

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

In the Matter of)	06-C-11167
RICHARD LEE DAVENPORT, JR.)	
A Member of the State Bar)	RECOMMENDATION OF SUMMARY DISBARMENT

The State Bar’s request for recommendation of summary disbarment of respondent Richard Lee Davenport, Jr., State Bar No. 51916, filed on December 18, 2006, is granted. Respondent did not file an opposition to the State Bar’s request.

On August 24, 2006, respondent was convicted of two counts of felony embezzlement (Nev. Rev. Stats., § 205.300.)¹ As a result of respondent’s conviction, we placed him on interim suspension effective October 19, 2006, and he has remained on interim suspension since that time. Respondent’s 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. Respondent’s offense is a felony under Nevada law and would have constituted a felony in California at the time the offense was committed. (See Bus. & Prof. Code, § 6102, subds. (b)-(d).) Between 1992 and 2005 respondent converted funds valued at \$2,500 or greater, making his offense a felony under Nevada law. (Nev. Rev. Stats., § 205.0835.) If

¹Subdivision one of this statute states that “Any bailee of any money, goods or property, who converts it to his own use, with the intent to steal it or to defraud the owner or owners thereof and any agent, manager or clerk of any person, corporation, association or partnership, or any person with whom any money property or effects have been deposited or entrusted, who uses or appropriates the money, property or effects or any part thereof in any manner or for any other purpose than that for which they were deposited or entrusted, is guilty of embezzlement”

committed in California, respondent's embezzlement would have been punished to the same degree as grand theft, making respondent eligible for imprisonment in a county jail not exceeding one year or in the state prison. (Pen. Code, §§ 487, 489, subd. (b), 514.) When imprisonment in state prison or county jail is at the court's discretion, respondent's crime would be a misdemeanor if imprisonment in state prison is not imposed; otherwise it is a felony. (Pen. Code, § 17, subds. (a) and (b)(1).) Since respondent was sentenced to a minimum of 48 months in the Nevada State Prison, we treat respondent's crime as one that would have resulted in a similar judgment of incarceration in state prison had it been committed in this state. Therefore, had respondent committed his crime in California, it would have also been a felony.

An element of the crime for which respondent was convicted in Nevada requires that he convert money or property to his own use with the intent to steal or defraud the owner. (Nev. Rev. Stats., § 205.300, subd. (1); *Walsh v. State* (1994) 110 Nev. 1385 [887 P.2d 1239].) Therefore, respondent's conviction meets the requirement for summary disbarment since it includes the specific intent to steal or defraud.

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.)

We therefore recommend that respondent Richard Lee Davenport, Jr., State Bar No. 51916, be disbarred from the practice of law in this state. We also recommend that respondent be ordered to comply with rule 9.20 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 enforceable both as provided in Business & Professions Code section 6140.7 and as a money judgment.

Presiding Judge