

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
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 ORIGINAL
FILED

DEC 30 2013 

IN THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA
STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

IN THE MATTER OF THE) Case No. 09-C-10146
CONVICTION OF:)
) Transmittal of Records of Conviction of Attorney (Bus. & Prof.
DONALD MARTIN WANLAND, JR.,) Code §§ 6101-6102; Cal. Rules of Court, rule 9.5 et seq.)
No. 122462)
) [X] Felony;
) [X] Crime(s) involved moral turpitude;
A Member of the State Bar) [] Probable cause to believe the crime(s) involved moral
) turpitude;
) [] Crime(s) which may or may not involve moral turpitude or
) other misconduct warranting discipline;
) [] Transmittal of Notice of Finality of Conviction.

To the CLERK OF THE STATE BAR COURT:

1. Transmittal of records.

- [X] A. Pursuant to the provisions of Business and Professions Code, section 6101-6102 and California Rules of Court, rule 9.5 et seq., the Office of the Chief Trial Counsel transmits a certified copy of the record of convictions of the following member of the State Bar and for such consideration and action as the Court deems appropriate:
- [] B. Notice of Appeal
[] C. Evidence of Finality of Conviction (Notice of Lack of Appeal)
[] D. Other

Name of Member: Donald Martin Wanland, Jr.

Date member admitted to practice law in California: February 18, 1986

Member's Address of Record: Donald Martin Wanland, Jr.

705 University Avenue

Sacramento, CA 95825

2. Date and court of conviction; offense(s).

The record of conviction reflects that the above-named member of the State Bar was convicted as follows:

Date of entry of conviction: September 26, 2013

Convicting court: USDC, Eastern District Of California

Case number(s): 2:09-cr-008



Crime(s) of which convicted and classification(s):

1. 26 U.S.C. section 7201 (Attempted Evasion Of Payment Of Tax), one count, a felony that probably involves moral turpitude. (See *Kawashima v. Holder* (2012) -- U.S. --132 S.Ct. 1166, 1174-1175 (elements of tax evasion under section 7201 do not necessarily involve fraud or deceit).)

2. 26 U.S.C. section 7206(4) (removal/deposit/concealment of funds with intent to evade tax collection), 24 counts, felonies. The State Bar contends that 26 U.S.C. § 7206(4) involves moral turpitude per se. The statute is titled "Fraud and false statements." Subsection (4) is titled "Removal or concealment with intent to defraud." This indicates that Congress was attempting to criminalize a form of conduct it deemed to be fraud. (See: *Los Angeles City School Dist. of Los Angeles County v. Odell* (1927) 200 Cal. 637, 641 ["The authorities are numerous to the effect that the title of an act may be relied on in ascertaining the intention of the Legislature, where the act itself is ambiguous; but the title 'cannot be used for the purpose of restraining or controlling any positive provision of the act. (citations omitted)].)

The crime requires the specific intent to evade or defeat the assessment or collection of taxes. This type of crime necessarily involves moral turpitude (see *In the Matter of Moriarty* (1990) 1 Cal. State Bar Ct. Rptr. 245 (false income tax return under 26 U.S.C. § 7206(1) involves moral turpitude per se)). In *In re Higbie* (1972) 6 Cal.3d 562, 572, the Court stated:

"The purposeful evasion of federal laws that require the reporting and taxation of imported marijuana constitutes a fraud upon the government, an act of dishonesty no more tolerable than fraud upon an individual. "Although the problem of defining moral turpitude is not without difficulty [citations], it is settled that whatever else it may mean, it includes fraud..." (*In re Hallinan, supra*, 43 Cal.2d at p. 247.)"

3. 26 U.S.C. section 7203 (Willful Failure To File Income Tax Return), 3 counts, felonies that may or may not involve moral turpitude (*In re Rohan* (1978) 21 Cal.3d 195).

[x] 3. Compliance with Rule 9.20. (Applicable only if checked.)

We bring to the Court's attention that, should the Court enter an order of interim suspension herein, the Court may wish to require the above-named member to comply with the provisions of rule 9.20, California Rules of Court, paragraph (a), within 30 days of the effective date of any such order; and to file the affidavit with the Clerk of the State Bar Court provided for in paragraph (c) of rule 9.20 within 40 days of the effective date of said order, showing the member's compliance with the provisions of rule 9.20.

[x] 4. Other information to assist the State Bar Court

The State Bar will provide a certified version of the indictment and order upon receipt.

DOCUMENTS TRANSMITTED:

Verdict Form filed 9/26/13 (Certified)
Indictment filed 1/26/2012 (uncertified)
Order dated May 6, 2013 (uncertified)

THE STATE BAR OF CALIFORNIA

DATED: December 30, 2013

OFFICE OF THE CHIEF TRIAL COUNSEL

BY: 

Donald R. Steedman
Senior Supervising Trial Counsel

A copy of this transmittal and its
Attachments have been sent to:

Donald Martin Wanland, Jr.
705 University Avenue
Sacramento, CA 95825

DECLARATION OF SERVICE

by
U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **09-C-10146**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

TRANSMITTAL OF RECORDS OF CONVICTION OF ATTORNEY; VERDICT FORM FILED 9/26/13 (CERTIFIED); INDICTMENT FILED 1/26/2012 (UNCERTIFIED); ORDER DATED MAY 6, 2013 (UNCERTIFIED)

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))**
- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco.
- By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**
- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco.
- By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**
- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").
- By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**
Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.
- By Electronic Service: (CCP § 1010.6)**
Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at San Francisco, addressed to: (see below)

(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,
Article No.: 7196 9008 9111 2123 5397 at San Francisco, addressed to: (see below)

(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,
Tracking No.: _____ addressed to: (see below)

Person Served via Certified Mail	Business-Residential Address	Fax Number	Courtesy Copy via Regular Mail to:
Donald Martin Wanland, Jr.	705 University Avenue Sacramento, CA 95825		n/a
		Electronic Address	

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

n/a

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: December 30, 2013

SIGNED:


Dawn Williams
Declarant