

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: March 23, 2017

D-44-17

In the Matter of JOHN WHARTON
RAIN, an Attorney.

MEMORANDUM AND ORDER
ON MOTION

(Attorney Registration No. 2895712)

Calendar Date: March 13, 2017

Before: Garry, J.P., Lynch, Rose, Clark and Mulvey, JJ.

John Wharton Rain, Dallas, Texas, pro se.

Monica A. Duffy, Attorney Grievance Committee for the Third
Judicial Department, Albany, for Attorney Grievance Committee for
the Third Judicial Department.

Per Curiam.

John Wharton Rain was admitted to practice by this Court in 1998 and lists a business address in Dallas, Texas with the Office of Court Administration. He has applied to this Court, by affidavit sworn to September 2, 2016, for leave to resign from the New York bar for nondisciplinary reasons (see Uniform Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.22 [a]). The Attorney Grievance Committee for the Third Judicial Department (hereinafter AGC) opposes the application, contending that Rain is ineligible for nondisciplinary resignation because he has failed to fulfill his attorney registration requirements for the 2016-2017 biennial period (see Judiciary Law § 468-a; Matter of Cluff, ___ AD3d ___, 2017 NY Slip Op 01753 [2017]; Matter of Hanson, 146 AD3d 1229, 1229-1230 [2017]; Rules of the Chief Admin of Cts [22 NYCRR] § 118.1).

In reply, however, Rain has submitted a supplemental

affidavit, sworn to March 7, 2017, in which he attests that he is now current in his New York attorney registration requirements. Office of Court of Administration records likewise establish that Rain has duly registered for the current biennial period. Accordingly, inasmuch as AGC has no other substantive opposition to Rain's application, and having determined that he is now eligible to resign for nondisciplinary reasons (compare Matter of Tierney, ___ AD3d ___ [decided herewith]; Matter of Hanson, 146 AD3d at 1230), we grant the application and accept his resignation.

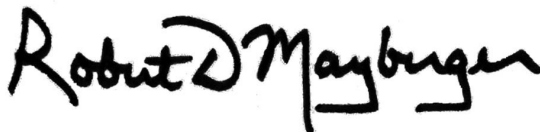
Garry, J.P., Lynch, Rose, Clark and Mulvey, JJ., concur.

ORDERED that John Wharton Rain's application for permission to resign is granted and his nondisciplinary resignation is accepted; and it is further

ORDERED that John Wharton Rain's name is hereby stricken from the roll of attorneys and counselors-at-law of the State of New York, effective immediately, and until further order of this Court (see generally Uniform Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.22 [b]); and it is further

ORDERED that John Wharton Rain shall, within 30 days of the date of this decision, surrender to the Office of Court Administration any Attorney Secure Pass issued to him.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court