

Filed August 3, 2006

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

In the Matter of	)	<b>02-C-15725</b>
	)	
ROBERT D. PRYCE,	)	<b>RECOMMENDATION OF</b>
No. 114382,	)	<b>SUMMARY DISBARMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

The State Bar's request for a recommendation of summary disbarment, filed on October 4, 2005, is granted. On October 6, 2005, we filed an order to show cause directing respondent Robert D. Pryce to show why we should not recommend his summary disbarment to the Supreme Court. On October 19, 2005, we received respondent's opposition to the request for summary disbarment, and in an order filed December 21, 2005, we ordered the opposition filed as of the date it was received. The State Bar filed a reply to the opposition on November 4, 2005.

In August 2003, respondent pled guilty to violating title 18 United States Code sections 1951 (conspiracy to interfere with commerce by extortion), 371 (conspiracy to violate 18 U.S.C. § 666, bribery concerning programs receiving federal funds), 666, 1341/1346 (mail fraud with regard to the right of honest services), 1956(h) (conspiracy to engage in money laundering), and 1956(a)(1)(B)(i) (money laundering). As a result of respondent's conviction, we placed him on interim suspension effective December 18, 2003, and he has remained on interim suspension since that time.<sup>1</sup>

The criteria for summary disbarment are set forth in Business and Professions Code section 6102, subdivision (c) (hereafter § 6102(c)). To satisfy section 6102(c), the conviction

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<sup>1</sup>In our order of November 17, 2003, placing respondent on interim suspension, we stated that respondent had been convicted of, inter alia, violating title 18 United States Code section 1343/1346, wire fraud, as set forth at the top of page 21 of the federal indictment in this case. However, as the caption and language of the indictment and the plea agreement make clear, respondent was instead convicted of violating title 18 United States Code section 1341/1346, mail fraud.

must be final, a felony, and either contain as an element the “specific intent to deceive, defraud, steal, or make or suborn a false statement,” or involve moral turpitude. The record establishes that the conviction is final and that respondent was convicted of felonies. (See Bus. & Prof. Code, § 6102, subds. (a) and (b).)

In his opposition to the request for summary disbarment, respondent states that he has filed a notice of appeal, and therefore his conviction is not final. However, the notice of appeal attached to his opposition shows that respondent has appealed his sentence, including his restitution order,<sup>2</sup> but there is no evidence that he has appealed his conviction, and the time period for such filing has expired. Respondent’s conviction is therefore final within the meaning of Business and Professions Code section 6102.

Respondent’s conviction is conclusive evidence that he is guilty of his offenses (Bus. & Prof. Code, § 6101, subd. (a)) and that he committed all of the acts necessary to constitute the offenses (*In re Duggan* (1976) 17 Cal.3d 416, 423). The Supreme Court has explicitly held that the offense of mail fraud under title 18 United States Code section 1341 contains as an element the specific intent to defraud. (*In re Utz* (1989) 48 Cal.3d 468, 482.) Therefore, respondent’s conviction of mail fraud meets the requirements of section 6102(c).

Once an attorney’s conviction satisfies section 6102(c), the State Bar Court must recommend summary disbarment, and “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, 7.)<sup>3</sup>

We therefore recommend that respondent Robert D. Pryce, State Bar number 114382, be summarily disbarred from the practice of law in this state. We also recommend that respondent

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<sup>2</sup>The notice of appeal attached to the opposition does not reflect the criminal case number underlying this State Bar Court proceeding. However, the notice states that an appeal is taken from the sentence and restitution order occurring on two dates; the record reflects that on those two dates, respondent was given one sentence and ordered to pay restitution as to both the case underlying the matter before us and the case to which the notice of appeal refers.

<sup>3</sup>In view of our determination that respondent’s mail fraud conviction falls within the summary disbarment statute, we need not address whether respondent’s remaining convictions also fall within the statute.

be ordered to comply with rule 955 of the California Rules of Court and to perform the acts specified in paragraphs (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 costs be awarded to the State Bar in accordance with section 6086.10 of the Business and Professions Code and enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

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Presiding Judge