GRIEVANCE ADMINISTRATOR,
Petitioner/Appellant,
v
ROBERT G. CORACE, P-12221
Respondent/Appellee.

File No. DP 24/85

Argued August 27, 1986
Decided: November 25, 1986

OPINION OF THE BOARD

MAJORITY OPINION

Patrick J. Keating, Chairman; Charles C. Vincent, M.D., Secretary; Hanley M. Gurwin and Robert S. Harrison.

On May 2, 1985, a Judgment was entered in the United States District Court for the Eastern District of Michigan finding the Respondent guilty of the offenses of five (5) counts of mail fraud in violation USC 18:1341 and six (6) counts of False Statements in violation of USC 18:1001. In accordance with MCR 9.120(A)(2), the Respondent was automatically suspended from the practice of law until the effective date of an Order filed by a hearing panel.

At the hearing, the Respondent admitted the fact of the convictions but testified at length as to the nature of the business transactions which gave rise to the indictment charging that, as chief operating officer and principal shareholder in certain oil drilling companies, he knowingly participated in a scheme to sell oil at prices which violated guidelines adopted by the U.S. Department of Energy. The Respondent testified, in mitigation, regarding his prior unblemished record as an attorney. The Panel ordered that Respondent's license to practice law be suspended for a period of four (4) years and noted that although the Respondent was convicted of fraud and the making of false statements, "the convictions do not reach the level of moral turpitude . . . justifying disbarment as argued by Petitioner".

In a Petition for Review seeking to increase that discipline to a revocation of Respondent' license, the Grievance Administrator urges that we reverse the Hearing Panel findings. Specifically, it urged that the Board rule that the crimes for which the Respondent was convicted were, as a matter of law, crimes of "moral turpitude" and that such convictions must, therefore, result in disbarment.

We decline to adopt that argument, and we affirm the suspension of four (4) years imposed by the Panel.

The Grievance Administrator argues on appeal that the Hearing Panel mistakenly concluded that a conviction involving fraud and the making of false statements did not, in this case, involve

"moral turpitude", and he notes our Supreme Court's comment in Matter of Grimes, 414 Mich 483, 492 (1982) that:

> "[M]oral turpitude as a ground for the discipline of an attorney involves fraud, deceit and intentional dishonesty for purposes of personal gain."

The Respondent, on the other hand, argues that the Panel intended to differentiate between levels of moral turpitude for purposes of assessing discipline. We agree with the Respondent on this point. Because the Panel made specific reference to the Court's Opinion in Grimes, it is clear that the Panel concluded that this Respondent's conviction of fraud and the making of false statements involved moral turpitude but did not reach "the level of moral turpitude . . . justifying disbarment". Instead, this Panel found that Mr. Corace's conduct reached a level of moral turpitude which, in their opinion, justified a four year suspension.

While we reiterate, therefore, the holding in Grimes and determine that a conviction for criminal conduct involving fraud and false statements must necessarily involve an element of moral turpitude, we cannot find authority for the proposition that there exists in the case law of this State an inflexible rule that conviction of a crime of moral turpitude must result in disbarment.

We hasten to add that we do not intend to minimize the seriousness of Respondent's misconduct in this case. While the Respondent argues that his violations of federal oil pricing guidelines and his attempts to conceal those violations were prompted primarily by "business considerations", lawyers, as officers of the court, should be scrupulous in their observance of the laws of the land. As the court noted in Grimes, supra,

> "We cannot ask the public to voluntarily comply with the legal system if we, as lawyers, reject its fairness and application to ourselves". In the Matter of Stroh, 97 Wash 289, 644 P2d 1161, 1165 (1982)

Nevertheless, while this Panel imposed a discipline less than a revocation of Respondent's license, we cannot conclude that suspension of four (4) years is so lacking in support in the whole record in this case as to require modification.

Patrick J. Keating, Chairman; Charles C. Vincent, M.D., Secretary; Hanley M. Gurwin and Robert S. Harrison, concurring.

## DISSENTING OPINION

Martin M. Doctoroff, Vice-Chairman. I join with my colleagues on the majority in their conclusion that neither the Court Rules or the case law in this State require the rule urged by the Grievance Administrator that disbarment must follow in all cases involving crimes of "moral turpitude". I would reverse the suspension imposed by the Hearing Panel in this case, however, and

vote to revoke Respondent's license to practice law consistent with a view that, absent compelling mitigation, a conviction for fraud warrants disbarment.