

Mandel disbarment fought; case 'unique'



MARVIN MANDEL
... "moral turpitude" at issue

By Karen E. Warmkessel

Former Governor Marvin Mandel should not be disbarred, according to his lawyers, who argue that his mail-fraud conviction is "unique."

The lawyers contended in papers filed Monday in Baltimore Circuit Court that there was "nothing about the federal prosecution, conviction and affirmation of the conviction ... which fit the mold of the traditional mail-fraud case."

They claimed the case was not clear-cut because of a long, complicated appeals process that resulted in a tie vote by the 4th U.S. Circuit Court of Appeals upholding the conviction.

Therefore, they said, the court cannot use the standards normally applied in a case in which a lawyer has been convicted of mail fraud.

The state Court of Appeals has ruled that mail fraud is a crime of "moral turpitude," and last February disbarred an attorney who had been convicted of mail-fraud and racketeering charges.

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Mr. Mandel's lawyers, Arnold M. Weiner and M. Albert Figinski, said the test of "moral turpitude" is "grossly inappropriate" in this case.

The lawyers were responding to a petition filed last month by the state Attorney Grievance Commission, the group that investigates Maryland's attorneys, asking the appeals court to discipline the former governor, who recently finished serving 19 months in federal prison for mail fraud and racketeering.

After receiving the petition, the appeals court appointed a lower court judge, Judge J. Harold Grady, of the city's Supreme Bench, to hear evidence in the case and issue a formal finding. The Court of Appeals will review Judge Grady's finding and make the final decision.

Judge Grady sent a letter to the lawyers yesterday asking them to come to a pre-trial conference February 19. He said in the letter that he hopes to start the case March 8.

Mr. Mandel has been suspended from practicing law since his conviction more than four years ago.

In trying to show why Mr. Mandel's case was unique, his lawyers noted that the appeals court that reinstated his conviction was split.

They said it was "tragic" to send him to jail for 19 months "on the basis of a tie vote."

To discipline him on the basis of that conviction, they continued, "would compound the error and violate the constitutional guarantees of due process and substantive and procedural fairness."

"There is no proper predicate for a syllogism that would run: Respondent was convicted of mail fraud, mail fraud is a crime of moral turpitude, ergo respondent should be disbarred," the lawyers concluded.

They also noted that Mr. Mandel record as a lawyer was "unblemished" before his conviction.