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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. 11-C-10895
)	
FRANK JAMES INGRASSIA,)	RECOMMENDATION OF SUMMARY
)	DISBARMENT
A Member of the State Bar, No. 123918.)	
_____)	

On July 27, 2012, the State Bar filed a request for recommendation of summary disbarment based on Frank James Ingrassia's violations under Florida Statutes sections 831.01 (forgery) and 831.02 (uttering forged instruments).¹ Ingrassia did not file a response. Based on the criminal record in this case, we grant the State Bar's request and recommend that Ingrassia be summarily disbarred.

On December 21, 2010, Ingrassia pled guilty to forgery and uttering forged instruments in violation of Florida Statutes sections 831.01 and 831.02.² As a result of the conviction, we issued an order placing Ingrassia on interim suspension effective September 15, 2011. On

¹ Ingrassia also pled guilty to violating Florida Statutes section 843.0855 (simulating legal process). However, in recommending that Ingrassia be summarily disbarred, we rely only on his forgery and uttering violations.

² Florida Statutes section 831.01 states that: "Whoever falsely makes, alters, forges or counterfeits a public record, or a certificate, return or attestation of any clerk or register of a court . . . with intent to injure or defraud any person, shall be guilty of a felony of the third degree"

Florida Statutes section 831.02 states that: "Whoever utters and publishes as true a false, forged or altered record, deed, instrument or other writing mentioned in s. 831.01 knowing the same to be false, altered, forged or counterfeited, with intent to injure or defraud any person, shall be guilty of a felony of the third degree"

July 27, 2012, the State Bar transmitted evidence that Ingrassia's conviction is final, and requested that he be summarily disbarred.

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 Ingrassia's offenses meet the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c).

First, Ingrassia's out-of-state offenses are deemed felonies for disciplinary purposes. (Bus. & Prof. Code, § 6102, subd. (d)(1) & (2) [out-of-state conviction deemed felony if entered as felony, and elements of offense constitute felony under California law].) Ingrassia's offenses were charged and entered as felonies in Florida. Furthermore, the elements of his Florida offenses would constitute felonies under California law. In particular, the Florida offenses are most analogous to California Penal Code section 470, subdivision (c) (forgery), and subdivision (d) (uttering/forgery), which are punishable in a court's discretion as either felonies or misdemeanors.³ For disciplinary purposes, however, if a California crime is charged as a felony and the conviction is entered as a felony, it constitutes a felony irrespective of the punishment imposed. (Bus. & Prof. Code, § 6102, subd. (b); *In the Matter of Jackson* (Review Dept. 2003) 4

³ California Penal Code section 470, subdivision (c) (forgery) states that: "Every person who, with the intent to defraud, alters, corrupts, or falsifies any record of any will, codicil, conveyance or other instrument, the record of which is by law evidence, or any record of any judgment of a court or the return of any officer to any process of any court, is guilty of forgery."

California Penal Code section 470, subdivision (d) (uttering/forgery) states that: "Every person who, with the intent to defraud, falsely makes, alters, forges, or counterfeits, utters, publishes, passes or attempts or offers to pass, as true and genuine, any of the following items, knowing the same to be false, altered, forged or counterfeited, is guilty of forgery: any check, bond, bank bill, or note . . ."

"Forgery is punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year." (Former Pen. Code, § 473, [2010 language].)

Cal. State Bar Ct. Rptr. 610, 613.) In this case, Ingrassia was charged with and convicted of third-degree felonies in Florida, subject to a prison term not to exceed five years. (Fla. Statutes, § 775.082(3)(d); see also *Brown v. State of Florida* (Fla. 1970) 232 So.2d 55, 57 [crime remains felony when punishable by imprisonment in state prison even though alternative sentence authorized].) Under the circumstances, we find that the elements of Ingrassia's Florida offenses constitute felonies under California Penal Code section 470, subdivisions (c) and (d), for disciplinary purposes. (Cf. *Ex parte Wolfson* (1947) 30 Cal.2d 20, 32-33 [out-of-state offense constitutes felony for habitual offender determination where equivalent offense is punishable in California as felony or misdemeanor if punishment prescribed by law of other jurisdiction consisted of death or imprisonment in state prison].)

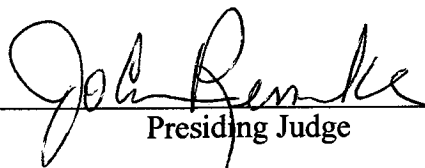
Second, an essential element of Ingrassia's offenses is the intent to injure or defraud. (*Rushing v. Florida* (Fla. 1996) 684 So.2d 856, 857 [violation of forgery statute requires intent to injure or defraud]; *Linn v. Florida* (Fla. 2006) 921 So.2d 830, 833 [violation of Florida uttering statute requires intent to injure or defraud].) Intent to injure under Florida's forgery and uttering statutes involves intent to prejudice someone by deception.⁴ Such deception necessarily involves moral turpitude. (*Cutler v. State Bar* (1969) 71 Cal.2d 241, 253 [attorney's practice of deceit involves moral turpitude; accord *Coppock v. State Bar* (1988) 44 Cal.3d 665, 679 [act by

⁴ Deceit is necessarily involved when a defendant violates either statute with intent to injure. (See *Green v. Florida* (Fla. 1954) 76 So.2d 645 [endorsement of check with fictitious name evidences intent to injure within meaning of forgery statute because use of false name would make defendant's arrest more difficult and thus injure those seeking to make him pay restitution after discovery of his deceit]; *Davis v. State* (Fla. 1959) 111 So.2d 459 [defendant's execution of appearance bond in name of brother-in-law evidenced intent to injure bonding company in violation of forgery statute because bonding company was liable for defendant's non-appearance and had no legal recourse against brother-in-law due to defendant's deceit]; *Parker v. Florida* (Fla. 1995) 658 So.2d 1105 [where attorney had no intent to defraud client, he nevertheless intended to injure his client within meaning of uttering statute because his forgery of court orders was meant to deceive client into believing case was still pending so that client would not sue attorney for malpractice].)

attorney for purpose of concealment or other deception is dishonest and involves moral turpitude].) Furthermore, violations of Florida's forgery and uttering statutes with intent to defraud necessarily involve moral turpitude. (*In re Kelley* (1990) 52 Cal.3d 487, 494 [crimes involving intent to defraud involve moral turpitude per se].)

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 Frank James Ingrassia, State Bar number 123918, be disbarred from the practice of law in this state. We also recommend that Ingrassia 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 September 6, 2012, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED SEPTEMBER 6, 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:

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

- ☒ 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 September 6, 2012.



Milagro del R. Salmeron
Case Administrator
State Bar Court