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MAY 20 2013 JZ

STATE BAR COURT OF CALIFORNIA

**STATE BAR COURT
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REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 11-C-14148
)	
MARTA KEMPTON,)	RECOMMENDATION ON
)	SUMMARY DISBARMENT
A Member of the State Bar, No. 129035.)	
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On April 9, 2013, the State Bar filed a request for recommendation of summary disbarment based on Marta Kempton's felony conviction. Kempton filed no response to the State Bar's motion. We grant the request and recommend Kempton be summarily disbarred.

On November 2, 2012, Kempton was convicted following her no contest plea to one felony count of violating Penal Code section 550, subdivision (b)(1) (insurance fraud). Effective January 4, 2013, we placed Kempton on interim suspension. On April 9, 2013, the State Bar transmitted evidence that Kempton's conviction is final.

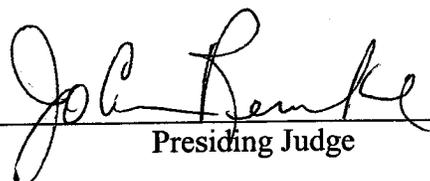
After the judgment of conviction becomes final, "the Supreme Court shall summarily disbar the attorney if the offense is a felony . . . and an element of the offense is the specific intent to deceive, defraud, steal, or make or suborn a false statement, or involved moral turpitude." (Bus. & Prof. Code, § 6102, subd. (c).) The record of conviction establishes that Kempton's conviction meets the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c).

First, the offense is a felony. (Pen. Code, § 17, subd. (a); Bus. & Prof. Code, § 6102, subd. (c).) Second, the offense necessarily involves moral turpitude. Penal Code section 550,

subdivision (b)(1), makes it a crime to “[p]resent or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.” The purpose of section 550 “and the evil which it seeks to remedy . . . [is] to criminalize and punish the making of false or fraudulent claims to obtain benefits.” (*People v. Blick* (2007) 153 Cal.App.4th 759, 774.) A requisite element of the “fraud offenses described in section 550 is an ‘intention to defraud.’” (*Id.* at p. 772.) Crimes that include the intent to defraud necessarily involve moral turpitude and satisfy the second element of the summary disbarment statute. (See *In re Fahey* (1973) 8 Cal.3d 842, 849 [crime involving “an intent to defraud or intentional dishonesty for the purpose of personal gain” establishes 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 Marta Kempton, State Bar number 129035, be disbarred from the practice of law in this state. We also recommend that she be ordered to comply with California Rules of Court, rule 9.20 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

[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 May 20, 2013, I deposited a true copy of the following document(s):

**RECOMMENDATION ON SUMMARY DISBARMENT
FILED MAY 20, 2013**

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:

**MARTA KEMPTON
LAW OFC MARTA KEMPTON
120 VILLAGE SQ STE 30
ORINDA, CA 94563**

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

DONALD R. STEEDMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 20, 2013.



Jasmine Guladzhyan
Case Administrator
State Bar Court