

**FILED**

**JUN 29 2016**

**STATE BAR COURT OF CALIFORNIA**

**STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES**

**REVIEW DEPARTMENT**

**IN BANK**

In the Matter of	)	Case No. 15-C-11767
	)	
TODD EDWARD MACALUSO,	)	RECOMMENDATION OF SUMMARY
	)	DISBARMENT
A Member of the State Bar, No. 133009.	)	
_____	)	

On May 9, 2016, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed a Motion for Summary Disbarment based on Todd Edward Macaluso's felony conviction. Macaluso did not respond. We grant the motion and recommend that Macaluso be summarily disbarred.

In June 2015, Macaluso pled guilty to a violation of title 18 United States Code section 1343 (wire fraud). Effective October 5, 2015, Macaluso was placed on interim suspension from the practice of law. With its motion for summary disbarment, OCTC submitted evidence that the conviction had become final. Specifically, no party filed a notice of appeal within the statutory time period after the entry of judgment on November 12, 2015. (See Fed. Rules App.Proc., rule 4(b), 28 U.S.C.) Therefore, the conviction is final.

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, Macaluso's offense is a felony. (18 U.S.C. §§ 3559(a) [classifying offenses based on sentencing ranges], 1343 [wire fraud punishable with imprisonment up to 20 years].)

Second, Macaluso's wire fraud conviction involves moral turpitude because it necessarily involves intent to defraud. (*In re Fahey* (1973) 8 Cal.3d 842, 849.) Section 1343 provides in pertinent part: "Whoever, having devised or intending to devise any scheme or artifice to defraud . . . transmits or causes to be transmitted by means of wire . . . any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be [guilty of a crime against the United States]." An element of a wire fraud violation is the specific intent to deceive or defraud. (*Odom v. Microsoft Corp.* (9th Cir. 2007) 486 F.3d 541, 554.) Accordingly, Macaluso's conviction qualifies him for summary disbarment.

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 Todd Edward Macaluso, State Bar number 133009, 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 costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

**PURCELL**

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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 June 29, 2016, I deposited a true copy of the following document(s):

**RECOMMENDATION OF SUMMARY DISBARMENT  
FILED JUNE 29, 2016**

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:

**TODD E. MACALUSO  
551 LOMAS SANTA FE DR C431  
SOLANA BEACH, CA 92014**

- [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 June 29, 2016.

  
\_\_\_\_\_  
**Jasmine Guladhyan**  
Case Administrator  
State Bar Court