

**REVIEW DEPARTMENT OF THE STATE BAR COURT
IN BANK**

In the Matter of) 00-C-12004
THOMAS CHARLES BURGER) RECOMMENDATION OF
A Member of the State Bar) SUMMARY DISBARMENT

The State Bar's request for recommendation of summary disbarment, filed on November 21, 2003, is granted. On December 4, 2003, we filed and served an order to show cause directing respondent Thomas Charles Burger, State Bar No. 131757, to show why we should not recommend his summary disbarment to the Supreme Court. Respondent filed an opposition.

In December 2001, respondent was convicted of manufacturing methamphetamine (Health & Saf. Code, § 11379.6, subd. (a).)¹ As a result of respondent's conviction, we placed him on interim suspension effective February 19, 2002, and he has remained suspended since that time. The conviction is now final.

The record of conviction establishes that respondent's conviction meets the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c) as amended effective January 1, 1997. First, the offense is a felony for purposes of this proceeding. (See Bus. & Prof. Code, § 6102, subd. (b); Pen. Code, § 17, subd. (a).) Second, this crime is substantially similar to the federal crime of manufacturing controlled substances (21 U.S.C. §

¹ Respondent was also convicted of possession of hydriodic acid with the intent to manufacture methamphetamine (Health & Saf. Code, § 11383(c)(2)), a felony; possession of a controlled substance (Health & Saf. Code, § 11377(a)), a felony which may or may not involve moral turpitude; possession of drug paraphernalia (Health & Saf. Code, § 11364) and being under the influence of a controlled substance (Health & Saf. Code, § 11550(a)), misdemeanors which may or may not involve moral turpitude; and being in possession of a blowgun (Pen. Code, § 12582), a misdemeanor.

841, subd. (a)(1)). An essential element of both crimes is knowledge that a controlled substance is being manufactured. (*People v. Coria* (1999) 21 Cal.4th 868, 878; *U.S. v. Basinger* (1995) 60 F.3d 1400, 1406.) The federal offense is a crime involving moral turpitude. (*In re Giddens* (1981) 30 Cal.3d 110, 111.) We conclude that Health and Safety Code section 11379.6, subdivision (a), is also a crime involving moral turpitude.

When an attorney's conviction meets the requirements of section 6102, subdivision (c), "the attorney is not entitled to a State Bar Court hearing to determine whether lesser discipline is called for." (*In re Paguirigan* (2001) 25 Cal.4th 1, 4-7.) Disbarment is mandatory. (*Id.* at p. 9; see also *In re Lesansky* (2001) 25 Cal.4th 11.)

We therefore recommend that respondent Thomas Charles Burger, State Bar No. 131757, be disbarred from the practice of law in this state. We also recommend that respondent be ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court's order. Finally, we recommend that the costs be awarded to the State Bar in accordance with section 6086.10 of the Business and Professions Code and that such costs be payable in accordance with section 6140.7 of the Business and Professions Code.



Presiding Judge

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on February 23, 2004, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT
FILED FEBRUARY 23, 2004

in a sealed envelope for collection and mailing on that date as follows:


- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL G SHARPE
1574 WEST STREET 2ND FLOOR
REDDING CA 96001

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ALAN KONIG, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 23, 2004**.



Rosalie Ruiz
Case Administrator
State Bar Court