

OCT 29 2008

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELESREVIEW DEPARTMENT OF THE STATE BAR COURT  
IN BANK<sup>1</sup>

In the Matter of

**WILLIAM S. LERACH,**

A Member of the State Bar.

07-C-13619

**RECOMMENDATION OF  
SUMMARY DISBARMENT**

The State Bar's request for recommendation of summary disbarment, filed on May 30, 2008, is granted. On June 20, 2008, we filed an order to show cause by July 11, 2008, directing respondent, William S. Lerach, State Bar No. 68581, to show why we should not recommend summary disbarment to the Supreme Court. Respondent has not responded.

On October 29, 2007, the United States District Court for the Central District of California accepted respondent's plea of guilty to one count of conspiracy, in violation of section 371 of title 18 of the United States Code, to: (a) obstruct justice (18 U.S.C. § 1503) and (b) make false material declarations under oath (18 U.S.C. § 1623(a)). As a result of respondent's conviction we placed him on interim suspension effective November 21, 2007 and he has remained on interim suspension since that time. The district court entered judgment on February 11, 2008. As the time period to file an appeal has passed (Fed. Rules App.Proc., rule 4(b), 28 U.S.C.) and respondent has not appealed from the judgment, respondent's conviction is now final. (California Rules of Court, rule 9.10(a).)

<sup>1</sup> Epstein, J. did not participate in this matter. Stovitz, J., retired Presiding Judge of the State Bar Court, sitting by designation of the Presiding Judge, participated in this matter.

Respondent's conviction provides conclusive evidence that he is guilty of the offense (Bus. & Prof. Code, § 6101, subd. (a)) and that he committed all of the acts necessary to constitute the offense (*In re Duggan* (1976) 17 Cal.3d 416, 423). 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.<sup>2</sup> First, respondent's offense is a felony. (18 U.S.C. § 3559(a)(4); Bus. & Prof. Code, § 6102, subd. (b).) Second, summary disbarment is required because respondent's offense of conspiracy to obstruct justice and to make false declarations under oath involves moral turpitude per se.

The relevant elements of section 1503 of title 18 of the United States Code establish a person obstructs justice when he "corruptly . . . influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice." In *In re Craig* (1938) 12 Cal.2d 93, the California Supreme Court, in ordering an attorney disbarred in light of his conviction under the former federal conspiracy statute,<sup>3</sup> held: "We entertain no doubt that the offense of conspiring to corruptly influence, obstruct, impede, hinder and embarrass the due administration of justice . . . falls easily within the definition of 'moral turpitude.'" (*Id.* at p. 97.)

Moreover, respondent's conspiracy to make false statements under oath in violation of section 1623, subdivision (a), of title 18 of the United States Code involved the following

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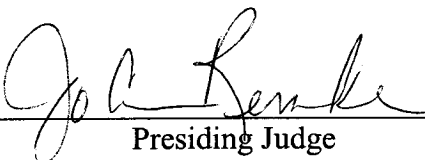
<sup>2</sup> We apply the statute as amended effective January 1, 1997, because the charging document to which respondent pled guilty alleged a course of conduct that began in 1981 and continued until at least 2002, and so at least some of his criminal conduct occurred after the effective date.

<sup>33</sup> The relevant portion of former 18 U.S.C. § 88 is similar to the current 18 U.S.C. § 371, while the relevant portion of the former version of the obstruction of justice statute, 18 U.S.C. § 241, is similar to the current 18 U.S.C. § 1503. (See *U.S. v. Manton* (2nd Cir. 1939) 107 F.2d 834, 836 n. 1.)

elements: “(1) knowingly mak[ing] a (2) false (3) material declaration (4) under oath (5) in a proceeding before or ancillary to any court of the United States.” (*U.S. v. McKenna* (9th Cir. 2003) 327 F.3d 830, 838.) These elements are similar to those comprising the offense of perjury as established in California Penal Code section 118, “which entails a willful false statement, contrary to oath, as to a material matter which one knows to be false,” and which has been held to involve moral turpitude. (*In re Kristovich* (1976) 18 Cal.3d 468, 472; see also *In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 786 [acts of moral turpitude include an attorney’s false or misleading statements to a court].) Applying this authority, respondent’s conspiracy to make false declarations in a proceeding before or ancillary to a court of the United States also amounts to moral turpitude.

When an attorney’s conviction meets the above requirements, “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 William S. Lerach, State Bar member number 68581, be summarily disbarred from the practice of law in this state. We also recommend that Lerach 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, and that such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

  
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 of California. 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 October 29, 2008, I deposited a true copy of the following document(s):


RECOMMENDATION OF SUMMARY DISBARMENT FILED OCTOBER 29, 2008

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:
- WILLIAM S. LERACH  
LERACH COUGHLIN ET AL LLP  
655 W BROADWAY #1900  
SAN DIEGO, CA 92101
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Dane Christopher Dauphine, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 29, 2008.

  
Milagro del R. Salmeron  
Case Administrator  
State Bar Court