

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
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FILED

MAY 06 2013

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

IN THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA

IN THE MATTER OF THE
CONVICTION OF:

ANATOLY SMOLKIN,
No. 274388

A Member of the State Bar

-) Case No. 13-C-11780
)
) Transmittal of Records of Conviction of Attorney (Bus. & Prof.
) Code §§ 6101-6102; Cal. Rules of Court, rule 9.5 et seq.)
)
) Felony;
) Crime(s) involved moral turpitude;
) Probable cause to believe the crime(s) involved moral
) turpitude;
) Crime(s) which may or may not involve moral turpitude or
) other misconduct warranting discipline;
) Transmittal of Notice of Finality of Conviction.

SUMMARY DISBARMENT IMPLICATIONS

To the CLERK OF THE STATE BAR COURT:

1. Transmittal of records.

- A. Pursuant to the provisions of Business and Professions Code, section 6101-6102 and California Rules of Court, rule 9.5 et seq., the Office of the Chief Trial Counsel transmits a certified copy of the record of convictions of the following member of the State Bar and for such consideration and action as the Court deems appropriate:
- B. Notice of Appeal
- C. Evidence of Finality of Conviction (Notice of Lack of Appeal)
- D. Other

Name of Member: Anatoly Smolkin

Date member admitted to practice law in California: December 10, 2010

Member's Address of Record: Anatoly Smolkin

1 Bush Street, 7th Floor

San Francisco, CA 94104

2. Date and court of conviction; offense(s).

The record of conviction reflects that the above-named member of the State Bar was convicted as follows:



Date of entry of conviction: March 7, 2013

Convicting court: San Francisco Superior Court

Case number(s): 12001175

Crime(s) of which convicted and classification(s):

Felony convictions

Penal Code section 646.9(a) (Stalking), three counts (counts 9,19,21), a crime involving moral turpitude. (*People v. Thornton* (1992) 3 Cal.App.4th 419, 424 (threatening death or great bodily injury constitutes moral turpitude crime for impeachment purposes); *In the Matter of Torres* (Review Dept. 2000) 4 Cal.State Bar Ct. Rptr. 138 (original disciplinary proceeding wherein harassment and infliction of emotional distress involved moral turpitude); *In re Ajami* (BIA 199) 22 I. & N. Dec. 949, 950 (immigration case holding that Michigan stalking crime involved moral turpitude per se).)

Penal Code section 646.9(b) (stalking in violation of restraining order), eight counts (counts 2,4, 6,8,12,14,16,18), a crime involving moral turpitude. (see above authorities and also *Zavalaeta-Gallegos v. INS* (9th Cir. 2001) 261 F.3d 951, 955 (violation of section 646.9(b) involved moral turpitude for immigration purposes); see also *Maltaman v. State Bar* (1987) 43 Cal.3d 924, 951 (original disciplinary proceeding wherein repeated disobedience of court orders by an attorney in his private capacity constituted a "serious and fundamental obstruction" of court system and therefore moral turpitude))

Penal Code section 422 (Criminal threats), three counts (counts 31, 32, 33), involves moral turpitude per se as in *People v. Thornton* (1992) 3 Cal.App. 4th 419, 424 (moral turpitude for purposes impeachment of criminal defendant) and *Latter-Singh v. Holder* (9th Cir. 2012) 668 F.3d 1156 (moral turpitude for immigration purposes).

Penal Code section 69 (knowingly resisting an executive officer by use of force and violence), one count (count 36), involving moral turpitude per se as in *People v. Williams* (1999) 72 Cal.App. 4th 1460 (moral turpitude in criminal impeachment case).

Misdemeanor convictions

Penal Code section 243(b) (Battery upon an Peace Officer), 1 count (count 37), involves moral turpitude per se as in *People v. Lindsay* (1989) 209 Cal.App.3d 849 and *People v. Clarida* (1987) 197 Cal.App.3d 547.

Penal Code section 626.8(a) (creating a disruptive presence at a school and then reentering school within seven days of being asked to leave), one count (count 38), a crime that may or may not involve moral turpitude.

Penal Code section 166(a) (Contempt of Court: Violating a civil harassment restraining order), six counts (counts 41, 48, 49, 50, 52 53), a crime that may or may not involve moral turpitude (see *In re Cooper* (1971) 5 Cal.3d 256 (contempt of federal court); *In re Ross* (1990) 51 Cal.3d 451 (same).

[X] 3. Compliance with Rule 9.20. (Applicable only if checked.)

We bring to the Court's attention that, should the Court enter an order of interim suspension herein, the Court may wish to require the above-named member to comply with the provisions of rule 9.20, California Rules of

Court, paragraph (a), within 30 day of the effective date of any such order; to file the affidavit with the Clerk of the State Bar Court provided for in paragraph (c) of rule 9.20 within 40 days of the effective date of said order, showing the member's compliance with the provisions of rule 9.20.

[] 4. Other information to assist the State Bar Court

DOCUMENTS TRANSMITTED:

Third Amended Information filed 2/26/13

Minutes dated 3/7/13

Minutes dated 4/5/13

Minutes dated 4/18/13

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: May 6, 2013

BY: 
Donald R. Steedman
Senior Trial Counsel

A copy of this transmittal and its
Attachments have been sent to:

Anatoly Smolkin
1 Bush Street, 7th Floor
San Francisco, CA 94104

DECLARATION OF SERVICE

by
U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 13-C-11780

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

TRANSMITTAL OF RECORDS OF CONVICTION OF ATTORNEY;
THIRD AMENDED INFORMATION FILED 2-26-13; MINUTES DATED 3-7-13;
MINUTES DATED 4-5-13; MINUTES DATED 4-18-13

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at San Francisco, addressed to: (see below)
(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 7196 9008 9111 6240 0693 at San Francisco, addressed to: (see below)
(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: addressed to: (see below)

Table with 4 columns: Person Served via Certified Mail, Business-Residential Address, Fax Number, Courtesy Copy via Regular Mail to:
Row 1: Anatoly Smolkin, 1 Bush Street, 7th Floor San Francisco, CA 94104, Electronic Address, n/a

via inter-office mail regularly processed and maintained by the State Bar of California addressed to: n/a

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service (UPS). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: May 6, 2013

SIGNED:

Dawn Williams
Declarant