



FILED

MAY 27 2009

STATE BAR COURT
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LOS ANGELES

REVIEW DEPARTMENT OF THE STATE BAR COURT
IN BANK

In the Matter of

DERK W. SCHUTMAAT,

A Member of the State Bar.

) 07-C-12435

) **RECOMMENDATION OF**
) **SUMMARY DISBARMENT**

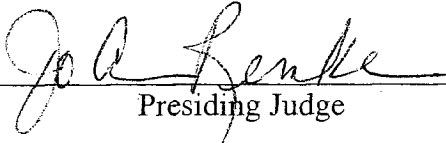
The State Bar's request for recommendation of summary disbarment of Derk W. Schutmaat, State Bar No. 163633, is granted. The State Bar filed its request on March 26, 2009, and Schutmaat did not file a response. (Rules Proc. of State Bar, rule 602.)

On November 10, 2008, Schutmaat pled guilty to two counts of embezzlement (Pen. Code, § 506), and one count of embezzlement, forgery, fraud or identity theft from an elder adult (Pen. Code, § 368, subd. (d)). Schutmaat's accepted guilty plea is a conviction under the State Bar Act. (Bus. & Prof. Code, § 6101, subd. (e).) As a result of Schutmaat's conviction we placed him on interim suspension effective January 29, 2009, and he has remained on interim suspension since that time. As the time period for filing an appeal from his conviction has expired and Schutmaat has not filed a notice of appeal, his conviction is now final. (Cal. Rules of Court, rule 9.10(a).)

Schutmaat's conviction is conclusive proof that he committed the crime. (Bus. & Prof. Code, § 6101, subd. (a).) The record of conviction establishes that Schutmaat's conviction meets the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c). First, the offenses of which Schutmaat was convicted are felonies. (Pen. Code, §

17, subd. (a); Bus. & Prof. Code, § 6102, subd. (b).) Second, a violation of Penal Code section 506 necessarily involves moral turpitude. (*In re Lyons* (1975) 15 Cal.3d 322, 325, fn. 3.)¹ When an attorney's conviction meets the requirements of Business and Professions Code 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, 7.) Disbarment is mandatory. (*Id.* at p. 9.)

We therefore recommend that Derk W. Schutmaat, State Bar No. 163633, be summarily disbarred from the practice of law in this state. We also recommend that Derk W. Schutmaat be ordered to comply with rule 9.20 of the California Rules of Court and to perform the acts specified in paragraphs (a) and (c) of that rule within 30 and 45 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 Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.



Presiding Judge

¹ Because the Supreme Court has held that this offense involves moral turpitude, our analysis does not rely on whether Penal Code, section 368, subdivision (d), necessarily involves moral turpitude.

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 May 27, 2009, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED MAY 27, 2009

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

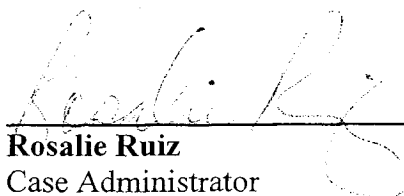
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DERK W. SCHUTMAAT
SUITE 58508
PO BOX 515381
LOS ANGELES, CA 90051

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

DONALD STEEDMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 27, 2009.



Rosalie Ruiz
Case Administrator
State Bar Court