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STATE BAR COURT OF CALIFORNIA

JUL 10 2015 JB

REVIEW DEPARTMENT

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

IN BANK

In the Matter of)	Case No. 12-C-16205
)	
PETER DAVID NITSCHKE,)	RECOMMENDATION OF
)	SUMMARY DISBARMENT
A Member of the State Bar, No. 174123.)	
_____)	

On June 5, 2015, the Office of Chief Trial Counsel of the State Bar (OCTC) filed a Motion for Summary Disbarment based on Peter David Nitschke's nine felony convictions. Nitschke did not respond. We grant the Motion and recommend that Nitschke be summarily disbarred.

On February 3, 2014, Nitschke pled guilty to violating Penal Code sections 368, subdivision (d)(1) (theft from elder) (two counts), 476a, subdivision (a) (making or delivering a check with insufficient funds) (one count), and 487, subdivision (a) (grand theft) (six counts). Effective June 11, 2014, we placed Nitschke on interim suspension. On June 5, 2015, OCTC transmitted evidence that the conviction had become final and requested Nitschke's 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).)

The record of conviction establishes both criteria for summary disbarment. First, each of Nitschke's crimes was charged as and pled to as a felony. (Bus. & Prof. Code, § 6102, subd. (b);



[a crime is a felony if it is declared to be so by Penal Code, § 17, subd. (a), which establishes that crimes punishable by imprisonment in a county jail or state prison are felonies].)

Second, Nitschke's offenses necessarily involve moral turpitude. Grand theft involves moral turpitude, (*In re Basinger* (1988) 45 Cal.3d 1348, 1358), and an elder abuse offense requires the defendant to commit grand theft, (*People v. Brock* (2006) 143 Cal.App.4th 1266, 1281-1282 [definition of theft in § 368, subd. (d)(1), same as in other theft statutes]). Further, making a check knowing that there is insufficient funds for the payment of the check involves the intent to defraud. (*People v. Poyet* (1972) 6 Cal.3d 530, 533-534.)

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 Peter David Nitschke, State Bar number 174123, be disbarred from the practice of law in this state. We also recommend that he 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.

PURCELL

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 July 10, 2015, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED JULY 10, 2015

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

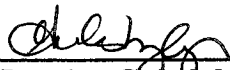
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**PETER D. NITSCHKE
NITSCHKE LAW GROUP
260 NEWPORT CENTER DR STE 100
NEWPORT BEACH, CA 92660**

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

CHARLES A. MURRAY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 10, 2015.



Jasmine Guladzhyan
Case Administrator
State Bar Court