC MARTIN N LETTUNICH  
455 LOS GATOS BLVD., STE 101  
LOS GATOS, CA 95032

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

Jennifer E. Roque, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 26, 2018.

  
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Julieta E. Gonzales  
Court Specialist  
State Bar Court