

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

D34988
O/kmb

_____AD3d_____

WILLIAM F. MASTRO, A.P.J.
REINALDO E. RIVERA
PETER B. SKELOS
MARK C. DILLON
DANIEL D. ANGIOLILLO, JJ.

2010-01943

OPINION & ORDER

In the Matter of Mark O. Wasserman,
admitted as Mark Owen Wasserman,
a suspended attorney, resignor.

(Attorney Registration No. 2296705)

Resignation tendered pursuant to 22 NYCRR 691.9 by Mark O. Wasserman, who was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on June 1, 1988, under the name Mark Owen Wasserman. By opinion and order of this Court dated March 31, 2009, the respondent was suspended from the practice of law for a period of one year, effective May 1, 2009 (*see Matter of Wasserman*, 62 AD3d 202). He has not sought reinstatement.

By decision and order of this Court dated June 25, 2010, a further disciplinary proceeding was authorized against the respondent pursuant to 22 NYCRR 691.4(e)(5), based upon charges set forth in a verified petition dated February 17, 2010, and the issues raised by the petition and any answer thereto were referred to the Honorable Herbert Posner as Special Referee to hear and report. By decision and order of this Court dated February 10, 2011, the motion of the Grievance Committee for the Tenth Judicial District to impose discipline upon the respondent, based upon his default in answering the verified petition dated February 17, 2010, was denied and the parties were directed to proceed with the previously authorized disciplinary proceeding. By decision and order of this Court dated July 29, 2011, the Grievance Committee for the Tenth Judicial District was
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granted leave to serve and file a verified amended and supplemental petition dated April 4, 2011, to be incorporated into the disciplinary proceeding already pending against the respondent before this Court, and the issues raised by the amended and supplemental petition and any answer thereto were referred to the Honorable Herbert Posner as Special Referee to hear and report. By decision and order dated December 23, 2011, the Honorable Herbert Posner was relieved as Special Referee and the matter was reassigned to the Honorable Patrick A. Sweeney.

Robert A. Green, Hauppauge, N.Y. (Carolyn Mazzu Genovesi of counsel), for petitioner.

Mark O. Wasserman, Levittown, N.Y., resignor pro se.

PER CURIAM. Mark O. Wasserman has submitted an affidavit dated February 2, 2012, wherein he tenders his resignation as an attorney and counselor-at-law (*see* 22 NYCRR 691.9). Mr. Wasserman was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on June 1, 1988, under the name Mark Owen Wasserman.

Mr. Wasserman is the subject of 12 pending charges of professional misconduct including, *inter alia*, neglecting legal matters entrusted to him; failing to refund portions of legal fees, paid in advance, which had not been earned; and failing to properly respond to the lawful inquiries of the Grievance Committee for the Tenth Judicial District (hereinafter the Grievance Committee) with respect to five complaints of professional misconduct filed against him. He has now submitted an affidavit of resignation dated February 2, 2012, wherein he acknowledges that he cannot defend himself on the merits against the foregoing charges.

Mr. Wasserman further acknowledges that his resignation is freely and voluntarily tendered; that he is not being subjected to coercion or duress by anyone; and that the resignation is submitted subject to any application which could be made by the Grievance Committee for an order directing that he make restitution and that he reimburse the Lawyer's Fund for Client Protection pursuant to Judiciary Law § 90(6-a). Additionally, he acknowledges the continuing jurisdiction of the Court to make such an order, which could be entered as a civil judgment against him pursuant to Judiciary Law § 90(6-a)(d). Mr. Wasserman specifically waives the right to be heard in opposition thereto pursuant to Judiciary Law § 90(6-a)(f).

The Grievance Committee recommends that this Court accept the respondent's resignation from the Bar and that his name be stricken from the roll of attorneys and counselors-at-law.

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

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

ORDERED that the resignation of Mark O. Wasserman, admitted as Mark Owen Wasserman, is accepted and directed to be filed; and it is further,

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

ORDERED that Mark O. Wasserman, admitted as Mark Owen Wasserman, 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, Mark O. Wasserman, admitted as Mark Owen Wasserman, 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 Mark O. Wasserman, admitted as Mark Owen Wasserman, has been issued a secure pass by the Office of Court Administration, it shall be returned forthwith to the issuing agency, and he shall certify to the same in his affidavit of compliance pursuant to 22 NYCRR 691.10(f).

ENTER:


Aprilanne Agostino
Clerk of the Court