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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. 18-Q-16359
)	
NATHAN V. HOFFMAN,)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 135155.)	
_____)	

On September 18, 2018, Nathan V. Hoffman filed a resignation with charges pending. On November 19, 2018, the Office of Chief Trial Counsel of the State Bar (OCTC) filed a report and recommendation regarding Hoffman's resignation. OCTC recommends that Hoffman's resignation be rejected because he has not entered into a stipulation and there are pending matters: an investigation, a disciplinary case, and a felony criminal conviction case involving moral turpitude, for which OCTC intends to seek summary disbarment upon finality. Based on OCTC's report and recommendation, and the grounds set forth in California Rules of Court, rule 9.21(d),¹ as detailed below, we recommend that the Supreme Court reject the resignation.

I. BACKGROUND

Hoffman was admitted to practice law in California on July 5, 1988. He has not been eligible to practice law since May 14, 2018, when we placed him on interim suspension due to his pending criminal conviction. On September 18, 2018, he was also placed on voluntary inactive status when he filed his resignation with charges pending.

¹ All further references to rule(s) are to this source unless otherwise noted.



Hoffman has two prior records of discipline.

On February 8, 1994, Hoffman and OCTC entered into a pretrial stipulation re facts, conclusions of law, and disposition in State Bar Case Nos. 91-O-01624, 91-O-05930, and 92-O-13125. (*In re Nathan V. Hoffman* (S039475).) Hoffman stipulated that he failed to act competently (Rules Prof. Conduct, rule 3-110(A)), failed to deposit and maintain funds in clients' trust accounts (Rules Prof. Conduct, rule 4-100(A)), and failed to promptly deliver funds that clients were entitled to receive (Rules Prof. Conduct, rule 4-100(B)(4)). No aggravating circumstances were present. In mitigation, Hoffman displayed spontaneous candor and cooperation with a victim of his misconduct and with the State Bar during disciplinary investigations and proceedings. He also demonstrated spontaneous remorse and recognition of his misconduct. He submitted a declaration from a judge who attested to his good character, and he sought professional assistance to aid in his rehabilitation. Effective August 6, 1994, the Supreme Court ordered Hoffman suspended for one year, execution stayed, and placed him on probation for three years subject to the conditions of probation.

On October 22, 2013, Hoffman and OCTC filed a stipulation re facts, conclusions of law, and disposition in State Bar Case No. 12-O-15784. (*In re Nathan V. Hoffman* (S215204).) Hoffman stipulated that he failed to comply with numerous court orders (Bus. & Prof. Code, § 6103), withdrew from employment in a proceeding before a tribunal without its permission (Rules Prof. Conduct, 3-700(A)(1)), and failed to report the imposition of judicial sanctions against him to the State Bar (Bus. & Prof. Code, §6068(o)(3).) In aggravation, Hoffman had a prior record of discipline, his misconduct significantly harmed the administration of justice, and he engaged in multiple acts of misconduct. In mitigation, he entered into a pretrial stipulation with OCTC. On February 24, 2014, and effective March 26, 2014, the Supreme Court ordered

Hoffman suspended for two years, execution stayed, and placed on probation for two years subject to the conditions of probation, including an actual suspension of 30 days.

There are currently three disciplinary matters pending against Hoffman.

First, on March 23, 2018, OCTC transmitted evidence that Hoffman was convicted of violating Title 21 United States Code section 841(a)(1) (manufacture of marijuana), a felony involving moral turpitude. (State Bar Case No. 12-C-16181.) On April 19, 2018, effective May 14, 2018, we ordered Hoffman suspended pending the final disposition of this proceeding. We also ordered him to comply with rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this suspension. Hoffman's conviction is not final as he is currently appealing his conviction.

Second, on September 11, 2018, OCTC filed a notice of disciplinary charges (NDC), charging Hoffman with failing to file a declaration of compliance with rule 9.20, as was required by the April 19, 2018 Supreme Court order. (State Bar Case No. 18-O-15019.) On October 22, 2018, the hearing judge abated this proceeding pending the outcome of Hoffman's conviction case, and his resignation with charges pending.

Third, there is a pending investigation regarding accusations of misconduct against Hoffman. And there is a pending Client Security Fund (CSF) claim though CSF has not paid any claims based on Hoffman's alleged misconduct.

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

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

1. Whether the preservation of testimony is complete.

OCTC reports that perpetuation of the evidence is not necessary in the pending matters.

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

OCTC reports that it has no evidence that Hoffman has practiced law in California or held himself out as entitled to practice law in California since he transferred to inactive status per the suspension order in the criminal case or since he submitted his resignation with charges pending on September 18, 2018.

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

Hoffman filed a rule 9.20 compliance declaration on September 18, 2018 (signed on September 11, 2018), in which he averred that he had no clients, no papers or other property to which clients were entitled, had earned all fees paid to him, and did not represent any clients in pending matters. It appears that Hoffman performed the acts specified in 9.20(a)-(b).

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

Hoffman filed a Rule 9.20 declaration on September 18, 2018 with the State Bar Court.

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

The Supreme Court has not filed a disbarment order regarding Hoffman.

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

The State Bar Court has not filed a decision or opinion recommending Hoffman's disbarment.

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

Hoffman has not previously resigned or been disbarred and reinstated in California.

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

The parties have not entered into a stipulation. Hoffman's conviction referral case has yet to reach finality because he is appealing the conviction, and there is a State Bar investigation. These two pending matters are unsettled, making the parties unable to enter a stipulation until the conviction and the investigation are finalized.

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

We recommend rejecting Hoffman's resignation for the reasons OCTC presented in its filings in this matter. Hoffman (1) has not entered into a stipulation with OCTC; (2) is on interim suspension due to a criminal conviction for manufacturing marijuana, a felony involving moral turpitude; (3) is charged with failure to comply with rule 9.20, (4) faces disbarment as OCTC is seeking disbarment in his criminal matter and his violation of rule 9.20 matter; (5) has two prior records of discipline, in which he was actually suspended for 30 days for performance related misconduct; and (6) is the subject of a pending State Bar disciplinary investigation. Permitting Hoffman to resign would be inconsistent with the need to protect the public, the courts, and the legal profession.

III. RECOMMENDATION

We recommend that the Supreme Court decline to accept the resignation of Nathan V. Hoffman, State Bar number 135155. Based on the foregoing, accepting his resignation would be inconsistent with the need to protect the public, the courts, and the legal profession

PURCELL

Presiding Judge