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**STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of	)	Case No. 16-Q-14821
	)	
PETER JOSEPH TAMASES,	)	RECOMMENDATION ON
	)	RESIGNATION
A Member of the State Bar, No. 38711.	)	
_____	)	

On July 14, 2016, Peter Joseph Tamases filed a resignation with charges pending and was transferred to inactive status. On September 12 and November 7, 2016, the Office of Chief Trial Counsel of the State Bar (OCTC) filed its report and supplemental report on the resignation, respectively. OCTC later sought additional time to consider the resignation in light of possible new disciplinary charges. On March 29, 2017, OCTC informed this court that it had completed and closed its investigation without bringing new charges.

OCTC recommends that the resignation be accepted. Based on OCTC's recommendation and in light of the grounds set forth in California Rules of Court, rule 9.21(d),* as detailed below, we recommend that the Supreme Court accept the resignation.

I. BACKGROUND

Tamases was admitted to practice law in California on June 21, 1966. He has one prior record of discipline.

* All further references to rules are to this source unless otherwise noted.

On August 25, 1988 (effective September 23, 1988), the Supreme Court ordered respondent suspended for three years, execution stayed, and placed on probation for three years subject to the conditions of probation, including a 90-day period of actual suspension and until he made restitution to two clients. (*In re Peter J. Tamases* (BM 5796), State Bar Court Case Nos. 84-O-18064; 86-O-18139.) Tamases was found culpable of several counts of improper withdrawals from employment (Rules Prof. Conduct, former rule 2-111(A)(2)), and failures to perform legal services with diligence (Rules Prof. Conduct, former rule 6101(A)(2)), which all related to his actions following his decision to withdraw from the private practice of law and to become a full time employee of a corporation. In aggravation, his misconduct involved multiple acts and demonstrated a pattern of misconduct involving multiple clients; he significantly harmed several clients; and he demonstrated indifference toward the consequences of his misconduct. No mitigating circumstances were found.

Currently, charges are pending against Tamases in one matter (State Bar Court Case No. 15-O-11102), and the parties have entered into a stipulation as to facts and conclusions of law in that matter as follows. On February 11, 2014, respondent falsely reported, under penalty of perjury, that he had fully complied with his Minimum Continuing Legal Education requirements during the relevant compliance period, when he knew that he had not done so, in violation of Business and Professions Code section 6106. Further, respondent violated Business and Professions Code section 6068, subdivision (i), by failing to respond to the State Bar's disciplinary investigation into the matter.

II. CONSIDERATION OF THE GROUNDS SET FORTH IN RULE 9.21(d)

We have considered Tamases's resignation under the grounds set forth in rule 9.21(d). We summarize below the relevant information for each ground:

1. Whether the preservation of testimony is complete.

OCTC reports that preservation of testimony is not necessary because Tamases has signed the stipulation in case number 15-O-11102.

2. Whether after transfer to inactive status, Tamases has practiced law or has advertised or held himself out as entitled to practice law.

OCTC reports that it is not aware of Tamases practicing law or advertising or holding himself out as entitled to practice law after his transfer to inactive status.

3. Whether Tamases performed the acts specified in rule 9.20(a)-(b).

OCTC reports that, consistent with rule 9.20(a)-(b), Tamases has attested he has no clients, no client papers or other property to return, no unearned fees, and no pending client matters.

4. Whether Tamases provided proof of compliance with rule 9.20(c).

Tamases belatedly filed a 9.20 affidavit on September 12, 2016.

5. Whether the Supreme Court has filed a disbarment order.

The Supreme Court has not filed a disbarment order. However, on July 28, 2016, the Hearing Department entered Tamases's default in case no. 15-O-11102 because Tamases failed to respond to the Notice of Disciplinary Charges (NDC). In its September 12, 2016 report, OCTC failed to explain why acceptance of the resignation was appropriate given the default and the requirement that OCTC file a petition for disbarment in such cases. (See Rules Proc. of State Bar, Rule 5.85.) For this reason, we ordered OCTC to file a supplement report with current information regarding the status of the case and with an explanation of OCTC's reasons for supporting the resignation given that respondent faces disbarment due to his default.

In its supplemental report, OCTC explained that respondent: (1) tried to submit his resignation before the NDC was filed but did so improperly; (2) mistakenly believed that once he

filed the resignation it would stay the pending disciplinary matter and, therefore, that he did not have to respond to the NDC; and (3) mistakenly believed that the disciplinary matter had been stayed pending resolution of the resignation matter and, therefore, he did not seek to have his default lifted. Due to Tamases's confusion, OCTC states that should the resignation fail, Tamases will file a motion to lift his default, which OCTC does not intend to oppose and which OCTC expects would be granted by the Hearing Department.

6. Whether the State Bar Court has filed a decision recommending disbarment.

The State Bar Court has not filed a decision recommending Tamases's disbarment.

7. Whether Tamases previously resigned or has been disbarred and reinstated to the practice of law.

Tamases has not previously resigned or been disbarred.

8. Whether Tamases entered into a stipulation with OCTC as to facts and conclusions of law regarding pending disciplinary matters.

Tamases has entered into a stipulation with OCTC as to facts and conclusions of law regarding pending disciplinary matters.

9. Whether accepting Tamases resignation will reasonably be inconsistent with the need to protect the public, the courts, or the legal profession.

Acceptance of Tamases's resignation would be consistent with the need to protect the public, the courts, and the legal profession. Tamases has acknowledged his misconduct and complied with rule 9.20. Further, Tamases has only one prior record of discipline, dating from 1988, for misconduct dissimilar to the misconduct in the pending matter. Also, Tamases's current misconduct did not cause significant harm to a client, the courts, or the public. Finally, it is OCTC's position that were the pending disciplinary matter "to proceed on its merits, the standards and case law warrant a low-level suspension." Under these circumstances, we do not

believe that public confidence in the discipline system will be undermined by accepting the resignation, and we believe that acceptance would be consistent with the need to protect the public, the courts, and the legal profession.

III. RECOMMENDATION

We recommend that the Supreme Court accept the resignation of Peter Joseph Tamases, State Bar number 38711. We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6068.10, and that such costs be enforceable both as provided in section 6140.7 and as a money judgment.

PURCELL

Presiding Judge

Nikiah Hawkins
Case Administrator
State Bar Court