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OCT 09 2018

**STATE BAR COURT
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**STATE BAR COURT OF CALIFORNIA
REVIEW DEPARTMENT**

IN BANK

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| In the Matter of |) | Case No. 18-Q-13729 |
| |) | |
| MICHAEL NORMAN SPLIVALO, |) | RECOMMENDATION ON |
| |) | RESIGNATION |
| A Member of the State Bar, No. 128465. |) | |
| _____ |) | |

On June 4, 2018, Michael Norman Splivalo filed a resignation with charges pending. On August 3, 2018, the Office of Chief Trial Counsel of the State Bar (OCTC) filed a report and recommendation regarding Splivalo's resignation. OCTC recommends that Splivalo's resignation be rejected. Based on OCTC's reports and 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

Splivalo was admitted to practice law in California on June 23, 1987, and has no prior record of discipline. When Splivalo filed his resignation on June 4, 2018, there were pending charges against him in three matters.

On December 12, 2017, OCTC filed a notice of disciplinary charges (NDC) in State Bar Court Case Nos. 16-O-12535 (the Palmer matter) and 16-O-12976 (the Wilson Matter). In the Palmer matter, OCTC charged Splivalo with: failure to maintain client funds in the client's trust

¹ All further references to rule(s) are to this source unless otherwise noted.

account; moral turpitude through misappropriation; moral turpitude through misrepresentation; and seeking to mislead a judge. In the Wilson matter, OCTC charged Splivalo with moral turpitude through misrepresentation and seeking to mislead a judge. The Palmer and Wilson matters were abated on June 6, 2018.

On May 14, 2018, OCTC filed an NDC in State Bar Court Case No. 17-O-05718 (the Marquez matter). There, OCTC charged Splivalo with: failure to maintain client funds in the client's trust account; moral turpitude through misappropriation; and failure to obey a court order.

On August 2, 2018, Splivalo and OCTC entered into a stipulation as to facts and conclusion of law regarding the pending matters. Splivalo stipulated to all nine charges stemming from the three matters, including misappropriation of funds of \$28,702.38 in the Palmer matter and of \$71,063.69 in the Marquez matter.

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

We have considered Splivalo's resignation under the grounds set forth in rule 9.21(d), and summarize the relevant information for each ground:

1. Whether the preservation of testimony is complete.

OCTC reports that preservation of the evidence is not necessary in the pending matters.

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

OCTC reports that it has no evidence that Splivalo has practiced law in California or held himself out as entitled to practice law in California since he submitted his resignation with charges pending on June 4, 2018.

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

On July 19, 2018, Splivalo filed a Rule 9.20 declaration stating under penalty of perjury that he has performed the acts specified in rule 9.20(a)-(b).

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

Splivalo filed a Rule 9.20 declaration on July 19, 2018 with the State Bar Court.

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 or opinion recommending Splivalo's disbarment.

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

Splivalo has not previously resigned or been disbarred in California.

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

On August 2, 2018, Splivalo and OCTC entered into a stipulation as to facts and conclusions of law regarding all three pending disciplinary matters.

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

We recommend rejecting Splivalo's resignation for the reasons OCTC presented in its filings in this matter. Splivalo: (1) committed multiple acts of misconduct in three different matters; and (2) his acts constitute cause for suspension or disbarment. Specifically, Splivalo stipulated to misappropriation of client funds totalling \$99,766.07. Under these circumstances, we find that Splivalo 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 Michael Norman Splivalo, State Bar number 128465.

A handwritten signature in black ink, appearing to read "R. Horn", written in a cursive style.

Acting 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 October 9, 2018, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED OCTOBER 9, 2018

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

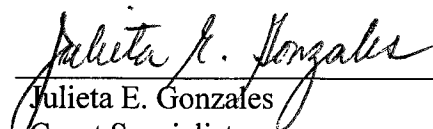
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL N. SPLIVALO
MICHAEL N SPLIVALO, ATTORNEY
5132 N PALM #121
FRESNO, CA 93704

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

Susan I. Kagan, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 9, 2018.



Julieta E. Gonzales
Court Specialist
State Bar Court