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AUG 30 2011

STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of)
)
FRANK JAMES INGRASSIA,)
)
A Member of the State Bar, No. 123918.)
_____)

Case No. 11-C-10895
ORDER

On June 22, 2011, we received evidence from the State Bar that respondent Frank James Ingrassia was convicted of violating Florida Statutes sections 831.01 (forgery), 831.02 (uttering forged instruments), and 843.0855 (simulating legal process). On July 14, 2011, we ordered the parties to file briefs within 14 days addressing: (1) whether the offenses involve moral turpitude per se and (2) whether the offenses should be deemed felonies under Business and Professions Code section 6102, subdivision (d). On July 28, 2011, the State Bar filed its responsive brief, arguing that the violations should be deemed to be felonies and involve moral turpitude per se for purposes of attorney discipline. Respondent did not file a brief.

The State Bar's brief provides a deficient legal analysis with scant legal authority. Considering the State Bar argues that respondent's violations subject him to summary disbarment upon finality of the convictions, the substandard brief is particularly troubling and unacceptable. Accordingly, we order the State Bar to provide further briefing as set forth below within 10 days of service of this order.



As for the felony issue, the State Bar argued only that the violations should be deemed felonies because they were entered as felonies in Florida. However, under Business and Professions Code section 6102, subdivision (d), “a conviction under the laws of another state or territory of the United States shall be deemed a felony if: [¶] (1) The judgment or conviction was entered as a felony irrespective of any subsequent order suspending sentence or granting probation and irrespective of whether the crime may be considered a misdemeanor as a result of postconviction proceedings. [¶] (2) The elements of the offense for which the member was convicted would constitute a felony under the laws of the State of California at the time the offense was committed.” Both prongs must be satisfied to deem an out-of-state conviction a felony for purposes of attorney discipline in California. The State Bar failed to address whether the elements of the Florida offenses would constitute felonies in California based on analogous California statutes.

As for the moral turpitude issue, other than for the forgery violation, the State Bar fails to cite to any authority to support its position that Florida Statutes sections 831.02 (uttering forged instruments), and 843.0855 (simulating legal process) involve moral turpitude per se. However, we do agree that a violation of Florida Statutes section 831.01 (forgery) is a crime that inherently involves moral turpitude, requiring respondent’s interim suspension.

It is hereby ordered that the parties provide supplemental briefing within 10 days of service of this order to address:

1. Whether the Florida offenses would constitute felonies in California based on analogous California statutes, identifying the relevant California statutes and whether they are felonies.

2. To the extent any California statute identified above is a wobbler (i.e., subject to punishment as either a felony or a misdemeanor), whether the requirement set forth in Business and Professions Code section 6102, subdivision (d)(2), is satisfied.
3. Whether there is any legal authority to support the position that Florida Statutes sections 831.02 (uttering forged instruments), and 843.0855 (simulating legal process) involve moral turpitude per se.

It is further ordered that since respondent Frank James Ingrassia, State Bar Number 123918, has been convicted of violating Florida Statutes sections 831.01 (forgery), a crime involving moral turpitude, that he be suspended from the practice of law effective September 15, 2011, pending final disposition of this proceeding. (Bus. & Prof. Code, § 6102; Cal. Rules of Court, rule 9.10(a).) It is also ordered that respondent comply with rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this suspension.

REMKE

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 August 30, 2011, I deposited a true copy of the following document(s):

ORDER FILED AUGUST 30, 2011

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:

FRANK J. INGRASSIA
POWERS MCNALIS & TORRES
1601 BELVEDERE RD
PO BOX 21289
WEST PALM BEACH, FL 33416 - 1289
- 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:

Murray B. Greenberg, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 30, 2011.


Milagro del R. Salmieron
Case Administrator
State Bar Court