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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

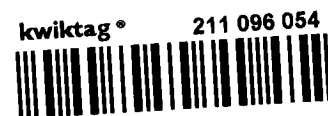
IN BANK

In the Matter of)	Case No. 11-C-12725
)	
DELBERT JOE MODLIN,)	RECOMMENDATION OF SUMMARY
)	DISBARMENT
A Member of the State Bar, No. 131265.)	
_____)	

On July 12, 2016, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed a motion for summary disbarment based on Delbert Joe Modlin's felony conviction. Modlin did not respond. We grant the motion and recommend that Modlin be summarily disbarred.

On April 2, 2105, Modlin pled guilty to a violation of Penal Code section 182, subdivision (a)(1) (conspiracy to commit a felony) in violation of Penal Code section 470 (forgery). We placed Modlin on interim suspension from the practice of law, effective August 29, 2016. With its motion for summary disbarment, OCTC submitted evidence that the conviction had become final. Specifically, no party filed an appeal within 60 days after pronouncement of judgment. (Cal. Rules of Court, rule 8.308.) 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, respondent's offense is a felony. (Bus. & Prof. Code, § 6102, subd. (b); Pen, Code, §§ 17, 182, subd. (a)(1).) Second, Modlin's conspiracy to commit forgery involves moral turpitude because it involves the specific intent to deceive or defraud. (*People v. Pugh* (2002) 104 Cal.App.4th 66,72) [an element of forgery is the intent to defraud shown by the intent to deceive another person for the purpose of gaining a material advantage]; *In re McAllister* (1939) 14 Cal.2d 602, 603 [if commission of offense involves moral turpitude, then conspiracy to commit such offense would also involve moral turpitude].) Accordingly, Modlin's conviction qualifies her 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, supra*, 25 Cal.4th at p. 7.) Disbarment is mandatory. (*Id.* at p. 9.)

We therefore recommend that Delbert Joe Modlin, State Bar number 131265, 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

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 of California. 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 August 5, 2016, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED AUGUST 5, 2016

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

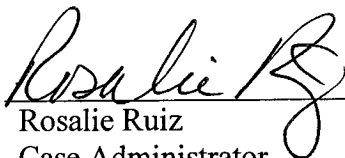
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DELBERT J. MODLIN
JOE MODLIN, ATTORNEY AT LAW
130 MOSS ROCK CT
FOLSOM, CA 95630 - 1846

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

ALLEN BLUMENTHAL, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 5, 2016.



Rosalie Ruiz
Case Administrator
State Bar Court