

REVIEW DEPARTMENT OF THE STATE BAR COURT
IN BANK

In the Matter of) Case No.: 08-C-13707
)
TOM GEORGE KONTOS)
Member No. 44539) **RECOMMENDATION OF SUMMARY**
) **DISBARMENT**
A Member of the State Bar.)
_____)

On September 29, 2010, the State Bar filed a request for recommendation of summary disbarment based on Tom George Kontos's felony conviction. Kontos did not file a response. We grant the request and recommend that Kontos be summarily disbarred.

On July 17, 2008, Kontos pled guilty to a felony violation of title 18 United States Code section 371 (conspiracy to obstruct justice in violation of 18 U.S.C. § 1503). Effective January 26, 2009, we placed Kontos on interim suspension. On September 29, 2010, the State Bar transmitted evidence that Kontos's conviction was final.

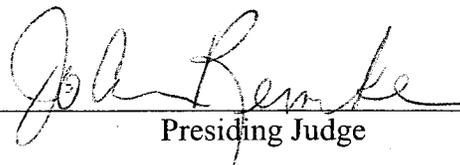
After the judgment of conviction becomes final, "the Supreme Court shall summarily disbar the attorney if the offense is a felony . . . and an element of the offense is the specific intent to deceive, defraud, steal, or make or suborn a false statement, or involved moral turpitude." (Bus. & Prof. Code, § 6102, subd. (c).)

The record of conviction establishes that Kontos's criminal violation meets the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c). First, the offense is a felony. Second, Kontos's offense involves moral turpitude.

The moral turpitude classification of the crime of conspiracy depends upon the object of the conspiracy. (*In re McAllister* (1939) 14 Cal.2d 602, 603 [if the commission of an offense involves moral turpitude, then a conspiracy to commit the offense would also involve moral turpitude].) Obstruction of justice was the object of Kontos's conspiracy conviction. An essential element of this violation requires that Kontos "corruptly . . . influences, obstructs, or impedes, or endeavors to influence, obstruct or impede, the due administration of justice" (18 U.S.C. § 1503(a).) "[T]he offense of conspiring to corruptly influence, obstruct, impede, hinder and embarrass the due administration of justice . . . falls easily within the definition of 'moral turpitude'." (*In re Craig* (1938) 12 Cal.2d 93, 97.)

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 Tom George Kontos, State Bar number 44539, be disbarred from the practice of law in this state. We also recommend that Kontos 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 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 October 29, 2010, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED OCTOBER 29, 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:

DAVID ALAN CLARE
DAVID A CLARE, ATTORNEY AT LAW
444 W OCEAN BLVD STE 800
LONG BEACH, CA 90802

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:

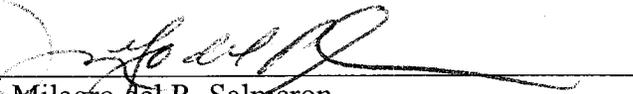
by fax transmission, at fax number . No error was reported by the fax machine that I used.

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:

Lee A. Kern, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 29, 2010.


Milagro del R. Salmeron
Case Administrator
State Bar Court