

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

Decided and Entered: December 17, 2020

PM-160-20

In the Matter of BENJAMIN SAMUEL
TOWBIN, an Attorney.

MEMORANDUM AND ORDER
ON MOTION

(Attorney Registration No. 5061726)

Calendar Date: December 14, 2020

Before: Clark, J.P., Mulvey, Aarons, Pritzker and
Colangelo, JJ.

Benjamin Samuel Towbin, Cambridge, Massachusetts, 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.

Benjamin Samuel Towbin was admitted to practice by this Court in 2012 and lists a business address in Waltham, Massachusetts with the Office of Court Administration. Towbin has applied to this Court, by affidavit sworn to September 8, 2020, for leave to resign from the New York bar for nondisciplinary reasons (see 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 Towbin is ineligible for nondisciplinary resignation because he has failed to fulfill his attorney registration requirements for the most recent biennial period beginning in 2020 (see Judiciary Law § 468-a; Matter of Lee, 148 AD3d 1350 [2017]; Matter of Bomba, 146 AD3d

1226, 1226-1227 [2017]; Rules of the Chief Admin of Cts [22 NYCRR] § 118.1). AGC further contends that Towbin omitted a material response in his affidavit submitted as part of his application to resign and, therefore, his affidavit was not in the proper form prescribed by Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.22 (a) (1) (see Rules for Attorney Disciplinary Matters [22 NYCRR] part 1240, appendix E).

In reply to AGC's opposition, however, Towbin has submitted a supplemental affidavit, sworn to December 8, 2020, in which he corrects his prior omission and attests that he is now current in his New York attorney registration requirements. Furthermore, Office of Court Administration records likewise establish that Towbin has duly registered and cured any preexisting registration delinquency. Accordingly, with AGC voicing no other substantive objection to his application, and having determined that Towbin is now eligible to resign for nondisciplinary reasons (cf. Matter of Tierney, 148 AD3d 1457, 1458 [2017]; Matter of Bomba, 146 AD3d at 1227), we grant the application and accept his resignation.

Clark, J.P., Mulvey, Aarons, Pritzker and Colangelo, JJ., concur.

ORDERED that Benjamin Samuel Towbin's application for permission to resign is granted and his nondisciplinary resignation is accepted; and it is further

ORDERED that Benjamin Samuel Towbin'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 Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.22 [b]); and it is further

ORDERED that Benjamin Samuel Towbin is commanded to desist and refrain from the practice of law in any form in the State of New York, either as principal or as agent, clerk or employee of

another; and Towbin is hereby forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board, commission or other public authority, or to give to another an opinion as to the law or its application, or any advice in relation thereto, or to hold himself out in any way as an attorney and counselor-at-law in this State; and it is further

ORDERED that Benjamin Samuel Towbin 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