



On May 10, 2013, Respondent pleaded guilty in the United States District Court for the Western District of Texas to one count of conspiracy to commit mail fraud and the deprivation of honest services, in violation of 18 U.S.C. §§ 1341, 1346 and 1349. On July 31, 2013, a judgment of conviction was entered, and Respondent was sentenced to a 36-month term of imprisonment, followed by three years of supervised release, and ordered to pay restitution of \$2,890,388.35. The District Court entered an amended judgment of conviction on October 31, 2013, making changes to the original judgment of conviction not relevant here.

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 guilty plea from a third-party in May 2013. On October 31, 2013, Bar Counsel filed with the Court a certified copy of the July 31, 2013 judgment of conviction. On November 21, 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 the nature of Respondent's offenses and whether they involve moral turpitude within the meaning of D.C. Code § 11-2503(a). Order, *In re O'Hara*, No. 13-BG-1237 (D.C. Nov. 21, 2013).

On December 11, 2013, Bar Counsel filed a statement with the Board recommending Respondent's disbarment on the grounds that his convictions of conspiracy to commit mail fraud and the deprivation of honest services are crimes involving moral turpitude *per se*. Respondent did not file a response to Bar Counsel's statement. Respondent also failed to file the affidavit

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paying member of the Bar. See D.C. Bar Bylaws, Art. III, § 1(3); *In re Harkins*, 899 A.2d 755, 758 (D.C. 2006) (30-day suspension imposed on a respondent in inactive status). "Retired Inactive" status is distinct from a resignation, which would deprive the disciplinary system of jurisdiction. Cf. *In re Phillips*, 452 A.2d 345, 347 (D.C. 1982) (per curiam).

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) requires the mandatory disbarment of a member of the District of Columbia Bar convicted of a crime of moral turpitude. To determine whether a crime or offense is one of moral turpitude, the Board “examine[s] whether the prohibited conduct is base, vile or depraved, or whether society manifests a revulsion toward such conduct because it offends generally accepted morals.” *In re Sims*, 844 A.2d 353, 362 (D.C. 2004) (citing *In re Colson*, 412 A.2d 1160 (D.C. 1979) (en banc) and *In re McBride*, 602 A.2d 626 (D.C. 1992) (en banc)). Once the Court has determined that a particular crime involves moral turpitude *per se*, disbarment must be imposed. *See Colson*, 412 A.2d at 1165. The certified copy of the judgment of conviction entered against Respondent, which Bar Counsel filed with the Court on October 31, 2013, is conclusive evidence of Respondent's commission of the crimes. D.C. Bar R. XI, § 10(f).

The Court has held that “[c]onviction of conspiracy to commit a crime of moral turpitude is itself a crime of moral turpitude.” *In re Brown*, 80 A.3d 1043, 1044 (D.C. 2013) (per curiam) (quoting *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). The Court has previously held that violations of 18 U.S.C. §§ 1341 and 1346 involve moral turpitude *per se*. *See, e.g., In re Ferber*, 703 A.2d 142, 143 (D.C. 1997) (per curiam). Thus, Respondent's conviction of conspiracy to violate those statutes is a crime of moral turpitude *per se*. *See, e.g., Brown*, 80 A.3d at 1044. Respondent should therefore be disbarred under D.C. Code § 11-2503(a).

