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MAR 14 2018

STATE BAR COURT  
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of	)	Case No. 15-C-15947
	)	
SHELL KAMINSKY,	)	RECOMMENDATION OF SUMMARY
	)	DISBARMENT
A Member of the State Bar, No. 284216.	)	
_____	)	

On January 22, 2018, the State Bar's Office of the Chief Trial Counsel (State Bar) filed a motion requesting that Shell Kaminsky be summarily disbarred based on her conviction. The State Bar asserts that Kaminsky's felony offense involved moral turpitude per se and concurrently filed evidence that the conviction is final. Kaminsky did not file a response. We grant the motion and recommend that Kaminsky be summarily disbarred.

**I. PROCEDURAL HISTORY**

On October 4, 2016, Kaminsky pled no contest to violating Penal Code section 459 (second degree burglary). Effective March 12, 2018, we ordered Kaminsky on interim suspension as a result of her conviction, and she has remained suspended and not entitled to practice law in California since that time. On January 22, 2018, the State Bar transmitted evidence that Kaminsky's conviction had become final and requested Kaminsky'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 in this case establishes both criteria for summary disbarment.

**A. Kaminsky Suffered a Felony Conviction**

The record of conviction shows that Kaminsky pled to and was convicted of a felony violation of Penal Code section 459 (second degree burglary). Additionally, under the Penal Code, second degree burglary is classified as a felony. (See Pen. Code, §§ 461, subd. (b) [second degree burglary punishable in county jail not exceeding one year or imprisonment pursuant to Pen. Code, § 1170, subd. (h)]; Pen. Code, § 17, subd. (a) [crime punishable by imprisonment in state prison or imprisonment in county jail under the provisions of Pen. Code, § 1170, subd. (h) is a felony].)

**B. Kaminsky’s Conviction Involved Per Se Moral Turpitude**

A criminal offense necessarily involves moral turpitude if the conviction would evidence bad moral character in every case. (*In re Lesansky* (2001) 25 Cal.4th 11, 16.) Burglary inherently involves moral turpitude. Burglary is committed by every person who enters a house or other listed structure or vehicle with the intent to commit grand or petit larceny or any felony. (Pen. Code, § 459.) “[W]hether or not the target felony itself evidences a moral defect, burglary remains in all cases the fundamentally deceitful act of entering a house or other listed structure with the secret intent to steal or commit another serious crime inside. A felony conviction of such an act demonstrates a ‘readiness to do evil’ and hence necessarily involves moral turpitude. [Citations.]” (*People v. Collins* (1986) 42 Cal.3d 378, 395, footnotes omitted [discussing classification of burglary for impeachment purposes].) Thus, the commission of acts in the nature of burglary “constitutes moral turpitude and dishonesty and that the protection of the

courts and the integrity of the legal profession require that [Kaminsky] be disbarred.” (*In re Hurwitz* (1976) 17 Cal.3d 562, 567–568.)

## II. RECOMMENDATION

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 Shell Kaminsky, State Bar number 284216 be disbarred from the practice of law in this state. We also recommend that she 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**

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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 Court Specialist 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 March 14, 2018, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED MARCH 14, 2018

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

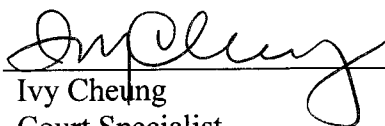
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SHELL KAMINSKY  
1634 SHIRAZ CT  
BRENTWOOD, CA 94513

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

Kevin B. Taylor, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 14, 2018.



Ivy Cheung  
Court Specialist  
State Bar Court