

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

D23258
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_____AD3d_____

A. GAIL PRUDENTI, P.J.
WILLIAM F. MASTRO
REINALDO E. RIVERA
ROBERT A. SPOLZINO
ARIEL E. BELEN, JJ.

2008-10849

OPINION & ORDER

In the Matter of Andrew M. Micek, admitted as
Andrew Michael Micek, an attorney and counselor-
at-law, resignor.

(Attorney Registration No. 1418557)

Resignation tendered pursuant to 22 NYCRR 691.9 by Andrew M. Micek, who was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on May 11, 1977, under the name Andrew Michael Micek.

Richard E. Grayson, White Plains, N.Y., for resignor.

Gary L. Casella, White Plains, N.Y. (Forest Strauss of counsel), for Grievance Committee for the Ninth Judicial District.

PER CURIAM. Andrew M. Micek has submitted an affidavit dated November 24, 2008, wherein he tenders his resignation as an attorney and counselor-at-law (*see* 22 NYCRR 691.9). Mr. Micek was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on May 11, 1977, under the name Andrew Michael Micek.

June 16, 2009

Page 1.

MATTER OF MICEK, ANDREW M.

Mr. Micek avers that his resignation is submitted 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. Mr. Micek acknowledges that the Grievance Committee for the Ninth Judicial District (hereinafter the Grievance Committee) is in possession of information indicating that he was previously appointed guardian of the person and property of Mollie Pruden, an incapacitated person who died in October 1995. Between 1995 and 2001, Mr. Micek loaned and/or advanced to himself at least \$147,000 in funds from Ms. Pruden's accounts. Between 2002 and 2007, he repaid a sum of \$191,000 to the Guardianship account. Other than an initial report in May 1995, Mr. Micek submitted no accountings until sometime in 2007. Mr. Micek acknowledges that in a sua sponte complaint dated August 5, 2008, the Grievance Committee found probable cause that he had engaged in professional misconduct in violation of 22 NYCRR 1200.3(a)(4), (5), and (7) (DRs 1-102[a][4], [5], and [7]), as well as 22 NYCRR 1200.30(a)(3) (DR 6-101[a][3]) and 1200.46(a) (DR 9-102[a]) as a result of his conduct as guardian.

Mr. Micek acknowledges his inability to defend himself on the merits against the allegations contained in the sua sponte complaint. He is aware that in an order permitting him to resign, the Court could require him to make monetary restitution to any persons whose money or property was misappropriated or misapplied or to reimburse the Lawyers' Fund for Client Protection. Mr. Micek is further aware that any order issued pursuant to Judiciary Law § 90(6-a) could be entered as a civil judgment against him and he specifically waives the opportunity afforded him by Judiciary Law § 90(6-a)(f) to be heard in opposition thereto.

Mr. Micek acknowledges and agrees that pending issuance of an order accepting his resignation, he cannot take on any new clients or accept any retainers for future legal services to be rendered and that there will be absolutely no transactional activity in any fiduciary account to which he has access, other than for payment of funds held therein on behalf of clients or others entitled to receive them.

The Grievance Committee joins in Mr. Micek's request that his resignation be accepted in the interests of preserving time and court resources.

Inasmuch as the proffered resignation complies with all pertinent Court rules, it is accepted and, effective immediately, Andrew M. Micek, admitted as Andrew Michael Micek, is disbarred, and his name is stricken from the roll of attorneys and counselors-at-law.

PRUDENTI, P.J., MASTRO, RIVERA, SPOLZINO and BELEN, JJ., concur.

ORDERED that the resignation of Andrew M. Micek, admitted as Andrew Michael Micek, is accepted and directed to be filed; and it is further,

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

ORDERED that Andrew M. Micek, admitted as Andrew Michael Micek, 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, Andrew M. Micek, admitted as Andrew Michael Micek, 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 Andrew M. Micek, admitted as Andrew Michael Micek, 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:



James Edward Pelzer
Clerk of the Court