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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.: **08-C-10417**
)
THOMAS WHITTIER BURTON)
) **RECOMMENDATION OF SUMMARY**
) **DISBARMENT**
)
A Member of the State Bar.)
_____)

On August 27, 2010, the State Bar filed a request for recommendation of summary disbarment based on Thomas W. Burton's felony conviction. Burton did not file a response. We grant the request and recommend that Burton be summarily disbarred.

On January 23, 2009, Burton pled guilty to a felony violation of title 18 United States Code sections 1956(a)(2) and 2 (aiding and abetting money laundering). Effective June 8, 2009, we placed Burton on interim suspension. On August 27, 2010, the State Bar transmitted evidence that Burton's conviction was 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 Burton's conviction meets the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c). First, the offense is a felony. Second, the offense for which Burton was convicted involves moral turpitude.

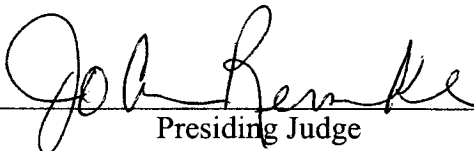


Title 18 United States Code section 1956(a)(2) is a divisible statute that defines three separate offenses. “When a statute is divisible into several crimes, some of which may involve moral turpitude and some not, it is appropriate to examine the ‘record of conviction’ to determine which part applies to the defendant. [Citation.]” (*Carty v. Ashcroft* (9th Cir. 2005) 395 F.3d 1081, 1084.) Examination of the record of conviction for this purpose may include consideration of the “ ‘charging document, written plea agreement, transcript of plea colloquy, and any explicit factual finding by the trial judge to which the defendant assented.’ ” (*Omari v. Gonzales* (5th Cir. 2005) 419 F.3d 303, 308, citing *Shepard v. United States* (2005) 544 U.S. 13, 125 S.Ct. 1254, 1257.)

Based on the plea agreement, Burton pled guilty to aiding and abetting a violation of title 18 United States Code section 1956(a)(2)(B)(i). One who aids and abets a crime, acts with the specific intent required for commission of that particular crime. (*United States v. Andreen* (9th Cir. 1980) 628 F.2d 1236, 1245.) In order to convict under title 18 United States Code section 1956(a)(2)(B)(i), “the Government was required . . . to prove that [defendant] (1) attempted to transport funds . . . (2) knew that these funds ‘represent[ed] the proceeds of some form of unlawful activity,’ . . . and (3) knew that ‘such transportation’ was designed to ‘conceal or disguise the nature, the location, the source, the ownership, or the control’ of the funds.” (*Cuellar v. U.S.* (2008) 553 U.S. 550 [128 S.Ct. 1994, 2002].) “[A]n act by an attorney for the purpose of concealment or other deception is dishonest and involves moral turpitude . . .” (*Coppock v. State Bar* (1988) 44 Cal.3d 665, 679.)

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 Thomas Whittier Burton, State Bar number 55508, be disbarred from the practice of law in this state. We also recommend that Burton 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. 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 September 21, 2010, I deposited a true copy of the following document(s):

**RECOMMENDATION OF SUMMARY
DISBARMENT FILED SEPTEMBER 21, 2010**

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

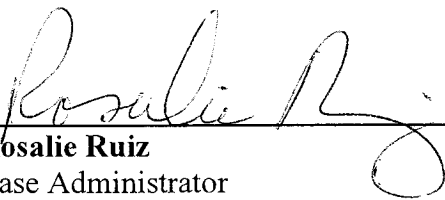
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**THOMAS W. BURTON
4400 MACARTHUR BLVD #780
NEWPORT BEACH, CA 92660**

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

KRISTIN L. RITSEMA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 21, 2010.



Rosalie Ruiz
Case Administrator
State Bar Court