



November 21, 2017

Board on Professional
Responsibility

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of: :
 :
 DOUGLAS A. KUBER, :
 :
 Respondent. : D.C. App. No. 17-BG-691
 : Board Dkt. No. 17-BD-054
 : Disciplinary Dkt. No. 2017-D098
 A Suspended Member of the Bar of the :
 District of Columbia Court of Appeals :
 (Bar Registration No. 423238) :

REPORT AND RECOMMENDATION
OF THE BOARD ON PROFESSIONAL RESPONSIBILITY

This matter is before the Board on Professional Responsibility (the “Board”) as a result of Respondent’s conviction in the United States District Court for the District of Maryland of conspiracy to commit wire fraud. The District of Columbia Court of Appeals (the “Court”) directed the Board 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 conviction of a crime involving moral turpitude *per se*.

BACKGROUND

Respondent was admitted to the District of Columbia Bar on March 19, 1990. Respondent was administratively suspended on October 1, 2012 for non-payment of dues. He remains administratively suspended. On August 9, 2016, Respondent pleaded guilty in the United States District Court for the District

of Maryland to one count of “conspiracy to commit wire fraud; aiding and abetting” in violation of 18 U.S.C. §§ 2 and 1349. Respondent was sentenced to 48 months of incarceration, and was ordered to make restitution of \$105,565,223.

Respondent notified the D.C. Bar of his conviction by letter dated August 23, 2016. The Bar forwarded Respondent’s letter to Disciplinary Counsel in March 2017. On June 20, 2017, Disciplinary Counsel filed a certified copy of Respondent’s criminal judgment 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 Respondent’s offense involves moral turpitude within the meaning of D.C. Code § 11-2503(a) (2001). Order, *In re Kuber*, No. 17-BG-691 (D.C. July 10, 2017). On August 7, 2017, Respondent filed his affidavit of compliance with D.C. Bar R. XI, § 14(g).

On September 5, 2017, Disciplinary Counsel filed a statement with the Board recommending Respondent’s disbarment based on his conviction of a crime involving moral turpitude *per se*. Disciplinary Counsel asserts that, for purposes of calculating Respondent’s eligibility to petition for reinstatement, his period of disbarment should be deemed to run from August 7, 2017, the date he complied with Section 14(g). Respondent did not file with the Board a response to Disciplinary Counsel’s statement on moral turpitude.

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 was convicted of one count of “conspiracy to commit wire fraud; aiding and abetting” in violation of 18 U.S.C. §§ 2 and 1349. A “[c]onviction of conspiracy to commit a crime of moral turpitude is itself a crime of moral turpitude.” *In re Lickstein*, 972 A.2d 314, 316 (D.C. 2009) (per curiam); *see also In re Schainker*, 871 A.2d 1206, 1206 (D.C. 2005) (per curiam); *In re Gormley*, 793 A.2d 469, 470 (D.C. 2002) (per curiam). “[B]oth mail fraud and wire fraud are crimes of moral turpitude *per se*.” *In re Bryant*, 46 A.3d 402, 402 (D.C. 2012) (per curiam) (quoting *In re Evans*, 793 A.2d 468, 469 (D.C. 2002) (per curiam) and citing *In re Leffler*, 940 A.2d 105, 106 (D.C. 2007) (per curiam)). Because wire fraud is a crime of moral turpitude *per se*, Respondent’s conviction of conspiracy to commit wire fraud is itself a crime of moral turpitude *per se*, requiring Respondent’s disbarment pursuant to D.C. Code § 11-2503(a). *See Schainker*, 871 A.2d at 1206 (disbarment required for conviction of conspiracy to commit mail and wire fraud); *see also In re Allison*, 990 A.2d 467, 468 (D.C. 2010) (per curiam) (conspiracy to commit mail fraud); *Gormley*, 793 A.2d at 470 (conspiracy to commit wire fraud); *In re Lobar*, 632 A.2d 110, 111 (D.C. 1993) (per curiam) (same).

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 a

crime involving moral turpitude *per se*. The Board further recommends that for purposes of reinstatement, Respondent's disbarment be deemed to run from August 7, 2017, the date he complied with D.C. Bar R. XI, § 14(g).

BOARD ON PROFESSIONAL RESPONSIBILITY

By: /BLS/
Billie LaVerne Smith

All members of the Board concur in this Report and Recommendation, except Mr. Carter, who is recused.