

**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**

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Board on Professional Responsibility

In the Matter of

**I. LEWIS LIBBY, JR.,
(D.C. Bar No. 950758)
Respondent**

**DCCA No. 07-BG-179
Bar Docket No. 2005-D372**

**A Member of the Bar of the
District of Columbia Court of Appeals
Date of Admission: May 19, 1978**

STATEMENT OF BAR COUNSEL

As directed by the Board on Professional Responsibility (the "Board") in its letter of April 4, 2007, and as provided by Board Rule 10.1, Bar Counsel respectfully submits this statement in support of a finding that Respondent was convicted of multiple offenses involving moral turpitude *per se*. For the reasons discussed below, the Board should recommend that Respondent be disbarred pursuant to D.C. Code § 11-2503(a).

I. BACKGROUND

Respondent is a member of the Bar of the District of Columbia Court of Appeals (the "Court"), having been admitted by motion on May 19, 1978. (Attachment A.) Respondent was administratively suspended on October 3, 2006, for non-payment of Bar dues and his failure to file the required annual registration statement, and remained administratively suspended until his interim disciplinary suspension on April 3, 2007, pending conclusion of the instant proceeding. Respondent was admitted to practice in Pennsylvania on October 27, 1976. (Attachment A.)

A. Respondent's Conviction of Serious Crimes

On March 6, 2007, Respondent was found guilty in the United States District Court for the District of Columbia of the felony offenses of one count of obstruction of justice (18 U.S.C. § 1503), one count of making false statements to the Federal Bureau of Investigation (18 U.S.C. § 1001(a)(2)), and two counts of perjury (18 U.S.C. § 1623). (Attachment B at 1-2; Attachment C at 14, 16, 19, 22; Attachment D at 6.)¹ Respondent is scheduled to be sentenced on June 5, 2007. (Attachment D at 6.)² Respondent's counsel informed the Board, by letter dated April 11, 2007, that Respondent intends to appeal his conviction within ten days after his sentencing.

B. Bar Counsel's Initiation of Disciplinary Proceedings in the District of Columbia

Respondent promptly notified Bar Counsel of his criminal conviction, as was his obligation under D.C. Bar Rule XI, § 10(a). On March 16, 2007, Bar Counsel submitted certified documents demonstrating Respondent's conviction to the Court, with copies to the Board. On April 3, 2007, the Court suspended Respondent pending resolution of this disciplinary proceeding and directed the Board to determine whether Respondent's crimes involve moral turpitude within the meaning of D.C. Code § 11-2503(a). On April 4, 2007, the Board directed Bar Counsel to file a brief addressing whether Respondent's crimes inherently involve moral turpitude.

¹ The text of the relevant criminal statutes may be found in Attachment E.

² Attachment D contains selected pages from the docket in the underlying criminal matter. A complete copy of the docket, as of March 15, 2007, was previously filed with the Court and the Board on March 16, 2007, attached to Bar Counsel's initial notice of Respondent's conviction.

II. MORAL TURPITUDE

The legal standard for moral turpitude was established in *In re Colson*, 412 A.2d 1160 (D.C. 1979) (*en banc*). The Court held that a crime involves moral turpitude if "the act denounced by the statute offends the generally accepted moral code of mankind," or if the act is "contrary to justice, honesty, modesty, or good morals." *Id.* at 1168. Once the Court determines that a particular crime involves moral turpitude *per se*, disbarment must be imposed and the issue of moral turpitude need not be re-visited. *Id.* at 1164; *see also* D.C. Code § 11-2503(a).³

In *Colson*, the Court held that obstruction of justice, in violation of 18 U.S.C. § 1503, constitutes moral turpitude *per se*. 412 A.2d at 1165. The Court has similarly held that perjury, in violation of 18 U.S.C. § 1623, constitutes moral turpitude *per se*. *In re Meisnere*, 471 A.2d 269 (D.C. 1984).

Although the Court has stated that a conviction for false statements under 18 U.S.C. § 1001 does not constitute moral turpitude *per se*, such a finding does not affect disbarment under D.C. Code § 11-2503(a) for the offenses which do constitute moral turpitude *per se*. *In re Dowdey*, 861 A.2d 602, 603 (D.C. 2004) (citing *In re Sweeney*, 725 A.2d 1013 (D.C. 1999)); *see also In re Schwartz*, 619 A.2d 39 (D.C. 1993) (disbarring attorney convicted of crimes inherently involving moral turpitude as well as 18 U.S.C. § 1001, which does not).

³ D.C. Code § 11-2503 provides, in pertinent part:

(a) When a member of the bar of the District of Columbia Court of Appeals is convicted of an offense involving moral turpitude, . . . the court shall, pending final determination of an appeal from the conviction, suspend the member of the bar from practice. . . . If a final judgment of conviction is certified to the court, the name of the member of the bar so convicted shall be struck from the roll of the members of the bar and such person shall thereafter cease to be a member. . . .

As Respondent concedes, at least three of the four felony counts of which he was convicted inherently involve moral turpitude within the meaning of D.C. Code § 11-2503(a). For this reason, Bar Counsel submits that the Board should recommend that the Court disbar Respondent.

III. EFFECT OF RESPONDENT'S ANTICIPATED APPEAL

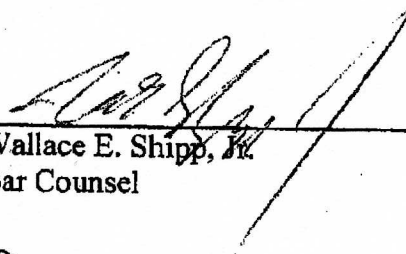
Respondent has stated that he intends to appeal his conviction. The Court has explained that the Board should issue "its report and recommendation to this court for further action, notwithstanding the pendency of an appeal for the conviction underlying the proposed discipline," and that Bar Counsel should thereafter deliver to the Court "a certified copy of the final judgment on appeal of the criminal conviction as soon as it becomes available so that [the Court] may take final action." *In re Hirschfeld*, 622 A.2d 688, 690 (D.C. 1993). Although Bar Counsel agrees with Respondent that the Court should not impose final discipline in this matter until his appeals (if any) are concluded, Respondent's intent to appeal his conviction should not cause the Board to defer its consideration of this matter or delay its issuance of a report and recommendation.

CONCLUSION

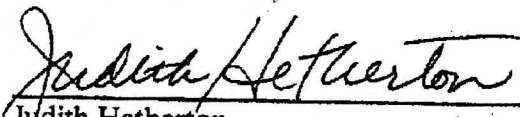
Because the Court has previously determined that obstruction of justice and perjury involve moral turpitude *per se*, Bar Counsel submits that the Board should recommend to the Court that Respondent be disbarred.⁴

⁴ Respondent's disbarment should be deemed to commence, for reinstatement purposes, on April 11, 2007, the date that Respondent filed an affidavit in compliance with D.C. Bar R. XI, § 14(g).

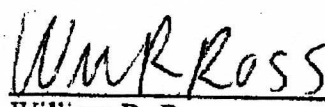
Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Statement of Bar Counsel to be mailed, first-class, postage-prepaid, to I. Lewis Libby, Jr., c/o William H. Jeffress, Jr., Esquire, Baker Botts LLP, 1299 Pennsylvania Avenue, NW, Washington, D.C. 20004-2400, this 24th day of April, 2007.



William R. Ross