

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

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WILLIAM F. MASTRO, A.P.J.
REINALDO E. RIVERA
PETER B. SKELOS
MARK C. DILLON
ARIEL E. BELEN, JJ.

2011-06965

OPINION & ORDER

In the Matter of Howard Finkelstein,
an attorney and counselor-at-law, resignor.

(Attorney Registration No. 1595164)

Resignation tendered pursuant to 22 NYCRR 691.9 by Howard Finkelstein, who was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on October 18, 1972.

Gary L. Casella, White Plains, N.Y. (Fredda Fixler-Fuchs of counsel), for the Grievance Committee for the Ninth Judicial District.

Howard Finkelstein, New Rochelle, N.Y., resignor pro se.

PER CURIAM. Howard Finkelstein has submitted an affidavit dated July 26, 2011, wherein he tenders his resignation as an attorney and counselor-at-law (*see* 22 NYCRR 691.9). He was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on October 18, 1972.

Mr. Finkelstein is currently the subject of an investigation by the Grievance Committee for the Ninth Judicial District (hereinafter the Grievance Committee), which has thus far revealed, inter alia, conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation

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of Rules of Professional Conduct (22 NYCRR 1200.0) rule 8.4(c); conduct adversely reflecting on his fitness as a lawyer, in violation of Rules of Professional Conduct (22 NYCRR 1200.0) rule 8.4(h); and neglect of a legal matter entrusted to him, in violation of Rules of Professional Conduct (22 NYCRR 1200.0) rule 1.3(b). He has submitted an Affidavit of Resignation dated July 26, 2011, wherein he acknowledges that he would not be able to successfully defend himself on the merits against charges predicated upon the foregoing.

Mr. Finkelstein further acknowledges that his resignation is freely and voluntarily tendered, that he is not being subjected to coercion or duress by anyone, and that he is fully aware of the implications of its submission.

Finally, Mr. Finkelstein acknowledges that his resignation is submitted subject to any application by the Grievance Committee for an order directing that he make restitution and that he reimburse the Lawyers' Fund for Client Protection pursuant to Judiciary Law § 90 (6-a). He acknowledges the continuing jurisdiction of the Court to make such an order, which could be entered as a civil judgment against him. He specifically waives the opportunity afforded him by Judiciary Law § 90 (6-a)(f) to be heard in opposition thereto.

The Grievance Committee recommends the acceptance of Mr. Finkelstein's resignation.

Inasmuch as the proffered resignation complies with the requirements of 22 NYCRR 691.9, it is accepted, and, effective immediately, Mr. Finkelstein is disbarred and his name is stricken from the roll of attorneys and counselors-at-law.

MASTRO, A.P.J., RIVERA, SKELOS, DILLON and BELEN, JJ., concur.

ORDERED that the resignation of Howard Finkelstein is accepted and directed to be filed; and it is further,

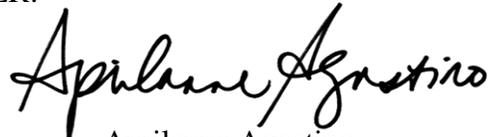
ORDERED that pursuant to Judiciary Law § 90, effective immediately, Howard Finkelstein is disbarred and his name is stricken from the roll of attorneys and counselors-at-law; and it is further,

ORDERED that Howard Finkelstein 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, Howard Finkelstein 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 Howard Finkelstein has been issued a secure pass by the Office of Court Administration, it shall be returned forthwith to the issuing agency and Mr. Finkelstein 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 "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court