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OCT 16 2013

STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 12-C-14334
)	
KENNETH GORDON REIDENBACH II,)	RECOMMENDATION OF SUMMARY
)	DISBARMENT
A Member of the State Bar, No. 159887.)	
_____)	

On September 4, 2013, the State Bar's Office of the Chief Trial Counsel (State Bar) filed a request that Kenneth Gordon Reidenbach II be summarily disbarred on account of his criminal convictions. The State Bar asserts Reidenbach's convictions are felonies which involve moral turpitude per se and concurrently filed evidence that his convictions are final. Reidenbach did not file a response.¹ Based on the criminal record in this case, we grant the request and recommend Reidenbach be summarily disbarred.

I. PROCEDURAL HISTORY

On December 1, 2011, a jury in the United States District Court for the Eastern District of Pennsylvania found Reidenbach guilty of violating 18 United States Code sections 371 (conspiracy to conceal property and commit bankruptcy fraud), 152(1), 2 (aiding and abetting the concealment of property in bankruptcy - two counts), 152(7), 2 (aiding and abetting agent concealing property in bankruptcy - two counts), 153, 2 (aiding and abetting embezzlement

¹ The State Bar served Reidenbach at his membership records' address on September 4, 2013 via certified mail, return receipt requested. The period has run on Reidenbach's time to respond and no response has been filed. Reidenbach is incarcerated, and, though not required, the State Bar also provided supplemental service to his prison address on October 2, 2013. (*Middleton v. State Bar* (1990) 51 Cal.3d 548, 558-559 [proper service is effectuated at the time the document is sent to the attorney's address of record with the State Bar].)

against bankruptcy estate - 2 counts), 157 (bankruptcy fraud), and 152(3) (making a false statement, certificate or verification in bankruptcy). Effective September 24, 2012, we placed Reidenbach on interim suspension as a result of the convictions.

On November 2, 2012, judgment was entered, and on November 13, 2012, Reidenbach appealed. On February 6, 2013, the Third Circuit Court of Appeals entered an order granting Reidenbach's motion to voluntarily dismiss his appeal. (Fed. Rules App.Proc., rule 42(b) [voluntary dismissal].) His conviction is therefore final. (*U.S. v. Arevalo* (9th Cir. 2005) 408 F.3d 1233, 1236 [when appeal is voluntarily dismissed, further direct review is no longer possible, and criminal conviction is final]; accord *U.S. v. Sylvester* (3rd Cir. Dec. 14, 2007, No. 06-2660) 2007 WL 4395652.)

II. REIDENBACH'S CONVICTION QUALIFIES FOR SUMMARY DISBARMENT

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).) Here, the record of conviction establishes that the criteria for summary disbarment have been met.

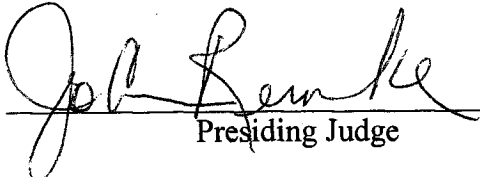
First, each of Reidenbach's crimes is punishable by more than a year in prison and is therefore a felony. (18 U.S.C. § 3559(a).) Second, the record establishes that Reidenbach was found guilty of nine counts of federal crimes involving fraud for the actions he took as a bankruptcy attorney. (See *U.S. v. Caldwell* (9th Cir. 1993) 989 F.2d 1056, 1058 [conviction under 18 U.S.C. § 371 requires showing that defendant entered into an agreement to obstruct government by deceitful or dishonest means]; *U.S. v. Mathies* (7th Cir. 1969) 350 F. 2d 963, 967; *Burke v. Dowling* (E.D.N.Y 1995) 944 F. Supp. 1036, 1065 [essential element of 8 U.S.C. § 152 is that act(s) be committed with intent to defraud]; *U.S. v. Lynch* (7th Cir. 1950) 180 F.2d 696,

700 [essential element of 18 U.S.C. § 153 is that acts be done knowingly and fraudulently]; *U.S. v. Milwitt* (9th Cir. 2007) 475 F.3d 1150, 1156 [conviction under 18 U.S.C. § 157 requires a specific intent to defraud]; *see also In re Utz* (1989) 48 Cal.3d 468, 475 [when attorney is convicted of aiding and abetting under federal law, classification depends on the underlying offense]; *U.S. v. Licciardi* (9th Cir. 1994) 30 F.3d 1127, 1131 [one who is guilty of conspiracy to violate a federal statute must have the degree of criminal intent necessary for the underlying substantive offense.] Thus, these crimes involve moral turpitude per se. (*In re Schwartz* (1982) 31 Cal.3d 395, 400 [fraud is a principal element of moral turpitude].)

Reidenbach's convictions satisfy the requirements for summary disbarment because they are felonies inherently involving moral turpitude. 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.)

III. RECOMMENDATION

We therefore recommend that Kenneth Gordon Reidenbach II, State Bar number 159887, be disbarred from the practice of law in this state. We also recommend that Reidenbach 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 order in this case. Finally, we recommend that costs be awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and be enforceable 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 October 16, 2013, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED OCTOBER 16, 2013

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

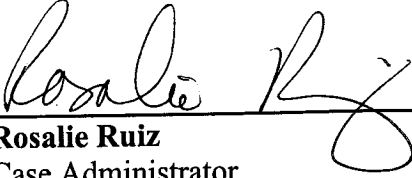
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KENNETH G. REIDENBACH II
36 E KING ST
LANCASTER, PA 17602

- [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 October 16, 2013.



Rosalie Ruiz
Case Administrator
State Bar Court