

**FILED**

*MDS*

**JAN 26 2012**

**STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES**

**STATE BAR COURT OF CALIFORNIA**

**REVIEW DEPARTMENT**

**IN BANK**

In the Matter of

CLIFFORD KEN MAU,

A Member of the State Bar, No. 164305.

Case No. 11-C-16695

ORDER

In 2005, respondent Clifford Mau pled guilty to six felony violations of Hawaii Revised Statutes (H.R.S.) sections 708-831(1)(b) (theft in the second degree), 708-811 (burglary in the second degree), 708-8102 (credit card theft [three counts]) and 708-839.8 (identity theft in the third degree).<sup>1</sup> He also pled guilty to misdemeanor violations of H.R.S. section 708-833 (theft in the fourth degree [two counts]). On October 5, 2011, the State Bar filed a motion for summary disbarment, arguing that Mau's identity theft conviction is a felony involving moral turpitude for purposes of discipline in California.<sup>2</sup> (Bus. & Prof. Code, § 6102, subds. (c) & (d).) On October 21, 2011, Mau filed his opposition. For purposes of summary disbarment, the State Bar argues that Mau was convicted of identity theft in the *second* degree pursuant to H.R.S. section 708-839.7, while Mau asserts he was convicted of identity theft in the *third* degree pursuant to H.R.S. section 708-839.8, which does not constitute a felony under California law.

<sup>1</sup> In Hawaii, a crime is a felony if it is so designated in the Penal Code or if the person convicted may be sentenced to imprisonment for a term greater than one year. (H.R.S. § 701-107(2).)

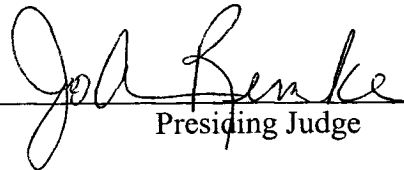
<sup>2</sup> The State Bar contends that Mau's other crimes would not necessarily constitute felonies if committed in California. We agree.



The record of conviction establishes that Mau was convicted of identity theft in the third degree under H.R.S. section 708-839.8. We classify this as a crime that inherently involves moral turpitude. (H.R.S. § 708-839.8 [third-degree identity theft requires intent to commit theft in third or fourth degree]; H.R.S. § 708-833 [fourth-degree theft requires theft of property or services not in excess of \$100]; *In re Honoroff* (1975) 15 Cal.3d 755, 758 [petty theft involves moral turpitude].) We also find that the elements of the identity theft statute in Hawaii are most closely analogous to California Penal Code section 484g. (*People v. Love* (2008) 166 Cal.App.4<sup>th</sup> 1292, 1300 [if value of goods obtained in violation of Penal Code § 484g does not exceed \$400 in any consecutive six-month period, crime amounts to petty theft, a misdemeanor].) Thus, the elements of Mau's third-degree identity theft violation in Hawaii would not necessarily constitute a felony under California law at the time it was committed and cannot be deemed a felony for purposes of summary disbarment. (Bus. & Prof. Code, § 6102, subd. (d).)

Because the criteria for summary disbarment are not satisfied, we deny the State Bar's motion.

As a result of his conviction of a crime that involves moral turpitude, it is ordered that Mau be suspended from the practice of law effective February 13, 2012, pending final disposition of this proceeding. (Bus. & Prof. Code, § 6102, subd. (a).) It is also ordered that he 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. Finally, as the judgment of conviction is final, this case is referred to the hearing department for a hearing and recommendation as to the discipline to be imposed.

  
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 January 26, 2012, I deposited a true copy of the following document(s):

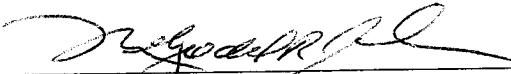
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in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:
- CLIFFORD K. MAU  
PO BOX 240651  
HONOLULU, HI 96824
- ☐ 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:

Donald Robert Steedman, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 26, 2012.

  
Milagro del R. Salmeron  
Case Administrator  
State Bar Court