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STATE BAR COURT
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**THE STATE BAR COURT
HEARING DEPARTMENT - LOS ANGELES**

PUBLIC MATTER

In the Matter of

ANITA M. CIONNI,

Member No. 147723,

A Member of the State Bar.

Case No. 02-J-12173-RMT

DECISION

INTRODUCTION

Respondent Anita M. Cionni ("Respondent") was disbarred by order of the Supreme Court of the State of Nevada. As a result, the State Bar of California initiated the above-entitled proceeding pursuant to Business and Professions Code section 6049.1¹ and rules 620 through 625 of the Rules of Procedure of the State Bar of California ("Rules of Procedure").

The issues in this proceeding are limited to: (1) the degree of discipline to be imposed upon Respondent in California; (2) whether, as a matter of law, Respondent's culpability in the Nevada proceeding would not warrant the imposition of discipline in California under the laws or rules applicable in this state at the time of Respondent's misconduct in Nevada; and (3) whether the Nevada proceeding lacked fundamental constitutional protection. (Section 6049.1(b).)

Pursuant to section 6049.1(b), Respondent bears the burden of establishing that the conduct for which she was disciplined in Nevada would not warrant the imposition of discipline in California and/or that the Nevada proceedings lacked fundamental constitutional protection. Since Respondent

¹Unless otherwise indicated, all further references to sections refer to provisions of the California Business and Professions Code.



1 did not participate in this proceeding, the Court focuses on the degree of discipline to be imposed.

2 The State Bar of California, Office of the Chief Trial Counsel ("State Bar"), was represented
3 in this matter by Deputy Trial Counsel Monique T. Miller ("DTC Miller") and Deputy Trial Counsel
4 Susan J. Jackson ("DTC Jackson"). Respondent failed to participate in this matter either in-person
5 or through counsel and allowed her default to be entered in this matter.

6 For the reasons indicated below, the Court recommends, among other things, that Respondent
7 be suspended from the practice of law for two years and until she has shown proof satisfactory to
8 the State Bar Court of her rehabilitation, fitness to practice, and learning and ability in the general
9 law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional
10 Misconduct; that execution of said suspension be stayed; and that she be actually suspended for 90
11 days and until the State Bar Court grants a motion to terminate Respondent's actual suspension at
12 its conclusion or upon such later date ordered by the Court. (Rules Proc. of State Bar, rule 205(a)-
13 (c).) It is also recommended that Respondent be ordered to take and pass the Multistate Professional
14 Responsibility Examination and that she comply with rule 955 of the California Rules of Court.

15 **PERTINENT PROCEDURAL HISTORY**

16 This proceeding was initiated by the State Bar's filing of a Notice of Disciplinary Charges
17 ("NDC") against Respondent on September 19, 2002.²

18 A copy of the NDC was properly served upon Respondent on September 19, 2002, by
19 certified mail, return receipt requested, addressed to Respondent at her official membership records
20 address ("official address") maintained by Respondent pursuant to Business and Professions Code
21 section 6002.1, subdivision (a) and to an alternate address, P.O. Box 1531, Kapaa, HI 96746 ("the
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24 ²On June 5, 2002, DTC Miller sent a 20-day letter to Respondent at her official
25 membership records address, advising Respondent of the State Bar's intent to file a NDC. On
26 June 17, 2002, the letter was returned by the U.S. Postal Service stamped, "RETURN TO
27 SENDER ATTEMPT UNKNOWN."

28 On September 18, 2002, DTC Miller called Respondent at her official membership
records telephone number. A voice-mail recording identified the number as belonging to
someone other than Respondent.

1 P.O. Box address").³

2 On September 30, 2002, the copy of the NDC served upon Respondent at her official
3 membership records address was returned by the U.S. Postal Service bearing the stamped notation
4 "RETURNED TO SENDER" and marked "ATTEMPTED-NOT KNOWN."

5 On October 10, 2002, DTC Miller attempted to reach Respondent at a telephone number in
6 Hawaii, which is the latest telephone number provided by Respondent to the Southern Nevada
7 Disciplinary Board, and left a message on her voice-mail recording to return DTC Miller's call.
8 Respondent did not return DTC Miller's telephone message.

9 On October 21, 2002, the State Bar received the Domestic Return Receipt for the copy of the
10 NDC sent to the P.O. Box address. The return receipt indicates that Respondent received the
11 courtesy copy of the NDC which had been sent to the P.O. Box address. The return receipt also
12 indicated that the courtesy copy of the NDC was delivered on October 17, 2002, to another address:
13 6448 Kahuna Road.

14 On October 21, 2002, a Notice of Assignment and Notice of Initial Status Conference was
15 filed in this matter, setting an in-person status conference for November 13, 2002. A copy of said
16 notice was properly served upon Respondent by first-class mail, postage fully prepaid, on October
17 21, 2002, addressed to Respondent at her official address. However, the copy of said notice was
18 returned to the State Bar Court by the U.S. Postal Service stamped "RETURN TO SENDER
19 ATTEMPT UNKNOWN" and bearing a handwritten notation indicating that Respondent was not
20 at that address.

21 On October 22, 2002, DTC Miller attempted to communicate with Respondent by calling her
22 telephone number in Hawaii. There was no voice-mail recording.

23 On October 22, 2002, DTC Miller wrote Respondent a letter which was sent by certified
24 mail, return receipt requested, to two addresses in Hawaii: P.O. Box 1531, Kapaa, Hawaii 96746 and
25 6448 Kahuna Road, Kapaa, Hawaii 96746 ("the Kahuna Road address"). Respondent did not
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27 ³The P.O. Box address is the latest address provided by Respondent to the Southern
28 Nevada Disciplinary Board.

1 respond to DTC Miller's October 22, 2002, letter.

2 As Respondent did not file a response to the NDC as required by rule 103 of the Rules of
3 Procedure, on November 4, 2002, the State Bar filed a motion for the entry of Respondent's default.
4 The motion also contained a request that the court take judicial notice, pursuant to Evidence Code
5 section 452(h), of all of Respondent's official membership addresses,⁴ the declaration of DTC Miller
6 and Exhibits 1-4. A copy of said motion was properly served upon Respondent on November 4,
7 2002, by certified mail, return receipt requested, addressed to Respondent at her official address, the
8 P.O. Box address and 6448 Kahuna Road, Kapaa, HI 96756.⁵

9 On November 13, 2002, the Court held a status conference in this matter. Respondent did
10 not appear at the status conference either in-person or through counsel.

11 On November 15, 2002, the Court filed a Status Conference Order which set forth that if no
12 response was filed on November 19, 2002, to the motion for the entry of Respondent's default, the
13 matter would stand submitted on November 20, 2002. A copy of said order was served upon
14 Respondent by first-class mail, postage fully prepaid, on November 15, 2002, addressed to
15 Respondent at her partial official address⁶ and at the P.O. Box address. The copy of said order
16 addressed to Respondent at her partial official address was returned to the State Bar Court bearing
17 the handwritten notation, "Not at this address." The copy of said order addressed to Respondent at
18 the P.O. Box address was not returned to the State Bar Court by the U.S. Postal Service as
19 undeliverable or for any other reason.

20 When Respondent failed to file a written response after service of the motion for the entry
21 of his default, on November 21, 2002, the Court filed an Order of Entry of Default (Rule 200-Failure

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23 ⁴The Court grants the State Bar's request and takes judicial notice of all of Respondent's
24 official membership addresses to the date of the filing of this decision.

25 ⁵The Court notes that the zip code for the Kahuna Road address set forth on the
26 Declaration of Service by Certified Mail attached to the motion for the entry of Respondent's
27 default is different from the zip code for the Kahuna Road address to which DTC Miller sent her
28 October 22, 2002, letter.

⁶The Certificate of Service reflects service upon Respondent at 725 S. 6th St., Las Vegas.
No state or zip code are set forth.

1 to File Timely Response) and Order of Involuntary Inactive Enrollment.⁷ A copy of said order was
2 properly served upon Respondent on November 21, 2002, by certified mail, return receipt requested,
3 addressed to Respondent at her official address. A copy of the order was also served upon
4 Respondent on that same date by mail, addressed to Respondent at the P.O. Box address. The copy
5 of said order addressed to Respondent at her official address was returned to the State Bar Court
6 along with a letter from the Law Offices of Lynch, Hopper & Salzano, LLP, indicating that
7 Respondent is not at that address. The copy of said order addressed to Respondent at the P.O. Box
8 address was not returned to the State Bar Court by the U.S. Postal Service as undeliverable or for
9 any other reason.

10 On November 22, 2002, the State Bar filed a brief on the issues of culpability and discipline
11 and waiving the hearing in this matter.

12 The Court ordered this matter submitted for decision as of November 25, 2002. However,
13 on February 4, 2003, the Court issued an order vacating the November 25, 2002, submission date,
14 reopening the record, and ordering the State Bar to file a brief correlating the Nevada ethics rules
15 which Respondent was found culpable of violating to the applicable California ethics rules and
16 statutes and setting forth the facts supporting each alleged violation of California statutes and/or
17 rules. A copy of said order was properly served upon Respondent on February 4, 2003, by mail,
18 addressed to Respondent at her official address, the P.O. Box address and 6448 Kahuna Road,
19 Kapaa, HI 96756.⁸ The copy of said order addressed to Respondent at her official address was
20 returned to the State Bar Court by the U.S. Postal Service stamped "RETURN TO SENDER
21 ATTEMPT UNKNOWN." The copy of said order addressed to Respondent at the P.O. Box address

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23 ⁷Respondent's involuntary inactive enrollment pursuant to Business and Professions
24 Code section 6007(e) was effective three days after the service of this order.

25 However, as will be discussed *infra*, the entry of Respondent's default and Respondent's
26 involuntary inactive enrollment in November 2002 was improper and was subsequently vacated
27 nunc pro tunc. (Footnote continued from page 4.)

28 ⁸The Court notes that the zip code for the Kahuna Road address set forth on the
Certificate of Service attached to the Order Vacating Submission Date and Reopening Record is
different from the zip code for the Kahuna Road address to which DTC Miller sent her October
22, 2002, letter.

1 and at 6448 Kahuna Road, Kapaa, HI 96756 were not returned by the U.S. Postal Service as
2 undeliverable or for any other reason.

3 On February 24, 2003, the State Bar filed with the Review Department of the State Bar Court
4 a Petition for Interlocutory Review of the Court's February 4, 2003, order. A copy of said petition
5 was properly served upon Respondent on February 24, 2003, by mail, addressed to Respondent at
6 her official address, the P.O. Box address and 6448 Kahuna Road, Kapaa, HI 96756.⁹

7 In addition, on February 24, 2003, the State Bar filed a motion for an ordering staying the
8 Hearing Department proceedings pending resolution of the State's Bar's Petition for Interlocutory
9 Review of the Court's February 4, 2003, order.

10 On February 27, 2003, the Court issued an order granting a stay of the proceedings in the
11 Hearing Department pending resolution of the Review Department's proceedings. A copy of said
12 order was properly served upon Respondent on March 3, 2003, by mail, addressed to Respondent
13 at her official address, the P.O. Box address and 6448 Kahuna Road, Kapaa, HI 96756.¹⁰ The copy
14 of said order addressed to Respondent at her official address was returned to the State Bar Court by
15 the U.S. Postal Service stamped "RETURN TO SENDER ATTEMPTED NOT KNOWN." The
16 copy of said order addressed to Respondent at the P.O. Box address and at 6448 Kahuna Road,
17 Kapaa, HI 96756 was not returned to the State Bar Court as undeliverable or for any other reason.

18 On March 12, 2003, the Review Department issued an Order denying the State Bar's petition
19 for interlocutory review. A copy of said Order was served upon Respondent on March 12, 2003, by
20 first-class mail, postage fully prepaid, addressed to Respondent at her official address.¹¹

22 ⁹ The Court notes that the zip code for the Kahuna Road address set forth on the
23 Declaration of Service by Mail attached to the Petition for Interlocutory Review is different from
24 the zip code for the Kahuna Road address to which DTC Miller sent her October 22, 2002, letter.

25 ¹⁰The Court notes that the zip code for the Kahuna Road address set forth on the
26 Certificate of Service attached to the Order Staying Proceedings is different from the zip code for
the Kahuna Road address to which DTC Miller sent her October 22, 2002, letter.

27 ¹¹However, the Court notes that the Certificate of Service indicates that the Order was
28 served upon Respondent at her official address, 725 S. 6th Street, Las Vegas, but sets forth the
state as California rather than Nevada. However, as the zip code was correct, the Court finds the

1 On March 17, 2003, the State Bar notified the Court of the Review Department's denial of
2 the State Bar's Petition for Interlocutory Review.

3 On April 30, 2003, the Court held a status conference in this matter. Respondent did not
4 appear at the status conference either in-person or through counsel. Thereafter on May 2, 2003, the
5 Court filed a Status Conference Order in this matter. A copy of said order was served upon
6 Respondent at the P.O. Box address and 6448 Kahuna Road, Kapaa, HI 96756.¹² However, a copy
7 of said order was not served upon Respondent at her official address. Neither copy of said order was
8 returned to the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

9 On May 22, 2003, the State Bar filed its response to the Court's February 4, 2003, order
10 reopening the record in this matter. A copy of said response was served upon Respondent by
11 certified mail, return receipt requested, addressed to Respondent at the P.O. Box address and at 6448
12 Kahuna Road, Kapaa, HI 96746-9128.

13 The Court filed an order submitting the matter for decision as of May 29, 2003. A copy of
14 said order was served upon Respondent at the P.O. Box address and at 6448 Kahuna Road, Kapaa,
15 HI 96746-9128. Neither copy of said order was returned to the State Bar Court by the U.S. Postal
16 Service as undeliverable or for any other reason.

17 After it came to the Court's attention that default was improperly entered against Respondent
18 on November 21, 2002, the Court issued an order on August 18, 2003, vacating the entry of
19 Respondent's default and inactive enrollment pursuant to Business and Professions Code section
20 6007(e)(1) nunc pro tunc to November 21, 2002, and November 24, 2002, respectively; vacating the
21 Order of Submission filed May 29, 2003; and ordering a Notice of Entry of Default filed forthwith.
22 A copy of said order was properly served upon Respondent on August 18, 2003, by first-class mail,
23 postage fully paid, addressed to Respondent at her official address, the P.O. Box address and 6448
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25 _____
26 error de minimus and that the Order was properly served upon Respondent.

27 ¹²The Court notes that the zip code for the Kahuna Road address set forth on the
28 Certificate of Service attached to the Status Conference Order is different from the zip code for
the Kahuna Road address to which DTC Miller sent her October 22, 2002, letter.

1 Kahuna Road, Kapaa, HI 96756.¹³ The copy of said order addressed to Respondent's official address
2 was returned to the State Bar Court stamped "RETURN TO SENDER ATTEMPTED NOT
3 KNOWN." The copy of said order addressed to the P.O. Box address was returned to the State Bar
4 Court by the U.S. Postal Service stamped, "NOT DELIVERABLE AS ADDRESSED UNABLE TO
5 FORWARD RETURN TO SENDER." The copy of said order addressed to 6448 Kahuna Road,
6 Kapaa, HI 96756 was not returned to the State Bar Court by the U.S. Postal Service as undeliverable
7 or for any other reason.

8 On August 18, 2003, as Respondent had failed to file a written response within 10 days after
9 service of the motion for the entry of her default, the Court filed an Order of Entry of Default (Rule
10 200-Failure to File Timely Response) and Order of Involuntary Inactive Enrollment.¹⁴ A copy of
11 said order was properly served upon Respondent on August 18, 2003, by certified mail, return
12 receipt requested, addressed to Respondent at her official address. A copy of said order was also
13 served upon Respondent by first-class mail, postage fully prepaid, addressed to Respondent at the
14 P.O. Box address¹⁵ and the Kahuna Road address. The copy of said order addressed to Respondent
15 at her official address was returned to the State Bar Court by the U.S. Postal Service stamped
16 "RETURN TO WRITER" and marked, "Attempted-Not known." The copy of said order addressed
17 to Respondent at the P.O. Box address was returned to the State Bar Court stamped "NOT
18 DELIVERABLE AS ADDRESSED UNABLE TO FORWARD RETURN TO SENDER" and
19 bearing the handwritten notation, "RTS No [l]onger at this address." The copy of said order
20 addressed to the Kahuna Road address was not returned to the State Bar Court by the U.S. Postal

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22 ¹³The Court notes that the zip code for the Kahuna Road address set forth on the
23 Certificate of Service attached to the Order Vacating Entry of Default and Further Orders is
24 different from the zip code for the Kahuna Road address to which DTC Miller sent her October
25 22, 2002, letter, and to which the State Bar's response to the Court's February 4, 2003, order and
26 the Court's May 29, 2003, Order of Submission were served.

27 ¹⁴Respondent's involuntary inactive enrollment pursuant to Business and Professions
28 Code section 6007(e) was effective three days after the service of this order by mail.

¹⁵However, the Court notes that the city was incorrectly spelled "KAPPA," rather than
Kapaa. However, as the zip code and P.O. Box number were correct, the Court finds this error
de minimus.

1 Service as undeliverable or for any other reason.

2 Thereafter, the Court filed an order submitting this matter for decision as of August 18, 2003.
3 A copy of said order was properly served upon Respondent on August 19, 2003, by first-class mail,
4 postage fully prepaid, addressed to Respondent at her official address, the P.O. Box address and the
5 Kahuna Road address. None of the copies of said order was returned to the State Bar Court by the
6 U.S. Postal Service as undeliverable or for any other reason.

7 **JURISDICTION**

8 Respondent was admitted to the practice of law in the State of California on August 1, 1990,
9 was a member at all times pertinent to these charges, and is currently a member of the State Bar of
10 California.

11 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12 Business and Professions Code section 6049.1(a) provides, in pertinent part, that a certified
13 copy of a final order by any court of record of any state of the United States, determining that a
14 member of the State Bar committed professional misconduct in that jurisdiction shall be conclusive
15 evidence that the member is culpable of professional misconduct in this state.

16 The Court admits into evidence the copy of the certified record of the Nevada disciplinary
17 proceedings entitled *In Re: Discipline of Anita M. Cionni*, Docket No. 38327, which was attached
18 to the NDC as Exhibit 1;¹⁶ the applicable Nevada ethics rules, a copy of which was attached to the
19 NDC as Exhibit 2; and Exhibits 1-4 attached to the State Bar's motion for the entry of Respondent's
20 default.

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23 ¹⁶Business and Professions Code section 6049.1(a) and the Rules of Procedure of the
24 State Bar of California pertaining to proceedings based on professional misconduct occurring in
25 another jurisdiction refers to a "certified copy" of certain documents, rather than a copy of a
26 certified copy, as was attached to the NDC in this proceeding. However, as there was no
27 objection made to the use of the copy of the certified copy, and as the Court has no evidence that
28 said copy is not a true and correct copy of the certified copy, the Court finds the copy of the
certified copy of the Record on Appeal in *In Re: Discipline of Anita M. Cionni*, Docket No.
38327 sufficient for the purposes of Business and Professions Code section 6049.1(a) and rules
621(b) and 624.

1 **Background**

2 Respondent was licensed to practice law in the State of Nevada on or about October 3, 1994.

3 The record of the Nevada disciplinary proceeding conclusively established the following
4 facts:

5 On or about January 2, 2002, the Supreme Court of the State of Nevada issued an Order in
6 Docket No. 38327 that Respondent be disbarred.

7 The Order of the Supreme Court of the State of Nevada was based upon the Southern Nevada
8 Disciplinary Board hearing panel's Findings of Fact and Recommendations, contained in the Record
9 on Appeal, that Respondent committed disciplinable misconduct meriting a disbarment
10 recommendation. In its findings and recommendations, the hearing panel found that Respondent
11 committed disciplinary misconduct based on the following findings of fact:

12 **The Alto Estate Matter**

13 In or about 1998, Respondent was counsel for the estate of Jesse M. Alto (the "Estate"),
14 Eighth Judicial District Court, Clark County, Nevada, Case No. 98-P-039950. The executrix of the
15 Estate was Pui Ling Newton ("Newton").

16 In or about late 1999, Newton told Respondent that she wanted to buy a house which was
17 part of the Estate's property.

18 On or about June 9, 2000, Probate Commissioner Don Ashworth ordered that estate monies
19 be placed in a blocked account to allow for the real property purchase by Newton. Respondent's
20 failure to establish a blocked account pursuant to the Commissioner's order and to recognize that
21 Newton, as an executrix, was prohibited by statute from buying a house which was part of the
22 Estate's property resulted in holding up the sale of the Estate's real property.

23 Subsequent to June 9, 2000, Judith A. Cipponeri ("Cipponeri") substituted in for Newton as
24 executrix. The substitution was suggested by the Probate Commissioner in order to make it possible
25 for Newton to purchase the real property.

26 In or about July 2000, Respondent left Nevada for Hawaii, leaving her practice in the hands
27 of a non-attorney staff member.

28 In or about July 2000, Cipponeri and Newton hired attorney Kendal Sue Bird ("Bird") as the

1 attorney for the Estate. Respondent did relatively nothing to assist Bird in representing the Estate.

2 After reviewing the Estate's files, Bird discovered that Respondent had failed to adequately
3 bill or provide an explanation for the fees she had taken; that Respondent had failed to seek prior
4 court approval of attorney fees in the amount of \$18,751.80 before receiving the same as required
5 by Nevada Revised Statute ("NRS") 150.060(1);¹⁷ and that Respondent had failed to timely complete
6 and file an annual accounting as required by NRS 150.105.

7 On or about August 25, 2000, Respondent evaded service and ignored a Citation to Appear
8 and Show Cause which she had actually received and failed to appear at the hearing scheduled by
9 the court in Case No. P 039950.

10 As a result of Respondent's conversion of Estate funds, on or about September 18, 2000, Bird
11 filed A Petition for Delivery of Converted Funds; For an Order Reducing Misappropriated
12 Attorney's Fees to Judgment and for an Award of Damages with the District Court in Case No. P
13 039950.

14 In or about November 1, 2000, the court entered a default judgment against Respondent in
15 Case No. P 039950, granting Bird's Petition For an Order Reducing Misappropriated Attorney's
16 Fees to Judgment.

17 Respondent's failure to petition for attorney fees prior to taking those fees and failure to
18 participate in the Case No. P 039950 proceedings left the estate in disarray, occasioned additional
19 fees to the Estate and additional work and efforts upon Bird to sort through what had previously been
20 done.

21 With regard to the State Bar of Nevada's disciplinary proceedings, Respondent filed a
22 response to the State Bar's complaint filed on February 22, 2001. Thereafter, Respondent failed to
23 attend or participate in the Formal Hearing held on July 19, 2001, although Respondent had been
24 duly notified by the State Bar on June 11, 2001, and on July 9, 2001. Respondent's failure to
25 participate in the Formal Hearing and to exhibit remorse for her misconduct were considered as

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27 ¹⁷Respondent decided to accept checks in payment of attorney fees without seeking prior
28 court approval. Respondent received more than five percent from the Estate without completing
the estate work and without justifying her fees.

1 aggravating factors by the hearing panel.

2 Based upon the findings of fact and recommendations by the Southern Nevada Disciplinary
3 Board hearing panel, Respondent was found by the Supreme Court of the State of Nevada in
4 violation of the following Rules Regulating the Nevada Bar:

5 (1) Supreme Court Rule ("SCR") 151 [Competence] by: (1) failing to recognize that under
6 NRS 143.170, the executrix could not buy property from the estate; (2) failing to provide an
7 adequate billing statement in support of her claimed fees; and (3) failing to obtain court approval of
8 her attorney fees under Nevada Revised Statute ("NRS") 150.060 before requiring payment from
9 the estate.

10 (2) SCR 153 [Diligence] by failing to file a timely annual accounting for the estate, as
11 required by NRS 150.105, and by failing to place certain estate funds in a blocked account, as
12 ordered by the probate commissioner.

13 (3) SCR 173(3) [Fairness to Opposing Party and Counsel] by ignoring a citation to appear,
14 evading service, and failing to petition for fees before accepting payment, and for leaving the estate's
15 affairs in "disarray," thus requiring more work by the estate's successor counsel and incurring more
16 fees for the estate.

17 (4) SCR 203(3) [Misconduct Involving Dishonesty, Fraud, Deceit or Misrepresentation] by
18 accepting payment for her attorney fees before they were approved by the court, and for failing to
19 justify the amount of fees she was paid.

20 **Legal Conclusions**

21 By failing to: (1) recognize that Newton, as executrix, was prohibited by statute from buying
22 a house which was part of the Estate's property; (2) establish a blocked account pursuant to Probate
23 Commissioner Don Ashworth's order; (3) adequately bill or provide an explanation for the fees she
24 had taken; (4) seek prior court approval of attorney fees before taking such fees as required by
25 statute; and (5) timely complete and file an annual accounting as required by statute, Respondent
26 intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful
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1 violation of rule 3-110(A) of the Rules of Professional Conduct of the State Bar of California.¹⁸

2 By failing to petition for attorney fees prior to taking those fees and by ignoring a Citation
3 to Appear and Show Cause, Respondent left the estate in disarray, resulting in additional work and
4 occasioning additional fees to the Estate and thereby withdrew from employment without taking
5 reasonable steps to avoid reasonably foreseeable prejudice to the rights of her client in wilful
6 violation of rule 3-700(A)(2).

7 By failing to petition for attorney fees prior to taking those fees and by failing to adequately
8 bill or provide an explanation to justify the fees she had taken, Respondent converted funds
9 belonging to the Estate thereby engaging in an act of moral turpitude, dishonesty or corruption in
10 wilful violation of Business and Professions Code section 6106.¹⁹

11 **MITIGATING/AGGRAVATING CIRCUMSTANCES**

12 As Respondent's default was entered in this matter, Respondent failed to introduce any
13 mitigating evidence on her behalf. However, pursuant to Evidence Code section 452(h), the Court
14 takes judicial notice of Respondent's official membership records maintained by the State Bar of
15 California, which indicate that she was admitted to the practice of law in the State of California on
16 August 1, 1990, and has no prior record of discipline. (Rules Proc. of State Bar, tit. IV, Stds. for
17 Atty. Sanctions for Prof. Misconduct, standard 1.2(e)(i) ("standard").) Respondent therefore
18 practiced law for almost ten years prior to the first act of misconduct in this matter. This is
19 considered a mitigating circumstance.

20 In aggravation, Respondent engaged in multiple acts of misconduct in this matter. (Standard
21 1.2(b)(ii).)

22 Respondent's misconduct significantly harmed the Estate. (Standard 1.2(b)(iv).)
23 Respondent's failure to establish a blocked account and to recognize that Newton, as an executrix,
24 was prohibited by statute from buying a house which was part of the Estate's property resulted in

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26 ¹⁸Unless otherwise indicated, all further references to rules refer to the Rules of
Professional Conduct of the State Bar of California.

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28 ¹⁹Unless otherwise indicated, all further references to sections refer to provisions of the
California Business and Professions Code.

1 holding up the sale of the Estate's real property. In addition, Respondent's failure to petition for
2 attorneys fees prior to taking those fees and failure to participate in Case No. P 039950 proceedings
3 left the Estate in disarray, occasioned additional fees to the Estate and additional work and efforts
4 by subsequent counsel to sort through what had previously been done.

5 Respondent's failure to participate in this disciplinary proceeding prior to the entry of her
6 default is a further aggravating circumstance. (Standard 1.2(b)(vi).)

7 DISCUSSION

8 In determining the appropriate discipline to recommend in this matter, the Court looks at the
9 purposes of disciplinary proceedings and sanctions. Standard 1.3 sets forth the purposes of
10 disciplinary proceedings and sanctions as "the protection of the public, the courts and the legal
11 profession; the maintenance of high professional standards by attorneys and the preservation of
12 public confidence in the legal profession."

13 In addition, standard 1.6(b) provides that the specific discipline for the particular violation
14 found must be balanced with any mitigating or aggravating circumstances, with due regard for the
15 purposes of imposing disciplinary sanctions.

16 In this case, the standards provide for the imposition of sanctions ranging from reproof to
17 disbarment. (Standards 2.3, 2.4(b) and 2.10.) In addition, standard 1.6(a) states, in pertinent part,
18 "If two or more acts of professional misconduct are found or acknowledged in a single disciplinary
19 proceeding, and different sanctions are prescribed by these standards for said acts, the sanction
20 imposed shall be the more or most severe of the different applicable sanctions."

21 The standards, however, are only guidelines and do not mandate the discipline to be imposed.
22 (*In the Matter of Moriarty* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 245, 250-251.) "[E]ach
23 case must be resolved on its own particular facts and not by application of rigid standards." (*Id.* at
24 p. 251.)

25 The State Bar recommends, inter alia, that Respondent be actually suspended from the
26 practice of law for three months and until the State Bar Court grants a motion to terminate
27 Respondent's actual suspension at its conclusion or upon such later date ordered by the Court. In
28 support of its discipline recommendation, the State Bar cites to *Rossman v. State Bar* (1985) 39

1 Cal.3d 539.

2 In *Rossman*, the attorney was retained by a client to file a petition for conservatorship to
3 name the client as the conservator of another individual. The Supreme Court found that the
4 attorney's failure to file the required bond; to issue the proper letters of conservatorship until three
5 years after obtaining court permission to do so; failing to act in the matter for a year after
6 communications from both the probate commissioner and his client; failing to draft a will for the
7 conservatee after receiving a fee and failing to refund that fee for three years constituted gross
8 negligence and, therefore, involved moral turpitude. The Supreme Court also noted that there was
9 no explanation as to the attorney's failure to perform the services for which he was retained. In
10 addition, the Supreme Court noted that the attorney's neglect resulted in a \$14,000 loss to the
11 conservatee's estate, and that the attorney attempted to cover up his neglect by falsely informing the
12 probate commissioner that he was no longer counsel of record. The Supreme Court also found that
13 the attorney wilfully received an illegal fee by collecting fees without prior court approval. The
14 Supreme Court also found that the attorney affirmatively and wilfully deceived the court and failed
15 to disclose to the court material facts by falsely representing to the court that he had advised his
16 client that he was no longer actively practicing law and that she should retain new counsel and by
17 failing to disclose to the probate court his earlier receipt of fees and then requesting additional fees.
18 The Supreme Court, noting the attorney's prior record of discipline based on inadequate
19 representation of a client, imposed a two-year stayed suspension, a two-year probation period and
20 a three month period of actual suspension.

21 Respondent has been found culpable in this matter of wilfully failing to perform services with
22 competence, wilfully withdrawing from employment without taking reasonable steps to avoid
23 reasonably foreseeable prejudice to her client's rights, and engaging in an act of moral turpitude,
24 dishonesty or corruption by converting funds belonging to the Estate by failing to petition for
25 attorney fees prior to taking those fees and by failing to adequately bill or provide an explanation
26 to justify the fees she had taken. Although Respondent has no prior record of discipline, her
27 misconduct significantly harmed the Estate, she engaged in multiple acts of misconduct and failed
28 to participate in this disciplinary proceeding prior to the entry of her default.

1 The Court is particularly concerned about Respondent's failure to participate in this
2 disciplinary proceeding. The Court notes that Respondent also failed to fully participate in the
3 Nevada disciplinary proceeding. Respondent's failure to participate in this proceeding leaves the
4 Court without any understanding as to the underlying cause or causes for Respondent's misconduct
5 or from learning of any other mitigating circumstances which would justify this Court's departure
6 from the discipline recommended by the standards.

7 Therefore, after considering the nature of Respondent's misconduct, the aggravating and
8 mitigating circumstances found by the Court, the Standards for Attorney Sanctions for Professional
9 Misconduct, the State Bar's discipline recommendation, and *Rossman v. State Bar, supra*, 39 Cal.3d
10 539, the Court finds that the appropriate discipline to recommend in this matter includes, inter alia,
11 a 90-day period of actual suspension which shall continue until the State Bar Court grants a motion
12 to terminate Respondent's actual suspension at its conclusion or upon such later date ordered by the
13 Court. (Rules Proc. of State Bar, rule 205(a)-(c).)

14 **DISCIPLINE RECOMMENDATION**

15 The Court hereby recommends that Respondent ANITA CIONNI be suspended from the
16 practice of law for two years and until she has shown proof satisfactory to the State Bar Court of her
17 rehabilitation, fitness to practice, and learning and ability in the general law pursuant to standard
18 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct; that execution of said
19 suspension be stayed, and that Respondent be actually suspended from the practice of law for 90
20 days and until the State Bar Court grants a motion to terminate Respondent's actual suspension at
21 its conclusion or upon such later date ordered by the Court. (Rules Proc. of State Bar, rule 205(a)-
22 (c).)

23 If the period of actual suspension reaches or exceeds two years, it is further recommended
24 that Respondent remain actually suspended until she has shown proof satisfactory to the State Bar
25 Court of her rehabilitation, fitness to practice and learning and ability in the general law pursuant
26 to standard 1.4(c)(ii). (See also, Rules Proc. of State Bar, rule 205(b).)

27 It is also recommended that Respondent be ordered to comply with any probation conditions
28 reasonably related to this matter that may hereinafter be imposed by the State Bar Court as a

1 condition for terminating Respondent's actual suspension. (Rules Proc. of State Bar, rule 205(g).)

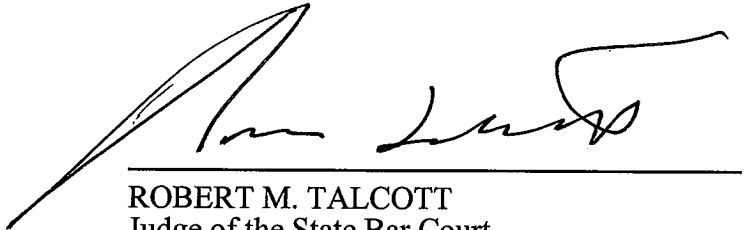
2 It is also recommended that Respondent be ordered to take and pass the Multistate
3 Professional Responsibility Examination given by the National Conference of Bar Examiners within
4 one year after the effective date of the discipline imposed herein or during the period of her actual
5 suspension, whichever is later, and furnish satisfactory proof of such to the State Bar's Office of
6 Probation within said period.

7 It is further recommended that Respondent be ordered to comply with the requirements of
8 rule 955 of the California Rules of Court within 30 calendar days of the effective date of the
9 Supreme Court order in this matter, and file the affidavit provided for in paragraph (c) within 40
10 days of the effective date of the order showing her compliance with said order.²⁰

11 **COSTS**

12 It is further recommended that costs be awarded to the State Bar pursuant to Business and
13 Professions Code section 6086.10.

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17 Dated: November 18th, 2003

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ROBERT M. TALCOTT
Judge of the State Bar Court

²⁰Failure to comply with rule 955 of the California Rules of Court could result in
disbarment. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Respondent is required to file a
rule 955(c) affidavit even if she has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d
337, 341.)

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on November 18, 2003, I deposited a true copy of the following document(s):

DECISION, filed November 18, 2003

in a sealed envelope for collection and mailing on that date as follows:

- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:


ANITA M. CIONNI
725 S. 6TH ST.,
LAS VEGAS NV 89101
ANITA M. CIONNI
6448 KAHUNA RD.
KAPAA, HI 96746

ANITA M. CIONNI
P.O. BOX 1531
KAPAA HI 96746

- [X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

MONIQUE T. MILLER, Enforcement, Los Angeles
SUSAN JACKSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **November 18, 2003.**



Tammy R. Cleaver
Case Administrator
State Bar Court