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NOV 24 2010

STATE BAR COURT  
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**REVIEW DEPARTMENT OF THE STATE BAR COURT  
IN BANK**

In the Matter of	)	Case No.: <b>10-C-05016</b>
	)	
DONALD ALAN YATES	)	<b>RECOMMENDATION OF SUMMARY</b>
	)	<b>DISBARMENT</b>
Member No. 135775	)	
	)	
<u>A Member of the State Bar.</u>	)	

On October 20, 2010, the State Bar filed a request for recommendation of summary disbarment based on Donald Alan Yates's felony convictions. Yates did not file a response. We grant the request and recommend that Yates be summarily disbarred.

On October 29, 2009, Yates pled guilty to felony violations of title 18 United States Code section 157(3), 2 (aiding and abetting bankruptcy fraud), and title 26 United States Code section 7206(1) (filing false tax return). Effective August 13, 2010, we placed Yates on interim suspension. On October 20, 2010, the State Bar transmitted evidence that Yates'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 Yates's violations meet the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c), as both are felonies that inherently involve moral turpitude.



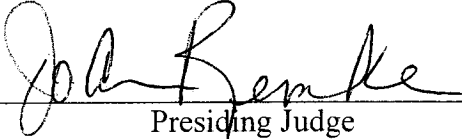
Bankruptcy fraud involves three elements: 1) the existence of a scheme to defraud or intent to later formulate a scheme to defraud, and 2) the making of a false or fraudulent representation, claim, or promise or the filing of a petition or document, 3) for the purpose of executing or concealing such a scheme. (*U.S. v. Wagner* (6<sup>th</sup> Cir. 2004) 382 F.3d 598, 612.) This offense requires evidence of the intent to defraud. (*Ibid.*) Crimes involving the intent to defraud involve moral turpitude per se. (*In re Kelley* (1990) 52 Cal.3d 487, 494.) And one who aids and abets a crime acts with the specific intent required for commission of that particular crime. (*U.S. v. Andreen* (9<sup>th</sup> Cir. 1980) 628 F.2d 1236, 1245.)

In addition, filing a false tax return under title 26 United States Code section 7206(1) involves moral turpitude because a conviction under this statute requires the government 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.)

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 Donald Alan Yates, State Bar number 135775, be disbarred from the practice of law in this state. We also recommend that Yates 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 November 24, 2010, I deposited a true copy of the following document(s):

**RECOMMENDATION OF SUMMARY DISBARMENT FILED NOVEMBER 24, 2010**

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:

**DONALD A. YATES**  
**LAW OFFICES OF DONALD A. YATES**  
**1850 5TH AVE**  
**SAN DIEGO, CA 92101**

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

**MURRAY B. GREENBERG, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 24, 2010.

  
\_\_\_\_\_  
**Rosalie Ruiz**  
Case Administrator  
State Bar Court