

**FILED****MAR - 3 2005**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**THE STATE BAR COURT****HEARING DEPARTMENT - LOS ANGELES****PUBLIC MATTER**

In the Matter of

ANITA MARIE CIONNI,**Member No. 147723,****A Member of the State Bar.****Case No. 04-N-12595-RMT****DECISION AND ORDER OF
INVOLUNTARY INACTIVE
ENROLLMENT****INTRODUCTION**

The sole issue in this case is whether Respondent Anita Marie Cionni wilfully failed to obey an order of the California Supreme Court requiring her to comply with rule 955 of the California Rules of Court and, if so, the appropriate discipline to be imposed.

For the reasons stated below, this Court finds, by clear and convincing evidence, that Respondent wilfully failed to comply with the requirements of rule 955, as ordered by the Supreme Court. As a result, this Court recommends that Respondent be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

PROCEDURAL HISTORY

This proceeding was initiated by the filing of a Notice of Disciplinary Charges ("NDC") by the Office of the Chief Trial Counsel of the State Bar of California ("State Bar") on August 24, 2004. The NDC was properly served upon Respondent on August 24, 2004, by certified mail, return receipt requested, addressed to Respondent's official membership address ("official address") pursuant to Business and Professions Code section 6002.1, subdivision (c)

1 and rule 60 of the Rules of Procedure of the State Bar ("Rules of Procedure").¹ On that same
2 date, a courtesy copy of the NDC was served on Respondent by regular mail, addressed to
3 Respondent at P.O. Box 1531, Kapaa, HI 96746 9 (the courtesy address).

4 Respondent did not file an answer to the NDC. Thereafter, on November 5, 2004, the
5 State Bar filed a Notice of Motion and Motion for Entry of Default. The motion was properly
6 served upon Respondent on November 5, 2004, by certified mail, return receipt requested, at her
7 official address and by regular mail at the courtesy address.

8 The Court entered Respondent's default on November 24, 2004, after Respondent failed
9 to file an answer to the NDC within ten days after service of the Motion for Entry of Default.
10 (See Rules Proc. of State Bar, rule 200(c).) Notice of Entry of Default was properly served upon
11 Respondent on November 24, 2004, by certified mail addressed to her at her official address.

12 The State Bar did not file a waiver of the hearing in this matter, however, no request was
13 made for a hearing. There was no brief filed in this matter.

14 The State Bar was represented throughout these proceedings by Deputy Trial Counsel Manuel
15 Jimenez. Respondent did not participate at any stage of these proceedings, either personally or
16 through counsel.

17 This matter was taken under submission as of November 24, 2004. However, on January
18 27, 2005, the Court vacated the submission and ordered the State Bar to file an authenticated copy
19 of Respondent's prior record of discipline as required by rule 216(a) of the Rules of Procedure.
20 Thereafter, the State Bar filed the prior record of discipline and the matter was submitted for
21 decision on February 9, 2005.

22 FINDINGS OF FACT AND CONCLUSIONS OF LAW

23 Respondent was admitted to the practice of law in California on August 1, 1990, and has
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27 ¹Pursuant to Evidence Code § 452, the Court takes judicial notice of the membership
28 records of the State Bar, which show that at all times since March 19, 1999, Respondent's
official address has been 725 S. 6th Street, Las Vegas, NV 89101.

1 been a member of the State Bar at all times since.²

2 On April 8, 2004, the Supreme Court of California entered a final disciplinary order in *In re*
3 *Anita Marie Cionni on Discipline*, Supreme Court Case No. S122094 (State Bar Court Case
4 No. 02-J-12173). In its order, the Supreme Court suspended Respondent from the practice of law
5 for two years and until she demonstrates rehabilitation, stayed execution of the suspension, and
6 actually suspended Respondent for 90 days and until she complies with rule 205 of the Rules of
7 Procedure of the State Bar, which requires her to file a motion for the termination of her suspension.

8 As relevant to this proceeding, the Supreme Court also ordered Respondent to comply with
9 subdivisions (a) and (c) of rule 955 of the California Rules of Court within 30 and 40 days,
10 respectively, after the effective date of the Supreme Court's order. The order of the Supreme Court
11 became effective on May 8, 2004.

12 Upon filing of the April 8, 2004, order, in accordance with rule 24(a) of the California Rules
13 of Court, the Office of the Clerk of the Supreme Court of California served Respondent with a copy
14 of the Supreme Court's order imposing discipline and directing Respondent's compliance with rule
15 955. (See Evid. Code, § 664.)

16 Respondent did not file an affidavit with the State Bar Court evidencing her compliance with
17 the requirements of rule 955, as ordered by the Supreme Court, either by the date ordered by the
18 Court or at any time thereafter.

19 The fact that Respondent may not be aware of the requirements of rule 955 or of her
20 obligation to comply with those requirements is immaterial. "Wilfulness" in the context of rule 955
21 does not require actual knowledge of the provision which is violated. The Supreme Court has
22 disbarred attorneys whose failure to keep their official addresses current prevented them from
23 learning that they had been ordered to comply with rule 955. (See *Powers v. State Bar* (1988) 44
24 Cal.3d 337, 341.)

25 Accordingly, this Court concludes that the State Bar has established by clear and convincing
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28 ²Effective September 1, 2001, Respondent was suspended from the practice of law for failure to pay annual membership dues, and the suspension remains in effect. (Evid. Code § 452.)

1 evidence that Respondent wilfully failed to comply with rule 955 by failing to file an affidavit
2 attesting to her compliance with subdivision (a) of that rule, as ordered by the Supreme Court in its
3 April 8, 2004, order. Respondent's failure to comply with rule 955, as ordered by the Supreme
4 Court, also constitutes a wilful violation of Business and Professions Code section 6103 which
5 provides that the wilful disobedience or violation of an order of a court constitutes cause for
6 disbarment or suspension.

7 **LEVEL OF DISCIPLINE**

8 **Factors in Mitigation**

9 There are no mitigating factors presented by the record in this proceeding.

10 **Factors in Aggravation**

11 Respondent has been disciplined on one previous occasion, which is an aggravating
12 factor pursuant to Standard 1.2(b)(i) of the Standards for Attorney Sanctions for Professional
13 Misconduct.

14 Effective May 8, 2004, Respondent was suspended from the practice of law for 90 days,
15 among other things, based on misconduct committed in Nevada, which resulted in disbarment by the
16 Supreme Court of the State of Nevada. In connection with a single client matter, Respondent
17 intentionally, recklessly or repeatedly failed to competently perform legal services; withdrew from
18 employment without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights
19 of her client; committed an act of moral turpitude or dishonesty by converting funds belonging to
20 her client.

21 Respondent's failure to file the rule 955 compliance affidavit with the Clerk of the State Bar
22 Court significantly harmed the public and the administration of justice. (Standard 1.2(b)(iv).)

23 Respondent's failure to participate in this matter prior to the entry of her default demonstrates
24 a lack of cooperation, and is an aggravating circumstance pursuant of standard 1.2(b)(vi).

25 **Discussion**

26 Rule 955(d) provides in part that "[a] suspended member's wilful failure to comply with the
27 provisions of this rule constitutes a cause for disbarment or suspension and for revocation of any
28 pending probation."

1 Timely compliance with rule 955 is essential to ensure that all concerned parties (including
2 clients, co-counsel, opposing counsel and all courts in which the attorney has pending litigation)
3 learn about the attorney's actual suspension from the practice of law. Compliance with rule 955 also
4 keeps the State Bar Court and the Supreme Court informed of the location of attorneys who are
5 subject to their respective disciplinary authority. (*Lydon v. State Bar* (1988) 45 Cal.3d 118, 1187.)

6 Disbarment is generally the appropriate sanction to be imposed for a wilful violation of rule
7 955. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116,131.)

8 Respondent has exhibited a disregard for both the Supreme Court and the State Bar Court
9 in their efforts to fulfill their respective responsibilities to oversee the practice of law in the State of
10 California. Respondent's disregard is exemplified by (1) her failure to comply with rule 955; and
11 (2) her failure to participate in this disciplinary matter.

12 This Court is unaware of any facts or circumstances that would justify a departure from the
13 usual sanction of disbarment for Respondent's wilful violation of rule 955 and her resulting violation
14 of Business and Professions Code section 6103. One of this Court's obligations is to ensure that its
15 disciplinary recommendations to the Supreme Court are fair and consistent. (*In re Young* (1989)
16 49 Cal.3d 257, 268.)

17 Respondent's disbarment is necessary to protect the public, the courts and the legal
18 profession, to maintain high professional standards and to preserve public confidence in the
19 profession. It would seriously undermine the integrity of the disciplinary system and damage public
20 confidence in the legal profession if Respondent were not disbarred for her wilful and unexplained
21 disobedience of the Supreme Court's April 8, 2004, order.

22 **RECOMMENDED DISCIPLINE**

23 This Court recommends that Respondent **ANITA MARIE CIONNI** be disbarred from the
24 practice of law in the State of California and that her name be stricken from the roll of attorneys in
25 this State.

26 It is also recommended that the Supreme Court order Respondent to comply with rule 955(a)
27 of the California Rules of Court within 30 calendar days of the effective date of the Supreme Court
28 order in this matter and to file the compliance affidavit required by rule 955(c) within 40 days of the

1 effective date of the Court's order.

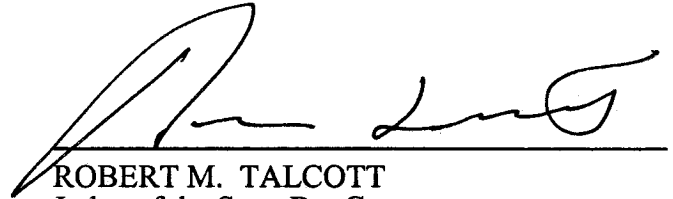
2 **COSTS**

3 It is further recommended that costs be awarded to the State Bar pursuant to Business and
4 Professions Code section 6086.10 and that such costs be made payable in accordance with Business
5 and Professions Code section 6140.7.

6 **ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

7 In light of this Court's recommendation that Respondent be disbarred from the practice of
8 law, pursuant to the provisions of Business and Professions Code section 6007, subdivision (c)(4)
9 and rule 220(b) of the Rules of Procedure, it is hereby ordered that Respondent ANITA MARIE
10 CIONNI be involuntarily enrolled as an inactive member of the State Bar. The order of involuntary
11 enrollment shall be effective three days after the date upon which this Decision is served.

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14 Dated: March 2nd, 2005

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16 ROBERT M. TALCOTT
17 Judge of the State Bar Court
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CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. 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 March 3, 2005, I deposited a true copy of the following document(s):

**DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT,
filed March 3, 2005**

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**

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

MANUEL JIMENEZ, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **March 3, 2005**.



Tammy R. Cleaver
Case Administrator
State Bar Court