

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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A. GAIL PRUDENTI, P.J.
REINALDO E. RIVERA
ROBERT A. SPOLZINO
PETER B. SKELOS
JOSEPH COVELLO, JJ.

2008-07399

OPINION & ORDER

In the Matter of Devon F. Clarke,
admitted as Devon Fitzgerald Clarke,
an attorney and counselor-at-law,
resignor.

(Attorney Registration No. 2636314)

Resignation tendered pursuant to 22 NYCRR 691.9 by Devon F. Clarke, who was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on January 18, 1995, under the name Devon Fitzgerald Clarke.

Scalise & Hamilton, LLP, Scarsdale, N.Y. (Deborah A. Scalise of counsel), for resignor.

Diana Maxfield Kears, Brooklyn, N.Y. (Mark F. DeWan of counsel), for the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts.

PER CURIAM. Devon F. Clarke, admitted as Devon Fitzgerald Clarke, has submitted an affidavit dated August 1, 2008, wherein he tenders his resignation as an attorney and counselor-at-law (*see* 22 NYCRR 691.9). Mr. Clarke was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on January 18, 1995, under the name Devon Fitzgerald Clarke.

January 13, 2009

MATTER OF CLARKE, DEVON F.

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Mr. Clarke avers that his resignation is tendered freely and voluntarily, that he is not being subjected to coercion or duress, and that he is fully aware of the implications of its submission. He is aware that the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts (hereinafter the Grievance Committee) is currently conducting a sua sponte investigation into alleged irregularities involving his attorney escrow account based upon a dishonored check report from the Lawyers' Fund for Client Protection (hereinafter the Lawyers' Fund).

Mr. Clarke acknowledges his inability to successfully defend himself against the merits of such charges. Accordingly, he is submitting his resignation subject to any application by the Grievance Committee for an order directing him to make restitution to and to reimburse the Lawyers' Fund, pursuant to Judiciary Law § 90(6-a). He acknowledges the Court's continuing jurisdiction to make such an order and he is aware that any order issued pursuant to this statute could be entered as a civil judgment against him. Mr. Clarke specifically waives the opportunity afforded him to be heard in opposition thereto.

Mr. Clarke notes that he offers his resignation due to recent personal circumstances. The mistakes which gave rise to the underlying investigation were borne out of a failure to understand his obligation as to the required and proper financial recordkeeping practices. Once he realized that the subject check was returned, he issued a replacement check to his client which was issued prior to the initiation of the Grievance Committee's investigation. Mr. Clarke offers his heartfelt apologies to the legal profession, the Court, and his family for any disrepute his conduct may have caused.

The Grievance Committee recommends acceptance of the proffered resignation. Inasmuch as it comports with all pertinent Court Rules, the resignation of Devon F. Clarke, is accepted and, effective immediately, he is disbarred and his name is stricken from the roll of attorneys and counselors-at-law.

PRUDENTI, P.J., RIVERA, SPOLZINO, SKELOS and COVELLO, JJ., concur.

ORDERED that the resignation of Devon F. Clarke, admitted as Devon Fitzgerald Clarke, is accepted and directed to be filed; and it is further,

ORDERED that pursuant to Judiciary Law § 90, effective immediately, Devon F. Clarke, admitted as Devon Fitzgerald Clarke, is disbarred and his name is stricken from the roll of attorneys and counselors-at-law; and it is further,

ORDERED that Devon F. Clarke, admitted as Devon Fitzgerald Clarke, shall promptly comply with this Court's rules governing the conduct of disbarred, suspended, and resigned attorneys (*see* 22 NYCRR 691.10); and it is further,

ORDERED that pursuant to Judiciary Law § 90, effective immediately, Devon F. Clarke, admitted as Devon Fitzgerald Clarke, is commanded to desist and refrain from (1) practicing law in any form, either as principal or as agent, clerk, or employee of another, (2) appearing as an attorney or counselor-at-law before any court, Judge, Justice, board, commission, or other public authority, (3) giving to another an opinion as to the law or its application or any advice in relation thereto, and (4) holding himself out in any way as an attorney and counselor-at-law; and it is further,

ORDERED that if Devon F. Clarke, admitted as Devon Fitzgerald Clarke, has been issued a secure pass by the Office of Court Administration, it shall be returned forthwith to the issuing agency and the respondent shall certify to the same in his affidavit of compliance pursuant to 22 NYCRR 691.10(f).

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, stylized initial "J".

James Edward Pelzer
Clerk of the Court