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**STATE BAR COURT
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**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of)	Case No. SBC-23-O-30903-DGS
BRUCE RANDOLPH GREENE,)	ORDER GRANTING MOTION
State Bar No. 71042.)	TO ABATE
_____)	

On November 30, 2023, Bruce Randolph Greene (Respondent) filed a motion to abate this disciplinary proceeding pending resolution of a related criminal proceeding. The Office of Chief Trial Counsel of the State Bar of California (OCTC) filed an opposition on December 12.

As detailed below, after careful consideration of the parties' submissions and weighing the relevant factors, the court grants Respondent's motion to abate.

Relevant Background

On September 29, 2023, OCTC filed a Notice of Disciplinary Charges (NDC) against Respondent, alleging various acts of misconduct related to his representation of Dr. Yorai Benzeevi and his multiple health-care related companies, including Healthcare Conglomerate Associates, LLC (HCCA), and Tulare Local Healthcare District d.b.a Tulare Regional Medical Center (the District). The NDC alleges four counts of violating the rules pertaining to conflicts of interest as it relates to Respondent's involvement in a March 2016 credit agreement involving the District and HCCA, the drafting of two board resolutions in June 2017, and the facilitation of a purchase-leaseback agreement between the District and another company in September 2017, the proceeds of which were used to pay Respondent's legal fees and to pay debts owed by the

District to HCCA; four counts of committing acts of moral turpitude by Respondent's actions in preventing the seating of a duly elected board member and facilitating the purchase-leaseback transaction; and one count of seeking to mislead a judge.

Related Criminal Proceedings

On August 11, 2020, the Tulare County District Attorney filed a felony complaint against Respondent, Benzeevi, and Alan Walter Germany, the District's Chief Financial Officer, in the Tulare County Superior Court, case No. VCF401053 A-C (criminal matter), alleging a total of 46 counts of criminal misconduct.¹ Specifically, in his capacity as the attorney and board counsel for the District from March 2016 through September 2017, Respondent was charged with, among other things, violations of the laws pertaining to conflicts of interest, embezzlement, using an official position for personal gain, conspiracy to commit the crime of disturbance of public assembly of a meeting, and conspiracy to defraud another of property. There is a preliminary hearing scheduled for June 4, 2024.

Discussion

In determining a motion pursuant to rule 5.50 of the Rules of Procedure of the State Bar,² the court may consider any relevant factor, including the need for prompt resolution of the disciplinary proceeding and the extent to which (1) the issues in the disciplinary proceeding overlap with those in a related proceeding; (2) waiting for resolution of a related proceeding would delay or expedite the disciplinary proceeding; (3) evidence presented in the related proceeding is likely to aid in determining the disciplinary proceeding; (4) evidence may become unavailable; (5) parties, witnesses, or documents are currently unavailable for reasons beyond the

¹ On January 25, 2021 the Tulare County District Attorney filed a first amended felony complaint.

² All further references to rules are to this source, unless otherwise specified.

parties' control; (6) a party or witness may be prejudiced in a related proceeding; and (7) a Client Security Fund claim would be unnecessarily delayed.

Respondent argues that abatement is necessary because of the substantial overlap between the issues raised by the NDC and the criminal matter, implicating his constitutional privilege against self-incrimination and thereby prejudicing his ability to fully present a defense in both cases simultaneously. Respondent also argues that he will be prejudiced in the presentation of his defense in the disciplinary proceeding because material witnesses, including Benzeevi and Germany, will likely assert their privilege against self-incrimination as it relates to most, if not all, of the salient issues.

On the other hand, OCTC argues that the potential need for Respondent or any of the witnesses to assert the privilege against self-incrimination does not outweigh the need for prompt resolution of the disciplinary proceeding, which would undoubtedly be delayed by waiting for the criminal matter to resolve. Moreover, while OCTC concedes that the factual allegations underlying the two proceedings are substantially similar, it argues that abatement is not necessary because the ultimate disposition of the criminal matter is not necessarily dispositive of the issues in this disciplinary proceeding.

Mindful of its obligation to provide due process to attorneys subject to discipline, while at the same time affording public protection, the court agrees with Respondent and finds that the relevant factors favor abatement. Most significantly, Respondent has identified substantial prejudice that is likely to result from going forward with this disciplinary proceeding while the criminal matter is pending, as compared to the speculative harm that may result from an abatement of this proceeding.

As argued by Respondent, the issues in this proceeding are substantially similar to those in the criminal matter – both involving allegations of impermissible conflicts of interest, self-

dealing, and corruption in his role as the attorney for the District. (Rule 5.50(B(1).) As such, it is reasonable to believe that most, if not all, of Respondent's testimony related to his actions as attorney for the District would implicate his privilege against self-incrimination. (See *Black v. State Bar* (1972) 7 Cal.3d 676, 686 [attorney may be "compelled to testify but may refuse to answer questions on the ground that his testimony would 'tend to incriminate him'"]; see also *Hoffman v. United States* (1951) 341 U.S. 479, 486 [privilege extends to testimony that would "furnish a link in the chain of evidence needed to prosecute the claimant for a federal crime"].) Moreover, it is reasonably likely that the testimony of critical witnesses, such as Benzeevi and Germany, will be made unavailable by the reasonable exercise of their privilege against self-incrimination, thereby prejudicing Respondent's ability to defend himself in this proceeding. To the contrary, though waiting for the resolution of the criminal case is likely to considerably prolong this disciplinary proceeding, OCTC has failed to identify any substantial prejudice that is likely to result from such delay, apart from speculation as to the future availability of witnesses³ and vague claims about the need for public protection.⁴

Therefore, after thorough consideration of all of the parties' arguments, including those not explicitly addressed herein, the court finds that abatement appears appropriate at this time.

Order

Good cause having been found, Respondent's motion to abate is **GRANTED**. A status conference will take place on March 25, 2024, at 9:30 a.m., to determine whether this matter

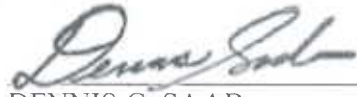
³ OCTC's general assertion that witnesses may become uncooperative and/or unavailable due to the passage of time is merely speculative and the court is not inclined to issue a ruling based on possibility and conjecture. OCTC may file a motion for perpetuation of evidence if it has legitimate concerns about the future availability of witnesses. (See Rule 5.50(A).)

⁴ OCTC fails to address why public protection concerns weigh against the abatement of this disciplinary proceeding pending resolution of the related criminal matter, where the events in question occurred over five years ago and there is no indication of any further wrongdoing by Respondent since that time.

should remain abated. The parties are ordered to file a status report on the status of the related criminal matter on or before March 20, 2024. (Rule 5.50(D).)

IT IS SO ORDERED.

Dated: January 4, 2024



DENNIS G. SAAB
Judge of the State Bar Court