THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

Issued
May 15, 2025

In the Matter of:	:	
	:	
FREDRIC GUMBINNER,	:	
	:	Board Docket No. 23-BD-071
Respondent.	:	Disciplinary Docket No. 2023-D194
	:	
A Temporarily Suspended	:	
Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 428327)	:	

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 guilty plea to violating 18 U.S.C. § 666(a)(2) ("bribery concerning programs receiving Federal funds") in the U.S. District Court for the Western District of Virginia. On May 31, 2024, the District of Columbia Court of Appeals (the "Court") suspended Respondent pursuant to D.C. Bar Rule XI, § 10(c) and directed the Board to institute a formal proceeding to determine the nature of Respondent's offense and whether the crime involves moral turpitude within the meaning of D.C. Code § 11-2503(a) (2001), which mandates the disbarment of a District of Columbia Bar member who has been convicted of a crime of moral turpitude. *See* Order, *In re Gumbinner*, D.C. App. No. 24-BG-0489 (D.C. May 31, 2024).

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

On June 3, 2024, the Board directed Disciplinary Counsel to file a statement on the issue of moral turpitude with respect to the offense to which Respondent pled guilty. On June 7, 2024, Disciplinary Counsel filed a statement ("ODC Statement") with the Board recommending Respondent's disbarment based on his conviction of a crime involving moral turpitude *per se* or, in the alternative, because the conduct to which Respondent admitted in his plea agreement and related documents establishes moral turpitude (summary adjudication).

The matter was held in abeyance until the date of Respondent's sentencing, March 24, 2025. Respondent filed an Opposition to Disciplinary Counsel's statement ("R. Opposition") on April 11, 2025, in which he urges the Board to send the case for a hearing on moral turpitude on the facts.

At the Board's request, on April 25, 2025, the parties filed supplemental statements ("ODC Supplemental Statement" and "R. Supplemental Statement") addressing the relevance of the Supreme Court's decision in *Snyder v. United States*, 603 U.S. 1 (2024), which resolved a circuit split regarding the scope of the criminal statute at issue by holding that it applies to bribes (payments pursuant to a quid pro quo agreement to influence a public official with respect to an official act), but not gratuities (payments made to a public official as a reward or token of appreciation for an official act). *See Snyder*, 603 U.S. at 19-20.

I. MORAL TURPITUDE *PER SE*

D.C. Code § 11-2503(a) requires the disbarment of a D.C. Bar member who has been convicted of a crime of moral turpitude. Once the Court determines that a

particular crime involves moral turpitude *per se*, disbarment is the mandated sanction, without inquiry into the specific criminal conduct in each case. *See In re Colson*, 412 A.2d 1160, 1164-65 (D.C. 1979) (en banc).

Here, the Court has not previously addressed the statute at issue, 18 U.S.C. § 666(a)(2). Therefore, the Board must review the elements of the statute to determine whether it is a crime of moral turpitude *per se*. This assessment is based solely on an examination of the statute, not on Respondent's conduct. *See In re Shorter*, 570 A.2d 760, 765 (D.C. 1990) (per curiam) (citing *Colson*, 412 A.2d at 1164-67). That is, the Board focuses "on the type of crime committed rather than on the factual context surrounding the actual commission of the offense." *Colson*, 412 A.2d at 1164.

To constitute a crime of moral turpitude *per se*, "the statute, in all applications, [must] criminalize[] conduct that 'offends the generally accepted moral code of mankind,' 'involves baseness, vileness or depravity,' or offends universal notions of 'justice, honesty, or morality.'" *In re Rohde*, 191 A.3d 1124, 1131 (D.C. 2018) (quoting *In re Tidwell*, 831 A.2d 953, 957 (D.C. 2003)). The Board must consider whether the least culpable offender convicted under the statute necessarily engages in a crime of moral turpitude. *See In re Johnson*, 48 A.3d 170, 172-73 (D.C. 2012) (per curiam) ("[P]art of the calculus in assessing whether a crime is one of moral turpitude *per se* is whether we can say that the least culpable offender under the terms of the statute necessarily engages in conduct involving moral turpitude." (internal quotations omitted) (quoting *In re Squillacote*, 790 A.2d 514, 517 (D.C.

2002) (per curiam)); *Squillacote*, 790 A.2d at 517 ("[I]f the most benign conduct punishable under the statute" does not involve moral turpitude, then the crime is not one of moral turpitude *per se*.); *see also Shorter*, 570 A.2d at 765.

Respondent pled guilty to 18 U.S.C. § 666(a)(2), which provides:

> Whoever, if the circumstance described in subsection (b) of this section exists—
>
> * * *
>
> (2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $5,000 or more;
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> * * *
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> shall be fined under this title, imprisoned not more than 10 years, or both.

Section 666(b) provides: "The circumstance referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance." This language establishes federal criminal jurisdiction over what might otherwise be a matter of state law.

At the time Respondent pled guilty, the lower federal courts were split on whether § 666 punishes unlawful "gratuities" as well as bribery, which are distinct offenses, with different levels of intent:

> bribery requires the "intent 'to influence' an official act," which means that there must be a "*quid pro quo*," or "a specific intent to give or receive something of value *in exchange* for an official act." But giving illegal gratuities "requires only that the gratuity be given or accepted 'for or because of' an official act." So "[a]n illegal gratuity . . . may constitute merely a reward" for some future or past act by the official.

United States v. Whitman, 887 F.3d 1240, 1247 (11th Cir. 2018) (alteration in original) (citations omitted) (quoting *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398, 404-05 (1999)).

The bribery/gratuity distinction is relevant to this matter because if the least culpable violator of § 666 has committed the gratuity offense, their offense conduct would not constitute moral turpitude *per se*. *In re Campbell*, 522 A.2d 892, 893 (D.C. 1987) (per curiam) (conviction for receiving an illegal gratuity in violation of 18 U.S.C. § 201(g) was not a crime of moral turpitude *per se*); *see* ODC Supplemental Statement at 5 (noting that a gratuity is "less egregious than bribery because [it] may involve acceptance of a thing of value for an official act, even though the official act was committed without corrupt intent"). If the least culpable offender was guilty of bribery, he would have committed moral turpitude *per se*. *See In re Balducci*, 976 A.2d 899, 901 (D.C. 2009) (per curiam) ("It is well established that 'the crime of bribery inherently involves moral turpitude.'" (quoting *In re Glover-Tonwe*, 626 A.2d 1387, 1388 (D.C. 1993))).

However, following Respondent's guilty plea, in *Snyder v. United States*, decided on June 26, 2024, the Supreme Court resolved that issue. By six votes to three, the Supreme Court reversed the gratuity conviction of an Indiana mayor under § 666(a)(1). A local truck dealer gave him $13,000 as a tangible expression of gratitude for a city trash truck order. 603 U.S. at 9-10. The Supreme Court held, reversing the Seventh Circuit, that in order to obtain a conviction under § 666, the government must prove bribery. *Id.* at 19-20. The Seventh Circuit's view that § 666 embraces gratuities had been shared (as the Supreme Court noted) by the Second, Sixth, and Eighth Circuits. *See id.* at 10 (comparing cases); *see also, e.g.*, *United States v. Bonito*, 57 F.3d 167, 171 (2d Cir. 1995).

In its Supplemental Statement, Disciplinary Counsel contends that *Snyder* makes clear that Respondent was convicted under a bribery statute and thus he was convicted of a crime of moral turpitude *per se*. ODC Supplemental Statement at 1- 2. Respondent contends that *Snyder* discussed only the receipt of bribes by a public official (§ 666(a)(1)), and thus its holding does not necessarily apply to those paying the public officials (§ 666(a)(2)). R. Supplemental Statement at 1. We reject Respondent's argument that the payor of a bribe should be treated differently than the recipient of the bribe. As the Court has made clear, the payor and payee of a bribe are treated the same in moral turpitude cases as long as the intent element is the same, which it is here. *See Glover-Tonwe*, 626 A.2d at 1388 n.1. We agree with Disciplinary Counsel that, following *Snyder*, a conviction under 666(a)(2) requires evidence that the defendant paid or offered a bribe. Evidence that a defendant who

paid or offered a gratuity would not be sufficient to obtain a conviction under § 666(a)(2).

Respondent argues that the least culpable offender under § 666 has not committed a crime of moral turpitude because the statute "punishes a defendant who makes what the statute (by its title only) claims is a bribe, but does not require the defendant to receive any direct or indirect monetary benefit or personal gain in exchange for same nor require the government to sustain any direct or indirect monetary loss." R. Opposition at 2. In short, he argues that an unsuccessful bribe—one that does not benefit the defendant or harm the government—is not a crime of moral turpitude. But he cites no cases to support that proposition, and we see no reason to distinguish between successful and unsuccessful bribes when considering the moral turpitude issue because, whether successful or not, a defendant paying a bribe intended an illegal quid pro quo.

Respondent also notes in passing that the *Snyder* opinion was issued seven months after he entered his guilty plea. R. Supplemental Statement at 1. However, his criminal conviction was not final until the judgment was entered at sentencing. *In re Gardner*, 625 A.2d 293, 297 (D.C. 1993) (per curiam) (appended Board Report). Thus, Respondent was not actually convicted until nine months after *Snyder*. This timeline raises a novel question: whether, for purposes of the moral turpitude analysis, the Board and the Court should consider the state of the law at the time of a guilty plea or at the time of conviction.

D.C. Bar Rule XI, § 10(c) provides that a disciplinary proceeding based on a criminal conviction can proceed based on a guilty plea, but the final discipline is not imposed until a conviction has been entered and any appeals have been exhausted. At the time Respondent entered his plea, due to the split in authority on the bribery/gratuity issue, the least culpable offender would have committed an illegal gratuity, not a crime of moral turpitude *per se*. However, because Respondent was sentenced after *Snyder*, by the time of his conviction the least culpable offender convicted under § 666(a)(2) had committed a bribery, a crime of moral turpitude *per se*.

Although this case presents an unusual posture due to the Supreme Court's clarification of the elements of a § 666 offense between the plea and the conviction, the Board frequently considers criminal statutes that cover a range of criminal conduct, some of which constitutes moral turpitude *per se* and some of which do not. In those cases, the Board may review the underlying documents from the criminal case to determine which portion of the statute was violated. *See In re Lobar*, 632 A.2d 110, 111 (D.C. 1993) (per curiam) (examining charging documents to determine that conviction was for conspiracy to defraud the United States). Here, we have reviewed the record, and Respondent's filings with the Board to determine if there is any evidence that Respondent pled guilty to paying an illegal gratuity, rather than paying a bribe. We find none.

Respondent did not argue to the Board that he pled guilty to paying a gratuity. He did not seek to withdraw his guilty plea following *Synder*, which one would have

expected if he wished to preserve a contention that he only paid a gratuity and not a bribe. *See generally Boursley v. United States*, 523 U.S. 614, 617-19 (1998) (permitting a defendant to withdraw a guilty plea when, while the appeal was pending, the Supreme Court issued an opinion changing the elements of the applicable criminal statute, meaning the defendant had been "misinformed as to the true nature of the charge against him"). This is not surprising. Respondent was convicted in Virginia, within the jurisdiction of the Fourth Circuit. That court had not ruled on whether § 666(a)(2) covered gratuities, but in *United States v. Lindberg*, 39 F.4th 151 (4th Cir. 2022) it wrote it was "skeptical" of that argument because the statute's intent element matches that of bribery statutes: "Including gratuities within the ambit of § 666(a)(2) seems, therefore, at odds with the textual requirement that one must act 'corruptly' to run afoul of the statute." 39 F.4th at 171 n.17. *United States v. Jennings*, 160 F.3d 1006 (4th Cir. 1998), discussed in *Lindberg*, held that the trial judge erred in giving a jury instruction for § 666 that did not correctly define "corrupt intent" by failing to include an intent to "induce a specific act," *i.e.*, a quid pro quo. 160 F.3d at 1020-21. A gratuity does not include that element: "In sum, the line between a payment made 'corruptly . . . with intent to influence' an official act and a payment made 'for or because of' an official act is the same line that separates a bribe from an illegal gratuity." *Id.* at 1013.[1] As nothing in the record

[1] In fact, Respondent's Sentencing Memorandum predicts that one of the "crushing collateral consequences" he has suffered as a result of his guilty plea is his suspension and "likely disbarment" in the three jurisdictions in which he is licensed to practice law. R. Opposition, Exhibit C at 15.

suggests that Respondent pled guilty to paying an illegal gratuity, the Board concludes that the law at the time of the conviction should apply.

Therefore, it is not unfair to hold Respondent liable based on the *Synder* interpretation of § 666, even though at the time he entered his plea there may have been some doubt as to whether the statute punished gratuities. The Fourth Circuit's interpretation of § 666 was consistent with *Snyder*, judgment was not entered on Respondent's plea until well after *Snyder* was decided, and Respondent has not claimed prejudice.

II. SUMMARY ADJUDICATION

Board Rule 10.2 permits the summary adjudication of the moral turpitude issue in cases arising out of a respondent's guilty plea in a criminal case:

> If respondent's conviction follows a guilty plea, along with its brief on the issue of moral turpitude per se, Disciplinary Counsel may file with the Board a motion seeking summary adjudication that the conduct underlying respondent's offense involves moral turpitude within the meaning of D.C. Code Section 11-2503(a). The Board will not consider Disciplinary Counsel's motion if it concludes that the offense involves moral turpitude per se. Disciplinary Counsel's motion must be supported by a statement of material facts that it contends are not genuinely disputed. If respondent opposes summary adjudication, respondent must file an opposition to Disciplinary Counsel's motion that identifies the material facts that respondent contends are genuinely disputed, along with a proffer of any additional facts respondent intends to present in a contested hearing; however, respondent may not contest any of the material facts alleged by the government in any plea agreement in the underlying criminal case.
>
> If, after viewing the record in the light most favorable to respondent, the Board determines that there is no genuine issue as to any material fact, and Disciplinary Counsel has proven by clear and convincing evidence that the conduct underlying respondent's offense involves

> moral turpitude, the Board shall grant Disciplinary Counsel's motion and recommend to the Court that respondent be disbarred pursuant to D.C. Code Section 11-2503(a). If the Board determines that the question of moral turpitude cannot be decided based on summary adjudication, the Board shall refer the matter to a Hearing Committee pursuant to Board Rule 10.3.

The Board considers Disciplinary Counsel's motion for summary adjudication despite having found that 18 U.S.C. § 666(a)(2) is a crime of moral turpitude *per se* because this is the first case to consider that statute, and thus the Court may disagree with the foregoing analysis.

Board Rule 10.2 echoes the Federal Rule of Civil Procedure 56 summary judgment standards in three important ways: First, the evidence must be viewed in the manner most favorable to Respondent. Second, Board Rule 10.2 respects the requirement that the decision to grant summary adjudication must reflect the evidentiary standards of the underlying issue. *See generally Anderson v. Liberty Lobby, Inc.*, 477 U.S 242, 252-56 (1986). Here the relevant standard is "clear and convincing evidence." Third, under Rule 56, summary judgment must be denied if there is any plausible evidence that the party-opponent may be able to rebut the movant's case. *See generally Adickes v. S.H. Kress & Co.*, 398 U.S. 144 (1970) (finding a plausible issue as to a material fact, whether a police officer was present and able to conspire with an employee of a business to allegedly violate the rights of a sit-in demonstrator, which did not allow for summary judgment).

We have reviewed the Proffer of Facts incorporated into Respondent's Plea Agreement, attached to Disciplinary Counsel's Statement Regarding Moral Turpitude. ODC Statement, Attachment E ("Attachment E"). He may not challenge

those facts in this proceeding because a guilty plea represents both a conviction of a crime and an admission by the accused of the underlying facts. *In re Wolff*, 490 A.2d 1118, 1119 (D.C. 1985), *aff'd on reh'g en banc*, 511 A.2d 1047 (D.C. 1986) (en banc); *Tidwell*, 831 A.2d at 960.

A. The Criminal Proceedings

The underlying criminal case arises from Respondent's payment of $20,000 to Culpeper County Sheriff Scott Jenkins, in connection with being sworn as an "Auxiliary Deputy Sheriff," and receiving a badge and ID card evidencing that status. ODC Statement, Attachment C ("Attachment C") at 1, 3-4; Attachment E at 2. He did so under a program initiated by Sheriff Jenkins. Attachment C at 1, 3.

The FBI and the Department of Justice Public Integrity Section investigated the Auxiliary Deputy Program. On June 28, 2023, a federal grand jury returned a 16-count indictment in the Western District of Virginia, charging Sheriff Jenkins, Respondent, and two other program participants with 18 U.S.C. §§ 371 (conspiracy to defraud the United States, in that Culpeper County and the State of Virginia receive federal funds), 1341 (mail fraud), 1343 (wire fraud), 1346 (honest services fraud), and 666 (unlawful payments to persons associated with federally-funded entities, including states and counties). Attachment C at 1. Not all defendants were named in all counts.

As the government alleged:

> The Sheriff's Office issued General Order 1-15, approved by [Sheriff] JENKINS, effective January 1, 2020, governing Auxiliary Deputy Sheriffs and civilian volunteers. General Order 1-15 stated that an Auxiliary Deputy Sheriff "generally performs the same duties and has

> law-enforcement powers equivalent to those of paid deputy [*sic*]." It further set forth selection, training, and service requirements for Auxiliary Deputy Sheriffs.

Attachment C at 3; Indictment: 3-23-cr-00011-NKM-JHC (W.D. Va.), ¶ 6.

On November 20, 2023, Respondent, as part of a plea bargain that would include trial testimony in the Sheriff's case, pled guilty to Count 9 of the indictment, which charged a violation of 18 U.S.C. § 666(a)(2).[2] ODC Statement, Attachment B ("Attachment B"). The district court entered a judgment of conviction on Respondent's guilty plea on March 24, 2025, and sentenced him to three years of probation and a $100,000 fine. R. Opposition, Exhibit C ("Exhibit C").

B. Material Undisputed Facts

The parties agree that the facts included in the Statement of Facts to which Respondent agreed as part of his guilty plea cannot be disputed. *See* Attachment E. Respondent concedes that Paragraphs 1-5 and 8 in Disciplinary Counsel's Statement of Material Undisputed Facts fairly summarize the Statement of Facts (with a minor exception for Paragraph 5, *see infra* note 3), and they are copied verbatim below. *See* ODC Statement at 5-6; R. Opposition at 3 n. 1. Paragraphs 6-7 have been

[2] Sheriff Jenkins went to trial. The jury convicted him of violating §§ 371, 1341, 1343, and 666. He was sentenced to ten years imprisonment. Press Release, U.S. Attorney's Office, Western District of Virginia, Former Culpeper Sheriff Sentenced to 10 Years on Federal Bribery Charges (Mar. 21, 2025), https://www.justice.gov/usao-wdva/pr/former-culpeper-sheriff-sentenced-10-years-federal-bribery-charges. He has taken an appeal to the U.S. Court of Appeals for the Fourth Circuit.

rephrased due to Respondent's contention that Disciplinary Counsel's version does not accurately paraphrase the Statement of Facts. *See* R. Opposition at 2-3, 3 n. 1.

1. Respondent was a businessman with no law-enforcement, military, or firearms training. He has never resided in Culpeper County, Virginia. Attachment E at 1.

2. A business associate offered to use his relationship with the Culpepper County Sheriff to obtain a Sheriff's deputy badge for Respondent in exchange for a $20,000 payment to the Sheriff or his campaign. Attachment E at 2.

3. Respondent wrote a $20,000 check drawn on his personal bank account and falsely wrote "LLC Investment" on the memo line. Respondent understood that the funds would go to the Sheriff or his campaign "as a quid pro quo exchange to induce [the Sheriff] to deputize [Respondent]." Attachment E at 2.

4. Respondent thereafter traveled to Culpepper County, Virginia, where he was issued a deputy badge and identification card. Attachment E at 2.

5. A Culpepper County Auxiliary Deputy Sheriff "generally performs the same duties and has law-enforcement powers equivalent to those of a paid deputy." Attachment C at 3, ¶ 6; *see also* Attachment C at 30, ¶ 127 (incorporating the allegations of ¶ 6 into Respondent's offense). Respondent did not receive any training, did not qualify in the use of a firearm[3], and did not perform any volunteer work for the Culpepper County Sheriff's Office. Attachment E at 2. After being

[3] Respondent points out that firearm training is only required if the auxiliary sheriff will be carrying a firearm "in the course of his employment." Va. Code § 9.1-114; R. Opposition at 3 n.1.

sworn in as an Auxiliary Deputy Sheriff, Respondent purchased a firearm. Attachment E at 2.

6. On two occasions, Respondent showed the deputy badge while requesting access to the TSA Pre-Check line at an airport, despite the fact that his boarding passes did not indicate that he was authorized to access the line. Attachment E at 2-3. On another occasion, Respondent showed the badge to a police officer while driving on the shoulder of a road to bypass a traffic jam. Attachment E at 3. On another occasion, Respondent requested access to a Covid-19 vaccine before the general public based on his purported status as a "law enforcement officer or first responder," though he did not ultimately receive an early vaccination. *Id.* Finally, when contesting a parking ticket, Respondent told the officer who issued the ticket that he was a deputy sheriff. *Id.*

7. Respondent later attempted to assist another person in obtaining a badge in exchange for a payment to the Sheriff by introducing that person to the Auxiliary Deputy of the sheriff's office, who had facilitated his own acquisition of the badge. Attachment E at 3; *see id.* at 1-2.

8. As part of his guilty plea, Respondent acknowledged that the foregoing facts were true and accurate. Attachment E at 4.

C. Additional Evidence Respondent Would Present

Respondent asks the Board to consider his entire 31-page Sentencing Memorandum as evidence he would present at a hearing to rebut an allegation of moral turpitude on the facts. *See* R. Opposition at 3; Exhibit C. Most importantly,

Respondent asserts that he did not pay the Sheriff or his campaign in exchange for anything of significant value; rather, he viewed the badge as having mainly psychic value, providing *de minimis* benefits, and he believed the payment to the Sheriff or his campaign would also facilitate an unrelated business transaction. R. Opposition at 3-4; Exhibit C at 8. He also offered to use the badge for its intended purpose, by volunteering with the Sheriff's Office, though he never did. Exhibit C at 8-9.

D. Summary Adjudication Analysis

Pursuant to Board Rule 10.2, the Board has reviewed the record in the light most favorable to Respondent, including evidence he might present at a contested hearing. As the Court has explained:

> Our inquiry to discern moral turpitude on the facts is not as limited as our inquiry to discern moral turpitude per se. In the moral-turpitude-on-the-facts inquiry, we refocus our lens and engage in "a broader examination of circumstances surrounding [the] commission of the [crime in question] which fairly bear on the question of moral turpitude in its actual commission, such as motive or mental condition." *Spiridon*, 755 A.2d at 466 (rejecting a purely elements-based analysis to determine if an attorney's crime reflects moral turpitude on the facts). Our objective, however, is still to discern whether the attorney has been convicted of "an *offense* involving moral turpitude, D.C. Code § 11-2503 (a) (emphasis added). *See Colson*, 412 A.2d at 1164 (explaining "[a]n attorney is subject to disbarment under the statute for his conviction of a *crime* involving moral turpitude, not for commission of an *act* involving moral turpitude") (emphasis added). We tether our analysis to the attorney's act of committing the crime and ask whether we can say that the attorney's commission of that crime manifests baseness, vileness, or depravity. *See, e.g.*, *In re Allen*, 27 A.3d 1178 (determining attorney convicted of theft did not do so for personal gain); *In re Rehberger*, 891 A.2d 249 (D.C. 2006) (taking into account the vulnerability of attorney's assault victim and her status a client);

> *Spiridon*, 755 A.2d at 466 (focusing on the small amount of money stolen by respondent as well as his lack of venal motive).

Rohde, 131 A.3d at 1131-32. Distinct from "commission" factors, ordinary mitigating factors are not considered in the moral turpitude on the facts inquiry. *See id.*

Here, because bribery "goes to the 'heart of integrity of the judicial and governmental system an attorney is obliged to uphold,'" the circumstances surrounding the offense would need to be "exceptional" to warrant a lesser sanction than disbarment. *In re Tucker*, 766 A.2d 510, 513 (D.C. 2000) (per curiam) (quoting Board Report) (finding moral turpitude on the facts for misdemeanor attempted bribery).

Respondent's Opposition and the Sentencing Memorandum attached thereto offer no evidence that Respondent's motive or intent when paying a bribe did not manifest moral turpitude. Unlike in cases in which the respondents proved they did not deliberately engage in base, vile, or depraved behavior, *see, e.g.*, *Rohde*, 191 A.3d at 1132-33 (finding that the respondent did not "consciously shirk his obligations" under the law because he was in an alcoholic blackout when he left the scene of an accident); *In re Allen*, 27 A.3d 1178, 1186-87 (D.C. 2011) (finding no moral turpitude on the facts because the respondent's misdemeanor theft was the "aberrational result of the exceptional stressors in his personal and professional life, rather than a desire for personal gain" (quoting Board Report)), here, Respondent cannot contest that he acted "corruptly, that is with the intent to engage in a fairly specific quid pro quo." Attachment B (plea agreement); *see Jennings*, 160 F.3d at

1018-19; Section II.B, *supra*, at Paragraph 3 (Respondent understood that the funds would go to the Sheriff or his campaign "as a quid pro quo exchange to induce [the Sheriff] to deputize [Respondent].").

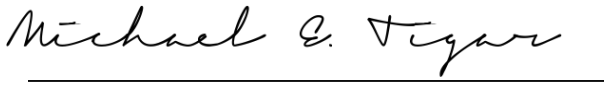
Respondent's assertions that the benefits he received were of little value, that he was not as bad as others who also paid for a badge, or that he had an additional motive (to facilitate a business transaction with a third party) might be relevant to his sanction in a contested case not involving a criminal conviction, or to properly understand that nature of his wrongdoing in a reinstatement proceeding, but they are not "commission" factors that would negate a finding that Respondent acted with intent for personal gain. *See Tucker*, 766 A.2d at 513; *see also In re Spiridon*, 755 A.2d 463, 467-68 (D.C. 2000) ("[C]ertain 'mitigating factors' sometimes considered in determining the appropriate sanction for an ethical violation, such as absence of a previous disciplinary record and expression of remorse, would be totally irrelevant to whether a crime involved 'moral turpitude' on its facts." (footnote omitted)). Accordingly, the undisputed record establishes that Respondent committed a crime of moral turpitude under Board Rule 10.2.

III. 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 of moral turpitude *per se*. In the alternative, after considering the facts Respondent admitted along with his guilty plea and the additional facts and circumstances he

would present to a hearing committee, viewed in the light most favorable to him, the Board would still recommend his disbarment.

BOARD ON PROFESSIONAL RESPONSIBILITY

By: 

Michael E. Tigar

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