

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

D32269
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A. GAIL PRUDENTI, P.J.
REINALDO E. RIVERA
PETER B. SKELOS
MARK C. DILLON
JOHN M. LEVENTHAL, JJ.

2010-02792

OPINION & ORDER

In the Matter of Stuart N. Kingoff, admitted as
Stuart Neal Kingoff, a suspended attorney.

Grievance Committee for the Ninth Judicial
District, petitioner; Stuart N. Kingoff, respondent.

(Attorney Registration No. 2269298)

Motion by the Grievance Committee for the Ninth Judicial District to recall and vacate so much of this Court's decision and order on motion dated July 21, 2010, as authorized it to institute and prosecute a disciplinary proceeding against the respondent based upon allegations of professional misconduct, and referred the issues raised to Marc S. Oxman, Esq., as Special Referee, to hear and report, and 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. In the decision and order on motion of this Court dated July 21, 2010, the respondent was immediately suspended from the practice of law pursuant to 22 NYCRR 691.4(1)(1)(i), (ii) and (iii). The respondent was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on May 31, 1989, under the name Stuart Neal Kingoff.

Gary L. Casella, White Plains, N.Y. (Glenn E. Simpson of counsel), for petitioner.

October 25, 2011

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PER CURIAM.

On March 11, 2011, the respondent entered a plea of guilty in the Supreme Court, New York County (Clott, J.), to one count of grand larceny in the third degree, a class D felony, in violation of Penal Law § 155.35. The respondent was sentenced, on April 27, 2011, to five years probation and 42 hours of community service, with the understanding that he would never apply for reinstatement to the Bar.

Pursuant to Judiciary Law § 90(4)(a), the respondent was automatically disbarred and ceased to be an attorney “upon his conviction of a felony,” to wit, on March 11, 2011. At that time, the disciplinary proceeding authorized by the decision and order on motion of this Court dated July 21, 2010, was rendered academic.

The Grievance Committee for the Ninth Judicial District (hereinafter the Grievance Committee) now moves to strike the respondent’s name from the roll of attorneys and counselors-at-law pursuant to Judiciary Law § 90(4)(b), based upon his felony conviction. The respondent has submitted no papers in opposition to the Grievance Committee’s motion.

By virtue of his felony conviction, the respondent ceased to be an attorney and counselor-at-law pursuant to Judiciary Law § 90(4), and was automatically disbarred on March 11, 2011. Accordingly, the Grievance Committee’s motion to recall and vacate so much of the decision and order on motion of this Court dated July 21, 2010, as authorized it to institute and prosecute a disciplinary proceeding against the respondent and to strike the respondent’s name from the roll of attorneys and counselors-at-law, effective March 11, 2011, must be granted.

PRUDENTI, P.J., RIVERA, SKELOS, DILLON and LEVENTHAL, JJ., concur.

ORDERED that the Grievance Committee’s motion to recall and vacate so much of the decision and order on motion of this Court dated July 21, 2010, as authorized it to institute and prosecute a disciplinary proceeding against the respondent and to strike the respondent’s name from the roll of attorneys and counselors-at-law, effective March 11, 2011, is granted; and it is further,

ORDERED that pursuant to Judiciary Law § 90(4)(a), the respondent, Stuart N. Kingoff, admitted as Stuart Neal Kingoff, is disbarred, effective March 11, 2011, and his name is 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, Stuart N. Kingoff, admitted as Stuart Neal Kingoff, 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, Stuart N. Kingoff, admitted as Stuart Neal Kingoff, 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 its is further,

ORDERED that if the respondent, Stuart N. Kingoff, admitted as Stuart Neal Kingoff, 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 disciplinary proceeding commenced against the respondent, Stuart N. Kingoff, admitted as Stuart Neal Kingoff, in accordance with the decision and order of this Court dated July 21, 2010, is discontinued.

ENTER:


Matthew G. Kiernan
Clerk of the Court