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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 08-C-10968
)	
RICHARD GARDNER ENGEL,)	RECOMMENDATION OF
)	SUMMARY DISBARMENT
A Member of the State Bar, No. 117405.)	
_____)	

On October 29, 2015, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed a Motion for Summary Disbarment based on Richard Gardner Engel’s felony convictions. Engel did not respond. We grant the motion and recommend that Engel be summarily disbarred.

In December 2011, Engel plead guilty to violating Revenue and Taxation Code sections 19705, subdivision (a)(1) (filing false tax return), three counts, and 19706 (failure to file tax return), five counts. Effective June 29, 2012, Engel was placed on interim suspension from the practice of law. With its motion for summary disbarment, OCTC submitted evidence that the conviction had become 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 both criteria for summary disbarment.

First, Engel was charged with and convicted of a felony. (Bus. & Prof. Code, § 6102, subd. (b); Rev. & Tax. Code § 19705, subd. (a)(1).) Second, filing a false tax return necessarily involves moral turpitude. Filing a false tax return requires “the prosecution to prove the defendant made the perjurious statement in voluntary, intentional violation of a known legal duty.” (*People v. Hagen* (1998) 19 Cal.4th 652, 666.) Filing a false tax return pursuant to section 19705, subdivision (a) “is closely related to the crime of perjury.” (*Id.* at p. 668 [both statements require “a statement made under penalty of perjury, materiality, willfulness, and knowledge of falsity (perjury) or lack of belief in the truth of the matter asserted (filing a false tax return)”].) Thus, filing a false tax return is a crime of moral turpitude because it involves perjury. (See *In re Kristovich* (1976) 18 Cal.3d 468, 472 [perjury is a crime involving moral turpitude].) Therefore, because Engel’s conviction for filing a false tax return meets the criteria for summary disbarment, we need only rely on this conviction in making a summary disbarment recommendation.*

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 Richard Gardner Engel, State Bar number 117405, be disbarred from the practice of law in this state. We also recommend that he be ordered to comply with California Rules of Court, rule 9.20 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

* Since we do not rely on Engel’s conviction for violating Revenue and Taxation Code section 19706, we make no determination as to its moral turpitude classification.

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.

PURCELL

Presiding Judge

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 December 7, 2015, I deposited a true copy of the following document(s):

**RECOMMENDATION OF SUMMARY DISBARMENT
FILED DECEMBER 7, 2015**

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

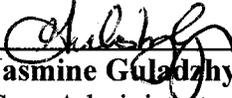
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**RICHARD G. ENGEL
PMSI
2900 BRISTOL ST STE H202
COSTA MESA, CA 92626**

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

CHARLES A. MURRAY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 7, 2015.



Jasmine Guladzhyan
Case Administrator
State Bar Court