

FILED

APR 25 2018 <sup>u</sup>

STATE BAR COURT  
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	Case No. 16-C-16373
	)	
DOUGLAS ALAN KUBER,	)	RECOMMENDATION OF
	)	SUMMARY DISBARMENT
A Member of the State Bar, No. 130165.	)	
_____	)	

On March 5, 2018, the State Bar’s Office of the Chief Trial Counsel (State Bar) filed a request for summary disbarment based on Douglas Alan Kuber’s conviction. The State Bar asserts that Kuber’s felony offense involved moral turpitude per se and concurrently filed evidence that the conviction is final. Kuber did not file a response. We grant the request and recommend that Kuber be summarily disbarred based on the criminal record in this case.

I. PROCEDURAL HISTORY

On October 15, 2012, Kuber pled guilty and was convicted of violating title 18 United States Code sections 1349 and 2 (conspiracy to commit wire fraud; aiding and abetting). On March 5, 2018, the State Bar submitted evidence that the conviction had become final. Effective April 30, 2018, we placed Kuber on interim suspension.

After a 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. Kuber Suffered a Felony Conviction**

Kuber's conviction is a felony. Title 18 United States Code section 1349 provides that a person who attempts or conspires to commit any offense shall be subject to the same penalties as those prescribed for the offense itself. In this case the object crime is wire fraud, title 18 United States Code section 1343, which provides for imprisonment of up to 20 years. Pursuant to title 18 United States Code section 3559(a)(3), a crime punishable by twenty years of incarceration or more is a class C felony. (See 18 U.S.C. § 3559(a) [classifying offenses based on sentencing ranges].) Thus, the first prong of the summary disbarment statute is satisfied.

**B. Kuber'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.) A crime that necessarily involves an intent to defraud or intentional dishonesty for the purpose of personal gain involves moral turpitude on its face. (*In re Fahy* (1973) 8 Cal.3d 842, 849.) 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].) Kuber's conviction for conspiracy to commit wire fraud involves moral turpitude because the elements of wire fraud necessarily involve the intent to defraud. Title 18 United States Code 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 fined under this title or imprisoned not more than 20 years, or both." 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.) Therefore, the conviction for conspiracy to commit wire fraud

involves moral turpitude because the object of the conspiracy involved the intent to deceive or defraud.

## II. RECOMMENDATION

When an attorney's conviction meets the summary disbarment requirements "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 Douglas Alan Kuber, State Bar number 130165, 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 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 April 25, 2018, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED APRIL 25, 2018

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

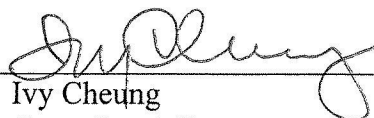
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DOUGLAS A. KUBER  
9225 COLLINS AVE  
APT 310  
SURFSIDE, FL 33154

- 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 April 25, 2018.



Ivy Cheung  
Court Specialist  
State Bar Court