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

In the Matter of)	Case No.: 07-C-14951
)	
KERRY LEE LOCKHART)	RECOMMENDATION OF SUMMARY
)	DISBARMENT
Member No. 182690)	
)	
<u>A Member of the State Bar.</u>)	

On November 16, 2010, the State Bar filed a request for recommendation of summary disbarment based on Kerry Lee Lockhart's felony convictions. Lockhart did not file a response. We grant the request and recommend that Lockhart be summarily disbarred.

On or before June 7, 2007, after a general court-martial, Lockhart was found guilty of violating title 10 United States Code sections 921 (U.C.M.J. Art. 121, larceny and wrongful appropriation), 923 (U.C.M.J. Art. 123, forgery), and 932 (U.C.M.J. Art. 132, frauds against the U.S.). The statutes Lockhart violated provide that any person convicted of these offenses shall be punished as a court-martial may direct. A general court-martial may direct punishment by confinement in excess of one year. (10 U.S.C. § 818.) Under federal law if a court-martial conviction can be punished in this way, the conviction is a felony. (18 U.S.C. § 3559.) Effective May 28, 2008, we placed Lockhart on interim suspension. By order filed June 4, 2008, the Supreme Court declined to accept Lockhart's resignation from the State Bar of California. On November 16, 2010, the State Bar filed evidence that Lockhart's conviction is now final.

After the judgment of conviction becomes final, "the Supreme Court shall summarily disbar the attorney if the offense is a felony . . . and an element of the offense is the specific

intent to deceive, defraud, steal, or make or suborn a false statement, or involved moral turpitude.” (Bus. & Prof. Code, § 6102, subd. (c).)

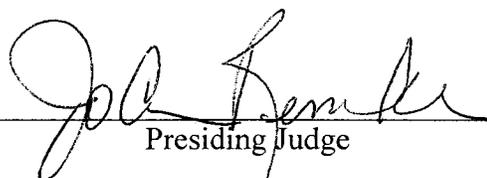
The record of conviction establishes that Lockhart’s offenses meet the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c). First, they are felonies. Second, each crime involves moral turpitude.

Lockhart’s larceny offense involves moral turpitude. (See *In re Basinger* (1988) 45 Cal.3d 1348, 1358 [grand theft necessarily involves moral turpitude; see also *In re Paguirigan* (2001) 25 Cal.4th 1, 5 [crimes of robbery, embezzlement and other forms of theft necessarily involve moral turpitude].) Lockhart’s forgery offense requires evidence of the intent to defraud. (10 U.S.C. § 923.) Crimes involving the intent to defraud involve moral turpitude per se. (*In re Kelley* (1990) 52 Cal.3d 487, 494; see also *In re Prantil* (1989) 48 Cal.3d 227, 234 [crime of forgery is a serious one involving moral turpitude].) Lockhart’s conviction for making a false claim against the United States required the government to prove that “the claim was ‘deliberately deceitful,’ meaning that [defendant] made an untrue representation of a material fact knowing it was untrue and with the intent to defraud another. [Citation.]” (*U.S. v. Ward* (Mil.Ct.Ap. 1983) 16 M.J. 341, 345.) Since this crime requires the intent to defraud, it necessarily involve moral turpitude. (*In re Kelley, supra*, 52 Cal.3d at p. 494.)

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 Kerry Lee Lockhart, State Bar number 182690, be disbarred from the practice of law in this state. We also recommend that he 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 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 December 28, 2010, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED DECEMBER 28, 2010

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:
- KERRY L. LOCKHART
19601 LOVELLA COUNTRY CT
PURCELLVILLE, VA 20132
- 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:

Murray B. Greenberg, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 28, 2010.



Milagro del R. Salmeron
Case Administrator
State Bar Court