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STATE BAR COURT
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**REVIEW DEPARTMENT OF THE STATE BAR COURT
IN BANK**

In the Matter of)	Case No.: 13-C-13808
)	
ANTHONY GARTH SYMMES,)	
)	RECOMMENDATION OF SUMMARY
A Member of the State Bar, No. 105287.)	DISBARMENT
_____)	

On February 26, 2014, the State Bar’s Office of the Chief Trial Counsel filed a request for summary disbarment based on Anthony Garth Symmes’s conviction. Symmes did not file a response. We grant the request and recommend that Symmes be summarily disbarred based on the criminal record in this case.

On April 13, 2012, Symmes pled guilty to felony violations of title 18 United States Code sections 1341 and 1349 (conspiracy to commit mail fraud), and title 18 United States Code section 1957 (monetary transaction in property derived from unlawful activity). As a result of his conviction, we issued an order placing Symmes on interim suspension, effective April 23, 2014. Symmes’s conviction is now final. (Cal. Rules of Court, rule 9.10(a).)

Respondent’s conviction is conclusive proof that he committed the crime. (Bus. & Prof. Code, § 6101, subd. (a).) 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 that Symmes’s offense meets the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c).



First, Symmes was charged with and convicted of felonies. (18 U.S.C. § 371 [object of conspiracy determines if felony or misdemeanor]; 18 U.S.C. § 1341 [mail fraud punishable with imprisonment up to 20 years]; 18 U.S.C. § 1957 [monetary transaction in property derived from unlawful activity is punishable with imprisonment up to 10 years]; 18 U.S.C. § 3559(a) [crime punishable with imprisonment of one year or more is a felony].)

Second, engaging in a conspiracy to commit mail fraud is a crime that involves moral turpitude per se. The moral turpitude classification of the crime of conspiracy depends upon the object of the conspiracy. (*In re McAllister* (1939) 14 Cal.2d 602, 603 [if the commission of an offense involves moral turpitude, then a conspiracy to commit the offense would also involve moral turpitude].) The objects of Symmes's conspiracy involve moral turpitude. (*In re Utz* (1989) 48 Cal.3d 468, 482, 484 [conviction for mail fraud under 18 U.S.C. § 1341 requires specific intent to defraud; fraud is a principal element of moral turpitude]; *Arden v. State Bar* (1987) 43 Cal.3d 713, 718 [conspiracy to commit mail fraud involves moral turpitude].) Therefore, since Symmes's conviction for conspiracy to commit mail fraud meets the criteria for summary disbarment, we need only rely on this conviction in making a summary disbarment recommendation.¹

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; see also *In re Lesansky* (2001) 25 Cal.4th 11, 17-18.)

We therefore recommend that Anthony Garth Symmes, State Bar number 105287, be summarily 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

¹Since we do not rely on Symmes's conviction for violating title 18 United States Code section 1957, we make no determination as to its moral turpitude classification.

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.



Presiding Judge