DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of:	:	
	:	
DARYL J. HUDSON, III,	:	
	:	D.C. App. No. 13-BG-957
Respondent.	:	Board Docket No. 13-BD-076
	:	Bar Docket No. 2013-D268
A Suspended Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 292045)	:	

REPORT AND RECOMMENDATION OF THE
BOARD ON PROFESSIONAL RESPONSIBILITY

This matter is before the Board on Professional Responsibility (the "Board") pursuant to an order of the District of Columbia Court of Appeals (the "Court") directing the Board to determine the nature of the final discipline to be imposed based on Respondent's federal convictions of wire fraud in violation of 18 U.S.C. § 1343. Specifically, the Board is to review the elements of the crime to determine whether it involves moral turpitude within the meaning of D.C. Code § 11-2503(a) (2001). For the reasons that follow, the Board finds that Respondent's convictions of wire fraud involve moral turpitude *per se*, requiring his disbarment under D.C. Code § 11-2503(a).

BACKGROUND

Respondent was admitted by examination to the District of Columbia Bar on December 17, 1979. On April 4, 2013, the United States District Court for the District of New Mexico entered a judgment of conviction against Respondent on seven counts of wire fraud, in violation of 18 U.S.C. § 1343. Respondent was sentenced to imprisonment of 70 months for each count, to be served concurrently, followed by three years supervised release on each count to run

concurrently and subject to special conditions including financial restrictions and outpatient mental health treatment, and was ordered to pay restitution in the amount of $1,875,000. Respondent's conviction is pending appeal.

Respondent did not report his criminal convictions to the Court and the Board as required by D.C. Bar R. XI, § 10(a). Bar Counsel learned of Respondent's convictions through an unsigned letter in July 2013. On August 26, 2013, Bar Counsel filed with the Court a certified copy of the judgment of conviction. On September 17, 2013, the Court temporarily suspended Respondent pursuant to D.C. Bar R. XI, § 10(c) and directed the Board to institute formal proceedings to determine whether any of the crimes of which Respondent was convicted involve moral turpitude within the meaning of D.C. Code § 11-2503(a). Order, *In re Hudson*, No. 13-BG-957 (D.C. Sept. 17, 2013).

On October 7, 2013, Bar Counsel filed a statement with the Board recommending Respondent's disbarment for the conviction of a crime involving moral turpitude *per se*. Respondent did not file a response to Bar Counsel's statement. On October 28, 2013, Bar Counsel filed a supplemental statement with the Board stating that Respondent had informed Bar Counsel that he had appealed his conviction and that the appeal remained pending. Bar Counsel recommended that the Board still consider the matter and make its recommendation to the Court, which would withhold the imposition of final discipline until the appeal is resolved. Respondent failed to file the affidavit required by D.C. Bar R. XI, § 14(g) following entry of the Court's order of temporary suspension.

ANALYSIS

D.C. Code § 11-2503(a) mandates disbarment of a member of the Bar convicted of a crime of moral turpitude. A crime is one of moral turpitude if "the prohibited conduct is base,

vile or depraved," or if "society manifests a revulsion toward [the] misconduct because it offends generally accepted morals." *In re Sims*, 844 A.2d 353, 362 (D.C. 2004); *see In re Colson*, 412 A.2d 1160, 1168 (D.C. 1979) (en banc). Conviction of a felony offense that manifestly involves moral turpitude by nature of its underlying elements mandates disbarment without inquiry into the specific conduct that led to the conviction. *Colson*, 412 A.2d at 1164. Once the Court has determined that a particular crime involves moral turpitude *per se*, the Board must adhere to that determination and consider only whether the attorney was convicted of the crime charged. *Id.* at 1165.

Respondent was convicted of seven counts of wire fraud in violation of 18 U.S.C. § 1343. The Court has previously held that wire fraud is a crime of moral turpitude *per se*. *See, e.g.*, *In re Bryant*, 46 A.3d 402, 402 (D.C. 2012) (per curiam); *In re Evans*, 793 A.2d 468, 469 (D.C. 2002) (per curiam); *In re Leffler*, 940 A.2d 105, 106 (D.C. 2007) (per curiam). Because wire fraud is a crime of moral turpitude *per se*, D.C. Code § 11-2503(a) requires his disbarment.

Respondent's appeal of his conviction should not delay the Board's recommendation in this matter, but the Court should defer final action until an appeal is decided and the convictions are final. *See In re Hirschfeld*, 622 A.2d 688, 690 (D.C. 1993) (withholding action on Board report and recommendation until appeal of conviction is concluded). Bar Counsel should notify the Board and the Court when the appeal is decided.

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.[1] Respondent's disbarment should run, for purposes of reinstatement, from the date he files an affidavit that fully complies with the requirements of D.C. Bar R. XI, § 14(g). D.C. Bar R. XI, § 16(c); *see In re Slosberg*, 650 A.2d 1329, 1331 (D.C. 1994).

BOARD ON PROFESSIONAL RESPONSIBILITY

By: /BLS/
Billie LaVerne Smith

Dated: November 8, 2013

All members of the Board concur in this Report and Recommendation except Mr. Carter, who is recused, and Mr. Barker and Mr. Watkins, who did not participate.

[1] Under *In re Hirschfeld*, 622 A.2d at 690, the Board is to forward its recommendation to the Court, notwithstanding the pendency of an appeal, and the Court withholds formal action until after it receives certification of the final judgment on appeal. If the conviction in this matter is upheld, Bar Counsel should file the certified copy of the final judgment with the Court so that the Court can take final action. If the conviction is reversed, Bar Counsel should promptly notify the Court.