

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

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A. GAIL PRUDENTI, P.J.
PETER B. SKELOS
STEVEN W. FISHER
JOSEPH COVELLO
FRED T. SANTUCCI, JJ.

2008-10161

OPINION & ORDER

In the Matter of Matthew A. Marino, admitted as
Matthew Adam Marino, a suspended attorney, resignor.

(Attorney Registration No. 2237881)

Resignation tendered pursuant to 22 NYCRR 691.9 by Matthew A. Marino, 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, 1989, under the name Matthew Adam Marino. He has now submitted an affidavit of resignation dated June 29, 2009.

Diana Maxfield Kearse, Brooklyn, N.Y. (Mark F. Dewan of counsel), for the Grievance Committee for the Second, Eleventh & Thirteenth Judicial Districts.

Sarah Diane McShea, New York, N.Y., for resignor.

PER CURIAM. Matthew A. Marino has submitted an affidavit dated June 29, 2009, wherein he tenders his resignation as an attorney and counselor-at-law (*see* 22 NYCRR 691.9). Mr. Marino was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on January 18, 1989, under the name Matthew Adam Marino.

March 2, 2010

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MATTER OF MARINO, MATTHEW A.

By decision and order on application of this Court dated March 12, 2009, Mr. Marino was immediately suspended from the practice of law, pending further order of the Court, based on his plea of guilty to an offense in the United States District Court for the Southern District of New York (hereinafter the U.S. District Court) on September 3, 2008, and he was directed immediately to apprise this Court upon being sentenced. The Court further determined, on the consent of Mr. Marino, that the offense constituted a serious crime.

In his affidavit of resignation, Mr. Marino explained that, on September 3, 2008, he pleaded guilty before U.S. District Court Magistrate Judge Lisa Margaret Smith, to a one count information charging him with misprision of a felony, in violation of 18 USC § 4. He promptly notified this Court of his conviction and consented to an interim suspension pursuant to Judiciary Law § 90(4)(f).

Mr. Marino filed an affidavit of compliance dated March 24, 2009. He was subsequently sentenced on April 21, 2009, to 21 months of incarceration, which he was scheduled to begin serving on June 29, 2009.

Mr. Marino avers that his resignation is freely and voluntarily tendered, that he is not being subjected to coercion or duress, and that he has consulted with his attorney and is fully aware of the implications of submitting a resignation.

Mr. Marino is aware of a pending investigation by the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts (hereinafter the Grievance Committee) into allegations that he has been guilty of the misconduct, as set forth in the transcript of his plea of guilty before the U.S. District Court. He acknowledges his inability to successfully defend on the merits against such charges.

Mr. Marino avers that his resignation is submitted subject to any application which could be made by the Grievance Committee for an order pursuant to Judiciary Law § 90(6-a), directing restitution or reimbursement to the Lawyers' Fund for Client Protection. He acknowledges the continuing jurisdiction of this Court to make such an order, and waives the opportunity afforded by Judiciary Law § 90(6-a)(f) to be heard in opposition thereto.

Mr. Marino submits that he is deeply embarrassed by his conduct, takes full responsibility for his actions, and sincerely apologizes to the Court, his family, and his colleagues.

Inasmuch as the proffered resignation comports with the requirements of 22 NYCRR

691.9, Matthew A. Marino, admitted as Matthew Adam Marino, is disbarred, and, effective immediately, his name is stricken from the roll of attorneys and counselors-at-law.

PRUDENTI, P.J., SKELOS, FISHER, COVELLO and SANTUCCI, JJ., concur.

ORDERED that the resignation of Matthew A. Marino, admitted as Matthew Adam Marino, is accepted and directed to be filed; and it is further,

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

ORDERED that Matthew A. Marino, admitted as Matthew Adam Marino, shall continue to 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, Matthew A. Marino, admitted as Matthew Adam Marino, is commanded to continue 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 Matthew A. Marino, admitted as Matthew Adam Marino, 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