THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*





Issued September 11, 2023

In the Matter of:

:

BRIAN DAVID O'NEILL,

D.C. App. No. 23-BG-0504

Respondent. : Board Docket No. 23-BD-031

Disc. Docket No. 2022-D211

A Suspended Member of the Bar of the

District of Columbia Court of Appeals : (Bar Registration No. 1046680) :

REPORT AND RECOMMENDATION OF THE BOARD ON PROFESSIONAL RESPONSIBILITY

Following Respondent's guilty plea to two counts of wire fraud, the District of Columbia Court of Appeals directed the Board on Professional Responsibility to institute a formal proceeding to determine the nature of Respondent's offenses and whether the crimes involve moral turpitude within the meaning of D.C. Code § 11-2503(a) (2001). For the reasons that follow, the Board recommends that the Court disbar Respondent pursuant to D.C. Code § 11-2503(a) based on his convictions of crimes involving moral turpitude *per se*.

BACKGROUND

Respondent was admitted to the District of Columbia Bar on May 5, 2017. Following his guilty plea to two counts of wire fraud, in violation of 18 U.S.C. § 1343, Respondent was sentenced to nine years in prison, on May 17, 2023.

^{*} Consult the 'Disciplinary Decisions' tab on the Board on Professional Responsibility's website (www.dcattorneydiscipline.org) to view any subsequent decisions in this case.

On July 13, 2023, Disciplinary Counsel filed an accurate copy of the May 17, 2023 Judgment in a Criminal Case with the Court of Appeals, which suspended Respondent pursuant to D.C. Bar R. XI, § 10(c), and directed the Board to institute a formal proceeding to determine whether any of Respondent's offenses involve moral turpitude within the meaning of D.C. Code § 11-2503(a) (2001). Order, *In re O'Neill*, No. 23-BG-504 (D.C. June 23, 2023).

On July 13, 2023, Disciplinary Counsel filed a statement with the Board recommending Respondent's disbarment because Respondent had been found guilty of crimes involving moral turpitude *per se*. Respondent did not file a response to Disciplinary Counsel's statement, the time for doing so having expired.

ANALYSIS

D.C. Code § 11-2503(a) requires the disbarment of a member of the District of Columbia Bar convicted of a crime of moral turpitude. Once the Court has determined that a particular crime involves moral turpitude *per se*, disbarment must be imposed. *See In re Colson*, 412 A.2d 1160, 1165 (D.C. 1979) (en banc).

Respondent pled guilty to wire fraud, which the Court has already decided is a crime of moral turpitude *per se. See In re Bryant*, 46 A.3d 402, 402 (D.C. 2012) (per curiam) ("[B]oth mail fraud and wire fraud are crimes of

moral turpitude per se." (quoting In re Evans, 793 A.2d 468, 469 (D.C. 2002) (per curiam))).

CONCLUSION

For the foregoing reasons, the Board recommends that the Court disbar Respondent pursuant to D.C. Code § 11-2503(a) based on his conviction of crimes involving moral turpitude per se.

BOARD ON PROFESSIONAL RESPONSIBILITY

By: Sara K. Blumenthal

All members of the Board concur in this Report and Recommendation, except Ms. Cassidy and Ms. Rice-Hicks, who did not participate.