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**STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 17-C-00851
)	
DAVID RICHARD SCHWARCZ,)	ORDER
)	
A Member of the State Bar, No. 152896.)	
_____)	

Respondent David Richard Schwarcz, State Bar Number 152896, has been convicted of violating title 18 United States Code section 371 (conspiracy to operate an unlicensed money-transmitting business in violation of 18 U.S.C. § 1960), a felony which may or may not involve moral turpitude.

The Office of Chief Trial Counsel of the State Bar's (OCTC) statement that this violation involves moral turpitude as a matter of law, which warrants summary disbarment once final, is unavailing. To begin, we have previously classified a violation of title 18 United States Code section 1960 as one that may or may not involve moral turpitude because in order to obtain a conviction the Government need only prove that the defendant knew the money-transmitting business was unlicensed, not that the money-transmitting business was illegal. (*U.S. v. Elfgeeh* (2nd Cir. 2008) 515 F.3d 100, 132.) Further, OCTC's reliance on *In re Berman* (1989) 48 Cal.3d 517 is misplaced because the Supreme Court did not analyze in *Berman* whether the statute involved moral turpitude as a matter of law warranting summary disbarment. (Bus. & Prof. Code, § 6102, subd. (c) ["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”].) Instead, the Supreme Court concluded the attorney committed moral turpitude following an evidentiary hearing and an analysis of the facts and circumstances present in the specific case. (*In re Berman*, supra, 48 Cal.3d at pp. 523-524.) Thus, we conclude that Schwarcz’s felony criminal conviction is one that may or may not involve moral turpitude but is not “[a]n offense [that] necessarily involves moral turpitude [because] the conviction would in every case evidence bad moral character, which is a question of law.” (*In re Lesansky* (2001) 25 Cal.4th 11, 16 [citation omitted]; see *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 928 [summary disbarment limited to crimes that inherently involve moral turpitude].)

Because respondent has been convicted of a felony, it is ordered pursuant to Business and Professions Code section 6102 that respondent be suspended from the practice of law effective May 22, 2017, pending final disposition of this proceeding. (Cal. Rules of Court, rule 9.10(a).) It is further ordered that respondent comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this suspension.

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 April 26, 2017, I deposited a true copy of the following document(s):

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

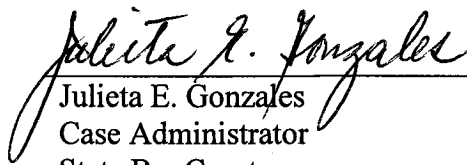
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID R. SCHWARCZ
SCHWARTZ RIMBERG, LLP
6310 SAN VICENTE BLVD STE 360
LOS ANGELES, CA 90048

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

Murray B. Greenberg, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 26, 2017.



Julieta E. Gonzales
Case Administrator
State Bar Court