

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

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A. GAIL PRUDENTI, P.J.
WILLIAM F. MASTRO
REINALDO E. RIVERA
PETER B. SKELOS
STEVEN W. FISHER, JJ.

2010-00762

OPINION & ORDER

In the Matter of Ethan E. Ellner, a suspended attorney.

Grievance Committee for the Tenth Judicial District,
petitioner; Ethan E. Ellner, respondent.

(Attorney Registration No. 2024099)

Motion by the Grievance Committee for the Tenth Judicial District to strike the respondent's name from the roll of attorneys and counselors-at-law, pursuant to Judiciary Law § 90(4), upon his conviction of a felony. The respondent was admitted to the bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on February 26, 1986.

Rita E. Adler, Hauppauge, N.Y. (Michael Fuchs of counsel), for petitioner.

PER CURIAM.

By opinion and order of this Court dated March 15, 1999, the respondent was suspended from the practice of law for a period of one year as a result of his conviction of attempt to evade or defeat tax, in violation of 26 USC § 7201 (*see Matter of Ellner*, 253 AD2d 103). By opinion and order of this Court dated November 28, 2001, the respondent was reinstated as an attorney and counselor-at-law. By decision and order on motion of this Court dated

June 22, 2010

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MATTER OF ELLNER, ETHAN E.

September 11, 2009, the respondent was suspended from the practice of law pursuant to 22 NYCRR 691.4(1)(i)(ii) and (iii), based upon a finding that he was guilty of professional misconduct threatening the public interest. By the same decision and order, this Court authorized the Grievance Committee for the Tenth Judicial District (hereinafter the Grievance Committee) to institute and prosecute a disciplinary proceeding against the respondent under Appellate Division Docket No. 2009-00303, based on a petition dated April 1, 2009, and referred the issues raised in the petition to a Special Referee to hear and report.

On December 1, 2009, the respondent was convicted, upon his plea of guilty, in the County Court, Suffolk County, before the Honorable James F.X. Doyle, of three counts of grand larceny in the second degree, a class C felony, in violation of Penal Law § 155.40, and one count of scheme to defraud in the first degree, a class E felony, in violation of Penal Law § 190.65. The respondent has not yet been sentenced.

By virtue of his felony conviction, the respondent ceased to be an attorney and counselor-at-law pursuant to Judiciary Law § 90(4)(a), and was automatically disbarred.

Accordingly, the Grievance Committee's motion to now strike the respondent's name from the roll of attorneys pursuant to Judiciary Law § 90(4)(b) is granted, to reflect the respondent's disbarment as of December 1, 2009.

The previously authorized disciplinary proceeding under Appellate Division Docket No. 2009-00303 is discontinued.

PRUDENTI, P.J., MASTRO, RIVERA, SKELOS and FISHER, JJ., concur.

ORDERED that pursuant to Judiciary Law § 90(4)(a), the respondent, Ethan E. Ellner, is disbarred, effective December 1, 2009, and his name is now stricken from the roll of attorneys and counselors-at-law, pursuant to Judiciary Law § 90(4)(b); and it is further,

ORDERED that the respondent, Ethan E. Ellner, 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, the respondent, Ethan E. Ellner, 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 the respondent, Ethan E. Ellner, 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); and it is further,

ORDERED that the previously authorized disciplinary proceeding pending under Appellate Division Docket No. 2009-00303 is discontinued.

ENTER:

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

James Edward Pelzer
Clerk of the Court