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STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 09-C-10589
)	
MICHAEL STEPHEN KEREKES,)	RECOMMENDATION OF SUMMARY
)	DISBARMENT
A Member of the State Bar, No. 130267.)	
_____)	

On April 25, 2012, the State Bar filed a request for recommendation of summary disbarment based on Michael Stephen Kerekes's felony conviction. Kerekes did not file a response. Based on the criminal record in this case, we grant the State Bar's request and recommend that Kerekes be summarily disbarred.

On February 13, 2009, Kerekes pled guilty to violating title 18 United States Code section 371 (conspiracy to defraud the United States) by: (1) attempting to evade income taxes (26 U.S.C. § 7201); (2) making and subscribing a false income tax return (26 U.S.C. § 7206(1)); (3) aiding and assisting the preparation of false tax returns (26 U.S.C. § 7206(2)); and (4) corruptly endeavoring to obstruct the due administration of internal revenue laws (26 U.S.C. 7212(a)).¹ As a result of the conviction, we issued an order placing Kerekes on interim

¹ Kerekes also pled guilty to tax evasion, in violation of title 26 United States Code section 7201. The only conviction we are relying upon in making our recommendation of summary disbarment is the conspiracy to defraud the United States by making and subscribing a false income tax return and by corruptly endeavoring to obstruct the due administration of internal revenue laws.

suspension, effective July 17, 2009. On April 25, 2012, the State Bar transmitted evidence that Kerekes's conviction is 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 Kerekes's offense meets the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c).

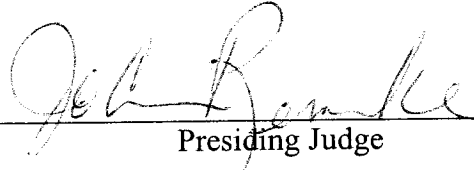
First, Kerekes's conspiracy offense is a felony. (18 U.S.C. § 3559(a).) Second, the offense inherently involves moral turpitude. The moral turpitude classification of the crime of conspiracy depends upon the object of the conspiracy. (*In re McAllister* (1939) 14 Cal.2d 602, 603 [if commission of offense involves moral turpitude, then conspiracy to commit offense would also involve moral turpitude].) One object of Kerekes's conspiracy included filing a false tax return (26 U.S.C. § 7206(1)), which requires the government to prove that a defendant specifically intended the return to be false. (*U.S. v. Friedland* (D.N.J. 1980) 502 F.Supp. 611, 619.) Intentionally making such false statements necessarily involves moral turpitude. (*Chefsky v. State Bar* (1984) 36 Cal.3d 116, 124.)

A second object of Kerekes's conspiracy was corruptly endeavoring to obstruct and impede the due administration of the federal income tax laws. (26 U.S.C. § 7212(a).) This statute requires proof of the following elements: "(1) corruption, force, or threat of force, and (2) an attempt to obstruct the administration of the [Internal Revenue Service]." (*United States v. Hanson* (9th Cir. 1993) 2 F.3d 942, 946.) "Corruption" under this statute requires an act to be "performed with the intention to secure an unlawful benefit for oneself or for another . . . [and m]ere evidence of an improper motive or bad or evil purpose is insufficient to prove corruption."

(*Id.* at pp. 946-947.) This conduct amounts to the obstruction of justice. (*United States v. Van Krieken* (9th Cir. 1994) 39 F.3d 227, 231.) Crimes involving the obstruction of justice involve moral turpitude per se. (*In re Craig* (1938) 12 Cal.2d 93, 97 [“conspiring to corruptly influence, obstruct, impede, hinder and embarrass the due administration of justice . . . falls easily within the definition of ‘moral turpitude.’”].)

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 Michael Stephen Kerekes, State Bar number 130267, 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 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

[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 June 4, 2012, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED JUNE 4, 2012

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

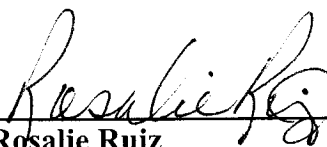
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL S. KEREEKES
1220 SUNSET AVE
SANTA MONICA, CA 90405

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

BROOKE A. SCHAFER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 4, 2012.



Rosalie Ruiz
Case Administrator
State Bar Court