

The State of South Carolina



Office of the Attorney General

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March 11, 1988

The Honorable Carroll A. Campbell, Jr.
Governor of the State of South Carolina
Post Office Box 11369
Columbia, South Carolina 29211

Dear Governor Campbell:

By your letter of March 8, 1988, you have advised that a public official has been indicted as an accessory to an individual charged with making a false statement or concealing material facts on an application for a certificate of title or registration for a motor vehicle. In addition, the official has been indicted for alleged participation in a criminal conspiracy in conjunction with the false statement or concealment of material facts on the said application. You have inquired as to whether these charges so named involve moral turpitude, to carry out your duty as Governor under Article VI, Section 8 of the State Constitution.

Moral turpitude is traditionally defined as

an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man. ... Moral turpitude implies something immoral in itself, regardless of whether it is punishable by law as a crime. ...

An act in which fraud is an ingredient involves moral turpitude.

State v. Horton, 271 S.C. 413, 414, 248 S.E.2d 263 (1978). This Office has previously opined that the nature and characteristics of the substantive offense must involve moral turpitude to determine whether conspiracy to commit such an offense would be judged in the same light. Op. Atty. Gen. No. 81-42 (en-closed).

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Making a false statement has been declared to be a crime involving moral turpitude. Hackman v. Commonwealth, 220 Va. 710, 261 S.E.2d 555 (1980). Making a false statement, knowing it to be false, to support a claim for unemployment benefits, was found to involve moral turpitude in Chesapeake and Ohio Railway Company v. Hanes, 196 Va. 806, 86 S.E.2d 122 (1955). Likewise, making a false affidavit to secure monetary benefits to which one was not entitled involved moral turpitude in American Motorists Insurance Company v. Evans, 577 S.W.2d 514 (Tex. Civ. App. 1979). Section 16-21-10 of the Code of Laws of South Carolina makes it a misdemeanor to, inter alia, "make[] a material false statement, ... or conceal[] any other material fact in an application for a certificate of title or for registration [of a motor vehicle]" Thus, the substantive offense of making false statements or concealing material facts on such an application would necessarily involve moral turpitude.

Because the substantive offense would involve moral turpitude, conspiring to commit the offense would also involve moral turpitude. Cf., Op. Atty. Gen. dated April 30, 1982 (enclosed) (other offenses involving false statements found to involve moral turpitude).

Since one of the two offenses of which the individual has been indicted has already been determined to involve moral turpitude, it is not necessary to consider whether the offense of accessory before the fact of the substantive offense would involve moral turpitude.

With kindest regards, I am

Sincerely,

Patricia D. Petway
Patricia D. Petway
Assistant Attorney General

PDP/an
Enclosures

REVIEWED AND APPROVED BY:

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