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JAN 11 2019

**STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

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|--|---|---------------------|
| In the Matter of |) | Case No. 18-C-16154 |
| |) | |
| ZACHARY BROOKE ROBERTS, |) | RECOMMENDATION OF |
| |) | SUMMARY DISBARMENT |
| A Member of the State Bar, No. 201739. |) | |
| _____ |) | |

On November 7, 2018, the Office of Chief Trial Counsel of the State Bar (OCTC) filed a request for summary disbarment based on Zachary Brooke Roberts’s felony conviction. Roberts did not respond. We grant the motion and recommend that Roberts be summarily disbarred.

On August 29, 2017, Roberts was convicted of one criminal count: conspiracy to commit wire fraud, in violation of Title 18 United States Code section 371.¹ OCTC transmitted evidence of Roberts’s conviction on November 7, 2018, including a plea agreement in which he waived his right to appeal the conviction. Therefore, the conviction is final.

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 establishes both criteria for summary disbarment.

First, Roberts’s conviction is a felony. His conviction under section 371 provides for punishment of imprisonment for a maximum term of five years, if the object of the conspiracy is

¹ All further references to sections are to this source, unless otherwise noted.

not a misdemeanor. The object of Roberts's conspiracy was wire fraud, which is not a misdemeanor because such a crime is punishable by imprisonment of up to 20 years under section 1343, and is thus designated a class C felony under section 3559, subdivision (a)(3). Since the object of Roberts's conspiracy would be a felony, his conviction under section 371 is also a felony, as the maximum punishment of five years is designated a class D felony under section 3559, subdivision (a)(4).

Second, Roberts's felony conviction involves moral turpitude. (*In re Lesansky* (2001) 25 Cal.4th 11, 16 ["criminal conduct not committed in the practice of law or against a client reveals moral turpitude if it shows a deficiency in any character trait necessary for the practice of law (such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties)"].) Roberts was convicted of conspiracy to commit wire fraud. If the underlying crime involves moral turpitude, conspiracy to commit that crime also involves moral turpitude. (*In re McAllister* (1939) 14 Cal.2d 602, 603.) The underlying crime for Roberts's conspiracy was fraud, specifically wire fraud, which is an act of moral turpitude as a matter of law. (See *In re Schwartz* (1982) 31 Cal.3d 395, 400 ["Fraud is a principal element of moral turpitude..."]; *United States v. Marcu* (2016) 210 F.Supp.3d 1234, 1241 [felony conspiracy to commit wire fraud involves moral turpitude for purposes of immigration proceedings].) Accordingly, Roberts's felony conviction for conspiracy to commit wire fraud 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 Zachary Brooke Roberts, State Bar number 201739, 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 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 January 11, 2019, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED JANUARY 11, 2019

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

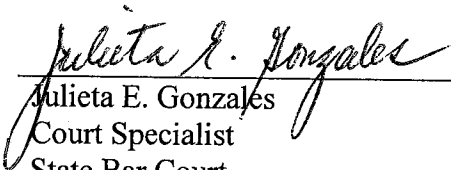
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ZACHARY B. ROBERTS
1291 GALLERIA DR
HENDERSON, NV 89014

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

Kevin B. Taylor, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 11, 2019.



Julieta E. Gonzales
Court Specialist
State Bar Court