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STATE BAR COURT

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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

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In the Matter of SPENCER FREEMAN SMITH,

A Member of the State Bar, No. 236587.

Case No. 12-C-14836

ORDER

On December 8, 2015, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed a Second Supplemental Transmittal of Records of Conviction of respondent Spencer Freeman Smith's violations of Vehicle Code section 20001, subdivision (a) (leaving scene of accident resulting in injury or death) and Penal Code section 192, subdivision (c)(2) (vehicular manslaughter). OCTC stated that respondent's violation of Vehicle Code section 20001, subdivision (a) is a felony violation. However, the Second Supplemental Transmittal indicated that the felony charge was reduced to a misdemeanor under Penal Code section 17, subdivision (b). On December 23, 2015, we ordered OCTC to provide clarification on whether respondent was convicted of a misdemeanor or felony violation of the statute.

On January 4, 2016, OCTC filed a response stating that for the purposes of attorney discipline, respondent's violation of Vehicle Code section 20001, subdivision (a) is a felony violation because the charge was reduced to "a misdemeanor as a result of postconviction proceedings." (Bus. & Prof. Code, § 6102, subd. (b).) We agree based on the following. On September 11, 2015, respondent pled no contest to a felony violation of Vehicle Code section 20001, subdivision (a). On September 25, 2015, his motion to reduce his conviction to a



misdemeanor under Penal Code section 17, subdivision (b) was denied, and he was sentenced. On October 9, 2015, his motion to reduce his conviction from a felony to a misdemeanor was granted under Penal Code section 17, subdivision (b).

1. T. K.

Since respondent has been convicted of violating Vehicle Code section 20001, subdivision (a) (leaving scene of accident resulting in injury or death), a felony that may or may not involve moral turpitude;¹ and Penal Code section 192, subdivision (c)(2) (vehicular manslaughter), a misdemeanor that may or may not involve moral turpitude, it is ordered pursuant to Business and Professions Code section 6102 that respondent be suspended from the practice of law effective February 22, 2016, pending final disposition of this proceeding. (Cal. Rules of Court, rule 9.10(a).) It is further ordered that respondent comply with California Rules of Court, rule 9.20, 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.

PURCELL

Presiding Judge

¹ The Office of the Chief Trial Counsel of the State Bar (OCTC) proposes a per se moral turpitude classification for Respondent's violation of Vehicle Code section 20001, subdivision (a). We decline to change the classification of Vehicle Code section 20001, subdivision (a), which has been consistently classified has an offense that "may or may not" involve moral turpitude. (See *In the Matter of Dana H. Anderson*, State Bar Court, case no. 03-C-03843; *In the Matter of Richard DiStefano*, State Bar Court, case no. 03-C-02338.) The cases cited by OCTC, *People v. Bautista* (1990) 217 Cal.App.3d 1, and *People v. Dewey* (1996) 42 Cal.App.4th 216, involve the classification of a crime for impeachment, not attorney discipline.